

Interreg 2021-2027



A Collection of EU Regulations for Interreg Programmes



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Introduction

Dear Reader,

after the successful implementation of over 80 projects in the 2014-2020 Interreg IPA CBC Italy-Albania-Montenegro programme, we have launched the new Interreg IPA South Adriatic 2021-2027, which follows the same tracks as the previous programme.

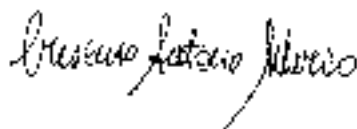
The new programme is also co-funded by the European Union through the Instrument for Pre-Accession (IPA III) with a total budget of € 81.258.768,19 (including 17,51% co-financing). It is managed by the Puglia Region, which participates alongside another Italian Region, Molise; Albania and Montenegro participate with the entire territory. The programme aims to promote economic growth and intensify cooperation in the South Adriatic area through joint actions between national and regional institutions and non-profit actors, and by fostering smart, inclusive, and sustainable development. At the end of this publication, you'll find a brief fact-sheet.

For a smooth implementation of our and all Interreg programmes, we are pleased to present this collection of the most important Regulations for Interreg in the 2021-2027 period. We have decided to print it out in order to support Interreg practitioners in the application of the Regulations' articles and rules for the next seven years.

We hope you can conveniently keep this publication at hand on your work desk as a valuable resource for you and your team.

Best regards,

Crescenzo Antonio Marino
Managing Authority
Interreg IPA South Adriatic Programme



REGULATION (EU) 2021/1058 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 June 2021
on the European Regional Development Fund and on the Cohesion Fund

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular the second paragraph of Article 177, and Articles 178 and 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Article 176 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. Pursuant to that Article and the second and third paragraphs of Article 174 TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions, among which particular attention is to be paid to regions which suffer from severe and permanent natural or demographic handicaps, including in particular handicaps resulting from demographic decline, such as the northernmost regions with very low population density, islands, and cross-border and mountain regions.
- (2) The Cohesion Fund was set up in order to contribute to the overall objective of strengthening economic, social and territorial cohesion of the Union by providing financial contributions in the fields of environment and trans-European networks in the area of transport infrastructure (TEN-T), as set out in Regulation (EU) No 1315/2013 of the European Parliament and of the Council ⁽⁴⁾.
- (3) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽⁵⁾ sets out common rules applicable to the ERDF, the European Social Fund Plus (ESF+), the Cohesion Fund, the Just Transition Fund, the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) and the instrument for financial support for Border Management and Visa Policy (BMVI), which operate under a common framework.
- (4) In order to simplify the rules that were applicable to both the ERDF and the Cohesion Fund during the 2014-2020 programming period, a single Regulation should set out the applicable rules covering both funds.

⁽¹⁾ OJ C 62, 15.2.2019, p. 90.

⁽²⁾ OJ C 86, 7.3.2019, p. 115.

⁽³⁾ Position of the European Parliament of 27 March 2019 (OJ C 108, 26.3.2021, p. 566) and position of the Council at first reading of 27 May 2021 (not yet published in the Official Journal). Position of the European Parliament of 23 June 2021 (not yet published in the Official Journal).

⁽⁴⁾ Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

⁽⁵⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (see page 159 of this Official Journal).

- (5) Horizontal principles as set out in Article 3 of the Treaty on the European Union (TEU) and in Article 10 TFEU, including the principles of subsidiarity and proportionality as set out in Article 5 TEU, should be respected in the implementation of the ERDF and the Cohesion Fund, taking into account the Charter of Fundamental Rights of the European Union. Member States should also respect the obligations set out in the United Nations Convention on the Rights of the Child, and in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), as well as the principles of the European Pillar of Social Rights, proclaimed by the European Parliament, the Council and the Commission in 2017, and ensure accessibility in line with Article 9 of the UNCRPD, and in accordance with the Union law harmonising accessibility requirements for products and services. In that context, the ERDF and the Cohesion Fund, in synergy with the ESF+, should be implemented in a way that promotes the transition from institutional to family-based and community-based care and should pursue their objectives with a view to contributing to the creation of quality jobs, eradication of poverty and promoting social inclusion. Member States and the Commission should aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Neither fund should support actions that contribute to any form of segregation or exclusion, and, when financing infrastructure, both should ensure accessibility for persons with disabilities.
- (6) The objectives of the ERDF and the Cohesion Fund should be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Article 11 and Article 191(1) TFEU, taking into account the polluter pays principle. Reflecting the importance of tackling climate change in line with the Union's commitments to implement the 2015 Paris Agreement on climate change following the 21st Conference of the Parties adopted under the United Nations Framework Convention on Climate Change and to achieve the United Nations Sustainable Development Goals ('UN Sustainable Development Goals'), both funds will contribute to mainstream climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. To that end, operations under the ERDF are expected to contribute 30 % of the overall financial envelope of the ERDF to climate objectives. Operations under the Cohesion Fund are expected to contribute 37 % of the overall financial envelope of the Cohesion Fund to climate objectives. Furthermore, the actions under this Regulation should contribute to the ambition of providing 7,5 % of annual spending under the Multiannual Financial Framework (MFF) to biodiversity objectives in the year 2024 and 10 % of annual spending under the MFF to biodiversity objectives in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals.

Both funds should support activities that respect the climate and environmental standards and priorities of the Union and do no significant harm to the environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁹⁾ and that ensure the transition towards a low-carbon economy in the pathway to achieve climate neutrality by 2050. ERDF and Cohesion Fund programmes should take account of content of integrated national energy and climate plans adopted in the framework of the Governance of the Energy Union and Climate Action as established by Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽⁷⁾.

- (7) In order to protect the integrity of the internal market, ERDF and Cohesion Fund operations benefiting undertakings are to comply with Union State aid rules as set out in Articles 107 and 108 TFEU.
- (8) The principle of partnership is a key feature in the implementation of the ERDF and the Cohesion Fund, building on the multi-level governance approach and ensuring the involvement of regional, local, urban and other public authorities, civil society, economic and social partners and, where appropriate, research organisations and universities. Implementation of both funds should ensure coordination and complementarity with the ESF+, the Just Transition Fund, the EMFAF and the European Agricultural Fund for Rural Development (EAFRD).

⁽⁹⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽⁷⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

- (9) It is necessary to establish provisions regarding the support of the ERDF under the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg).
- (10) In order to identify the types of activities which can be supported by the ERDF and the Cohesion Fund, specific policy objectives for providing support from both funds should be laid down to ensure that they contribute to one or more of the common policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060
- (11) With small and medium-sized enterprises (SMEs) being the backbone of the European economy, the ERDF should continue to support the development of SMEs by enhancing their sustainable growth and competitiveness. Additionally, taking into account the potentially profound impact of the COVID-19 pandemic or any other potential crisis situation arising in the future having an impact on businesses and employment, the ERDF should support the recovery from such crisis situations through supporting job creation in SMEs, including by way of productive investments.
- (12) Investments under the ERDF should contribute to the development of a comprehensive high-speed digital infrastructure network, and to promoting pollution-free and sustainable multimodal mobility with a focus on public transport, shared mobility, walking and cycling, as a part of the transition to the net-zero carbon economy.
- (13) In order to grasp the opportunities from the digital age, the ERDF should contribute to the development of an inclusive digital society where citizens, research organisations, businesses and public administrations take full advantage of the opportunities that digitalisation offers. Effective e-government at national, regional and local level involves developing tools as well as rethinking organisation and processes, in order to deliver public services more effectively, easily, quickly and at a lower cost. In particular, digital and telecommunication technologies should be used to enhance traditional networks and services for the benefit of local communities through developing projects such as smart cities and villages.
- (14) Support from the ERDF under policy objective 1 (PO 1) should be based on building capacities for smart specialisation strategies, which set priorities at national or regional level, or both, to increase their competitive advantage by developing and matching research and innovation strengths with business needs and necessary skills through an entrepreneurial discovery process. The process should allow entrepreneurial actors, including industry, education and research organisations, public administrations and civil society, to identify the most promising areas for sustainable economic development based on a region's distinctive structures and knowledge base. As the governance process of smart specialisation is crucial for the quality of the strategy, the ERDF should provide support to developing and enhancing the capacities necessary for an efficient entrepreneurial discovery process and the preparation or updating of smart specialisation strategies.
- (15) In order to promote the achievement of a climate-neutral Union by 2050, taking due account of social and economic consequences that it entails, the ERDF and the Cohesion Fund should contribute to reducing greenhouse gas emissions and to tackling energy poverty. In that context, investments in energy efficiency, including energy savings schemes, in sustainable renewable energy in accordance with the sustainability criteria set out in Directive (EU) 2018/2001 of the European Parliament and of the Council ⁽⁹⁾, in smart energy systems, as well as investments aiming at disaster prevention, promoting biodiversity and green infrastructure, including preservation, valorisation and the highlighting of protected natural areas, and other measures to reduce greenhouse gas emissions, such as the preservation and restoration of natural areas with high potential for carbon absorption and storage, including by rewetting of moorlands, the capture of landfill gas or emission reduction in industrial processes or products, would be particularly important. Furthermore, investments aiming at reducing every form of pollution, such as air, water, soil, noise and light pollution, should be supported.

⁽⁹⁾ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

- (16) Integrated national energy and climate plans, which outline the policies and measures and which address energy poverty and greenhouse gas emissions, need to be taken into account while preparing programmes co-financed by the ERDF and the Cohesion Fund. With a view to contributing to achieving national objectives to reduce energy poverty set out in integrated national energy and climate plans, the ERDF should support in particular energy efficiency improvements in housing and buildings in line with the amended Directive (EU) 2018/844 of the European Parliament and of the Council ^(*) to contribute to the achievement of a decarbonised building stock by 2050, thus reducing energy consumption and creating savings for households affected by energy poverty.
- (17) To improve transport connectivity, the ERDF and the Cohesion Fund should promote the development of a trans-European transport network, as referred to in Regulation (EU) No 1315/2013, through investment in infrastructure for railway transport, inland waterway transport, road transport, maritime transport and multimodal transport, including noise reduction measures. The ERDF and the Cohesion Fund should also support national, regional and local, cross-border and urban mobility. In doing so, both funds should pay attention to improving safety in particular of existing bridges and tunnels.
- (18) In an increasingly interconnected world and in view of the demographic and migration dynamics, it is clear that Union migration policy requires a common approach that relies on the synergies and complementarities of the different funding instruments. Therefore, the ERDF should pay attention to demographic challenges when preparing and implementing programmes. In order to ensure coherent, strong and consistent support for solidarity and responsibility-sharing efforts between Member States in managing migration, the ERDF should provide support, at the most appropriate territorial level, to facilitate the long-term, inclusive integration of third-country nationals, including migrants, for the benefit of social and economic development, by adopting an approach aimed at protecting their dignity and rights.
- (19) In order to promote social innovation and inclusive access to high quality employment, the ERDF should support 'social economy' entities such as cooperatives, mutual societies, non-profit associations and social enterprises.
- (20) In order to promote social inclusion and combat poverty, particularly among marginalised communities, it is necessary to improve access, including through infrastructure, to social, educational, cultural and recreational services, including sports, taking into account the specific needs of persons with disabilities, children and the elderly.
- (21) The ERDF and the Cohesion Fund should promote the socioeconomic inclusion of marginalised communities, with particular attention paid to the National Roma inclusion strategic policy framework as referred to in Annex IV to Regulation (EU) 2021/1060 which set out integration measures, low-income households, including households at risk of poverty and social exclusion, and disadvantaged groups, including people with special needs. In particular, in line with principle 19 of the European Pillar of Social Rights, the ERDF and the Cohesion Fund should be able to support the provision of social housing. Taking into account challenges facing marginalised Roma communities in terms of access to basic services, the ERDF and the Cohesion Fund should contribute to improving their living conditions and development prospects.
- (22) In order to strengthen the preparedness for distance and online education and training in a socially inclusive manner, the ERDF should, in its task of improving equal access to inclusive and quality services in education, training and lifelong learning, in particular contribute to fostering resilience for distance and online learning. The efforts to ensure the continuity of education and training during the COVID-19 pandemic have revealed important shortcomings in the access to the necessary information and communication technology (ICT) equipment and connectivity by learners from a disadvantaged background and in remote regions. In that context, the ERDF should support making available the necessary ICT equipment and connectivity, thus fostering the resilience of the education and training systems for distance and online learning.

^(*) Directive (EU) 2018/844 of the European Parliament and of the Council of 30 May 2018 amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency (OJ L 156, 19.6.2018, p. 75).

- (23) In order to strengthen the capability of public health systems to prevent, quickly respond to, and recover from health emergencies, the ERDF should also contribute to the resilience of health systems. Additionally, as the unprecedented COVID-19 pandemic has revealed the importance of immediate availability of critical supplies to provide an effective response to an emergency situation, the scope of support from the ERDF should be broadened to allow for the purchase of supplies necessary for strengthening disaster resilience and the resilience of health systems including primary care, and promoting the transition from institutional to family-based and community-based care. When purchasing supplies to strengthen the resilience of health systems, these should be consistent with and not go beyond the national health strategy and ensure complementarities with the EU4Health Programme established by Regulation (EU) 2021/522 of the European Parliament and of the Council ⁽¹⁰⁾, as well as the rescEU capacities under the Union Civil Protection Mechanism established by Decision No 1313/2013/EU of the European Parliament and of the Council ⁽¹¹⁾.
- (24) The ERDF should support and promote transition from institutional to family-based or community-based care through supporting facilities that would seek to prevent segregation from the community, would facilitate the integration of people to the society and would seek to ensure independent living conditions.
- (25) A dedicated specific objective should be provided for supporting the regional economies strongly dependent on the tourism and cultural sectors. This would allow to exploit the full potential of culture and sustainable tourism for an economic recovery, social inclusion and social innovation, without prejudice to the possibilities to provide support from the ERDF to those sectors under other specific objectives.
- (26) Investments supporting the creative and cultural industries, cultural services and cultural heritage sites could be financed under any policy objective provided that they contribute to the specific objectives and that they fall within the scope of support from the ERDF.
- (27) Sustainable tourism requires a balance between economic, social, cultural and environmental sustainability. The approach to supporting sustainable tourism should be in accordance with the Commission communication of 19 October 2007 entitled 'Agenda for a sustainable and competitive European tourism'. In particular, it should take into account the welfare of tourists, respect the natural and cultural environment and ensure the socio-economic development and competitiveness of destinations and businesses through an integrated and holistic policy approach.
- (28) In order to support the efforts of Member States and regions in facing new challenges and ensuring a high level of security for their citizens as well as the prevention of marginalisation and radicalisation, while relying on the synergies and complementarities with other Union policies, investments under the ERDF should contribute to security in areas where there is a need to ensure safe and secure public spaces and critical infrastructure, such as transport and energy, thus contributing to building more inclusive and safer societies.
- (29) The ERDF should provide support under policy objective 5 (PO 5) in an integrated manner to the economic, social and environmental development based on cross-sectoral territorial strategies using integrated territorial development tools to ensure the harmonious development of both urban and non-urban areas. Furthermore, when developing urban areas, special attention should be paid to supporting functional urban areas due to their importance in triggering cooperation between local authorities and partners across administrative borders as well strengthening urban-rural linkages.
- (30) The ERDF should support sustainable tourism in an integrated manner, in particular through strengthening cooperation within functional territories. In order to boost the impact of sustainable tourism on the economy, enterprises and public authorities should systematically cooperate to deliver quality services more efficiently in areas with a high potential for tourism, taking due care to create a stable legal and administrative environment conducive for sustainable growth of such areas. Supported actions in the area of sustainable tourism could take into account best practices in this area, such as the 'tourist district' approach.

⁽¹⁰⁾ Regulation (EU) 2021/522 of the European Parliament and of the Council of 24 March 2021 establishing a Programme for the Union's action in the field of health ('EU4Health Programme') for the period 2021-2027, and repealing Regulation (EU) No 282/2014 (OJ L 107, 26.3.2021, p. 1).

⁽¹¹⁾ Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).

- (31) As a result of the overall aim of the Cohesion Fund provided for in the TFEU, it is necessary to set out and limit the policy objectives to which the Cohesion Fund is to provide support.
- (32) In order to improve overall administrative capacity of institutions and governance in Member States implementing programmes under the Investment for jobs and growth goal, it is necessary to enable supporting measures for programme authorities and sectoral or territorial actors responsible for carrying out activities relevant to the implementation of the ERDF and the Cohesion Fund under all of the specific objectives pursued taking into account the horizontal principles referred to in the Regulation (EU) 2021/1060, including the UN Sustainable Development Goals.
- (33) In order to encourage and boost cooperation measures within programmes implemented under the Investment for jobs and growth goal, it is necessary to enhance cooperation measures with partners including those at local and regional level within a given Member State or between different Member States in relation to support provided under all of the specific objectives. Such enhanced cooperation is additional to the cooperation under Interreg and should in particular support cooperation among structured partnerships with a view to implementing regional strategies as referred to in the Commission communication of 18 July 2017 entitled 'Strengthening Innovation in Europe's Regions: Strategies for resilient, inclusive and sustainable growth'. Partners could therefore come from any region in the Union, but could also include cross-border regions and regions which are covered by a European Grouping of Territorial Cooperation under Regulation (EC) No 1082/2006 of the European Parliament and of the Council ⁽¹²⁾, a macro-regional or sea-basin strategy or a combination of these two types of strategies.
- (34) The ERDF should help to redress the main regional imbalances in the Union and to reduce disparities between the levels of development of the various regions and the backwardness of the least favoured regions, including those facing challenges due to decarbonisation commitments and through that foster regional resilience. ERDF support under the Investment for jobs and growth goal should therefore be concentrated on key Union priorities in line with policy objectives laid down in Regulation (EU) 2021/1060. Therefore support from the ERDF should be concentrated on the policy objectives of a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity and a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management and sustainable urban mobility. The resources dedicated to sustainable urban mobility and broadband investment could be partly taken into account when calculating compliance with the thematic concentration requirements. Member States should decide in their Partnership Agreements whether to comply with the thematic concentration requirements at the level of category of region or at national level for the entire programming period. Thematic concentration at national level should be established by three groups of Member States formed according to respective gross national income and should allow for flexibility at the level of individual programmes. As the support from the Cohesion Fund could also contribute to the thematic concentration, the conditions for such a contribution should be set out. In addition, the methodology to classify Member States should be set out in detail, taking into account the specific situation of the outermost and northern sparsely populated regions.
- (35) In order to concentrate the support on key Union priorities, it is also appropriate that thematic concentration requirements should be respected throughout the programming period, including in the case of transfer between priorities within a programme or between programmes.
- (36) In order to enable the ERDF to provide support under Interreg in terms of investments in infrastructure and associated investments related thereto, as well as training and integration activities, it is necessary to provide that the ERDF should also be able to provide support for activities under the specific objectives of the ESF+, set up under Regulation (EU) 2021/1057 of the European Parliament and of the Council ⁽¹³⁾.

⁽¹²⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

⁽¹³⁾ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (see page 21 of this Official Journal).

- (37) In order to concentrate the use of limited resources in the most efficient way, the support by the ERDF given to productive investments under the relevant specific objective should be limited to micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC ⁽¹⁴⁾, except for specific investments set out in this Regulation.
- (38) In the context of the ERDF support for productive investments, it is opportune to clarify that productive investment should be understood as investment in fixed capital or immaterial assets of enterprises, with a view to producing goods and services and thereby contributing to gross capital formation and employment. It should also be provided that, under certain conditions, the ERDF and the Cohesion Fund might support investments in enterprises other than SMEs. Furthermore, based on the experience of previous programming periods, the ERDF and the Cohesion Fund should also support investments in enterprises other than SMEs, including in particular utilities, when they concern investment in infrastructure that ensures access to services available to the public in the field of energy, environment and biodiversity, transport and digital connectivity.
- (39) This Regulation should set out the different types of activities the costs of which should be able to be supported by means of investments from the ERDF and the Cohesion Fund, under their respective objectives as set out in the TFEU, including crowdfunding. The Cohesion Fund should be able to support investments in TEN-T and the environment, including investments related to sustainable development and energy presenting environmental benefits. In that context, the Cohesion Fund should also be able to support combined energy and seismic retrofitting. With regard to the ERDF, the list of activities should take into account specific national and regional development needs as well as endogenous potential and be simplified. The ERDF should be able to support investments in infrastructure, including for research and innovation business infrastructure for SMEs, housing for marginalised communities and disadvantaged groups, low-income households and migrants, culture and heritage, sustainable tourism and services to enterprises, investments in relation to access to services with a particular focus on disadvantaged, marginalised and segregated communities, productive investments in SMEs, equipment, software and intangible assets, as well as measures with regard to information, communication, studies, networking, cooperation, exchange of experiences between partners and activities involving clusters. In order to support the programme implementation, both funds should also be able to support technical assistance activities. Finally, in order to provide support for a broader range of interventions for Interreg programmes, the scope should be enlarged to also include the sharing of a broad range of facilities and human resources and costs linked to measures within the scope of the ESF+.
- (40) Trans-European transport networks projects under Regulation (EU) No 1316/2013 of the European Parliament and of the Council ⁽¹⁵⁾ are to continue to be financed from the Cohesion Fund via both shared management and the direct implementation mode under the Connecting Europe Facility established by a Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility (the 'CEF Regulation for 2021-2027').
- (41) At the same time, it is important to clarify those activities which fall outside the scope of the ERDF and the Cohesion Fund, including investments to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council ⁽¹⁶⁾, in order to avoid duplication of available financing, which already exists as part of that Directive, and investments in undertakings in difficulty as defined in Commission Regulation (EU) No 651/2014 ⁽¹⁷⁾ unless authorised under *de minimis* aid or temporary State aid rules established to address exceptional circumstances. The ERDF and the Cohesion Fund should also not support certain investment in airports, facilities for landfilling and residual waste treatment or fossil fuels. Therefore, the ERDF should be able to support targeted environmental mitigation, security and safety measures in regional airports as long as the primary objective of the investments would be clearly identified in terms of environmental, security or safety standards of the Union and would be in line with the State aid rules.

⁽¹⁴⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

⁽¹⁵⁾ Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010 (OJ L 348, 20.12.2013, p. 129).

⁽¹⁶⁾ Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

⁽¹⁷⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

For investments increasing the capacity of facilities for the treatment of residual waste, residual waste should be understood as primarily non-separately collected municipal waste and rejects from waste treatment. Modernisation of district heating networks could be supported with a view to improving the energy efficiency of efficient district heating systems, as defined in Directive 2012/27/EU of the European Parliament and of the Council ⁽¹⁸⁾, pursuant to objectives laid down in integrated national energy and climate plans. With a view to promoting renewable energy, support could be provided for district heating boilers supplied by a combination of gas and renewable energy sources. In such cases, support from both funds should correspond pro-rata to the share of renewable energy input to such boilers. In addition, it should be explicitly set out that the overseas countries and territories listed in Annex II to the TFEU are not eligible for support from the ERDF or the Cohesion Fund.

- (42) Member States should regularly transmit to the Commission information on the progress made using the common output and result indicators set out in Annex I. Common output and result indicators could be complemented, where relevant by programme-specific output and result indicators. The information provided by Member States should be the basis on which the Commission should report on the progress towards the achievement of specific objectives over the whole programming period using for this purpose a core set of indicators set out in Annex II.
- (43) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁹⁾, the ERDF and the Cohesion Fund should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of both funds on the ground.
- (44) Within the framework of the relevant rules under the Stability and Growth Pact as clarified in the Code of Conduct, Member States should be able to make a duly justified request for further flexibility for the public or equivalent structural expenditure supported by the public administration by way of co-financing of investments activated as part of the ERDF and the Cohesion Fund. The Commission should evaluate such a request in accordance with the Stability and Growth Pact and the Code of Conduct.
- (45) The ERDF should address the problems of disadvantaged areas, in particular rural areas and areas which suffer from severe and permanent natural or demographic handicaps, including demographic decline, in accessing basic services, including digital services, enhancing attractiveness for investment, including through business investments and connectivity to large markets. In doing so, the ERDF should pay attention to specific development challenges encountered by certain island, border or mountain regions. Furthermore, the ERDF should pay particular attention to the specific difficulties of areas at NUTS level 3 and local administrative unit level, as referred to in Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽²⁰⁾, that are sparsely populated, in accordance with the criteria set out in point 161 of the Guidelines on Regional State Aid 2014-2020, namely those that have a population density of less than 12,5 inhabitants per square kilometre, or areas that have suffered from an average annual population decrease of at least 1 % of inhabitants over the 2007-2017 period. Member States should consider developing specific voluntary action plans at local level for such areas to counter these population challenges.
- (46) In order to maximise the contribution to addressing more effectively economic, demographic, environmental and social challenges in particular in areas with natural and demographic handicaps, as envisaged in Article 174 TFEU, actions in the field of territorial development should be based on integrated territorial strategies including in urban and rural areas and paying attention to urban-rural linkages. Therefore, the ERDF support should be delivered through the forms set out in Article 28 of Regulation (EU) 2021/1060 ensuring appropriate involvement of local,

⁽¹⁸⁾ Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

⁽¹⁹⁾ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

⁽²⁰⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

regional and urban authorities, economic and social partners and representatives of civil society and non-governmental organisations. Territorial strategies should also be able to benefit from a multi-fund and integrated approach involving the ERDF, the ESF+, the EMFAF and the EAFRD.

- (47) To improve the resilience of communities in rural areas and their economic, social and environmental conditions, support from the ERDF should be used to develop projects such as smart villages, as referred to in the European Parliament resolution of 3 October 2018 on addressing the specific needs of rural, mountainous and remote areas, in particular by developing new opportunities, such as decentralised services and energy solutions, digital technologies and innovations.
- (48) Within the framework of sustainable urban development, it is considered necessary to support integrated territorial development in order to more effectively tackle the economic, environmental, climate, demographic and social challenges affecting urban areas, including functional urban areas, while taking into account the need to promote urban-rural linkages. Support targeting urban areas might take a form of a separate programme or a separate priority and should be able to benefit from a multi-fund approach. The principles for selecting the urban areas where integrated actions for sustainable urban development are to be implemented, and the indicative amounts for those actions, should be set out in the programmes under the Investment for jobs and growth goal with a minimum target of 8 % of the ERDF resources allocated at national level for that purpose. It should also be established that this percentage should be respected throughout the programming period in the case of transfer between priorities within a programme or between programmes, including at the mid-term review.
- (49) In order to identify or provide solutions which address issues relating to sustainable urban development at Union level, the Urban Innovative Actions in the area of sustainable urban development should be replaced by a European Urban Initiative, to be implemented under direct or indirect management. That initiative should cover all urban areas, including functional urban areas and support the Urban Agenda for the European Union. To stimulate participation of local authorities in the thematic partnerships under the Urban Agenda, the ERDF should provide support for organisational costs related to such participation. The initiative could include inter-governmental cooperation on urban matters, in particular cooperation aimed at capacity building at local level to achieve UN Sustainable Development Goals. Member States, regional and local authorities should be actively involved in managing and implementing the European Urban Initiative. Actions agreed within such a management model could include exchange for regional and local representatives. Actions undertaken within the European Urban Initiative should promote urban-rural linkages within functional urban areas. Cooperation with European Network for Rural Development is of particular importance in this respect.
- (50) The commercialisation and upscaling of interregional innovation projects should be promoted over the whole territory of the Union through the new interregional innovation investments which are to be managed by the Commission. By supporting innovation projects in smart specialisation areas, including pilot projects and capacity building measures, they will, in particular, benefit less developed regions, boosting their innovation eco-systems and their capacity to integrate in larger Union value chains. They should also contribute to the implementation of the Commission communication of 18 July 2017 entitled 'Strengthening Innovation in Europe's Regions: Strategies for resilient, inclusive and sustainable growth', in particular to support thematic smart specialisation platforms on critical fields.
- (51) Specific attention should be paid to outermost regions, namely by adopting measures under Article 349 TFEU providing for an additional allocation for the outermost regions to offset the additional costs incurred in these regions as a result of one or several of the permanent restraints referred to in Article 349 TFEU, namely remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development. That allocation should be able to cover investments, operating costs and public service obligations aimed at offsetting additional costs caused by such restraints. Operating aid should be able to cover expenditure on freight transport services and start-up aid for transport services as well as expenditure on operations linked to storage constraints, the excessive size and maintenance of production tools, and the lack of human capital in the local market. That allocation should not be subject to the

thematic concentration requirements. In order to protect the integrity of the internal market, and as is the case for all operations co-financed by the ERDF and the Cohesion Fund, any ERDF support to the financing of operating and investment aid in the outermost regions should comply with State aid rules as set out in Articles 107 and 108 TFEU.

- (52) In order to allow for a rapid response to exceptional and unusual circumstances as referred to in the Stability and Growth Pact that could arise during the programming period, implementing powers should be conferred to the Commission to adopt temporary measures to facilitate the use of the support from the ERDF in response to such circumstances. The Commission should adopt the measures that are most appropriate in light of the exceptional or unusual circumstances that a Member State is facing while preserving the objectives of the fund. Furthermore, the implementing decisions in relation to a temporary measure for the use of the ERDF in response to exceptional or unusual circumstances should be adopted without committee procedures given that the scope of application is determined by the Stability and Growth Pact and limited to the measure set out in this Regulation. The Commission should also monitor the implementation and assess the appropriateness of the measures.
- (53) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of making adjustments, where justified, to Annex II which sets out a list of indicators used as a basis to provide information to the European Parliament and to the Council on performance of programmes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (54) Since the objective of this Regulation, namely to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of Member States and regions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (55) In view of the adoption of this Regulation after the start of the programming period, and taking into account the need to implement both the ERDF and Cohesion Fund in a coordinated and harmonised manner, and in order to allow for its prompt implementation, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

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CHAPTER I

COMMON PROVISIONS

*Article 1***Subject matter**

1. This Regulation sets out the specific objectives and the scope of support from the European Regional Development Fund (ERDF) with regard to the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg) referred to in Article 5(2) of Regulation (EU) 2021/1060.
2. This Regulation also sets out the specific objectives and the scope of support from the Cohesion Fund with regard to the Investment for jobs and growth goal referred to in point (a) of Article 5(2) of Regulation (EU) 2021/1060.

*Article 2***Tasks of the ERDF and the Cohesion Fund**

1. The ERDF and the Cohesion Fund shall contribute to the overall objective of strengthening the economic, social and territorial cohesion of the Union.
2. The ERDF shall contribute to reducing disparities between the levels of development of the various regions within the Union, and to reducing the backwardness of the least favoured regions through participation in the structural adjustment of regions whose development is lagging behind and in the conversion of declining industrial regions, including by promoting sustainable development and addressing environmental challenges.
3. The Cohesion Fund shall contribute to projects in the field of environment and trans-European networks in the area of transport infrastructure (TEN-T).

*Article 3***Specific objectives for the ERDF and the Cohesion Fund**

1. In accordance with the policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060, the ERDF shall support the following specific objectives:
 - (a) a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity (PO 1) by:
 - (i) developing and enhancing research and innovation capacities and the uptake of advanced technologies;
 - (ii) reaping the benefits of digitisation for citizens, companies, research organisations and public authorities;
 - (iii) enhancing sustainable growth and competitiveness of SMEs and job creation in SMEs, including by productive investments;
 - (iv) developing skills for smart specialisation, industrial transition and entrepreneurship;
 - (v) enhancing digital connectivity;
 - (b) a greener, low-carbon transitioning towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility (PO 2) by:
 - (i) promoting energy efficiency and reducing greenhouse gas emissions;
 - (ii) promoting renewable energy in accordance with Directive (EU) 2018/2001, including the sustainability criteria set out therein;
 - (iii) developing smart energy systems, grids and storage outside the Trans-European Energy Network (TEN-E);

- (iv) promoting climate change adaptation and disaster risk prevention and resilience, taking into account eco-system based approaches;
- (v) promoting access to water and sustainable water management;
- (vi) promoting the transition to a circular and resource efficient economy;
- (vii) enhancing protection and preservation of nature, biodiversity and green infrastructure, including in urban areas, and reducing all forms of pollution;
- (viii) promoting sustainable multimodal urban mobility, as part of transition to a net zero carbon economy;
- (c) a more connected Europe by enhancing mobility (PO 3) by:
 - (i) developing a climate resilient, intelligent, secure, sustainable and intermodal TEN-T;
 - (ii) developing and enhancing sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility;
- (d) a more social and inclusive Europe implementing the European Pillar of Social Rights (PO 4) by:
 - (i) enhancing the effectiveness and inclusiveness of labour markets and access to quality employment through developing social infrastructure and promoting social economy;
 - (ii) improving equal access to inclusive and quality services in education, training and lifelong learning through developing accessible infrastructure, including by fostering resilience for distance and on-line education and training;
 - (iii) promoting the socioeconomic inclusion of marginalised communities, low income households and disadvantaged groups, including people with special needs, through integrated actions, including housing and social services;
 - (iv) promoting the socio-economic integration of third country nationals, including migrants through integrated actions, including housing and social services;
 - (v) ensuring equal access to health care and fostering resilience of health systems, including primary care, and promoting the transition from institutional to family-based and community-based care;
 - (vi) enhancing the role of culture and sustainable tourism in economic development, social inclusion and social innovation;
- (e) a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives (PO 5) by:
 - (i) fostering the integrated and inclusive social, economic and environmental development, culture, natural heritage, sustainable tourism and security in urban areas;
 - (ii) fostering the integrated and inclusive social, economic and environmental local development, culture, natural heritage, sustainable tourism and security in areas other than urban areas.

Support under PO5 shall be provided through territorial and local development strategies, through the forms set out in points (a), (b) and (c) of Article 28 of Regulation (EU) 2021/1060.

2. Under the two specific objectives of point (e) of paragraph 1, Member States may also support operations which can be funded under the specific objectives set out under points (a) to (d) of that paragraph.

3. The Cohesion Fund shall support PO 2 and 3.

4. Within the specific objectives set out in paragraph 1, the ERDF or the Cohesion Fund, as appropriate, may also support activities under the Investment for jobs and growth goal, where they:

- (a) improve the capacity of programme authorities;

- (b) improve the capacity of sectoral or territorial actors responsible for carrying out activities relevant to the implementation of the ERDF and the Cohesion Fund, provided that it contributes to the objectives of the programme; or
- (c) enhance cooperation with partners both within and outside a given Member State.

Cooperation referred to in point (c) shall include cooperation with partners from cross-border regions, from non-contiguous regions or from regions located in the territory covered by a European Grouping of Territorial Cooperation, a macro-regional or sea-basin strategy or a combination thereof.

Article 4

Thematic concentration of ERDF support

1. With regard to programmes implemented under the Investment for jobs and growth goal, the total ERDF resources, other than for technical assistance, in each Member State shall be concentrated at national level or at the level of category of region in accordance with paragraphs 3 to 9.
2. With regard to the thematic concentration of support for Member States comprising outermost regions, the ERDF resources allocated specifically to programmes for the outermost regions and those allocated to all other regions shall be treated separately.
3. Member States may decide to comply with thematic concentration at national level or at the level of category of region. Each Member State shall indicate its choice in its Partnership Agreement referred to in Article 10 of Regulation (EU) 2021/1060. That choice shall apply to the total of that Member State's ERDF resources referred to in paragraph 1 of this Article for the entire programming period.
4. For the purposes of a thematic concentration at national level, Member States shall be classified, in terms of their gross national income ratio, as follows:
 - (a) those with a gross national income ratio equal to or above 100 % of the EU average ('group 1');
 - (b) those with a gross national income ratio equal to or above 75 % and below 100 % of the EU average ('group 2');
 - (c) those with a gross national income ratio below 75 % of the EU average ('group 3').

For the purposes of this Article, the gross national income ratio means the ratio between the gross national income per capita of a Member State, measured in purchasing power standards and calculated on the basis of Union figures for the period from 2015 to 2017, and the average gross national income per capita in purchasing power standards of the 27 Member States for that same reference period.

With regard to programmes under the Investment for jobs and growth goal for the outermost regions, they shall be classified as falling within group 3.

With regard to programmes under the Investment for jobs and growth goal for island Member States which receive support from the Cohesion Fund, they shall be classified as falling within group 3.

5. For the purposes of a thematic concentration at the level of category of region, regions shall be classified by categories of region in accordance with Article 108(2) of Regulation (EU) 2021/1060, as:
 - (a) more developed regions;
 - (b) transition regions;
 - (c) less developed regions.

6. Member States shall comply at national level with the following thematic concentration requirements:

- (a) Member States of group 1 or more developed regions shall allocate at least 85 % of their ERDF resources referred to in paragraph 1 to PO 1 and PO 2, and at least 30 % to PO 2;
- (b) Member States of group 2 or transition regions shall allocate at least 40 % of their ERDF resources referred to in paragraph 1 to PO 1, and at least 30 % to PO 2;
- (c) Member States of group 3 or less developed regions shall allocate at least 25 % of their ERDF resources referred to in paragraph 1 to PO 1, and at least 30 % to PO 2.

Where a Member State decides to comply with thematic concentration requirements at the level of category of regions, the thresholds set out in the first subparagraph of this paragraph shall apply to the ERDF resources referred to in paragraph 1 aggregated together for all regions falling in the respective category of region.

7. Where a Member State allocates to PO 2 more than 50 % of its total Cohesion Fund resources other than for technical assistance as calculated after the transfer set out in Article 110(4) of Regulation (EU) 2021/1060, excluding resources under the specific objective referred to in point (b)(viii) of the first subparagraph of Article 3(1) of this Regulation, the allocation exceeding the 50 % may be taken into account when calculating the compliance with the thematic concentration requirements set out in paragraph 6 of this Article.

If a Member State decides to comply with thematic concentration at the level of category of regions, the Cohesion Fund resources that are taken into account for thematic concentration requirements in accordance with the first subparagraph shall be allocated pro rata to the different categories of regions based on their relative share of the total population of the Member State concerned.

Member States shall set out in their Partnership Agreement referred to in Article 10 of Regulation (EU) 2021/1060 whether the Cohesion Fund resources will be taken into account for thematic concentration requirements for PO 2.

8. The resources under the specific objective referred to in point (a)(v) of the first subparagraph of Article 3(1) shall be programmed under a dedicated priority.

By way of derogation from paragraph 6, 40 % of such resources shall be taken into account when calculating compliance with the thematic concentration requirements for PO1 set out in paragraph 6.

The resources taken into account for thematic concentration requirements in accordance with the second subparagraph of this paragraph shall not exceed 40 % of the minimum thematic concentration requirements for PO 1 set out in paragraph 6.

9. The resources under the specific objective referred to in point (b)(viii) of the first subparagraph of Article 3(1) shall be programmed under a dedicated priority.

By way of derogation from paragraph 6, 50 % of such ERDF resources shall be taken into account when calculating compliance with the thematic concentration requirements for PO 2 set out in paragraph 6.

The resources taken into account for thematic concentration requirements in accordance with the second subparagraph of this paragraph shall not exceed 50 % of the minimum thematic concentration requirements for PO 2 set out in paragraph 6.

10. The thematic concentration requirements set out in paragraph 6 of this Article shall be complied with throughout the entire programming period, including when ERDF allocations are transferred between priorities of a programme or between programmes and at the mid-term review in accordance with Article 18 of Regulation (EU) 2021/1060.

11. Where the ERDF allocation with regard to PO 1 or PO 2, or both, of a given programme is reduced following a decommitment under Article 105 of Regulation (EU) 2021/1060, or due to financial corrections by the Commission in accordance with Article 104 of that Regulation, compliance with the thematic concentration requirements set out in paragraph 6 of this Article shall not be re-assessed.

12. This Article shall not apply to the additional funding for northern sparsely populated regions referred to in point (e) of Article 110(1) of Regulation (EU) 2021/1060.

*Article 5***Scope of support from the ERDF**

1. The ERDF shall support the following:

- (a) investments in infrastructure;
- (b) activities for applied research and innovation, including industrial research, experimental development and feasibility studies;
- (c) investments in access to services;
- (d) productive investments in SMEs and investments aiming at safeguarding existing jobs and creating new jobs;
- (e) equipment, software and intangible assets;
- (f) networking, cooperation, exchange of experience and activities involving innovation clusters including between businesses, research organisations and public authorities;
- (g) information, communication and studies; and
- (h) technical assistance.

2. Productive investments in enterprises other than SMEs may be supported:

- (a) when they involve cooperation with SMEs in research and innovation activities supported under point (a)(i) of the first subparagraph of Article 3(1);
- (b) when primarily supporting energy efficiency measures and renewable energy under points (b)(i) and (b)(ii) of the first subparagraph of Article 3(1);
- (c) when they are made in small mid-cap and mid-cap companies as defined in points (6) and (7) of Article 2 of Regulation (EU) 2015/1017 of the European Parliament and the Council ⁽²¹⁾ through financial instruments; or
- (d) when they are made in small mid-cap companies in research and innovation activities supported under point (a)(i) of the first subparagraph of Article 3(1).

3. In order to contribute to the specific objective under PO 1 set out in point (a)(iv) of the first subparagraph of Article 3(1), the ERDF shall also support training, life-long learning, reskilling and education activities.

4. In order to contribute to the specific objective under PO 2 set out in point (b)(iv) of the first subparagraph of Article 3(1) and to the specific objective under PO 4 set out in point (d)(v) of that subparagraph, the ERDF shall also support the purchase of supplies necessary for strengthening the resilience of health systems and for strengthening disaster resilience.

5. Under Interreg, the ERDF may also support:

- (a) sharing of facilities and of human resources; and
- (b) accompanying soft investments and other activities linked to PO 4 under the European Social Fund Plus as set out in Regulation (EU) 2021/1057.

6. The ERDF may support the financing of working capital in SMEs in the form of grants, where strictly necessary as a temporary measure to respond to exceptional or unusual circumstances referred to in Article 20 of Regulation (EU) 2021/1060.

7. Where, upon a request submitted by the Member States concerned, the Commission finds that the requirements laid down in paragraph 6 are fulfilled, it shall adopt an implementing decision specifying the period during which the temporary additional support from ERDF is authorised.

⁽²¹⁾ Regulation (EU) 2015/1017 of the European Parliament and the Council of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal and amending Regulations (EU) No 1291/2013 and (EU) No 1316/2013 – the European Fund for Strategic Investments (OJ L 169, 1.7.2015, p. 1).

8. The Commission shall keep the European Parliament and the Council informed about the implementation of paragraph 6 and assess whether the temporary additional support from the ERDF is sufficient to facilitate the use of the fund in response to the exceptional or unusual circumstances. On the basis of its assessment, the Commission shall, where deemed appropriate, make proposals for amendments to this Regulation, including on thematic concentration requirements in Article 4.

9. The European Parliament or the Council may invite the Commission for a structured dialogue on the application of paragraphs 6, 7 and 8 of this Article in accordance with Article 20(3) of Regulation (EU) 2021/1060.

Article 6

Scope of support from the Cohesion Fund

1. The Cohesion Fund shall support the following:

- (a) investments in the environment, including investments related to sustainable development and energy presenting environmental benefits, with a particular focus on renewable energy;
- (b) investments in TEN-T;
- (c) technical assistance;
- (d) information, communication, and studies.

Member States shall ensure an appropriate balance between investments under points (a) and (b), based on the investment and infrastructure needs specific to each Member State.

2. The amount of the Cohesion Fund transferred to the Connecting Europe Facility shall be used for TEN-T projects.

Article 7

Exclusion from the scope of the ERDF and the Cohesion Fund

1. The ERDF and the Cohesion Fund shall not support:

- (a) the decommissioning or the construction of nuclear power stations;
- (b) investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC;
- (c) the manufacturing, processing and marketing of tobacco and tobacco products;
- (d) an undertaking in difficulty, as defined in point (18) of Article 2 of Regulation (EU) No 651/2014, unless authorised under *de minimis* aid or temporary State aid rules established to address exceptional circumstances;
- (e) investment in airport infrastructure, except for outermost regions or in existing regional airports as defined in point (153) of Article 2 of Regulation (EU) No 651/2014, in any of the following cases:
 - (i) in environmental impact mitigation measures; or
 - (ii) in security, safety, and air traffic management systems resulting from Single European Sky ATM Research;
- (f) investment in disposal of waste in landfill, except:
 - (i) for the outermost regions, in duly justified cases only; or
 - (ii) for investments for decommissioning, reconvertng or making safe existing landfills provided that such investments do not increase their capacity;
- (g) investment increasing the capacity of facilities for the treatment of residual waste, except for:
 - (i) the outermost regions in duly justified cases only;
 - (ii) investment in technologies to recover materials from residual waste for circular economy purposes;

- (h) investment related to production, processing, transport, distribution, storage or combustion of fossil fuels, with the exception of:
 - (i) the replacement of solid fossil fuels fired, namely coal, peat, lignite, oil-shale, heating systems with gas-fired heating systems for the purpose of:
 - upgrading district heating and cooling systems to the status of 'efficient district heating and cooling' as defined in point (41) of Article 2 of Directive 2012/27/EU;
 - upgrading combined heat and power installations to the status of 'high-efficiency co-generation' as defined in point (34) of Article 2 of Directive 2012/27/EU;
 - investment in natural gas-fired boilers and heating systems in housing and buildings replacing coal-, peat-, lignite- or oil shale-based installations;
 - (ii) investment in the expansion and repurposing, conversion or retrofitting of gas transmission and distribution networks provided that such investment makes the networks ready for adding renewable and low carbon gases, such as hydrogen, biomethane and synthesis gas, into the system and allows to substitute solid fossil fuels installations;
 - (iii) investment in:
 - clean vehicles as defined in Directive 2009/33/EC of the European Parliament and of the Council ⁽²²⁾ for public purposes; and
 - vehicles, aircraft and vessels designed and constructed or adapted for use by civil protection and fire services.

2. The total amount of Union support for Union investment referred to in points (h)(i) and (h)(ii) of paragraph 1 shall not exceed the following limits of the total programmes allocation from the ERDF and the Cohesion Fund under the Investment for jobs and growth goal for the Member State concerned:

- (a) for Member States whose gross national income (GNI) per capita is below 60 % of the EU average GNI per capita, or for Member States whose GNI per capita is below 90 % of the EU average GNI per capita and which have a share of solid fossil fuels in gross inland energy consumption equal to or above 25 %, the limit shall be 1,55 %;
- (b) for Member States other than those in point (a) whose GNI per capita is below 90 % of the EU average GNI per capita, the limit shall be 1 %;
- (c) for Member States whose GNI per capita is equal to or above 90 % of the EU average GNI per capita, the limit shall be 0,2 %.

3. For the purposes of this Article, the gross national income per capita of a given Member State shall be measured in purchasing power standards and calculated on the basis of Union figures for the period from 2015 to 2017, and expressed as a percentage of the national income per capita in purchasing power standards of the 27 Member States for that same reference period.

For the purposes of this Article, the share of solid fossil fuels in energy consumption means the share of coal, lignite, peat and oil shale measured in 2018.

4. Operations supported by the ERDF and the Cohesion Fund under points (h)(i) and (h)(ii) of paragraph 1 shall be selected by the managing authority by 31 December 2025. Such operations shall not be phased to the next programming period.

5. The Cohesion Fund shall not support investment in housing unless related to the promotion of energy efficiency or renewable energy use.

6. Overseas countries and territories shall not be eligible for support from the ERDF or the Cohesion Fund, but may participate in Interreg programmes in accordance with the conditions set out in Regulation (EU) 2021/1059 of the European Parliament and of the Council ⁽²³⁾.

⁽²²⁾ Directive 2009/33/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of clean and energy-efficient road transport vehicles (OJ L 120, 15.5.2009, p. 5).

⁽²³⁾ Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (see page 94 of this Official Journal).

Article 8

Indicators

1. Common output and result indicators, as set out in Annex I with regard to the ERDF and to the Cohesion Fund, and, where relevant, programme-specific output and result indicators shall be used in accordance with point (a) of the second subparagraph of Article 16(1), point (d)(ii) of Article 22(3) and point (b) of Article 42(2), of Regulation (EU) 2021/1060.
2. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.
3. In compliance with its reporting requirement pursuant to point (h) of Article 41(3) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽²⁴⁾ (the 'Financial Regulation'), the Commission shall present to the European Parliament and to the Council information on performance in accordance with Annex II.
4. The Commission is empowered to adopt delegated acts in accordance with Article 16 to amend Annex II in order to make the relevant adjustments to the information on performance to be provided to the European Parliament and to the Council.
5. The Commission shall assess how the strategic importance of the investments co-financed by the ERDF and the Cohesion Fund is taken into account in the context of the implementation of the Stability and Growth Pact and submit a report to the European Parliament and to the Council.

CHAPTER II

SPECIFIC PROVISIONS ON THE TREATMENT OF PARTICULAR TERRITORIAL FEATURES AND INTERREGIONAL INNOVATION INVESTMENTS

Article 9

Integrated territorial development

1. The ERDF may support integrated territorial development within programmes under both goals referred to in Article 5(2) of Regulation (EU) 2021/1060 in accordance with Chapter II of Title III of that Regulation.
2. Member States shall implement integrated territorial development, supported by the ERDF, exclusively through the forms referred to in Article 28 of Regulation (EU) 2021/1060.

Article 10

Support for disadvantaged areas

In accordance with Article 174 TFEU, the ERDF shall pay special attention to addressing the challenges of disadvantaged regions and areas, in particular rural areas and areas which suffer from severe and permanent natural or demographic handicaps. Member States shall, where appropriate, set out an integrated approach to addressing demographic challenges or specific needs of such regions and areas in their partnership agreements in accordance with point (i) of the first subparagraph of Article 11 of Regulation (EU) 2021/1060. Such an integrated approach may include a commitment on dedicated funding for that purpose.

⁽²⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

*Article 11***Sustainable urban development**

1. To address economic, environmental, climate, demographic and social challenges, the ERDF shall support integrated territorial development based on territorial or community-led local development strategies in accordance with Article 29 or 32 of Regulation (EU) 2021/1060, respectively, that are focused on urban areas, including functional urban areas ('sustainable urban development') within programmes under both goals referred to in Article 5(2) of that Regulation.

Special attention shall be given to tackling environmental and climate challenges, in particular the transition towards a climate-neutral economy by 2050, to harnessing the potential of digital technologies for innovation purposes, and to support the development of functional urban areas. In this context, sustainable urban development resources programmed under priorities corresponding to PO 1 and 2 shall count towards the thematic concentration requirements under Article 4.

2. At least 8 % of the ERDF resources at national level under the Investment for jobs and growth goal, other than for technical assistance, shall be allocated to sustainable urban development in one or more of the forms referred to in Article 28 of Regulation (EU) 2021/1060.

The relevant territorial authorities or bodies shall select or shall be involved in the selection of operations in accordance with Article 29(3) and point (d) of Article 32(3) of Regulation (EU) 2021/1060.

The programmes concerned shall set out the planned amounts for that purpose under point (d)(viii) of Article 22(3) of Regulation (EU) 2021/1060.

3. The percentage allocated to sustainable urban development under paragraph 2 of this Article shall be complied with throughout the entire programming period when ERDF allocations are transferred between priorities of a programme or between programmes, including at the mid-term review in accordance with Article 18 of Regulation (EU) 2021/1060.

4. Where the ERDF allocation is reduced following a decommitment under Article 105 of Regulation (EU) 2021/1060, or due to financial corrections by the Commission in accordance with Article 104 of that Regulation, compliance with paragraph 2 of this Article shall not be re-assessed.

*Article 12***European Urban Initiative**

1. The ERDF shall support the European Urban Initiative, implemented by the Commission in direct and indirect management.

This initiative shall cover all urban areas, including functional urban areas, and shall support the Urban Agenda for the EU, including support for the participation of local authorities in the thematic partnerships developed under the Urban Agenda for the EU.

2. The European Urban Initiative shall, with regard to sustainable urban development, consist of the following two strands:

- (a) support of innovative actions;
- (b) support of capacity and knowledge building, territorial impact assessments, policy development and communication.

Upon the request of one or more Member States, the European Urban Initiative may also support inter-governmental cooperation on urban matters. Particular attention should be given to cooperation aimed at capacity building at local level to achieve UN Sustainable Development Goals.

The Commission shall submit a report every two years to the European Parliament and to the Council on developments in connection with the European Urban Initiative.

3. The governance model of the European Urban Initiative shall include the involvement of Member States, regional and local authorities and cities and shall ensure appropriate coordination and complementarities with the dedicated programme under point (b) of Article 3(3) of Regulation (EU) 2021/1059 dealing with sustainable urban development.

Article 13

Interregional Innovation Investments

1. The ERDF shall support the Interregional Innovation Investments Instrument.
2. The Interregional Innovation Investments Instrument shall support the commercialisation and scaling up of interregional innovation projects having the potential to encourage the development of European value chains.
3. The Interregional Innovation Investments Instrument shall consist of the following two strands, supporting equally:
 - (a) financial and advisory support for investments in interregional innovation projects in shared smart specialisation areas;
 - (b) financial and advisory support, and capacity building for the development of value chains in less developed regions.
4. Up to 2 % of the resources may be dedicated to learning and evaluation activities, in order to capitalise on and disseminate the outcome of projects supported under the two strands.
5. The Commission shall implement those investments under direct or indirect management.
6. The Commission shall be supported in its work by a group of experts.

The expert group shall be composed of representatives from Member States, regional authorities and cities, and representatives of business, research and civil society organisations. The composition of the expert group shall aim to ensure gender balance.

The expert group shall support the Commission in defining a long-term work programme and in preparing calls for proposals.

7. When implementing this instrument, the Commission shall ensure coordination and synergy with other Union funding programmes and instruments and in particular with strand 'Interreg C' as defined in point 3 of Article 3 of Regulation (EU) 2021/1059.

8. The Interregional Innovation Investments Instrument shall cover the entire territory of the Union.

Third countries can participate in this instrument, in accordance with the arrangements laid down in Articles 16 and 23 of Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽²⁵⁾ (the 'Horizon Europe Regulation').

Article 14

Outermost regions

1. Article 4 shall not apply to the specific additional allocation for the outermost regions. This specific additional allocation for the outermost regions shall be used to offset the additional costs incurred in these regions as a result of one or several of the permanent restraints to their development referred to in Article 349 TFEU.

⁽²⁵⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

2. The allocation referred to in paragraph 1 of this Article shall support:

- (a) the activities within the scope as set out in Article 5 of this Regulation;
- (b) by way of derogation from Article 5 of this Regulation, measures covering operating costs with a view to offsetting the additional costs incurred in the outermost regions as a result of one or several of the permanent restraints to their development referred to in Article 349 TFEU.

The allocation referred to in paragraph 1 of this Article may also support expenditure covering compensation granted for the provision of public service obligations and contracts in the outermost regions.

3. The allocation, referred to in paragraph 1 of this Article, shall not support:

- (a) operations involving products listed in Annex I to the TFEU;
- (b) aid for the transport of persons authorised under point (a) of Article 107(2) TFEU;
- (c) tax exemptions and exemption of social charges;
- (d) public services obligations not discharged by undertakings and where the State acts by exercising public power.

4. By way of derogation from point (c) of Article 5(1), the ERDF may support productive investments in enterprises in the outermost regions, irrespective of the size of those enterprises.

CHAPTER III

TRANSITIONAL AND FINAL PROVISIONS

Article 15

Transitional provisions

Regulations (EU) No 1300/2013 and (EU) No 1301/2013 or any act adopted thereunder shall continue to apply to programmes and operations supported by the ERDF or the Cohesion Fund under the 2014-2020 programming period.

Article 16

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 8(4) shall be conferred on the Commission for an indeterminate period of time from 1 July 2021.

3. The delegation of power referred to in Article 8(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 8(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 17

Review

The European Parliament and the Council shall review this Regulation by 31 December 2027, in accordance with Article 177 TFEU.

Article 18

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 June 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

ANNEX I

COMMON OUTPUT AND RESULT INDICATORS FOR ERDF AND THE COHESION FUND – ARTICLE 8(1) ⁽¹⁾

Table 1

Common output and result indicators for ERDF (Investment for jobs and growth and Interreg) and the Cohesion Fund **

Policy objective	Specific objective	Outputs	Results
(1)	(2)	(3)	(4)
1. A more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity (PO 1)	(i) Developing and enhancing research and innovation capacities and the uptake of advanced technologies	RCO ⁽¹⁾ 01 - Enterprises supported (of which: micro, small, medium, large)* ⁽²⁾	RCR ⁽³⁾ 01 - Jobs created in supported entities*
		RCO 02 - Enterprises supported by grants*	RCR 102 - Research jobs created in supported entities*
		RCO 03 - Enterprises supported by financial instruments*	RCR 02 - Private investments matching public support (of which: grants, financial instruments)* ⁽⁴⁾
		RCO 04 - Enterprises with non-financial support*	RCR 03 - Small and medium-size enterprises (SMEs) introducing product or process innovation*
		RCO 05 - New enterprises supported*	RCR 04 - SMEs introducing marketing or organisational innovation*
		RCO 06 - Researchers working in supported research facilities	
		RCO 07 - Research organisations participating in joint research projects	
	(ii) Reaping the benefits of digitisation for citizens, companies, research organisations and public authorities	RCO 08 - Nominal value of research and innovation equipment	RCR 05 - SMEs innovating in-house*
		RCO 10 - Enterprises cooperating with research organisations	RCR 06 - Patent applications submitted*
		RCO 96 - Interregional investments for innovation in Union projects*	RCR 07 - Trademark and design applications*
			RCR 08 - Publications from supported projects
		RCO 13 - Value of digital services, products and processes developed for enterprises*	RCR 11 - Users of new and upgraded public digital services, products and processes*

⁽¹⁾ To be used, for the Investment for jobs and growth and Interreg in accordance with point (a) of the second subparagraph of Article 16(1), and point (b) of Article 41(2) of Regulation (EU) 2021/1060 (CPR) and, for Investment for jobs and growth in accordance with point d)(ii) of Article 22(3) of Regulation (EU) 2021/1060 (CPR) and, for Interreg, in accordance with point e)(ii) of Article 22(4) of Regulation (EU) 2021/1059 (Interreg).

			RCO 14 - Public institutions supported to develop digital services, products and processes*	RCR 12 - Users of new and upgraded digital services, products and processes developed by enterprises* RCR 13 - Enterprises reaching high digital intensity*
	(iii) Enhancing sustainable growth and competitiveness of SMEs and job creation in SMEs, including by productive investments		RCO 15 - Capacity of incubation created* RCO 103 - High growth enterprises supported*	RCR 17 - New enterprises surviving in the market* RCR 18 - SMEs using incubator services after incubator creation* RCR 19 - Enterprises with higher turnover* RCR 25 - SMEs with higher value added per employee*
	(iv) Developing skills for smart specialisation, industrial transition and entrepreneurship		RCO 16 - Participations of institutional stakeholders in entrepreneurial discovery process RCO 101 - SMEs investing in skills for smart specialisation, for industrial transition and entrepreneurship*	RCR 97 - Apprenticeships supported in SMEs RCR 98 - SMEs staff completing training for skills for smart specialisation, for industrial transition and entrepreneurship (by type of skill: technical, management, entrepreneurship, green, other) ⁽²⁾ *
	(v) Enhancing digital connectivity		RCO 41 - Additional dwellings with broadband access of very high capacity RCO 42 - Additional enterprises with broadband access of very high capacity	RCR 53 - Dwellings with broadband subscriptions to a very high capacity network RCR 54 - Enterprises with broadband subscriptions to a very high capacity network
2. A greener, low-carbon transition towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility (PO 2)	(i) Promoting energy efficiency and reducing greenhouse gas emissions		RCO 18 - Dwellings with improved energy performance RCO 19 - Public buildings with improved energy performance RCO 20 - District heating and cooling network lines newly constructed or improved RCO 104 - Number of high efficiency co-generation units RCO 123 - Dwellings benefitting from natural gas-fired boilers and heating systems replacing solid fossil fuels based installations	RCR 26 - Annual primary energy consumption (of which: dwellings, public buildings, enterprises, other) ⁽²⁾ RCR 29 - Estimated greenhouse gas emissions* RCR 105 - Estimated greenhouse emissions by boilers and heating systems converted from solid fossil fuels to gas
	(ii) Promoting renewable energy in accordance with Directive (EU) 2018/2001, including the sustainability criteria set out therein		RCO 22 - Additional production capacity for renewable energy (of which: electricity, thermal) ⁽²⁾ * RCO 97 - Renewable energy communities supported*	RCR 31 - Total renewable energy produced (of which: electricity, thermal) ⁽²⁾ *

			RCR 32 - Additional operational capacity installed for renewable energy*
			RCR 33 - Users connected to smart energy systems RCR 34 - Roll-out of projects for smart energy systems
	(iii) Developing smart energy systems, grids and storage outside the Trans-European Energy Network (TEN-E)	RCO 23 - Digital management systems for smart energy systems RCO 105 - Solutions for electricity storage RCO124: Gas transmission and distribution network lines newly constructed or improved	RCR 35 - Population benefiting from flood protection measures RCR 36 - Population benefiting from wildfire protection measures RCR 37 - Population benefiting from protection measures against climate related natural disasters (other than floods or wildfire) RCR 96 - Population benefiting from protection measures against non-climate related natural risks and risks related to human activities*
	(iv) Promoting climate change adaptation and disaster risk prevention, and resilience, taking into account eco-system based approaches	RCO 24 - Investments in new or upgraded disaster monitoring, preparedness, warning and response systems against natural disasters* RCO 122 - Investments in new or upgraded disaster monitoring, preparedness, warning and response systems against non-climate related natural risks and risks related to human activities RCO 25 - Coastal strip, river bank and lakeshore flood protection newly built or consolidated RCO 106 - Landslide protection newly built or consolidated RCO 26 - Green infrastructure built or upgraded for adaptation to climate change* RCO 27 - National and sub-national strategies addressing climate change adaptation* RCO 28 - Area covered by protection measures against wildfires RCO 121 - Area covered by protection measures against climate related natural disasters (other than floods and wildfire)	
	(v) Promoting access to water and sustainable water management	RCO 30 - Length of new or upgraded pipes for the distribution systems of public water supply	RCR 41 - Population connected to improved public water supply RCR 42 - Population connected to at least secondary public waste water treatment

		RCO 31 - Length of new or upgraded pipes for the public network for collection of waste water RCO 32 - New or upgraded capacity for waste water treatment	RCR 43 - Water losses in distribution systems for public water supply
(vi) Promoting the transition to a circular and resource efficient economy		RCO 34 - Additional capacity for waste recycling RCO 107 - Investments in facilities for separate waste collection RCO 119 - Waste prepared for re-use	RCR 103 - Waste collected separately RCR 47 - Waste recycled RCR 48 - Waste used as raw materials
(vii) Enhancing protection and preservation of nature, biodiversity and green infrastructure, including in urban areas and reducing all forms of pollution		RCO 36 - Green infrastructure supported for other purposes than adaptation to climate change RCO 37 - Surface of Natura 2000 sites covered by protection and restoration measures RCO 38 - Surface area of rehabilitated land supported RCO 39 - Area covered by systems for monitoring air pollution installed	RCR 50 - Population benefiting from measures for air quality* RCR 95 - Population having access to new or improved green infrastructure* RCR 52 - Rehabilitated land used for green areas, social housing, economic or other uses
(viii) Promoting sustainable multimodal urban mobility, as part of transition to a net zero carbon economy		RCO 55 - Length of new tram and metro lines RCO 56 - Length of reconstructed or modernised tram and metro lines RCO 57 - Capacity of environmentally friendly rolling stock for collective public transport* RCO 58 - Dedicated cycling infrastructure supported* RCO 59 - Alternative fuels infrastructure (refuelling/recharging points)* RCO 60 - Cities and towns with new or modernised digitised urban transport systems	RCR 62 - Annual users of new or modernised public transport RCR 63 - Annual users of new or modernised tram and metro lines RCR 64 - Annual users of dedicated cycling infrastructure

3. A more connected Europe by enhancing mobility (PO 3)	(i) Developing a climate resilient, intelligent, secure, sustainable and intermodal TEN-T	RCO 43 - Length of new or upgraded roads - TEN-T (*) RCO 45 - Length of roads reconstructed or modernised - TEN-T RCO 108 - Length of roads with new or modernised traffic management systems - TEN-T RCO 47 - Length of new or upgraded rail - TEN-T RCO 49 - Length of rail reconstructed or modernised - TEN-T RCO 51 - Length of new, upgraded or modernised inland waterways - TEN-T RCO 109 - Length of European Rail Traffic Management System equipped railways in operation - TEN-T	RCR 55 - Annual users of newly built, reconstructed, upgraded or modernised roads RCR 56 - Time savings due to improved road infrastructure RCR 101 - Time savings due to improved rail infrastructure RCR 58 - Annual users of newly built, upgraded, reconstructed or modernised railways RCR 59 - Freight transport on rail RCR 60 - Freight transport on inland waterways
(ii) Developing and enhancing sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility		RCO 44 - Length of new or upgraded roads - non-TEN-T RCO 46 - Length of roads reconstructed or modernised - non-TEN-T RCO 110 - Length of roads with new or modernised traffic management systems - non-TEN-T RCO 48 - Length of new or upgraded rail - non-TEN-T RCO 50 - Length of rail reconstructed or modernised - non-TEN-T RCO 111 - Length of European Rail Traffic Management System equipped railways in operation - non-TEN-T RCO 52 - Length of new, upgraded or modernised inland waterways - non-TEN-T RCO 53 - New or modernised railway stations and stops* RCO 54 - New or modernised intermodal connections*	

4. more social and inclusive Europe implementing the European Pillar of Social Rights (PO 4)	(i) Enhancing the effectiveness and inclusiveness of labour markets and access to quality employment through developing social infrastructure and promoting social economy	RCO 61 - Surface of new or modernised facilities for employment services	RCR 65 - Annual users of new or modernised facilities for employment services
	(ii) Improving equal access to inclusive and quality services in education, training and lifelong learning through developing accessible infrastructure, including by fostering resilience for distance and on-line education and training	RCO 66 - Classroom capacity of new or modernised childcare facilities RCO 67 - Classroom capacity of new or modernised education facilities	RCR 70 - Annual users of new or modernised childcare facilities RCR 71 - Annual users of new or modernised education facilities
	(iii) Promoting the socioeconomic inclusion of marginalised communities, low income households and disadvantaged groups, including people with special needs, through integrated actions, including housing and social services	RCO 65 - Capacity of new or modernised social housing* RCO113 - Population covered by projects in the framework of integrated actions for socioeconomic inclusion of marginalised communities, low income households and disadvantaged groups*	RCR 67 - Annual users of new or modernised social housing
	(iv) Promoting the socio-economic integration of third country nationals, including migrants through integrated actions, including housing and social services	RCO 63 - Capacity of new or modernised temporary reception facilities	RCR 66 - Annual users of new or modernised temporary reception facilities
	(v) Ensuring equal access to health care and fostering resilience of health systems, including primary care, and promoting the transition from institutional to family-based and community-based care	RCO 69 - Capacity of new or modernised health care facilities	RCR 72 - Annual users of new or modernised e-health care services RCR 73 - Annual users of new or modernised health care facilities

			RCO 70 - Capacity of new or modernised social care facilities (other than housing)	RCR 74 - Annual users of new or modernised social care facilities
	(vi) Enhancing the role of culture and sustainable tourism in economic development, social inclusion and social innovation		RCO 77 - Number of cultural and tourism sites supported*	RCR 77 - Visitors of cultural and tourism sites supported*
5. A Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives (PO 5)	(i) Fostering the integrated and inclusive social, economic and environmental development, culture, natural heritage, sustainable tourism, and security in urban areas		RCO 74 - Population covered by projects in the framework of strategies for integrated territorial development* RCO 75 - Strategies for integrated territorial development supported*	
	(ii) Fostering the integrated and inclusive social, economic and environmental local development, culture, natural heritage, sustainable tourism and security in areas other than urban areas		RCO 76 - Integrated projects for territorial development RCO 80 - Community-led local development strategies supported* RCO 112 - Stakeholders involved in the preparation and implementation of strategies for integrated territorial development RCO 114 - Open space created or rehabilitated in urban areas*	

** For presentational reasons common output and result indicators are grouped by, but not limited to, a specific objective within a policy objective. In particular PO 5, may use relevant common indicators listed for POs 1 to 4. In addition, in order to develop a full picture of the expected and actual performance of the programmes, the common indicators indicated by * may be used by specific objectives under any of the POs 1 to 4, when relevant.

(i) RCO: REGIO Common Output Indicator.

(j) Breakdown not requested for programming but only for reporting.

(j) RCR: REGIO Common Result Indicator.

(j) Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

Table 2

Additional common output and result indicators for the ERDF for Interreg

Interreg-specific indicators	Additional common output and result indicators for the ERDF for Interreg	
	RCO 81 - Participations in joint actions across borders RCO 115 - Public events across borders jointly organised RCO 82 - Participations in joint actions promoting gender equality, equal opportunities and social inclusion RCO 83 - Strategies and action plans jointly developed RCO 84 - Pilot actions developed jointly and implemented in projects	RCR 79 - Joint strategies and action plans taken up by organisations RCR 104 - Solutions taken up or up-scaled by organisations

	<p>RCO 116 - Jointly developed solutions</p> <p>RCO 85 - Participations in joint training schemes</p> <p>RCO 117 - Solutions for legal or administrative obstacles across border identified</p> <p>RCO 86 - Joint administrative or legal agreements signed</p> <p>RCO 87 - Organisations cooperating across borders</p> <p>RCO 118 - Organisations cooperating for the multi-level governance of macroregional strategies</p> <p>RCO 90 - Projects for innovation networks across borders</p> <p>RCO 120 - Projects supporting cooperation across borders to develop urban-rural linkages</p>	<p>RCR 81 - Completions of joint training schemes</p> <p>RCR 82 - Legal or administrative obstacles across borders alleviated or resolved</p> <p>RCR 83 - Persons covered by joint administrative or legal agreements signed</p> <p>RCR 84 - Organisations cooperating across borders after project completion</p> <p>RCR 85 - Participations in joint actions across borders after project completion</p>
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ANNEX II

CORE SET OF PERFORMANCE INDICATORS FOR ERDF AND COHESION FUND REFERRED TO IN ARTICLE 8(3), TO BE USED BY THE COMMISSION IN COMPLIANCE WITH ITS REPORTING REQUIREMENT PURSUANT TO POINT (H)(III) OF ARTICLE 41(3) OF THE FINANCIAL REGULATION

Policy objective (1)	Specific objective (2)	Outputs (3)	Results (4)
1. A more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity (PO 1)	(i) Developing and enhancing research and innovation capacities and the uptake of advanced technologies	CCO (1) 01 - Enterprises supported to innovate CCO 02 - Researchers working in supported research facilities	CCR (1) 01 - Small and medium-sized enterprises (1) (SMEs) introducing product, process, marketing or organisational innovation
	(ii) Reaping the benefits of digitalisation for citizens, companies, research organisations and public authorities	CCO 03 - Enterprises and public institutions supported to develop digital products, services and processes	CCR 02 - Annual users of new or upgraded digital products, services and processes
	(iii) Enhancing sustainable growth and competitiveness of SMEs and job creation in SMEs, including by productive investments	CCO 04 - SMEs supported to enhance growth and competitiveness	CCR 03 - Jobs created in enterprises supported
	(iv) Developing skills for smart specialisation, industrial transition and entrepreneurship	CCO 05 - SMEs investing in skills for smart specialisation, for industrial transition and entrepreneurship	CCR 04 - SMEs staff completing training for skills for smart specialisation, for industrial transition and entrepreneurship
	(v) Enhancing digital connectivity	CCO 13 - Additional dwellings and enterprises with broadband access of very high capacity CCO 06 - Investments in measures to improve energy performance	CCR 12 - Additional dwellings and enterprises with broadband subscriptions to a very high capacity network CCR 05 - Savings in annual primary energy consumption
2. A greener, low-carbon transition towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate	(i) Promoting energy efficiency measures and reducing green-house gas emissions	CCO 07 - Additional production capacity for renewable energy	CCR 06 - Additional renewable energy produced
	(ii) Promoting renewable energy in accordance with Directive (EU) 2018/2001, including the sustainability criteria set out therein	CCO 08 - Digital management systems for smart energy systems	CCR 07 - Additional users connected to smart energy systems
	(iii) Developing smart energy systems, grids and storage outside the Trans-European Energy Network (TEN-E)	CCO 09 - Investments in new or upgraded disaster monitoring, preparedness, warning and response systems	CCR 08 - Additional population benefiting from protection measures against floods, wild fires, and other climate related natural disasters

change mitigation and adaptation, risk prevention and management, and sustainable urban mobility (PO 2)	(v) Promoting access to water and sustainable water management	CCO 10 - New or upgraded capacity for waste water treatment	CCR 09 - Additional population connected to at least secondary waste water treatment
	(vi) Promoting the transition to a circular and resource efficient economy	CCO 11 - New or upgraded capacity for waste recycling	CCR 10 - Additional waste recycled
	(vii) Enhancing protection and preservation of nature, biodiversity and green infrastructure, including in urban areas, and reducing all forms of pollution	CCO 12 - Surface area of green infrastructure	CCR 11 - Population benefiting from measures for air quality
	(viii) Promoting sustainable multimodal urban mobility, as part of transition to a net zero carbon economy	CCO 16 - Extension and modernisation of tram and metro lines	CCR 15 - Annual users served by new and modernised tram and metro lines
3. A more connected Europe by enhancing mobility (PO 3)	(i) Developing a climate resilient, intelligent, secure, sustainable and intermodal TEN-T	CCO 14 - Road TEN-T: New upgraded, reconstructed, or modernised roads CCO 15 - Rail TEN-T: New, upgraded, reconstructed, or modernised railways	CCR 13 - Time savings due to improved road infrastructure CCR 14 - Annual number of passengers served by improved rail transport
	(ii) Developing and enhancing a sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility	CCO 22 - Road non-TEN-T: New, upgraded, reconstructed, or modernised roads CCO 23 - Rail non-TEN-T: New, upgraded, reconstructed, or modernised railways	
	(i) Enhancing the effectiveness and inclusiveness of labour markets and access to quality employment through developing social infrastructure and promoting social economy	CCO 17 - Surface of new or modernised facilities for employment services	CCR 16 - Annual users of new or modernised facilities for employment services
4. A more social and inclusive Europe implementing the European Pillar of Social Rights (PO 4)	(ii) Improving equal access to inclusive and quality services in education, training and lifelong learning through developing accessible infrastructure, including by fostering resilience for distance and on-line education and training	CCO 18 - New or modernised capacity for childcare and education facilities	CCR 17 - Annual users served by new or modernised childcare and education facilities
	(iii) Promoting the socioeconomic inclusion of marginalised communities, low income households and disadvantaged groups	CCO 19 - New or modernised capacity of social housing facilities CCO 25 - Population covered by projects in the framework of integrated actions for socioeconomic	CCR 18 - Annual users of new or modernised social housing facilities

	including people with special needs, through integrated actions including housing and social services	inclusion of marginalised communities, low income households and disadvantaged groups	
	(iv) Promoting the socio-economic integration of third country nationals, including migrants through integrated actions, including housing and social services	CCO 26 - New or modernised capacity for temporary reception facilities	CCR20 - Annual users of new or modernised temporary reception facilities
	(v) Ensuring equal access to health care and fostering resilience of health systems, including primary care, and promoting the transition from institutional to family-based and community-based care	CCO 20 - New or modernised capacity for health care facilities	CCR 19 - Annual users of new or modernised health care services
	(vi) Enhancing the role of culture and sustainable tourism in economic development, social inclusion and social innovation	CCO24 - Culture and tourism sites supported	CCR21 - Visitors of culture and tourism sites supported
5. A Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives (PO 5)	(i) Fostering the integrated and inclusive social, economic and environmental development, culture, natural heritage, sustainable tourism, and security in urban areas	CCO 21 - Population covered by strategies for integrated territorial development	
	(ii) Fostering the integrated and inclusive social, economic and environmental local development, culture, natural heritage, sustainable tourism and security in areas other than urban areas		

(i) CCO: REGIO Core Common Output.

(ii) CCR: REGIO Core Common Result.

(i) Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

REGULATION (EU) 2021/1060 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 24 June 2021****laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177, point (a) of Article 322(1) and Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Having regard to the opinion of the Court of Auditors ⁽³⁾,

Acting in accordance with the ordinary legislative procedure ⁽⁴⁾,

Whereas:

- (1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that, in order to strengthen its economic, social and territorial cohesion, the Union is to aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, and that particular attention is to be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. Those regions particularly benefit from cohesion policy. Article 175 TFEU requires the Union to support the achievement of those objectives by the action it takes through the European Agricultural Guidance and Guarantee Fund, Guidance Section, the European Social Fund, the European Regional Development Fund, the European Investment Bank and other instruments. Article 322 TFEU provides the basis for adopting financial rules determining the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts, as well as for checks on the responsibility of financial actors.
- (2) In order to further develop a coordinated and harmonised implementation of Union Funds implemented under shared management, namely the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the Just Transition Fund (JTF), and measures financed under shared management in the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) and the Instrument for Financial Support for Border Management and Visa Policy (BMVI), financial rules based on Article 322 TFEU should be established for all these Funds (together referred to as 'the Funds'), clearly specifying the scope of application of the relevant provisions. In addition, common provisions based on Article 177 TFEU should be established to cover policy -specific rules for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

⁽¹⁾ OJ C 62, 15.2.2019, p. 83.

⁽²⁾ OJ C 86, 7.3.2019, p. 41.

⁽³⁾ OJ C 17, 14.1.2019, p. 1.

⁽⁴⁾ Position of the European Parliament of 27 March 2019 (OJ C 108, 26.3.2021, p. 638) and position of the Council at first reading of 27 May 2021 (not yet published in the Official Journal). Position of the European Parliament of 24 June 2021 (not yet published in the Official Journal).

- (3) Due to the specificities of each Fund, specific rules applicable to each Fund and to the European territorial cooperation goal (Interreg) under the ERDF should be laid down in separate Regulations ('Fund-specific Regulations') to complement this Regulation.
- (4) The outermost regions should benefit from specific measures and from additional funding to offset their structural social and economic situation together with the handicaps resulting from the factors referred to in Article 349 TFEU.
- (5) The northern sparsely populated regions should benefit from specific measures and additional funding to offset the severe and natural or demographic handicaps referred to in Article 2 of Protocol No 6 to the 1994 Act of Accession.
- (6) Horizontal principles as set out in Article 3 of the Treaty on European Union (TEU) and in Article 10 TFEU, including the principles of subsidiarity and proportionality as set out in Article 5 TEU, should be respected in the implementation of the Funds, taking into account the Charter of Fundamental Rights of the European Union. Member States should also respect the obligations set out in the United Nations Convention on the Rights of the Child, and in the United Nations Convention on the Rights of Persons with Disabilities, and ensure accessibility in line with Article 9 thereof and in accordance with Union law harmonising accessibility requirements for products and services. In that context, the Funds should be implemented in a way that promotes the transition from institutional to family-based and community-based care. Member States and the Commission should aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. The Funds should not support actions that contribute to any form of segregation or exclusion, and, when financing infrastructure, should ensure the accessibility for persons with disabilities. The objectives of the Funds should be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Article 11 and Article 191(1) TFEU, taking into account the polluter pays principle, the UN Sustainable Development Goals and the Paris Agreement adopted under the United Nations Framework Convention on Climate Change ⁽⁷⁾ (the 'Paris Agreement'). In order to protect the integrity of the internal market, operations benefiting undertakings are to comply with Union State aid rules as set out in Articles 107 and 108 TFEU. Poverty is a particularly important challenge in the Union. The objectives of the Funds should therefore be pursued with a view to contributing to the eradication of poverty. The objectives of the Funds should be pursued with a view to providing adequate support, in particular to local and regional authorities of coastal and urban areas, to address the socioeconomic challenges linked to the integration of third-country nationals and to providing adequate support to disadvantaged areas and communities in urban areas.
- (7) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁸⁾ ('the Financial Regulation') and determine in particular the procedure for establishing and implementing the Union budget through grants, procurement, prizes, indirect management, financial instruments, budgetary guarantees, financial assistance and the reimbursement of external experts, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (8) Where a time limit is set for the Commission to take any action towards Member States, the Commission should take account of all necessary information and documents in a timely and efficient manner. Where submissions from Member States in any form under this Regulation are incomplete or non-compliant with the requirements of this Regulation and of Fund-specific Regulations, thus not allowing the Commission to take fully-informed action, that time limit should be suspended until the Member States comply with the regulatory requirements. Further, as the Commission is precluded from making payments for the expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are not fulfilled, which is included in payment applications, the time limit for the Commission to make payments should not be triggered for such expenditure.

⁽⁷⁾ OJ L 282, 19.10.2016, p. 4.

⁽⁸⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (9) In order to contribute to Union priorities, the Funds should focus their support on a limited number of policy objectives in line with their Fund-specific missions pursuant to their Treaty-based objectives. The policy objectives for the AMIF, the ISF and the BMVI should be set out in the respective Fund-specific Regulations. The JTF and any resources of the ERDF and the ESF+ that are transferred, on a voluntary basis, as a complementary support to the JTF, should contribute to a single specific objective.
- (10) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, the Funds should contribute to mainstreaming climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. In that context, the Funds should support activities that would respect the climate and environmental standards and priorities of the Union and would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁷⁾. Adequate mechanisms to ensure the climate proofing of supported investment in infrastructure should be an integral part of programming and implementation of the Funds.
- (11) Reflecting the importance of tackling the loss of biodiversity, the Funds should contribute to mainstream biodiversity action in the Union policies and to the achievement of the overall ambition of providing 7,5 % of annual spending under the multiannual financial framework (MFF) to biodiversity objectives in the year 2024 and 10 % of annual spending under the MFF to biodiversity objectives in 2026 and 2027, while considering the existing overlaps between climate and biodiversity goals.
- (12) Part of the budget of the Union allocated to the Funds should be implemented by the Commission under shared management with Member States within the meaning of the Financial Regulation. Therefore, when implementing the Funds under shared management, the Commission and the Member States should respect the principles referred to in the Financial Regulation, such as sound financial management, transparency and non-discrimination.
- (13) 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, should be responsible for preparing and implementing programmes. The Union and Member States should refrain from imposing unnecessary rules resulting in excessive administrative burden for beneficiaries.
- (14) The principle of partnership is a key feature in the implementation of the Funds, building on the multi-level governance approach and ensuring the involvement of regional, local, urban and other public authorities, civil society, economic and social partners and, where appropriate, research organisations and universities. In order to provide continuity in the organisation of partnership, the European code of conduct on partnership for Partnership Agreements and programmes supported by the European Structural and Investment Funds established by the Commission Delegated Regulation (EU) No 240/2014 ⁽⁸⁾ (the 'European code of conduct on partnership') should continue to apply to the Funds.
- (15) At Union level, the European Semester of economic policy coordination, including the principles of the European Pillar of Social Rights, is the framework to identify national reform priorities and monitor their implementation. Member States develop their own national multiannual investment strategies in support of those reforms. Those strategies should be presented alongside the yearly National Reform Programmes as a way to outline and coordinate priority investment projects to be supported by national or Union funding, or both. They should also serve to use Union funding in a coherent manner and to maximise the added value of the financial support to be received, in particular from the Funds, the Recovery and Resilience Facility established by Regulation (EU) 2021/241 of the European Parliament and of the Council ⁽⁹⁾ and the InvestEU Programme established by Regulation (EU) 2021/523 of the European Parliament and of the Council ⁽¹⁰⁾ (the 'InvestEU Regulation').

⁽⁷⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

⁽⁸⁾ Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds (OJ L 74, 14.3.2014, p. 1).

⁽⁹⁾ Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ L 57, 18.2.2021, p. 17).

⁽¹⁰⁾ Regulation (EU) 2021/523 of the European Parliament and of the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).

- (16) Member States should take into account relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) of the TFEU and complementary Commission recommendations issued in accordance with Article 34 of Regulation (EU) 2018/1999 of the European Parliament and of the Council ⁽¹⁾, and for the AMIF, the ISF and the BMVI other relevant Union recommendations addressed to the Member State in the preparation of programming documents. During the 2021–2027 programming period ('programming period'), Member States should regularly present to the monitoring committee and to the Commission the progress in implementing the programmes in support of the country-specific recommendations. During a mid-term review, Member States should, among other elements, consider the need for programme modifications to accommodate new challenges identified in relevant country-specific recommendations adopted or modified since the start of the programming period.
- (17) Member States should take account of the contents of their integrated national energy and climate plan, to be developed under Regulation (EU) 2018/1999, and the outcome of the process resulting in Union recommendations regarding these plans, for their programmes, including during the mid-term review, as well as for the financial needs allocated for low-carbon investments.
- (18) The Partnership Agreement, prepared by each Member State, should be a concise and strategic document guiding the negotiations between the Commission and the Member State concerned on the design of programmes under the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF. In order to streamline the approval process, the Commission should respect the principle of proportionality in its assessment, particularly concerning the length of the Partnership Agreement and requests for additional information. In order to reduce the administrative burden, it should not be necessary to amend Partnership Agreements during the programming period. However, if the Member State so wishes, it should be able to submit to the Commission one amendment to its Partnership Agreement to take into account the outcome of the mid-term review. To facilitate the programming and avoid overlapping content in programming documents, a Partnership Agreement can be included as part of a programme.
- (19) In order to provide Member States with sufficient flexibility in the implementation of their shared management allocations, it should be possible to transfer certain levels of funding between the Funds and between shared management and direct and indirectly managed instruments. Where the specific economic and social circumstances of a Member State justify it, that level of transfer should be higher.
- (20) Each Member State should have the flexibility to contribute to the InvestEU Programme for the provision of the EU guarantee and the InvestEU Advisory Hub for investments in that Member State, under certain conditions set out in this Regulation.
- (21) To ensure the necessary prerequisites for the effective and efficient use of Union support granted by the Funds, a limited list of enabling conditions as well as a concise and exhaustive set of objective criteria for their assessment should be established. Each enabling condition should be linked to a specific objective and should be automatically applicable where the specific objective is selected for support. Without prejudice to the rules on decommitment, where those conditions are not fulfilled, expenditure related to operations under the related specific objectives should not be reimbursed by the Commission. In order to maintain a favourable investment framework, the continued fulfilment of the enabling conditions should be monitored regularly. At the request of a Member State, the EIB should be able to contribute to the assessment of the fulfilment of enabling conditions. It is also important to ensure that operations selected for support are implemented consistently with the strategies and planning documents in place underlying the fulfilled enabling conditions, thus ensuring that all co-financed operations are in line with the Union policy framework.
- (22) While pursuing the objectives of economic, social and territorial cohesion, support to network connectivity by the ERDF and the Cohesion Fund should aim at completing missing links to the trans-European transport network.

⁽¹⁾ Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

- (23) Member States should establish a performance framework for each programme covering all indicators, milestones and targets to monitor, report on and evaluate programme performance. This should allow monitoring, reporting on and evaluating performance during implementation, and contribute to measuring the overall performance of the Funds.
- (24) The Member State should carry out a mid-term review of each programme supported by the ERDF, the ESF+, the Cohesion Fund and the JTF. That review should provide a fully-fledged adjustment of programmes based on programme performance, while also providing an opportunity to take account of new challenges and relevant country-specific recommendations issued in 2024, as well as progress in implementing the integrated national energy and climate plans and the principles of the European Pillar of Social Rights. For the purposes of the mid-term review, the socioeconomic situation of the Member State or region concerned, including any major negative financial, economic or social development or demographic challenges and the progress towards reaching the climate contribution targets at national level should also be taken into account. The Commission should prepare a report about the outcome of the mid-term review, including its assessment of the application of the management costs and fees under financial instruments managed by bodies selected through direct award.
- (25) Mechanisms to ensure a link between Union funding policies and the economic governance of the Union should be further refined, allowing the Commission to make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of the Member State concerned where that Member State fails to take effective action in the context of the economic governance process. The obligation of the Commission to propose a suspension should be suspended when and for as long as the so-called general escape clause under the Stability and Growth Pact has been activated. In order to ensure uniform implementation and in view of the importance of the financial effects of measures being imposed, implementing powers should be conferred on the Council which should act on the basis of a Commission proposal. To facilitate the adoption of decisions which are required to ensure effective action in the context of the economic governance process, reversed qualified majority voting should be used. Given the type of operations that are supported by the ESF+ and Interreg programmes, the ESF+ and these programmes should be excluded from the scope of those mechanisms.
- (26) In order to allow for a rapid response to exceptional or unusual circumstances as referred to in the Stability and Growth Pact that may arise during the programming period, implementing powers should be conferred on the Commission to adopt temporary measures to facilitate the use of the Funds in response to such circumstances. The Commission should adopt the measures that are most appropriate in light of the exceptional or unusual circumstances that a Member State is facing, while preserving the objectives of the Funds. The Commission should also monitor the implementation and assess the appropriateness of those measures.
- (27) It is necessary to set out common requirements as regards the content of the programmes, taking into account the specific nature of each Fund. Those common requirements can be complemented by Fund-specific rules. Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽¹³⁾ (the 'Interreg Regulation') should set out specific provisions on the content of Interreg programmes.
- (28) In order to allow for flexibility in programme implementation and reduce administrative burden, limited financial transfers should be allowed between priorities of the same programme without requiring a Commission decision amending the programme. The revised financial tables should be submitted to the Commission in order to ensure up-to-date information on financial allocations for each priority.
- (29) In order to enhance the effectiveness of the JTF, it should be possible that complementary resources from the ERDF and the ESF+ are made available to the JTF on a voluntary basis. Those complementary resources should be provided through a specific voluntary transfer from those funds to the JTF, taking into account the transition challenges set out in the territorial just transition plans, which need to be addressed. Amounts to be transferred should be provided from resources of the categories of region where the territories identified in territorial just transition plans are located. Given these specific arrangements for the use of the JTF resources, only the specific transfer mechanism should apply for the constitution of the JTF resources. Furthermore, it should be clarified that only this Regulation

⁽¹³⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (see page 159 of this Official Journal).

and Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽¹³⁾ (the 'JTF Regulation') should apply to the JTF and to the resources of the ERDF and the ESF+ transferred to the JTF, which also become JTF support. Neither Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽¹⁴⁾ (the 'ERDF and CF Regulation') nor Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽¹⁵⁾ (the 'ESF+ Regulation') should apply to the complementary support. Therefore, the ERDF resources transferred as a complementary support to the JTF should be excluded from the basis of calculation of the thematic concentration requirements set out in the ERDF and CF Regulation and from the basis of calculation of minimum allocations to sustainable urban development as set out in the ERDF and CF Regulation. The same applies to the ESF+ resources transferred as a complementary support to the JTF in respect of thematic concentration requirements set out in the ESF+ Regulation.

- (30) To strengthen the integrated territorial development approach, investments in the form of territorial tools, such as integrated territorial investments, community-led local development, referred to as 'LEADER' under the European Agricultural Fund for Rural Development (EAFRD), or any other territorial tool which supports initiatives designed by the Member State, should be based on territorial and local development strategies. The same should apply to related initiatives such as the Smart Villages. For the purposes of integrated territorial investments and territorial tools designed by Member States, minimum requirements should be set out for the content of territorial strategies. Those territorial strategies should be developed and endorsed under the responsibility of relevant authorities or bodies. To ensure the involvement of relevant authorities or bodies in implementing territorial strategies, those authorities or bodies should be responsible for the selection of operations to be supported, or be involved in that selection. Territorial strategies, when promoting sustainable tourism initiatives, should ensure an appropriate balance between the needs of both residents and tourists, such as interconnecting cycling and railway networks.
- (31) In order to address effectively the development challenges in rural areas, coordinated support from the Funds and the EAFRD should be facilitated. Member States and regions should ensure that the interventions supported through the Funds and the EAFRD are complementary and are implemented in a coordinated manner with a view to creating synergies and in order to reduce the administrative cost and burden for managing bodies and beneficiaries.
- (32) To better mobilise potential at the local level, it is necessary to strengthen and facilitate community-led local development. It should take local needs and potential as well as relevant socio-cultural characteristics into account, and should provide for structural changes, build community capacity and stimulate innovation. The close cooperation and integrated use of the Funds and the EAFRD to deliver local development strategies should be strengthened. It is crucial that local action groups, representing the interests of the community, are responsible for the design and implementation of community-led local development strategies. In order to facilitate coordinated support from different Funds and the EAFRD to community-led local development strategies and to facilitate their implementation, the use of a 'Lead Fund' approach should be facilitated. When the EAFRD is selected as a Lead Fund, it should follow the rules established for the 'Lead Fund' approach.
- (33) In order to reduce the administrative burden, it should be possible to implement technical assistance linked to programme implementation at the initiative of the Member State through a flat rate based on progress in programme implementation which may also cover horizontal tasks. However, in order to simplify the implementation for the AMIF, the ISF and the BMVI, and for Interreg programmes, only the flat-rate approach should be used. In order to facilitate financial management, Member States should have the possibility to indicate one or more bodies to which related reimbursements should be made. Since those reimbursements are based on the application of a flat rate, verifications and audits should be limited to verifying that the conditions triggering reimbursement of the Union contribution are met but underlying expenditure should not be subject to verification or audit. Nevertheless, where continuity with the 2014-2020 period is preferred, the Member State should also be provided with the possibility to continue receiving reimbursement of eligible costs actually incurred by the beneficiary and paid in implementing operations for technical assistance implemented through one or more

⁽¹³⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (see page 159 of this Official Journal).

⁽¹⁴⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (see page 159 of this Official Journal).

⁽¹⁵⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+), and repealing Regulation (EU) No 1296/2013 (see page 159 of this Official Journal).

separate programmes or one or more priorities within programmes. The Member State should indicate in its Partnership Agreement its choice of the form of Union contribution for technical assistance for the entire programming period. Regardless of the option chosen, it should be possible for technical assistance to be complemented by targeted administrative capacity building measures using reimbursement methods that are not linked to costs. It should also be possible for actions and deliverables as well as corresponding Union payments to be agreed in a roadmap and lead to payments for results on the ground.

- (34) Where a Member State proposes to the Commission that a priority of a programme or a part thereof be supported through a financing scheme not linked to costs, the actions, deliverables and conditions agreed should be related to actual investments undertaken under the shared management programmes in that Member State or region. In that context, the respect of the principle of sound financial management should be ensured. In particular, as regards the appropriateness of the amounts linked to the fulfilment of the respective conditions or the achievement of results, the Commission and the Member State should ensure that resources employed are adequate for the investments undertaken. Where a financing scheme not linked to costs is used in a programme, the underlying costs linked to the implementation of that scheme should not be subject to any verifications or audits because the Commission provides an *ex-ante* agreement on the amounts linked to the fulfilment of the conditions or the achievement of results in the programme or in a delegated act. Verifications and audits should be limited instead to checking that the conditions or results triggering the reimbursement of the Union contribution are fulfilled.
- (35) In order to examine the performance of programmes, Member States should set up monitoring committees, whose composition should include representatives of relevant partners. For the ERDF, the ESF+, the Cohesion Fund and the EMFAF, annual implementation reports should be replaced by an annual structured policy dialogue based on the latest information and data on programme implementation made available by the Member State. The review meeting should be organised also for programmes covering the JTF.
- (36) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁶⁾, the Funds should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators, as a basis for evaluating the effects of the Funds on the ground. Those requirements should also enable the monitoring of the support of gender equality.
- (37) To ensure availability of comprehensive up-to-date information on programme implementation, effective and timely electronic reporting on quantitative data should be required.
- (38) In order to support the preparation of related programmes and activities of the subsequent programming period, the Commission should carry out a mid-term assessment of the Funds. At the end of the programming period, the Commission should carry out retrospective evaluations of the Funds, which should focus on the impact of the Funds. The results of these evaluations should be made public.
- (39) Programme authorities, beneficiaries and stakeholders in Member States should raise awareness of the achievements of Union funding and inform the general public accordingly. Transparency, communication and visibility activities are essential in making Union action visible on the ground and should be based on true, accurate and updated information. In order for those requirements to be enforceable, programme authorities and, in the event of non-compliance, the Commission should be able to apply remedial measures.

⁽¹⁶⁾ OJ L 123, 12.5.2016, p. 1.

- (40) Managing authorities should publish structured information on selected operations and beneficiaries on the website of the programme providing support to the operation, while taking account of requirements for data protection of personal data in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽¹⁷⁾.
- (41) With a view to simplifying the use of the Funds and reducing the risk of error, it is appropriate to define both the forms of Union contribution to Member States and the forms of support provided by Member States to beneficiaries. It should also be possible for managing authorities to provide grants through the form of financing not linked to costs where these grants are covered by reimbursement of the Union contribution based on the same form, in order to increase experience with such a simplification possibility.
- (42) As regards grants provided to beneficiaries, Member States should increasingly make use of simplified cost options. The threshold linked to the obligatory use of simplified cost options should be linked to the total costs of the operation in order to ensure the same treatment of all operations below the threshold, regardless of whether the support is public or private. Where a managing authority intends to propose the use of a simplified cost option in a call for proposals, it should be possible to consult the monitoring committee. Amounts and rates established by Member States need to be a reliable proxy to real costs. Periodic adjustments are a good practice in the context of multiannual programme implementation to take into account factors affecting rates and amounts. In order to facilitate the uptake of simplified cost options, this Regulation should also provide methods and rates that are able to be used without the requirement for Member States to carry out a calculation or define a methodology.
- (43) To enable immediate implementation of flat rates, any flat rate established by Member States in the 2014-2020 period based on a fair, equitable and verifiable calculation method should continue to be applied for similar operations supported under this Regulation without requiring a new calculation method.
- (44) In order to optimise the uptake of co-financed environmental investments, synergies should be ensured with the LIFE programme for the Environment and Climate Action established by Regulation (EU) 2021/783 of the European Parliament and of the Council ⁽¹⁸⁾, in particular through LIFE strategic integrated projects and strategic nature projects, as well as with projects funded under Horizon Europe established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽¹⁹⁾ (the 'Horizon Europe Regulation') and other Union programmes.
- (45) In order to provide legal clarity, it is appropriate to specify the eligibility period for expenditure or costs linked to operations supported by the Funds under this Regulation and to restrict support for completed operations. The date from which expenditure becomes eligible for support from the Funds in case of adoption of new programmes or of changes in the programmes should also be clarified, including the exceptional possibility to extend the eligibility period to the start of a natural disaster in case there is urgent need to mobilise resources to respond to such disaster. At the same time, programme implementation should provide for flexibility in relation to the eligibility of expenditure for operations which contribute to the objectives of the programme, regardless of whether they are implemented outside of a Member State or the Union or in the same category of region within a Member State.
- (46) In order to provide the necessary flexibility for implementation of public-private partnerships (PPPs), the PPP agreement should specify when expenditure is considered to be eligible, in particular under which conditions it is incurred by the beneficiary or by the private partner of the PPP, irrespective of who is carrying out the payments in implementing the PPP operation.

⁽¹⁷⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽¹⁸⁾ Regulation (EU) 2021/783 of the European Parliament and of the Council of 29 April 2021 establishing a Programme for the Environment and Climate Action (LIFE), and repealing Regulation (EU) No 1293/2013 (OJ L 172, 17.5.2021, p. 53).

⁽¹⁹⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

- (47) To ensure the effectiveness, fairness and sustainable impact of the Funds, there should be provisions guaranteeing that investments in infrastructure or productive investment are long-lasting and prevent the Funds from being used to undue advantage. Managing authorities should pay particular attention not to support relocation when selecting operations and to treat sums unduly paid to operations not complying with the requirement of durability as irregularities.
- (48) With a view to improving complementarities and simplifying implementation, it should be possible to combine support from the ERDF, the Cohesion Fund and the JTF with support from the ESF+ in joint programmes under the Investment for jobs and growth goal.
- (49) In order to optimise the added value from investments funded wholly or in part through the budget of the Union, synergies should be sought in particular between the Funds and other relevant instruments, including the Recovery and Resilience Facility and the Brexit Adjustment Reserve. Those synergies should be achieved through user-friendly key mechanisms, namely the recognition of flat rates for eligible costs from Horizon Europe for a similar operation and the possibility of combining funding from different Union instruments in the same operation as long as double financing is avoided. This Regulation should therefore set out rules for complementary financing from the Funds.
- (50) Financial instruments should not be used to support refinancing activities, such as replacing existing loan agreements or other forms of financing for investments which have already been physically completed or fully implemented at the date of the investment decision, but rather to support any type of new investments in line with the underlying policy objectives.
- (51) The decision by the managing authorities to finance support measures through financial instruments should be determined on the basis of an *ex ante* assessment. This Regulation should lay down the mandatory elements of *ex ante* assessments, for which indicative information available at the date of their completion should be provided, and should allow Member States to make use of the *ex ante* assessments carried out for the 2014-2020 period, updated where necessary, in order to avoid administrative burden and delays in setting up financial instruments.
- (52) In order to facilitate the implementation of certain types of financial instruments where programme support in the form of grants, including in the form of capital rebates, is envisaged, it is possible to apply the rules on financial instruments on such a combination in one financial instrument operation. However, conditions for such programme support and specific conditions preventing double financing should be set out.
- (53) In full respect of the applicable State aid and public procurement rules that have been clarified during the 2014-2020 programming period, managing authorities should have the possibility to decide on the most appropriate implementation options for financial instruments in order to address the specific needs of target regions. In addition, in order to ensure continuity with the 2014-2020 programming period, managing authorities should have the possibility to implement financial instruments through a direct award of a contract to the EIB and to international financial institutions in which a Member State is a shareholder. Managing authorities should also have the possibility to award contracts directly to publicly-owned banks or institutions fulfilling the same strict conditions as provided for by the Financial Regulation for the 2014-2020 programming period. This Regulation should provide clear conditions in order to ensure that the possibility of direct award remains consistent with the principles of the internal market. In this framework, the Commission should provide support to auditors, managing authorities and beneficiaries with a view to ensuring compliance with State aid rules.
- (54) Given the protracted low-interest rate environment and in order not to unduly penalise bodies implementing financial instruments, it is necessary, subject to active treasury management by these bodies, to enable the financing of negative interest generated as a result of investments of the Funds from resources paid back to the financial instrument. Through active treasury management, the bodies implementing financial instruments should seek to optimise returns and minimise charges, to an acceptable level of risk.
- (55) In accordance with the principle and rules of shared management, Member States and the Commission should be responsible for the management and control of programmes and give assurance on the legal and regular use of the Funds. Since Member States should have the primary responsibility for such management and control and should

ensure that operations supported by the Funds comply with applicable law, their obligations in that regard should be specified. The powers and responsibilities of the Commission in that context should also be laid down.

- (56) In order to hasten the start of programme implementation, the roll-over of implementation arrangements from the previous programming period should be facilitated. The use of the computerised system already established for the previous programming period, adapted as required, should be maintained, unless a new technology is necessary.
- (57) To support the effective use of the Funds, EIB support should be available to all Member States at their request. Such support could cover capacity building, support for project identification, preparation and implementation, as well as advice on financial instruments and investment platforms.
- (58) A Member State should have the possibility, at its own initiative, to identify a coordinating body to liaise with and provide information to the Commission and to coordinate activities of the programme authorities in that Member State.
- (59) To streamline programme management functions, the integration of accounting functions with those of the managing authority should be maintained for the programmes supported by the AMIF, the ISF and the BMVI, and should be an option for the other Funds.
- (60) Since the managing authority bears the main responsibility for the effective and efficient implementation of the Funds and therefore fulfils a wide range of functions, its functions in relation to the selection of operations, programme management and support for the monitoring committee should be set out in detail. Procedures for the selection of operations can be competitive or non-competitive provided that criteria applied and procedures used are non-discriminatory, inclusive and transparent and the operations selected maximise the contribution of the Union funding and are in line with the horizontal principles defined in this Regulation. With a view to pursuing the objective of achieving a climate-neutral Union by 2050, Member States should ensure the climate proofing of investments in infrastructure and should prioritise operations that respect the 'energy efficiency first' principle when selecting such investments.
- (61) The synergies between the Funds and directly managed instruments should be optimised. The provision of support for operations that have already received a Seal of Excellence or were co-funded by Horizon Europe with a contribution from the Funds should be facilitated. Conditions already assessed at Union level, prior to the attributing of the Seal of Excellence quality label or the co-funding by Horizon Europe, should not be assessed again, as long as the operations comply with a limited set of requirements established in this Regulation. This should also facilitate following the appropriate rules set out in Commission Regulation (EU) No 651/2014 ⁽²⁰⁾.
- (62) To ensure an appropriate balance between the effective and efficient implementation of the Funds and the related administrative costs and burdens, the frequency, scope and coverage of management verifications should be based on a risk assessment that takes into account factors such as the number, type, size and content of operations implemented, the beneficiaries as well as the level of the risk identified by previous management verifications and audits. Management verifications should be proportionate to the risks resulting from that risk assessment and audits should be proportionate to the level of risk to the budget of the Union.
- (63) The audit authority should carry out audits and ensure that the audit opinion provided to the Commission is reliable. That audit opinion should provide assurance to the Commission on three points, namely the legality and regularity of the declared expenditure, the effective functioning of the management and control systems and the completeness, accuracy and veracity of the accounts. Where an audit based on internationally accepted audit standards providing reasonable assurance has been conducted by an independent auditor on the financial statements and reports setting out the use of a Union contribution, that audit should form the basis of the overall assurance the audit authority provides to the Commission, insofar as there is sufficient evidence of the independence and competence of the auditor in accordance with Article 127 of the Financial Regulation.

⁽²⁰⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

- (64) A reduction of verifications and audit requirements should be possible where there is assurance that the programme has functioned effectively for the latest two consecutive years, since this demonstrates that the Funds are being implemented effectively and efficiently over a prolonged period of time.
- (65) To reduce the administrative burden on beneficiaries and administrative costs as well as to avoid duplication of audits and management verifications of the same expenditure declared to the Commission, the concrete application of the single audit principle should be specified for the Funds.
- (66) In order to enhance the preventive role of audit, provide legal transparency and share good practice, the Commission should be able to share audit reports at the request of Member States, with the consent of the audited Member States.
- (67) In order to improve financial management, a simplified pre-financing scheme should be provided for. The pre-financing scheme should ensure that a Member State has the means to provide support to beneficiaries from the start of the implementation of the programme.
- (68) To reduce the administrative burden for Member States as well as for the Commission, a schedule of payment applications should be established. Commission payments should be subject to a 5 % retention until the payment of the annual balance of accounts when the Commission is able to conclude that the accounts are complete, accurate and true.
- (69) In order to reduce the administrative burden, the procedure for the annual acceptance of accounts should be simplified by providing simpler arrangements for payments and recoveries where there is no disagreement between the Commission and the Member State.
- (70) In order to safeguard the financial interests and the budget of the Union, proportionate measures should be established and implemented at the level of Member States and the Commission. The Commission should be able to interrupt payments deadlines, suspend interim payments and apply financial corrections where the respective conditions are fulfilled. The Commission should respect the principle of proportionality by taking into account the nature, gravity and frequency of irregularities and their financial implications for the budget of the Union. Where it is not possible for the Commission to quantify precisely the amount of irregular expenditure in order to apply financial corrections linked to individual cases, it should apply a flat-rate or statistically extrapolated financial correction. Suspension of interim payments based on a reasoned opinion issued by the Commission pursuant to Article 258 TFEU, should be possible provided there is a sufficiently direct link between the matter addressed by the reasoned opinion and the expenditure at stake so as to put at risk its legality and regularity.
- (71) Member States should prevent, detect and deal effectively with any irregularities, including fraud committed by economic operators. Moreover, in accordance with Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽²¹⁾, and Council Regulations (EC, Euratom) No 2988/95 ⁽²²⁾ and (Euratom, EC) No 2185/96 ⁽²³⁾, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Council Regulation (EU) 2017/1939 ⁽²⁴⁾, to investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ⁽²⁵⁾. Member States should take the necessary measures to ensure that any person or entity receiving Union funds fully cooperates in the protection of the financial interests of the Union, grants the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, EPPO, and

⁽²¹⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽²²⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽²³⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽²⁴⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO) (OJ L 283, 31.10.2017, p. 1).

⁽²⁵⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

ensures that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should swiftly report to the Commission irregularities detected, including fraud, and any follow-up action they have taken with regard to such irregularities and with regard to any OLAF investigations.

- (72) To enhance the protection of the Union's budget, the Commission should make available an integrated and interoperable information and monitoring system, including a single data-mining and risk-scoring tool to access and analyse the relevant data, and the Commission should encourage its use with a view to a generalised application by Member States.
- (73) In line with the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 16 December 2020 on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap for the introduction of new own resources ⁽²⁶⁾, in order to enhance the protection of the Union budget and Next Generation EU against irregularities including fraud, standardised measures to collect, compare and aggregate information and figures on the recipients of Union funding should be introduced for the purposes of control and audit. The collection of data on those ultimately benefiting, directly or indirectly, from Union funding under shared management, including data on beneficial owners of the recipients of Union funding, is necessary to ensure effective controls and audits.
- (74) In order to enhance the protection of the Union's budget against irregularities, including fraud, it is necessary to process personal data of beneficial owners who are natural persons. In particular, in order to effectively detect, investigate and prosecute such frauds or remedy irregularities, it is necessary to be able to identify beneficial owners who are natural persons that ultimately profit from irregularities, including fraud. For that purpose, and for the sake of simplification and in order to reduce the administrative burden, Member States should be allowed to comply with their obligation regarding information on beneficial owners by using the data stored in the register already used for the purposes of Directive (EU) 2015/849 of the European Parliament and of the Council ⁽²⁷⁾. In that regard, the purposes of processing of personal data of beneficial owners under this Regulation, namely to prevent, detect and correct and report irregularities including fraud, are compatible with the purposes of processing of personal data under the Directive (EU) 2015/849.
- (75) In order to encourage financial discipline, it is appropriate to set out the arrangements for decommitment of budgetary commitments at programme level.
- (76) In order to allow Member States appropriate time to declare to the Commission expenditure up to the available level of resources in the event of the adoption of the new rules or programmes under shared management after 1 January 2021, the amounts corresponding to the allocations not used in year 2021 should be transferred in equal proportions to the years 2022 to 2025 as envisaged under Article 7 of the Council Regulation (EU, Euratom) 2020/2093 ⁽²⁸⁾.
- (77) In order to promote the objectives of the TFEU related to economic, social and territorial cohesion, the Investment for jobs and growth goal should support all regions. To provide balanced and gradual support and reflect the level of economic and social development, resources under that goal should be allocated from the ERDF and the ESF+ on the basis of an allocation key which is predominantly based on gross domestic product (GDP) per capita. Member States whose per capita gross national income (GNI) is less than 90 % of that of the Union average should benefit under the Investment for jobs and growth goal from the Cohesion Fund.

⁽²⁶⁾ OJ L 433 I, 22.12.2020, p. 28.

⁽²⁷⁾ Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC (OJ L 141, 5.6.2015, p. 73).

⁽²⁸⁾ Council Regulation (EU, Euratom) 2020/2093 of 17 December 2020 laying down the multiannual financial framework for the years 2021 to 2027 (OJ L 433 I, 22.12.2020, p. 11).

- (78) The resources for the European territorial cooperation goal (Interreg) should be allocated to Member States on the basis of the allocation methodology which takes into account in particular population density in border areas. Additionally, to ensure continuity of existing programmes, specific provisions to define programme areas and the eligibility of regions under the different strands of Interreg should be set out in the relevant Fund-specific Regulation.
- (79) Objective criteria should be established for designating eligible regions and areas for support from the Funds. To that end, the identification of the regions and areas at Union level should be based on the common system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and the Council ⁽²⁹⁾, as amended by Commission Regulation (EU) 2016/2066 ⁽³⁰⁾.
- (80) In order to set out an appropriate financial framework for the ERDF, the ESF+, the Cohesion Fund and the JTF, the Commission should set out the annual breakdown of available allocations per Member State under the Investment for jobs and growth goal, together with the list of eligible regions, as well as the allocations for the European territorial cooperation goal (Interreg).
- (81) Trans-European transport network projects under Regulation of the European Parliament and of the Council establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (the 'CEF Regulation') are to continue to be financed from the Cohesion Fund via both shared management and the direct implementation mode under the Connecting Europe Facility (CEF). Building on the successful approach of the 2014-2020 programming period, EUR 10 000 000 000 from the Cohesion Fund should be transferred to the CEF for this purpose.
- (82) A certain amount of the resources from the ERDF, the ESF+ and the Cohesion Fund should be allocated to the European Urban Initiative which should be implemented through direct or indirect management by the Commission.
- (83) With a view to ensuring an appropriate allocation to categories of region, and as a matter of principle, the total allocations to Member States in respect of less developed, transitional and more developed regions should not be transferable between the categories. Nevertheless, to accommodate Member States' needs to tackle specific challenges, Member States should be able to request a transfer from their allocations for more developed regions or transition regions to less developed regions and from more developed regions to transition regions and, in such a case, should justify that choice. In order to ensure sufficient financial resources for less developed regions, a ceiling should be established for transfers to more developed regions or transition regions. Transferability of resources between goals should not be possible except for cases strictly set out in this Regulation.
- (84) Where a region was categorised as a more developed region for the 2014-2020 period but is categorised as a transition region for the 2021-2027 period and therefore would receive less support for the 2021-2027 period based on the allocation methodology, the Member State concerned is invited to take this factor into account when deciding on its internal distribution of funding.
- (85) Within the context of the unique and specific circumstances on the island of Ireland, and with a view to supporting North-South cooperation under the Good Friday Agreement, a 'PEACE PLUS' cross-border programme is to continue and build on the work of previous programmes, Peace and Interreg, between the border counties of Ireland and Northern Ireland. Taking into account its practical importance, that programme should be supported with a specific allocation to continue support for peace and reconciliation actions, and an appropriate share of the Irish allocation under Interreg should also be allocated to that programme.

⁽²⁹⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

⁽³⁰⁾ Commission Regulation (EU) 2016/2066 of 21 November 2016 amending the annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 322, 29.11.2016, p. 1).

- (86) It is necessary to establish the maximum rates of co-financing in the area of cohesion policy by category of region, where applicable, in order to ensure that the principle of co-financing is respected through an appropriate level of public or private national support. Those rates should reflect the level of economic development of regions in terms of GDP per capita in relation to the EU-27 average, while safeguarding no less favourable treatment due to shifts in their categorisation.
- (87) Within the framework of the relevant rules under the Stability and Growth Pact as clarified in the European code of conduct on partnership, Member States may make a duly justified request for further flexibility for the public or equivalent structural expenditure supported by the public administration by way of co-financing of investments.
- (88) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the elements contained in certain Annexes to this Regulation, namely for the dimensions and codes for the types of intervention, the templates for partnership agreements and programmes, the templates for the transmission of data, the template for forecasts of payment applications to the Commission, the use of the emblem of the Union, the elements for funding agreements and strategy documents, the electronic data exchange system between the Member States and the Commission, the templates for the description of the management and control system, for the management declaration, for the annual audit opinion, for the annual control report, for the annual audit report for financial instruments implemented by the EIB or other international financial institutions, for the audit strategy, for payment applications, for the accounts, for detailed rules and the template for the reporting of irregularities and for the determination of the level of financial corrections.
- (89) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the European code of conduct on partnership in order to adapt that code of conduct to this Regulation, the definition at Union level of unit costs, lump sums, flat rates and financing not linked to costs applicable to all Member States as well as the establishment of standardised off-the-shelf sampling methodologies.
- (90) It is of particular importance that the Commission carries out appropriate, transparent consultations with all interested parties during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (91) In order to ensure uniform conditions for the adoption of Partnership Agreements, the adoption or amendment of programmes as well as the application of financial corrections, implementing powers should be conferred on the Commission. The implementing powers in relation to the establishment of the breakdown of financial allocations for the ERDF, the ESF+ and the Cohesion Fund should be adopted without committee procedures, given that they merely reflect the application of a pre-defined calculation methodology. Likewise, the implementing powers in relation to the temporary measures for the use of the Funds in response to exceptional circumstances should be adopted without committee procedures, given that the scope of application is determined by the Stability and Growth Pact and limited to the measures set out in this Regulation.
- (92) The implementing powers relating to the template for the final performance report should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁾. Although the implementing act is of a general nature, the advisory procedure should be used for its adoption, given that it only sets out technical aspects, forms and templates.

⁽¹⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (93) Since Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽¹²⁾ or any act applicable to the 2014–2020 programming period should continue to apply to programmes and operations supported by the Funds covered under the 2014–2020 programming period and since the implementation period of that Regulation is expected to extend over to the programming period covered by this Regulation and in order to ensure continuity of implementation of certain operations approved by that Regulation, phasing provisions should be established. Each individual phase of the phased operation, which serves the same overall objective, should be implemented in accordance with the rules of the programming period under which it receives funding, while the managing authority may proceed with selecting the second phase on the basis of the selection procedure carried out under 2014–2020 programming period for the relevant operation, provided that it satisfies itself that the conditions set out in this Regulation for phased implementation are complied with.
- (94) Since the objectives of this Regulation, namely to strengthen economic, social and territorial cohesion and to lay down common financial rules for part of the budget of the Union implemented under shared management, cannot be sufficiently achieved by the Member States by reason of the extent of the disparities between the levels of development of the various regions and the specific challenges faced by the least favoured regions, the limit on the financial resources of the Member States and regions and the need for a coherent implementation framework covering several Union funds under shared management, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (95) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union.
- (96) In view of the adoption of this Regulation after the start of the programming period, and taking into account the need to implement Union Funds covered by this Regulation in a coordinated and harmonised manner, and in order to allow for its prompt implementation, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

⁽¹²⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

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TITLE I

OBJECTIVES AND GENERAL RULES ON SUPPORT

CHAPTER I

Subject matter, definitions and general rules

Article 1

Subject matter and scope

1. This Regulation lays down:

- (a) financial rules for the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the Just Transition Fund (JTF), the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the Asylum, Migration and Integration Fund (AMIF), the Internal Security Fund (ISF) and the Instrument for Financial Support for Border Management and Visa Policy (BMVI) (together referred to as the 'Funds');
- (b) common provisions applicable to the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.

2. This Regulation does not apply to the Employment and Social Innovation strand of the ESF+ or to the direct or indirect management components of the EMFAF, the AMIF, the ISF and the BMVI, except for technical assistance at the initiative of the Commission.

3. Articles 5, 14, 19, 28 to 34 and 108 to 112 do not apply to the AMIF, the ISF or the BMVI.

4. Articles 108 to 112 do not apply to the EMFAF.

5. Articles 14, 15, 18, 19, 21 to 27, 37 to 42, Article 43(1) to (4), Articles 44 and 50, Article 55(1) and Articles 73, 77, 80 and 83 to 85 do not apply to Interreg programmes.

6. The Fund-specific Regulations listed below may establish rules to complement this Regulation which shall not be in contradiction with this Regulation:

- (a) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽³³⁾ (the 'ERDF and CF Regulation');
- (b) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽³⁴⁾ (the 'ESF+ Regulation');
- (c) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽³⁵⁾ (the 'Interreg Regulation');
- (d) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽³⁶⁾ (the 'JTF Regulation');
- (e) Regulation of the European Parliament and of the Council establishing the European Maritime, Fisheries and Aquaculture Fund and amending Regulation (EU) 2017/1004 (the 'EMFAF Regulation');
- (f) Regulation of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund (the 'AMIF Regulation');
- (g) Regulation of the European Parliament and of the Council establishing the Internal Security Fund (the 'ISF Regulation');
- (h) Regulation of the European Parliament and of the Council establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (the 'BMVI Regulation');

In case of doubt about the application between this Regulation and Fund-specific Regulations, this Regulation shall prevail.

⁽³³⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁴⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁵⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

⁽³⁶⁾ Regulation (EU) 2021/1060 (OJ L231, 30.6.2021, p. 159).

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) 'relevant country-specific recommendations' mean Council recommendations adopted in accordance with Articles 121(2) and 148(4) TFEU relating to structural challenges as well as complementary Commission recommendations issued in accordance with Article 34 of Regulation (EU) 2018/1999, which are appropriate to be addressed through multiannual investments that fall within the scope of the Funds as set out in Fund-specific Regulations;
- (2) 'enabling condition' means a prerequisite condition for the effective and efficient implementation of the specific objectives;
- (3) 'applicable law' means Union law and the national law relating to its application;
- (4) 'operation' means:
 - (a) a project, contract, action or group of projects selected under the programmes concerned;
 - (b) in the context of financial instruments, a programme contribution to a financial instrument and the subsequent financial support provided to final recipients by that financial instrument;
- (5) 'operation of strategic importance' means an operation which provides a significant contribution to the achievement of the objectives of a programme and which is subject to particular monitoring and communication measures;
- (6) 'priority' in the context of the AMIF, the ISF and the BMVI, means a specific objective;
- (7) 'priority' in the context of the EMFAF, for the purpose of Title VII only, means a specific objective;
- (8) 'intermediate body' means a public or private body which acts under the responsibility of a managing authority, or which carries out functions or tasks on behalf of such an authority;
- (9) 'beneficiary' means:
 - (a) a public or private body, an entity with or without legal personality, or a natural person, responsible for initiating or both initiating and implementing operations;
 - (b) in the context of public-private partnerships ('PPPs'), the public body initiating a PPP operation or the private partner selected for its implementation;
 - (c) in the context of State aid schemes, the undertaking which receives the aid;
 - (d) in the context of *de minimis* aid provided in accordance with Commission Regulations (EU) No 1407/2013 ⁽³⁷⁾ or (EU) No 717/2014 ⁽³⁸⁾, the Member State may decide that the beneficiary for the purposes of this Regulation is the body granting the aid, where it is responsible for initiating or both initiating and implementing the operation;
 - (e) in the context of financial instruments, the body that implements the holding fund or, where there is no holding fund structure, the body that implements the specific fund or, where the managing authority manages the financial instrument, the managing authority;
- (10) 'small project fund' means an operation in an Interreg programme aimed at the selection and implementation of projects, including people-to-people actions, of limited financial volume;
- (11) 'target' means a pre-agreed value to be achieved by the end of the eligibility period in relation to an indicator included under a specific objective;
- (12) 'milestone' means an intermediate value to be achieved at a given point in time during the eligibility period in relation to an output indicator included under a specific objective;
- (13) 'output indicator' means an indicator to measure the specific deliverables of the intervention;

⁽³⁷⁾ Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (OJ L 352, 24.12.2013, p. 1).

⁽³⁸⁾ Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).

- (14) 'result indicator' means an indicator to measure the effects of the interventions supported, with particular reference to the direct addressees, population targeted or users of infrastructure;
- (15) 'PPP operation' means an operation which is implemented under a partnership between public bodies and the private sector in line with a PPP agreement, and which aims to provide public services through risk sharing by the pooling of either private sector expertise or additional sources of capital or both;
- (16) 'financial instrument' means a form of support delivered via a structure through which financial products are provided to final recipients;
- (17) 'financial product' means equity or quasi-equity investments, loans and guarantees as defined in Article 2 of the Financial Regulation;
- (18) 'final recipient' means a legal or natural person receiving support from the Funds through a beneficiary of a small project fund or from a financial instrument;
- (19) 'programme contribution' means the support from the Funds and the national public and private, if any, co-financing to a financial instrument;
- (20) 'holding fund' means a fund set up under the responsibility of a managing authority under one or more programmes, to implement one or more specific funds;
- (21) 'specific fund' means a fund through which a managing authority or a holding fund provides financial products to final recipients;
- (22) 'body implementing a financial instrument' means a body, governed by public or private law, carrying out tasks of a holding fund or specific fund;
- (23) 'leverage effect' means the amount of reimbursable financing provided to final recipients divided by the amount of the contribution from the Funds;
- (24) 'multiplier ratio' in the context of guarantee instruments means a ratio established on the basis of a prudent *ex ante* risk assessment in respect of each a guarantee product to be offered, between the value of the underlying disbursed new loans, equity or quasi-equity investments, and the amount of the programme contribution set aside for guarantee contracts to cover expected and unexpected losses from these new loans, equity or quasi-equity investments;
- (25) 'management costs' means direct or indirect costs reimbursed against evidence of expenditure incurred in the implementation of financial instruments;
- (26) 'management fees' means a price for services rendered, as determined in the funding agreement between the managing authority and the body implementing a holding fund or a specific fund; and, where applicable, between the body implementing a holding fund and the body implementing a specific fund;
- (27) 'relocation' means a transfer of the same or similar activity or part thereof within the meaning of point (61a) of Article 2 of Regulation (EU) No 651/2014;
- (28) 'public contribution' means any contribution to the financing of operations the source of which is the budget of national, regional or local public authorities or of any European grouping of territorial cooperation (EGTC) established in accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council ⁽³⁹⁾, the budget of the Union made available to the Funds, the budget of public law bodies or the budget of associations of public authorities or of public law bodies and, for the purpose of determining the co-financing rate for ESF+ programmes or priorities, may include any financial resources collectively contributed by employers and workers;
- (29) 'accounting year' means the period from 1 July to 30 June of the following year, except for the first accounting year of the programming period, in respect of which it means the period from the start date for eligibility of expenditure until 30 June 2022; for the final accounting year, it means the period from 1 July 2029 to 30 June 2030;
- (30) 'economic operator' means any natural or legal person, or other entity involved in the implementation of the Funds, with the exception of a Member State exercising its prerogatives as a public authority;

⁽³⁹⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

- (31) 'irregularity' means any breach of applicable law, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the budget of the Union by charging unjustified expenditure to that budget;
- (32) 'serious deficiency' means a deficiency in the effective functioning of the management and control system of a programme for which significant improvements in the management and control systems are required and where any of the key requirements 2, 4, 5, 9, 12, 13 and 15 referred to in Annex XI, or two or more of the other key requirements are assessed into categories 3 and 4 of that Annex;
- (33) 'systemic irregularity' means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of operations, which results from a serious deficiency, including a failure to establish appropriate procedures in accordance with this Regulation and the Fund-specific rules;
- (34) 'total errors' means the sum of the projected random errors and, if applicable, delimited systemic errors and uncorrected anomalous errors;
- (35) 'total error rate' means total errors divided by the audit population;
- (36) 'residual error rate' means the total errors less the financial corrections applied by the Member State to reduce the risks identified by the audit authority, divided by the expenditure to be declared in the accounts;
- (37) 'completed operation' means an operation that has been physically completed or fully implemented and in respect of which all related payments have been made by beneficiaries and the corresponding public contribution has been paid to the beneficiaries;
- (38) 'sampling unit' means one of the units, which may be an operation, a project within an operation or a payment claim by a beneficiary, into which an audit population is divided for the purpose of sampling;
- (39) 'escrow account' means, in the case of a PPP operation, a bank account covered by a written agreement between a public body beneficiary and the private partner approved by the managing authority or an intermediate body used for payments during or after the eligibility period;
- (40) 'participant' means a natural person benefiting directly from an operation without being responsible for initiating or both initiating and implementing the operation and who, in the context of the EMFAF, does not receive financial support;
- (41) 'energy efficiency first' means taking utmost account in energy planning, and in policy and investment decisions, of alternative cost-efficient energy efficiency measures to make energy demand and energy supply more efficient, in particular by means of cost-effective end-use energy savings, demand response initiatives and more efficient conversion, transmission and distribution of energy, whilst still achieving the objectives of those decisions;
- (42) 'climate proofing' means a process to prevent infrastructure from being vulnerable to potential long-term climate impacts whilst ensuring that the 'energy efficiency first' principle is respected and that the level of greenhouse gas emissions arising from the project is consistent with the climate neutrality objective in 2050;
- (43) 'grants under conditions' means a category of grant subject to conditions linked to the repayment of support;
- (44) 'EIB' means the European Investment Bank, the European Investment Fund or any subsidiary of the European Investment Bank;
- (45) 'Seal of Excellence' means the quality label attributed by the Commission in respect of a proposal, which shows that the proposal which has been assessed in a call for proposals under a Union instrument is deemed to comply with the minimum quality requirements of that Union instrument, but could not be funded due to lack of budget available for that call for proposals, and might receive support from other Union or national sources of funding.

Article 3

Calculation of time limits for Commission actions

Where a time limit is set for an action by the Commission, that time limit shall start when all information in accordance with the requirements laid down in this Regulation or in Fund-specific Regulations have been submitted by the Member State.

That time limit shall be suspended from the day following the date on which the Commission sends its observations or a request for revised documents to the Member State and until the Member State responds to the Commission.

Article 4

Processing and protection of personal data

The Member States and the Commission shall be allowed to process personal data only where necessary for the purpose of carrying out their respective obligations under this Regulation, in particular for monitoring, reporting, communication, publication, evaluation, financial management, verifications and audits and, where applicable, for determining the eligibility of participants. The personal data shall be processed in accordance with Regulation (EU) 2016/679 or Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁴⁰⁾, whichever is applicable.

CHAPTER II

Policy objectives and principles for the support of the funds

Article 5

Policy objectives

1. The ERDF, the ESF+, the Cohesion Fund and the EMFAF shall support the following policy objectives:
 - (a) a more competitive and smarter Europe by promoting innovative and smart economic transformation and regional ICT connectivity;
 - (b) a greener, low-carbon transition towards a net zero carbon economy and resilient Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate change mitigation and adaptation, risk prevention and management, and sustainable urban mobility;
 - (c) a more connected Europe by enhancing mobility;
 - (d) a more social and inclusive Europe implementing the European Pillar of Social Rights;
 - (e) a Europe closer to citizens by fostering the sustainable and integrated development of all types of territories and local initiatives.

The JTF shall support the specific objective of enabling regions and people to address the social, employment, economic and environmental impacts of the transition towards the Union's 2030 targets for energy and climate and a climate-neutral economy of the Union by 2050, based on the Paris Agreement.

The first subparagraph of paragraph 1 of this Article shall not apply to the resources of the ERDF and the ESF+ that are transferred to the JTF in accordance with Article 27.

2. The ERDF, the ESF+, the Cohesion Fund and the JTF shall contribute to the actions of the Union, leading to the strengthening of its economic, social and territorial cohesion in accordance with Article 174 TFEU, by pursuing the following goals:
 - (a) the Investment for jobs and growth goal in Member States and regions, to be supported by the ERDF, the ESF+, the Cohesion Fund and the JTF; and
 - (b) the European territorial cooperation goal (Interreg), to be supported by the ERDF.

⁽⁴⁰⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

3. Member States and the Commission shall promote the coordination, complementarity and coherence between the Funds and other Union instruments and funds. They shall optimise mechanisms for coordination between those responsible to avoid duplication during planning and implementation. Accordingly, Member States and the Commission shall also take into account the relevant country-specific recommendations in the programming and implementation of the Funds.

Article 6

Climate targets and climate adjustment mechanism

1. Member States shall provide information on support for environment and climate objectives by using a methodology based on types of intervention for each of the Funds. That methodology shall consist of assigning a specific weighting to the support provided at a level which reflects the extent to which such support makes a contribution to environmental objectives and to climate objectives. In the case of the ERDF, the ESF+ and the Cohesion Fund, weightings shall be attached to dimensions and codes for the types of intervention established in Annex I. The ERDF and the Cohesion Fund shall contribute with 30 % and 37 % respectively of the Union contribution to expenditure supported for the achievement of the climate objectives set for the Union budget.

2. The climate contribution target for each Member State shall be established as a percentage of its total ERDF and Cohesion Fund allocation and included in programmes as a result of the types of intervention and the indicative financial breakdown pursuant to point (d)(viii) of Article 22(3). As provided for in Article 11(1), the preliminary climate contribution target shall be established in the Partnership Agreement.

3. The Member State and the Commission shall regularly monitor respect of the climate contribution targets, based on the total eligible expenditure declared by the beneficiaries to the managing authority as broken down by types of intervention in accordance with Article 42 and on data submitted by the Member State. Where the monitoring shows insufficient progress towards reaching the climate contribution target, the Member State and the Commission shall agree on remedial measures in the annual review meeting.

4. Where there is insufficient progress towards reaching the climate contribution target at national level by 31 December 2024, the Member State shall take this into account in its mid-term review in accordance with Article 18(1).

Article 7

Shared management

1. The Member States and the Commission shall implement the budget of the Union allocated to the Funds under shared management in accordance with Article 63 of the Financial Regulation. Member States shall prepare and implement programmes at the appropriate territorial level in accordance with their institutional, legal and financial framework.

2. The Commission shall implement the amount of support from the Cohesion Fund transferred to the Connecting Europe Facility (CEF), the European Urban Initiative, Interregional Innovative Investments, the amount of support transferred from the ESF+ to transnational cooperation, the amounts contributed to the InvestEU Programme and technical assistance at the initiative of the Commission under direct or indirect management in accordance with points (a) and (c) of the first subparagraph of Article 62(1) of the Financial Regulation.

3. The Commission may, with the agreement of the Member State and the regions concerned, implement outermost regions' cooperation under the European territorial cooperation goal (Interreg) under indirect management.

Article 8

Partnership and multi-level governance

1. For the Partnership Agreement and each programme, each Member State shall organise and implement a comprehensive partnership in accordance with its institutional and legal framework and taking into account the specificities of the Funds. That partnership shall include at least the following partners:

- (a) regional, local, urban and other public authorities;
- (b) economic and social partners;

- (c) relevant bodies representing civil society, such as environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination;
- (d) research organisations and universities, where appropriate.

2. The partnership established under paragraph 1 of this Article shall operate in accordance with the multi-level governance principle and a bottom-up approach. The Member State shall involve partners referred to in paragraph 1 in the preparation of the Partnership Agreement and throughout the preparation, implementation and evaluation of programmes, including through participation in monitoring committees in accordance with Article 39.

In that context, Member States shall, where relevant, allocate an appropriate percentage of the resources coming from the Funds for the administrative capacity building of social partners and civil society organisations.

3. For Interreg programmes, the partnership shall include partners from all participating Member States.
4. The organisation and implementation of partnership shall be carried out in accordance with the European code of conduct on partnership established by Delegated Regulation (EU) No 240/2014.
5. At least once a year, the Commission shall consult organisations which represent partners at Union level on the implementation of programmes, and shall report to the European Parliament and Council on the outcome.

Article 9

Horizontal Principles

1. Member States and the Commission shall ensure respect for fundamental rights and compliance with the Charter of Fundamental Rights of the European Union in the implementation of the Funds.
2. Member States and the Commission shall ensure that equality between men and women, gender mainstreaming and the integration of a gender perspective are taken into account and promoted throughout the preparation, implementation, monitoring, reporting and evaluation of programmes.
3. Member States and the Commission shall take appropriate steps to prevent any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, implementation, monitoring, reporting and evaluation of programmes. In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of programmes.
4. The objectives of the Funds shall be pursued in line with the objective of promoting sustainable development as set out in Article 11 TFEU, taking into account the UN Sustainable Development Goals, the Paris Agreement and the "do no significant harm" principle.

The objectives of the Funds shall be pursued in full respect of the Union environmental *acquis*.

TITLE II

STRATEGIC APPROACH

CHAPTER I

Partnership Agreement

Article 10

Preparation and submission of the Partnership Agreement

1. Each Member State shall prepare a Partnership Agreement which sets out the strategic orientation for programming and the arrangements for using the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF in an effective and efficient way for the period from 1 January 2021 to 31 December 2027.

2. The Partnership Agreement shall be prepared in accordance with the European code of conduct on partnership. Where a Member State already provides for a comprehensive partnership during the preparation of its programmes, that requirement is considered to be complied with.
3. The Member State shall submit the Partnership Agreement to the Commission before or at the same time as the submission of the first programme.
4. The Partnership Agreement may be submitted together with the relevant annual National Reform Programme and the integrated national energy and climate plan.
5. The Partnership Agreement shall be a strategic and concise document. It shall be no longer than 35 pages, unless the Member State, at its own initiative, decides to extend the length of the document.
6. The Member State shall draw up the Partnership Agreement in accordance with the template set out in Annex II. The Member State may include the Partnership Agreement in one of its programmes.
7. Interreg programmes may be submitted to the Commission before the submission of the Partnership Agreement.
8. The EIB may, at the request of the Member State concerned, participate in the preparation of the Partnership Agreement, as well as in activities relating to the preparation of operations, financial instruments and PPPs.

Article 11

Content of the Partnership Agreement

1. The Partnership Agreement shall contain the following elements:
 - (a) the selected policy objectives and the specific objective of the JTF, indicating by which of the funds covered by the Partnership Agreement and programmes these objectives will be pursued and a justification thereto, taking into account relevant country-specific recommendations, the integrated national energy and climate plan, the principles of the European Pillar of Social Rights and, where relevant, regional challenges;
 - (b) for each of the selected policy objectives and the specific objective of the JTF:
 - (i) a summary of the policy choices and the main results expected for each of the funds covered by the Partnership Agreement;
 - (ii) coordination, demarcation and complementarities between the Funds and, where appropriate, coordination between national and regional programmes;
 - (iii) complementarities and synergies between the funds covered by the Partnership Agreement, the AMIF, the ISF, the BMVI, and other Union instruments, including LIFE strategic integrated projects and strategic nature projects, and, where appropriate, projects funded under Horizon Europe;
 - (c) the preliminary financial allocation from each of the funds covered by the Partnership Agreement by policy objective at national and where appropriate at regional level, respecting Fund-specific rules on thematic concentration and the preliminary financial allocation for the specific objective of the JTF, including any ERDF and ESF+ resources to be transferred to the JTF in accordance with Article 27;
 - (d) the preliminary climate contribution target in accordance with Article 6(2);
 - (e) where applicable, the breakdown of financial resources by category of region drawn up in accordance with Article 108(2) and the amounts of allocations proposed to be transferred pursuant to Articles 26 and 111, including a justification for such transfers;
 - (f) for technical assistance, the choice of the Member State of the form of Union contribution pursuant to Article 36(3) and, where applicable, the preliminary financial allocation from each of the funds covered by the Partnership Agreement at national level and breakdown of financial resources by programme and category of region;
 - (g) the amounts to be contributed to the InvestEU Programme by Fund and by category of region, where applicable;
 - (h) the list of planned programmes under the funds covered by the Partnership Agreement with the respective preliminary financial allocations by fund and the corresponding national contribution by category of region, where applicable;

- (i) a summary of the actions which the Member State concerned plans to take to reinforce its administrative capacity of the implementation of the funds covered by the Partnership Agreement;
- (j) where appropriate, an integrated approach to address the demographic challenges or specific needs of regions and areas.

As regards the European territorial cooperation goal (Interreg), the Partnership Agreement shall only contain the list of planned programmes.

2. The Partnership Agreement may also contain a summary of the assessment of the fulfilment of relevant enabling conditions referred to in Article 15 and Annexes III and IV.

Article 12

Approval of the Partnership Agreement

1. The Commission shall assess the Partnership Agreement and its compliance with this Regulation and with the Fund-specific rules while respecting the principle of proportionality, taking into account the strategic nature of the document, the number of programmes covered and the total amount of resources allocated to the Member State concerned. In its assessment, the Commission shall, in particular, take into account how the Member State intends to address relevant country-specific recommendations, its integrated national energy and climate plan as well as the European Pillar of Social Rights.
2. The Commission may make observations within 3 months of the date of submission by the Member State of the Partnership Agreement.
3. The Member State shall review the Partnership Agreement, taking into account the observations made by the Commission.
4. The Commission shall adopt a decision by means of an implementing act approving the Partnership Agreement no later than 4 months after the date of first submission of that Partnership Agreement by the Member State concerned.
5. When the Partnership Agreement is included in a programme in accordance with Article 10(6), the Commission shall adopt a single decision by means of an implementing act approving both the Partnership Agreement and the programme no later than 6 months after the date of first submission of the programme by the Member State concerned.

Article 13

Amendment of the Partnership Agreement

1. A Member State may submit to the Commission by 31 March 2025 an amended Partnership Agreement, taking into account the outcome of the mid-term review.
2. The Commission shall assess the amendment and may make observations within 3 months of the submission of the amended Partnership Agreement.
3. The Member State shall review the amended Partnership Agreement, taking into account the observations made by the Commission.
4. The Commission shall approve the amendment of a Partnership Agreement no later than 6 months after its first submission by the Member State.

Article 14

Use of the ERDF, the ESF+, the Cohesion Fund and the EMFAF delivered through the InvestEU Programme

1. Member States may allocate, in the Partnership Agreement, an amount of up to 2 % of the initial national allocation for the ERDF, the ESF+, the Cohesion Fund and the EMFAF, respectively, to be contributed to the InvestEU Programme and delivered through the EU guarantee and the InvestEU Advisory Hub in accordance with Article 10 of the InvestEU Regulation. Member States, with the agreement of the managing authority concerned, may further allocate an amount of up to 3 % of the initial national allocation of each of those Funds after 1 January 2023 through one or more programme amendment requests.

Such amounts shall contribute to the achievement of the policy objectives selected in the Partnership Agreement or the programme and shall support investments essentially in the category of contributing regions.

Such contributions shall be implemented in accordance with the rules established in the InvestEU Regulation and shall not constitute transfers of resources under Article 26.

2. Member States shall determine the total amount contributed for each year by Fund and by category of region, where applicable. For the Partnership Agreement, resources of the current and future calendar years may be allocated. Where a Member State requests an amendment of a programme, only resources of future calendar years may be allocated.

3. The amounts referred to in paragraph 1 of this Article shall be used for the provisioning of the part of the EU guarantee under the Member State compartment and for the InvestEU Advisory Hub upon conclusion of the contribution agreement in accordance with Article 10(3) of the InvestEU Regulation. The budgetary commitments of the Union in respect of each contribution agreement may be made by the Commission in annual instalments during the period between 1 January 2021 and 31 December 2027.

4. Notwithstanding Article 12 of the Financial Regulation, where a contribution agreement, as set out in Article 10(2) of the InvestEU Regulation, has not been concluded within 4 months of the date of the Commission decision adopting the Partnership Agreement, for an amount referred to in paragraph 1 of this Article allocated in the Partnership Agreement, the corresponding amount shall be allocated to a programme or programmes within the contributing Fund and category of region, where relevant following a request by the Member State.

The contribution agreement for the amounts referred to in paragraph 1 allocated in the request of the amendment of a programme shall be concluded simultaneously with the adoption of the decision amending the programme.

5. In accordance with the second subparagraph of Article 10(4) of the InvestEU Regulation, where a guarantee agreement has not been concluded within 9 months from the conclusion of the contribution agreement, the contribution agreement shall be terminated or prolonged by mutual agreement.

Where the participation of a Member State in the InvestEU Fund is discontinued, the amounts concerned paid into the common provisioning fund as a provisioning shall be recovered as internal assigned revenue pursuant to Article 21(5) of the Financial Regulation. The Member State concerned shall submit a request for one or more programme amendments to use the amounts recovered and the amounts allocated to future calendar years according to paragraph 2 of this Article. The termination or amendment of the contribution agreement shall be concluded simultaneously with the adoption of the decisions amending the programme or programmes concerned.

6. In accordance with the third subparagraph of Article 10(4) of the InvestEU Regulation, where a guarantee agreement has not been duly implemented within 4 years from the conclusion of the guarantee agreement, the contribution agreement shall be amended. The Member State may request that amounts contributed to the EU guarantee under paragraph 1 of this Article and committed in the guarantee agreement but not covering underlying loans, equity investments or other risk bearing instruments be treated in accordance with paragraph 5 of this Article.

7. Resources generated by or attributable to the amounts contributed to the EU guarantee shall be made available to the Member State in accordance with point (a) of Article 10(5) of the InvestEU Regulation and shall be used for support under the same objective or objectives in the form of financial instruments or budgetary guarantees.

8. For the amounts to be reused in a programme in accordance with paragraphs 4, 5 and 6 of this Article, the decommitment time limit as set out in Article 105(1) shall start in the year in which the corresponding budgetary commitments are made.

CHAPTER II

Enabling conditions and performance framework

Article 15

Enabling conditions

1. For the specific objectives, enabling conditions are laid down in this Regulation.

Annex III contains horizontal enabling conditions applicable to all specific objectives and the criteria necessary for the assessment of their fulfilment.

Annex IV contains thematic enabling conditions for the ERDF, the ESF+ and the Cohesion Fund and the criteria necessary for the assessment of their fulfilment.

The enabling condition regarding the tools and capacity for effective application of State aid rules shall not be applicable to programmes supported by the AMIF, the ISF or the BMVI.

2. When preparing a programme or introducing a new specific objective as part of a programme amendment, the Member State shall assess whether the enabling conditions linked to the selected specific objective are fulfilled. An enabling condition is fulfilled where all the related criteria are met. The Member State shall identify in each programme or in the programme amendment the fulfilled and non-fulfilled enabling conditions and shall provide a justification where it considers that an enabling condition has been fulfilled.

3. Where an enabling condition is not fulfilled at the time of approval of the programme or the programme amendment, the Member State shall inform the Commission as soon as it considers that the enabling condition has been fulfilled with a justification of the fulfilment.

4. The Commission shall, as soon as possible and no later than 3 months after receipt of the information referred to in paragraph 3, carry out an assessment and inform the Member State whether it agrees with the Member State regarding the fulfilment of the enabling condition.

Where the Commission disagrees with the Member State regarding the fulfilment of the enabling condition, it shall inform the Member State and set out its assessment.

Where the Member State disagrees with the Commission's assessment, it shall present its observations within 1 month and the Commission shall proceed in accordance with the first subparagraph.

Where the Member State accepts the Commission's assessment, it shall proceed in accordance with paragraph 3.

5. Without prejudice to Article 105, expenditure related to operations linked to the specific objective may be included in payment applications but shall not be reimbursed by the Commission until the Commission has informed the Member State of the fulfilment of the enabling condition pursuant to the first subparagraph of paragraph 4 of this Article.

The first subparagraph shall not apply to operations that contribute to the fulfilment of the corresponding enabling condition.

6. The Member State shall ensure that enabling conditions remain fulfilled and respected throughout the programming period. It shall inform the Commission of any modification impacting the fulfilment of enabling conditions.

Where the Commission considers that an enabling condition is no longer fulfilled, it shall inform the Member State setting out its assessment. Subsequently, the procedure set out in the second and third subparagraphs of paragraph 4 shall be followed.

Where the Commission concludes that the non-fulfilment of the enabling condition persists and without prejudice to Article 105, based on the observations of the Member State, expenditure related to the specific objective concerned may be included in payment applications but shall not be reimbursed by the Commission until the Commission has informed the Member State of the fulfilment of the enabling condition pursuant to the first subparagraph of paragraph 4 of this Article.

7. Annex IV shall not apply to priorities supported by the JTF or to any ERDF and ESF+ resources transferred to the JTF in accordance with Article 27.

Article 16

Performance framework

1. Each Member State shall establish a performance framework to allow monitoring, reporting on and evaluating programme performance during implementation of the programme, and to contribute to measuring the overall performance of the Funds.

The performance framework shall consist of:

- (a) output and result indicators linked to specific objectives set out in the Fund-specific Regulations selected for the programme;

- (b) milestones to be achieved by the end of the year 2024 for output indicators; and
 - (c) targets to be achieved by the end of the year 2029 for output and result indicators.
2. Milestones and targets shall be established in relation to each specific objective within a programme, with the exception of technical assistance and of the specific objective addressing material deprivation set out in point (m) of Article 4(1) of the ESF+ Regulation.
3. Milestones and targets shall allow the Commission and the Member State to measure progress towards the achievement of the specific objectives. They shall meet the requirements set out in Article 33(3) of the Financial Regulation.

Article 17

Methodology for the establishment of the performance framework

1. The methodology to establish the performance framework shall include:
- (a) the criteria applied by the Member State to select indicators;
 - (b) data or evidence used, data quality assurance and the calculation method;
 - (c) factors that may influence the achievement of the milestones and targets and how they were taken into account.
2. The Member State shall make the methodology to establish the performance framework available to the Commission on request.

Article 18

Mid-term review and flexibility amount

1. For programmes supported by the ERDF, the ESF+, the Cohesion Fund and the JTF, the Member State shall review each programme, taking into account the following elements:
- (a) the new challenges identified in relevant country-specific recommendations adopted in 2024;
 - (b) the progress in implementing the integrated national energy and climate plan, if relevant;
 - (c) the progress in implementing the principles of the European Pillar of Social Rights;
 - (d) the socioeconomic situation of the Member State or region concerned, with special emphasis on territorial needs, taking into account any major negative financial, economic or social development;
 - (e) the main results of relevant evaluations;
 - (f) the progress in achieving the milestones, taking into account major difficulties encountered in the implementation of the programme;
 - (g) for programmes supported by the JTF, the assessment carried out by the Commission, pursuant to point (b) of Article 29(1) of Regulation (EU) 2018/1999.
2. The Member State shall submit an assessment for each programme on the outcome of the mid-term review, including a proposal for the definitive allocation of the flexibility amount referred to in the second subparagraph of Article 86(1), to the Commission by 31 March 2025.
3. If deemed necessary following the mid-term review of the programme or in the event that new challenges are identified pursuant to point (a) of paragraph 1, the Member State shall submit to the Commission the assessment referred to in paragraph 2 together with the amended programme.

The revisions shall include:

- (a) the allocations of the financial resources by priority;
- (b) revised or new targets;
- (c) the amounts to be contributed to the InvestEU Programme per Fund and per category of region, where applicable.

The Commission shall approve the revised programme in accordance with Article 24, including a definitive allocation of the flexibility amount.

4. Where, as a result of the mid-term review, the Member State considers that the programme does not need to be amended, the Commission shall either:

- (a) adopt a decision within 3 months of the submission of the assessment referred to in paragraph 2 confirming the definitive allocation of the flexibility amount; or
- (b) request the Member State within 2 months of the submission of the assessment referred to in paragraph 2 of this Article to submit an amended programme in accordance with Article 24.

5. Until the adoption of the Commission decision confirming the definitive allocation of the flexibility amount, this amount shall not be available for selection of operations.

6. The Commission shall prepare a report about the outcome of the mid-term review and submit it to the European Parliament and to the Council by the end of 2026.

CHAPTER III

Measures linked to sound economic governance and to exceptional or unusual circumstances

Article 19

Measures linking effectiveness of Funds to sound economic governance

1. The Commission may request a Member State to review and propose amendments of relevant programmes, where this is necessary to support the implementation of relevant Council Recommendations.

Such a request may be made for the following purposes:

- (a) to support the implementation of a relevant country-specific recommendation adopted in accordance with Article 121(2) TFEU and of a relevant Council recommendation adopted in accordance with Article 148(4) TFEU, addressed to the Member State concerned;
- (b) to support the implementation of relevant Council Recommendations addressed to the Member State concerned and adopted in accordance with Article 7(2) or 8(2) of Regulation (EU) No 1176/2011 of the European Parliament and of the Council ⁽⁴¹⁾ provided that these amendments are deemed necessary to help correct the macroeconomic imbalances.

2. A request by the Commission to a Member State in accordance with paragraph 1 shall be justified, with reference to the need to support the implementation of the relevant recommendations, and shall indicate the programmes or priorities which it considers are concerned and the nature of the amendments expected. Such a request shall not be made before 2023 or after 2026, nor in relation to the same programmes in two consecutive years.

3. The Member State shall submit its response to the request referred to in paragraph 1 within 2 months of its receipt, setting out the amendments it considers necessary in the relevant programmes, the reasons for such amendments, identifying the programmes concerned and outlining the nature of the amendments proposed and their expected effects on the implementation of recommendations and on the implementation of the Funds. If necessary, the Commission shall make observations within 1 month of the receipt of that response.

4. The Member State shall submit a proposal to amend the relevant programmes within 2 months of the date of submission of the response referred to in paragraph 3.

5. Where the Commission has not submitted observations or where it is satisfied that any observations submitted have been duly taken into account, it shall adopt a decision approving the amendments of the relevant programmes no later than 4 months after its submission by the Member State.

6. Where the Member State fails to take effective action in response to a request made in accordance with paragraph 1, within the deadlines set out in paragraphs 3 and 4, the Commission may, within 3 months, following its observations under paragraph 3 or following the submission of the proposal of the Member State under paragraph 4, make a proposal to the Council to suspend part or all of the payments for the programmes or priorities concerned. In its proposal, the Commission shall set out the grounds for concluding that the Member State has failed to take effective action. In making its proposal, the Commission shall take account of all relevant information, and shall give due consideration to any elements arising from and opinions expressed through the structured dialogue under paragraph 14.

⁽⁴¹⁾ Regulation (EU) No 1176/2011 of the European Parliament and of the Council of 16 November 2011 on the prevention and correction of macroeconomic imbalances (OJ L 306, 23.11.2011, p. 25).

The Council shall decide on that proposal by means of an implementing act. That implementing act shall only apply with respect to payment applications submitted after the date of the adoption of that implementing act.

7. The Commission shall make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of a Member State where the Council decides in accordance with Article 126(8) or (11) TFEU that a Member State has not taken effective action to correct its excessive deficit, unless it has determined the existence of a severe economic downturn in the euro area or in the Union as a whole within the meaning of Articles 3(5) and 5(2) of Council Regulation (EC) No 1467/97 ⁽⁴³⁾.

8. The Commission may make a proposal to the Council to suspend all or part of the commitments or payments for one or more of the programmes of a Member State in the following cases:

- (a) where the Council adopts two successive recommendations in the same excessive imbalance procedure in accordance with Article 8(3) of Regulation (EU) No 1176/2011 on the grounds that a Member State has submitted an insufficient corrective action plan;
- (b) where the Council adopts two successive decisions in the same excessive imbalance procedure in accordance with Article 10(4) of Regulation (EU) No 1176/2011 establishing non-compliance by a Member State on the grounds that it has not taken the recommended corrective action;
- (c) where the Commission concludes that a Member State has not taken measures as referred to in Council Regulation (EC) No 332/2002 ⁽⁴⁴⁾ and as a consequence decides not to authorise the disbursement of the financial assistance granted to that Member State;
- (d) where the Council decides that a Member State does not comply with the macroeconomic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 of the European Parliament and of the Council ⁽⁴⁵⁾, or with the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.

9. Priority shall be given to the suspension of commitments. Payments shall be suspended only when immediate action is sought and in the case of significant non-compliance. The suspension of payments shall apply to payment applications submitted for the programmes concerned after the date of the decision to suspend.

10. A proposal by the Commission for a decision to suspend commitments shall be deemed adopted by the Council unless the Council decides, by means of an implementing act, to reject such a proposal by qualified majority within 1 month of the submission of the Commission proposal.

The suspension of commitments shall apply to the commitments from the Funds for the Member State concerned from 1 January of the year following the adoption of the decision to suspend.

The Council shall adopt a decision, by means of an implementing act, on a proposal by the Commission referred to in paragraphs 7 and 8 in relation to the suspension of payments.

11. The scope and level of the suspension of commitments or payments to be imposed shall be proportionate, respect the equality of treatment between Member States and take into account the economic and social circumstances of the Member State concerned, in particular the level of unemployment, the level of poverty or social exclusion in the Member State concerned compared to the Union average and the impact of the suspension on the economy of the Member State concerned. The impact of suspensions on programmes of critical importance to address adverse economic or social conditions shall be a specific factor to be taken into account.

⁽⁴³⁾ Council Regulation (EC) No 1467/97 of 7 July 1997 on speeding up and clarifying the implementation of the excessive deficit procedure (OJ L 209, 2.8.1997, p. 6).

⁽⁴⁴⁾ Council Regulation (EC) No 332/2002 of 18 February 2002 establishing a facility providing medium-term financial assistance for Member States' balances of payments (OJ L 53, 23.2.2002, p. 1).

⁽⁴⁵⁾ Regulation (EU) No 472/2013 of the European Parliament and of the Council of 21 May 2013 on the strengthening of economic and budgetary surveillance of Member States in the euro area experiencing or threatened with serious difficulties with respect to their financial stability (OJ L 140, 27.5.2013, p. 1).

12. The suspension of commitments shall be subject to a maximum of 25 % of the commitments relating to the next calendar year for the Funds or 0,25 % of nominal GDP, whichever is lower, in any of the following cases:

- (a) in the first case of non-compliance with an excessive deficit procedure as referred to in paragraph 7;
- (b) in the first case of non-compliance relating to a corrective action plan under an excessive imbalance procedure as referred to in point (a) of paragraph 8;
- (c) in the case of non-compliance with the recommended corrective action pursuant to an excessive imbalance procedure as referred to in point (b) of paragraph 8;
- (d) in the first case of non-compliance as referred to in points (c) and (d) of paragraph 8.

In the case of persistent non-compliance, the suspension of commitments may exceed the maximum percentages set out in the first subparagraph.

13. The Council shall lift the suspension of commitments on a proposal from the Commission in the following cases:

- (a) where the excessive deficit procedure is held in abeyance in accordance with Article 9 of Regulation (EC) No 1467/97 or the Council has decided in accordance with Article 126(12) TFEU to abrogate the decision on the existence of an excessive deficit;
- (b) where the Council has endorsed the corrective action plan submitted by the Member State concerned in accordance with Article 8(2) of Regulation (EU) No 1176/2011 or the excessive imbalance procedure is placed in a position of abeyance in accordance with Article 10(5) of that Regulation or the Council has closed the excessive imbalance procedure in accordance with Article 11 of that Regulation;
- (c) where the Commission has concluded that the Member State concerned has taken appropriate measures as referred to in Regulation (EC) No 332/2002;
- (d) where the Commission has concluded that the Member State concerned has taken appropriate measures to implement the macroeconomic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 or the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.

After the Council has lifted the suspension of commitments, the Commission shall re-budget the suspended commitments in accordance with Article 6 of Regulation (EU, Euratom) 2020/2093.

Suspended commitments may not be re-budgeted beyond the year 2027.

The decommitment time limit for the re-budgeted amount in accordance with Article 105 shall start from the year in which the suspended commitment has been re-budgeted.

A decision concerning the lifting of the suspension of payments shall be taken by the Council on a proposal by the Commission where the applicable conditions set out in the first subparagraph are fulfilled. A proposal by the Commission for a decision to lift the suspension of commitments shall be deemed adopted by the Council unless the Council decides, by means of an implementing act, to reject such a proposal by qualified majority within 1 month of the submission of the Commission proposal.

14. The Commission shall keep the European Parliament informed of the implementation of this Article. In particular, the Commission shall, when one of the conditions set out in paragraph 6, 7 or 8 is fulfilled for a Member State, immediately inform the European Parliament and provide details of the Funds and programmes which could be subject to a suspension.

The European Parliament may invite the Commission for a structured dialogue on the application of this Article, having regard to the transmission of the information referred to in the first subparagraph.

The Commission shall transmit the proposal for suspension or the proposal to lift such a suspension to the European Parliament and to the Council without delay after its adoption. The European Parliament may invite the Commission to explain the reasons for its proposal.

15. By 31 December 2025, the Commission shall carry out a review of the application of this Article. To that end, the Commission shall prepare a report which it shall transmit to the European Parliament and the Council, accompanied where necessary by a legislative proposal.

16. Where there are major changes in the social and economic situation in the Union, the Commission may submit a proposal to review the application of this Article, or the European Parliament or the Council, acting in accordance with Article 225 or 241 TFEU respectively, may request the Commission to submit such a proposal.

17. This Article shall not apply to the ESF+, the AMIF, the ISF, the BMVI or to Interreg programmes.

Article 20

Temporary measures for the use of the Funds in response to exceptional or unusual circumstances

1. Where after 1 July 2021 the Council has recognised the occurrence of an unusual event outside the control of one or more Member States, which has a major impact on the financial position of the general government or a severe economic downturn for the euro area or the Union as a whole as referred to in the tenth subparagraph of Article 5(1), the fourth subparagraph of Article 6(3), the tenth subparagraph of Article 9(1) and the fourth subparagraph of Article 10(3) of Regulation (EC) No 1466/97 ⁽⁴⁵⁾ or the occurrence of unexpected adverse economic events with major unfavourable consequences for government finances as referred to in Articles 3(5) and 5(2) of Regulation (EC) No 1467/97, the Commission may, by means of an implementing decision and for a period of a maximum of 18 months, adopt one or more of the following measures provided that they are strictly necessary to respond to such exceptional or unusual circumstances:

- (a) on request of one or more Member States concerned, increase interim payments by 10 percentage points above the co-financing rate applicable, not exceeding 100 %, by way of derogation from Article 112(3) and (4) of this Regulation, as well as from Article 40 of the EMFAF Regulation, Article 15 of the AMIF Regulation, Article 12 of the ISF Regulation and Article 12 of the BMVI Regulation;
- (b) allow the authorities of a Member State to select for support operations that have been physically completed or fully implemented before the application for the funding under the programme is duly submitted to the managing authority, by way of derogation from Article 63(6), provided that the operation is in response to the exceptional circumstances;
- (c) provide that expenditure for operations in response to such circumstances may be eligible from the date on which the Council endorsed the occurrence of those circumstances, by way of derogation from Article 63(7);
- (d) extend the deadlines for the submission of documents and the submission of data to the Commission by up to 3 months, by way of derogation from Articles 41(6), 42(1), 44(2) and the first subparagraph of Article 49(3).

2. The Commission shall keep the European Parliament and the Council informed of the implementation of this Article. When one of the conditions set out in paragraph 1 is fulfilled, the Commission shall immediately inform the European Parliament and the Council on its assessment of the situation and its envisaged follow-up.

3. The European Parliament or the Council may invite the Commission for a structured dialogue on the application of this Article. When assessing the situation and envisaging a follow-up, the Commission shall give due consideration to the positions taken and views expressed through the structured dialogue.

4. If after the period not exceeding 18 months, as referred to in paragraph 1, the specific circumstances that led to the adoption of these temporary measures persist, the Commission shall reassess the situation and put forward a legislative proposal, as appropriate, amending this Regulation, providing for the necessary flexibility to address these circumstances.

⁽⁴⁵⁾ Council Regulation (EC) No 1466/97 of 7 July 1997 on the strengthening of the surveillance of budgetary positions and the surveillance and coordination of economic policies (OJ L 209, 2.8.1997, p. 1).

5. The Commission shall inform the European Parliament and the Council of the implementing decision adopted under paragraph 1 without delay, at the latest within 2 working days of its adoption.

TITLE III

PROGRAMMING

CHAPTER I

General provisions on the Funds

Article 21

Preparation and submission of programmes

1. Member States shall prepare, in cooperation with the partners referred to in Article 8(1), programmes to implement the Funds for the period from 1 January 2021 to 31 December 2027.

2. Member States shall submit programmes to the Commission no later than 3 months after the submission of the Partnership Agreement. For the AMIF, the ISF and the BMVI, Member States shall submit programmes to the Commission no later than 3 months after the entry into force of this Regulation or the relevant fund-specific Regulation, whichever is later.

3. Member States shall prepare programmes in accordance with the programme template set out in Annex V.

For the AMIF, the ISF and the BMVI, Member States shall prepare programmes in accordance with the programme template set out in Annex VI.

4. Where an environmental report is prepared in accordance with Directive 2001/42/EC of the European Parliament and of the Council ⁽⁴⁶⁾, it shall be published on the programme website referred to in Article 49(1) of this Regulation.

Article 22

Content of programmes

1. Each programme shall set out a strategy for the contribution of the programme to the policy objectives or to the specific objective of the JTF and the communication of its results.

2. A programme shall consist of one or more priorities. Each priority shall correspond to a single policy objective, the specific objective of the JTF, or to technical assistance implemented pursuant to Article 36(4) or Article 37. A priority may use support from one or more Funds unless it receives support from the JTF or concerns technical assistance implemented pursuant to Article 36(4) or Article 37. A priority corresponding to a policy objective shall consist of one or more specific objectives. More than one priority may correspond to the same policy objective or to the specific objective of the JTF.

For programmes supported by the AMIF, the ISF and the BMVI, a programme shall use support from one Fund and consist of specific objectives and of technical assistance specific objectives.

3. Each programme shall set out:

(a) a summary of the main challenges, taking into account:

- (i) economic, social and territorial disparities as well as inequalities, except for programmes supported by the EMFAF;
- (ii) market failures;
- (iii) investment needs and complementarity and synergies with other forms of support;
- (iv) challenges identified in relevant country-specific recommendations, relevant national or regional strategies of that Member State, including its integrated national energy and climate plan, in relation to the principles of the European Pillar of Social Rights and, for the AMIF, the ISF and the BMVI, other relevant Union recommendations addressed to the Member State;

⁽⁴⁶⁾ Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ L 197, 21.7.2001, p. 30).

- (v) challenges in administrative capacity and governance and simplification measures;
- (vi) an integrated approach to address demographic challenges, where relevant;
- (vii) lessons learnt from past experience;
- (viii) macro-regional strategies and sea-basin strategies where Member States and regions participate in such strategies;
- (ix) for programmes supported by the AMIF, the ISF and the BMVI, progress in implementing the relevant Union *acquis* and action plans and a justification for the choice of specific objectives;
- (x) for programmes supported by the JTF, transition challenges identified in the territorial just transition plans;

Points (i), (ii) and (viii) shall not apply to programmes supported by the AMIF, the ISF or the BMVI.

- (b) a justification for the selected policy objectives, corresponding priorities, specific objectives and the forms of support;
- (c) for each priority, except for technical assistance, specific objectives;
- (d) for each specific objective:
 - (i) the related types of actions and their expected contribution to those specific objectives, to macro-regional strategies, sea-basin strategies, and to territorial just transition plans supported by the JTF, where appropriate;
 - (ii) output indicators and result indicators with the corresponding milestones and targets;
 - (iii) the main target groups;
 - (iv) actions safeguarding equality, inclusion and non-discrimination;
 - (v) indication of the specific territories targeted, including the planned use of integrated territorial investment, community-led local development or other territorial tools;
 - (vi) the interregional, cross-border and transnational actions with beneficiaries located in at least one other Member State or outside the Union, where relevant;
 - (vii) the planned use of financial instruments;
 - (viii) the types of intervention and an indicative breakdown of the programmed resources by type of intervention;
 - (ix) for the specific objective of the JTF, the justification of any amounts transferred from the ERDF and the ESF+ resources in accordance with Article 27, as well as their breakdown by category of region, reflecting the types of interventions planned in accordance with the territorial just transition plans;
- (e) for each priority on technical assistance implemented pursuant to Article 36(4):
 - (i) the related types of actions;
 - (ii) output indicators with the corresponding milestones and targets;
 - (iii) the main target groups;
 - (iv) the types of intervention and an indicative breakdown of the programmed resources by type of intervention;
- (f) the planned use of technical assistance pursuant to Article 37, if applicable, and relevant types of intervention;
- (g) a financing plan containing:
 - (i) a table specifying the total financial allocations for each of the Funds and, where applicable, for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 26 or 27;
 - (ii) for programmes supported by ERDF, the ESF+, the Cohesion Fund and the JTF, a table specifying the total financial allocations for each priority by Fund and by category of region, where applicable, and the national contribution and whether it is made up of public or private contribution, or both;

- (iii) for programmes supported by the EMFAF, a table specifying for each specific objective, the amount of the total financial allocations of the support from the Fund and the national contribution;
- (iv) for programmes supported by the AMIF, the ISF and the BMVI, a table specifying, by specific objective, the total financial allocations by type of action, the national contribution and whether it is made up of public or private contribution, or both;
- (h) the actions taken to involve the relevant partners referred to in Article 8(1) in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme;
- (i) for each enabling condition linked to the selected specific objective, established in accordance with Article 15 and Annexes III and IV, an assessment of whether the enabling condition is fulfilled at the date of submission of the programme;
- (j) the envisaged approach to communication and visibility for the programme through defining its objectives, target audiences, communication channels, including social media outreach, where appropriate, planned budget and relevant indicators for monitoring and evaluation;
- (k) the programme authorities and the body or, in case of technical assistance pursuant to Article 36(5), where applicable, bodies which receive payments from the Commission.

Points (a)(i), (ii) and (viii) of this paragraph shall not apply to programmes limited to supporting the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation. Point (d) of this paragraph shall not apply to the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation.

For the ERDF, the Cohesion Fund, the ESF+, the JTF and the EMFAF, the programme shall be accompanied for information purposes by a list of planned operations of strategic importance, with a timetable.

If, in accordance with point (k), more than one body is identified to receive payments from the Commission, the Member State shall set out the share of the reimbursed amounts between those bodies.

4. By way of derogation from point (b) to (e) of paragraph 3, for each specific objective of programmes supported by the AMIF, the ISF and the BMVI, the following shall be provided:

- (a) a description of the initial situation, challenges and responses supported by the Fund;
- (b) indication of the implementation measures;
- (c) an indicative list of actions and their expected contribution to the specific objectives;
- (d) where applicable, a justification for the operating support, specific actions, emergency assistance, and actions as referred to in Articles 19 and 20 of the AMIF Regulation;
- (e) output and result indicators with the corresponding milestones and targets;
- (f) an indicative breakdown of the programmed resources by type of intervention.

5. Types of intervention shall be based on a nomenclature set out in Annex I. For programmes supported by the EMFAF, the AMIF, the ISF and the BMVI, types of intervention shall be based on a nomenclature set out in the Fund-specific Regulations.

6. For ERDF, ESF+, Cohesion Fund and JTF programmes, the table referred to in point (g)(ii) of paragraph 3 shall include the amounts for the years 2021 to 2027, including the flexibility amount.

7. The Member State shall communicate to the Commission any changes in the information referred to in point (k) of the first subparagraph of paragraph (3) without requiring a programme amendment.

8. For programmes supported by the JTF, Member States shall submit to the Commission the territorial just transition plans as part of the programme or programmes or of a request for amendment.

*Article 23***Approval of programmes**

1. The Commission shall assess the programme and its compliance with this Regulation and with the Fund-specific Regulations, as well as, for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, its consistency with the relevant Partnership Agreement. In its assessment, the Commission shall, in particular, take into account relevant country-specific recommendations, relevant challenges identified in the integrated national energy and climate plan, and the principles of the European Pillar of Social Rights, and the way they are addressed.
2. The Commission may make observations within 3 months of the date of submission of the programme by the Member State.
3. The Member State shall review the programme, taking into account the observations made by the Commission.
4. The Commission shall adopt a decision by means of an implementing act approving the programme no later than 5 months after the date of the first submission of the programme by the Member State.

*Article 24***Amendment of programmes**

1. The Member State may submit a reasoned request for an amendment of a programme, together with the amended programme, setting out the expected impact of that amendment on the achievement of the objectives.
2. The Commission shall assess the amendment and its compliance with this Regulation and with the Fund-specific Regulations, including requirements at national level, and may make observations within 2 months of the submission of the amended programme.
3. The Member State shall review the amended programme, taking into account the observations made by the Commission.
4. The Commission shall adopt a decision approving the amendment of a programme no later than 4 months after its submission by the Member State.
5. For programmes supported by the ERDF, the ESF+, the Cohesion Fund and the JTF, the Member State may transfer during the programming period an amount of up to 8 % of the initial allocation of a priority and no more than 4 % of the programme budget to another priority of the same Fund of the same programme. For programmes supported by the ERDF, the ESF+ and the JTF, the transfer shall only concern allocations for the same category of region.

For programmes supported by the EMFAF, the Member State may transfer during the programming period an amount of up to 8 % of the initial allocation of a specific objective to another specific objective, including technical assistance implemented pursuant to Article 36(4).

For programmes supported by the AMIF, the ISF and the BMVI, the Member State may transfer during the programming period allocations between types of actions within the same priority and, in addition, an amount of up to 15 % of the initial allocation of a priority to another priority of the same Fund.

Such transfers shall not affect previous years. The transfers and related changes shall be considered to be not substantial and shall not require a decision of the Commission approving the amendment of the programme. They shall however, comply with all regulatory requirements and shall be approved by the monitoring committee in advance pursuant to point (d) of Article 40(2). The Member State shall submit to the Commission the amended table referred to under points (g)(ii), (iii) or (iv) of Article 22(3), as applicable, together with any related changes in the programme.

6. The approval of the Commission shall not be required for corrections of a purely clerical or editorial nature that do not affect the implementation of the programme. Member States shall inform the Commission of such corrections.
7. For programmes supported by the EMFAF, amendments of the programmes relating to the introduction of indicators shall not require the approval of the Commission.

*Article 25***Joint support from the ERDF, the ESF+, the Cohesion Fund and the JTF**

1. The ERDF, the ESF+, the Cohesion Fund and the JTF may jointly provide support for programmes under the Investment for jobs and growth goal.
2. The ERDF and the ESF+ may finance, in a complementary manner and subject to a limit of 15 % of support from those Funds for each priority of a programme, all or 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 such costs are necessary for the implementation. That option shall not apply to any resources of the ERDF and the ESF+ that are transferred to the JTF in accordance with Article 27.

*Article 26***Transfer of resources**

1. Member States may request, in the Partnership Agreement or in a request for an amendment of a programme if agreed by the monitoring committee of the programme pursuant to point (d) of Article 40(2), the transfer of up to 5 % of the initial national allocation of each Fund to any other instrument under direct or indirect management, where such possibility is provided for in the basic act of such an instrument.

The sum of the transfers referred to in the first subparagraph of this paragraph and the contributions in accordance with the first subparagraph of Article 14(1) shall not exceed 5 % of the initial national allocation of each Fund.

Member States may also request in the Partnership Agreement or in the request for an amendment of a programme the transfer of up to 5 % of the initial national allocation of each Fund to another Fund or Funds, except for transfers which are set out in the fourth subparagraph.

Member States may also request in the Partnership Agreement or in the request for an amendment of a programme an additional transfer of up to 20 % of the initial national allocation by Fund between the ERDF, the ESF+ or the Cohesion Fund within the Member State's global resources under the Investment for jobs and growth goal. The Member States whose average total unemployment rate for the period 2017-2019 is under 3 % may request such an additional transfer of up to 25 % of the initial national allocation.

2. Transferred resources shall be implemented in accordance with the rules of the Fund or the instrument to which the resources are transferred and, in the case of transfers to instruments under direct or indirect management, for the benefit of the Member State concerned.
3. Requests for an amendment of a programme shall set out the total amount transferred for each year by Fund and by category of region, where applicable, shall be duly justified with a view to the complementarities and impact to be achieved, and shall be accompanied by the amended programme or programmes in accordance with Article 24.
4. After consultation with the Member State concerned, the Commission shall object to a request for transfer in the related programme amendment where such a transfer would undermine the achievement of the objectives of the programme from which the resources are to be transferred.

The Commission shall also object to the request where it considers that the Member State has not provided an adequate justification for the transfer with regard to the results to be achieved or the contribution to be made to the objectives of the receiving Fund or instrument in direct or indirect management.

5. Where the request for transfer concerns an amendment of a programme, only resources of future calendar years may be transferred.
6. JTF resources, including any resources transferred from the ERDF and the ESF+ in accordance with Article 27, shall not be transferable to other Funds or instruments pursuant to paragraphs 1 to 5 of this Article.

The JTF shall not receive transfers pursuant to paragraphs 1 to 5.

7. Where the Commission has not entered into a legal commitment under direct or indirect management for resources transferred in accordance with paragraph 1, the corresponding uncommitted resources may be transferred back to the Fund from which they have been initially transferred and allocated to one or more programmes.

To this end, the Member State shall submit a request for a programme amendment in accordance with Article 24(1), at the latest 4 months before the time limit for commitments set out in the first subparagraph of Article 114(2) of the Financial Regulation.

8. Resources transferred back to the Fund from which they have been initially transferred and allocated to one or more programmes shall be implemented in accordance with the rules set out in this Regulation and the Fund-specific Regulations as from the date of submission of the request for programme amendment.

9. For the resources transferred back to the Fund from which they have been initially transferred and allocated to a programme in accordance with paragraph 7 of this Article, the decommitment time limit as defined in Article 105(1) shall start in the year in which the corresponding budgetary commitments are made.

Article 27

Transfer of resources from the ERDF and the ESF+ to the JTF

1. Member States may request on a voluntary basis that the amount of resources available for the JTF under the Investment for jobs and growth goal in accordance with Article 3 of the JTF Regulation be complemented with resources from the ERDF, the ESF+ or a combination thereof, of the category of region where the territory concerned is located. The total of the ERDF and the ESF+ resources transferred to the JTF shall not exceed three times the amount of the JTF allocation referred to in point (g) of Article 110(1). The resources transferred from either the ERDF or the ESF+ shall not exceed 15 % of the respective ERDF and ESF+ allocation to the Member State concerned. Member States shall set out in those requests the total amount transferred for each year by category of region.

2. The respective transfers from the ERDF and the ESF+ resources to the priority or priorities supported by the JTF shall reflect the types of interventions in accordance with the information set out in the programme pursuant to point (d)(ix) of Article 22(3). Such transfers shall be considered to be definitive.

3. The JTF resources, including the resources transferred from the ERDF and the ESF+, shall be implemented in accordance with the rules set out in this Regulation and in the JTF Regulation. The rules set out in the ERDF and CF Regulation and in the ESF+ Regulation shall not apply to the ERDF and ESF+ resources transferred in accordance with paragraph 1.

CHAPTER II

Territorial development

Article 28

Integrated territorial development

Where a Member State supports integrated territorial development, it shall do so through territorial or local development strategies in any of the following forms:

- (a) integrated territorial investments;
- (b) community-led local development; or
- (c) another territorial tool supporting initiatives designed by the Member State.

Where implementing territorial or local development strategies under more than one Fund, the Member State shall ensure coherence and coordination among the Funds concerned.

Article 29

Territorial strategies

1. Territorial strategies implemented pursuant to point (a) or (c) of Article 28 shall contain the following elements:

- (a) the geographical area covered by the strategy;
- (b) an analysis of the development needs and the potential of the area, including economic, social and environmental interlinkages;

- (c) a description of an integrated approach to address the identified development needs and the potential of the area;
- (d) a description of the involvement of partners in accordance with Article 8 in the preparation and in the implementation of the strategy.

They may also contain a list of operations to be supported.

2. Territorial strategies shall be under the responsibility of the relevant territorial authorities or bodies. Existing strategic documents concerning the covered areas may be used for territorial strategies.

3. Where the list of operations to be supported has not been included in the territorial strategy, the relevant territorial authorities or bodies shall select or shall be involved in the selection of operations.

4. When preparing territorial strategies, the authorities or bodies referred to in paragraph 2 shall cooperate with relevant managing authorities, in order to determine the scope of operations to be supported under the relevant programme.

Selected operations shall comply with the territorial strategy.

5. Where a territorial authority or body carries out tasks falling under the responsibility of the managing authority other than the selection of operations, the authority shall be identified by the managing authority as an intermediate body.

6. Support may be provided for the preparation and design of territorial strategies.

Article 30

Integrated territorial investment

Where a territorial strategy referred to in Article 29 involves investments that receive support from one or more Funds, from more than one programme or from more than one priority of the same programme, actions may be carried out as an integrated territorial investment.

Article 31

Community-led local development

1. Where a Member State considers it appropriate pursuant to Article 28, the ERDF, the ESF+, the JTF and the EMFAF shall support community-led local development.

2. The Member State shall ensure that community-led local development is:

- (a) focused on subregional areas;
- (b) led by local action groups composed of representatives of public and private local socioeconomic interests, in which no single interest group controls the decision-making;
- (c) carried out through strategies in accordance with Article 32;
- (d) supportive of networking, accessibility, innovative features in the local context and, where appropriate, cooperation with other territorial actors.

3. Where support to strategies referred to in point (c) of paragraph 2 is available from more than one Fund, the relevant managing authorities shall organise a joint call for selection of those strategies and establish a joint committee for all the Funds concerned to monitor the implementation of those strategies. The relevant managing authorities may choose one of the Funds concerned to support all preparatory, management and animation costs referred to in points (a) and (c) of Article 34(1) related to those strategies.

4. Where the implementation of such a strategy involves support from more than one Fund, the relevant managing authorities may choose one of the Funds concerned as the Lead Fund.

5. While respecting the scope and the eligibility rules of each fund involved in supporting the strategy, the rules of the Lead Fund shall apply to that strategy. The authorities of other funds shall rely on decisions and management verifications made by the competent authority of the Lead Fund.

6. The authority of the Lead Fund shall provide the authorities of other Funds with information necessary to monitor and make payments in accordance with the rules set out in the Fund-specific Regulations.

Article 32

Community-led local development strategies

1. The relevant managing authorities shall ensure that each strategy referred to in point (c) of Article 31(2) sets out the following elements:

- (a) the geographical area and population covered by that strategy;
- (b) the community involvement process in the development of that strategy;
- (c) an analysis of the development needs and potential of the area;
- (d) the objectives of that strategy, including measurable targets for results, and related planned actions;
- (e) the management, monitoring and evaluation arrangements, demonstrating the capacity of the local action group to implement that strategy;
- (f) a financial plan, including the planned allocation from each Fund, and also, where appropriate, the planned allocation from the EAFRD and each programme concerned.

It may also contain types of measures and operations to be financed by each affected Fund.

2. The relevant managing authorities shall define criteria for the selection of those strategies, set up a committee to carry out this selection and approve the strategies selected by that committee.

3. The relevant managing authorities shall complete the first round of selection of strategies and ensure the local action groups selected can fulfil their tasks set out in Article 33(3) within 12 months of the date of the decision approving the programme or, in the case of strategies supported by more than one Fund, within 12 months of the date of the decision approving the last programme concerned.

4. The decision approving a strategy shall set out the allocation of each Fund and programme concerned and set out the responsibilities for the management and control tasks under the programme or programmes.

Article 33

Local action groups

1. Local action groups shall design and implement the strategies referred to in point (c) of Article 31(2).

2. The managing authorities shall ensure that the local action groups are inclusive, and that they either select one partner within the group as a lead partner in administrative and financial matters or come together in a legally constituted common structure.

3. The following tasks shall be carried out exclusively by the local action groups:

- (a) building the capacity of local actors to develop and implement operations;
- (b) drawing up a non-discriminatory and transparent selection procedure and criteria, which avoids conflicts of interest and ensures that no single interest group controls selection decisions;
- (c) preparing and publishing calls for proposals;
- (d) selecting operations and fixing the amount of support and presenting the proposals to the body responsible for final verification of eligibility before approval;
- (e) monitoring progress towards the achievement of objectives of the strategy;
- (f) evaluating the implementation of the strategy.

4. Where local action groups carry out tasks not covered by paragraph 3 that fall under the responsibility of the managing authority, or of the paying agency where the EAFRD is selected as a Lead Fund, these local action groups shall be identified by the managing authority as intermediate bodies in accordance with the Fund-specific rules.

5. The local action group may be a beneficiary and may implement operations in accordance with the strategy, provided that the local action group ensures that the principle of separation of functions is respected.

Article 34

Support from Funds for community-led local development

1. The Member State shall ensure that support from the Funds for community-led local development covers:
 - (a) capacity building and preparatory actions supporting the design and future implementation of the strategy;
 - (b) the implementation of operations, including cooperation activities and their preparation, selected under the strategy;
 - (c) the management, monitoring and evaluation of the strategy and its animation, including the facilitation of exchanges between stakeholders;
2. The support referred to under point (a) of paragraph 1 shall be eligible regardless of whether the strategy is subsequently selected for funding.

The support referred to under point (c) of paragraph 1 shall not exceed 25 % of the total public contribution to the strategy.

CHAPTER III

Technical assistance

Article 35

Technical assistance at the initiative of the Commission

1. At the initiative of the Commission, the Funds may support preparatory, monitoring, control, audit, evaluation, communication including corporate communication on the political priorities of the Union, visibility and all administrative and technical assistance actions necessary for the implementation of this Regulation and, where appropriate, with third countries.
2. The actions referred to in paragraph 1 may include in particular:
 - (a) assistance for project preparation and appraisal;
 - (b) support for institutional strengthening and administrative capacity-building for the effective management of the Funds;
 - (c) studies linked to the Commission's reporting on the Funds and the cohesion report;
 - (d) measures related to the analysis, management, monitoring, information exchange and implementation of the Funds, as well as measures relating to the implementation of control systems and technical and administrative assistance;
 - (e) evaluations, expert reports, statistics and studies, including those of a general nature, concerning the current and future operation of the Funds;
 - (f) actions to disseminate information, support networking where appropriate, carry out communication activities with particular attention to the results and added value of support from the Funds, and to raise awareness and promote cooperation and exchange of experience, including with third countries;
 - (g) the installation, operation and interconnection of computerised systems for management, monitoring, audit, control and evaluation;
 - (h) actions to improve evaluation methods and the exchange of information on evaluation practices;
 - (i) actions related to auditing;
 - (j) the strengthening of national and regional capacity regarding investment planning, funding needs, preparation, design and implementation of financial instruments, joint action plans and major projects;
 - (k) the dissemination of good practices in order to assist Member States to strengthen the capacity of the relevant partners referred to in Article 8(1) and their umbrella organisations.

3. The Commission shall dedicate at least 15 % of the resources for technical assistance at the initiative of the Commission to the delivery of greater efficiency in communication to the public and stronger synergies between the communication activities undertaken at the initiative of the Commission, by extending the knowledge base about results, in particular through more effective data collection and dissemination, evaluations and reporting, and especially by highlighting the contribution of the Funds to improving the lives of citizens, and by increasing the visibility of support from the Funds as well as by raising awareness about the results and the added value of such support. Information, communication and visibility measures on results and added value of support from the Funds, with particular focus on operations, shall be continued after the closure of the programmes, where appropriate. Such measures shall also contribute to the corporate communication of the political priorities of the Union as far as they are related to the general objectives of this Regulation.

4. The actions referred to in paragraph 1 may cover previous and subsequent programming periods.

5. The Commission shall set out its plans when a contribution from the Funds is envisaged in accordance with Article 110 of the Financial Regulation.

6. Depending on the purpose, the actions referred to in this Article may be financed either as operational or administrative expenditure.

7. In accordance with point (a) of the second subparagraph of Article 193(2) of the Financial Regulation, in duly justified cases specified in the financing decision and for a limited period, technical assistance actions at the initiative of the Commission supported under this Regulation in direct management and the underlying costs may be considered to be eligible from 1 January 2021, even if these actions were implemented and incurred before the grant application was submitted.

Article 36

Technical assistance of Member States

1. At the initiative of a Member State, the Funds may support actions, which may concern previous and subsequent programming periods, necessary for the effective administration and use of those Funds, including for the capacity building of the partners referred to in Article 8(1), as well as to provide financing for carrying out, inter alia, functions such as preparation, training, management, monitoring, evaluation, visibility and communication.

The amounts for technical assistance under this Article and Article 37 shall not be taken into account for the purposes of thematic concentration in accordance with the fund-specific rules.

2. Each Fund may support technical assistance actions eligible under any of the other Funds.

3. The Union contribution for technical assistance in a Member State shall be made either pursuant to point (b) or (e) of Article 51.

The Member State shall indicate its choice of the form of Union contribution for technical assistance in the Partnership Agreement in accordance with Annex II. That choice shall apply to all programmes in the Member State concerned for the entire programming period and cannot be modified subsequently.

For programmes supported by the AMIF, the ISF and the BMVI and for Interreg programmes the Union contribution for technical assistance shall be made only pursuant to point (e) of Article 51.

4. Where the Union contribution for technical assistance in a Member State is reimbursed pursuant to point (b) of Article 51, the following elements shall apply:

(a) technical assistance takes the form of a priority relating to one single Fund in one or more programmes, or of a specific programme, or a combination thereof;

- (b) the amount of the Funds allocated to technical assistance is limited to the following:
- (i) for the ERDF support under the Investment for jobs and growth goal: 3,5 %;
 - (ii) for the Cohesion Fund support: 2,5 %;
 - (iii) for the ESF+ support: 4 % and for programmes under point (m) of Article 4(1) of the ESF+ Regulation: 5 %;
 - (iv) for the JTF support: 4 %;
 - (v) for the ERDF, the ESF+ and the Cohesion Fund, where the total amount allocated to a Member State under the Investment for jobs and growth goal does not exceed EUR 1 billion: 6 %;
 - (vi) for the EMFAF support: 6 %;
 - (vii) for programmes under the Investment for jobs and growth goal that concern only the outermost regions, the percentage shall be increased by 1 percentage point.
5. Where the Union contribution for technical assistance is reimbursed pursuant to point (e) of Article 51, the following elements shall apply:
- (a) the amount of the Funds allocated to technical assistance is identified as part of the financial allocations of each priority of the programme in accordance with point (g)(ii) of Article 22(3), and for the EMFAF, each specific objective in accordance with point (g)(iii) of that paragraph; it does not take the form of a separate priority or a specific programme except for programmes supported by the AMIF, the ISF or the BMVI, for which it takes the form of a specific objective;
- (b) the reimbursement is made, by applying the percentages set out in points (i) to (vii) to the eligible expenditure included in each payment application pursuant to points (a) or (c) of Article 91(3) as appropriate and from the same fund to which the eligible expenditure is reimbursed, to one or more bodies which receive payments from the Commission in accordance with point (k) of Article 22(3):
- (i) for the ERDF support under the Investment for jobs and growth goal: 3,5 %;
 - (ii) for the Cohesion Fund support: 2,5 %;
 - (iii) for the ESF+ support: 4 % and for programmes under point (m) of Article 4(1) of the ESF+ Regulation: 5 %;
 - (iv) for the JTF support: 4 %;
 - (v) for the ERDF, the ESF+ and the Cohesion Fund, where the total amount allocated to a Member State under the Investment for jobs and growth goal does not exceed EUR 1 billion, the percentage reimbursed for technical assistance: 6 %;
 - (vi) for the EMFAF, the AMIF, the ISF and the BMVI support: 6 %;
 - (vii) for programmes under the Investment for jobs and growth goal that concern only the outermost regions, the percentage shall be increased by 1 percentage point;
- (c) the amounts allocated to technical assistance identified in the programme correspond to the percentages set out in points (i) to (vi) of point (b) for each priority and fund.
6. Specific rules for technical assistance for Interreg programmes shall be set out in the Interreg Regulation.

Article 37

Financing not linked to costs for technical assistance of Member States

In addition to Article 36, the Member State may propose to undertake additional technical assistance actions to reinforce the capacity and efficiency of public authorities and bodies, beneficiaries and relevant partners necessary for the effective administration and use of the Funds.

Support for such actions shall be implemented by financing not linked to costs in accordance with Article 95. Such support may also take the form of a specific programme.

TITLE IV

MONITORING, EVALUATION, COMMUNICATION AND VISIBILITY

CHAPTER I

Monitoring*Article 38***Monitoring committee**

1. Each Member State shall set up a committee to monitor the implementation of the programme ('monitoring committee'), after consulting the managing authority, within 3 months of the date of notification to the Member State concerned of the decision approving the programme.

The Member State may set up a single monitoring committee to cover more than one programme.

2. Each monitoring committee shall adopt its rules of procedure, including provisions regarding the prevention of any conflict of interest and the application of the principle of transparency.

3. The monitoring committee shall meet at least once a year and shall review all issues that affect the progress of the programme towards achieving its objectives.

4. The rules of procedure of the monitoring committee and the data and information shared with the monitoring committee shall be published on the website referred to in Article 49(1), without prejudice to Article 69(5).

5. Paragraphs 1 to 4 of this Article shall not apply to programmes limited to the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation and related technical assistance.

*Article 39***Composition of the monitoring committee**

1. Each Member State shall determine the composition of the monitoring committee and shall ensure a balanced representation of the relevant Member State authorities and intermediate bodies and of representatives of the partners referred to in Article 8(1) through a transparent process.

Each member of the monitoring committee shall have a vote. The rules of procedures shall regulate the exercise of the voting right and the details on the procedure in the monitoring committee in accordance with the institutional, legal and financial framework of the Member State concerned.

The rules of procedure may allow non-members, including the EIB, to participate in the work of the monitoring committee.

The monitoring committee shall be chaired by a representative of the Member State or of the managing authority.

The list of the members of the monitoring committee shall be published on the website referred to in Article 49(1).

2. Representatives of the Commission shall participate in the work of the monitoring committee in a monitoring and an advisory capacity.

3. For the AMIF, the ISF and the BMVI, relevant decentralised agencies may participate in the work of the monitoring committee.

*Article 40***Functions of the monitoring committee**

1. The monitoring committee shall examine:

(a) the progress in programme implementation and in achieving the milestones and targets;

- (b) any issues that affect the performance of the programme and the measures taken to address those issues;
- (c) the contribution of the programme to tackling the challenges identified in the relevant country-specific recommendations that are linked to the implementation of the programme;
- (d) the elements of the *ex ante* assessment listed in Article 58(3) and the strategy document referred to in Article 59(1);
- (e) the progress made in carrying out evaluations, syntheses of evaluations and any follow-up given to findings;
- (f) the implementation of communication and visibility actions;
- (g) the progress in implementing operations of strategic importance, where relevant;
- (h) the fulfilment of enabling conditions and their application throughout the programming period;
- (i) the progress in administrative capacity building for public institutions, partners and beneficiaries, where relevant.
- (j) information regarding the implementation of the contribution of the programme to the InvestEU Programme in accordance with Article 14 or of the resources transferred in accordance with Article 26, where applicable.

As regards the programmes supported by the EMFAF, the monitoring committee shall be consulted and shall, if it considers it appropriate, give an opinion on any amendment of the programme proposed by the managing authority.

2. The monitoring committee shall approve:

- (a) the methodology and criteria used for the selection of operations, including any changes thereto, without prejudice to points (b), (c) and (d) of Article 33(3); at the request of the Commission, the methodology and criteria used for the selection of operations, including any changes thereto, shall be submitted to the Commission at least 15 working days prior to their submission to the monitoring committee.
- (b) the annual performance reports for programmes supported by the AMIF, the ISF and the BMVI, and the final performance report for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF.
- (c) the evaluation plan and any amendment thereto;
- (d) any proposal by the managing authority for the amendment of a programme including for transfers in accordance with Article 24(5) and Article 26, with the exception of programmes supported by the EMFAF.

3. The monitoring committee may make recommendations to the managing authority, including on measures to reduce the administrative burden for beneficiaries.

Article 41

Annual performance review

1. Review meetings shall be organised once a year between the Commission and each Member State to examine the performance of each programme. Relevant managing authorities shall participate in the review meetings.

The review meeting may cover more than one programme.

The review meeting shall be chaired by the Commission or, if the Member State so requests, co-chaired by the Member State and the Commission.

2. By way of derogation from the first subparagraph of paragraph 1, for programmes supported by the AMIF, the ISF and the BMVI, the review meeting shall be organised at least twice during the programming period.

3. For programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, the Member State shall no later than 1 month before the review meeting provide the Commission with concise information on the elements listed in Article 40(1). That information shall be based on the most recent data available to the Member State.

For programmes limited to the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, the information to be provided, based on the most recent data available, shall be limited to points (a), (b), (e), (f) and (h) of Article 40(1) of this Regulation.

4. The Member State and the Commission may agree not to organise a review meeting. In such a case, the review may be carried out in writing.
5. The outcome of the review meeting shall be recorded in agreed minutes.
6. The Member State shall follow up issues raised during the review meeting which affect the implementation of the programme and shall inform the Commission within 3 months of the measures taken.
7. For programmes supported by the AMIF, the ISF and the BMVI, the Member State shall submit an annual performance report in accordance with the Fund-specific Regulations.

Article 42

Transmission of data

1. The Member State or the managing authority shall electronically transmit to the Commission cumulative data for each programme by 31 January, 30 April, 31 July, 30 September and 30 November of each year, with the exception of the data required in point (b) of paragraph 2 and in paragraph 3 that shall be electronically transmitted by 31 January and 31 July of each year, in accordance with the template set out in Annex VII.

The first transmission shall be due by 31 January 2022 and the last one by 31 January 2030.

For priorities supporting the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, data shall be transmitted annually by 31 January.

The ESF+ Regulation may determine specific rules for the frequency of collecting and transmitting longer-term result indicators.

2. The data shall be broken down for each priority by specific objective and, where applicable, by category of region and shall refer to:

- (a) the number of selected operations, their total eligible cost, the contribution from the Funds and the total eligible expenditure declared by the beneficiaries to the managing authority, all broken down by type of intervention;
- (b) the values of output and result indicators for selected operations and values achieved by operations.

3. For financial instruments data shall also be provided on the following:

- (a) eligible expenditure by type of financial product;
- (b) amount of management costs and fees declared as eligible expenditure;
- (c) the amount, by type of financial product, of private and public resources mobilised in addition to the Funds;
- (d) interest and other gains generated by support from the Funds to financial instruments referred to in Article 60 and resources returned attributable to support from the Funds as referred to in Article 62;
- (e) total value of loans, equity or quasi-equity investments in final recipients which were guaranteed with programme resources and which were actually disbursed to final recipients.

4. The data submitted in accordance with this Article shall be reliable and reflect the data stored electronically as referred to in point (e) of Article 72(1) as at the end of the month preceding the month of submission.

5. The Member State or the managing authority shall publish or provide a link to all the data transmitted to the Commission on the website portal referred to in point (b) of Article 46 or on the website referred to in Article 49(1).

*Article 43***Final performance report**

1. For programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, each managing authority shall submit to the Commission a final performance report of the programme by 15 February 2031.
2. The final performance report shall assess the achievement of programme objectives based on the elements listed in Article 40(1) with the exception of the information provided under point (d) of that paragraph.
3. The Commission shall examine the final performance report and inform the managing authority of any observations within 5 months of the date of receipt of the final performance report. 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 3 months, of measures taken. The Commission shall inform the managing authority of the acceptance of the report, within 2 months of receiving all necessary information. Where the Commission does not inform the managing authority within those deadlines, the report shall be deemed to be accepted.
4. The managing authority shall publish final performance reports on the website referred to in Article 49(1).
5. The Commission shall, in order to ensure uniform conditions for the implementation of this Article, adopt an implementing act establishing the template for the final performance report. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 115(2).

*CHAPTER II***Evaluation***Article 44***Evaluations by the Member State**

1. The Member State or the managing authority shall carry out evaluations of the programmes related to one or more of the following criteria: effectiveness, efficiency, relevance, coherence and Union added value, with the aim to improve the quality of the design and implementation of programmes. Evaluations may also cover other relevant criteria, such as inclusiveness, non-discrimination and visibility, and may cover more than one programme.
2. In addition, an evaluation for each programme to assess its impact shall be carried out by 30 June 2029.
3. Evaluations shall be entrusted to internal or external experts who are functionally independent.
4. The Member State or the managing authority shall ensure the necessary procedures are set up to produce and collect the data necessary for evaluations.
5. The Member State or the managing authority shall draw up an evaluation plan which may cover more than one programme. For the AMIF, the ISF and the BMVI, that plan shall include a mid-term evaluation to be completed by 31 March 2024.
6. The Member State or the managing authority shall submit the evaluation plan to the monitoring committee no later than one year after the decision approving the programme.
7. All evaluations shall be published on the website referred to in Article 49(1).

*Article 45***Evaluation by the Commission**

1. The Commission shall carry out a mid-term evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of each Fund by the end of 2024. The Commission may make use of all relevant information already available in accordance with Article 128 of the Financial Regulation.

2. The Commission shall carry out a retrospective evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of each Fund by 31 December 2031. In the case of the ERDF, the ESF+, the Cohesion Fund and the EMFAF, that evaluation shall focus in particular on the social, economic and territorial impact of those funds in relation to the policy objectives referred to in Article 5(1).

3. The Commission shall publish the results of the retrospective evaluation on its website and communicate those results to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

CHAPTER III

Visibility, transparency and communication

Section I

Visibility of support from the Funds

Article 46

Visibility

Each Member State shall ensure:

- (a) the visibility of support in all activities relating to operations supported by the Funds with particular attention to operations of strategic importance;
- (b) communication to Union citizens of the role and achievements of the Funds through a single website portal providing access to all programmes involving that Member State.

Article 47

Emblem of the Union

Member States, managing authorities and beneficiaries shall use the emblem of the Union in accordance with Annex IX when carrying out visibility, transparency and communication activities.

Article 48

Communication officers and networks

1. Each Member State shall identify a communication coordinator for visibility, transparency and communication activities in relation to the support from the Funds, including programmes under the European territorial cooperation goal (Interreg) where that Member State hosts the managing authority. The communication coordinator may be appointed at the level of the body defined under Article 71(6) and shall coordinate communication and visibility measures across programmes.

The communication coordinator shall involve in the visibility, transparency and communication activities the following bodies:

- (a) European Commission Representations and European Parliament Liaison Offices in the Member States, as well as Europe Direct Information Centres and other relevant networks, educational and research organisations;
- (b) other relevant partners referred to in Article 8(1).

2. Each managing authority shall identify a communication officer for each programme. A communication officer may be responsible for more than one programme.

3. The Commission shall maintain the network comprising communication coordinators, communication officers and Commission representatives to exchange information on visibility, transparency and communication activities.

Section II

Transparency of implementation of the Funds and communication on programmes*Article 49***Responsibilities of the managing authority**

1. The managing authority shall ensure that, within 6 months of the decision approving the programme, there is a website where information on programmes under its responsibility is available, covering the programme's objectives, activities, available funding opportunities and achievements.

2. The managing authority shall ensure the publication on the website referred to in paragraph 1, or on the single website portal referred to in point (b) of Article 46, of a timetable of the planned calls for proposals, that is updated at least three times a year, with the following indicative data:

- (a) geographical area covered by the call for proposal;
- (b) policy objective or specific objective concerned;
- (c) type of eligible applicants;
- (d) total amount of support for the call;
- (e) start and end date of the call.

3. The managing authority shall make the list of operations selected for support by the Funds publicly available on the website in at least one of the official languages of the institutions of the Union and shall update that list at least every 4 months. Each operation shall have a unique code. The list shall contain the following data:

- (a) in the case of legal entities, the beneficiary's and, in the case of public procurement, the contractor's name;
- (b) where the beneficiary is a natural person the first name and the surname;
- (c) for EMFAF operations linked to a fishing vessel, the Union fishing fleet register identification number as referred to in Commission Implementing Regulation (EU) 2017/218 ⁽⁴⁷⁾;
- (d) name of the operation;
- (e) the purpose of the operation and its expected or actual achievements;
- (f) start date of the operation;
- (g) expected or actual date of completion of the operation;
- (h) total cost of the operation;
- (i) fund concerned;
- (j) specific objective concerned;
- (k) Union co-financing rate;
- (l) location indicator or geolocation for the operation and country concerned;
- (m) for mobile operations or operations covering several locations the location of the beneficiary where the beneficiary is a legal entity; or the NUTS 2 level region where the beneficiary is a natural person;
- (n) type of intervention for the operation in accordance with point (g) of Article 73(2).

For data referred to in points (b) and (c) of the first subparagraph, the data shall be removed 2 years from the date of the initial publication on the website.

4. The data referred to in paragraphs 2 and 3 of this Article shall be published on the website referred to in paragraph 1, or on the single website portal referred to in point (b) of Article 46 of this Regulation, in open, machine-readable formats, as set out in Article 5(1) of the Directive (EU) 2019/1024 of the European Parliament and of the Council ⁽⁴⁸⁾, which allows data to be sorted, searched, extracted, compared and reused.

⁽⁴⁷⁾ Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register (OJ L 34, 9.2.2017, p. 9).

⁽⁴⁸⁾ Directive (EU) 2019/1024 of the European Parliament and of the Council of 20 June 2019 on open data and the re-use of public sector information (OJ L 172, 26.6.2019, p. 56).

5. The managing authority shall inform the beneficiaries that the data will be made public before the publication takes place in accordance with this Article.

6. The managing authority shall ensure that communication and visibility material including at the level of beneficiaries is made available upon request to Union institutions, bodies, offices or agencies and that a royalty-free, non-exclusive and irrevocable licence to use such material and any pre-existing rights attached to it is granted to the Union in accordance with Annex IX. This shall not require significant additional costs or a significant administrative burden for the beneficiaries or for the managing authority.

Article 50

Responsibilities of beneficiaries

1. Beneficiaries and bodies implementing financial instruments shall acknowledge support from the Funds, including resources reused in accordance with Article 62, to the operation by:

- (a) providing on the beneficiary's official website, where such a site exists, and social media sites, a short description of the operation, proportionate to the level of support, including its aims and results, and highlighting the financial support from the Union;
- (b) providing a statement highlighting the support from the Union in a visible manner on documents and communication material relating to the implementation of the operation, intended for the public or for participants;
- (c) displaying durable plaques or billboards clearly visible to the public, that present the emblem of the Union in accordance with the technical characteristics laid down in Annex IX, as soon as the physical implementation of operations involving physical investment starts or purchased equipment is installed, in respect of the following:
 - (i) operations supported by the ERDF and the Cohesion Fund the total cost of which exceeds EUR 500 000;
 - (ii) operations supported by the ESF+, the JTF, the EMFAF, the AMIF, the ISF or the BMVI the total cost of which exceeds EUR 100 000;
- (d) for operations not falling under point (c), displaying at a location clearly visible to the public at least one poster of a minimum size A3 or equivalent electronic display with information about the operation highlighting the support from the Funds; where the beneficiary is a natural person, the beneficiary shall ensure, to the extent possible, that appropriate information is available, highlighting the support from the funds, at a location visible to the public or through an electronic display;
- (e) for operations of strategic importance and operations the total cost of which exceeds EUR 10 000 000, organising a communication event or activity, as appropriate, and involving the Commission and the responsible managing authority in a timely manner.

Where an ESF+ beneficiary is a natural person or for operations supported under the specific objective set out in point (m) of Article 4(1) of the ESF+ Regulation, the requirement set out in point (d) of the first subparagraph shall not apply.

By derogation from points (c) and (d) of the first subparagraph, for operations supported by the AMIF, the ISF and the BMVI, the document setting out the conditions for support may establish specific requirements for the public display of information on the support from the Funds where this is justified by reasons of security and public order in accordance with Article 69(5).

2. For small project funds, the beneficiary shall comply with the obligations under Article 36(5) of the Interreg Regulation.

For financial instruments, the beneficiary shall ensure by means of the contractual terms that final recipients comply with the requirements set out in point (c) of paragraph 1.

3. Where the beneficiary does not comply with its obligations under Article 47 or paragraphs 1 and 2 of this Article, and where remedial actions have not been put into place, the managing authority shall apply measures, taking into account the principle of proportionality, by cancelling up to 3 % of the support from the Funds to the operation concerned.

TITLE V

FINANCIAL SUPPORT FROM THE FUNDS

CHAPTER I

Forms of Union contribution

Article 51

Forms of Union contribution to programmes

The Union contribution may take any of the following forms:

- (a) financing not linked to costs of the relevant operations in accordance with Article 95 and based on either of the following:
 - (i) the fulfilment of conditions;
 - (ii) the achievement of results;
- (b) reimbursement of support provided to beneficiaries in accordance with Chapters II and III of this Title;
- (c) unit costs in accordance with Article 94, which cover all or certain specific categories of eligible costs, clearly identified in advance by reference to an amount per unit;
- (d) lump sums in accordance with Article 94, which cover in global terms all or certain specific categories of eligible costs, clearly identified in advance;
- (e) flat-rate financing in accordance with Article 94 or Article 36(5), which covers specific categories of eligible costs, clearly identified in advance, by applying a percentage;
- (f) a combination of the forms referred to in points (a) to (e).

CHAPTER II

Forms of support by Member States

Article 52

Forms of support

Member States shall use the contribution from the Funds to provide support to beneficiaries in the form of grants, financial instruments or prizes or a combination thereof.

Section I

Forms of grants

Article 53

Forms of grants

1. Grants provided by Member States to beneficiaries may take any of the following forms:
 - (a) reimbursement of eligible costs actually incurred by a beneficiary or the private partner of PPP operations and paid in implementing operations, contributions in kind and depreciation;
 - (b) unit costs;
 - (c) lump sums;
 - (d) flat-rate financing;
 - (e) a combination of the forms referred to in points (a) to (d), provided that each form 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;
 - (f) financing not linked to costs, provided such grants are covered by a reimbursement of the Union contribution pursuant to Article 95.

2. Where the total cost of an operation does not exceed EUR 200 000, the contribution provided to the beneficiary from the ERDF, the ESF+, the JTF, the AMIF, the ISF and the BMVI shall take the form of unit costs, lump sums or flat rates, except for operations for which the support constitutes State aid. Where flat-rate financing is used, only the categories of costs to which the flat-rate applies may be reimbursed in accordance with point (a) of paragraph 1.

By way of derogation from the first subparagraph of this paragraph, the managing authority may agree to exempt some operations in the area of research and innovation from the requirement set out in that subparagraph, provided that the monitoring committee has given prior approval for such an exemption. In addition, allowances and salaries paid to participants may be reimbursed in accordance with point (a) of paragraph 1.

3. The amounts for the forms of grants referred to under points (b), (c) and (d) of paragraph 1, shall be established in one of the following ways:

- (a) a fair, equitable and verifiable calculation method based on:
 - (i) statistical data, other objective information or an expert judgement;
 - (ii) the verified historical data of individual beneficiaries;
 - (iii) the application of the usual cost accounting practices of individual beneficiaries;
- (b) draft budget established on a case-by-case basis and agreed *ex ante* by the body selecting the operation, where the total cost of the operation does not exceed EUR 200 000;
- (c) in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation;
- (d) in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation;
- (e) flat rates and specific methods established by or on the basis of this Regulation or the Fund-specific Regulations.

Article 54

Flat-rate financing for indirect costs concerning grants

Where a flat rate is used to cover indirect costs of an operation, it may be based on one of the following:

- (a) up to 7 % of eligible direct costs, in which case the Member State shall not be required to perform a calculation to determine the applicable rate;
- (b) up to 15 % of eligible direct staff costs, in which case the Member State shall not be required to perform a calculation to determine the applicable rate;
- (c) up to 25 % of eligible direct costs, provided that the rate is calculated in accordance with point (a) of Article 53(3).

In addition, where a Member State has calculated a flat rate in accordance with point (a) of Article 67(5) of Regulation (EU) No 1303/2013, that flat rate may be used for a similar operation for the purposes of point (c) of this Article.

Article 55

Direct staff costs concerning grants

1. Direct staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the direct staff costs of that operation, without there being a requirement for the Member State to perform a calculation to determine the applicable rate, provided that the direct costs of the operation do not include public works contracts or supply or service contracts which exceed in value the thresholds set out in Article 4 of Directive 2014/24/EU of the European Parliament and of the Council ⁽⁴⁹⁾ or in Article 15 of Directive 2014/25/EU of the European Parliament and of the Council ⁽⁵⁰⁾.

⁽⁴⁹⁾ Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94, 28.3.2014, p. 65).

⁽⁵⁰⁾ Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

Where a flat rate is applied in accordance with the first subparagraph for the AMIF, the ISF and the BMVI, that flat rate shall only be applied to the direct costs of the operation not subject to public procurement.

2. For the purposes of determining direct staff costs, an hourly rate may be calculated in one of the following ways:
 - (a) by dividing the latest documented annual gross employment costs by 1 720 hours for persons working full time, or by a corresponding pro-rata of 1 720 hours, for persons working part-time;
 - (b) by dividing the latest documented monthly gross employment costs by the average monthly working time of the person concerned in accordance with applicable national rules referred to in the employment or work contract or an appointment decision (both referred to as the employment document).
3. When applying the hourly rate calculated in accordance with paragraph 2, the total number of hours declared per person for a given year or month shall not exceed the number of hours used for the calculation of that hourly rate.
4. Where annual gross employment costs are not available, they may be derived from the available documented gross employment costs or from the employment document, duly adjusted for a 12-month period.
5. Staff costs related to individuals who work on part-time assignment on the operation may be calculated as a fixed percentage of the gross employment costs, in line with a fixed percentage of time worked on the operation per month, with no obligation to establish a separate working time registration system. The employer shall issue a document for employees setting out that fixed percentage.

Article 56

Flat rate financing for eligible costs other than direct staff costs concerning grants

1. A flat rate of up to 40 % of eligible direct staff costs may be used in order to cover the remaining eligible costs of an operation. The Member State shall not be required to perform a calculation to determine the applicable rate.
2. For operations supported by the ERDF, the ESF+, the JTF, the AMIF, the ISF and the BMVI, salaries and allowances paid to participants shall be considered additional eligible costs not included in the flat rate.
3. The flat rate referred to in paragraph 1 of this Article shall not be applied to staff costs calculated on the basis of a flat rate as referred to in Article 55(1).

Article 57

Grants under conditions

1. Member States may provide grants under conditions to beneficiaries which are fully or partially repayable as specified in the document setting out the conditions for support.
2. Repayments by the beneficiary shall be made under the conditions agreed by the managing authority and the beneficiary.
3. Member States shall reuse resources paid back by the beneficiary for the same purpose or in accordance with the objectives of the programme concerned by 31 December 2030, in the form of grants under conditions or of a financial instrument or in another form of support. The amounts paid back and information about their reuse shall be included in the final performance report.
4. Member States shall adopt the necessary measures to ensure that the resources are kept in separate accounts or under appropriate accounting codes.
5. Union resources paid back by beneficiaries at any time, but not reused by 31 December 2030, shall be repaid to the budget of the Union in accordance with Article 88.

Section II

Financial instruments

Article 58

Financial instruments

1. Managing authorities may provide a programme contribution, from one or more programmes to existing or newly created financial instruments set up at national, regional, transnational or cross border level and implemented directly by, or under the responsibility of, the managing authority which contribute to achieving specific objectives.

2. Financial instruments shall provide support to final recipients only for investments in both tangible and intangible assets as well as working capital expected to be financially viable and which do not find sufficient funding from market sources. Such support shall be in compliance with applicable Union State aid rules.

Such support shall be provided only for the elements of the investments which are not physically completed or fully implemented at the date of the investment decision.

3. Appropriate support from the Funds through financial instruments shall be based on an *ex ante* assessment drawn up under the responsibility of the managing authority. The *ex ante* assessment shall be completed before managing authorities make programme contributions to financial instruments.

The *ex ante* assessment shall include at least the following elements:

- (a) the proposed amount of programme contribution to a financial instrument and the estimated leverage effect accompanied by a short justification;
- (b) the proposed financial products to be offered, including the possible need for differentiated treatment of investors;
- (c) the proposed target group of final recipients;
- (d) the expected contribution of the financial instrument to the achievement of specific objectives.

The *ex ante* assessment may be reviewed or updated, may cover part or the entire territory of the Member State, and may be based on existing or updated *ex ante* assessments.

4. Support to final recipients may be combined with support from any Fund or another Union instrument and may cover the same expenditure item. In such a case, the Fund's support under the financial instrument, which is part of a financial instrument operation, shall not be declared to the Commission for support under another form, another Fund or another Union instrument.

5. Financial instruments may be combined with programme support in the form of grants in a single financial instrument operation, within a single funding agreement, where both distinct forms of support shall be provided by the body implementing the financial instrument. In such a case, the rules applicable to financial instruments shall apply to that single financial instrument operation. The programme support in the form of grants shall be directly linked and necessary for the financial instrument and shall not exceed the value of the investments supported by the financial product.

6. In the case of combined support under paragraphs 4 and 5, separate records shall be kept for each source of support.

7. The sum of all forms of combined support shall 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.

Article 59

Implementation of financial instruments

1. Financial instruments implemented directly by the managing authority may only provide loans or guarantees. The managing authority shall set out the terms and conditions of the programme contribution to the financial instrument in a strategy document which shall include the elements set out in Annex X.

2. Financial instruments implemented under the responsibility of the managing authority may be either of the following:

- (a) an investment of programme resources into the capital of a legal entity;
- (b) separate blocks of finance or fiduciary accounts.

The managing authority shall select the body implementing a financial instrument.

3. The managing authority may directly award a contract for the implementation of a financial instrument to:

- (a) the EIB;
- (b) international financial institutions in which a Member State is a shareholder;
- (c) a publicly-owned bank or institution, established as a legal entity carrying out financial activities on a professional basis, which fulfils all of the following conditions:
 - (i) there is no direct private capital participation, with the exception of non-controlling and non-blocking forms of private capital participation required by national legislative provisions, in conformity with the Treaties, which do not exert a decisive influence on the relevant bank or institution, and with the exception of forms of private capital participation which confer no influence on decisions regarding the day-to-day management of the financial instrument supported by the Funds;
 - (ii) operates under a public policy mandate given by the relevant authority of a Member State at national or regional level, which includes carrying out, as all or part of its activities, economic development activities contributing to the objectives of the Funds;
 - (iii) carries out, as all or part of its activities, economic development activities contributing to the objectives of the Funds in regions, policy areas or sectors for which access to funding from market sources is not generally available or sufficient;
 - (iv) operates without primarily focusing on maximising profits, but ensures a long-term financial sustainability for its activities;
 - (v) ensures that the direct award of a contract referred to in point (b) does not provide any direct or indirect benefit for commercial activities by way of appropriate measures in accordance with applicable law;
 - (vi) is subject to the supervision of an independent authority in accordance with applicable law,
- (d) other bodies, also entering under the scope of Article 12 of Directive 2014/24/EU.

4. When the body selected by the managing authority implements a holding fund, that body may further select other bodies to implement specific funds.

5. The terms and conditions of programme contributions to financial instruments implemented in accordance with paragraph 2, shall be set out in funding agreements between:

- (a) the duly mandated representatives of the managing authority and the body implementing a holding fund, where applicable;
- (b) the duly mandated representatives of the managing authority, or, where applicable, the body implementing a holding fund and the body implementing a specific fund.

Those funding agreements shall include all the elements set out in Annex X.

6. The financial liability of the managing authority shall not exceed the amount committed by the managing authority to the financial instrument under the relevant funding agreements.

7. The bodies implementing the financial instruments concerned, or in the context of guarantees, the body providing the underlying loans, shall support final recipients, taking due account of the programme objectives and the potential for the financial viability of the investment as justified in the business plan or an equivalent document. The selection of final recipients shall be transparent and shall not give rise to a conflict of interest.

8. National co-financing of a programme may be provided either by the managing authority or at the level of holding funds, or at the level of specific funds, or at the level of investments in final recipients, in accordance with the Fund-specific rules. When the national co-financing is provided at the level of investments in final recipients, the body implementing financial instruments shall keep documentary evidence demonstrating the eligibility of the underlying expenditure.

9. The managing authority implementing directly the financial instrument pursuant to paragraph 1 of this Article, or the body implementing the financial instrument pursuant to paragraph 2 of this Article, shall keep separate accounts or maintain an accounting code for each priority or, for the EMFAF, each specific objective and, where applicable, each category of region for each programme contribution, and separately for resources referred to in Articles 60 and 62, respectively.

Article 60

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

1. Support from the Funds paid to financial instruments shall be placed in accounts in financial institutions domiciled within Member States and shall be managed in line with active treasury management and the principle of sound financial management.

2. Interest and other gains attributable to support from the Funds paid to financial instruments shall be used under the same objective or objectives, as the initial support from the Funds, including for the payments of management fees and the reimbursement of management costs incurred by the bodies implementing the financial instrument in accordance with point (d) of Article 68(1), either within the same financial instrument; or, following the winding up of the financial instrument, in other financial instruments or other forms of support for further investments in final recipients, until the end of the eligibility period.

3. Interest and other gains referred to in paragraph 2 not used in accordance with that provision shall be deducted from the accounts submitted for the final accounting year.

Article 61

Differentiated treatment of investors

1. Support from the Funds to financial instruments invested in final recipients and any type of income generated by those investments, including resources paid back, which are attributable to the support from the Funds, may be used for differentiated treatment of investors operating under the market economy principle through an appropriate sharing of risks and profits, taking into account the principle of sound financial management.

2. The level of such differentiated treatment shall not exceed that which is necessary to create incentives for attracting private resources, established either by a competitive process or an independent assessment.

Article 62

Re-use of resources attributable to the support from the Funds

1. Resources paid back, before the end of the eligibility period, to financial instruments from investments in final recipients or from the release of resources set aside for guarantee contracts, including capital repayments and any type of generated income that is attributable to the support from the Funds, shall be re-used in the same or other financial instruments for further investments in final recipients, to cover the losses in the nominal amount of the Funds contribution to the financial instrument resulting from negative interest, if such losses occur despite active treasury management, or for any management costs and fees associated to such further investments, taking into account the principle of sound financial management.

2. Member States shall adopt the necessary measures to ensure that the resources referred to in paragraph 1 and paid back to financial instruments during a period of at least 8 years after the end of the eligibility period, are re-used in accordance with the policy objectives of the programme or programmes under which they were set up, either within the same financial instrument or, following the exit of those resources from the financial instrument, in other financial instruments or in other forms of support.

CHAPTER III

Eligibility rules

Article 63

Eligibility

1. The eligibility of expenditure shall be determined on the basis of national rules, except where specific rules are laid down in, or on the basis of, this Regulation or the Fund-specific Regulations.

2. Expenditure shall be eligible for a contribution from the Funds if it has been incurred by a beneficiary or the private partner of a PPP operation and paid in implementing operations, between the date of submission of the programme to the Commission or from 1 January 2021, whichever date is earlier, and 31 December 2029.

For costs reimbursed pursuant to points (b), (c) and (f) of Article 53(1), the actions constituting the basis for reimbursement shall be carried out between the date of submission of the programme to the Commission or from 1 January 2021, whichever is earlier, and 31 December 2029.

3. For the ERDF, expenditure related to operations covering more than one category of region as set out in Article 108(2) within a Member State shall be allocated to the categories of region concerned on a *pro rata* basis, based on objective criteria.

For the ESF+, expenditure related to operations may be allocated to any of the categories of region of the programme under the condition that the operation contributes to the achievement of the specific objectives of the programme.

For the JTF, expenditure related to operations shall contribute to the implementation of the relevant territorial just transition plan.

4. All or part of an operation may be implemented outside of a Member State, including outside the Union, provided that the operation contributes to the objectives of the programme.

5. For grants taking the forms of points (b), (c) and (d) of Article 53(1), the expenditure which shall be eligible for a contribution from the Funds shall equal the amounts calculated in accordance with Article 53(3).

6. Operations shall not be selected for support by the Funds where they have been physically completed or fully implemented before the application for funding under the programme is submitted, irrespective of whether all related payments have been made. This paragraph shall not apply to the EMFAF compensation for additional costs in outermost regions pursuant to Article 24 of the EMFAF Regulation and to support from the additional funding for the outermost regions pursuant to point (e) of Article 110(1) of this Regulation.

7. Expenditure which becomes eligible as a result of a programme amendment shall be eligible from the date of the submission of the corresponding request to the Commission.

For the ERDF, the Cohesion Fund and the JTF, expenditure becomes eligible as a result of a programme amendment when a new type of intervention referred to in Table 1 of Annex I or, for the EMFAF, the AMIF, the ISF and the BMVI, in the Fund-specific Regulations is added in the programme.

Where a programme is amended in order to provide a response to natural disasters, the programme may provide that the eligibility of expenditure relating to such amendment starts from the date when the natural disaster occurred.

8. Where a new programme is approved, expenditure shall be eligible from the date of submission of the corresponding request to the Commission.

9. An operation may receive support from one or more Funds or from one or more programmes and from other Union instruments. In such cases, expenditure declared in a payment application for one of the Funds shall not be declared for either of the following:

- (a) support from another Fund or Union instrument;
- (b) support from the same Fund under another programme.

The amount of expenditure to be entered into a payment application of a Fund may be calculated for each Fund and for the programme or programmes concerned on a *pro rata* basis, in accordance with the document setting out the conditions for support.

Article 64

Non-eligible costs

1. The following costs shall not be eligible for a contribution from the Funds:
 - (a) interest on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;
 - (b) the purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned; for derelict sites and for those formerly in industrial use which comprise buildings, that limit shall be increased to 15 %; for financial instruments, those percentages shall apply to the programme contribution paid to the final recipient or, in case of guarantees, to the amount of the underlying loan;
 - (c) value added tax ("VAT"), except:
 - (i) for operations the total cost of which is below EUR 5 000 000 (including VAT);
 - (ii) for operations the total cost of which is at least EUR 5 000 000 (including VAT) where it is non-recoverable under national VAT legislation;
 - (iii) investments made by final recipients in the context of financial instruments; where these investments are supported by financial instruments combined with programme support in the form of a grant as referred to in Article 58(5), the VAT shall not be eligible for the part of the investment cost which corresponds to the programme support in the form of a grant, unless the VAT for the investment cost is non-recoverable under national VAT legislation or where the part of the investment cost corresponding to the programme support in the form of the grant is below EUR 5 000 000 (including VAT);
 - (iv) for small project funds and investments made by final recipients in the context of small project funds under Interreg.

Point (b) of the first subparagraph shall not apply to operations concerning environmental conservation.

2. The Fund-specific Regulations may identify additional costs that are not eligible for a contribution from each Fund.

Article 65

Durability of operations

1. The Member State shall repay the contribution from the Funds to an operation comprising investment in infrastructure or productive investment, if within 5 years of the final payment to the beneficiary or within the period of time set out in State aid rules, where applicable, that operation is subject to any of the following:
 - (a) a cessation or transfer of a productive activity outside the NUTS level 2 region in which it received support;
 - (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
 - (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

The Member State may reduce the time limit set out in the first subparagraph to 3 years in cases concerning the maintenance of investments or jobs created by SMEs.

Repayment by the Member State due to non-compliance with this Article shall be made in proportion to the period of non-compliance.

2. Operations supported by the ESF+ or by the JTF in accordance with points (k), (l) and (m) of Article 8(2) of the JTF Regulation shall repay the support when they are subject to an obligation for maintenance of investment under State aid rules.

3. Paragraphs 1 and 2 shall not apply to programme contributions to or by financial instruments or to any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy.

Article 66

Relocation

1. Expenditure supporting relocation shall not be eligible for a contribution from the Funds.
2. Where a contribution from the Funds constitutes State aid, the managing authority shall satisfy itself that the contribution does not support relocation in accordance with Article 14(16) of Regulation (EU) No 651/2014.

Article 67

Specific eligibility rules for grants

1. Contributions in kind in the form of provision of works, goods, services, land and real estate for which no payment supported by invoices, or documents of equivalent probative value, has been made, may be eligible where the following conditions are fulfilled:

- (a) the public support paid to the operation which includes contributions in kind does 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 in kind can be independently assessed and verified;
- (d) in the case of provision of land or real estate, a 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;
- (e) in the case of contributions in kind in the form of unpaid work, the value of that work is determined by taking into account the verified time spent and the rate of remuneration for equivalent work.

The value of the land or real estate referred to in point (d) of the first subparagraph of this paragraph shall be certified by an independent qualified expert or duly authorised official body and shall not exceed the limit laid down in point (b) of Article 64(1).

2. Depreciation costs for which no payment supported by invoices has been made may be considered to be eligible where the following conditions are fulfilled:

- (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 for eligible costs where those costs were reimbursed in the form referred to in point (a) of Article 53(1);
- (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.

Article 68

Specific eligibility rules for financial instruments

1. Eligible expenditure of a financial instrument shall be the total amount of programme contribution paid to, or, in the case of guarantees, set aside for guarantee contracts, by the financial instrument within the eligibility period, where that amount corresponds to:

- (a) payments to final recipients, in the case of loans, equity and quasi-equity investments;
- (b) resources set aside for guarantee contracts, whether outstanding or having already come to maturity, in order to honour possible guarantee calls for losses, calculated based on a multiplier ratio established for the respective underlying disbursed new loans, equity or quasi-equity investments in final recipients;

- (c) payments to, or for the benefit of, final recipients where financial instruments are combined with other Union contribution in a single financial instrument operation in accordance with Article 58(5);
- (d) payments of management fees and reimbursements of management costs incurred by the bodies implementing the financial instrument.

2. Where a financial instrument is implemented across consecutive programming periods, support may be provided to, or for the benefit of, final recipients, including management costs and fees, based on agreements made under the previous programming period, provided that such support complies with the eligibility rules of the subsequent programming period. In such cases, the eligibility of expenditure submitted in payment applications shall be determined in accordance with the rules of the respective programming period.

3. For point (b) of paragraph 1, if the entity benefiting from the guarantees has not disbursed the planned amount of new loans, equity or quasi-equity investments to final recipients in accordance with the multiplier ratio, the eligible expenditure shall be reduced proportionally. The multiplier ratio may be reviewed, where justified by subsequent changes in market conditions. Such a review shall not have retroactive effect.

4. For point (d) of paragraph 1, management fees shall be performance based.

Where bodies implementing a holding fund are selected through a direct award of contract pursuant to Article 59(3), the amount of management costs and fees paid to those bodies that can be declared as eligible expenditure shall be subject to a threshold of up to 5 % of the total amount of programme contributions disbursed to final recipients in loans or set aside for guarantee contracts and up to 7 % of the total amount of programme contributions disbursed to final recipients in equity and quasi-equity investments.

Where bodies implementing a specific fund are selected through a direct award of contract pursuant to Article 59(3), the amount of management costs and fees paid to those bodies that can be declared as eligible expenditure shall be subject to a threshold of up to 7 % of the total amount of programme contributions disbursed to final recipients in loans or set aside for in guarantee contracts and up to 15 % of the total amount of programme contributions disbursed to final recipients in equity or quasi-equity investments.

Where bodies implementing a holding fund or specific funds, or both, are selected through a competitive tender in accordance with the applicable law, the amount of management costs and fees shall be established in the funding agreement and shall reflect the result of the competitive tender.

5. Where arrangement fees, or any part thereof, are charged to final recipients, they shall not be declared as eligible expenditure.

6. The eligible expenditure declared in accordance with paragraph 1 shall not exceed the sum of the total amount of support from the Funds paid for the purposes of that paragraph and the corresponding national co-financing.

TITLE VI

MANAGEMENT AND CONTROL

CHAPTER I

General rules on management and control

Article 69

Responsibilities of Member States

1. Member States shall have management and control systems for their programmes in accordance with this Title and ensure their functioning in accordance with the principle of sound financial management and the key requirements listed in Annex XI.

2. Member States shall ensure the legality and regularity of expenditure included in the accounts submitted to the Commission and shall take all required actions to prevent, detect and correct and report on irregularities including fraud. Those actions comprise the collection of information on the beneficial owners of the recipients of Union funding in accordance with Annex XVII. The rules related to the collection and processing of such data shall comply with applicable data protection rules. The Commission, the European Anti-Fraud Office and the Court of Auditors shall have the necessary access to that information.

For programmes supported by the AMIF, the ISF and the BMVI, the obligations concerning the collection of information on the beneficial owners of the recipients of Union funding in accordance with Annex XVII as set out in the first subparagraph shall apply as from 1 January 2023.

3. Member States shall, upon request of the Commission, take the actions necessary to ensure the effective functioning of their management and control systems and the legality and regularity of expenditure submitted to the Commission. Where that action is an audit, the Commission officials or their authorised representatives may take part.

4. Member States shall ensure the quality, accuracy and reliability of the monitoring system and of data on indicators.

5. Member States shall ensure the publication of information in accordance with the requirements established in this Regulation and in the Fund-specific Regulations, except where Union law or national law excludes such publication for reasons of security, public order, criminal investigations, or protection of personal data in accordance with Regulation (EU) 2016/679.

6. Member States shall have systems and procedures to ensure that all documents required for the audit trail as set out in Annex XIII are kept in accordance with the requirements set out in Article 82.

7. Member States shall make arrangements to ensure the effective examination of complaints concerning the Funds. The scope, rules and procedures concerning those arrangements shall be the responsibility of Member States in accordance with their institutional and legal framework. This is without prejudice to the general possibility to address complaints to the Commission by citizens and stakeholders. Member States shall, upon request by the Commission, examine complaints submitted to the Commission falling within the scope of their programmes and shall inform the Commission of the results of these examinations.

For the purposes of this Article, complaints cover any dispute between potential and selected beneficiaries with regard to the proposed or selected operation and any disputes with third parties on the implementation of the programme or operations thereunder, irrespective of the qualification of means of legal redress established under national law.

8. Member States shall ensure that all exchanges of information between beneficiaries and the programme authorities are carried out by means of electronic data exchange systems in accordance with Annex XIV.

Member States shall promote the benefits of electronic data exchange and provide all necessary support to beneficiaries in this respect.

By way of derogation from the first subparagraph, the managing authority may exceptionally accept, upon the explicit request of a beneficiary, the exchanges of information in paper format, without prejudice to its obligation to record and store data in accordance with point (e) of Article 72(1).

For programmes supported by the EMFAF, the AMIF, the ISF and the BMVI, the first subparagraph shall apply as from 1 January 2023.

The first subparagraph shall not apply to programmes or priorities under point (m) of Article 4(1) of the ESF+ Regulation.

9. Member States shall ensure that all official exchanges of information with the Commission are carried out by means of an electronic data exchange system in accordance with Annex XV.

10. The Member State shall provide, or shall ensure that the managing authorities provide, forecasts of the amount for payment applications to be submitted for the current and subsequent calendar year by 31 January and 31 July, in accordance with Annex VIII.

11. Each Member State shall have in place, at the latest by the time of submission of the final payment application for the first accounting year and no later than 30 June 2023, a description of the management and control system in accordance with the template set out in Annex XVI. It shall keep that description updated to reflect any subsequent modifications.

12. Member States shall report on irregularities in accordance with the criteria for determining the cases of irregularity to be reported, the data to be provided and the format for reporting set out in Annex XII.

Article 70

Commission powers and responsibilities

1. The Commission shall satisfy itself that Member States have management and control systems that comply with this Regulation and that these systems function effectively and efficiently during the implementation of the programmes. The Commission shall draw up, for the purposes of its own audit work, an audit strategy and an audit plan which shall be based on a risk-assessment.

The Commission and the audit authorities shall coordinate their audit plans.

2. The Commission shall carry out audits up to three calendar years following the acceptance of the accounts in which the expenditure concerned was included. That period shall not apply to operations where there is a suspicion of fraud.

3. For the purpose of their audits, Commission officials or their authorised representatives 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 Funds or to management and control systems and shall receive copies in the specific format requested.

4. For on-the-spot audits, the following shall also apply:

- (a) the Commission shall give at least 15 working days' notice for the audit to the competent programme authority, except in urgent cases; officials or authorised representatives of the Member State may take part in such audits;
- (b) where the application of national provisions reserves certain acts for agents specifically designated by national legislation, Commission officials and authorised representatives 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 legal subjects concerned;
- (c) the Commission shall transmit the preliminary audit findings to the competent Member State authority no later than 3 months after the last day of the audit;
- (d) the Commission shall transmit the audit report no later than 3 months from the date of receiving a complete reply from the competent Member State authority to the preliminary audit findings; the Member State's reply shall be considered complete in the absence of a request from the Commission to provide further information or a revised document within 2 months from the date of receipt of the Member State's response.

For the purpose of complying with the time limits set out in points (c) and (d) of the first subparagraph of this paragraph, the Commission shall make available the preliminary audit findings and the audit report in at least one of the official languages of the institutions of the Union.

The time limits referred to in points (c) and (d) of the first subparagraph of this paragraph may be extended where it is deemed necessary and agreed upon between the Commission and the competent Member State authority.

Where a time limit is set for a reply by the Member State to the preliminary audit findings or the audit report referred to in points (c) and (d) of the first subparagraph of this paragraph, that time limit shall start upon their receipt by the competent Member State authority in at least one of the official languages of the Member State concerned.

*Article 71***Programme authorities**

1. For the purposes of Article 63(3) of the Financial Regulation, the Member State shall identify for each programme a managing authority and an audit authority. Where a Member State entrusts the accounting function to a body other than the managing authority in accordance with Article 72(2) of this Regulation, the body concerned shall also be identified as a programme authority. Those same authorities may be responsible for more than one programme.
2. The audit authority shall be a public authority. Audit work may be carried out by a public or private body other than the audit authority under its responsibility. The audit authority and any such body carrying out audit work under the responsibility of the audit authority shall be functionally independent from the auditees.
3. The managing authority may identify one or more intermediate bodies to carry out certain tasks under its responsibility. Arrangements between the managing authority and intermediate bodies shall be recorded in writing.
4. Member States shall ensure that the principle of separation of functions between and within the programme authorities is respected.
5. Where a programme provides, in line with its objectives, support from the ERDF or the ESF+ to a programme co-funded by Horizon Europe, as referred to in point (b) of Article 10(1) of the Horizon Europe Regulation, the body implementing the programme co-funded by Horizon Europe shall be identified as an intermediate body by the managing authority of the relevant programme, in accordance with paragraph 3 of this Article.
6. The Member State, at its own initiative, may set up a coordination body to liaise with and provide information to the Commission and to coordinate activities of the programme authorities in that Member State.

*CHAPTER II***Standard management and control systems***Article 72***Functions of the managing authority**

1. The managing authority shall be responsible for managing the programme with a view to delivering the objectives of the programme. In particular, it shall have the following functions:
 - (a) select operations in accordance with Article 73, with the exception of operations referred to in point (d) of Article 33(3);
 - (b) carry out programme management tasks in accordance with Article 74;
 - (c) support the work of the monitoring committee in accordance with Article 75;
 - (d) supervise intermediate bodies;
 - (e) record and store electronically the data on each operation necessary for monitoring, evaluation, financial management, verifications and audits in accordance with Annex XVII, and ensure the security, integrity and confidentiality of data and the authentication of users.
2. The Member State may entrust the accounting function referred to in Article 76 to the managing authority or to another body.
3. For programmes supported by the AMIF, the ISF and the BMVI, the accounting function shall be carried out by the managing authority or under its responsibility.

*Article 73***Selection of operations by the managing authority**

1. For the selection of operations, the managing authority shall establish and apply criteria and procedures which are non-discriminatory, transparent, ensure accessibility to persons with disabilities, ensure gender equality, and take account of the Charter of Fundamental Rights of the European Union, the principle of sustainable development and of the Union policy on the environment in accordance with Article 11 and Article 191(1) TFEU.

The criteria and procedures shall ensure that the operations to be selected are prioritised with a view to maximising the contribution of Union funding towards the achievement of the objectives of the programme.

2. In selecting operations, the managing authority shall:

- (a) ensure that selected operations comply with the programme, including their consistency with the relevant strategies underlying the programme, as well as provide an effective contribution to the achievement of the specific objectives of the programme;
- (b) ensure that selected operations which fall within the scope of an enabling condition are consistent with the corresponding strategies and planning documents established for the fulfilment of that enabling condition;
- (c) ensure that selected operations present the best relationship between the amount of support, the activities undertaken and the achievement of objectives;
- (d) verify that the beneficiary has the necessary financial resources and mechanisms to cover operation and maintenance costs for operations comprising investment in infrastructure or productive investment, so as to ensure their financial sustainability;
- (e) ensure that selected operations which fall under the scope of Directive 2011/92/EU of the European Parliament and of the Council ⁽³¹⁾ are subject to an environmental impact assessment or a screening procedure and that the assessment of alternative solutions has been taken in due account, on the basis of the requirements of that Directive;
- (f) verify that where the operations have started before the submission of an application for funding to the managing authority, applicable law has been complied with;
- (g) ensure that selected operations fall within the scope of the Fund concerned and are attributed to a type of intervention;
- (h) ensure that operations do not include activities which were part of an operation subject to relocation in accordance with Article 66 or which would constitute a transfer of a productive activity in accordance with point (a) of Article 65(1);
- (i) ensure that selected operations are not directly affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 TFEU that puts at risk the legality and regularity of expenditure or the performance of operations;
- (j) ensure the climate proofing of investments in infrastructure which have an expected lifespan of at least 5 years.

As regards point (b) of this paragraph, in the case of policy objective one, as set out in point (a) of Article 3(1) of the ERDF and CF Regulation, only operations corresponding to the specific objectives referred to in subpoints (i) and (iv) of that point shall be consistent with the corresponding smart specialisation strategies.

3. The managing authority shall ensure that the beneficiary is provided with a document setting out all the conditions for support for each operation including the specific requirements concerning the products or services to be delivered, the financing plan, the time limit for its execution and where applicable, the method to be applied for determining the costs of the operation and the conditions for payment of the support.

4. For operations attributed a Seal of Excellence, or operations selected under a programme co-funded by Horizon Europe, the managing authority may decide to grant support from the ERDF or the ESF+ directly, provided that such operations meet the requirements set out in points (a), (b) and (g) of paragraph 2.

In addition, managing authorities may apply to the operations referred to in the first subparagraph the categories, maximum amounts and methods of calculation of eligible costs established under the relevant Union instrument. These elements shall be set out in the document referred in paragraph 3.

5. When the managing authority selects an operation of strategic importance, it shall inform the Commission within 1 month and shall provide all relevant information to the Commission about that operation.

⁽³¹⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

Article 74

Programme management by the managing authority

1. The managing authority shall:
 - (a) carry out management verifications to verify that the co-financed products and services have been delivered, that the operation complies with applicable law, the programme and the conditions for support of the operation, and:
 - (i) where costs are to be reimbursed pursuant to point (a) of Article 53(1), that the amount of expenditure claimed by the beneficiaries in relation to these costs has been paid and that beneficiaries maintain separate accounting records or use appropriate accounting codes for all transactions relating to the operation;
 - (ii) where costs are to be reimbursed pursuant to points (b), (c) and (d) of Article 53(1), that the conditions for reimbursement of expenditure to the beneficiary have been met;
 - (b) ensure, subject to the availability of funding, that a beneficiary receives the amount due in full and no later than 80 days from the date of submission of the payment claim by the beneficiary; the deadline may be interrupted if information submitted by the beneficiary does not allow the managing authority to establish whether the amount is due;
 - (c) have effective and proportionate anti-fraud measures and procedures in place, taking into account the risks identified;
 - (d) prevent, detect and correct irregularities;
 - (e) confirm that the expenditure entered into the accounts is legal and regular;
 - (f) draw up the management declaration in accordance with the template set out in Annex XVIII.

For point (b) of the first subparagraph, no amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce amounts due to beneficiaries.

For PPP operations, the managing authority shall make payments to an escrow account set up for that purpose in the name of the beneficiary for use in accordance with the PPP agreement.

2. Management verifications referred to in point (a) of the first subparagraph of paragraph 1 shall be risk-based and proportionate to the risks identified *ex ante* and in writing.

Management verifications shall include administrative verifications in respect of payment claims made by beneficiaries and on-the-spot verifications of operations. Those verifications shall be carried out before submission of the accounts in accordance with Article 98.

3. Where the managing authority is also a beneficiary under the programme, arrangements for the management verifications shall ensure separation of functions.

Without prejudice to paragraph 2, the Interreg Regulation may establish specific rules on management verifications applicable to Interreg programmes. The AMIF, the ISF and the BMVI Regulations may establish specific rules on management verifications that are applicable where an international organisation is a beneficiary.

Article 75

Support of the work of the monitoring committee by the managing authority

The managing authority shall:

- (a) provide the monitoring committee in a timely manner with all information necessary to carry out its tasks;
- (b) ensure the follow-up of the decisions and recommendations of the monitoring committee.

Article 76

The accounting function

1. The accounting function shall consist of the following tasks:
 - (a) drawing up and submitting payment applications to the Commission in accordance with Articles 91 and 92;

- (b) drawing up and submitting the accounts confirming completeness, accuracy and veracity of the accounts in accordance with Article 98, and keeping electronic records of all the elements of the accounts, including payment applications;
 - (c) converting the amounts of expenditure incurred in another currency into euro by using the monthly accounting exchange rate of the Commission in the month during which the expenditure is registered in the accounting systems of the body responsible for carrying out the tasks set out in this Article.
2. The accounting function shall not comprise verifications at the level of beneficiaries.
3. By way of derogation from point (c) of paragraph 1, the Interreg Regulation may establish a different method to convert the amounts of expenditure incurred in another currency into euro.

Article 77

Functions of the audit authority

1. The audit authority shall be responsible for carrying out system audits, audits on operations and audits of accounts in order to provide independent assurance to the Commission regarding the effective functioning of the management and control systems and the legality and regularity of the expenditure included in the accounts submitted to the Commission.
2. Audit work shall be carried out in accordance with internationally accepted audit standards.
3. The audit authority shall draw up and submit to the Commission:
- (a) an annual audit opinion in accordance with Article 63(7) of the Financial Regulation and with the template set out in Annex XIX to this Regulation and, based on all audit work carried out, cover the following distinct components:
 - (i) the completeness, accuracy and veracity of the accounts;
 - (ii) the legality and regularity of the expenditure included in the accounts submitted to the Commission;
 - (iii) the effective functioning of the management and control system;
 - (b) an annual control report fulfilling the requirements of point (b) of Article 63(5) of the Financial Regulation, in accordance with the template set out in Annex XX to this Regulation, which supports the annual audit opinion referred to in point (a) of this paragraph and sets out a summary of findings, including an analysis of the nature and extent of errors and deficiencies in the systems as well as the proposed and implemented corrective actions and the resulting total error rate and residual error rate for the expenditure entered in the accounts submitted to the Commission.
4. Where programmes are grouped for the purpose of audits of operations pursuant to the second subparagraph of Article 79(2), the information required under point (b) of paragraph 3 of this Article may be grouped in a single report.
5. The audit authority shall transmit to the Commission system audit reports as soon as the contradictory procedure with the relevant auditees is concluded.
6. The Commission and the audit authorities shall meet on a regular basis and, unless otherwise agreed, at least once a year to examine the audit strategy, the annual control report and the audit opinion, to coordinate their audit plans and methods, and to exchange views on issues relating to the improvement of management and control systems.

Article 78

Audit strategy

1. The audit authority shall, after consulting the managing authority, prepare an audit strategy based on a risk assessment, taking account of the management and control system description provided for in Article 69(11), covering system audits and audits of operations. The audit strategy shall include system audits of newly identified managing authorities and authorities in charge of the accounting function. Such audits shall be carried out within 21 months of the decision approving the programme or the amendment of the programme identifying such an authority. The audit strategy shall be prepared in accordance with the template set out in Annex XXII and shall be updated annually following the first annual control report and audit opinion provided to the Commission. It may cover one or more programmes.
2. The audit strategy shall be submitted to the Commission upon request.

*Article 79***Audits of operations**

1. Audits of operations shall cover expenditure declared to the Commission in the accounting year on the basis of a sample. That sample shall be representative and based on statistical sampling methods.

2. Where the population consists of less than 300 sampling units, a non-statistical sampling method may be used on the professional judgement of the audit authority. In such cases, the size of the sample shall be sufficient to enable the audit authority to draw up a valid audit opinion. The non-statistical sampling method shall cover a minimum of 10 % of the sampling units in the population of the accounting year, selected randomly.

The statistical sample may cover one or more programmes receiving support from the ERDF, the ESF+, the Cohesion Fund and the JTF and, subject to stratification where appropriate, one or more programming periods according to the professional judgement of the audit authority.

The sample of operations supported by the EMFAF, the AMIF, the ISF and the BMVI shall cover operations supported by each Fund separately.

3. Audits of operations shall include on-the-spot verification of the physical implementation of the operation only where it is required by the type of operation concerned.

The ESF+ Regulation may set out specific provisions for programmes or priorities under point (m) of Article 4(1) of that Regulation. The AMIF, the ISF and the BMVI Regulations may establish specific provisions for audit of operations where an international organisation is a beneficiary. The Interreg Regulation may establish specific rules on audits of operations applicable to Interreg programmes.

Audits shall be conducted on the basis of the rules in force at the time when the activities within the operation were carried out.

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by setting out standardised off-the-shelf sampling methodologies and modalities to cover one or more programming periods.

*Article 80***Single audit arrangements**

1. When carrying out audits, the Commission and the audit authorities shall take due account of the principles of single audit and proportionality in relation to the level of risk to the budget of the Union. This shall be, in particular, in order to avoid duplication of audits and management verifications of the same expenditure declared to the Commission with the objective of minimising the cost of management verifications and audits and the administrative burden on beneficiaries.

The Commission and audit authorities shall first use all the information and records referred to in point (e) of Article 72(1), including results of management verifications, and only request and obtain additional documents and audit evidence from the beneficiaries concerned where, based on their professional judgement, this is required to support robust audit conclusions.

2. For programmes for which the Commission concludes that the opinion of the audit authority is reliable and the Member State concerned participates in the enhanced cooperation on the establishment of the European Public Prosecutor's Office, the Commission's own audits shall be limited to auditing the work of the audit authority.

3. Prior to the submission of the accounts for the accounting year in which the operation is completed, the Commission or audit authority shall not carry out more than one audit in respect of operations for which the total eligible expenditure does not exceed EUR 400 000 for the ERDF or the Cohesion Fund, EUR 350 000 for the JTF, EUR 300 000 for the ESF+, or EUR 200 000 for the EMFAF, the AMIF, the ISF or the BMVI.

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 submission of the accounts for the accounting year in which the operation is completed. Operations shall not be subject to an audit by the Commission or the audit authority in any year where there has already been an audit in that year by the Court of Auditors, provided that the results of that Court of Auditors' audit for such operations can be used by the audit authority or the Commission for the purpose of fulfilling their respective tasks.

4. Notwithstanding paragraph 3, any operation may be subject to more than one audit, if the audit authority concludes, based on its professional judgement, that it is not possible to draw up a valid audit opinion.

5. Paragraphs 2 and 3 shall not apply where:

- (a) there is a specific risk of irregularity or a suspicion of fraud;
- (b) there is a need to re-perform the work of the audit authority for obtaining assurance as to its effective functioning;
- (c) there is evidence of a serious deficiency in the work of the audit authority.

Article 81

Management verifications and audits of financial instruments

1. The managing authority shall carry out on-the-spot management verifications in accordance with Article 74(1) only at the level of bodies implementing the financial instrument and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans. The managing authority may rely on verifications carried out by external bodies and not carry out on-the-spot management verifications, provided that it has sufficient evidence of the competence of these external bodies.

2. The managing authority shall not carry out on-the-spot verifications at the level of the EIB or other international financial institutions in which a Member State is a shareholder.

However, the EIB or other international financial institutions in which a Member State is a shareholder shall provide control reports supporting the payment claims to the managing authority.

3. The audit authority shall carry out system audits and audits of operations in accordance with Article 77, 79 or 83, as appropriate, at the level of bodies implementing the financial instrument and, in the context of guarantee funds, at the level of bodies delivering the underlying new loans. The audit results of external auditors of bodies implementing the financial instrument may be taken into account by the audit authority for the purposes of the overall assurance and on this basis, the audit authority may decide to limit its own audit work.

4. In the context of guarantee funds, the bodies responsible for the audit of programmes may conduct audits of the bodies providing new underlying loans only when one or more of the following situations occur:

- (a) supporting documents, providing evidence of the support from the financial instrument to final recipients, are not available at the level of the managing authority or at the level of the bodies implementing the financial instrument;
- (b) there is evidence that the documents available at the level of the managing authority or at the level of the bodies implementing the financial instrument do not represent a true and accurate record of the support provided.

5. The audit authority shall not carry out audits at the level of the EIB or other international financial institutions in which a Member State is a shareholder, for financial instruments implemented by them.

However, the EIB or other international financial institutions in which a Member State is a shareholder shall provide to the Commission and to the audit authority an annual audit report drawn up by their external auditors by the end of each calendar year. This report shall cover the elements included in Annex XXI, and constitute the basis for the audit authority's work.

6. The EIB or other international financial institutions shall provide to the programme authorities all the necessary documents to enable them to fulfil their obligations.

Article 82

Availability of documents

1. Without prejudice to the rules governing State aid, the managing authority shall ensure that all supporting documents related to an operation supported by the Funds are kept at the appropriate level for a 5-year period from 31 December of the year in which the last payment by the managing authority to the beneficiary is made.

2. The time period referred to in paragraph 1 shall be interrupted either in the case of legal proceedings or by a request of the Commission.

CHAPTER III

Reliance on national management systems

Article 83

Enhanced proportionate arrangements

The Member State may apply the following enhanced proportionate arrangements for the management and control system of a programme where the conditions set out in Article 84 are fulfilled:

- (a) by way of derogation from point (a) of Article 74(1) and Article 74(2), the managing authority may apply only national procedures to carry out management verifications;
- (b) by way of derogation from Article 77(1) regarding system audits and Article 79(1) and (3) regarding audits of operations, the audit authority may limit its audit activity to audits of operations covering a sample based on a statistical selection of 30 sampling units for the programme or group of programmes concerned;

For the purposes of management verifications referred to in point (a) of the first subparagraph, the managing authority may rely on verifications carried out by external bodies provided that it has sufficient evidence of the competence of those bodies.

For point (b) of the first subparagraph, where the population consists of less than 300 sampling units, the audit authority may apply a non-statistical sampling method in accordance with Article 79(2).

The Commission shall limit its own audits to a review of the work of the audit authority through re-performance at its level only, unless available information suggests a serious deficiency in the work of the audit authority.

Article 84

Conditions for application of enhanced proportionate arrangements

1. The Member State may apply the enhanced proportionate arrangements referred to in Article 83 at any time during the programming period, where the Commission has confirmed in its published annual activity reports, for the last 2 years preceding such a decision by the Member State, that the management and control system of the programme is functioning effectively and that the total error rate for each year is 2 % or below. When assessing the effective functioning of the management and control system of the programme, the Commission shall take into account the participation of the Member State concerned in the enhanced cooperation on the establishment of the European Public Prosecutor's Office.

Where a Member State decides to apply the enhanced proportionate arrangements referred to in Article 83, it shall notify the Commission on the application of such arrangements. In such a case the arrangements shall apply from the start of the subsequent accounting year.

2. At the start of the programming period, the Member State may apply the enhanced proportionate arrangements referred to in Article 83, provided that the conditions set out in paragraph 1 of this Article are met with respect to a similar programme implemented in 2014–2020 and where the management and control arrangements established for the 2021–2027 programme build largely on those from the previous programme. In such a case, the arrangements shall apply from the start of the programme.

3. The Member State shall establish or update accordingly the description of the management and control system and the audit strategy set out in Article 69(11) and Article 78.

Article 85

Adjustment during the programming period

1. Where the Commission or the audit authority conclude, based on the audits carried out and the annual control report, that the conditions set out in Article 84 are no longer fulfilled, the Commission shall request the audit authority to carry out additional audit work in accordance with Article 69(3) and satisfy itself that remedial actions are taken.

2. Where the subsequent annual control report confirms that the conditions continue not to be fulfilled, thus limiting the assurance provided to the Commission on the effective functioning of the management and control systems and of the legality and regularity of expenditure, the Commission shall request the audit authority to carry out system audits.

3. The Commission may, after having given to the Member State the opportunity to present its observations, inform the Member State that the enhanced proportionate arrangements set out in Article 83 shall no longer be applied from the start of the subsequent accounting year.

TITLE VII

FINANCIAL MANAGEMENT, SUBMISSION AND EXAMINATION OF ACCOUNTS AND FINANCIAL CORRECTIONS

CHAPTER I

Financial management

Section I

General accounting rules

Article 86

Budgetary commitments

1. The decision approving the programme in accordance with Article 23 shall constitute a financing decision within the meaning of Article 110(1) of the Financial Regulation and its notification to the Member State concerned shall constitute a legal commitment.

That decision shall specify the total Union contribution per Fund and per year. However, for programmes under the Investment for jobs and growth goal, an amount corresponding to 50 % of the contribution for the years 2026 and 2027 ('flexibility amount') per programme in each Member State shall be retained and shall only be definitively allocated to the programme after the adoption of the Commission decision following the mid-term review in accordance with Article 18.

2. The budgetary commitments of the Union in respect of each programme shall be made by the Commission in annual instalments for each Fund during the period between 1 January 2021 and 31 December 2027.

3. By way of derogation from Article 111(2) of the Financial Regulation, the budgetary commitments for the first instalment shall follow the adoption of the programme by the Commission.

Article 87

Use of the euro

Any amounts set out in programmes, reported or declared to the Commission by Member States shall be denominated in euro.

*Article 88***Repayment**

1. Any repayment due to be made to the budget of the Union shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 98 of the Financial Regulation. The due date shall be the last day of the second month following the issuing of the order.
2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

*Section II***Rules for payments to Member States***Article 89***Types of payments**

Payments shall take the form of pre-financing, interim payments and payments of the balance of the accounts for the accounting year.

*Article 90***Pre-financing**

1. The Commission shall pay pre-financing based on the total support from the Funds set out in the decision approving the programme.
2. The pre-financing for each Fund shall be paid in yearly instalments before 1 July of each year, subject to availability of funds, as follows:
 - (a) 2021: 0,5 %;
 - (b) 2022: 0,5 %;
 - (c) 2023: 0,5 %;
 - (d) 2024: 0,5 %;
 - (e) 2025: 0,5 %;
 - (f) 2026: 0,5 %.

Where a programme is adopted after 1 July 2021, the earlier instalments shall be paid in the year of adoption.

3. By way of derogation from paragraph 2, specific rules on pre-financing for Interreg programmes shall be set out in the Interreg Regulation.
4. By way of derogation from paragraph 2, specific rules on pre-financing for programmes supported by the AMIF, the ISF and the BMVI shall be set out in the Fund-specific Regulations.
5. The amount paid as pre-financing for the years 2021 and 2022 shall be cleared from the Commission accounts each year and for the years 2023 to 2026 no later than with the final accounting year in accordance with Article 100.

For programmes supported by the AMIF, the ISF and the BMVI, the amount paid as pre-financing shall be cleared from the Commission accounts no later than with the final accounting year.
6. Any interest generated by the pre-financing shall be used for the programme concerned in the same way as the Funds and shall be included in the accounts for the final accounting year.

*Article 91***Payment applications**

1. The Member State shall submit a maximum of six payment applications per programme, per Fund and per accounting year. Every year, one payment application may be submitted at any time in each time period between the following dates: 28 February, 31 May, 31 July, 31 October, 30 November and 31 December.

The last payment application submitted by 31 July shall be deemed to be the final payment application for the accounting year that has ended 30 June.

The first subparagraph shall not apply to Interreg programmes.

2. Payment applications shall be admissible only where the latest assurance package due, as referred to in Article 98, has been submitted.

3. Payment applications shall be submitted to the Commission in accordance with the template set out in Annex XXIII and include, for each priority and, where applicable, by category of region:

- (a) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are fulfilled and operations linked to specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function;
- (b) the amount for technical assistance calculated in accordance with point (b) of Article 36(5), where applicable;
- (c) the total amount of public contribution made or to be made linked to specific objectives for which enabling conditions are fulfilled and operations linked to specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function;
- (d) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations linked to specific objectives for which enabling conditions are not fulfilled, with the exception of operations that contribute to the fulfilment of enabling conditions, as entered in the system of the body carrying out the accounting function.

4. By way of derogation from point (a) of paragraph 3, the following shall apply:

- (a) where the Union contribution is made pursuant to point (a) of Article 51, the amounts included in a payment application are the amounts justified by the progress in the fulfilment of conditions, or achievement of results, in accordance with the decision referred to in Article 95(2) or the delegated act referred to in Article 95(4);
- (b) where the Union contribution is made pursuant to points (c), (d) and (e) of Article 51, the amounts included in a payment application are the amounts determined in accordance with the decision referred to in Article 94(3) or the delegated act referred to in Article 94(4);
- (c) for the forms of grants listed in points (b), (c) and (d) of the first subparagraph of Article 53(1), the amounts included in a payment application are the costs calculated on the applicable basis.

5. By way of derogation from paragraph 3, in the case of State aid, the payment application may include advances paid to the beneficiary by the body granting the aid under the following cumulative conditions:

- (a) those advances are subject to a guarantee provided by a bank or other financial institution established in the Member State or be covered by a facility provided as a guarantee by a public entity or by the Member State;
- (b) those advances do not exceed 40 % of the total amount of the aid to be granted to a beneficiary for a given operation;
- (c) those advances are covered by expenditure paid by beneficiaries in implementing the operation and supported by receipted invoices or accounting documents of equivalent probative value at the latest within 3 years following the year of the payment of the advance or on 31 December 2029, whichever is earlier, failing which the next payment application shall be corrected accordingly.

Each payment application which includes advances of this type shall separately disclose the total amount paid from the programme as advances, the amount which has been covered by expenditure paid by beneficiaries within 3 years of the payment of the advance in accordance with point (c), and the amount which has not been covered by expenditure paid by beneficiaries and for which the 3-year period has not yet elapsed.

6. By way of derogation from point (c) of paragraph 3 of this Article, in the case of aid schemes under Article 107 TFEU, the public contribution corresponding to the expenditure included in a payment application shall have been paid to the beneficiaries by the body granting the aid.

Article 92

Specific elements for financial instruments in payment applications

1. Where financial instruments are implemented in accordance with Article 59(1), payment applications submitted in accordance with Annex XXIII shall include the total amounts disbursed or, in the case of guarantees, the amounts set aside for guarantee contracts, by the managing authority to final recipients as referred to in points (a), (b) and (c) of Article 68(1).

2. Where financial instruments are implemented in accordance with Article 59(2), payment applications that include expenditure for financial instruments shall be submitted in accordance with the following conditions:

- (a) the amount included in the first payment application shall have been paid to the financial instruments and may be up to 30 % of the total amount of programme contributions committed to the financial instruments under the relevant funding agreement, in accordance with the relevant priority and category of region, where applicable;
- (b) the amount included in subsequent payment applications submitted during the eligibility period shall include the eligible expenditure as referred to in Article 68(1).

3. The amount included in the first payment application, referred to in point (a) of paragraph 2, shall be cleared from Commission accounts no later than the final accounting year.

It shall be disclosed separately in payment applications.

Article 93

Common rules for payments

1. Without prejudice to Article 15(5) and (6) and subject to available funding, the Commission shall make interim payments within 60 days of the date on which a payment application is received by the Commission.

2. Each payment shall be attributed to the earliest open budget commitment of the Fund and category of region concerned. The Commission shall reimburse as interim payments 95 % of the amounts included in the payment application, which results from applying the co-financing rate for each priority to the total eligible expenditure or to the public contribution, as appropriate. The Commission shall determine the remaining amounts to be reimbursed or to be recovered when calculating the balance of the accounts in accordance with Article 100.

3. The support from the Funds to a priority in interim payments shall not be higher than the amount of the support from the Funds for the priority laid down in the decision approving the programme.

4. Where the Union contribution takes any of the forms listed in Article 51, the Commission shall not pay more than the amount requested by the Member State.

5. The support from the Funds to a priority in the payment of the balance of the final accounting year shall not exceed any of the following amounts:

- (a) the public contribution declared in payment applications;
- (b) support from the Funds paid or to be paid to beneficiaries;
- (c) the amount requested by the Member State.

Amounts reimbursed pursuant to Article 36(5) shall not be taken into account for the purposes of calculating the ceiling set out in point (b) of the first subparagraph of this Article.

6. On the request of a Member State, interim payments may be increased by 10 % above the co-financing rate applicable to each priority for the Funds, if a Member State meets one of the following conditions after 1 July 2021:

- (a) the Member State receives a loan from the Union pursuant to Council Regulation (EU) No 407/2010 ⁽³²⁾;
- (b) the Member State receives medium-term financial assistance under the European Stability Mechanism as established by the Treaty establishing the European Stability Mechanism of 2 February 2012 or as referred to in Regulation (EC) No 332/2002 conditional on the implementation of a macroeconomic adjustment programme;
- (c) financial assistance is made available to the Member State conditional on the implementation of a macroeconomic adjustment programme as specified in Regulation (EU) No 472/2013.

The increased rate, which may not exceed 100 %, shall apply to requests for payments until the end of the calendar year in which the related financial assistance comes to an end.

7. Paragraph 6 shall not apply to Interreg programmes.

Article 94

Union contribution based on unit costs, lump sums and flat rates

1. The Commission may reimburse the Union contribution to a programme on the basis of unit costs, lump sums and flat rates in accordance with Article 51, either based on the amounts and rates approved by a decision in accordance with paragraph 3 of this Article or set out in the delegated act referred to in paragraph 4 of this Article.

2. In order to make use of a Union contribution to the programme based on unit costs, lump sums and flat rates, Member States shall submit a proposal to the Commission in accordance with the templates set out in Annexes V and VI, as part of the programme submission or of a request for its amendment.

The amounts and rates proposed by the Member State shall be established on the basis of the following and assessed by the audit authority:

- (a) a fair, equitable and verifiable calculation method based on any of the following:
 - (i) statistical data, other objective information or an expert judgement;
 - (ii) verified historical data;
 - (iii) the application of usual cost accounting practices;
- (b) draft budgets;
- (c) the rules on corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation;
- (d) the rules on corresponding unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation.

3. The decision approving the programme or its amendment shall set out the types of operations covered by the reimbursement based on unit costs, lump sums and flat rates, the definition and the amounts covered by those unit costs, lump sums and flat rates, and the methods for adjustment of the amounts.

Member States shall reimburse beneficiaries for the purposes of this Article. That reimbursement may take any form of support.

Commission and Member State audits and management verifications carried out by Member States shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled.

⁽³²⁾ Council Regulation (EU) No 407/2010 of 11 May 2010 establishing a European financial stabilisation mechanism (OJ L 118, 12.5.2010, p. 1).

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by defining at Union level unit costs, lump sums, flat rates, their amounts and adjustment methods in the ways referred to in points (a) to (d) of the second subparagraph of paragraph 2 of this Article.

5. This Article shall not apply to the Union contribution for technical assistance reimbursed pursuant to point (e) of Article 51.

Article 95

Union contribution based on financing not linked to costs

1. The Commission may reimburse the Union contribution to all or parts of a priority of programmes based on financing not linked to costs in accordance with Article 51, either based on the amounts approved by a decision referred to in paragraph 2 of this Article or set out in the delegated act referred to in paragraph 4 of this Article. In order to make use of a Union contribution to the programme based on financing not linked to costs, Member States shall submit a proposal to the Commission in accordance with the templates set out in Annexes V and VI, as part of the programme or of a request for its amendment. The proposal shall contain the following information:

- (a) identification of the priority concerned and the overall amount covered by the financing not linked to costs;
- (b) a description of the part of the programme and the type of operations covered by the financing not linked to costs;
- (c) a description of the conditions to be fulfilled or of the results to be achieved and a timeline;
- (d) intermediate deliverables triggering reimbursement by the Commission;
- (e) measurement units;
- (f) the schedule for reimbursement by the Commission and related amounts linked to the progress in the fulfilment of conditions or achievement of results;
- (g) the arrangements for verification of the intermediate deliverables and of the fulfilment of conditions or achievement of results;
- (h) the methods for adjustment of the amounts, where applicable;
- (i) the arrangements to ensure the audit trail in accordance with Annex XIII demonstrating the fulfilment of conditions or achievement of results;
- (j) the envisaged type of reimbursement method used to reimburse the beneficiary or beneficiaries within the priority or parts of a priority of programmes concerned by this Article.

2. The decision approving the programme or the request for its amendment shall set out all the elements listed in paragraph 1.

3. Member States shall reimburse beneficiaries for the purposes of this Article. That reimbursement may take any form of support.

Commission and Member State audits and management verifications carried out by Member States shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled or the results have been achieved.

4. The Commission is empowered to adopt a delegated act in accordance with Article 114 to supplement this Article by establishing amounts for Union-level financing not linked to costs by type of operation, the methods for adjustment of the amounts and the conditions to be fulfilled or the results to be achieved.

Section III

Interruptions and suspensions*Article 96***Interruption of the payment deadline**

1. The Commission may interrupt the payment deadline, except for pre-financing, for a maximum period of 6 months where any of the following conditions is met:

- (a) there is evidence to suggest a serious deficiency for which corrective measures have not been taken;
- (b) the Commission has to carry out additional verifications following receipt of information that expenditure in a payment application may be linked to an irregularity.

2. The Member State may agree to extend the interruption period by 3 months.

3. The Commission shall limit the interruption to the part of the expenditure affected by the elements referred to in paragraph 1, unless it is not possible to identify the part of the expenditure affected. The Commission shall inform the Member State and the managing authority in writing of the reason for interruption and shall request them to remedy the situation. The Commission shall end the interruption as soon as the measures remedying the elements referred to in paragraph 1 have been taken.

4. The Fund-specific rules for the EMFAF may lay down specific bases for interruption of payments linked to non-compliance with rules applicable under the Common Fisheries Policy.

*Article 97***Suspension of payments**

1. The Commission may suspend all or part of payments, except for pre-financing, after having given the Member State the opportunity to present its observations, if any of the following conditions is met:

- (a) the Member State has failed to take the necessary action to remedy the situation giving rise to an interruption under Article 96;
- (b) there is a serious deficiency;
- (c) the expenditure in payment applications is linked to an irregularity that has not been corrected;
- (d) there is a reasoned opinion by the Commission in respect of an infringement procedure under Article 258 TFEU on a matter that puts at risk the legality and regularity of expenditure.

2. The Commission shall end the suspension of all or part of payments when the Member State has taken the measures remedying the elements referred to in paragraph 1.

3. The Fund-specific rules for the EMFAF may lay down specific bases for suspension of payments linked to non-compliance with rules applicable under the Common Fisheries Policy.

CHAPTER II

Submission and examination of accounts

Article 98

Content and submission of accounts

1. For each accounting year for which payment applications have been submitted, the Member State shall submit to the Commission by 15 February, the following documents ('the assurance package') which shall cover the preceding accounting year:

- (a) the accounts in accordance with the template set out in Annex XXIV;
- (b) the management declaration referred to in point (f) of Article 74(1) in accordance with the template set out in Annex XVIII;
- (c) the annual audit opinion referred to in point (a) of Article 77(3) in accordance with the template set out in Annex XIX;
- (d) the annual control report referred to in point (b) of Article 77(3) in accordance with the template set out in Annex XX.

2. The deadline referred to in paragraph 1 may exceptionally be extended by the Commission to 1 March, upon communication by the Member State concerned.

3. The accounts shall include at the level of each priority and, where applicable, by fund and by category of region:

- (a) the total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in the final payment application for the accounting year and the total amount of the corresponding public contribution made or to be made linked to specific objectives for which enabling conditions are fulfilled and operations linked to specific objectives for which enabling conditions are not fulfilled but contribute to the fulfilment of enabling conditions;
- (b) the amounts withdrawn during the accounting year;
- (c) the amounts of public contribution paid to financial instruments;
- (d) for each priority, an explanation on any differences between the amounts declared pursuant to point (a) and the amounts declared in payment applications for the same accounting year.

4. The assurance package shall not concern the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations or the corresponding public contribution made or to be made linked to specific objectives for which enabling conditions are not fulfilled with the exception of operations that contribute to the fulfilment of enabling conditions.

5. The accounts shall not be admissible if Member States have not undertaken the necessary corrections to reduce the residual error rate on the legality and regularity of the expenditure included in the accounts to 2 % or below.

6. Member States shall in particular deduct from the accounts:

- (a) the irregular expenditure which has been subject to financial corrections in accordance with Article 103;
- (b) the expenditure which is subject to an ongoing assessment of its legality and regularity;
- (c) other amounts as necessary to reduce the residual error rate of the expenditure declared in the accounts to 2 % or below.

The Member State may include expenditure under point (b) of the first subparagraph in a payment application in subsequent accounting years once its legality and regularity is confirmed.

7. The Member State may correct irregular amounts which it has detected after the submission of the accounts in which the amounts were included by making the corresponding adjustments for the accounting year in which the irregularity is detected, without prejudice to Article 104.

8. As part of the assurance package, the Member State shall submit for the last accounting year the final performance report referred to in Article 43 or the last annual performance report for the AMIF, the ISF or the BMVI.

Article 99

Examination of accounts

The Commission shall satisfy itself that the accounts are complete, accurate and true by 31 May of the year following the end of the accounting year unless Article 102 applies.

Article 100

Calculation of the balance

1. When the Commission determines the amount chargeable to the Funds for the accounting year and the consequent adjustments in relation to the payments to the Member State, it shall take into account:

- (a) the amounts in the accounts referred to in point (a) of Article 98(3) and to which the co-financing rate for each priority is to be applied;
- (b) the total amount of interim payments made by the Commission during that accounting year;
- (c) for the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF, for the years 2021 and 2022, the amount of pre-financing.

2. Where there is an amount recoverable from the Member State, it shall be subject to a recovery order issued by the Commission which shall be executed, where possible, by offsetting against amounts due to the Member State in subsequent payments to the same programme. Such a recovery shall not constitute a financial correction and shall not reduce support from the Funds to the programme. The amount recovered shall constitute assigned revenue in accordance with Article 21(3) of the Financial Regulation.

Article 101

Procedure for the examination of accounts

1. The procedure set out in Article 102 shall apply in either of the following cases:

- (a) the audit authority has provided a qualified or adverse audit opinion due to reasons linked to the completeness, accuracy and veracity of the accounts;
- (b) the Commission has evidence putting into question the reliability of an unqualified audit opinion.

2. In all other cases, the Commission shall calculate the amounts chargeable to the Funds in accordance with Article 100 and make the respective payments or recoveries before 1 July. That payment or recovery shall constitute the acceptance of accounts.

Article 102

Contradictory procedure for the examination of accounts

1. If the audit authority provides an audit opinion which is qualified or adverse due to reasons linked to the completeness, accuracy and veracity of the accounts, the Commission shall request the Member State to revise these accounts and to resubmit the documents referred to in Article 98(1) within 1 month.

Where by the time limit set out in the first subparagraph:

- (a) the audit opinion is unqualified, Article 100 shall apply and the Commission shall pay any additional amount due or proceed to a recovery within 2 months;
- (b) the audit opinion is still qualified or documents have not been re-submitted by the Member State, paragraphs 2, 3 and 4 shall apply.

2. If the audit opinion remains qualified due to reasons linked to the completeness, accuracy and veracity of the accounts or if the audit opinion remains unreliable, the Commission shall inform the Member State on the amount chargeable to the Funds for the accounting year.

3. Where the Member State agrees with the amount referred to in paragraph 2 of this Article within 1 month, the Commission shall pay within 2 months any additional amount due or proceed to a recovery in accordance with Article 100.

4. Where the Member State does not agree with the amount referred to in paragraph 2 of this Article, the Commission shall establish the amount chargeable to the Funds for the accounting year. Such an act shall not constitute a financial correction and shall not reduce support from the Funds to the programme. The Commission shall pay within 2 months any additional amount due or proceed to a recovery in accordance with Article 100.

5. With regard to the final accounting year, the Commission shall pay or recover the annual balance of the accounts for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF no later than 2 months after the date of acceptance of the final performance report as referred to in Article 43.

CHAPTER III

Financial corrections

Article 103

Financial corrections by Member States

1. Member States shall protect the Union budget and apply financial corrections by cancelling all or part of the support from the Funds to an operation or programme where expenditure declared to the Commission is found to be irregular.

2. Financial corrections shall be recorded in the accounts for the accounting year in which the cancellation is decided.

3. The support from the Funds cancelled may be reused by the Member State within the programme concerned except for an operation that was subject of that correction or, where a financial correction is made for a systemic irregularity, for any operation affected by the systemic irregularity.

4. The Fund-specific rules for the EMFAF may lay down specific bases for financial corrections by the Member States linked to non-compliance with rules applicable under the Common Fisheries Policy.

5. By way of derogation from paragraphs 1, 2 and 3, in operations comprising financial instruments, a contribution cancelled in accordance with this Article, as a result of an individual irregularity, may be reused within the same operation under the following conditions:

- (a) where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the final recipient, only for other final recipients within the same financial instrument;
- (b) where the irregularity that gives rise to the cancellation of the contribution is detected at the level of the body implementing the specific fund, where a financial instrument is implemented through a structure with a holding fund, only for other bodies implementing specific funds.

Where that irregularity that gives rise to the cancellation of the contribution is detected at the level of the body implementing the holding fund, or at the level of the body implementing the specific fund where a financial instrument is implemented through a structure without a holding fund, the contribution cancelled shall not be reused within the same operation.

Where a financial correction is made for a systemic irregularity, the contribution cancelled shall not be reused for any operation affected by the systemic irregularity.

6. The bodies implementing financial instruments shall reimburse to Member States programme contributions affected by irregularities, together with interest and any other gains generated by these contributions.

The bodies implementing financial instruments shall not reimburse to Member States the amounts referred to in the first subparagraph provided that those bodies demonstrate for a given irregularity that the following cumulative conditions are fulfilled:

- (a) the irregularity occurred at the level of final recipients or, in the case of a holding fund, at the level of bodies implementing specific funds or final recipients;
- (b) the bodies implementing financial instruments carried out their obligations, in relation to the programme contributions affected by the irregularity, in accordance with applicable law and acted with the degree of professional care, transparency and diligence expected from a professional body experienced in implementing financial instruments;
- (c) the amounts affected by the irregularity could not be recovered notwithstanding that the bodies implementing financial instruments pursued all applicable contractual and legal measures with due diligence.

Article 104

Financial corrections by the Commission

1. The Commission shall make financial corrections by reducing support from the Funds to a programme where it concludes that:

- (a) there is a serious deficiency which has put at risk the support from the Funds already paid to the programme;
- (b) expenditure contained in accepted accounts is irregular and was not detected and reported by the Member State;
- (c) the Member State has not complied with its obligations under Article 97 prior to the opening of the financial correction procedure by the Commission.

Where the Commission applies flat-rate or extrapolated financial corrections, this shall be carried out in accordance with Annex XXV.

2. Before taking a decision on a financial correction, the Commission shall inform the Member State of its conclusions and give the Member State the opportunity to present, within 2 months, its observations and to demonstrate that the actual extent of irregularity is less than the Commission's assessment. The deadline can be extended if mutually agreed.

3. Where the Member State does not accept the conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in order to ensure that all relevant information and observations are available to form the basis for Commission conclusions on the application of the financial correction.

4. The Commission shall decide on a financial correction taking into account the extent, the frequency and financial implications of the irregularities or serious deficiencies, by means of an implementing act within 10 months of the date of the hearing or of the submission of additional information as required by the Commission.

When deciding on a financial correction, the Commission shall take account of all information and observations submitted.

Where a Member State agrees to the financial correction for cases referred to in points (a) and (c) of the first subparagraph of paragraph 1 before the adoption of the decision referred to in the first subparagraph of this paragraph, the Member State may reuse the amounts concerned. That possibility shall not apply to a case of a financial correction under point (b) of the first subparagraph of paragraph 1.

5. The Fund-specific rules for the EMFAF may lay down specific bases for financial corrections by the Commission linked to non-compliance with rules applicable under the Common Fisheries Policy.

6. The Fund-specific rules for the JTF may lay down specific bases for financial corrections by the Commission linked to the under-achievement of targets established for the JTF.

CHAPTER IV

Decommitment

Article 105

Decommitment principles and rules

1. The Commission shall decommit any amount in a programme which has not been used for pre-financing, in accordance with Article 90, or for which a payment application has not been submitted, in accordance with Articles 91 and 92, by 31 December of the third calendar year following the year of the budget commitments for the years 2021 to 2026.

2. The part of commitments still open on 31 December 2029 shall be decommitted if the assurance package and the final performance report for programmes supported by the ERDF, the ESF+, the Cohesion Fund, the JTF and the EMFAF have not been submitted to the Commission by the time limit set out in Article 43(1).

Article 106

Exceptions to the decommitment rules

1. The amount concerned by decommitment shall be reduced by the amounts equivalent to that part of the budget commitment for which:

- (a) the operations are suspended by a legal proceeding or by an administrative appeal having suspensory effect; or
- (b) it has not been possible to make a payment application for reasons of *force majeure* seriously affecting implementation of all or part of the programme.

The national authorities claiming *force majeure* shall demonstrate the direct consequences of the *force majeure* on the implementation of all or part of the programme.

2. By 31 January, the Member State shall send to the Commission information on the exceptions referred to in points (a) and (b) of the first subparagraph of paragraph 1 for the amount to be declared by 31 December of the preceding year.

Article 107

Procedure for decommitment

1. On the basis of the information it has received as of 31 January, the Commission shall inform the Member State of the amount of the decommitment resulting from that information.

2. The Member State shall have 2 months to agree to the amount to be decommitted or to submit its observations.

3. By 30 June, the Member State shall submit to the Commission an amended financing plan reflecting, for the calendar year concerned, the reduced amount of support over one or more priorities of the programme. For programmes supported by more than one Fund, the amount of support shall be reduced by Fund proportionately to the amounts concerned by the decommitment that had not been used in the calendar year concerned.

In the absence of such a submission, the Commission shall amend the financing plan by reducing the contribution from the Funds for the calendar year concerned. That reduction shall be allocated to each priority proportionately to the amounts concerned by the decommitment that had not been used in the calendar year concerned.

4. The Commission shall amend the decision approving the programme no later than 31 October.

TITLE VIII

FINANCIAL FRAMEWORK

Article 108

Geographical coverage of support for the Investment for jobs and growth goal

1. The ERDF, the ESF+ and the Cohesion Fund shall support the Investment for jobs and growth goal in all regions corresponding to level 2 of the common classification of territorial units for statistics ('NUTS level 2 regions') established by Regulation (EC) No 1059/2003 as amended by Regulation (EU) 2016/2066.

2. Resources from the ERDF and ESF+ for the Investment for jobs and growth goal shall be allocated among the following three categories of NUTS level 2 regions:

- (a) less developed regions, whose *GDP per capita* is less than 75 % of the average *GDP per capita* of the EU-27 ('less developed regions');
- (b) transition regions, whose *GDP per capita* is between 75 % and 100 % of the average *GDP per capita* of the EU-27 ('transition regions');
- (c) more developed regions, whose *GDP per capita* is above 100 % of the average *GDP per capita* of the EU-27 ('more developed regions').

The classification of regions under one of the three categories of region shall be determined on the basis of how the *GDP per capita* of each region, measured in purchasing power standards (PPS) and calculated on the basis of Union figures for the period 2015-2017, relates to the average *GDP per capita* of the EU-27 for the same reference period.

3. The Cohesion Fund shall support those Member States whose gross national income (GNI) per capita, measured in PPS and calculated on the basis of Union figures for the period 2015-2017, is less than 90 % of the average GNI per capita of the EU-27 for the same reference period.

4. The Commission shall adopt a decision, by means of implementing act, setting out the list of regions fulfilling the criteria of one of the three categories of region and of Member States fulfilling the criteria of paragraph 3. That list shall be valid from 1 January 2021 to 31 December 2027.

Article 109

Resources for economic, social and territorial cohesion

1. The resources for economic, social and territorial cohesion available for budgetary commitment for the 2021-2027 period under the MFF shall be EUR 330 234 776 621 in 2018 prices for the ERDF, the ESF+ and the Cohesion Fund, and EUR 7 500 000 000 in 2018 prices for the JTF.

The resources referred to in the first subparagraph shall be completed by an amount of EUR 10 000 000 000 in 2018 prices for measures referred to in Article 1(2) of Council Regulation (EU) 2020/2094 ⁽³³⁾ for the purposes of the JTF Regulation. This amount shall constitute external assigned revenue for the purpose of Article 21(5) of the Financial Regulation.

For the purposes of programming and subsequent inclusion in the budget of the Union, amounts referred to in the first and second subparagraphs shall be indexed at 2 % per year.

2. The Commission shall adopt a decision, by means of implementing act, setting out the annual breakdown of the global resources for the ERDF, the ESF+ and the Cohesion Fund by Member State under the Investment for jobs and growth goal and, where applicable, by category of region, in accordance with the methodologies set out in Annex XXVI.

That decision shall also set out the annual breakdown of the global resources per Member State under the European territorial cooperation goal (Interreg).

3. 0,35 % of the resources referred to in the first and second subparagraphs of paragraph 1, after the deduction of the support to the CEF referred to in Article 110(3), shall be allocated to technical assistance at the initiative of the Commission.

Article 110

Resources for the Investment for jobs and growth goal and for the European territorial cooperation goal (Interreg)

1. Resources for the Investment for jobs and growth goal under the MFF shall amount to 97,6 % of the global resources (i.e. a total of EUR 329 684 776 621) and shall be allocated as follows:

- (a) 61,3 % (i.e. a total of EUR 202 226 984 629) for less developed regions;
- (b) 14,5 % (i.e. a total of EUR 47 771 802 082) for transition regions;
- (c) 8,3 % (i.e. a total of EUR 27 202 682 372) for more developed regions;
- (d) 12,9 % (i.e. a total of EUR 42 555 570 217) for Member States supported by the Cohesion Fund;
- (e) 0,6 % (i.e. a total of EUR 1 927 737 321) as additional funding for the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession;
- (f) 0,2 % (i.e. a total of EUR 500 000 000) for interregional innovation investments;
- (g) 2,3 % (i.e. a total of EUR 7 500 000 000) for the Just Transition Fund.

2. The amount of resources available for the ESF+ under the Investment for jobs and growth goal shall be EUR 87 319 331 844.

The amount of additional funding for the regions referred to in point (e) in paragraph 1 allocated to the ESF+ shall be EUR 472 980 447.

3. The amount of support from the Cohesion Fund to be transferred to the CEF shall be EUR 10 000 000 000. It shall be spent for transport infrastructure projects, taking into account the investment infrastructure needs of Member States and regions, by launching specific calls in accordance with the CEF Regulation exclusively in Member States eligible for funding from the Cohesion Fund.

The Commission shall adopt an implementing act setting out the amount to be transferred from each Member State's Cohesion Fund allocation to the CEF and determined on a *pro rata* basis for the whole period.

The Cohesion Fund allocation of each Member State shall be reduced accordingly.

⁽³³⁾ Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis (OJ L 433 I, 22.12.2020, p. 23).

The annual appropriations corresponding to the support from the Cohesion Fund referred to in the first subparagraph shall be entered in the relevant budget lines of the CEF as of the 2021 budgetary exercise.

30 % of the resources transferred to the CEF shall be available immediately after the transfer to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with the CEF Regulation.

Rules applicable for the transport sector under the CEF Regulation shall apply to the specific calls referred to in the first subparagraph. Until 31 December 2023, the selection of projects eligible for financing shall respect the national allocations under the Cohesion Fund with regard to 70 % of the resources transferred to the CEF.

As of 1 January 2024, resources transferred to the CEF which have not been committed to a transport infrastructure project shall be made available to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with the CEF Regulation.

In order to support Member States which are eligible for funding from the Cohesion Fund and which might experience difficulties in designing projects that are of a sufficient maturity, quality, or both, and that have sufficient Union added value, particular attention shall be given to technical assistance which aims to strengthen the institutional capacity and the efficiency of public administrations and public services in relation to the development and implementation of projects listed in the CEF Regulation.

The Commission shall do its utmost to enable Member States eligible for funding from the Cohesion Fund to attain, by the end of the 2021-2027 period, the highest possible absorption of the amount transferred to the CEF, including through the organisation of additional calls.

Particular attention and support under the eighth and ninth subparagraph shall be given to those Member States whose GNI per capita, measured in PPS for the period 2015- 2017, is less than 60 % of the average GNI per capita of the EU-27.

In respect of Member States whose GNI per capita, measured in PPS for the period 2015-2017, is less than 60 % of the average GNI per capita of the EU-27, 70 % of 70 % of the amount of money that those Member States have transferred to the CEF shall be guaranteed until 31 December 2024.

4. EUR 400 000 000 of the resources for the Investment for jobs and growth goal shall be allocated to the European Urban Initiative under direct or indirect management by the Commission.

5. EUR 175 000 000 of the ESF+ resources for the Investment for jobs and growth goal shall be allocated for transnational cooperation supporting innovative solutions under direct or indirect management.

6. The amount referred to in point (f) of paragraph 1 shall be allocated from the ERDF resources under the Investment for jobs and growth goal for interregional innovative investments under direct or indirect management.

7. Resources for the European territorial cooperation goal (Interreg) shall amount to 2,4 % of the global resources available for budgetary commitment from the Funds for the 2021-2027 period (i.e. a total of EUR 8 050 000 000).

8. The amount referred to in the second subparagraph of Article 109(1) shall be part of the resources for the Investments for jobs and growth goal.

Article 111

Transferability of resources

1. The Commission may accept a proposal by a Member State, in its submission of the Partnership Agreement or in the context of the mid-term review, for a transfer:

- (a) adding up to not more than 5 % of the initial allocations for less developed regions to transition regions or more developed regions and from transition regions to more developed regions;

- (b) from the allocations for more developed regions or transition regions to less developed regions and from more developed regions to transition regions.

By way of derogation from point (a) of the first subparagraph, the Commission may accept an additional transfer of up to 10 % of the total allocations for less developed regions to transition regions or more developed regions within those Member States whose GNI per capita, measured in PPS for the period 2015- 2017, is less than 90 % of the average GNI per capita of the EU-27. Resources of any additional transfer shall be used to contribute to the policy objectives referred to in points (a) and (b) of Article 5(1).

2. The total allocations to each Member State in respect of the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg) shall not be transferable between these goals.

3. In order to uphold the effective contribution of the Funds to the actions referred to in Article 5(2), and by way of derogation from paragraph 2 of this Article, the Commission may, in duly justified circumstances, and subject to the condition laid down in paragraph 4 of this Article, accept by means of an implementing act a proposal by a Member State in its first submission of the Partnership Agreement to transfer a part of its appropriations for the European territorial cooperation goal (Interreg) to the Investment for jobs and growth goal.

4. The share of the European territorial cooperation goal (Interreg) in the Member State making the proposal referred to in paragraph 3 shall be not less than 35 % of the total allocated to that Member State in respect of the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg), and after transfer shall be not less than 25 % of that total.

Article 112

Determination of co-financing rates

1. The decision approving a programme shall fix the co-financing rate and the maximum amount of support from the Funds for each priority.

2. For each priority, the Commission decision shall set out whether the co-financing rate for the priority is to be applied to either of the following:

- (a) total contribution, including public and private contribution;
- (b) public contribution.

3. The co-financing rate for the Investment for jobs and growth goal at the level of each priority shall not be higher than:

- (a) 85 % for the less developed regions;
- (b) 70 % for transition regions that were classified as less developed regions for the 2014-2020 period;
- (c) 60 % for the transition regions;
- (d) 50 % for more developed regions that were classified as transition regions or had a GDP per capita below 100 % for the 2014-2020 period;
- (e) 40 % for the more developed regions.

The co-financing rates set out under point (a) of the first subparagraph shall also apply to the outermost regions, including the additional allocation for the outermost regions.

The co-financing rate for the Cohesion Fund at the level of each priority shall not be higher than 85 %.

The ESF+ Regulation may establish higher co-financing rates in accordance with Articles 10 and 14 of that Regulation.

The co-financing rate, applicable to the region where the territory or territories identified in the territorial just transition plans are located, for the priority supported by the JTF shall not be higher than:

- (a) 85 % for less developed regions;
- (b) 70 % for transition regions;
- (c) 50 % for more developed regions.

4. The co-financing rate for Interreg programmes shall be no higher than 80 % except in cases where the Interreg Regulation establishes higher co-financing rates for Interreg strand D and for external cross-border cooperation programmes.

5. The maximum co-financing rates listed under paragraphs 3 and 4 shall be increased by ten percentage points for priorities entirely delivered through community-led local development.

6. Technical assistance measures implemented at the initiative of, or on behalf of, the Commission may be financed at the rate of 100 %.

TITLE IX

DELEGATION OF POWER, IMPLEMENTING, TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I

Delegation of power and implementing provisions

Article 113

Delegation of powers as regards certain Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 114 to amend the Annexes to this Regulation, except Annexes III, IV, XI, XIII, XIV, XVII and XXVI, in order to adapt them to changes occurring during the programming period.

Article 114

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 79(4), 94(4) and 95(4) and Article 113 shall be conferred on the Commission for an indeterminate period of time from 1 July 2021.
3. The delegation of power referred to in Articles 79(4), 94(4) and 95(4), Article 113 and Article 117(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 79(4), 94(4) and 95(4), Article 113 and Article 117(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

*Article 115***Committee procedure**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

*CHAPTER II****Transitional and final provisions****Article 116***Review**

The European Parliament and the Council shall review this Regulation by 31 December 2027 in accordance with Article 177 TFEU.

*Article 117***Transitional provisions**

1. Regulation (EU) No 1303/2013 or any other act applicable to the 2014–2020 programming period shall continue to apply only to operational programmes and operations supported by the ERDF, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund under that period.
2. The empowerment conferred in paragraph 3 of Article 5 of Regulation (EU) No 1303/2013 on the Commission to adopt a delegated act to provide for a European code of conduct on partnership shall remain in force for the 2021–2027 programming period. The delegation of power shall be exercised in accordance with Article 114 of this Regulation.

*Article 118***Conditions for operations subject to phased implementation**

1. The managing authority may proceed with the selection of an operation consisting of the second phase of an operation selected for support and started under Regulation (EU) No 1303/2013, provided that the following cumulative conditions are met:
 - (a) the operation, as selected for support under Regulation (EU) No 1303/2013, has two phases identifiable from a financial point of view with separate audit trails;
 - (b) the total cost of the operation referred to in point (a) exceeds EUR 5 000 000;
 - (c) expenditure included in a payment application in relation to the first phase is not included under any payment applications in relation to the second phase;
 - (d) the second phase of the operation complies with applicable law and is eligible for support from the ERDF, the ESF+, the Cohesion Fund or the EMFAF under the provisions of this Regulation or the Fund-specific Regulations;
 - (e) the Member State commits to complete during the programming period and render operational the second and final phase in the final implementation report, or in the context of the European Maritime and Fisheries Fund in the last annual implementation report, submitted in accordance with Article 141 of Regulation (EU) No 1303/2013.
2. The provisions of this Regulation shall apply to the second phase of the operation.

*Article 119***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 24 June 2021

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

REGULATION (EU) 2021/1059 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 24 June 2021
on specific provisions for the European territorial cooperation goal (Interreg) supported by the
European Regional Development Fund and external financing instruments

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 178, Articles 209(1) and 212(2) and Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Article 176 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. Pursuant to that Article and to the second and third paragraphs of Article 174 TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions, among which particular attention is to be paid to certain categories of regions, including a specific reference to cross-border regions.
- (2) Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽⁴⁾ sets out provisions common to the ERDF and certain other funds and Regulation (EU) 2021/1058 of the European Parliament and of the Council ⁽⁵⁾ sets out provisions concerning the specific objectives and the scope of the ERDF support. It is also necessary to adopt specific provisions concerning the European territorial cooperation goal (Interreg) where one or more Member States and their regions and, where relevant, partner countries and third countries cooperate across borders with regard to effective programming, including provisions on technical assistance, monitoring, evaluation, communication, eligibility, management and control and financial management.

⁽¹⁾ OJ C 440, 6.12.2018, p. 116.

⁽²⁾ OJ C 86, 7.3.2019, p. 137.

⁽³⁾ Position of the European Parliament of 26 March 2019 (OJ C 108, 26.3.2021, p. 247) and position of the Council at first reading of 27 May 2021 (not yet published in the Official Journal). Position of the European Parliament of 23 June 2021 (not yet published in the Official Journal).

⁽⁴⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (see page 159 of this Official Journal).

⁽⁵⁾ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (see page 60 of this Official Journal).

- (3) The promotion of Interreg is a major priority of Union cohesion policy. Support for small and medium-sized enterprises for costs incurred in European territorial cooperation (ETC) projects is already block-exempted pursuant to Commission Regulation (EU) No 651/2014 ⁽⁶⁾ and special provisions in relation to regional aid for investments by undertakings of all sizes are also included in the regional aid section of that Regulation and in the Commission Guidelines on regional State aid for 2014-2020. Taking into account the 30 years' experience gained, and given the low financial value of projects and the unlikely negative impact on trade and competition, on the one hand, and the high added value brought by the existing programmes to territorial cohesion in Europe, on the other, the scope of the State aid rules with regard to public financing of ETC projects is expected to be further clarified through future amendment of Regulation (EU) No 651/2014, thereby largely exempting the public financing of Interreg projects from the obligation of prior notification and greatly facilitating the implementation of those projects.
- (4) In order to support the harmonious development of the Union's territory at different levels, the ERDF should support cross-border cooperation, transnational cooperation, interregional cooperation and outermost regions' cooperation under Interreg goal. In the process, the principles of partnership and multi-level governance should be taken into account, while ensuring that the scale of partnership for a programme remains effective.
- (5) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change and to achieve the United Nations Sustainable Development Goals, the Funds will contribute to mainstream climate actions and to the achievement of an overall target of 30 % of Union budget expenditure supporting climate objectives. In that context the Funds should support activities that respect the climate and environmental standards and that would do no significant harm to environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council ⁽⁷⁾.
- (6) The cross-border cooperation strand should aim to tackle common challenges identified jointly in the border regions, and to exploit the untapped growth potential in border areas as evidenced in the Commission communication of 20 September 2017 entitled 'Boosting Growth and Cohesion in EU Border Regions' ('Border Regions Communication'). As a result, the programme areas for cross-border cooperation should be identified as those regions and areas on the border or separated by a maximum of 150 km of sea where cross-border interaction may effectively take place or in which functional areas can be identified, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas.
- (7) The cross-border cooperation strand should also involve cooperation between one or more Member States or their regions, and one or more countries or regions, or other territories outside the Union. Covering internal and external cross-border cooperation under this Regulation should result in a major simplification and streamlining of applicable provisions for the programme authorities in Member States and for the partner authorities and beneficiaries outside the Union compared to the 2014-2020 programming period.
- (8) The transnational cooperation strand should aim to strengthen cooperation by means of actions conducive to integrated territorial development linked to the Union's priorities, in full respect of subsidiarity. Transnational cooperation should cover larger territories on the mainland of the Union and around sea basins with maximum flexibility to ensure the coherence and continuity of cooperation programmes, including previous external maritime cross-border cooperation within a larger maritime cooperation framework, in particular by defining the territory covered, the specific objectives for such cooperation, the requirements for a project partnership and the possibility to set up sub-programmes and specific steering committees.

⁽⁶⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

⁽⁷⁾ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).

- (9) Based on the experience with cross-border and transnational cooperation during the 2014-2020 programming period in outermost regions, where the combination of both strands within a single programme per cooperation area has not brought about sufficient simplification for programme authorities and beneficiaries, a specific outermost regions' strand should be established in order to enable outermost regions to cooperate with their neighbouring countries and territories in the most effective and simple way. Under that strand, calls for proposals could be launched for combined funding under the ERDF, the Neighbourhood, Development and International Cooperation Instrument (NDICI) established by Regulation (EU) 2021/947 of the European Parliament and of the Council ⁽⁸⁾ and the Overseas Association Decision (OAD) established by Council Decision 2013/755/EU ⁽⁹⁾, through management modes to be agreed upon between participating Member States and regions and third countries.
- (10) Based on the experience with the interregional cooperation programmes under Interreg, the interregional cooperation strand should focus on boosting the effectiveness of cohesion policy through four specific programmes: a programme to enable the exchange of experiences, innovative approaches and capacity building focusing on policy objectives and the Interreg-specific objective 'a better cooperation governance', in relation to the identification, dissemination and transfer of good practices into regional development policies including Investment for jobs and growth goal programmes; a programme dedicated to the exchange of experiences and capacity building in relation to the identification, transfer and capitalisation of good practices on integrated and sustainable urban development, taking into account the linkages between urban and rural areas including support to actions developed in the framework of Article 11 of Regulation (EU) 2021/1058, complementing and being coordinated with the initiative outlined in Article 12 thereof; a programme for the exchange of experiences, innovative approaches and capacity building with a view to harmonising and simplifying the implementation of Interreg programmes, to harmonising and simplifying cooperation actions referred in point (d) (vi) of Article 22(3) of Regulation (EU) 2021/1060, and supporting the setting-up, functioning and use of European groupings of territorial cooperation ('EGTCs') already set up or to be set up pursuant to Regulation (EC) No 1082/2006 of the European Parliament and of the Council ⁽¹⁰⁾ as well as macro-regional strategies; and a programme to improve the analysis of development trends. The four programmes under the interregional cooperation strand should cover the whole Union and should also be open for the participation of third countries.
- (11) Common objective criteria for designating eligible regions and areas should be established. To that end, the identification of eligible regions and areas at Union level should be based on the common system of classification of the regions established by Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽¹¹⁾.
- (12) It is necessary to continue supporting or, as appropriate, to establish cooperation in all its dimensions with the Union's neighbouring third countries, as such cooperation is an important regional development policy tool and should benefit the regions of the Member States which border third countries. To that effect, the ERDF and the external financing instruments of the Union, the Instrument for Pre-Accession Assistance (IPA III) established by a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III) (the 'IPA III Regulation'), NDICI and OAD should support programmes under cross-border cooperation, transnational cooperation, interregional cooperation and outermost regions' cooperation. The support from the ERDF and from the external financing instruments of the Union should be based on reciprocity and proportionality. However, for IPA III funds allocated to cross-border cooperation ('IPA III-CBC') and NDICI funds allocated to cross-border cooperation for the neighbourhood geographic area ('NDICI-CBC'), the ERDF support should be complemented by at least equivalent amounts under IPA III-CBC and NDICI-CBC, subject to a maximum amount set out in the respective legal act.

⁽⁸⁾ Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU of the European Parliament and of the Council and repealing Regulation (EU) 2017/1601 of the European Parliament and of the Council and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

⁽⁹⁾ Council Decision 2013/755/EU of 25 November 2013 on the association of the overseas countries and territories with the European Union ('Overseas Association Decision') (OJ L 344, 19.12.2013, p. 1).

⁽¹⁰⁾ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

⁽¹¹⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (13) IPA III assistance is to mainly focus on assisting the IPA III beneficiaries to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights and promote gender equality, tolerance, social inclusion and non-discrimination as well as regional and local development. IPA III assistance is to continue to support the efforts of the IPA III beneficiaries to advance regional, macro-regional and cross-border cooperation as well as territorial development, including through the implementation of Union macro-regional strategies. In addition, IPA III assistance is to address security, migration and border management, ensuring access to international protection, sharing relevant information, enhancing border control and pursuing common efforts in the fight against irregular migration and migrant smuggling.
- (14) With regard to NDICI assistance, the Union should develop a special relationship with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation. This Regulation should therefore support internal and external aspects of relevant macro-regional strategies. Those initiatives are strategically important and offer meaningful political frameworks for deepening relations with and among partner countries, based on the principles of mutual accountability, shared ownership and responsibility.
- (15) It is important to continue observing the role of the European External Action Service as established in Council Decision 2010/427/EU ⁽¹²⁾ and that of the Commission in the preparation of the strategic programming and of Interreg programmes supported by the ERDF and the NDICI.
- (16) In view of the specific situation of outermost regions of the Union, it is necessary to adopt measures concerning the improvement of conditions under which those regions are able to have access to structural funds. Consequently, certain provisions of this Regulation should be adapted to the specificities of the outermost regions of the Union in order to simplify and foster their cooperation with overseas countries and territories ('OCTs') and third countries, while taking into account the Commission communication of 24 October 2017 entitled 'A stronger and renewed strategic partnership with the EU's outermost regions'. It should be possible for that cooperation to be carried out in close partnership with regional integration and cooperation organisations.
- (17) This Regulation should lay down the possibility of the OCTs to participate in Interreg programmes. The specificities and challenges of the OCTs should be taken into consideration in order to facilitate their effective access and participation.
- (18) It is necessary to set out the resources allocated to each of the different strands of Interreg, including each Member State's share of the global amounts for cross-border cooperation, transnational cooperation, outermost regions' cooperation and the potential available to Member States concerning flexibility between those strands.
- (19) For the most efficient use of the support from the ERDF and the external financing instruments of the Union, a mechanism should be set up to organise the return of such support in cases where external cooperation programmes cannot be adopted or have to be discontinued, including with third countries which do not receive support from any financing instrument of the Union. That mechanism should seek to achieve optimal functioning of the programmes and the maximum possible coordination between those instruments.
- (20) The ERDF should contribute, under Interreg, to the specific objectives under the cohesion policy objectives. However, the list of the specific objectives under the different policy objectives should be adapted to the specific needs of Interreg in order to allow for ESF-type interventions, according to points (a) to (l) of Article 4(1) of Regulation (EU) 2021/1057 of the European Parliament and of the Council ⁽¹³⁾ through joint actions under Interreg programmes.

⁽¹²⁾ Council Decision 2010/427/EU of 26 July 2010 establishing the organisation and functioning of the European External Action Service (OJ L 201, 3.8.2010, p. 30).

⁽¹³⁾ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (see page 21 of this Official Journal).

- (21) Within the context of the unique and specific circumstances on the island of Ireland, and with a view to supporting North-South cooperation under the Good Friday Agreement, a PEACE PLUS cross-border programme is to continue and build on the work of previous programmes between the border counties of Ireland and Northern Ireland. Taking into account its practical importance, it is necessary to ensure that, where that programme is acting in support of peace and reconciliation, the ERDF should also contribute to promoting social, economic and regional stability and cooperation in the regions concerned, in particular through actions that promote cohesion between communities. Given the specificities of that programme, it should be managed in an integrated manner with the United Kingdom contribution being integrated into that programme as external assigned revenue. Furthermore, certain rules on the selection of operations in this Regulation should not apply to that programme in relation to operations in support of peace and reconciliation.
- (22) This Regulation should add two Interreg-specific objectives: an objective to support strengthening institutional capacity, enhancing legal and administrative cooperation, in particular where linked to implementation of the Border Regions Communication, intensify cooperation between citizens and institutions and the development and coordination of macro-regional and sea-basin strategies, build up mutual trust, in particular by encouraging people-to-people actions; and a second objective to address cooperation issues on safety, security, border crossing management and migration.
- (23) The major part of the Union support should be concentrated on a limited number of policy objectives in order to maximise the impact of Interreg. Synergies and complementarities between the strands of Interreg should be strengthened.
- (24) Provisions on the preparation, approval and amendment of Interreg programmes as well as on territorial development, on the selection of operations, on monitoring and evaluation, on the programme authorities, on audit of operations, and on transparency and communication should be adapted to the specificities of Interreg programmes compared to the provisions set out in Regulation (EU) 2021/1060. Those specific provisions should be kept simple and clear in order to avoid gold-plating and additional administrative burdens for Member States and beneficiaries.
- (25) The provisions on the criteria for operations to be considered as genuinely joint and cooperative, on the partnership within an Interreg operation and on the obligations of the lead partner as set out during the 2014-2020 programming period should be continued. Interreg partners should cooperate in development and implementation as well as in staffing or financing, or both, and under outermost regions' cooperation, in two out of four of these cooperation dimensions, as it should be simpler to combine support from the ERDF and external financing instruments from the Union both on the level of programmes and operations.
- (26) Under cross-border cooperation programmes, people-to-people and small-scale projects are important and successful instruments, with high European added value, for eliminating border and cross border obstacles, fostering contacts between people locally and, bringing border regions and their citizens closer together. So far they have been supported via small-project funds or similar instruments, although they have never been covered by specific provisions, making it necessary to clarify the rules governing those funds. In order to maintain the added value and advantages of people-to-people and small-scale projects, also with regard to local and regional development, and to simplify the management of the financing of small projects by the final recipients who are often not used to applying for Union funds, the use of simplified cost options and of lump sums should be made obligatory below a certain threshold.
- (27) Due to the involvement of more than one Member State, and the resulting higher administrative costs, including for regional points of contact also known as 'antennae', which are important points of contact for those proposing and implementing projects, and therefore function as a direct line to the joint secretariats or the relevant authorities, but in particular in respect of controls and translation, the ceiling for technical assistance expenditure should be higher than that under the Investment for jobs and growth goal. In order to offset the higher administrative costs, Member States should be encouraged to reduce the administrative burden with regard to the implementation of joint projects wherever possible. In addition, Interreg programmes with limited Union support or external cross-border Interreg programmes should receive a certain minimum amount for technical assistance to ensure sufficient funding for effective technical assistance activities, including for regional branch offices of joint secretariats and contact points set up to be closer to potential beneficiaries and partners.

- (28) Pursuant to paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹⁴⁾, this Regulation should be evaluated on the basis of information collected in accordance with specific monitoring requirements, while avoiding an administrative burden, in particular on Member States, and overregulation. Those requirements, where appropriate, should include measurable indicators as a basis for evaluating the effects of the funding on the ground.
- (29) Based on the experience gained during the 2014-2020 programming period, the system introducing a clear hierarchy of rules on eligibility of expenditure should be continued while maintaining the principle of rules on eligibility of expenditure to be established at Union level and for an Interreg programme as a whole to avoid any possible contradictions or inconsistencies between different regulations and between Union and national law. Additional rules adopted by one Member State which would only apply to the beneficiaries in that Member State should be limited to the strict minimum. In particular, Commission Delegated Regulation (EU) No 481/2014 ⁽¹⁵⁾, adopted for the 2014-2020 programming period, should be integrated into this Regulation.
- (30) Member States should be encouraged to assign the functions of the managing authority to an EGTC or to make such a grouping, like other cross-border legal bodies, responsible for managing a sub-programme, an integrated territorial investment or one or more small project funds, or to act as sole partner. In that context, a cross-border legal body, including euroregions, should be established and have legal personality pursuant to the law of one of the participating countries, and the participation of regional and local authorities from all participating countries should be granted.
- (31) In order to continue the payment chain established for the 2014-2020 programming period, namely, from the Commission to the lead partner via the certifying authority, that payment chain should be continued under the accounting function. The Union support should be paid to the lead partner, unless this would result in double fees for conversion into euro and back into another currency or vice versa between the lead partner and the other partners. If not otherwise specified, the lead partner should ensure that the other partners receive the total amount of the contribution from the respective Union fund in full and within the timeframe agreed by all partners and following the same procedure applied in respect of the lead partner.
- (32) Pursuant to Article 63(9) of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁶⁾ (the 'Financial Regulation') sector-specific rules are to take account of the needs of Interreg programmes in particular as regards the audit function. The provisions on the annual audit opinion, the annual control report and the audits of operations should therefore be simplified and adapted to those programmes involving more than one Member State.
- (33) A clear chain of financial liability in respect of recovery for irregularities should be established from sole or other partners via the lead partner and the managing authority to the Commission. Provision should be made for liability of Member States, third countries, partner countries or OCTs, where obtaining recovery from the sole or other or lead partner is not successful, meaning that the Member State reimburses the managing authority. Consequently, under Interreg programmes there is no scope for irrecoverable amounts at the level of beneficiaries. It is, however, necessary to clarify the rules, should a Member State, third country, partner country or OCT not reimburse the managing authority. The obligations of the lead partner for recovery should also be clarified.

⁽¹⁴⁾ OJ L 123, 12.5.2016, p. 1.

⁽¹⁵⁾ Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45).

⁽¹⁶⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1)

- (34) In order to apply a mostly common set of rules both in the participating Member States and third countries, partner countries or OCTs, this Regulation should also apply to the participation of third countries, partner countries or OCTs, unless specific rules are set out in a specific chapter of this Regulation. Interreg programme authorities may be mirrored by comparable authorities in third countries, partner countries or OCTs. The starting point for the eligibility of expenditure should be linked to the signature of the financing agreement by the relevant third country, partner country or OCT. Procurement for beneficiaries in the third country, partner country or OCT should follow the rules for external procurement provided for in the Financial Regulation. The procedures for the conclusion of financing agreements with each of the third countries, partner countries or OCTs as well as of the agreements between the managing authority and each third country, partner country or OCT with regard to the support from an external financing instrument of the Union or in the case of transfer of an additional contribution from a third country, partner country or OCT to the Interreg programme other than national co-financing should be set out.
- (35) Although Interreg programmes with the participation of third countries, partner countries or OCTs should be implemented under shared management, it should be possible for outermost regions' cooperation to be implemented under indirect management. Specific rules should be set out on how to implement those programmes as a whole or partially under indirect management.
- (36) Based on the experience gained during the 2014-2020 programming period with large infrastructure projects within cross-border cooperation programmes under the European Neighbourhood Instrument established by Regulation (EU) No 232/2014 of the European Parliament and of the Council ⁽¹⁷⁾, the procedures should be simplified. However, the Commission should retain certain rights concerning the selection of such projects.
- (37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt and amend the lists of Interreg programme areas to receive support and the list of the global amount of the Union support for each Interreg programme. Implementing powers should also be conferred on the Commission to adopt the multi-annual strategy documents for Interreg programmes supported by an external financing instrument of the Union. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁸⁾. Although those acts are of a general nature, the advisory procedure should be used given that they only implement the provisions in a technical way. Where applicable, the multi-annual strategy documents for Interreg programmes supported by an external financial instrument should also respect the procedure set out in the IPA III Regulation and Regulation (EU) 2021/947.
- (38) In order to ensure uniform conditions for the approval Interreg programmes and of amendments thereto, implementing powers should be conferred on the Commission. Where applicable, external cross-border Interreg programmes should respect committee procedures established under the IPA III Regulation and Regulation (EU) 2021/947 with regard to the first approval decision of those programmes.
- (39) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the Annex. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁽¹⁷⁾ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

⁽¹⁸⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (40) In view of the adoption of this Regulation after the start of the programming period, and taking into account the need to implement Interreg in a coordinated and harmonised manner, and in order to allow for its prompt implementation, it should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (41) Since the objective of this Regulation, namely to foster cooperation between Member States and between Member States and third countries, partner countries or OCTs cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective,

HAVE ADOPTED THIS REGULATION:

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CHAPTER I

GENERAL PROVISIONS

SECTION I

Subject matter, scope and Interreg strands

Article 1

Subject matter and scope

This Regulation lays down rules for the European territorial cooperation goal (Interreg) with a view to fostering cooperation between Member States and their regions inside the Union and between Member States, their regions and third countries, partner countries, other territories or overseas countries and territories (OCTs), or regional integration and cooperation organisations.

This Regulation also lays down the provisions necessary to ensure effective programming including on technical assistance, monitoring, evaluation, communication, eligibility, management and control, as well as financial management of programmes under Interreg ('Interreg programmes') supported by the European Regional Development Fund (ERDF).

With regard to support from the Instrument for Pre-Accession Assistance (IPA III), the Neighbourhood, Development and International Cooperation Instrument (NDICI) and the funding for all the OCTs for the 2021-2027 programming period established as a programme by Decision 2013/755/EU (jointly referred to as 'the external financing instruments of the Union') to Interreg programmes, this Regulation sets out additional specific objectives as well as the integration of those funds into Interreg programmes, the criteria for third countries, partner countries and OCTs and their regions to be eligible and certain specific implementation rules.

With regard to support from the ERDF and the external financing instruments of the Union (jointly referred to as 'the Interreg funds') to Interreg programmes, this Regulation sets out the Interreg-specific objectives as well as the organisation of Interreg, the eligibility criteria for Member States, third countries, partner countries and OCTs and their regions, the financial resources, and the criteria for their allocation.

Regulation (EU) 2021/1060 and Regulation (EU) 2021/1058 shall apply to Interreg programmes, except where specifically provided for otherwise under those Regulations and this Regulation or where Regulation (EU) 2021/1060 can only apply to the Investment for jobs and growth goal.

Article 2

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EU) 2021/1060 apply. The following definitions also apply:

- (1) 'IPA III beneficiary' means a country or territory listed in the relevant annex to the IPA III Regulation;
- (2) 'third country' means a country which is not a Member State and does not receive support from the Interreg funds or which contributes to the general budget of the Union ('Union budget') by external assigned revenue;
- (3) 'partner country' means an IPA III beneficiary or a country or territory covered, for Interreg A and B programmes, by the Neighbourhood area listed in Annex I to Regulation (EU) 2021/947 or the Russian Federation, or for Interreg C and D programmes, a country or territory covered by any geographic area under NDICI, and which receives support from the external financing instruments of the Union;
- (4) 'cross-border legal body' means a legal body established pursuant to the law of one of the participating countries in an Interreg programme provided that it is set up by territorial authorities or other bodies from at least two participating countries;

- (5) 'regional integration and cooperation organisation' means, in the context of outermost regions cooperation, a group of third countries or regions in the same geographic area that aim to cooperate closely on issues of common interest, of which Member States may also be part.

For the purpose of this Regulation, where Regulation (EU) 2021/1060 refers to a 'Member State', this shall be construed as meaning 'the Member State hosting the managing authority' and where that Regulation refers to 'Each Member State' or 'Member States', this shall be construed as meaning 'the Member States and, where applicable, third countries, partner countries and OCTs participating in a given Interreg programme'.

For the purpose of this Regulation, where Regulation (EU) 2021/1060 refers to 'the Funds' as listed in point (a) of Article 1(1) of that Regulation or to Regulation (EU) 2021/1058, this shall be construed as also covering the respective external financing instrument of the Union.

Article 3

Interreg strands

Under Interreg, the ERDF and, where applicable, external financing instruments of the Union, shall support the following strands:

- (1) cross-border cooperation between adjacent regions to promote integrated and harmonious regional development between neighbouring land and maritime border regions ('Interreg A'):
 - (a) internal cross-border cooperation between adjacent border regions of two or more Member States or between adjacent border regions of at least one Member State and one or more third countries referred to in Article 4(2); or
 - (b) external cross-border cooperation, between adjacent border regions of at least one Member State and of one or more of the following:
 - (i) IPA III beneficiaries;
 - (ii) partner countries supported by NDICI; or
 - (iii) the Russian Federation, for the purpose of enabling its participation in cross-border cooperation also supported by NDICI;
- (2) transnational cooperation over larger transnational territories or around sea basins, involving national, regional and local programme partners in Member States, third countries and partner countries and OCTs, with a view to achieving a higher degree of territorial integration ('Interreg B');
- (3) interregional cooperation to reinforce the effectiveness of cohesion policy ('Interreg C') by promoting:
 - (a) exchange of experiences, innovative approaches and capacity building focusing on policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060 and the Interreg-specific objective 'a better cooperation governance', in relation to the identification, dissemination and transfer of good practices into regional development policies including Investment for jobs and growth goal programmes (the 'Interreg Europe programme');
 - (b) exchange of experiences, innovative approaches and capacity building in relation to the identification, transfer and capitalisation of good practices on integrated and sustainable urban development, taking into account the linkages between urban and rural areas, supporting actions developed in the framework of Article 11 of Regulation (EU) 2021/1058 and while also complementing in a coordinated way with the initiative outlined in Article 12 of that Regulation (the 'URBACT programme');
 - (c) exchange of experiences, innovative approaches and capacity building with a view to (the 'INTERACT programme'):
 - (i) harmonising and simplifying the implementation of Interreg programmes as well as contributing to the capitalisation of their results;
 - (ii) harmonising and simplifying the possible cooperation actions referred to in point (d) (vi) of Article 22(3) of Regulation (EU) 2021/1060;

- (iii) supporting the setting-up, functioning and use of European groupings of territorial cooperation (EGTCs);
- (d) analysis of development trends in relation to the aims of territorial cohesion (the 'ESPON programme');
- (4) outermost regions' cooperation among themselves and with their neighbouring third or partner countries or OCTs, or regional integration and cooperation organisations, or several thereof, to facilitate their regional integration and harmonious development in their neighbourhood ('Interreg D').

SECTION II

Geographical coverage

Article 4

Geographical coverage for cross-border cooperation

1. For cross-border cooperation, the regions to be supported by the ERDF shall be the NUTS level 3 regions of the Union along all internal and external land borders with third countries or partner countries and all NUTS level 3 regions of the Union along maritime borders separated by a maximum of 150 km of sea, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas and where cross-border interaction may effectively take place.
2. Internal cross-border cooperation Interreg programmes may cover regions in Norway, Switzerland and the United Kingdom which are equivalent to NUTS level 3 regions as well as Andorra, Liechtenstein, Monaco and San Marino.
3. For external cross-border cooperation, the regions to be supported by IPA III or NDICI shall be NUTS level 3 regions of the respective partner country or, in the absence of a NUTS classification, equivalent areas along all land and maritime borders between Member States and partner countries eligible under IPA III or NDICI, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas.

Article 5

Geographical coverage for transnational cooperation

1. For transnational cooperation, the regions to be supported by the ERDF shall be the NUTS level 2 regions of the Union, including outermost regions, covering larger transnational territories and taking into account, where applicable, macro-regional strategies or sea-basin strategies.
2. At the request of the Member State or Member States concerned when submitting a transnational cooperation programme, that programme may also include one or more outermost regions from the Member State or Member States concerned.
3. Transnational cooperation programmes may cover the following territories, whether or not they are supported from the Union budget:
 - (a) regions in Iceland, Norway, Switzerland and the United Kingdom as well as Andorra, Liechtenstein, Monaco and San Marino;
 - (b) OCTs;
 - (c) the Faroe Islands;
 - (d) regions of partner countries under IPA III or NDICI.
4. The regions, third countries, partner countries or OCTs referred to in paragraph 3 shall be NUTS level 2 regions or, in the absence of a NUTS classification, equivalent areas.

*Article 6***Geographical coverage for interregional cooperation**

1. For interregional cooperation, the entire territory of the Union, including the outermost regions, shall be supported by the ERDF.
2. Interregional cooperation programmes may cover the whole territory of third countries, partner countries and other territories, or a part thereof, or OCTs referred to in Articles 4, 5 and 7, whether or not they are supported by the external financing instruments of the Union.

*Article 7***Geographical coverage for outermost regions' cooperation**

1. For the outermost regions' cooperation, all regions listed in the first paragraph of Article 349 TFEU shall be supported by the ERDF.
2. Interreg programmes involving the outermost regions may cover partner countries or parts thereof supported by the NDICI or OCTs supported by the Overseas Countries and Territories Programme (OCTP), or both.

*Article 8***List of Interreg programme areas to receive support**

1. For the purposes of Articles 4 to 7, the Commission shall adopt implementing acts setting out the list of Interreg programme areas to receive support, broken down for each strand and each Interreg programme. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 63(2).

External cross-border programmes shall be listed as 'Interreg A IPA III CBC programmes' (IPA III-CBC) or 'Interreg A NEXT programmes' (NDICI-CBC).

2. The implementing acts referred to in the first subparagraph of paragraph 1 shall also contain a list specifying those NUTS level 3 regions of the Union taken into account for the ERDF allocation for cross-border cooperation at all internal borders and those external borders covered by the external financing instruments of the Union.

3. Regions of third or partner countries or territories outside the Union which do not receive support from the ERDF or from an external financing instrument of the Union, or which contribute to the Union budget by external assigned revenue, shall also be mentioned in the list referred to in the second subparagraph of paragraph 1.

*SECTION III***Resources and co-financing rates***Article 9***ERDF resources for Interreg programmes**

1. The ERDF resources for Interreg programmes shall amount to EUR 8 050 000 000 in 2018 prices of the global resources available for budgetary commitment from the ERDF, ESF+ and the Cohesion Fund for the 2021-2027 programming period and set out in Article 109(1) of Regulation (EU) 2021/1060.

2. The resources referred to in paragraph 1 shall be allocated as follows:

- (a) 72,2 % (i.e., a total of EUR 5 812 790 000 for land and maritime cross-border cooperation ('strand A'));
- (b) 18,2 % (i.e., a total of EUR 1 466 000 000 for transnational cooperation ('strand B'));

(c) 6,1 % (i.e., a total of EUR 490 000 000 for interregional cooperation ('strand C'));

(d) 3,5 % (i.e., a total of EUR 281 210 000 for outermost regions' cooperation ('strand D')).

3. The Commission shall communicate to each Member State its share of the global amounts for strands A, B and D, pursuant to the methodology provided for in point 8 of Annex XXVI of Regulation (EU) 2021/1060, broken down by year.

4. Each Member State may transfer up to 15% of its financial allocation for each of the strands A, B and D from one of those strands to one or more of the others.

5. Based on the amounts communicated pursuant to paragraph 3, each Member State shall inform the Commission whether and how it has used the transfer option provided for in paragraph 4 and the resulting distribution of its share among the Interreg programmes in which the Member State participates.

Article 10

Cross-fund provisions

1. The Commission shall adopt implementing acts setting out the multi-annual strategy documents with regard to external cross-border and transnational cooperation programmes supported by the ERDF and NDICI, by the ERDF and IPA III, or by the ERDF, NDICI and IPA III. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 63(2) of this Regulation and, where appropriate, with due respect for the procedure set out in the IPA III Regulation.

With regard to Interreg programmes supported by the ERDF and the NDICI, the implementing act shall set out the elements referred to in Article 14(2) of Regulation (EU) 2021/947.

With regard to Interreg programmes supported by the ERDF and IPA III, the implementing act shall also cover, where relevant, the participation of IPA III beneficiaries or partner countries in Interreg C and D programmes.

2. The contribution from the ERDF to external cross-border Interreg programmes to be also supported from the financial envelope under IPA III-CBC or from the financial envelope under NDICI-CBC shall be established by the Commission and the Member States concerned. The ERDF contribution established for each Member State shall not subsequently be reallocated between the Member States concerned.

The respective contributions from IPA III and NDICI to Interreg B, C and D programmes shall take account of the composition of the programme partnership by Member States, IPA III beneficiaries and partner countries. Those contributions may be set out in the multi-annual strategy documents covered by the first subparagraph of paragraph 1.

3. Support from the ERDF shall be granted to individual external cross-border programmes provided that at least equivalent amounts are provided by IPA III CBC and NDICI-CBC under the relevant multi-annual strategy document. That contribution shall be subject to a maximum amount set out in the IPA III Regulation or Regulation (EU) 2021/947.

However, where the review of the relevant strategic programming documents under IPA III or NDICI results in the reduction of the matching amount for the remaining years, each Member State concerned shall choose from the following options:

(a) to request the mechanism referred to in Article 12(3);

(b) to continue the Interreg programme with the remaining support from the ERDF and IPA III CBC or NDICI-CBC; or

(c) to combine the options referred to in points (a) and (b) of this subparagraph.

4. The annual appropriations corresponding to the support from the ERDF, IPA III CBC or NDICI-CBC to external cross-border Interreg programmes shall be entered in the relevant budget lines for the 2021 budgetary exercise.

5. Where the Commission has included a specific financial allocation to assist partner countries or regions under Regulation (EU) 2021/947 and OCTs under Decision 2013/755/EU, or both, in strengthening their cooperation with neighbouring outermost regions of the Union in accordance with Article 33(2) of Regulation (EU) 2021/947 or Article 87 of Decision 2013/755/EU, or both, the ERDF may also contribute in accordance with this Regulation, where appropriate and on the basis of reciprocity and proportionality as regards the level of funding from the NDICI or the OCTP, or both, to actions implemented by a partner country or region or any other entity under Regulation (EU) 2021/947, by a country, territory or any other entity under Decision 2013/755/EU or by a Union outermost region under, in particular, one or more joint Interreg B, C or D programmes or under cooperation measures referred to in Article 59 of this Regulation that are established and implemented pursuant to this Regulation.

Article 11

List of Interreg programme resources

1. On the basis of the information provided by Member States pursuant to Article 9(5), the Commission shall adopt implementing acts setting out a list of all Interreg programmes and indicating for each programme the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 63(2).
2. Those implementing acts shall also contain a list of the amounts transferred pursuant to Article 9(4) broken down by Member State.

Article 12

Return of resources and discontinuation

1. If for 2022 or 2023 an external cross-border programme has not been submitted to the Commission by 31 March of the year concerned, the annual contribution from the ERDF to that programme that has not been re-allocated to another programme submitted under the same category of external cross-border Interreg programmes shall be allocated to the internal cross-border Interreg programmes in which the Member State concerned participates.
2. If, by 31 March 2024, there are still external cross-border Interreg programmes which have not been submitted to the Commission, the contribution from the ERDF referred to in Article 9(5) to those programmes for the remaining years up to 2027, which has not been re-allocated to another Interreg programme also supported by IPA III CBC or NDICI-CBC, respectively, shall be allocated to the internal cross-border Interreg programmes in which the Member State concerned participates.
3. Any external cross-border Interreg programme already approved by the Commission shall be discontinued or the allocation to that programme shall be reduced, in accordance with the applicable rules and procedures, in particular if:
 - (a) none of the partner countries covered by the Interreg programme concerned has signed the relevant financing agreement by the deadlines set out in accordance with Article 59; or
 - (b) the Interreg programme cannot be implemented as planned due to problems in relations between the participating countries.

In such cases, the contribution from the ERDF referred to in paragraph 1 corresponding to annual instalments not yet committed, or annual instalments committed and decommitted totally or partially during the same budgetary year, which have not been re-allocated to another Interreg programme also supported by IPA III CBC or NDICI-CBC, respectively, shall be allocated to the internal cross-border Interreg programmes in which the Member State concerned participates.

4. With regard to an Interreg B programme already approved by the Commission, the participation of a partner country or of an OCT shall be discontinued if one of the situations set out in points (a) or (b) of the first subparagraph of paragraph 3 is fulfilled.

The participating Member States and, where applicable, the remaining participating partner countries, shall request that:

- (a) the Interreg programme be discontinued, in particular where the main joint development challenges thereof cannot be achieved without the participation of that partner country or OCT;
- (b) the allocation to that Interreg programme be reduced, in accordance with the applicable rules and procedures; or
- (c) the Interreg programme be continued without the participation of that partner country or OCT.

Where the allocation to the Interreg programme is reduced pursuant to point (b), the contribution from the ERDF corresponding to annual instalments not yet committed, shall be allocated to another Interreg B programme in which one or more of the Member States concerned participate or, where a Member State only participates in one Interreg B programme, to one or more internal cross-border Interreg programmes in which that Member State participates.

5. The contribution from IPA III, NDICI or OCTP reduced pursuant to this Article shall be used in accordance with the IPA III Regulation, Regulation (EU) 2021/947 or Decision 2013/755/EU, respectively.

6. Where a third country, partner country or OCT which contributes to an Interreg programme with national resources which do not constitute the national co-financing of support from the ERDF or from an external financing instrument of the Union, reduces that contribution during the implementation of the Interreg programme, either globally or with regard to joint operations already selected and having received the document provided for in Article 22(6), the participating Member State or Member States shall request one of the options set out in the second subparagraph of paragraph 4 of this Article.

Article 13

Co-financing rates

1. The co-financing rate at the level of each Interreg programme shall be not higher than 80 %.
2. Notwithstanding paragraph 1 of this Article, the co-financing rate for Interreg D programmes shall be not higher than 85 % unless a higher percentage is fixed in Decision 2013/755/EU or any act adopted pursuant to that Decision or, where applicable, adopted pursuant to Regulation (EU) 2021/947, or any act adopted pursuant to that Regulation.
3. Where Interreg programmes are supported by the ERDF and IPA III CBC and where the allocation from the ERDF is 50 % or less of the total Union allocation, a higher percentage may be fixed in the IPA III Regulation or any act adopted pursuant to that Regulation.
4. Where Interreg programmes are supported by the ERDF, and either NDICI alone or both NDICI and IPA III, and where the allocation from the ERDF is 50 % or less of the total Union allocation, a higher percentage may be fixed in Regulation (EU) 2021/947 or any act adopted pursuant to that Regulation.

CHAPTER II

INTERREG-SPECIFIC OBJECTIVES AND THEMATIC CONCENTRATION

Article 14

Interreg-specific objectives

1. The ERDF, within its scope as set out in Article 5 of Regulation (EU) 2021/1058, and, where applicable, the external financing instruments of the Union shall contribute to the policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060 through joint actions under Interreg programmes.

2. In the case of the PEACE PLUS cross-border programme, where it is acting in support of peace and reconciliation, the ERDF, as a specific objective under policy objective 4, shall also contribute to promoting social, economic and regional stability in the regions concerned, in particular through actions to promote cohesion between communities. A separate priority shall support that specific objective.

3. In addition to the specific objectives for the ERDF as set out in Article 3 of Regulation (EU) 2021/1058, the ERDF and, where applicable, the external financing instruments of the Union shall also contribute to the specific objectives (a) to (l) of Article 4(1) of Regulation (EU) 2021/1057 through joint actions under Interreg programmes.

4. Under Interreg programmes, the ERDF and, where applicable, the external financing instruments of the Union, may also support the Interreg-specific objective of 'a better cooperation governance', by one or more of the following actions:

- (a) enhance the institutional capacity of public authorities, in particular those mandated to manage a specific territory, and of stakeholders (all strands);
- (b) enhance efficient public administration by promoting legal and administrative cooperation and cooperation between citizens, civil society actors and institutions, in particular with a view to resolving legal and other obstacles in border regions (strands A, C, D and, where appropriate, strand B);
- (c) build up mutual trust, in particular by encouraging people-to-people actions (strands A, D and, where appropriate, strand B);
- (d) enhance institutional capacity of public authorities and stakeholders to implement macro-regional strategies and sea-basin strategies, as well as other territorial strategies (all strands);
- (e) enhance sustainable democracy and support civil society actors and their role in reforming processes and democratic transitions (all strands with involvement of third countries, partner countries or OCTs); and
- (f) other actions to support better cooperation governance (all strands).

5. Under Interreg programmes, the ERDF and, where applicable, the external financing instruments of the Union, may also contribute to the Interreg-specific objective of 'a safer and more secure Europe', in particular by actions in the fields of border crossing management and mobility and migration management, including the protection and economic and social integration of third-country nationals, for example migrants and beneficiaries of international protection.

Article 15

Thematic concentration

1. At least 60 % of the ERDF contribution and, where applicable, of the external financing instruments of the Union allocations to each Interreg A, B and D programme shall be allocated to policy objective 2 and a maximum of two other policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060.

Interreg A programmes along internal land borders shall allocate at least 60 % of the allocated ERDF contribution to policy objectives 2 and 4 and a maximum of two other policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060.

2. Up to 20 % of the ERDF contribution and, where applicable, of the external financing instruments of the Union allocations to each Interreg A, B and D programme may be allocated to the Interreg-specific objective of 'a better cooperation governance' and up to 5 % may be allocated to the Interreg-specific objective of 'a safer and more secure Europe'.

3. Where an Interreg B programme supports a macro-regional strategy or a sea-basin strategy, at least 80 % of the ERDF contribution and, where applicable, part of the external financing instruments of the Union allocations under priorities other than for technical assistance shall contribute to the objectives of that strategy.

4. All of the policy objectives set out in the Article 5(1) of Regulation (EU) 2021/1060 and the Interreg-specific objective of 'a better cooperation governance' may be selected for Interreg Europe and URBACT programmes. For the INTERACT and ESPON programme, the total ERDF contribution and, where applicable, the external financing instruments of the Union allocations shall be allocated to the Interreg-specific objective of 'a better cooperation governance'.

CHAPTER III

PROGRAMMING

SECTION I

Preparation, approval and amendment of Interreg programmes

Article 16

Preparation and submission of Interreg programmes

1. The European territorial cooperation goal (Interreg) shall be implemented through Interreg programmes under shared management with the exception of Interreg D programmes, which may be implemented as a whole or partially under indirect management in agreement with the Member State or Member States concerned after consulting stakeholders.

2. The participating Member States and, where applicable, third countries, partner countries, OCTs, or regional integration and cooperation organisations shall prepare an Interreg programme in accordance with the template set out in the Annex for the period from 1 January 2021 to 31 December 2027.

3. The participating Member States shall prepare an Interreg programme in cooperation with the programme partners referred to in Article 8 of Regulation (EU) 2021/1060. In the preparation of Interreg B programmes, covering macro-regional or sea-basin strategies, the Member States and the programme partners shall take into account the thematic priorities of the relevant macro-regional and sea-basin strategies and consult the relevant actors, as well as ensure that these actors at macro-regional and sea-basin level are brought together at the start of the programming period in line with that Article.

The participating third countries or partner countries or, where applicable, OCTs shall also involve the programme partners, including regional integration and cooperation organisations, equivalent to those referred to in that Article.

4. The Member State hosting the prospective managing authority shall submit an Interreg programme to the Commission by 2 April 2022 on behalf of all participating Member States and, where applicable, third countries, partner countries or OCTs, or regional integration and cooperation organisations.

However, where an Interreg programme covers support from an external financing instrument of the Union, the Member State hosting the prospective managing authority shall submit the Interreg programme to the Commission not later than nine months after the adoption by the Commission of the relevant multi-annual strategy documents provided for in Article 10(1) or in accordance with the respective basic legislative act of that external financing instrument of the Union.

5. The participating Member States and, where applicable, third countries, partner countries or OCTs shall confirm in writing their agreement to the contents of an Interreg programme prior to its submission to the Commission. That agreement shall also include a commitment by all participating Member States and, where applicable, third countries, partner countries or OCTs to provide the co-financing necessary to implement the Interreg programme and, where applicable, the commitment for the financial contribution of the third countries, partner countries or OCTs.

By way of derogation from the first subparagraph, in the case of Interreg programmes involving outermost regions and third countries, partner countries or OCTs, the Member States concerned shall consult the respective third countries, partner countries or OCTs before submitting the Interreg programmes to the Commission. In that case, the agreements to the contents of the Interreg programmes and the possible financial contribution by the third countries, partner countries or OCTs may be expressed instead in the formally approved minutes of the consultation meetings with the third countries, partner countries or OCTs concerned or of the deliberations of regional integration and cooperation organisations.

6. The Commission is empowered to adopt delegated acts in accordance with Article 62 to amend the Annex in order to adapt to changes occurring during the programming period for non-essential elements thereof.

Article 17

Content of Interreg programmes

1. Each Interreg programme shall set out a joint strategy for the programme's contribution to the policy objectives set out in Article 5(1) of Regulation (EU) 2021/1060 and, where relevant, to the Interreg-specific objectives set out in Article 14(4) and (5) of this Regulation and the communication of its results.

2. Each Interreg programme shall consist of priorities.

Each priority shall correspond to a single policy objective or, where applicable, to one or both Interreg-specific objectives, respectively, and shall consist of one or more specific objectives. More than one priority may correspond to the same policy or Interreg-specific objective.

3. Each Interreg programme shall set out:

- (a) the programme area, including, whenever possible, a map thereof as a separate document;
- (b) a summary of the main joint challenges, taking into account:
 - (i) economic, social and territorial disparities as well as inequalities;
 - (ii) joint investment needs and complementarity and synergies with other funding programmes and instruments;
 - (iii) lessons learnt from past experience;
 - (iv) macro-regional strategies and sea-basin strategies where the programme area as a whole or partially is covered by one or more strategies;
- (c) a justification for the selected policy objectives and Interreg-specific objectives, corresponding priorities, specific objectives or actions under the Interreg-specific objectives and the forms of support, addressing, where appropriate, missing links in cross-border infrastructure;
- (d) the specific objectives or actions under the Interreg-specific objectives for each priority;
- (e) for each specific objective or for each action under the Interreg-specific objectives:
 - (i) the related types of actions and their expected contribution to those specific objectives or actions under the Interreg-specific objectives and, where appropriate, to macro-regional strategies and sea-basin strategies;
 - (ii) output indicators and result indicators with the corresponding milestones and targets;
 - (iii) the main target groups;
 - (iv) an indication of the specific territories targeted, including the planned use of integrated territorial investments (ITI), community-led local development or other territorial tools;
 - (v) the planned use of financial instruments; and
 - (vi) an indicative breakdown of the programmed resources by type of intervention;

- (f) a financing plan containing the following tables without any division per participating Member State, third country, partner country or OCT, unless specified otherwise therein:
 - (i) a table specifying, by year, the total financial allocation for the ERDF and, where relevant, for each external financing instrument of the Union for the whole programming period;
 - (ii) a table specifying, for each priority, the total financial allocation by the ERDF and, where relevant, by each external financing instrument of the Union by priority and the national co-financing and whether the national co-financing is made up of public and private co-financing;
- (g) the actions taken to involve the relevant programme partners referred to in Article 8 of Regulation (EU) 2021/1060 in the preparation of the Interreg programme, and the role of those programme partners in the implementation, monitoring and evaluation of that programme;
- (h) the envisaged approach to communication and visibility for the Interreg programme through defining its objectives, target audiences, communication channels, including social media outreach, where appropriate, planned budget and relevant indicators for monitoring and evaluation; and
- (i) an indication of support to small-scale projects, including small projects within small project funds.

When a Member State submits the programme, it shall ensure that the programme is accompanied for information purposes by a list of planned operations of strategic importance and a timetable.

4. As regards the information referred to in paragraph 3 for the tables referred to in point (f) of that paragraph and as concerns the support from external financing instruments of the Union, those financial allocations shall be set out as follows:

- (a) for Interreg A programmes supported by IPA III and NDICI as a single amount (IPA III CBC or NEXT CBC) combining the contribution from Heading 2 'Cohesion and Values', sub-ceiling Economic, social and territorial cohesion and Heading 6 'Neighbourhood and the World';
- (b) for Interreg B and C programmes supported by IPA III, NDICI or the OCTP as a single amount ('Interreg funds') combining the contribution from Heading 2 and Heading 6 or split per financing instrument ERDF, IPA III, NDICI and OCTP, pursuant to the choice of the programme partners;
- (c) for Interreg B programmes supported by OCTP split per financing instrument (ERDF and OCTP);
- (d) for Interreg D programmes supported by the NDICI and by the OCTP split per financing instrument (ERDF, NDICI and OCTP, as appropriate).

5. With regard to point (e)(vi) of the first subparagraph of paragraph 3 of this Article, the types of intervention shall be based on a nomenclature set out in Annex I to Regulation (EU) 2021/1060.

6. The Interreg programme shall:

- (a) identify the programme authorities and the body to which payments are to be made by the Commission;
- (b) lay down the procedure for setting up the joint secretariat;
- (c) set out the apportionment of liabilities among the participating Member States and, where applicable, third or partner countries or OCTs, in the event of financial corrections imposed by the managing authority or the Commission.

7. The managing authority shall communicate to the Commission any changes in the information referred to in point (a) or (b) of paragraph 6 without requiring a programme amendment.

8. With regard to an Interreg A, B or D programme, where an A programme covers long borders with heterogeneous development challenges and needs, Member States and, where applicable, third countries, partner countries and OCTs participating in an Interreg programme may define sub-programme areas.

9. By way of derogation from paragraph 3, the content of Interreg C programmes shall be adapted to the specific character of those Interreg programmes, in particular as follows:

- (a) the information referred to in point (a) of paragraph 3 is not required;
- (b) the information required pursuant to points (b) and (g) of paragraph 3 shall be given as a short outline;
- (c) for each specific objective, the following information shall be given:
 - (i) with regard to INTERACT and ESPON, the definition of a single beneficiary or a limited list of beneficiaries and the granting procedure;
 - (ii) the related types of actions and their expected contribution to the specific objectives;
 - (iii) output indicators and result indicators with the corresponding milestones and targets;
 - (iv) the main target groups; and
 - (v) an indicative breakdown of the programmed resources by type of intervention.

Article 18

Approval of Interreg programmes

1. The Commission shall assess each Interreg programme and its compliance with Regulations (EU) 2021/1060 and (EU) 2021/1058 and this Regulation and, in the case of support from an external financing instrument of the Union and, where relevant, its consistency with the multi-annual strategy documents pursuant to Article 10(1) of this Regulation or the relevant strategic programming framework pursuant to the respective basic legislative act of one or more of those instruments.

2. The Commission may make observations within three months of the date of submission of the Interreg programme by the Member State hosting the prospective managing authority.

3. The participating Member States and, where applicable, third or partner countries or OCTs shall review the Interreg programme taking into account the observations made by the Commission.

4. The Commission shall adopt a decision by means of an implementing act approving each Interreg programme not later than five months after the date of the first submission of that programme by the Member State hosting the prospective managing authority.

5. With regard to external cross-border Interreg programmes, the Commission shall adopt its decisions in accordance with paragraph 4 of this Article after consultation of the 'IPA III Committee' in accordance with the relevant provision of the IPA III Regulation and of the 'Neighbourhood, Development and International Cooperation instrument committee' in accordance with Article 45 of Regulation (EU) 2021/947.

Article 19

Amendment of Interreg programmes

1. Following the consultation of and the approval by the monitoring committee and in compliance with Article 8 of Regulation (EU) 2021/1060, the managing authority may submit a reasoned request for an amendment of an Interreg programme together with the amended programme, setting out the expected impact of that amendment on the achievement of the objectives.

2. The Commission shall assess the compliance of the requested amendment with Regulations (EU) 2021/1060 and (EU) 2021/1058 and this Regulation and may make observations within two months of the submission of the amended programme.

3. The participating Member States and, where applicable, third countries, partner countries or OCTs shall review the amended programme and take into account the observations made by the Commission.

4. The Commission shall adopt a decision by means of an implementing act approving the amendment of an Interreg programme not later than four months after its submission by the managing authority.

5. Following the consultation of and the approval by the monitoring committee and in compliance with Article 8 of Regulation (EU) 2021/1060, the managing authority may transfer during the programming period an amount of up to 10 % of the initial allocation of a priority and no more than 5 % of the programme budget to another priority of the same Interreg programme.

Such transfers shall not affect previous years.

The transfer and related changes shall not be considered substantial and shall not require a decision of the Commission amending the Interreg programme. They shall, however, comply with all regulatory requirements. The managing authority shall submit to the Commission the revised table referred to in point (f)(ii) of Article 17(3) together with any related changes in the programme.

6. The approval of the Commission shall not be required for corrections of a purely clerical or editorial nature that do not affect the implementation of the Interreg programme. The managing authority shall inform the Commission of such corrections.

SECTION II

Territorial Development

Article 20

Integrated territorial development

For Interreg programmes, the relevant territorial authorities or bodies responsible for drawing up territorial or local development strategies as listed in Article 28 of Regulation (EU) 2021/1060 or involved in the selection of operations to be supported under those strategies as referred to in Article 29(5) of that Regulation, or for both, shall represent at least two participating countries, of which at least one is a Member State.

Where a cross-border legal body or an EGTC implements an integrated territorial investment pursuant to Article 30 of Regulation (EU) 2021/1060 or another territorial tool pursuant to point (c) of the first subparagraph of Article 28 of that Regulation, it may also be the sole beneficiary pursuant to Article 23(6) of this Regulation, provided that there is a separation of functions inside the cross-border legal body or the EGTC.

Article 21

Community-led local development

Community-led local development (CLLD) provided for in point (b) of the first subparagraph of Article 28 of Regulation (EU) 2021/1060 may be implemented in Interreg programmes, provided that the relevant local action groups are composed of representatives of public and private local socio-economic interests, in which no single interest group controls the decision-making, and of at least two participating countries, of which at least one is a Member State.

SECTION III

Operations and small project funds

Article 22

Selection of Interreg operations

1. Interreg operations shall be selected in accordance with the programme's strategy and objectives by a monitoring committee set up in accordance with Article 28.

That monitoring committee may set up one or, in particular in the case of sub-programmes, more steering committees which act under its responsibility for the selection of operations. Steering committees shall apply the partnership principle as set out in Article 8 of Regulation (EU) 2021/1060.

When all or part of an operation is implemented outside the programme area inside or outside the Union, the selection of that operation shall require the explicit approval by the managing authority in the monitoring committee or, where applicable, the steering committee.

When the operation involves one or several partners located in the territory of a Member State, third country, partner country or OCT which is not represented in the monitoring committee, the managing authority shall condition its explicit approval to the submission of a written acceptance by the concerned Member State, third country, partner country or OCT to reimburse any amounts unduly paid to these partners, in accordance with Article 52(2).

When the written acceptance referred to in the fourth subparagraph of this paragraph cannot be obtained, the body implementing all or part of an operation outside the programme area shall obtain a guarantee from a bank or another financial institution for the corresponding amount of the Interreg funds granted. Such a guarantee shall be included in the document provided for in paragraph 6.

2. For the selection of operations, the monitoring committee or, where applicable, the steering committee shall establish and apply criteria and procedures which are non-discriminatory and transparent, ensure accessibility to persons with disabilities, gender equality and take account of the Charter of Fundamental Rights of the European Union and the principle of sustainable development and of the Union policy on the environment in accordance with Article 11 and Article 191(1) TFEU.

The criteria and procedures shall ensure the prioritisation of operations to be selected with a view to maximising the contribution of Union funding to the achievement of the objectives of the Interreg programme and to implementing the cooperation dimension of operations under Interreg programmes, as set out in Article 23(1) and (4) of this Regulation.

3. At the request of the Commission the managing authority shall notify the selection criteria to the Commission prior to their initial submission to the monitoring committee or, where applicable, the steering committee. The same shall apply for any subsequent changes to those criteria.

4. In selecting operations, the monitoring committee or, where applicable, the steering committee shall:

- (a) ensure that selected operations comply with the Interreg programme and provide an effective contribution to the achievement of its specific objectives;
- (b) ensure that selected operations do not conflict with the corresponding strategies established pursuant to Article 10(1) or established for one or more of the external financing instruments of the Union;
- (c) ensure that selected operations present the best relationship between the amount of support, the activities undertaken and the achievement of objectives;
- (d) verify that the beneficiary has the necessary financial resources and mechanisms to cover operation and maintenance costs for operations comprising investment in infrastructure or productive investment, so as to ensure their financial sustainability;
- (e) ensure that selected operations which fall under the scope of Directive 2011/92/EU of the European Parliament and of the Council ⁽¹⁹⁾ are subject to an environmental impact assessment or a screening procedure and that the assessment of alternative solutions has been taken in due account, on the basis of the requirements of that Directive;
- (f) verify that where the operations have started before the submission of an application for funding to the managing authority, the applicable law has been complied with;
- (g) ensure that selected operations fall within the scope of the Interreg fund concerned and are attributed to a type of intervention;

⁽¹⁹⁾ Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1).

- (h) ensure that operations do not include activities which were part of an operation subject to relocation within the meaning of point (27) of Article 2 of Regulation (EU) 2021/1060 or which would constitute a transfer of a productive activity within the meaning of point (a) of Article 65(1) of that Regulation;
- (i) ensure that selected operations are not directly affected by a reasoned opinion by the Commission in respect of an infringement within the scope of Article 258 TFEU that puts at risk the legality and regularity of expenditure or the performance of operations; and
- (j) ensure that, for investments in infrastructure with an expected lifespan of at least five years, an assessment of expected impacts of climate change is carried out.

5. The monitoring committee or, where applicable, the steering committee shall approve the methodology and criteria used for the selection of Interreg operations, including any changes thereto, without prejudice to point (b) of Article 33(3) of Regulation (EU) 2021/1060 with regard to CLLD and to Article 24 of this Regulation.

6. For each Interreg operation, the managing authority shall provide a document to the lead or sole partner setting out the conditions for support of that Interreg operation, including the specific requirements concerning the products or services to be delivered, its financing plan, the time-limit for its execution and, where applicable, the method to be applied for determining the costs of the operation and the conditions for payment of the support.

That document shall also set out the lead partner's obligations with regard to recoveries pursuant to Article 52. Those obligations shall be defined by the monitoring committee.

Article 23

Partnership within Interreg operations

1. Operations selected under Interreg A, B and D programmes shall involve partners from at least two participating countries or OCTs, at least one of which shall be a beneficiary from a Member State.

Operations selected under the Interreg Europe and URBACT programmes shall involve partners from at least three participating countries, at least two of which shall be beneficiaries from Member States.

Beneficiaries receiving support from Interreg funds and partners participating in the operation but not receiving any financial support under those funds (jointly referred to as 'partners') constitute an Interreg operation partnership.

2. An Interreg operation may be implemented in a single country or OCT, provided that the impact on and the benefits for the programme area are identified in the operation application.

3. Paragraph 1 shall not apply to operations under the PEACE PLUS cross-border programme where the programme is acting in support of peace and reconciliation.

4. Partners shall cooperate in the development and implementation of Interreg operations, as well as in the staffing or financing, or both, thereof.

For Interreg operations under Interreg D programmes, the partners from outermost regions and third countries, partner countries or OCTs shall be required to cooperate only in two of the four dimensions listed in the first subparagraph.

5. Where there are two or more partners, one of them shall be designated by all the partners as the lead partner.

6. A cross-border legal body or an EGTC may be the sole partner of an Interreg operation under Interreg A, B and D programmes, provided that the members thereof involve partners from at least two participating countries.

The cross-border legal body or EGTC shall have members from at least three participating countries under the Interreg Europe and URBACT programmes.

A legal body that implements a financial instrument, a fund of holding funds or a small project fund, as applicable, may be the sole partner of an Interreg operation without the application of the requirements for its composition set out in the first subparagraph.

7. A sole partner shall be registered in a Member State participating in the Interreg programme.

Article 24

Support to projects of limited financial volume

1. Interreg A, B and D programmes shall support projects of limited financial volume, either:
 - (a) directly within each programme; or
 - (b) within one or more small project funds.
2. Where an Interreg B or D programme is unable to fulfil the obligation laid down in paragraph 1, the reasons why the obligation cannot be fulfilled shall be set out in the programme document in accordance with point 6 of the template set out in the Annex.

Article 25

Small project funds

1. The total contribution from the ERDF or, where applicable, an external financing instrument of the Union, to small project funds within an Interreg programme shall not exceed 20 % of the total allocation of the Interreg programme.

The final recipients within a small project fund shall receive support from the ERDF or, where applicable, the external financing instruments of the Union through the beneficiary and implement the small projects within that small project fund ('small project').

2. The small project fund constitutes an operation within the meaning of point 4 of Article 2 of Regulation (EU) 2021/1060 which shall be managed by a beneficiary, taking into account its tasks and remuneration.

The beneficiary shall be a cross-border legal body or an EGTC or a body which shall have legal personality.

The beneficiary shall select the small projects which are implemented by the final recipients within the meaning of point (18) of Article 2 of Regulation (EU) 2021/1060. Where the beneficiary is not a cross-border legal body or an EGTC, a body involving representatives from at least two participating countries, of which at least one is a Member State, shall select the joint small projects.

3. The document setting out the conditions for support to a small project fund shall, in addition to the elements laid down in Article 22(6), set out the elements necessary to ensure that the beneficiary:
 - (a) establishes a non-discriminatory and transparent selection procedure;
 - (b) applies objective criteria for the selection of small projects, which avoid conflicts of interest;
 - (c) assesses applications for support;
 - (d) selects projects and fixes the amount of support for each small project;
 - (e) is accountable for the implementation of the operation and keeps at its level all supporting documents required for the audit trail in accordance with Annex XIII to Regulation (EU) 2021/1060; and
 - (f) makes available to the public the list of the final recipients which benefit from the operation.

The beneficiary shall ensure that the final recipients comply with the requirements set out in Article 36.

4. The selection of small projects shall not constitute a delegation of tasks from the managing authority to an intermediate body as referred to in Article 71(3) of Regulation (EU) 2021/1060.

5. Staff and other costs corresponding to the cost categories in Articles 39 to 43 generated at the level of the beneficiary for the management of the small project fund or funds shall not exceed 20 % of the total eligible cost of the small project fund or funds, respectively.

6. Where the public contribution to a small project does not exceed EUR 100 000, the contribution from the ERDF or, where applicable, an external financing instrument of the Union shall take the form of unit costs or lump sums or flat rate financing, except for projects for which the support constitutes State aid.

Where the total costs of each project do not exceed EUR 100 000, the amount of support for one or more small projects may be set out on the basis of a draft budget which is established on a case-by-case basis and agreed ex ante by the beneficiary managing the small project fund.

Where flat-rate financing is used, the categories of costs to which the flat rate is applied may be reimbursed in accordance with point (a) of Article 53(1) of Regulation (EU) 2021/1060.

Article 26

Tasks of the lead partner

1. The lead partner shall:

- (a) lay down the arrangements with the other partners in an agreement comprising provisions that, inter alia, guarantee the sound financial management of the respective Union funds allocated to the Interreg operation, including the arrangements for recovering amounts unduly paid;
- (b) assume responsibility for ensuring implementation of the entire Interreg operation; and
- (c) ensure that expenditure presented by all partners has been paid in implementing the Interreg operation and corresponds to the activities agreed between all the partners, and is in accordance with the document provided by the managing authority pursuant to Article 22(6).

2. If not otherwise specified in the arrangements laid down pursuant to point (a) of paragraph 1 the lead partner shall ensure that the other partners receive the total amount of the contribution from the respective Union fund in full and within a timeframe agreed by all partners and following the same procedure applied in respect of the lead partner. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce that amount for the other partners.

3. Any partner in a Member State, third country, partner country or OCT participating in an Interreg operation may be designated as the lead partner.

SECTION IV

Technical assistance

Article 27

Technical assistance

1. The amount of the funds allocated to technical assistance shall be identified as part of the financial allocation of each priority of the programme in accordance with point (f) of Article 17(3) and shall not take the form of a separate priority or a specific programme.

2. Technical assistance to each Interreg programme shall be reimbursed as a flat rate by applying the percentages set out in paragraph 3 of this Article to the eligible expenditure included in each payment application pursuant to point (a) or (c) of Article 91(3) of Regulation (EU) 2021/1060 as appropriate.

3. The percentage of the ERDF contribution and the external financing instruments of the Union to be reimbursed for technical assistance shall be as follows:

- (a) for internal cross-border cooperation programmes supported by the ERDF: 7 %;
- (b) for external cross-border cooperation programmes supported by IPA III CBC or NDICI-CBC, for strand B programmes where the support from the ERDF is 50 % or less and for strand D programmes, both for the ERDF contribution and for one or more of the external financing instruments of the Union: 10 %; and
- (c) for strand B programmes where the support from the ERDF is more than 50 % and for strand C programmes, both for the ERDF contribution and, where applicable, for one or more of the external financing instruments of the Union: 8 %.

4. For Interreg programmes with a total ERDF allocation between EUR 30 000 000 and EUR 50 000 000 the amount resulting from the percentage for technical assistance shall be increased by an additional amount of EUR 500 000. The Commission shall add that amount to the first interim payment.

5. For Interreg programmes with a total ERDF allocation below EUR 30 000 000, the amount needed for technical assistance expressed in EUR and the resulting percentage shall be fixed in the Commission decision approving the Interreg programme concerned pursuant to Article 18.

CHAPTER IV

MONITORING, EVALUATION AND COMMUNICATION

SECTION I

Monitoring

Article 28

Monitoring committee

1. The Member States and, where applicable, the third countries, partner countries and OCTs participating in that programme shall set up, in agreement with the managing authority, a committee to monitor implementation of the respective Interreg programme ('monitoring committee') within three months of the date of notification to the Member States of the Commission decision approving an Interreg programme pursuant to Article 18.

2. Each monitoring committee shall adopt its rules of procedure.

The rules of procedure of the monitoring committee and, where applicable, of the steering committee shall prevent any situation of conflict of interest when selecting Interreg operations and shall include provisions regarding voting rights and rules for attending the meetings.

3. The monitoring committee shall meet at least once a year and shall review all issues that affect the programme's progress towards achieving its objectives.

4. The managing authority shall publish the rules of procedures of the monitoring committee and a summary of both data and information, including decisions, approved by the monitoring committee on the website referred to in Article 36(2).

Article 29

Composition of the monitoring committee

1. The composition of the monitoring committee of each Interreg programme shall be agreed by the Member States and, where applicable, by the third countries, partner countries and OCTs participating in that programme, and shall ensure a balanced representation of:

- (a) the relevant authorities, including intermediate bodies;
- (b) bodies jointly set up in the whole programme area or covering a part thereof, including EGTCs; and

- (c) representatives of the programme partners referred to in Article 8 of Regulation (EU) 2021/1060 from Member States, third countries, partner countries and OCTs.

The composition of the monitoring committee shall take into account the number of participating Member States, third countries, partner countries and OCTs in the Interreg programme concerned.

- 2. The managing authority shall publish a list of the members of the monitoring committee on the website referred to in Article 36(2).
- 3. Representatives of the Commission shall participate in the work of the monitoring committee in an advisory capacity.

Article 30

Functions of the monitoring committee

- 1. The monitoring committee shall examine:
 - (a) the progress in programme implementation and in achieving the milestones and targets of the Interreg programme;
 - (b) any issues that affect the performance of the Interreg programme and the measures taken to address these issues;
 - (c) with regard to financial instruments, the elements of the *ex ante* assessment listed in Article 58(3) of Regulation (EU) 2021/1060 and the strategy document referred to in Article 59(1) of that Regulation;
 - (d) the progress made in carrying out evaluations, syntheses of evaluations and any follow-up given to findings;
 - (e) the implementation of communication and visibility actions;
 - (f) the progress in implementing Interreg operations of strategic importance and, where applicable, of large infrastructure projects; and
 - (g) the progress in administrative capacity building for public institutions and beneficiaries, where relevant.
- 2. In addition to its tasks concerning the selection of operations listed in Article 22, the monitoring committee shall approve:
 - (a) the methodology and criteria used for the selection of operations, including any changes thereto, after notifying the Commission, where requested, pursuant to Article 22(2) of this Regulation, without prejudice to points (b), (c) and (d) of Article 33(3) of Regulation (EU) 2021/1060;
 - (b) the evaluation plan and any amendment thereto;
 - (c) any proposal by the managing authority for the amendment of the Interreg programme including for a transfer in accordance with Article 19(5); and
 - (d) the final performance report.

Article 31

Review

- 1. A review may be organised by the Commission to examine the performance of Interreg programmes.

The review may be carried out in writing.

- 2. At the request of the Commission, the managing authority shall, within one month, provide the Commission with concise information on the elements listed in Article 30(1). That information shall be based on the most recent data available to the Member States and, where applicable, third countries, partner countries and OCTs.

3. The outcome of the review shall be recorded in agreed minutes.
4. The managing authority shall follow-up issues raised by the Commission and inform the Commission, within three months of the date of the review, of the measures taken.

Article 32

Transmission of data

1. Each managing authority shall electronically transmit to the Commission cumulative data for the respective Interreg programme by 31 January, 30 April, 31 July and 31 October of each year in accordance with the template set out in Annex VII to Regulation (EU) 2021/1060, with the exception of the information required in point (b) of paragraph 2 and in paragraph 3 of this Article that shall be transmitted by 31 January and 31 July of each year.

The first transmission shall be due by 31 January 2022 and the last one by 31 January 2030.

2. The data referred to in paragraph 1 shall be broken down for each priority by specific objective and shall refer to:
 - (a) the number of selected Interreg operations, their total eligible cost, the contribution from the respective Interreg fund and the total eligible expenditure declared by the lead partners to the managing authority, all broken down by type of intervention;
 - (b) the values of output and result indicators for selected Interreg operations and values achieved by finalised Interreg operations.
3. For financial instruments, data shall also be provided on the following:
 - (a) eligible expenditure by type of financial product;
 - (b) the amount of management costs and fees declared as eligible expenditure;
 - (c) the amount, by type of financial product, of private and public resources mobilised in addition to the funds;
 - (d) interest and other gains generated by support from the Interreg funds to financial instruments as referred to in Article 60 of Regulation (EU) 2021/1060 and resources returned attributable to support from the Interreg funds as referred to in Article 62 of that Regulation;
 - (e) the total value of loans, equity or quasi-equity investments in final recipients which were guaranteed with programme resources and which were actually disbursed to final recipients.
4. The data submitted in accordance with this Article shall be reliable and reflect the data available in the electronic system referred to in point (e) of Article 72(1) of Regulation (EU) 2021/1060 as of the end of the month preceding the month of submission.
5. The managing authority shall publish or provide a link to all the data transmitted to the Commission on the website referred to in Article 36(2).

Article 33

Final performance report

1. Each managing authority shall submit to the Commission a final performance report on the respective Interreg programme by 15 February 2031.

The final performance report shall be submitted using the template established in accordance with Article 43(5) of Regulation (EU) 2021/1060.

2. The final performance report shall assess the achievement of programme objectives based on the elements listed in Article 30 with the exception of point (c) of paragraph 1, and point (d) of paragraph 2, thereof.

3. The Commission shall examine the final performance report and inform the managing authority of any observations within five months of the date of receipt of that report. 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 receipt of the observations, of measures taken. The Commission shall inform the managing authority of the acceptance of the report within two months of receiving all necessary information from the managing authority. Where the Commission does not inform the managing authority within those deadlines, the report shall be deemed to be accepted.
4. The managing authority shall publish the final performance report on the website referred to in Article 36(2).

Article 34

Indicators for Interreg programmes

1. Common output and result indicators, as set out in Annex I to Regulation (EU) 2021/1058, and, where necessary, programme-specific output and result indicators shall be used in accordance with Article 16(1) of Regulation (EU) 2021/1060, and point (e)(ii) of Article 17(3) and point (b) of Article 32(2) of this Regulation.
2. Where relevant, programme-specific output and result indicators shall be used in addition to the indicators which were selected in accordance with paragraph 1.

All common output and result indicators listed in Table 2 of the Annex I to Regulation (EU) 2021/1058 may also be used by specific objectives under any of the policy objectives 1 to 5 or, where relevant, under the Interreg-specific objectives set out in Article 14(4) and (5) of this Regulation.

3. For output indicators, baselines shall be set at zero. The milestones set for 2024 and targets set for 2029 shall be cumulative.

SECTION II

Evaluation and communication

Article 35

Evaluation during the programming period

1. The Member State or the managing authority shall carry out evaluations of the programmes related to one or more of the following criteria: effectiveness, efficiency, relevance, coherence and Union added value, with the aim to improve the quality of the design and implementation of programmes. Evaluations may also cover other relevant criteria, such as inclusiveness, non-discrimination and visibility, and may cover more than one programme.
2. In addition to the evaluations referred to in paragraph 1, an evaluation for each programme to assess its impact shall be carried out by 30 June 2029.
3. Evaluations shall be entrusted to internal or external experts who are functionally independent.
4. The managing authority shall ensure the necessary procedures to produce and collect the data necessary for evaluations.
5. The managing authority shall draw up an evaluation plan that may cover more than one Interreg programme.
6. The managing authority shall submit the evaluation plan to the monitoring committee not later than one year after the approval of the Interreg programme.
7. The managing authority shall publish all evaluations on the website referred to in Article 36(2).

*Article 36***Responsibilities of managing authorities and partners with regard to transparency and communication**

1. Each managing authority shall identify a communication officer for each Interreg programme. A communication officer may be responsible for more than one programme.
2. The managing authority shall ensure that, within six months of the Interreg programme's approval pursuant to Article 18, there is a website where information on each Interreg programme under its responsibility is available, covering the programme's objectives, activities, available funding opportunities and achievements.
3. Article 49(2) to (6) of Regulation (EU) 2021/1060 on the responsibilities of the managing authority shall apply.
4. Each partner of an Interreg operation or each body implementing a financing instrument shall acknowledge support from an Interreg fund, including resources reused for financial instruments in accordance with Article 62 of Regulation (EU) 2021/1060, to the Interreg operation by:
 - (a) providing on the partner's official website or social media sites, where such sites exist, a short description of the Interreg operation, proportionate to the level of support provided by an Interreg fund, including its aims and results, and highlighting the financial support from the Interreg fund;
 - (b) providing a statement highlighting the support from an Interreg fund in a visible manner on documents and communication material relating to the implementation of the Interreg operation, intended for the general public or for participants;
 - (c) displaying durable plaques or billboards clearly visible to the public, presenting the emblem of the Union in accordance with the technical characteristics laid down in Annex IX of Regulation (EU) 2021/1060, as soon as the physical implementation of an Interreg operation involving physical investment or the purchase of equipment starts or purchased equipment is installed, with regard to operations supported by an Interreg fund, the total cost of which exceeds EUR 100 000;
 - (d) for Interreg operations not falling under point (c), publicly displaying at least one poster of a minimum size A3 or equivalent electronic display with information about the Interreg operation highlighting the support from an Interreg fund, except where the beneficiary is a natural person;
 - (e) for operations of strategic importance and operations whose total cost exceed EUR 5 000 000 organising a communication event and involving the Commission and the responsible managing authority in a timely manner.

The term 'Interreg' shall be used next to the emblem of the Union in accordance with Article 47 of Regulation (EU) 2021/1060.

5. For small project funds and financial instruments, the beneficiary shall ensure by means of the contractual terms that final recipients comply with the requirements to communicate publicly on the Interreg operation.

For financial instruments, the final recipient shall acknowledge the origin and ensure the visibility of the Union funding, in particular when promoting the actions and their results, by providing coherent, effective and targeted information to multiple audiences, including the media and the public.

6. Where remedial actions have not been put into place, the managing authority shall apply measures, taking into account the principle of proportionality, by cancelling up to 2 % of the support from the funds to:
 - (a) the beneficiary concerned who does not comply with its obligations falling under Article 47 of Regulation (EU) 2021/1060 or paragraphs 4 and 5 of this Article; or
 - (b) the final recipient concerned who does not comply with the requirements set out in paragraph 5.

CHAPTER V

ELIGIBILITY

*Article 37***Rules on eligibility of expenditure**

1. All or part of an Interreg operation may be implemented outside of a Member State, including outside the Union, provided that the Interreg operation contributes to the objectives of the respective Interreg programme.

2. Without prejudice to the eligibility rules laid down in Articles 63 to 68 of Regulation (EU) 2021/1060, in Articles 5 and 7 of (EU) 2021/1058 or in this Chapter, including in acts adopted thereunder, the participating Member States and, where applicable, third countries, partner countries and OCTs shall, by a joint decision in the monitoring committee, only establish additional rules on eligibility of expenditure for the Interreg programme on categories of expenditure not covered by those provisions. Those additional rules shall cover the Interreg programme as a whole.

However, where an Interreg programme selects operations based on calls for proposals, those additional rules shall be adopted before the calls for proposals are published. In all other cases, those additional rules shall be adopted before operations are selected.

3. For matters not covered by the eligibility rules laid down in Articles 63 to 68 of Regulation (EU) 2021/1060, in Articles 5 and 7 of Regulation (EU) 2021/1058 and in this Chapter, including in acts adopted thereunder or in rules established in accordance with paragraph 2 of this Article, the national rules of the Member State and, where applicable, of the third countries, partner countries and OCTs in which the expenditure is incurred shall apply.

4. In the event of a difference of opinion between the managing authority and the audit authority with regard to the eligibility as such of an Interreg operation selected under an Interreg programme, the opinion of the managing authority shall prevail, taking due account of the opinion of the monitoring committee.

5. OCTs shall not be eligible for support from the ERDF under Interreg programmes, but may participate in those programmes under the conditions set out in this Regulation.

*Article 38***General provisions on eligibility of cost categories**

1. The participating Member States and, where applicable, third countries, partner countries and OCTs, may agree in the monitoring committee of an Interreg programme that expenditure falling under one or more of the categories referred to in Articles 39 to 44 shall not be eligible under one or more priorities of an Interreg programme.

2. Any expenditure eligible in accordance with this Regulation shall relate to the costs of initiating or initiating and implementing an operation or part of an operation.

3. The following costs are not eligible:

- (a) fines, financial penalties and expenditure on legal disputes and litigation;
- (b) costs of gifts; or
- (c) costs related to fluctuation of foreign exchange rate.

4. Where the flat rate provided for in Article 56(1) of Regulation (EU) 2021/1060 is used to calculate eligible costs other than direct staff costs of an operation, it shall not be applied to direct staff costs calculated on the basis of a flat rate as referred to in point (c) of Article 39(3) of this Regulation.

5. By way of derogation from point (c) of Article 76(1) of Regulation (EU) 2021/1060, expenditure paid in another currency shall be converted into euro by each beneficiary coming from countries which have not adopted the euro as their currency using the monthly accounting exchange rate of the Commission in the month during which that expenditure was submitted for verification.

Article 39

Staff costs

1. Staff costs shall consist of gross employment costs of staff employed by the Interreg partner in one of the following ways:

- (a) full time;
- (b) part-time with a fixed percentage of time worked per month;
- (c) part-time with a flexible number of hours worked per month; or
- (d) on an hourly basis.

2. Staff costs shall be limited to the following:

- (a) salary payments related to the activities which the entity would not carry out if the operation concerned was not undertaken, provided for in an employment document, either in the form of an employment or work contract or an appointment decision, or by law, and relating to responsibilities specified in the job description of the staff member concerned;
- (b) any other costs directly linked to salary payments incurred and paid by the employer, such as employment taxes and social security including pensions as covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council ⁽²⁰⁾, on condition that they are:
 - (i) provided for in an employment document or by law;
 - (ii) in accordance with the legislation referred to in the employment document and with standard practices in the country or the organisation where the individual staff member is actually working, or both; and
 - (iii) not recoverable by the employer.

With regard to point (a) of the first subparagraph, payments to natural persons working for the Interreg partner under a contract other than an employment or work contract may be assimilated to salary payments and such a contract shall be considered to be an employment document.

3. Staff costs may be reimbursed either:

- (a) in accordance with point (a) of Article 53(1) of Regulation (EU) 2021/1060, proven by the employment document and payslips;
- (b) under simplified cost options as set out in points (b) to (f) of Article 53(1) of Regulation (EU) 2021/1060;
- (c) as a flat rate of up to 20 % of the direct costs other than the direct staff costs of that operation, without there being a requirement for the Member State to perform a calculation to determine the applicable rate; or
- (d) as an hourly rate in accordance with Article 55(2) to (4) of Regulation (EU) 2021/1060 either for direct staff costs of individuals who work on full-time assignment on the operation or for individuals who work on part-time assignment on the operation pursuant to point (b) of paragraph 4 of this Article.

4. Staff costs related to individuals who work on part-time assignment on the operation, may be calculated as either:

- (a) a fixed percentage of the gross employment cost in accordance with Article 55(5) of Regulation (EU) 2021/1060; or

⁽²⁰⁾ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p.1).

- (b) a flexible share of the gross employment cost, in line with a number of hours varying from one month to the other worked on the operation, based on a time registration system covering 100 % of the working time of the employee.
5. For staff employed pursuant to point (d) of paragraph 1, the hourly rate shall be multiplied by the number of hours actually worked on the operation based on a time registration system.

Article 40

Office and administrative costs

1. Office and administrative costs shall be limited to the following elements:
- (a) office rent;
 - (b) insurance and taxes related to the buildings where the staff is located and to the equipment of the office (such as fire or theft insurance);
 - (c) utilities (such as electricity, heating, water);
 - (d) office supplies;
 - (e) accounting;
 - (f) archives;
 - (g) maintenance, cleaning and repairs;
 - (h) security;
 - (i) IT systems;
 - (j) communication (such as telephone, fax, internet, postal services, business cards);
 - (k) bank charges for opening and administering the account or accounts where the implementation of an operation requires a separate account to be opened; and
 - (l) charges for transnational financial transactions.
2. Office and administrative costs may be calculated as a fixed percentage of the gross employment cost in accordance with point (b) of the first subparagraph of Article 54 of Regulation (EU) 2021/1060.

Article 41

Travel and accommodation costs

1. Travel and accommodation costs, regardless whether such costs are incurred and paid inside or outside the programme area, shall be limited to the following cost elements:
- (a) travel costs (such as tickets, travel and car insurance, fuel, car mileage, toll, and parking fees);
 - (b) the cost of meals;
 - (c) accommodation costs;
 - (d) visa costs; and
 - (e) daily allowances.
2. Any cost element listed in points (a) to (d) of paragraph 1 covered by a daily allowance shall not be reimbursed in addition to the daily allowance.
3. Travel and accommodation costs of external experts and service providers fall under external expertise and services costs listed in Article 42.
4. Direct payment of expenditure for cost elements listed in points (a) to (d) of paragraph 1 by an employee of the beneficiary shall be supported by a proof of reimbursement by the beneficiary to that employee.

5. Travel and accommodation costs of an operation may be calculated at a flat rate of up to 15 % of the direct staff costs of that operation, without there being a requirement for the Member State to perform a calculation to determine the applicable rate.

Article 42

External expertise and services costs

External expertise and service costs shall be limited to the following services and expertise provided by a public or private body or a natural person, other than the beneficiary, and all partners of the operation:

- (a) studies or surveys (such as evaluations, strategies, concept notes, design plans, handbooks);
- (b) training;
- (c) translations;
- (d) development, modifications and updates to IT systems and website;
- (e) promotion, communication, publicity, promotional items and activities or information linked to an operation or to a programme as such;
- (f) financial management;
- (g) services related to the organisation and implementation of events or meetings (including rent, catering or interpretation);
- (h) participation in events (such as registration fees);
- (i) legal consultancy and notarial services, technical and financial expertise, other consultancy and accountancy services;
- (j) intellectual property rights;
- (k) verifications pursuant to point (a) of Article 74(1) of Regulation (EU) 2021/1060 and Article 46(1) of this Regulation;
- (l) costs for the accounting function on programme level pursuant to Article 76 of Regulation (EU) 2021/1060 and Article 47 of this Regulation;
- (m) audit costs on programme level pursuant to Articles 78 and 81 of Regulation (EU) 2021/1060 and pursuant to Articles 48 and 49 of this Regulation;
- (n) the provision of guarantees by a bank or other financial institution where required by Union or national law or in a programming document adopted by the monitoring committee;
- (o) travel and accommodation for external experts, speakers, chairpersons of meetings and service providers; and
- (p) other specific expertise and services needed for operations.

Article 43

Equipment costs

1. Costs for equipment purchased, rented or leased by the beneficiary of the operation other than those covered by Article 40 shall be limited to the following:

- (a) office equipment;
- (b) IT hardware and software;
- (c) furniture and fittings;
- (d) laboratory equipment;
- (e) machines and instruments,
- (f) tools or devices;
- (g) vehicles; and
- (h) other specific equipment needed for operations.

2. Costs for the purchase of second-hand equipment may be eligible subject to the following conditions:
 - (a) no other assistance has been received for it from the Interreg funds or from the funds listed in point (a) of Article 1(1) of Regulation (EU) 2021/1060;
 - (b) its price does not exceed the generally accepted price on the market in question; and
 - (c) it has the technical characteristics necessary for the operation and complies with applicable norms and standards.

Article 44

Costs for infrastructure and works

Costs for infrastructure and works shall be limited to the following:

- (a) purchase of land in accordance with point (b) of Article 64(1) of Regulation (EU) 2021/1060;
- (b) building permits;
- (c) building material;
- (d) labour; and
- (e) specialised interventions (such as soil remediation, mine-clearing).

CHAPTER VI

INTERREG PROGRAMME AUTHORITIES, MANAGEMENT, CONTROL AND AUDIT

Article 45

Interreg programme authorities

1. Member States and, where applicable, third countries, partner countries and OCTs participating in an Interreg programme shall identify, for the purposes of Article 71 of Regulation (EU) 2021/1060, a single managing authority and a single audit authority.
2. The managing authority and the audit authority shall be located in the same Member State.
3. As regards the PEACE PLUS cross-border programme, the Special EU Programmes Body, where it is identified as the managing authority, shall be considered to be located in a Member State.
4. Member States and, where applicable, third countries, partner countries and OCTs participating in an Interreg programme may identify an EGTC as managing authority of that programme.
5. Where the managing authority identifies one or more intermediate bodies under an Interreg programme in accordance with Article 71(3) of Regulation (EU) 2021/1060, the intermediate body shall carry out those tasks in more than one participating Member State or, where applicable, in a third country, partner country or OCT. Without prejudice to Article 22 of this Regulation, one or more intermediate bodies may carry out those tasks in only one participating Member State or, where applicable, in a third country, partner country or OCT where such an approach is based on existing structures.

Article 46

Functions of the managing authority

1. The managing authority of an Interreg programme shall carry out the functions laid down in Articles 72, 74 and 75 of Regulation (EU) 2021/1060, with the exception of the task of selecting operations referred to in point (a) of Article 72(1) and Article 73 of that Regulation and, where the accounting function is carried out by a different body pursuant to Article 47 of this Regulation, of payments to beneficiaries referred to in point (b) of Article 74(1) of Regulation (EU) 2021/1060. Those functions shall be carried out in the whole territory covered by that programme, subject to derogations set out pursuant to Chapter VIII of this Regulation.

2. The managing authority, after consultation with the Member States and, where applicable, any third countries, partner countries or OCTs participating in the Interreg programme, shall set up a joint secretariat, with staff taking into account the programme partnership.

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 Interreg programmes and shall assist beneficiaries and partners in the implementation of operations.

For Interreg programmes also supported by external financing instruments from the Union, one or more branch offices of the joint secretariat may be set up in one or more partner countries or OCTs in order to carry out its tasks closer to potential beneficiaries and partners from the partner country or OCT, respectively.

3. By way of derogation to point (a) of Article 74(1) of Regulation (EU) 2021/1060 and without prejudice to Article 45(5) of this Regulation, the Member States, and where applicable, the third country, partner country or OCT, participating in the Interreg programme, may decide that management verifications referred to in point (a) of Article 74(1) of Regulation (EU) 2021/1060 are to be done through the identification by each Member State of a body or person responsible for this verification on its territory (the 'controller').

4. The controllers may be the same bodies responsible for carrying out such verifications for the programmes under the Investment for jobs and growth goal or, in the case of third countries, partner countries or OCTs for carrying out comparable verifications under external financing instruments of the Union. Any controller shall be functionally independent from the audit authority or any member of the group of auditors.

5. Where it has been decided that management verifications are carried out by identified controllers pursuant to paragraph 4, the managing authority shall satisfy itself that the expenditure of beneficiaries participating in an operation has been verified by an identified controller.

6. Each Member State, third country, partner country or OCT shall ensure that the expenditure of a beneficiary can be verified within a period of three months of the submission of the documents by the beneficiary concerned.

7. Each Member State, third country, partner country or OCT shall be responsible for verifications carried out on its territory.

8. Each Member State, third country, partner country and OCT shall identify as controller either a national or regional authority or a private body or a natural person as set out in paragraph 9.

9. Where the controller carrying out management verifications is a private body or a natural person, those controllers shall meet at least one of the following requirements:

- (a) be a member of a national accounting or auditing body or institution which in turn is a member of International Federation of Accountants (IFAC);
- (b) be a member of a national accounting or auditing body or institution without being a member of IFAC, but committing to carry out the management verifications in accordance with IFAC standards and ethics;
- (c) be registered as a statutory auditor in the public register of a public oversight body in a Member State in accordance with the principles of public oversight set out in Directive 2006/43/EC of the European Parliament and of the Council ⁽²¹⁾; or
- (d) be registered as a statutory auditor in the public register of a public oversight body in a third country, partner country or OCT, provided this register is subject to principles of public oversight as set out in the legislation of the country concerned.

⁽²¹⁾ Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87).

*Article 47***The accounting function**

1. Member States and, where applicable, third countries, partner countries and OCTs participating in an Interreg programme shall agree on the arrangements for carrying out the accounting function.
2. The accounting function shall consist of the tasks listed in points (a) and (b) of Article 76(1) of Regulation (EU) 2021/1060 and shall also cover the payments made by the Commission and, as a general rule, the payments made to the lead partner in accordance with point (b) of Article 74(1) of that Regulation.

*Article 48***Functions of the audit authority**

1. The audit authority of an Interreg programme shall carry out the functions provided for in this Article and in Article 49 in the whole of the territory covered by that Interreg programme.

Where the audit authority does not have the authorisation in the whole territory covered by a cooperation programme, it shall be assisted by a group of auditors composed of a representative from each Member State and, where applicable, third country, partner country or OCT, participating in the Interreg programme. Each Member State and, where applicable, each third country, partner country or OCT shall be responsible for audits carried out on its territory.

Each representative from each Member State and, where applicable, each third country, partner country or OCT, participating in the Interreg programme shall be responsible for providing the factual elements relating to expenditure on its territory that are required by the audit authority in order to perform its assessment.

The group of auditors shall be set up within three months of the decision approving the Interreg programme pursuant to Article 18. It shall draw up its rules of procedure and be chaired by the audit authority for the Interreg programme.

The auditors shall be functionally independent from bodies or persons responsible for management verifications pursuant to Article 46(3).

2. The audit authority of an Interreg programme shall be responsible for carrying out system audits and audits on operations in order to provide independent assurance to the Commission that management and control systems function effectively and that expenditure included in the accounts submitted to the Commission is legal and regular.
3. Where an Interreg programme is included in the population from which the Commission selects a common sample pursuant to Article 49(1), the audit authority shall carry out audits of operations selected by the Commission in order to provide independent assurance to the Commission that management and control systems function effectively.
4. Audit work shall be carried out in accordance with internationally accepted audit standards.
5. The audit authority shall draw up and submit to the Commission, each year by 15 February following the end of the accounting year, an annual audit opinion in accordance with Article 63(7) of the Financial Regulation using the template set out in Annex XIX to Regulation (EU) 2021/1060 and based on all audit work carried out, covering each of the following components:
 - (a) the completeness, veracity and accuracy of the accounts;
 - (b) the legality and regularity of the expenditure included in the accounts submitted to the Commission; and
 - (c) the management and control system of the Interreg programme.

Where the Interreg programme is included in the population from which the Commission selects a common sample pursuant to Article 49(1), the annual audit opinion shall only cover the elements referred to in points (a) and (c) of the first subparagraph of this paragraph.

The deadline of 15 February may exceptionally be extended by the Commission to 1 March, upon communication by the audit authority.

6. The audit authority shall draw up and submit to the Commission, each year by 15 February following the end of the accounting year, an annual control report in accordance with point (b) of Article 63(5) of the Financial Regulation using the template set out in Annex XX of Regulation (EU) 2021/1060 and, supporting the audit opinion provided for in paragraph 5 of this Article and setting out a summary of the findings, including an analysis of the nature and extent of any errors and deficiencies in the systems as well as the proposed and implemented corrective actions and the resulting total error rate and residual error rate for the expenditure entered in the accounts submitted to the Commission.

7. Where the Interreg programme is included in the population from which the Commission selects a common sample pursuant to Article 49(1), the audit authority shall draw up, using the template set out in Annex XX to Regulation (EU) 2021/1060, the annual control report referred to in paragraph 6 of this Article that fulfils the requirements of point (b) of Article 63(5) of the Financial Regulation and supports the audit opinion provided for in paragraph 5 of this Article.

That report shall set out a summary of the findings, including an analysis of the nature and extent of any errors and deficiencies in the systems as well as the proposed and implemented corrective actions, the results of the audits of operations carried out by the audit authority in relation to the common sample referred to in Article 49(1) and the financial corrections applied by the Interreg programme authorities in respect of any individual irregularities detected by the audit authority for these operations.

8. The audit authority shall transmit system audit reports to the Commission as soon as the required contradictory procedure with the relevant auditees is concluded.

9. The Commission and the audit authority shall meet on a regular basis and at least once a year, unless otherwise agreed, to examine the audit strategy, the annual control report and the audit opinion, to coordinate their audit plans and methods and to exchange views on issues relating to the improvement of management and control systems.

Article 49

Audit of operations

1. The Commission shall select a common sample of operations, or other sampling units, using a statistical sampling method for the audits of operations to be carried out by the audit authorities for the Interreg programmes receiving support from the ERDF or an external financing instrument of the Union in respect of each accounting year.

The common sample shall be representative of all the Interreg programmes constituting the population.

For the purposes of selecting the common sample, the Commission may stratify groups of Interreg programmes according to their specific risks.

2. The programme authorities shall provide the information necessary for the selection of a common sample to the Commission by 1 August following the end of each accounting year.

That information shall be submitted in a standardised electronic format, shall be complete and shall reconcile with the expenditure declared to the Commission for the reference accounting year.

3. Without prejudice to the requirement to carry out an audit as referred to in Article 48(2), the audit authorities for Interreg programmes covered by the common sample shall not carry out additional audits of operations under those programmes, unless requested to do so by the Commission in accordance with paragraph 8 of this Article or in cases for which an audit authority has identified specific risks.

4. The Commission shall inform the audit authorities of the Interreg programmes concerned of the common sample selected in sufficient time to allow these authorities to carry out the audits of operations, in general, by 1 September following the end of each accounting year.

5. The audit authorities concerned shall submit information on the results of these audits as well as on any financial correction taken in relation to individual irregularities detected, at the latest in the annual control reports to be submitted to the Commission pursuant to Article 48(6) and (7).

6. Following its assessment of the results of audits of operations selected pursuant to paragraph 1, the Commission shall calculate a global extrapolated error rate with regard to the Interreg programmes included in the population from which the common sample was selected, for the purposes of its own assurance process.

7. Where the global extrapolated error rate referred to in paragraph 6 is above 2 % of the total expenditure declared for the Interreg programmes included in the population from which the common sample was selected, the Commission shall calculate a global residual error rate, taking account of financial corrections applied by the respective Interreg programme authorities for individual irregularities detected by the audits of operations selected pursuant to paragraph 1.

8. Where the global residual error rate referred to in paragraph 7 is more than 2 % of the expenditure declared for the Interreg programmes included in the population from which the common sample was selected, the Commission shall determine whether it is necessary to request the audit authority of a specific Interreg programme or a group of Interreg programmes most affected to carry out additional audit work in order to further evaluate the error rate and assess the required corrective measures for the Interreg programmes affected by the irregularities detected.

9. Based on the assessment of the results of the additional audit work requested pursuant to paragraph 8 of this Article, the Commission may request additional financial corrections to be applied on the Interreg programmes affected by the irregularities detected. In such cases, the Interreg programme authorities shall carry out the required financial corrections in accordance with Article 103 of Regulation (EU) 2021/1060.

10. Each audit authority of an Interreg programme for which the information referred to in paragraph 2 of this Article is missing or incomplete or has not been submitted by the deadline laid down in the first subparagraph of that paragraph shall carry out a separate sampling exercise for the respective Interreg programme in accordance with Article 79 of Regulation (EU) 2021/1060.

CHAPTER VII

FINANCIAL MANAGEMENT

Article 50

Budgetary commitments

The Commission decisions approving Interreg programmes pursuant to Article 18 of this Regulation shall meet the requirements necessary to constitute financing decisions within the meaning of Article 110(2) of the Financial Regulation with regard to the ERDF and the support by an external financing instrument of the Union under shared management.

Article 51

Payments and pre-financing

1. The ERDF contribution and, where applicable, the support from external financing instruments of the Union to each Interreg programme shall be paid, in accordance with Article 47(2), into a single account with no national subaccounts.

2. The Commission shall pay a pre-financing based on the total support from each Interreg fund, as set out in the decision approving each Interreg programme pursuant to Article 18, subject to available funds, in yearly instalments as follows and before 1 July of the years 2022 to 2026, or, in the year of the approving decision, not later than 60 days after that decision is adopted:

- (a) 2021: 1 %;
- (b) 2022: 1 %;
- (c) 2023: 3 %;
- (d) 2024: 3 %;
- (e) 2025: 3 %;
- (f) 2026: 3 %.

3. Where Interreg programmes are supported by the ERDF and IPA III CBC and where the contribution from the ERDF is 50 % or less of the total Union allocation, the Commission shall pay a pre-financing in accordance with the relevant provision of the IPA III Regulation.

4. Where Interreg programmes are supported by the ERDF and either NDICI or both NDICI and IPA III, and where the contribution from the ERDF is 50 % or less of the total Union allocation, the Commission shall pay a pre-financing in accordance with Article 22(5) of Regulation (EU) 2021/947, taking into account the actual financial needs.

Articles 96 and 97 of Regulation (EU) 2021/1060 shall apply *mutatis mutandis* to the pre-financing pursuant to the first subparagraph of this paragraph.

5. The amount paid as pre-financing shall be cleared from the Commission accounts each year for 2021 and 2022 and not later than with the final accounting year for 2023 and subsequent years as well as for amounts paid as pre-financing set out pursuant to paragraphs 3 and 4.

Article 52

Recoveries

1. The managing authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead or sole partner. Partners shall repay to the lead partner any amounts unduly paid.

2. The Member States, third countries, partner countries or OCTs participating in a given Interreg programme may decide that the lead or sole partner and the programme's managing authority are not obliged to recover an amount unduly paid that does not exceed EUR 250, not including interest, in contribution from any of the Interreg funds to an operation in an accounting year.

No information needs to be provided to the Commission beyond the information about making a decision pursuant to the first subparagraph.

3. Where the lead partner does not succeed in securing repayment from other partners or where the managing authority does not succeed in securing repayment from the lead or sole partner, the Member State, third country, partner country or OCT on whose territory the partner concerned is located or, in the case of an EGTC, is registered, shall reimburse the managing authority any amounts unduly paid to that partner. The managing authority shall be responsible for reimbursing the amounts concerned to the general budget of the Union, in accordance with the apportionment of liabilities among the participating Member States, third countries, partner countries or OCTs set out in the Interreg programme.

4. Once the Member State, third country, partner country or OCT has reimbursed the managing authority any amounts unduly paid to a partner, it may continue or start a recovery procedure against that partner pursuant to its national law. In the event of successful recovery, the Member State, third country, partner country or OCT may use those amounts for the national co-financing of the Interreg programme concerned. The Member State, third country, partner country or OCT shall not have any reporting obligations towards the programme authorities, the monitoring committee or the Commission with regard to such national recoveries.

5. Where a Member State, third country, partner country or OCT has not reimbursed the managing authority any amounts unduly paid to a partner pursuant to paragraph 4 of this Article, those amounts shall be subject to a recovery order issued by the Commission which shall be executed, where possible, by offsetting to the Member State, third country, partner country or OCT, respectively. Such recovery shall not constitute a financial correction and shall not reduce the support from the ERDF or any external financing instrument of the Union to the respective Interreg programme. The amount recovered shall constitute assigned revenue in accordance with Article 21(3) of the Financial Regulation.

With regard to amounts not reimbursed to the managing authority by a Member State, the offsetting shall concern subsequent payments to the same Interreg programme. The managing authority shall then offset with regard to that Member State in accordance with the apportionment of liabilities among the participating Member States set out in the Interreg programme in the event of financial corrections imposed by the managing authority or the Commission.

With regard to amounts not reimbursed to the managing authority by a third country, partner country or OCT, the offsetting shall concern subsequent payments to programmes under the respective external financing instruments of the Union.

CHAPTER VIII

PARTICIPATION OF THIRD COUNTRIES OR PARTNER COUNTRIES, OCTS, OR REGIONAL INTEGRATION AND COOPERATION ORGANISATIONS IN INTERREG PROGRAMMES UNDER SHARED MANAGEMENT

Article 53

Applicable provisions

Chapters I to VII and Chapter X shall apply to the PEACE PLUS cross-border programme and to participation of third countries, partner countries and OCTs as well as regional integration and cooperation organisations supported by external financing instruments from the Union in Interreg programmes, subject to the provisions set out in this Chapter.

Article 54

Interreg programme authorities and their functions

1. Each third country, partner country and OCT participating in an Interreg programme shall identify a national or regional authority as contact point for the managing authority (the 'contact point').
2. The contact point, a body equivalent to the Interreg programme communication officer as provided for in Article 36(1), or the branch office or offices, shall support the managing authority and partners in the respective third country, partner country or OCT with regard to the tasks provided for in Article 36(2) to (6).

Article 55

Management methods

1. Interreg A programmes supported both by the ERDF and IPA III CBC or NDICI-CBC shall be implemented under shared management both in the Member States and in any participating third country or partner country.

The PEACE PLUS cross-border programme shall be implemented under shared management both in Ireland and in the United Kingdom.

2. Interreg B and C programmes combining contributions from the ERDF and from one or more external financing instrument of the Union shall be implemented under shared management both in the Member States and in any participating third country, partner country, participating OCT or, with regard to Interreg D, in any OCT, whether or not that OCT receives support under one or more external financing instruments of the Union.

3. Interreg D programmes combining contributions from the ERDF and one or more external financing instruments of the Union shall be implemented in any of the following ways:

- (a) under shared management both in the Member States and in any participating third country or OCT;
- (b) under shared management only in the Member States and in any participating third country or OCT with regard to ERDF expenditure outside the Union for one or more operations, whereas the contributions from one or more external financing instruments of the Union are managed under indirect management;
- (c) under indirect management both in the Member States and in any participating third country or OCT.

Where all or part of an Interreg D programme is implemented under indirect management, Article 61 shall apply.

Article 56

Eligibility

1. By way of derogation from Article 63(2) of Regulation (EU) 2021/1060, expenditure shall be eligible for a contribution from external financing instruments of the Union if it has been incurred and paid in the preparation and implementation of Interreg operations from 1 January 2021 or from the date of the programme submission, whichever date is earlier, but may be claimed from the programme after the date when the financing agreement with the respective third country, partner country or OCT was concluded.

However, expenditure for technical assistance managed by programme authorities located in a Member State may already be claimed from the programme before the date when the financing agreement with the respective third country, partner country or OCT was concluded.

2. Where an Interreg programme selects operations based on calls for proposals, such calls may include applications for a contribution from external financing instruments of the Union, even where the calls were launched and operations were selected before the relevant financing agreement was concluded.

The managing authority may provide the document provided for in Article 22(6) before the relevant financing agreement was concluded.

Article 57

Large infrastructure projects

1. Interreg programmes under this Chapter may support large infrastructure projects meaning operations comprising a set of works, activities or services intended to fulfil an indivisible function of a precise nature pursuing clearly identified objectives of common interest for the purposes of implementing investments delivering a cross-border impact and benefits and where a budget share of a total cost of at least EUR 2 500 000 is allocated to the acquisition, construction or modernisation of infrastructure.

2. Each beneficiary implementing a large infrastructure project or a part thereof shall apply the applicable public procurement rules.

3. The Member State hosting the managing authority of the relevant Interreg programme shall send to the Commission a list of planned large infrastructure projects indicating the prospective name, location, budget and lead partner. That list shall be sent as a separate document either when transmitting the signed copy of the financing agreement or a copy of the implementing agreement as referred to in Article 59 to the Commission or at the latest two months before the meeting of the monitoring committee or, if applicable, the steering committee selecting the first of the envisaged large infrastructure projects.

4. Where the selection of one or more large infrastructure projects is on the agenda of a monitoring committee or, where applicable, steering committee meeting, the managing authority shall transmit a concept note for each such project to the Commission, for information, at the latest two months before the date of the meeting. The concept note shall be a maximum of three pages and shall indicate the name, the location, the budget, the lead partner and the partners as well as the main objectives and deliverables thereof. If the concept note concerning one or more large infrastructure projects is not transmitted to the Commission by that deadline, the Commission may request that the chair of the monitoring committee or steering committee remove the projects concerned from the agenda of the meeting.

Article 58

Procurement

1. Where the implementation of an operation requires procurement of service, supply or works contracts by a beneficiary, the following rules shall apply:

- (a) where the beneficiary is located in a Member State and is a contracting authority or a contracting entity within the meaning of the Union law applicable to public procurement procedures, it shall apply national laws, regulations and administrative provisions;
- (b) where the beneficiary is a public authority of a partner country under IPA III or NDICI whose co-financing is transferred to the managing authority, it may apply national laws, regulations and administrative provisions, provided that the financing agreement allows it and that the contract is awarded to the tender offering best value for money, or as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests.

2. For the award of goods, works or services in all cases other than those referred to in paragraph 1 of this Article, the procurement procedures provided for in Articles 178 and 179 of the Financial Regulation and points 36 to 41 of Chapter 3 of Annex I to that Regulation shall apply.

Article 59

Conclusion of financing agreements under shared management

1. In order to implement an Interreg programme in a third country, partner country or OCT, in accordance with Article 112(4) of the Financial Regulation, a financing agreement shall be concluded between the Commission, representing the Union, and each participating third country, partner country or OCT represented in accordance with its national legal framework.

2. Any financing agreement shall be concluded by 31 December of the year following the year when the first budget commitment was made and shall be considered to be concluded on the date when the last party has signed it.

Any financing agreement shall enter into force either on the date:

- (a) when the last party has signed it; or
- (b) when the third or partner country or OCT has completed the procedure required for ratification in accordance with its national legal framework and has informed the Commission.

3. The Commission shall provide the draft financing agreement when approving the external programme.

Where an Interreg programme involves more than one third country, partner country or OCT, at least one financing agreement shall be concluded by both parties before the date specified in paragraph 2. The other third countries, partner countries or OCTs may sign their respective financing agreements at the latest on 30 June of the second year following the year when the first budget commitment was made.

4. The Member State hosting the managing authority of the relevant Interreg programme either:

- (a) may also sign the financing agreement; or

(b) shall sign, without delay, an implementing agreement with each third country, partner country or OCT participating in that Interreg programme setting out the mutual rights and obligations with regard to its implementation and financial management.

5. An implementing agreement signed pursuant to point (b) of paragraph 4 shall at least cover the following elements:

- (a) detailed arrangements for payments;
- (b) financial management;
- (c) record keeping;
- (d) reporting obligations;
- (e) verifications, controls and audit; and
- (f) irregularities and recoveries.

6. Where the Member State hosting the managing authority of the Interreg programme decides to sign the financing agreement pursuant to point (a) of paragraph 4 of this Article, that financing agreement shall be considered to be a tool to implement the Union budget in accordance with the Financial Regulation and not an international agreement as referred to in Articles 216 to 219 TFEU.

Article 60

Third country, partner country or OCT contribution other than co-financing

1. Where a third country, partner country or OCT transfers to the managing authority a financial contribution to support the Interreg programme, other than its co-financing of the Union support to the Interreg programme, the rules concerning that financial contribution shall be contained in the following document:

- (a) where the Member State concerned signs the financing agreement pursuant to point (a) of Article 59(4), in one of the following:
 - (i) a distinct part of that financing agreement; or
 - (ii) in a separate implementing agreement signed either between the Member State hosting the managing authority and the third country, partner country or OCT or directly between the managing authority and the competent authority in the third country, partner country or OCT; and
- (b) where the Member State concerned signs an implementing agreement pursuant to point (b) of Article 59(4), in one of the following:
 - (i) a distinct part of that implementing agreement; or
 - (ii) an additional implementing agreement signed between the same parties referred to in point (a).

For the purposes of point (b)(i) of the first subparagraph, sections of the implementing agreement may, where applicable, cover both the transferred financial contribution and the Union support to the Interreg programme.

2. An implementing agreement provided for in paragraph 1 of this Article shall at least contain the elements concerning the third country's, partner country's or OCT's co-financing listed in Article 59(5).

In addition, it shall set out both of the following:

- (a) the amount of the additional financial contribution; and
- (b) the intended use and conditions for its use, including conditions for applications for that additional contribution.

3. With regard to the PEACE PLUS cross-border programme, the financial contribution to Union activities from the United Kingdom in the form of external assigned revenue as referred to in point (e) of Article 21(2) of the Financial Regulation shall be part of the budget appropriations for Heading 2 'Cohesion and Values', sub-ceiling 'Economic, social and territorial cohesion'.

That contribution shall be subject to a specific financing agreement with the United Kingdom in accordance with Article 59 of this Regulation. The Commission and the United Kingdom as well as Ireland shall be parties to this specific financing agreement.

The specific financing agreement shall be concluded before the beginning of the implementation of the programme, thus allowing the Special EU Programmes Body to apply the Union legislation applicable to the implementation of the programme.

CHAPTER IX

SPECIFIC PROVISIONS FOR INDIRECT MANAGEMENT

Article 61

Outermost regions' cooperation

1. Where, with the agreement of the Member State and the regions concerned, part or all of an Interreg D programme is implemented under indirect management pursuant to point (b) or (c), respectively, of Article 55(3) of this Regulation, implementation tasks shall be entrusted to one of the bodies listed in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation, in particular to such a body located in the participating Member State, including the managing authority of the Interreg programme concerned.

2. In accordance with point (c) of Article 154(6) of the Financial Regulation, the Commission may decide not to require an ex-ante assessment as referred to in paragraphs 3 and 4 of that Article when the budget implementation tasks referred to in point (c) of the first subparagraph of Article 62(1) of that Regulation are entrusted to a managing authority of an outermost regions' Interreg programme identified pursuant to Article 45(1) of this Regulation and in accordance with Article 71 of Regulation (EU) 2021/1060.

3. Where the budget implementation tasks referred to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation are entrusted to a Member State organisation, Article 157 of that Regulation shall apply.

4. Where a programme or action co-financed by one or more external financing instrument is implemented by a third country, a partner country, an OCT or any of the other bodies listed to in point (c) of the first subparagraph of Article 62(1) of the Financial Regulation or referred to in Regulation (EU) 2021/947 or Decision 2013/755/EU, or both, the relevant rules of these instruments shall apply.

Conditions for the implementation of part of an Interreg strand D programme under indirect management pursuant to point (b) or (c) of Article 55(3) of this Regulation shall be defined by an agreement concluded between the Commission, the managing authority or its Member State, and the entrusted body.

CHAPTER X

FINAL PROVISIONS

Article 62

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 16(6) shall be conferred on the Commission for an indeterminate period of time from 1 July 2021.

3. The delegation of power referred to in Article 16(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 16(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 63

Committee Procedure

1. The Commission shall be assisted by the committee set up pursuant to Article 115(1) of Regulation (EU) 2021/1060. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Article 64

Transitional provisions

Regulation (EU) No 1299/2013 or any act adopted pursuant to that Regulation shall continue to apply to programmes and operations supported by the ERDF under the 2014-2020 programming period.

Article 65

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 June 2021.

For the European Parliament
The President
D. M. SASSOLI

For the Council
The President
A. P. ZACARIAS

ANNEX

TEMPLATE FOR INTERREG PROGRAMMES

CCI	[15 characters]
Title	[255]
Version	
First year	[4]
Last year	[4]
Eligible from	
Eligible until	
Commission decision number	
Commission decision date	
Programme amending decision number	[20]
Programme amending decision entry into force date	
NUTS regions covered by the programme	
Strand	

1. Joint programme strategy: main development challenges and policy responses

1.1. Programme area (not required for Interreg C programmes)

Reference: point (a) of Article 17(3), point (a) of Article 17(9)

Text field [2 000]

1.2. Joint programme strategy: Summary of main joint challenges, taking into account economic, social and territorial disparities as well as inequalities, joint investment needs and complimentary and synergies with other funding programmes and instruments, lessons-learned from past experience and macro-regional strategies and sea-basin strategies where the programme area as a whole or partially is covered by one or more strategies.

Reference: point (b) of Article 17(3), point (b) of Article 17(9)

Text field [50 000]

1.3. Justification for the selection of policy objectives and the Interreg-specific objectives, corresponding priorities, specific objectives and the forms of support, addressing, where appropriate, missing links in cross-border infrastructure

Reference: point (c) of Article 17(3)

Table 1

Selected policy objective or selected Interreg-specific objective	Selected specific objective	Priority	Justification for selection
			[2 000 per objective]

2. Priorities [300]
Reference: points (d) and (e) of Article 17(3)

2.1. Title of the priority (repeated for each priority)
Reference: point (d) of Article 17(3)

Text field: [300]

2.1.1. Specific objective (repeated for each selected specific objective)
Reference: point (e) of Article 17(3)

Text field: [300]

2.1.2. Related types of action, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basis strategies, where appropriate
Reference: point (e)(i) of Article 17(3), point (c)(ii) of Article 17(9)

Text field [7 000]

For the INTERACT and ESPON programme:
Reference: point (c)(i) of Article 17(9)
Definition of a single beneficiary or a limited list of beneficiaries and the granting procedure

Text field [7 000]

2.1.3. Indicators
Reference: point (e)(ii) of Article 17(3), point (c)(iii) of Article 17(9)

Table 2
Output indicators

Priority	Specific objective	ID [5]	Indicator	Measurement unit [255]	Milestone (2024) [200]	Final target (2029) [200]

Table 3
Result indicators

Priority	Specific objective	ID	Indicator	Measurement unit	Baseline	Reference year	Final target (2029)	Source of data	Comments

2.1.4. Main target groups

Reference: point (e)(iii) of Article 17(3), point (c)(iv) of Article 17(9)

Text field [7 000]

2.1.5. Indication of the specific territories targeted, including the planned use of ITI, CLLD or other territorial tools

Reference: Article point (e)(iv) of 17(3)

Text field [7 000]

2.1.6. Planned use of financial instruments

Reference: point (e)(v) of Article 17(3)

Text field [7 000]

2.1.7. Indicative breakdown of the EU programme resources by type of intervention

Reference: point (e)(vi) of Article 17(3), point (c)(v) of Article 17(9)

Table 4

Dimension 1 – intervention field

Priority no	Fund	Specific objective	Code	Amount (EUR)

Table 5

Dimension 2 – form of financing

Priority no	Fund	Specific objective	Code	Amount (EUR)

Table 6

Dimension 3 – territorial delivery mechanism and territorial focus

Priority No	Fund	Specific objective	Code	Amount (EUR)

3. Financing plan

Reference: point (f) of Article 17(3)

3.1. Financial appropriations by year

Reference: point (g)(i) of Article 17(3), points (a) to (d) of Article 17(4)

Table 7

Fund	2021	2022	2023	2024	2025	2026	2027	Total
ERDF (territorial cooperation goal)								
IPA III CBC ⁽¹⁾								
NDICI-CBC ⁽¹⁾								
IPA III ⁽²⁾								
NDICI ⁽²⁾								
OCTP ⁽³⁾								
Interreg funds ⁽⁴⁾								
Total								
⁽¹⁾ Interreg A, external cross-border cooperation. ⁽²⁾ Interreg B and C. ⁽³⁾ Interreg B, C and D. ⁽⁴⁾ ERDF, IPA III, NDICI or OCTP, where as single amount under Interreg B and C.								

3.2. Total financial appropriations by fund and national co-financing

Reference: point (f)(ii) of Article 17(3), points (a) to (d) of Article 17(4)

Table 8

Policy objective No	Priority	Fund (as applicable)	Basis for calculation EU support (total eligible cost or public contribution)	EU contribution (a)=(a1)+(a2)	Indicative breakdown of the EU contribution		National contribution (b)=(c)+(d)	Indicative breakdown of the national counterpart		Total (e)=(a)+(b)	Co-financing rate (f)=(a)/(e)	Contributions from the third countries (for information)
					without TA pursuant to Article 27(1) (a1)	for TA pursuant to Article 27(1) (a2)		National public (c)	National private (d)			
	Priority 1	ERDF										
		IPA III CBC (1)										
		NDICI- CBC (1)										
		IPA III (2)										
		NDICI (2)										
		OCTP (2)										
		Interreg funds (3)										
	Priority 2	(funds as above)										
	Total	All funds										
		ERDF										
		IPA III CBC										
		NDICI-CBC										
		IPA III										
		NDICI										
		OCTP										
		Interreg funds										
	Total	All funds										

(1) Interreg A, external cross-border cooperation.
(2) Interreg B and C.
(3) Interreg B, C and D.
(4) ERDF, IPA III, NDICI or OCTP, where as single amount under Interreg B and C.

4. Action taken to involve the relevant programme partners in the preparation of the Interreg programme and the role of those programme partners in the implementation, monitoring and evaluation

Reference: point (g) of Article 17(3)

Text field [10 000]

5. Approach to communication and visibility for the Interreg programme (objectives, target audiences, communication channels, including social media outreach, where appropriate, planned budget and relevant indicators for monitoring and evaluation)

Reference: point (h) of Article 17(3)

Text field [4 500]

6. Indication of support to small-scale projects, including small projects within small project funds

Reference: point (i) of Article 17(3), Article 24

Text field [7 000]

7. Implementing provisions

- 7.1. Programme authorities

Reference: point (a) of Article 17(6)

Table 9

Programme authorities	Name of the institution [255]	Contact name [200]	E-mail [200]
Managing authority			
National authority (for programmes with participating third or partner countries, if appropriate)			
Audit authority			
Group of auditors representatives			
Body to which the payments are to be made by the Commission			

- 7.2. Procedure for setting up the joint secretariat

Reference: point (b) of Article 17(6)

Text field [3 500]

- 7.3. Apportionment of liabilities among participating Member States and where applicable, the third or partner countries and OCTs, in the event of financial corrections imposed by the managing authority or the Commission
Reference: point (c) of Article 17(6)

Text field [10 500]

8. Use of unit costs, lump sums, flat rates and financing not linked to costs
Reference: Articles 94 and 95 of Regulation (EU) 2021/1060 (CPR)

Table 10

Use of unit costs, lump sums, flat rates and financing not linked to costs

Intended use of Articles 94 and 95	YES	NO
From the adoption the programme will make use of reimbursement of the Union contribution based on unit costs, lump sums and flat rates under priority according to Article 94 CPR (if yes, fill in Appendix 1)	<input type="checkbox"/>	<input type="checkbox"/>
From the adoption the programme will make use of reimbursement of the Union contribution based on financing not linked to costs according to Article 95 CPR (if yes, fill in Appendix 2)	<input type="checkbox"/>	<input type="checkbox"/>

Map

Map of the programme area

—

Appendix 1

Union contribution based on unit costs, lump sums and flat rates

Template for submitting data for the consideration of the Commission

(Article 94 of Regulation (EU) 2021/1060 (CPR))

Date of submitting the proposal	

This Appendix is not required when EU-level simplified cost options established by the delegated act referred to in Article 94(4) of CPR are used.

A. Summary of the main elements

Priority	Fund	Specific objective	Estimated proportion of the total financial allocation within the priority to which the simplified cost option will be applied in %	Type(s) of operation covered		Indicator triggering reimbursement		Unit of measurement for the indicator triggering reimbursement	Type of simplified cost option (standard scale of unit costs, lump sums or flat rates)	Amount (in EUR) or percentage (in case of flat rates) of the simplified cost option
				Code ⁽¹⁾	Description	Code ⁽²⁾	Description			

(1) This refers to the code for the intervention field dimension in Table 1 of Annex I CPR.

(2) This refers to the code of a common indicator, if applicable.

B. Details by type of operation (to be completed for every type of operation)

Did the managing authority receive support from an external company to set out the simplified costs below?

If so, please specify which external company:

Yes/No – Name of external company

1.1	Description of the operation type including the timeline for implementation ⁽¹⁾	
1.2	Specific objective	
1.3	Indicator triggering reimbursement ⁽²⁾	
1.4	Unit of measurement for the indicator triggering reimbursement	
1.5	Standard scale of unit cost, lump sum or flat rate	
1.6	Amount per unit of measurement or percentage (for flat rates) of the simplified cost option	
1.7	Categories of costs covered by the unit cost, lump sum or flat rate	
1.8	Do these categories of costs cover all eligible expenditure for the operation? (Y/N)	
1.9	Adjustment(s) method ⁽³⁾	
1.10	Verification of the achievement of the units delivered — describe what document(s)/system will be used to verify the achievement of the units delivered — describe what will be checked and by whom during management verifications — describe what arrangements will be made to collect and store the relevant data/documents	
1.11	Possible perverse incentives, mitigating measures ⁽⁴⁾ and the estimated level of risk (high/medium/low)	
1.12	Total amount (national and EU) expected to be reimbursed by the Commission on this basis	

⁽¹⁾ Envisaged starting date of the selection of operations and envisaged final date of their completion (ref. Article 63(5) of CPR).
⁽²⁾ For operations encompassing several simplified cost options covering different categories of costs, different projects or successive phases of an operation, the fields 1.3 to 1.11 need to be filled in for each indicator triggering reimbursement.
⁽³⁾ If applicable, indicate the frequency and timing of the adjustment and a clear reference to a specific indicator (including a link to the website where this indicator is published, if applicable).
⁽⁴⁾ Are there any potential negative implications on the quality of the supported operations and, if so, what measures (such as quality assurance) will be taken to offset this risk?

C. Calculation of the standard scale of unit costs, lump sums or flat rates

1. Source of data used to calculate the standard scale of unit costs, lump sums or flat rates (who produced, collected and recorded the data; where the data are stored; cut-off dates; validation, etc.):

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2. Please specify why the proposed method and calculation based on Article 88(2) of CPR is relevant to the type of operation:

3. Please specify how the calculations were made, in particular including any assumptions made in terms of quality or quantities. Where relevant, statistical evidence and benchmarks should be used and, if requested, provided in a format that is usable by the Commission:

4. Please explain how you have ensured that only eligible expenditure was included in the calculation of the standard scale of unit cost, lump sum or flat rate:

5. Assessment of the audit authority or authorities of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data:

Appendix 2

Union contribution based on financing not linked to costs

Template for submitting data for the consideration of the Commission

(Article 95 of Regulation (EU) 2021/1060 (CPR))

Date of submitting the proposal	

This Appendix is not required when amounts for EU-level financing not linked to costs established by the delegated act referred to in Article 95(4) of CPR are used.

A. Summary of the main elements

Priority	Fund	Specific objective	The amount covered by the financing not linked to costs	Type(s) of operation covered		Conditions to be fulfilled/results to be achieved triggering reimbursement by the Commission	Indicator		Unit of measurement for the conditions to be fulfilled/ results to be achieved triggering reimbursement by the Commission	Envisaged type of reimbursement method used to reimburse the beneficiary or beneficiaries
				Code ⁽¹⁾	Description		Code ⁽²⁾	Description		
<p>(1) This refers to the code for the intervention field dimension in Table 1 of Annex I to the CPR and Annex IV to the EMFAF Regulation.</p> <p>(2) This refers to the code of a common indicator, if applicable.</p>										

B. Details by type of operation (to be completed for every type of operation)

1.1	Description of the operation type			
1.2	Specific objective			
1.3	Conditions to be fulfilled or results to be achieved			
1.4	Deadline for fulfilment of conditions or results to be achieved			
1.5	Unit of measurement for conditions to be fulfilled/results to be achieved triggering reimbursement by the Commission			
1.6	Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Envisaged date	Amounts (in EUR)
1.7	Total amount (including Union and national funding)			
1.8	Adjustment(s) method			
1.9	Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables) — describe what document(s)/system will be used to verify the achievement of the result or condition (and where relevant, each of the intermediate deliverables) — describe how management verifications (including on-the-spot) will be carried out, and by whom — describe what arrangements will be made to collect and store relevant data/documents			
1.10	Use of grants in the form of financing not linked to costs/ Does the grant provided by Member State to beneficiaries take the form of financing not linked to costs? [Y/N]			
1.11	Arrangements to ensure the audit trail Please list the body(ies) responsible for these arrangements.			

Appendix 3

List of planned operations of strategic importance with a timetable - Article 17(3)

Text field [2 000]

COMMISSION IMPLEMENTING DECISION (EU) 2022/74**of 17 January 2022****setting out the list of Interreg programmes and indicating the global amount of the total support from the European Regional Development Fund and from each external financing instrument of the Union for each programme and the list of the amounts transferred between strands under the European territorial cooperation goal for the period 2021 to 2027***(notified under document C(2022) 131)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments ⁽¹⁾, and in particular Article 11(1) thereof,

After consulting the committee established by Article 115(1) of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy ⁽²⁾,

Whereas:

- (1) Article 9 of Regulation (EU) 2021/1059 sets out the global resources available under the European Regional Development Fund (ERDF) for the European territorial cooperation goal (Interreg) and their allocation to cross-border cooperation, transnational cooperation, interregional cooperation and outermost regions' cooperation.
- (2) In accordance with Article 9(3) of Regulation (EU) 2021/1059, the Commission communicated to each Member State its share of the global amounts for cross-border cooperation, transnational cooperation and outermost regions' cooperation, broken down by year in accordance with the methodology set out in point 8 of Annex XXVI to Regulation (EU) 2021/1060.
- (3) Pursuant to Article 9(5) of Regulation (EU) 2021/1059, based on the amounts communicated by the Commission in accordance with paragraph 3 of that Article, each Member State informed the Commission whether and how it has used the transfer option provided for in paragraph 4 of that Article, and on the resulting distribution of its share among the Interreg programmes in which the Member State participates.
- (4) In accordance with Article 10(2) of Regulation (EU) 2021/1059, the Commission and the Member States concerned establish the contribution from the ERDF to external cross-border Interreg programmes to be also supported from the financial envelope allocated under the Instrument for Pre-Accession III to cross-border cooperation (IPA III-CBC) or from the financial envelope allocated under the Neighbourhood, Development and International Cooperation Instrument – Global Europe to cross-border cooperation for the Neighbourhood geographic area (NDICI CBC).
- (5) In accordance with Article 11(2) of Regulation (EU) 2021/1059, the Commission also establishes a list of the amounts transferred pursuant to Article 9(4) of that Regulation, broken down by Member State.

⁽¹⁾ OJ L 231, 30.6.2021, p. 94.

⁽²⁾ OJ L 231, 30.6.2021, p. 159.

- (6) It is therefore necessary to set up the list of Interreg programmes and to indicate the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union for each programme as well as the list of the amounts transferred pursuant to Article 9(4) of Regulation (EU) 2021/1059, broken down by Member State,

HAS ADOPTED THIS DECISION:

Article 1

The list of cross-border cooperation programmes, the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union for each programme, is set out in Annex I.

Article 2

The list of transnational cooperation programmes, the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union for each programme, is set out in Annex II.

Article 3

The list of interregional cooperation programmes, the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union for each programme, is set out in Annex III.

Article 4

The list of outermost regions' cooperation programmes, the global amount of the total support from the ERDF and, where applicable, the total support from each external financing instrument of the Union for each programme, is set out in Annex IV.

Article 5

The amounts transferred pursuant to Article 9(4) of Regulation (EU) 2021/1059, broken down by Member State, are set out in Annex V.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 17 January 2022.

For the Commission
Elisa FERREIRA
Member of the Commission

ANNEX I

List of cross-border cooperation programmes with indication of the global amount of the total support from the European Regional Development Fund (ERDF), the Instrument for Pre-accession (IPA III) and the Neighbourhood Development and International Cooperation Instrument (NDICI) for each cross-border cooperation programme

N°	CCI	Name of the programme	Member States	Non-Member States	Global ERDF contribution	IPA II contribution	NDICI contribution	Total
1	2021TC16RFCB001	(Interreg V1-A) Maas-Rijn/Meuse-Rhin/Maas-Rhein (NL-BE-DE)	NL BE DE		125 677 095			125 677 095
2	2021TC16RFCB002	(Interreg V1-A) Austria-Czechia	AT CZ		86 821 148			86 821 148
3	2021TC16RFCB003	(Interreg V1-A) Slovakia-Austria	SK AT		55 500 000			55 500 000
4	2021TC16RFCB004	(Interreg V1-A) Austria-Germany/Bavaria	AT DE		61 547 037			61 547 037
5	2021TC16RFCB005	(Interreg V1-A) Spain-Portugal (POCTEP)	ES PT		320 622 726			320 622 726
6	2021TC16RFCB006	(Interreg V1-A) Spain-France-Andorra (POCTEFA)	ES FR	AD	243 079 964			243 079 964
7	2021TC16RFCB007	(Interreg V1-A) Hungary-Croatia	HU HR		70 034 030			70 034 030
8	2021TC16RFCB008	(Interreg V1-A) Germany/Bavaria-Czechia	DE CZ		99 064 772			99 064 772
9	2021TC16RFCB009	(Interreg V1-A) Austria-Hungary	AT HU		49 561 200			49 561 200
10	2021TC16RFCB010	(Interreg V1-A) Germany/Brandenburg-Poland	DE PL		88 300 000			88 300 000
11	2021TC16RFCB011	(Interreg V1-A) Poland-Slovakia	PL SK		129 286 462			129 286 462
12	2021TC16RFCB012	(Interreg V1-A) Poland-Denmark-Germany-Lithuania-Sweden (South Baltic)	PL DK DE LT SE		83 802 411			83 802 411
13	2021TC16RFCB013	(Interreg V1-A) Finland-Estonia-Latvia-Sweden (Central Baltic)	FI EE IV SE		126 788 865			126 788 865

14	2021TC16RFCB014	(Interreg VI-A) Hungary-Slovakia	HU SK		129 000 000			129 000 000
15	2021TC16RFCB015	(Interreg VI-A) Sweden-Norway	SE	NO	47 200 000			47 200 000
16	2021TC16RFCB016	(Interreg VI-A) Germany/Saxony-Czechia	DE CZ		152 364 968			152 364 968
17	2021TC16RFCB017	(Interreg VI-A) Poland-Germany/Saxony	PL DE		60 275 000			60 275 000
18	2021TC16RFCB018	(Interreg VI-A) Germany/Mecklenburg-Western Pomerania/Brandenburg-Poland	DE PL		124 580 000			124 580 000
19	2021TC16RFCB019	(Interreg VI-A) Greece-Italy	EL IT		79 582 928			79 582 928
20	2021TC16RFCB020	(Interreg VI-A) Romania-Bulgaria	RO BG		163 497 401			163 497 401
21	2021TC16RFCB021	(Interreg VI-A) Greece-Bulgaria	EL BG		67 162 945			67 162 945
22	2021TC16RFCB022	(Interreg VI-A) Germany-The Netherlands	DE NL		240 775 132			240 775 132
23	2021TC16RFCB023	(Interreg VI-A) Germany-Austria-Switzerland-Liechtenstein (Alpenrhein-Bodensee-Hochrhein)	DE AT	CH LI	47 569 062			47 569 062
24	2021TC16RFCB024	(Interreg VI-A) Czechia-Poland	CZ PL		178 870 508			178 870 508
25	2021TC16RFCB025	(Interreg VI-A) Sweden-Denmark-Norway (Öresund-Kattegat-Skagerrak)	SE DK	NO	141 300 000			141 300 000
26	2021TC16RFCB026	(Interreg VI-A) Latvia-Lithuania	LV LT		31 752 230			31 752 230
27	2021TC16RFCB027	(Interreg VI-A) Sweden-Finland-Norway (AURORA)	SE FI	NO	93 809 500			93 809 500
28	2021TC16RFCB028	(Interreg VI-A) Slovenia-Croatia	SI HR		39 344 493			39 344 493

29	2021TC16RFCB029	(Interreg VI-A) Slovakia-Czechia	SK CZ		85 323 597			85 323 597
30	2021TC16RFCB030	(Interreg VI-A) Lithuania-Poland	LT PL		45 706 836			45 706 836
31	2021TC16RFCB031	(Interreg VI-A) Italy-France (Maritime)	IT FR		154 636 861			154 636 861
32	2021TC16RFCB032	(Interreg VI-A) France-Italy (ALCOTRA)	FR IT		182 330 487			182 330 487
33	2021TC16RFCB033	(Interreg VI-A) Italy-Switzerland	IT	CH	82 346 673			82 346 673
34	2021TC16RFCB034	(Interreg VI-A) Italy-Slovenia	IT SI		70 898 662			70 898 662
35	2021TC16RFCB035	(Interreg VI-A) Italy-Malta	IT MT		46 083 225			46 083 225
36	2021TC16RFCB036	(Interreg VI-A) France-Germany-Switzerland (Upper Rhine)	FR DE	CH	125 117 615			125 117 615
37	2021TC16RFCB037	(Interreg VI-A) France-Switzerland	FR	CH	69 766 796			69 766 796
38	2021TC16RFCB038	(Interreg VI-A) Italy-Croatia	IT HR		172 986 266			172 986 266
39	2021TC16RFCB039	(Interreg VI-A) Belgium-France (Wallonie-Vlaanderen-France)	BE FR		286 882 570			286 882 570
40	2021TC16RFCB040	(Interreg VI-A) France-Belgium-Germany-Luxembourg (Grande Région/ Großregion)	FR BE DE LU		181 942 401			181 942 401
41	2021TC16RFCB041	(Interreg VI-A) Belgium-The Netherlands (Vlaanderen-Nederland)	BENL		205 405 605			205 405 605
42	2021TC16RFCB042	(Interreg VI-A) Romania-Hungary	RO HU		140 752 020			140 752 020
43	2021TC16RFCB043	(Interreg VI-A) Estonia-Latvia	EE LV		26 004 949			26 004 949
44	2021TC16RFCB044	(Interreg VI-A) Italy-Austria	IT AT		73 071 805			73 071 805

45	2021TC16RFCB045	(Interreg VI-A) Slovenia-Hungary	SI HU		14 109 017				14 109 017
46	2021TC16RFCB046	(Interreg VI-A) Slovenia-Austria	SI AT		45 846 198				45 846 198
47	2021TC16RFCB047	(Interreg VI-A) Greece-Cyprus	EL CY		45 991 214				45 991 214
48	2021TC16RFCB048	(Interreg VI-A) Germany-Denmark	DE DK		93 771 505				93 771 505
49	2014TC16RIPC001	PEACE PLUS Ireland-Northern Ireland/United Kingdom	IE	UK	234 474 919				234 474 919
50	2021TC16IPCB006	(Interreg VI-A) IPA Bulgaria North Macedonia	BG	MK	12 916 849	13 562 691			26 479 540
51	2021TC16IPCB007	(Interreg VI-A) IPA Bulgaria Serbia	BG	RS	15 804 360	16 594 578			32 398 938
52	2021TC16IPCB005	(Interreg VI-A) IPA Bulgaria Turkey	BG	TR	14 269 738	14 983 225			29 252 963
53	2021TC16IPCB003	(Interreg VI-A) IPA Croatia Serbia	HR	RS	18 673 977	19 607 676			38 281 653
54	2021TC16IPCB004	(Interreg VI-A) IPA Croatia-Bosnia and Herzegovina-Montenegro	HR	BA ME	57 407 658	60 278 041			117 685 699
55	2021TC16IPCB010	(Interreg VI-A) IPA Greece Albania	EL	AL	13 000 000	13 650 000			26 650 000
56	2021TC16IPCB009	(Interreg VI-A) IPA Greece North Macedonia	EL	MK	13 000 000	13 650 000			26 650 000
57	2021TC16IPCB001	(Interreg VI-A) IPA Hungary Serbia	HU	RS	31 000 000	32 550 000			63 550 000
58	2021TC16IPCB008	(Interreg VI-A) IPA Italy Albania Montenegro (South Adriatic)	IT	AL ME	32 695 846	34 330 638			67 026 484
59	2021TC16IPCB002	(Interreg VI-A) IPA Romania Serbia	RO	RS	36 374 062	38 192 765			74 566 827
60	2021TC16NXCBO04	(Interreg VI-A) NEXT Estonia Russia	EE	RU	10 906 623		11 124 755		22 031 378
61	2021TC16NXCBO10	(Interreg VI-A) NEXT Hungary Slovakia Romania Ukraine	HU SK RO	UA	30 998 055		31 618 016		62 616 071

62	2021TC16NXC	B013	(Interreg VI-A) NEXT Italy Tunisia	IT	TN	16 010 314		16 330 520	32 340 834
63	2021TC16NXC	B002	(Interreg VI-A) NEXT Karelia	FI	RU	14 003 500		14 283 570	28 287 070
64	2021TC16NXC	B001	(Interreg VI-A) NEXT Kolarctic	FI SE	RU NO	17 501 359		17 851 386	35 352 745
65	2021TC16NXC	B005	(Interreg VI-A) NEXT Latvia Russia	LV	RU	7 000 000		7 140 000	14 140 000
66	2021TC16NXC	B006	(Interreg VI-A) NEXT Lithuania Russia	LT	RU	11 952 500		12 191 550	24 144 050
67	2021TC16NXC	B009	(Interreg VI-A) NEXT Poland Belarus Ukraine	PL	BY UA	87 900 000		89 658 000	177 558 000
68	2021TC16NXC	B007	(Interreg VI-A) NEXT Poland Russia	PL	RU	43 240 000		44 104 800	87 344 800
69	2021TC16NXC	B011	(Interreg VI-A) NEXT Romania Rep. Moldova	RO	MD	36 250 000		36 975 000	73 225 000
70	2021TC16NXC	B012	(Interreg VI-A) NEXT Romania Ukraine	RO	UA	25 350 000		25 857 000	51 207 000
71	2021TC16NXC	B003	(Interreg VI-A) NEXT South East Finland Russia	FI	RU	24 003 500		24 483 570	48 487 070
72	2021TC16NXC	B008	(Interreg VI-A) NEXT Latvia Belarus	LV	BY	5 860 134		5 977 337	11 837 471
73	2021TC16NXC	B014	(Interreg VI-A) NEXT Lithuania Belarus	LT	BY	16 000 000		16 320 000	32 320 000
					Total:	6 115 505 509	257 399 614	353 915 504	6 726 820 627

ANNEX II

List of transnational cooperation programmes with indication of the global amount of the total support from the European Regional Development Fund (ERDF), the Instrument for Pre-accession (IPA III) and the Neighbourhood Development and International Cooperation Instrument (NDICI) for each cross-border cooperation programme

N°	CCI	Name of the programme	Member States	Non-Member States	Global ERDF contribution	IPA III contribution	NDICI contribution	Total
1	2021TC16IPTN001	(Interreg V1-B) IPA Adriatic-Ionian	EL HR IT SI	AL BA ME RS SM	65 848 129	70 840 386		136 688 515
2	2021TC16RFTN001	(Interreg V1-B) Alpine Space	DE FR IT AT SI	CH LI	107 051 188			107 051 188
3	2021TC16RFTN002	(Interreg V1-B) Atlantic Area	ES FR PT		113 075 964			113 075 964
4	2021TC16RFTN003	(Interreg V1-B) Baltic Sea Region	DE DK EE LV LT PL FI SE	BY NO RU	250 984 823		8 800 000	259 784 823
5	2021TC16RFTN003	(Interreg V1-B) Central Europe	CZ DE IT HR HU AT PL SI SK		224 623 802			224 623 802
6	2021TC16RFTN004	(Interreg V1-B) Danube	AT BG CZ DE HR HU RO SI SK	BA ME RS MD UA	165 424 228	30 000 000	17 679 725	213 103 953
7	2021TC16RFTN001	(Interreg V1-B) Euro Mediterranean (EURO MED)	BG EL ES FR HR IT CY MT PT SI	ME MK AL BA	216 559 226	18 340 000		234 899 226
8	2021TC16RFTN005	(Interreg V1-B) Northern Periphery and Arctic	IE FI SE	FO GL IS NO	43 716 415			43 716 415
9	2021TC16RFTN004	(Interreg V1-B) North Sea	BE DK DE FR NL SE	NO	171 154 311			171 154 311
10	2021TC16RFTN005	(Interreg V1-B) North West Europe	BE DE FR IE NL LU	CH	310 480 455			310 480 455
11	2021TC16RFTN006	(Interreg V1-B) South West Europe (SUDOE)	ES FR PT	AD	106 260 516			106 260 516
12	2021TC16NXTN001	(Interreg V1-B) NEXT Mediterranean Sea Basin (NEXT MED)	EL ES FR IT MT CY PT	TR DZ EG IL JO LB PS TN	96 199 962	9 500 000	138 713 588	244 413 550
13	2021TC16NXTN003	(Interreg V1-B) NEXT Mid-Atlantic	ES PT	MA	55 100 000		55 100 000	110 200 000
14	2021TC16NXTN002	(Interreg V1-B) NEXT Black Sea Basin	BG EL RO	TR UA AM GE MD RU	14 552 489	9 500 000	36 934 183	60 986 672
Total:					1 941 031 508	138 180 386	257 227 496	2 336 439 390

ANNEX III

List of interregional cooperation programmes with indication of the global amount of the total support from the European Regional Development Fund (ERDF) and the Instrument for Pre-accession (IPA III) for each cross-border cooperation programme

N°	CCI	Name of the programme	Member States	Non-Member States	Global ERDF contribution	IPA III contribution	Total
1	2021TC16RFIR001	(Interreg VI-C) Interreg Europe	All MS	NO CH	379 482 670		379 482 670
2	2021TC16RFIR001	(Interreg VI-C) Urbact IV	All MS	NO CH AL BA ME MK RS	79 769 799	5 000 000	84 769 799
3	2021TC16RFIR004	(Interreg VI-C) ESPON 2030 Cooperation Programme	All MS	NO CH IS LI	48 000 000		48 000 000
4	2021TC16RFIR002	(Interreg VI-C) Interact	All MS	NO CH	45 000 000		45 000 000
Total:					552 252 469	5 000 000	557 252 469

ANNEX IV

List of outermost regions cooperation programmes with indication of the global amount of the total support from the European Regional Development Fund (ERDF) for each cross-border cooperation programme

N°	CCI	Name of the programme	Member States	Non-Member States	Global ERDF contribution
1	2021TC16FFOR004	(Interreg VI-D) Indian Ocean	FR	Several third countries and overseas countries or territories	62 252 459
2	2021TC16FFOR003	(Interreg VI-D) Caribbean	FR	Several third countries and overseas countries or territories	67 895 832
3	2021TC16FFOR005	(Interreg VI-D) Amazonia	FR	Several third countries and overseas countries or territories	18 899 049
4	2021TC16FFOR001	(Interreg VI-D) Madeira-Azores-Canary Islands (MAC)	ES PT	Several third countries and overseas countries or territories	169 898 663
5	2021TC16FFOR002	(Interreg VI-D) Mozambique Channel	FR	Several third countries and overseas countries or territories	10 228 777
Total:					329 174 780

ANNEX V

Transfers proposed by Member States between strands

ID	COUNTRY	STRAND	TOTAL ALLOCATION	MS INPUT	TRANSFER	%
BE	Belgium		374 383 720			
BE		cross-border	332 648 155	301 477 183	- 31 170 972	- 9,37 %
BE		transnational	41 735 565	72 906 537	31 170 972	
BG	Bulgaria		135 521 264			
BG		cross-border	109 183 390	113 134 071	3 950 681	
BG		transnational	26 337 874	22 387 193	- 3 950 681	- 15,00 %
CZ	Czechia		310 867 301			
CZ		cross-border	271 822 272	277 679 027	5 856 755	
CZ		transnational	39 045 029	33 188 274	- 5 856 755	- 15,00 %
DK	Denmark		152 000 000			
DK		cross-border	130 840 407	115 300 000	- 15 540 407	- 11,88 %
DK		transnational	21 159 593	36 700 000	15 540 407	
DE	Germany		1 017 882 396			
DE		cross-border	714 007 944	699 742 467	- 14 265 477	- 2,00 %
DE		transnational	303 874 452	318 139 929	14 265 477	
EE	Estonia		58 059 611			
EE		cross-border	53 200 437	53 200 437	0	0,00 %
EE		transnational	4 859 174	4 859 174	0	
IE	Ireland		293 402 230			
IE		cross-border	275 852 846	234 474 919	- 41 377 927	- 15,00 %
IE		transnational	17 549 384	58 927 311	41 377 927	
EL	Greece		128 236 156			
EL		cross-border	88 385 657	94 363 232	5 977 575	
EL		transnational	39 850 499	33 872 924	- 5 977 575	- 15,00 %
ES	Spain		694 796 132			
ES		cross-border	382 709 233	358 561 065	- 24 148 168	- 6,31 %
ES		transnational	171 704 452	199 155 881	27 451 429	
ES		outermost regions	140 382 447	137 079 186	- 3 303 261	- 2,35 %
FR	France		1 107 421 089			
FR		cross-border	718 304 673	639 687 357	- 78 617 316	- 10,94 %
FR		transnational	246 523 404	308 457 615	61 934 211	
FR		outermost regions	142 593 012	159 276 117	16 683 105	
HR	Croatia		186 871 939			
HR		cross-border	171 461 871	171 461 871	0	0,00 %

HR		transnational	15 410 068	15 410 068	0	
IT	Italy		947 705 559			
IT		cross-border	723 649 055	682 037 150	- 41 611 905	- 5,75 %
IT		transnational	224 056 504	265 668 409	41 611 905	
CY	Cyprus		37 259 150			
CY		cross-border	34 107 311	28 991 214	- 5 116 097	- 15,00 %
CY		transnational	3 151 839	8 267 936	5 116 097	
LV	Latvia		49 764 070			
LV		cross-border	42 523 827	43 609 864	1 086 037	
LV		transnational	7 240 243	6 154 206	- 1 086 037	- 15,00 %
LT	Lithuania		83 055 466			
LT		cross-border	72 459 911	72 459 911	0	0,00 %
LT		transnational	10 595 555	10 595 555	0	
LU	Luxembourg		29 026 447			
LU		cross-border	26 870 192	23 026 447	- 3 843 745	- 14,30 %
LU		transnational	2 156 255	6 000 000	3 843 745	
HU	Hungary		258 768 190			
HU		cross-border	222 498 055	222 498 055	0	0,00 %
HU		transnational	36 270 135	36 270 135	0	
MT	Malta		23 116 871			
MT		cross-border	21 429 922	20 416 871	- 1 013 051	- 4,73 %
MT		transnational	1 686 949	2 700 000	1 013 051	
NL	Netherlands		378 695 652			
NL		cross-border	315 751 099	274 554 348	- 41 196 751	- 13,05 %
NL		transnational	62 944 553	104 141 304	41 196 751	
AT	Austria		219 711 720			
AT		cross-border	187 482 629	186 882 629	- 600 000	- 0,32 %
AT		transnational	32 229 091	32 829 091	600 000	
PL	Poland		567 530 160			
PL		cross-border	425 499 779	446 804 336	21 304 557	
PL		transnational	142 030 381	120 725 824	- 21 304 557	- 15,00 %
PT	Portugal		138 751 654			
PT		cross-border	67 766 585	73 491 424	5 724 839	
PT		transnational	38 165 592	32 440 753	- 5 724 839	- 15,00 %
PT		outermost regions	32 819 477	32 819 477	0	
RO	Romania		372 637 625			
RO		cross-border	299 820 777	310 743 304	10 922 527	
RO		transnational	72 816 848	61 894 321	- 10 922 527	- 15,00 %

SI	Slovenia		75 065 477			
SI		cross-border	67 436 070	67 436 070	0	0,00 %
SI		transnational	7 629 407	7 629 407	0	
SK	Slovakia		223 354 237			
SK		cross-border	203 286 462	203 286 462	0	0,00 %
SK		transnational	20 067 775	20 067 775	0	
FI	Finland		162 721 339			
FI		cross-border	142 416 484	122 514 000	- 19 902 484	- 13,97 %
FI		transnational	20 304 855	40 207 339	19 902 484	
SE	Sweden		356 338 406			
SE		cross-border	319 655 650	274 903 859	- 44 751 791	- 14,00 %
SE		transnational	36 682 756	81 434 547	44 751 791	

COMMISSION IMPLEMENTING DECISION (EU) 2022/75**of 17 January 2022****setting out the list of Interreg programme areas to receive support from the European Regional Development Fund and external financing instruments of the Union, broken down by strand and Interreg programme under the European territorial cooperation goal***(notified under document C(2022)109)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments ⁽¹⁾, and in particular Article 8(1) thereof,

After consulting the committee established by Article 115(1) of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy ⁽²⁾,

Whereas:

- (1) The European Regional Development Fund ('ERDF') supports the European territorial cooperation goal in certain regions corresponding to level 3 of the common classification of territorial units for statistics ('NUTS level 3 regions') for cross-border cooperation, and in all regions corresponding to level 2 of the common classification of territorial units for statistics ('NUTS level 2 regions') for transnational cooperation, as established by Regulation (EC) No 1059/2003 of the European Parliament and of the Council ⁽³⁾. Those regions therefore need to be listed.
- (2) Pursuant to Article 8(1), second subparagraph, of Regulation (EU) 2021/1059, external cross-border Interreg programmes are to be listed as 'Interreg A IPA III CBC programmes' (IPA III-CBC) or 'Interreg A NEXT programmes' (NDICI-CBC).
- (3) Pursuant to Article 8(3) of Regulation (EU) 2021/1059, regions of third or partner countries or territories outside the Union, which do not receive support from the ERDF or from an external financing instrument of the Union, or which contribute to the budget of the Union by external assigned revenue, are also to be mentioned in the list of Interreg programme areas.
- (4) Pursuant to Article 5 of Regulation (EU) 2021/1059, for transnational cooperation, the regions to be supported by the ERDF are to be NUTS level 2 regions of the Union or, in the absence of a NUTS classification, equivalent areas. They may include outermost regions covering larger transnational territories and taking into account, where applicable, macro-regional strategies or sea basin strategies. Transnational cooperation may also cover regions which are to be NUTS level 2 regions or, in the absence of a NUTS classification, equivalent areas in Iceland, Norway, Switzerland and the United Kingdom as well as Andorra, the Faroe Islands, Liechtenstein, Monaco and San Marino, overseas territories or countries (OCTs) and regions of partner countries under the Instrument for Pre-Accession III ('IPA III') or the Neighbourhood, Development and International Cooperation Instrument – Global Europe ('NDICI').
- (5) Pursuant to Article 6 of Regulation (EU) 2021/1059, for interregional cooperation, the entire territory of the Union, including the outermost regions, is to be supported by the ERDF. Interregional cooperation programmes may also cover the whole territory of third countries, partner countries under IPA III or NDICI and other territories, or a part thereof, or OCTs, whether or not they are supported by the Union's external financing instruments. It is therefore not necessary to set out the programme area for interregional cooperation.

⁽¹⁾ OJ L 231, 30.6.2021, p. 94.

⁽²⁾ OJ L 231, 30.6.2021, p. 159.

⁽³⁾ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 154, 21.6.2003, p. 1).

- (6) Pursuant to Article 7 of Regulation (EU) 2021/1059, for outermost regions cooperation, all regions listed in the first paragraph of Article 349 TFEU are to be supported by the ERDF. The outermost regions' Interreg programmes may also cover partner countries or parts thereof supported by the NDICI or OCTs supported by the Overseas Countries and Territories Programme (OCTP), or both.
- (7) Pursuant to Article 8(2) of Regulation (EU) 2021/1059, the list of regions for cross-border cooperation should also specify those NUTS level 3 regions of the Union taken into account for the ERDF allocation for cross-border cooperation at all internal borders and those external borders covered by the Union's external financing instruments. The NUTS level 3 regions for the programme areas of cross-border cooperation programmes should be listed based on Regulation (EC) No 1059/2003, as last amended by Commission Delegated Regulation 2019/1755 ⁽⁴⁾. However, for the purpose of Article 8(2) of Regulation (EU) 2021/1059, the NUTS level 3 regions taken into account for the ERDF allocation are based on Regulation (EC) No 1059/2003 as amended by Commission Regulation (EU) 2016/2066 ⁽⁵⁾.
- (8) It is therefore necessary to establish the lists of Interreg programme areas to receive support, broken down by strand and Interreg programme,

HAS ADOPTED THIS DECISION:

Article 1

The list of programme areas to receive support from the ERDF under the cross-border cooperation strand of the European territorial cooperation goal, including under external cross-border cooperation also supported by IPA III and NDICI, and including regions of third or partner countries or territories outside the Union which do not receive support from the ERDF or from an external financing instrument of the Union, or which contribute to the Union budget by external assigned revenue, is set out in Annex I.

Article 2

The list of programme areas to receive support from the ERDF and the external financing instruments of the Union under the transnational cooperation strand of the European territorial cooperation goal, including regions of third or partner countries or territories outside the Union which do not receive support from the ERDF or from an external financing instrument of the Union, or which contribute to the Union budget by external assigned revenue, is set out in Annex II.

Article 3

The list of programme areas, including partner countries or parts thereof supported by the NDICI or OCTs supported by the OCTP or both, to receive support from the ERDF under the outermost regions' strand of the European territorial cooperation goal, is set out in Annex III.

Article 4

The list of NUTS level 3 regions of the Union taken into account for the ERDF allocation for cross-border cooperation at all internal borders and those external borders covered by the Union's external financing instruments, is set out in Annex IV.

⁽⁴⁾ Commission Delegated Regulation 2019/1755 of 8 August 2019 amending the Annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 270, 24.10.2019, p. 1).

⁽⁵⁾ Commission Regulation (EU) 2016/2066 of 21 November 2016 amending the annexes to Regulation (EC) No 1059/2003 of the European Parliament and of the Council on the establishment of a common classification of territorial units for statistics (NUTS) (OJ L 322, 29.11.2016, p. 1).

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 January 2022.

For the Commission
Elisa FERREIRA
Member of the Commission

ANNEX I

List of Interreg programme areas to receive support under strand A

Interreg Internal Cross-Border Programmes		
CCI		NUTS 3 level regions (in accordance with Regulation (EU) No 1059/2003, as last amended by Commission Regulation (EU) 2019/1755)
2021TC16RFCB001	BE DE NL	(Interreg VI-A) Maas-Rijn/Meuse-Rhin/Maas-Rhein (NL-BE-DE)
		BE223 Arr. Tongeren
		BE224 Arr. Hasselt
		BE225 Arr. Maaseik
		BE332 Arr. Liège
		BE335 Arr. Verviers – communes francophones
		BE336 Bezirk Verviers-Deutschsprachige Gemeinschaft
		DEA26 Düren
		DEA28 Euskirchen
		DEA29 Heinsberg
		DEA2D Städteregion Aachen
		DEB23 Eifelkreis Bitburg-Prüm
		DEB24 Vulkaneifel
		NL422 Midden-Limburg
		NL423 Zuid-Limburg
2021TC16RFCB002	AT CZ	(Interreg VI-A) Austria-Czechia
		AT121 Mostviertel-Eisenwurzen
		AT123 Sankt Pölten
		AT124 Waldviertel
		AT125 Weinviertel
		AT126 Wiener Umland/Nordteil
		AT130 Wien
		AT311 Innviertel
		AT312 Linz-Wels
		AT313 Mühlviertel
		AT314 Steyr-Kirchdorf
		CZ031 Jihočeský kraj
		CZ063 Kraj Vysočina
		CZ064 Jihomoravský kraj
2021TC16RFCB003	AT SK	(Interreg VI-A) Slovakia-Austria
		SK010 Bratislavský kraj

		SK021 Trnavský kraj
		AT112 Nordburgenland
		AT122 Niederösterreich-Süd
		AT123 Sankt Pölten
		AT124 Waldviertel
		AT125 Weinviertel
		AT126 Wiener Umland/Nordteil
		AT127 Wiener Umland/Südteil
		AT130 Wien
2021TC16RFCB004	AT DE	(Interreg VI-A) Austria-Germany/Bavaria
		AT311 Innviertel
		AT312 Linz-Wels
		AT313 Mühlviertel
		AT315 Traunviertel
		AT321 Lungau
		AT322 Pinzgau-Pongau
		AT323 Salzburg und Umgebung
		AT331 Außerfern
		AT332 Innsbruck
		AT333 Osttirol
		AT334 Tiroler Oberland
		AT335 Tiroler Unterland
		AT341 Bludenz-Bregenzer Wald
		AT342 Rheintal-Bodenseegebiet
		DE213 Rosenheim, Kreisfreie Stadt
		DE214 Altötting
		DE215 Berchtesgadener Land
		DE216 Bad Tölz-Wolfratshausen
		DE21D Garmisch-Partenkirchen
		DE21F Miesbach
		DE21G Mühldorf a. Inn
		DE21K Rosenheim, Landkreis
		DE21M Traunstein
		DE21N Weilheim-Schongau
		DE221 Landshut, Kreisfreie Stadt
		DE222 Passau, Kreisfreie Stadt
		DE224 Deggendorf

		DE225 Freyung-Grafenau
		DE227 Landshut, Landkreis
		DE228 Passau, Landkreis
		DE229 Regen
		DE22A Rottal-Inn
		DE22C Dingolfing-Landau
		DE272 Kaufbeuren, Kreisfreie Stadt
		DE273 Kempten (Allgäu), Kreisfreie Stadt
		DE274 Memmingen, Kreisfreie Stadt
		DE27A Lindau (Bodensee)
		DE27B Ostallgäu
		DE27C Unterallgäu
		DE27E Oberallgäu
2021TC16RFCB005	ES PT	(Interreg VI-A) Spain-Portugal (POCTEP)
		ES111 A Coruña
		ES112 Lugo
		ES113 Ourense
		ES114 Pontevedra
		ES148 Valladolid
		ES411 Ávila
		ES413 León
		ES415 Salamanca
		ES419 Zamora
		ES431 Badajoz
		ES432 Cáceres
		ES612 Cádiz
		ES613 Córdoba
		ES615 Huelva
		ES618 Sevilla
		PT111 Alto Minho
		PT112 Cávado
		PT119 Ave
		PT11A Area Metropolitana do Porto
		PT11B Alto Tâmega
		PT11C Tâmega e Sousa
		PT11D Douro
		PT11E Terras de Trás-os-Montes

		PT150 Algarve
		PT16B Oeste
		PT16D Região de Aveiro
		PT16E Região de Coimbra
		PT16F Região de Leiria
		PT16G Viseu Dão Lafões
		PT16H Beira Baixa
		PT 16I Médio Tejo
		PT16J Beiras e Serra da Estrela
		PT181 Alentejo litoral
		PT184 Baixo Alentejo
		PT186 Alto Alentejo
		PT187 Alentejo Central
2021TC16RFCB006	ES FR AD	(Interreg VI-A) Spain-France-Andorra (POCTEFA)
		ES211 Araba/Alava Álava
		ES212 GuipúzcoaGipuzkoa
		ES213 Vizcaya/Bizkaia
		ES220 Navarra
		ES230 La Rioja
		ES241 Huesca
		ES243 Zaragoza
		ES511 Barcelona
		ES512 Girona
		ES513 Lleida
		FRI15 Pyrénées-Atlantiques
		FRJ21 Ariège
		FRJ23 Haute -Garonne
		FRJ15 Pyrénées -Orientales
		FRJ26 Hautes-Pyrénées
		AD Andorra (third country)
2021TC16RFCB007	HU HR	(Interreg VI-A) Hungary-Croatia
		HR021 Bjelovarsko-bilogorska županija
		HR022 Virovitičko-podravska županija
		HR023 Požeško-slavonska županija
		HR025 Osječko-baranjska županija
		HR026 Vukovarsko-srijemska županija

		HR061 Međimurska županija
		HR062 Varaždinska županija
		HR063 Koprivničko-križevačka županija
		HU223 Zala
		HU231 Baranya
		HU232 Somogy
2021TC16RFCB008	DE CZ	(Interreg VI-A) Germany/Bavaria- Czechia
		CZ031 Jihočeský kraj
		CZ032 Plzeňský kraj
		CZ041 Karlovarský kraj
		DE222 Passau, Kreisfreie Stadt
		DE223 Straubing, Kreisfreie Stadt
		DE224 Deggendorf
		DE225 Freyung-Grafenau
		DE228 Passau, Landkreis
		DE229 Regen
		DE22B Straubing-Bogen
		DE231 Amberg, Kreisfreie Stadt
		DE232 Regensburg, Kreisfreie Stadt
		DE233 Weiden i. d. Opf, Kreisfreie Stadt
		DE234 Amberg-Sulzbach
		DE235 Cham
		DE237 Neustadt a. d. Waldnaab
		DE238 Regensburg, Landkreis
		DE239 Schwandorf
		DE23A Tirschenreuth
		DE242 Bayreuth, Kreisfreie Stadt
		DE244 Hof, Kreisfreie Stadt
		DE246 Bayreuth, Landkreis
		DE249 Hof, Landkreis
		DE24A Kronach
		DE24B Kulmbach
		DE24D Wunsiedel i. Fichtelgebirge
2021TC16RFCB009	AT HU	(Interreg VI-A) Austria-Hungary
		AT111 Mittelburgenland
		AT112 Nordburgenland
		AT113 Südburgenland

		AT122 Niederösterreich-Süd
		AT127 Wiener Umland/Südteil
		AT130 Wien
		AT221 Graz
		AT224 Oststeiermark
		HU221 Győr-Moson-Sopron
		HU222 Vas
		HU223 Zala
2021TC16RFCB010	DE PL	(Interreg VI-A) Germany/Brandenburg-Poland
		DE402 Cottbus, Kreisfreie Stadt
		DE403 Frankfurt (Oder), Kreisfreie Stadt
		DE409 Märkisch-Oderland
		DE40C Oder-Spree
		DE40G Spree-Neiße
		PL431 Gorzowski
		PL432 Zielonogórski
2021TC16RFCB011	PL SK	(Interreg VI-A) Poland-Slovakia
		PL214 Krakowski
		PL218 Nowosądecki
		PL219 Nowotarski
		PL21A Oświęcimski
		PL225 Bielski
		PL22C Tyski
		PL821 Krośnieński
		PL822 Przemyski
		PL823 Rzeszowski
		SK031 Žilinský kraj
		SK041 Prešovský kraj
		SK042 Košický kraj
2021TC16RFCB012	DE DK LT PL SE	(Interreg VI-A) Poland-Denmark-Germany-Lithuania-Sweden (South Baltic)
		DE80N Vorpommern-Greifswald
		DE803 Rostock, Kreisfreie Stadt
		DE80M Nordwestmecklenburg
		DE80L Vorpommern-Rügen
		DE80K Landkreis Rostock
		DK014 Bornholm

		DK021 Østsjælland
		DK022 Vest- og Sydsjælland
		LT023 Klaipėdos apskritis
		LT027 Tauragės apskritis
		LT028 Telšių apskritis
		PL424 Miasto Szczecin
		PL426 Koszaliński
		PL427 Szczecinecko-pyrzycki
		PL428 Szczeciński
		PL636 Słupski
		PL637 Chojnicki
		PL638 Starogardzki
		PL633 Trójmiejski
		PL634 Gdański
		PL621 Elbląski
		SE212 Kronobergs län
		SE213 Kalmar län
		SE221 Blekinge län
		SE224 Skåne län
2021TC16RFCB013	EE FI LV SE	(Interreg VI-A) Finland-Estonia-Latvia-Sweden (Central Baltic)
		EE001 Põhja-Eesti
		EE004 Lääne-Eesti
		EE008 Lõuna-Eesti
		EE009 Kesk-Eesti
		EE00A Kirde-Eesti
		FI1B1 Helsinki-Uusimaa
		FI1C1 Varsinais-Suomi
		FI1C2 Kanta-Häme
		FI1C3 Päijät-Häme
		FI1C4 Kymenlaakso
		FI1C5 Etelä-Karjala
		FI196 Satakunta
		FI197 Pirkanmaa
		FI200 Åland
		LV003 Kurzeme
		LV006 Rīga
		LV007 Pierīga
		LV008 Vidzeme

		LV009 Zemgale
		SE110 Stockholms län
		SE121 Uppsala län
		SE122 Södermanlands län
		SE123 Östergötlands län
		SE124 Örebro län
		SE125 Västmanlands län
		SE214 Gotlands län
		SE313 Gävleborgs län
2021TC16RFCB014	HU SK	(Interreg VI-A) Hungary-Slovakia
		HU110 Budapest
		HU120 Pest
		HU212 Komárom-Esztergom
		HU221 Győr-Moson-Sopron
		HU311 Borsod-Abaúj-Zemplén
		HU312 Heves
		HU313 Nógrád
		HU323 Szabolcs-Szatmár-Bereg
		SK010 Bratislavský kraj
		SK021 Trnavský kraj
		SK023 Nitriansky kraj
		SK032 Banskobystrický kraj
		SK042 Košický kraj
2021TC16RFCB015	SE NO	(Interreg VI-A) Sweden-Norway
		SE311 Värmlands län
		SE312 Dalarnas län
		SE232 Västra Götalands län
		SE321 Västernorrlands län
		SE322 Jämtlands län
		NO020 Innlandet
		NO060 Trøndelag
		NO082 Viken
2021TC16RFCB016	CZ DE	(Interreg VI-A) Germany/Saxony- Czechia
		CZ041 Karlovarský kraj
		CZ042 Ústecký kraj
		CZ051 Liberecký kraj
		DED21 Dresden, Kreisfreie Stadt

		DED2C Bautzen
		DED2D Görlitz
		DED2F Sächsische Schweiz-Osterzgebirge
		DED41 Chemnitz, Kreisfreie Stadt
		DED42 Erzgebirgskreis
		DED43 Mittelsachsen
		DED44 Vogtlandkreis
		DED45 Zwickau
2021TC16RFCB017	DE PL	(Interreg VI-A) Poland-Germany/Saxony
		DED2C Bautzen
		DED2D Görlitz
		PL432 Zielonogórski
		PL515 Jeleniogórski
2021TC16RFCB018	DE PL	(Interreg VI-A) Germany/Mecklenburg-Western Pomerania/Brandenburg-Poland
		DE405 Barnim
		DE409 Märkisch-Oderland
		DE40I Uckermark
		DE80J Mecklenburgische Seenplatte
		DE80L Vorpommern-Rügen
		DE80N Vorpommern-Greifswald
		PL424 Miasto Szczecin
		PL426 Koszalin
		PL427 Szczecinecko-pyrzycki
		PL428 Szczeciński
2021TC16RFCB019	EL IT	(Interreg VI-A) Greece-Italy
		EL541 Άρτα, Πρέβεζα (Arta/Arta, Preveza)
		EL542 Θεσπρωτία (Thesprotia)
		EL543 Ιωάννινα (Ioannina)
		EL621 Ζάκυνθος (Zakynthos)
		EL622 Κέρκυρα (Kerkyra)
		EL623 Ίθακη, Κεφαλονιά (Ithaki Kefallinia, Kefallonia)
		EL624 Λευκάδα (Lefkada)
		EL631 Αιτωλοακαρνανία (Aitolokarnania)
		EL632 Αχαΐα (Achaia)
		EL633 Ηλεία (Ileia)
		ITF43 Taranto
		ITF44 Brindisi

		ITF45 Lecce
		ITF46 Foggia
		ITF47 Bari
		ITF48 Barletta-Andria-Trani
		ITF52 Matera
		ITF61 Cosenza
		ITF62 Crotone
		ITF63 Catanzaro
		ITF65 Reggio di Calabria
2021TC16RFCB020	BG RO	(Interreg VI-A) Romania-Bulgaria
		BG 311 Видин (Vidin)
		BG 312 Монтана (Montana)
		BG 313 Враца (Vratsa)
		BG 314 Плевен (Pleven)
		BG 321 Велико Търново (Veliko Tarnovo)
		BG 323 Русе (Ruse)
		BG 325 Силистра (Silistra)
		BG 332 Добрич (Dobrich)
		RO223 Constanța
		RO312 Călărași
		RO314 Giurgiu
		RO317 Teleorman
		RO411 Dolj
		RO413 Mehedinți
		RO414 Olt
2021TC16RFCB021	BG EL	(Interreg VI-A) Greece-Bulgaria
		BG413 Благоевград (Blagoevgrad)
		BG422 Хасково (Haskovo)
		BG424 Смолян (Smolyan)
		BG425 Кърджали (Kardzhali)
		EL511 Έβρος (Evros)
		EL512 Ξάνθη (Xanthi)
		EL513 Ροδόπη (Rodopi)
		EL514 Δράμα (Drama)
		EL515 Καβάλα (Kavala)
		EL522 Θεσσαλονίκη (Thessaloniki)
		EL526 Σέρρες (Serres)

2021TC16RFCB022	DE NL	(Interreg VI-A) Germany-The Netherlands
		DE941 Delmenhorst, Kreisfreie Stadt
		DE942 Emden, Kreisfreie Stadt
		DE943 Oldenburg, Kreisfreie Stadt
		DE944 Osnabrück, Kreisfreie Stadt
		DE945 Wilhelmshaven, Kreisfreie Stadt
		DE946 Ammerland
		DE947 Aurich
		DE948 Cloppenburg
		DE949 Emsland
		DE94A Friesland (DE)
		DE94B Grafschaft Bentheim
		DE94C Leer
		DE94D Oldenburg, Landkreis
		DE94E Osnabrück, Landkreis
		DE94F Vechta
		DE94G Wesermarsch
		DE94H Wittmund
		DEA11 Düsseldorf, Kreisfreie Stadt
		DEA12 Duisburg, Kreisfreie Stadt
		DEA14 Krefeld, Kreisfreie Stadt
		DEA15 Mönchengladbach, Kreisfreie Stadt
		DEA1B Kleve
		DEA1D Rhein-Kreis Neuss
		DEA1E Viersen
		DEA1F Wesel
		DEA33 Münster, Kreisfreie Stadt
		DEA34 Borken
		DEA35 Coesfeld
		DEA37 Steinfurt
		DEA38 Warendorf
		NL111 Oost-Groningen
		NL112 Delfzijl en omgeving
		NL113 Overig Groningen
		NL124 Noord-Friesland
		NL125 Zuidwest-Friesland
		NL126 Zuidoost-Friesland
		NL131 Noord-Drenthe
		NL132 Zuidoost-Drenthe

		NL133 Zuidwest-Drenthe
		NL211 Noord-Overijssel
		NL212 Zuidwest-Overijssel
		NL213 Twente
		NL221 Veluwe
		NL224 Zuidwest-Gelderland
		NL225 Achterhoek
		NL226 Arnhem/Nijmegen
		NL230 Flevoland
		NL413 Noordoost-Noord-Brabant
		NL414 Zuidoost-Noord-Brabant
		NL421 Noord-Limburg
		NL422 Midden-Limburg
2021TC16RFCB023	AT DE CH LI	(Interreg VI-A) Germany-Austria-Switzerland-Liechtenstein (Alpenrhein-Bodensee-Hochrhein)
		AT341 Bludenz-Bregenzer Wald
		AT342 Rheintal-Bodenseegebiet
		DE136 Schwarzwald-Baar-Kreis
		DE137 Tuttlingen
		DE138 Konstanz
		DE139 Lörrach
		DE13A Waldshut
		DE147 Bodenseekreis
		DE148 Ravensburg
		DE149 Sigmaringen
		DE272 Kaufbeuren, Kreisfreie Stadt
		DE273 Kempten (Allgäu), Kreisfreie Stadt
		DE274 Memmingen, Kreisfreie Stadt
		DE27A Lindau (Bodensee)
		DE27B Landkreis Ostallgäu
		DE27C Unterallgäu
		DE27E Oberallgäu
		CH033 Aargau
		CH040 Zürich
		CH051 Glarus
		CH052 Schaffhausen
		CH053 Appenzell Ausserrhoden
		CH054 Appenzell Innerrhoden
		CH055 St. Gallen

		CH056 Graubünden
		CH057 Thurgau
		LI000 Liechtenstein
2021TC16RFCB024	CZ PL	(Interreg VI-A) Czechia -Poland
		CZ051 Liberecký kraj
		CZ052 Královéhradecký kraj
		CZ053 Pardubický kraj
		CZ071 Olomoucký kraj
		CZ080 Moravskoslezský kraj
		PL22C Tyski
		PL225 Bielski
		PL227 Rybnicki
		PL515 Jeleniogórski
		PL517 Wałbrzyski
		PL518 Wrocławski
		PL523 Nyski
		PL524 Opolski
2021TC16RFCB025	SE NO DK	(Interreg VI-A) Sweden-Denmark-Norway (Öresund-Kattegat-Skagerrak)
		SE224 Skåne län
		SE231 Hallands län
		SE232 Västra Götalandsregionen
		NO081 Oslo
		NO082 Viken
		NO091 Vestfold og Telemark
		NO092 Agder
		DK011 Byen København
		DK012 Københavns omegn
		DK013 Nordsjælland
		DK014 Bornholm
		DK021 Østsjælland
		DK022 Vest- og Sydsjælland
		DK041 Vestjylland
		DK042 Østjylland
		DK050 Nordjylland
2021TC16RFCB026	LT LV	(Interreg VI-A) Latvia-Lithuania
		LT023 Klaipėdos apskritis
		LT025 Panevėžio apskritis

		LT026 Šiaulių apskritis
		LT028 Telšių apskritis
		LT029 Utenos apskritis
		LV003 Kurzeme
		LV005 Latgale
		LV009 Zemgale
2021TC16RFCB027	FI SE NO	(Interreg VI-A) Sweden-Finland-Norway (AURORA)
		FI1D5 Keski-Pohjanmaa
		FI1D9 Pohjois-Pohjanmaa
		FI1D7 Lappi
		FI194 Etelä-Pohjanmaa
		FI195 Pohjanmaa
		SE312 Dalarnas län
		SE321 Västernorrlands län
		SE322 Jämtlands län
		SE331 Västerbottens län
		SE332 Norrbottens län
		NO020 Innlandet
		NO060 Trøndelag
		NO071 Nordland
		NO074 Troms og Finnmark
2021TC16RFCB028	SI HR	(Interreg VI-A) Slovenia-Croatia
		HR027 Karlovačka županija
		HR031 Primorsko-goranska županija
		HR036 Istarska županija
		HR050 Grad Zagreb
		HR061 Međimurska županija
		HR062 Varaždinska županija
		HR064 Krapinsko-zagorska županija
		HR065 Zagrebačka županija
		SI031 Pomurska
		SI032 Podravska
		SI034 Savinjska
		SI035 Zasavska
		SI036 Posavjska (formerly Spodnjeposavska)
		SI037 Jugovzhodna Slovenija
		SI038 Primorsko-notranjska (formerly Notranjsko-kraška)

		SI041 Osrednjeslovenska
		SI044 Obalno-kraška
2021TC16RFCB029	SK CZ	(Interreg VI-A) Slovakia-Czechia
		CZ064 Jihomoravský kraj
		CZ072 Zlínský kraj
		CZ080 Moravskoslezský kraj
		SK021 Trnavský kraj
		SK022 Trenčiansky kraj
		SK031 Žilinský kraj
2021TC16RFCB030	LT PL	(Interreg VI-A) Lithuania-Poland
		LT011 Vilniaus apskritis
		LT021 Alytaus apskritis
		LT022 Kauno apskritis
		LT024 Marijampolės apskritis
		LT027 Tauragės apskritis
		PL623 Elcki
		PL841 Białostocki
		PL843 Suwalski
2021TC16RFCB031	IT FR	(Interreg VI-A) Italy-France (Maritime)
		ITC31 Imperia
		ITC32 Savona
		ITC33 Genova
		ITC34 La Spezia
		ITG2D Sassari
		ITG2E Nuoro
		ITG2F Cagliari
		ITG2G Oristano
		ITG2H Sud Sardegna
		ITI11 Massa-Carrara
		ITI12 Lucca
		ITI16 Livorno
		ITI17 Pisa
		ITI1A Grosseto
		FRL03 Alpes-Maritimes
		FRL05 Var
		FRM02 Haute-Corse
		FRM01 Corse-du-Sud

2021TC16RFCB032	FR IT	(Interreg VI-A) France-Italy (ALCOTRA)
		FRK27 Savoie
		FRK28 Haute-Savoie
		FRL01 Alpes -de -Haute -Provence
		FRL02 Hautes -Alpes
		FRL03 Alpes -Maritimes
		ITC11 Torino
		ITC16 Cuneo
		ITC20 Valle d'Aosta/Vallée d'Aoste
		ITC31 Imperia
2021TC16RFCB033	IT CH	(Interreg VI-A) Italy-Switzerland
		ITC12 Vercelli
		ITC13 Biella
		ITC14 Verbano-Cusio-Ossola
		ITC15 Novara
		ITC20 Valle d'Aosta/Vallée d'Aoste
		ITC41 Varese
		ITC42 Como
		ITC43 Lecco
		ITC44 Sondrio
		ITH10 Bolzano-Bozen
		CH012 Valais
		CH056 Graubünden
		CH070 Ticino
2021TC16RFCB034	IT SI	(Interreg VI-A) Italy-Slovenia
		SI038 Notranjsko-kraška/Primorsko Notranska-notranjska
		SI042 Gorenjska
		SI043 GoriskaGoriška
		SI044 Obalno-kraška
		SI041 Osrednjeslovenska
		ITH35 Venezia
		ITH41 Pordenone
		ITH42 Udine
		ITH43 Gorizia
		ITH44 Trieste
2021TC16RFCB035	IT MT	(Interreg VI-A) Italy-Malta
		ITG11 Trapani

		ITG12 Palermo
		ITG13 Messina
		ITG14 Agrigento
		ITG15 Caltanissetta
		ITG16 Enna
		ITG17 Catania
		ITG18 Ragusa
		ITG19 Siracusa
		MT001 Malta
		MT002 Gozo& and Comino/Ghawdex u Kemmuna
2021TC16RFCB036	DE FR CH	(Interreg VI-A) France-Germany-Switzerland (Upper Rhine)
		DEB37 Pirmasens, Kreisfreie Stadt
		DEB3K Südwestpfalz
		DE121 Baden-Baden, Stadtkreis
		DE122 Karlsruhe, Stadtkreis
		DE123 Karlsruhe, Landkreis
		DE124 Rastatt
		DE131 Freiburg im Breisgau, Stadtkreis
		DE132 Breisgau-Hochschwarzwald
		DE133 Emmendingen
		DE134 Ortenaukreis
		DE139 Lörrach
		DE13A Waldshut
		DEB33 Landau in der Pfalz, Kreisfreie Stadt
		DEB3E Germersheim
		DEB3H Südliche Weinstrasse
		FRF11 Bas -Rhin
		FRF12 Haut -Rhin
		CH023 Solothurn
		CH025 Jura
		CH031 Basel-Stadt
		CH032 Basel-Landschaft
		CH033 Aargau
2021TC16RFCB037	FR CH	(Interreg VI-A) France-Switzerland
		FRC21 Doubs
		FRC22 Jura

		FRC24 Territoire de Belfort
		FRK21 Ain
		FRK28 Haute-Savoie
		CH011 Vaud
		CH012 Valais
		CH013 Genève
		CH021 Bern
		CH022 Fribourg
		CH024 Neuchâtel
		CH025 Jura
2021TC16RFCB038	IT HR	(Interreg VI-A) Italy-Croatia
		HR027 Karlovačka županija
		HR031 Primorsko-goranska županija
		HR032 Ličko-senjska županija
		HR033 Zadarska županija
		HR034 Šibensko-kninska županija
		HR035 Splitsko-dalmatinska županija
		HR036 Istarska županija
		HR037 Dubrovačko-neretvanska županija
		ITF12 Teramo
		ITF13 Pescara
		ITF14 Chieti
		ITF22 Campobasso
		ITF44 Brindisi
		ITF45 Lecce
		ITF46 Foggia
		ITF47 Bari
		ITF48 Barletta-Andria-Trani
		ITH35 Venezia
		ITH36 Padova
		ITH37 Rovigo
		ITH41 Pordenone
		ITH42 Udine
		ITH43 Gorizia
		ITH44 Trieste
		ITH56 Ferrara
		ITH57 Ravenna
		ITH58 Forlì-Cesena

		ITH59 Rimini
		ITI31 Pesaro e Urbino
		ITI32 Ancona
		ITI33 Macerata
		ITI34 Ascoli Piceno
		ITI35 Fermo
2021TC16RFCB039	BE FR	(Interreg VI-A) Belgium-France (Wallonie-Vlaanderen-France)
		BE234 Arr. Gent
		BE235 Arr. Oudenaarde
		BE251 Arr. Brugge
		BE252 Arr. Diksmuide
		BE253 Arr. Ieper
		BE254 Arr. Kortrijk
		BE255 Arr. Oostende
		BE256 Arr. Roeselare
		BE257 Arr. Tielt
		BE258 Arr. Veurne
		BE32A Arr. Ath
		BE32B Arr. Charleroi
		BE323 Arr. Mons
		BE328 Arr. Mouscron
		BE329 Arr. La Louvière
		BE32C Arr. Soignies
		BE32D Arr. Thuin
		BE328 Arr. Tournai
		BE341 Arr. Arlon
		BE342 Arr. Bastogne
		BE343 Arr. Marche-en-Famenne
		BE344 Arr. Neufchâteau
		BE345 Arr. Virton
		BE351 Arr. Dinant
		BE352 Arr. Namur
		BE353 Arr. Philippeville
		FRE11 Nord
		FRE12 Pas-de-Calais
		FRE21 Aisne

		FRE22 Oise
		FRE23 Somme
		FRF21 Ardennes
		FRF23 Marne
2021TC16RFCB040	BE DE FR LU	(Interreg VI-A) France-Belgium-Germany-Luxembourg (Grande Région/Großregion)
		BE331 Arr. Huy
		BE332 Arr. Liège
		BE334 Arr. Waremmе
		BE335 Arr. Verviers – communes francophones
		BE336 Bezirk Verviers – Deutschsprachige Gemeinschaft
		BE341 Arr. Arlon
		BE342 Arr. Bastogne
		BE343 Arr. Marche-en-Famenne
		BE344 Arr. Neufchâteau
		BE345 Arr. Virton
		DEB21 Trier, Kreisfreie Stadt
		DEB23 Eifelkreis Bitburg-Prüm
		DEB25 Trier-Saarburg
		DEB37 Pirmasens, Kreisfreie Stadt
		DEB3A Zweibrücken, Kreisfreie Stadt
		DEB3K Südwestpfalz
		DEC01 Regionalverband Saarbrücken
		DEC02 Merzig-Wadern
		DEC04 Saarlouis
		DEC05 Saarpfalz-Kreis
		DEB15 Birkenfeld
		DEB22 Bernkastel-Wittlich
		DEB24 Vulkaneifel
		DEB32 Kaiserslautern, Kreisfreie Stadt
		DEB33 Landau in der Pfalz, Kreisfreie Stadt
		DEB3E Gernersheim
		DEB3F Kaiserslautern, Landkreis
		DEB3G Kusel
		DEB3H Südliche Weinstraße
		DEC03 Neunkirchen

		DEC06 St. Wendel
		FRF31 Meurthe-et-Moselle
		FRF32 Meuse
		FRF33 Moselle
		LU000 Luxembourg
2021TC16RFCB041	BE NL	(Interreg VI-A) Belgium-The Netherlands (Vlaanderen-Nederland)
		BE211 Arr. Antwerpen
		BE212 Arr. Mechelen
		BE213 Arr. Turnhout
		BE224 Arr. Hasselt
		BE225 Arr. Maaseik
		BE223 Arr. Tongeren
		BE231 Arr. Aalst
		BE232 Arr. Dendermonde
		BE233 Arr. Eeklo
		BE234 Arr. Gent
		BE235 Arr. Oudenaarde
		BE236 Arr. Sint-Niklaas
		BE242 Arr. Leuven
		BE251 Arr. Brugge
		BE252 Arr. Diksmuide
		BE254 Arr. Kortrijk
		BE255 Arr. Oostende
		BE256 Arr. Roeselare
		BE257 Arr. Tielt
		NL341 Zeeuwsch-Vlaanderen
		NL342 Overig Zeeland
		NL411 West-Noord-Brabant
		NL412 Midden-Noord-Brabant
		NL413 Noordoost-Noord-Brabant
		NL414 Zuidoost-Noord-Brabant
		NL421 Noord-Limburg
		NL422 Midden-Limburg
		NL423 Zuid-Limburg
2021TC16RFCB042	RO HU	(Interreg VI-A) Romania-Hungary
		HU321 Hajdú-Bihar
		HU323 Szabolcs-Szatmár-Bereg

		HU332 Békés
		HU333 Csongrád
		RO111 Bihor
		RO115 Satu Mare
		RO421 Arad
		RO424 Timiș
2021TC16RFCB043	EE LV	(Interreg VI-A) Estonia-Latvia
		EE004 Lääne-Eesti
		EE008 Lõuna-Eesti
		LV003 Kurzeme
		LV006 Rīga
		LV007 Pierīga
		LV008 Vidzeme
2021TC16RFCB044	IT AT	(Interreg VI-A) Italy-Austria
		AT211 Klagenfurt-Villach
		AT212 Oberkärnten
		AT213: Unterkärnten
		AT321: Lungau
		AT322 Pinzgau-Pongau
		AT323: Salzburg und Umgebung
		AT331: Außerfern
		AT332 Innsbruck
		AT333 Osttirol
		AT334 Tiroler Oberland
		AT335 Tiroler Unterland
		ITH10 Bolzano-Bozen
		ITH32: Vicenza
		ITH33 Belluno
		ITH34: Treviso
		ITH41 Pordenone
		ITH42 Udine
		ITH43: Gorizia
		ITH44: Trieste
2021TC16RFCB045	SI HU	(Interreg VI-A) Slovenia-Hungary
		HU222 Vas
		HU223 Zala
		SI031 Pomurska
		SI032 Podravska

2021TC16RFCB046	SI AT	(Interreg VI-A) Slovenia-Austria
		AT113 Südburgenland
		AT211 Klagenfurt-Villach
		AT212 Oberkärnten
		AT213 Unterkärnten
		AT221 Graz
		AT223 Östliche Obersteiermark
		AT224 Oststeiermark
		AT225 West- und Südsteiermark
		SI031 Pomurska
		SI032 Podravska
		SI033 Koroška
		SI034 Savinjska
		SI035 Zasavska
		SI041 Osrednjeslovenska
		SI042 Gorenjska
		SI043 Goriška
2021TC16RFCB047	EL CY	(Interreg VI-A) Greece-Cyprus
		CY000 Κύπρος (Cyprus)
		EL411 Λέσβος, Λήμνος (Lesvos, Limnos)
		EL412 Ικαρία, Σάμος (Ikaria, Samos)
		EL413 Χίος (Chios)
		EL421 Κάλυμνος, Κάρπαθος, Κάσος, Κως, Ρόδος (Kalymnos, Karpathos, Kasos, Kos, Rodos)
		EL422 Άνδρος, Θήρα, Κέα, Μήλος, Μύκονος, Νάξος, Πάρος, Σύρος, Τήνος (Andros, Thira, Kea, Milos, Mykonos, Naxos, Paros, Syros, Tinos)
		EL431 Ηράκλειο (Irakleio)
		EL432 Λασιθί (Lasithi)
		EL433 Ρεθιμνί/Ρέθυμνο (Rethimno)
		EL434 Χανιά (Chania)
2021TC16RFCB048	DE DK	(Interreg VI-A) Germany-Denmark
		DEF01 Flensburg, Kreisfreie Stadt
		DEF02 Kiel, Kreisfreie Stadt
		DEF03 Lübeck, Kreisfreie Stadt
		DEF04 Neumünster, Kreisfreie Stadt
		DEF07 Nordfriesland
		DEF08 Ostholstein

		DEF0A Plön
		DEF0B Rendsburg-Eckernförde
		DEF0C Schleswig-Flensburg
		DK021 Østsjælland
		DK022 Vest- og Sydsjælland
		DK031 Fyn
		DK032 Syddjylland
2014TC16RFPC001	IE UK	(Interreg VI-A) PEACE PLUS Ireland-Northern Ireland/United Kingdom
		IE041 Border
		IE062 Mid-East
		UKN06 Belfast
		UKN07 Armagh City, Banbridge and Craigavon
		UKN08 Newry, Mourne and Down
		UKN09 Ards and North Down
		UKN0A Derry City and Strabane
		UKN0B Mid Ulster
		UKN0C Causeway Coast and Glens
		UKN0D Antrim and Newtownabbey
		UKN0E Lisburn and Castlereagh
		UKN0F Mid and East Antrim
		UKN0G Fermanagh and Omagh

Interreg A IPA III CBC programmes (IPA III CBC)

CCI		NUTS 3 level regions (in accordance with Regulation (EU) No 1059/2003, as last amended by Commission Regulation (EU) 2019/1755)
2021TC16IPCB001	HU RS	(Interreg VI-A) IPA Hungary Serbia
	HU331	Bács-Kiskun
	HU333	Csongrád
	RS121	West Bačka District
	RS122	South Banat District
	RS123	South Bačka District
	RS124	North Banat District
	RS125	North Bačka District
	RS126	Central Banat District

	RS127	Srem District
2021TC16IPCB002	RO RS	(Interreg VI-A) IPA Romania Serbia
	RO413	Mehedinți
	RO422	Caraș-Severin
	RO424	Timiș
	RS122	South Banat District
	RS124	North Banat District
	RS126	Central Banat District
	RS221	Bor District
	RS222	Braničevski District
	RS227	Podunavski District
2021TC16IPCB003	HR RS	(Interreg VI-A) IPA Croatia Serbia
	HR023	Požeško-slavonska županija
	HR024	Brodsko-posavska županija
	HR025	Osječko-baranjska županija
	HR026	Vukovarsko-srijemska županija
	RS121	West Bačka District
	RS123	South Bačka District
	RS125	North Bačka District
	RS127	Srem District
	RS213	Mačva District
2021TC16IPCB004	HR BA ME	(Interreg VI-A) IPA Croatia Bosnia and Herzegovina Montenegro
	HR021	Bjelovarsko-bilogorska županija
	HR023	Požeško-slavonska županija
	HR024	Brodsko-posavska županija
	HR026	Vukovarsko-srijemska županija
	HR027	Karlovačka županija
	HR028	Sisačko-moslavačka županija
	HR032	Ličko-senjska županija
	HR033	Zadarska županija
	HR034	Šibensko-kninska županija
	HR035	Splitsko-dalmatinska županija
	HR037	Dubrovačko-neretvanska županija
	HR065	Zagrebačka županija

	ME	Montenegro
	BA	Brčko District
	BA	Republika Srpska
	BA	Una Sana Canton
	BA	Posavina Canton
	BA	Tuzla Canton
	BA	Zenica-Doboj Canton
	BA	Central Bosnia Canton
	BA	West Herzegovina Canton
	BA	Herzegovina-Neretva Canton
	BA	Canton 10
2021TC16IPCB005	BG TR	(Interreg VI-A) IPA Bulgaria Turkey
	BG341	Бургас/Burgas
	BG343	Ямбол/Yambol
	BG422	Хасково/Haskovo
	TR212	Edirne
	TR213	Kırklareli
2021TC16IPCB006	BG MK	(Interreg VI-A) IPA Bulgaria North Macedonia
	BG413	Благоевград/Blagoevgrad
	BG415	Кюстендил/Kyustendil
	MK002	East region
	MK004	Southeast
	MK007	Northeast
2021TC16IPCB007	BG RS	(Interreg VI-A) IPA Bulgaria Serbia
	BG311	Видин/Vidin
	BG312	Монтана/Montana
	BG313	Враца/Vratsa
	BG412	София/Sofia
	BG414	Перник/Pernik
	BG415	Кюстендил/Kyustendil
	RS221	Bor District
	RS223	Zaječar District
	RS224	Jablanica District
	RS225	Nišava District

	RS226	Pirot District
	RS228	Pčinja District
	RS229	Toplica District
2021TC16IPCB008	IT AL ME	(Interreg VI-A) IPA Italy Albania Montenegro (South Adriatic)
	ITF21	Isernia
	ITF22	Campobasso
	ITF43	Taranto
	ITF44	Brindisi
	ITF45	Lecce
	ITF46	Foggia
	ITF47	Bari
	ITF48	Barletta-Andria-Trani
	ME	Montenegro
	AL	Albania
2021TC16IPCB009	EL MK	(Interreg VI-A) IPA Greece North Macedonia
	EL522	Θεσσαλονίκη/Thessaloniki
	EL523	Κιλκίς/Kilkis
	EL524	Πέλλα/Pella
	EL526	Σέρρες/Serres
	EL531	Γρεβενά, Κοζάνη/Grevena, Kozani
	EL533	Φλώρινα/Florina
	MK001	Vardar
	MK003	Southwest
	MK004	Southeast
	MK005	Pelagonia
2021TC16IPCB010	EL AL	(Interreg VI-A) IPA Greece Albania
	EL531	Γρεβενά, Κοζάνη/Grevena, Kozani
	EL532	Καστοριά/Kastoria
	EL533	Φλώρινα/Florina
	EL541	Αρτα, Πρέβεζα/Arta, Preveza
	EL542	Θεσπρωτία/Thesprotia
	EL543	Ιωάννινα/Ioannina
	EL621	Ζάκυνθος/Zakynthos
	EL622	Κέρκυρα/Kerkyra

	EL623	Ιθάκη, Κεφαλλήνια/Ithaki, Kefallinia
	EL624	Λευκάδα/Lefkada
	AL031	Berat
	AL032	Fier
	AL033	Gjirokastër
	AL034	Korçë
	AL035	Vlorë

Interreg A NEXT programmes (NDICI-CBC)

CCI		NUTS 3 level regions (in accordance with Regulation (EU) No 1059/2003, as last amended by Commission Regulation (EU) 2019/1755)
2021TC16NXCBO01	FI NO RU SE	(Interreg VI-A) NEXT Kolarctic
	FI1D7	Lappi
	NO071	Nordland
	NO074	Troms og Finnmark
	RU	Arkhangelskaya oblast
	RU	Murmanskaya oblast
	RU	Nenetskiy Avtonomniy okrug
	SE332	Norrbottnens län
2021TC16NXCBO02	FI RU	(Interreg VI-A) NEXT Karelia
	FI1D3	Pohjois-Karjala
	FI1D8	Kainuu
	FI1D9	Pohjois-Pohjanmaa
	RU	Respublika Kareliya
2021TC16NXCBO03	FI RU	(Interreg VI-A) NEXT South East Finland Russia
	FI1C4	Kymenlaakso
	FI1C5	Etelä-Karjala
	FI1D1	Etelä-Savo
	RU	Sankt-Peterburg
	RU	Leningradskaya oblast
2021TC16NXCBO04	EE RU	(Interreg VI-A) NEXT Estonia Russia
	EE001	Põhja-Eesti
	EE008	Lõuna-Eesti

	EE009	Kesk-Eesti
	EE00A	Kirde-Eesti
	RU	Sankt-Peterburg
	RU	Pskovskaya oblast
	RU	Leningradskaya oblast
2021TC16NXCB005	LV RU	(Interreg VI-A) NEXT Latvia Russia
	LV005	Latgale
	LV008	Vidzeme
	LV006	Rīga
	LV007	Pierīga
	LV009	Zemgale
	RU	Pskovskaya oblast
	RU	Leningradskaya oblast
	RU	Sankt-Peterburg
2021TC16NXCB006	LT RU	(Interreg VI-A) NEXT Lithuania Russia
	LT021	Alytaus apskritis
	LT022	Kauno apskritis
	LT026	Šiaulių apskritis
	LT028	Telšių apskritis
	LT023	Klaipėdos apskritis
	LT024	Marijampolės apskritis
	LT027	Tauragės apskritis
	RU	Kaliningradskaya oblast
2021TC16NXCB007	PL RU	(Interreg VI-A) NEXT Poland Russia
	PL841	Białostocki
	PL636	Ślęski
	PL843	Suwalski
	PL621	Elbląski
	PL622	Olsztyński
	PL623	Elcki
	PL633	Trójmiejski

	PL634	Gdański
	PL637	Chojnicki
	PL638	Starogardzki
	RU	Kaliningradskaya oblast
2021TC16NXCB008	LV BY	(Interreg VI-A) NEXT Latvia Belarus
	LV005	Latgale
	LV009	Zemgale
	BY	Vitebsk oblast
	BY	Minskaya oblast
	BY	Mogilevskaya oblast
2021TC16NXCB009	PL BU UA	(Interreg VI-A) NEXT Poland Belarus Ukraine ⁽¹⁾
	PL811	Bialski
	PL812	Chełmsko-zamojski
	PL814	Lubelski
	PL815	Puławski
	PL821	Krośnieński
	PL822	Przemyski
	PL823	Rzeszowski
	PL824	Tarnobrzeczski
	PL841	Białostocki
	PL842	Łomżyński
	PL843	Suwalski
	PL924	Ostrołęcki
	PL925	Siedlecki
	BY	Gomelskaya oblast
	BY	Minskaya oblast
	BY	Brestskaya oblast
	BY	Grodnenskaya oblast
	UA	Ivano-Frankivsk oblast
	UA	Rivne oblast
	UA	Ternopil oblast
	UA	Lviv oblast
	UA	Volyn oblast
	UA	Zakarpatska oblast

2021TC16NXCB010	HU SK RO UA	(Interreg VI-A) NEXT Hungary Slovakia Romania Ukraine ⁽¹⁾
	HU311	Borsod-Abaúj-Zemplén
	HU323	Szabolcs-Szatmár-Bereg
	RO215	Suceava
	RO114	Maramureş
	RO115	Satu Mare
	SK041	Prešovský kraj
	SK042	Košický kraj
	UA	Chernivtsi oblast
	UA	Ivano-Frankivsk oblast
	UA	Zakarpattia oblast
2021TC16NXCB011	RO MD	(Interreg VI-A) NEXT Romania Rep.Moldova
	RO212	Botoşani
	RO213	Iaşi
	RO216	Vaslui
	RO224	Galaţi
	MD	Rep.Moldova
2021TC16NXCB012	RO UA	(Interreg VI-A) NEXT Romania Ukraine ⁽¹⁾
	RO114	Maramureş
	RO115	Satu Mare
	RO212	Botoşani
	RO215	Suceava
	RO225	Tulcea
	UA	Chernivtsi oblast
	UA	Ivano-Frankivsk oblast
	UA	Zakarpattia oblast
	UA	Odessa oblast
2021TC16NXCB013	IT TN	(Interreg VI-A) NEXT Italy Tunisia
	ITG12	Palermo
	ITG16	Enna
	ITG17	Catania
	ITG11	Trapani
	ITG14	Agrigento
	ITG15	Caltanissetta

	ITG18	Ragusa
	ITG19	Siracusa
	ITG13	Messina
	TN	Beja
	TN	Zaghuan
	TN	Kairouan
	TN	Sidi Bouz
	TN	Gabes
	TN	Manouba
	TN	Bizerte
	TN	Ariana
	TN	Tunis
	TN	Ben Arous
	TN	Nabeul
	TN	Sousse
	TN	Monastir
	TN	Mahdia
	TN	Sfax
	TN	Medenine
2021TC16NXCB014	LT BY	(Interreg VI-A) NEXT Lithuania Belarus
	LT021	Alytaus apskritis
	LT029	Utenos apskritis
	LT011	Vilniaus apskritis
	LT022	Kauno apskritis
	LT025	Panevėžio apskritis
	BY	Grodnenskaya oblast
	BY	Minskaya oblast
	BY	Mogilevskaya oblast
	BY	Vitebsk oblast

(¹) UA: The general EU restrictions on cooperation in regions that are illegally annexed by Russia are also applicable to Interreg NEXT.

ANNEX II

List of Interreg programme areas to receive support under strand B

CCI		Names
2021TC16IPTN001	IT EL HR SI AL BA ME MK RS SM	(Interreg VI-B) IPA Adriatic-Ionian
	EL30	Αττική/Attiki
	EL41	Βόρειο Αιγαίο/Voreio Aigaio
	EL42	Νότιο Αιγαίο/Notio Aigaio
	EL43	Κρήτη/Kriti
	EL51	Ανατολική Μακεδονία, Θράκη/Anatoliki Makedonia, Thraki
	EL52	Κεντρική Μακεδονία/Kentriki Makedonia
	EL53	Δυτική Μακεδονία/Dytiki Makedonia
	EL54	Ήπειρος/Ipeiros
	EL61	Θεσσαλία/Thessalia
	EL62	Ιόνια Νησιά/Ionia Nisia
	EL63	Δυτική Ελλάδα/Dytiki Elláda
	EL64	Στερεά Ελλάδα/Stereá Elláda
	EL65	Πελοπόννησος/Peloponnisos
	HR02	Panonska Hrvatska
	HR03	Jadranska Hrvatska
	HR05	Grad Zagreb
	HR06	Sjeverna Hrvatska
	ITC4	Lombardia
	ITF1	Abruzzo
	ITF2	Molise
	ITF4	Puglia
	ITF5	Basilicata
	ITF6	Calabria
	ITG1	Sicilia
	ITH1	Provincia Autonoma di Bolzano/Bozen
	ITH2	Provincia Autonoma di Trento
	ITH3	Veneto
	ITH4	Friuli-Venezia Giulia
	ITH5	Emilia-Romagna
	ITI2	Umbria
	ITI3	Marche
	SI03	Vzhodna Slovenija

	SI04	Zahodna Slovenija
	AL	Albania
	BA	Bosnia and Herzegovina
	ME	Montenegro
	RS	Serbia
	MK	North Macedonia
	SM	San Marino
2021TC16RFTN001	AT DE FR IT SI CH LI	(Interreg VI-B) Alpine Space
	DE11	Stuttgart
	DE12	Karlsruhe
	DE13	Freiburg
	DE14	Tübingen
	DE21	Oberbayern
	DE22	Niederbayern
	DE23	Oberpfalz
	DE24	Oberfranken
	DE25	Mittelfranken
	DE26	Unterfranken
	DE27	Schwaben
	FRC2	Franche-Comté
	FRF1	Alsace
	FRK2	Rhône-Alpes
	FRL0	Provence-Alpes-Côte d'Azur
	ITC1	Piemonte
	ITC2	Valle d'Aosta/Vallée d'Aoste
	ITC3	Liguria
	ITC4	Lombardia
	ITH1	Provincia Autonoma di Bolzano/Bozen
	ITH2	Provincia Autonoma di Trento
	ITH3	Veneto
	ITH4	Friuli-Venezia Giulia
	AT11	Burgenland
	AT12	Niederösterreich
	AT13	Wien
	AT21	Kärnten
	AT22	Steiermark

	AT31	Oberösterreich
	AT32	Salzburg
	AT33	Tirol
	AT34	Vorarlberg
	SI03	Vzhodna Slovenija
	SI04	Zahodna Slovenija
	CH	Schweiz/Suisse/Svizzera
	LI	Liechtenstein
2021TC16RFTN002	PT ES FR IE	(Interreg VI-B) Atlantic Area
	ES11	Galicia
	ES12	Principado de Asturias
	ES13	Cantabria
	ES21	País Vasco
	ES22	Comunidad Foral de Navarra
	ES23	La Rioja
	ES61	Andalucía
	ES70	Canarias
	FRD1	Basse-Normandie
	FRD2	Haute-Normandie
	FRG0	Pays de la Loire
	FRH0	Bretagne
	FRI1	Aquitaine
	FRI2	Limousin
	FRI3	Poitou-Charentes
	IE04	Northern and Western
	IE05	Southern
	IE06	Eastern and Midland
	PT11	Norte
	PT15	Algarve
	PT16	Centro (PT)
	PT17	Área Metropolitana de Lisboa
	PT18	Alentejo
	PT20	Região Autónoma dos Açores
	PT30	Região Autónoma da Madeira
2021TC16FFTN003	DE DK EE LV LT PL FI SE BY NO RU	(Interreg VI-B) Baltic Sea Region
	DK01	Hovedstaden

	DK02	Sjælland
	DK03	Syddanmark
	DK04	Midtjylland
	DK05	Nordjylland
	DE30	Berlin
	DE40	Brandenburg
	DE50	Bremen
	DE60	Hamburg
	DE80	Mecklenburg-Vorpommern
	DE93	Lüneburg
	DEF0	Schleswig-Holstein
	EE00	Eesti
	LV00	Latvija
	LT01	Sostinės regionas
	LT02	Vidurio ir vakarų Lietuvos regionas
	PL21	Małopolskie
	PL22	Śląskie
	PL41	Wielkopolskie
	PL42	Zachodniopomorskie
	PL43	Lubuskie
	PL51	Dolnośląskie
	PL52	Opolskie
	PL61	Kujawsko-pomorskie
	PL62	Warmińsko-mazurskie
	PL63	Pomorskie
	PL71	Łódzkie
	PL72	Świętokrzyskie
	PL81	Lubelskie
	PL82	Podkarpackie
	PL84	Podlaskie
	PL91	Warszawski stołeczny
	PL92	Mazowiecki regionalny
	FI19	Länsi-Suomi
	FI1B	Helsinki-Uusimaa
	FI1C	Etelä-Suomi
	FI1D	Pohjois- ja Itä-Suomi
	FI20	Åland
	SE11	Stockholm

	SE12	Östra Mellansverige
	SE21	Småland med öarna
	SE22	Sydsverige
	SE23	Västsverige
	SE31	Norra Mellansverige
	SE32	Mellersta Norrland
	SE33	Övre Norrland
	BY	Belarus
	NO02	Innlandet
	NO06	Trøndelag
	NO08	Oslo og Viken
	NO09	Agder og Sør-Østlandet
	NO0A	Vestlandet
	RU	Arkhangelskaya oblast
	RU	Kaliningradskaya oblast
	RU	Karelya Republik
	RU	Komi Republik
	RU	Leningradskaya oblast
	RU	Murmanskaya oblast
	RU	Nenetskiy Avtonomniy okrug
	RU	Novgorodskaya oblast
	RU	Pskovskaya oblast
	RU	Sankt-Peterburg
	RU	Vologda oblast
2021TC16RFTN003	AT CZ DE IT HR HU PL SI SK	(Interreg VI-B) Central Europe
	CZ01	Praha
	CZ02	Střední Čechy
	CZ03	Jihozápad
	CZ04	Severozápad
	CZ05	Severovýchod
	CZ06	Jihovýchod
	CZ07	Střední Morava
	CZ08	Moravskoslezsko
	DE11	Stuttgart
	DE12	Karlsruhe
	DE13	Freiburg
	DE14	Tübingen

	DE21	Oberbayern
	DE22	Niederbayern
	DE23	Oberpfalz
	DE24	Oberfranken
	DE25	Mittelfranken
	DE26	Unterfranken
	DE27	Schwaben
	DE30	Berlin
	DE40	Brandenburg
	DE80	Mecklenburg-Vorpommern
	DE91	Braunschweig
	DED2	Dresden
	DED4	Chemnitz
	DED5	Leipzig
	DEE0	Sachsen-Anhalt
	DEG0	Thüringen
	ITC1	Piemonte
	ITC2	Valle d'Aosta/Vallée d'Aoste
	ITC3	Liguria
	ITC4	Lombardia
	ITH1	Provincia Autonoma di Bolzano/Bozen
	ITH2	Provincia Autonoma di Trento
	ITH3	Veneto
	ITH4	Friuli-Venezia Giulia
	ITH5	Emilia-Romagna
	HR02	Panonska Hrvatska
	HR03	Jadranska Hrvatska
	HR05	Grad Zagreb
	HR06	Sjeverna Hrvatska
	HU11	Budapest
	HU12	Pest
	HU21	Közép-Dunántúl
	HU22	Nyugat-Dunántúl
	HU23	Dél-Dunántúl
	HU31	Észak-Magyarország
	HU32	Észak-Alföld
	HU33	Dél-Alföld
	AT11	Burgenland

	AT12	Niederösterreich
	AT13	Wien
	AT21	Kärnten
	AT22	Steiermark
	AT31	Oberösterreich
	AT32	Salzburg
	AT33	Tirol
	AT34	Vorarlberg
	PL21	Małopolskie
	PL22	Śląskie
	PL41	Wielkopolskie
	PL42	Zachodniopomorskie
	PL43	Lubuskie
	PL51	Dolnośląskie
	PL52	Opolskie
	PL61	Kujawsko-pomorskie
	PL62	Warmińsko-mazurskie
	PL63	Pomorskie
	PL71	Łódzkie
	PL72	Świętokrzyskie
	PL81	Lubelskie
	PL82	Podkarpackie
	PL84	Podlaskie
	PL91	Warszawski stołeczny
	PL92	Mazowiecki regionalny
	SI03	Vzhodna Slovenija
	SI04	Zahodna Slovenija
	SK01	Bratislavský kraj
	SK02	Západné Slovensko
	SK03	Stredné Slovensko
	SK04	Východné Slovensko
2021TC16FFTN004	HU AT BG CZ DE HR RO SI SK BA ME RS MD UA	(Interreg VI-B) Danube ⁽¹⁾
	AT11	Burgenland
	AT12	Niederösterreich
	AT13	Wien
	AT21	Kärnten
	AT22	Steiermark

	AT31	Oberösterreich
	AT32	Salzburg
	AT33	Tirol
	AT34	Vorarlberg
	BG31	Северозападен/Severozapaden
	BG32	Северен централен/Severen tsentralen
	BG33	Североизточен/Severoiztochen
	BG34	Югоизточен/Yugoiztochen
	BG41	Югозападен/Yugozapaden
	BG42	Южен централен/Yuzhen tsentralen
	CZ01	Praha
	CZ02	Střední Čechy
	CZ03	Jihozápad
	CZ04	Severozápad
	CZ05	Severovýchod
	CZ06	Jihovýchod
	CZ07	Střední Morava
	CZ08	Moravskoslezsko
	DE11	Stuttgart
	DE12	Karlsruhe
	DE13	Freiburg
	DE14	Tübingen
	DE21	Oberbayern
	DE22	Niederbayern
	DE23	Oberpfalz
	DE24	Oberfranken
	DE25	Mittelfranken
	DE26	Unterfranken
	DE27	Schwaben
	HR02	Panonska Hrvatska
	HR03	Jadranska Hrvatska
	HR05	Grad Zagreb
	HR06	Sjeverna Hrvatska
	HU11	Budapest
	HU12	Pest
	HU21	Közép-Dunántúl
	HU22	Nyugat-Dunántúl
	HU23	Dél-Dunántúl

	HU31	Észak-Magyarország
	HU32	Észak-Alföld
	HU33	Dél-Alföld
	RO11	Nord-Vest
	RO12	Centru
	RO21	Nord-Est
	RO22	Sud-Est
	RO31	Sud-Muntenia
	RO32	Bucureşti-Ilfov
	RO41	Sud-Vest Oltenia
	RO42	Vest
	SI03	Vzhodna Slovenija
	SI04	Zahodna Slovenija
	SK01	Bratislavský kraj
	SK02	Západné Slovensko
	SK03	Stredné Slovensko
	SK04	Východné Slovensko
	BA	Bosnia and Herzegovina
	ME	Montenegro
	RS1	Serbia – sever
	RS11	City of Belgrade
	RS12	Autonomous Province of Vojvodina
	RS21	Region Šumadije i Zapadne Srbije
	RS22	Region Južne i Istočne Srbije
	MD	Moldova
	UA	Chernivtsi oblast
	UA	Ivano-Frankivsk oblast
	UA	Zakarpattia oblast
	UA	Odessa oblast
2021TC16FFTN001	FR BG EL ES HR IT CY MT PT SI AL BA ME MK	(Interreg VI-B) EURO MEDITERRANEAN (EURO MED)
	BG31	Северозападен/Severozapaden
	BG32	Северен централен/Severen tsentralen
	BG33	Североизточен/Severoiztochen
	BG34	Югоизточен/Yugoiztochen
	BG41	Югозападен/Yugozapaden
	BG42	Южен централен/Yuzhen tsentralen

	EL30	Αττική/Attiki
	EL41	Βόρειο Αιγαίο/Voreio Aigaio
	EL42	Νότιο Αιγαίο/Notio Aigaio
	EL43	Κρήτη/Kriti
	EL51	Ανατολική Μακεδονία, Θράκη/Anatoliki Makedonia, Thraki
	EL52	Κεντρική Μακεδονία/Kentriki Makedonia
	EL53	Δυτική Μακεδονία/Dytiki Makedonia
	EL54	Ήπειρος/Ipreiros
	EL61	Θεσσαλία/Thessalia
	EL62	Ιόνια Νησιά/Ionia Nisia
	EL63	Δυτική Ελλάδα/Dytiki Elláda
	EL64	Στερεά Ελλάδα/Stereá Elláda
	EL65	Πελοπόννησος/Peloponnisos
	ES24	Aragón
	ES30	Comunidad de Madrid
	ES42	Castilla-La Mancha
	ES43	Extremadura
	ES51	Cataluña
	ES52	Comunitat Valenciana
	ES53	Illes Balears
	ES61	Andalucía
	ES62	Región de Murcia
	ES63	Ciudad de Ceuta
	ES64	Ciudad de Melilla
	FRJ1	Languedoc-Roussillon
	FRJ2	Midi-Pyrénées
	FRK2	Rhône-Alpes
	FRL0	Provence-Alpes-Côte d'Azur
	FRM0	Corse
	HR02	Panonska Hrvatska
	HR03	Jadranska Hrvatska
	HR05	Grad Zagreb
	HR06	Sjeverna Hrvatska
	ITC1	Piemonte
	ITC2	Valle d'Aosta/Vallée d'Aoste
	ITC3	Liguria
	ITC4	Lombardia

	ITF1	Abruzzo
	ITF2	Molise
	ITF3	Campania
	ITF4	Puglia
	ITF5	Basilicata
	ITF6	Calabria
	ITG1	Sicilia
	ITG2	Sardegna
	ITH3	Veneto
	ITH4	Friuli-Venezia Giulia
	ITH5	Emilia-Romagna
	ITI1	Toscana
	ITI2	Umbria
	ITI3	Marche
	ITI4	Lazio
	CY	Κύπρος/Kýpros
	MT	Malta
	PT15	Algarve
	PT17	Área Metropolitana de Lisboa
	PT18	Alentejo
	SI03	Vzhodna Slovenija
	SI04	Zahodna Slovenija
	ME	Montenegro
	MK	North Macedonia
	AL	Albania
	BA	Bosnia and Herzegovina
2021TC16FFTN005	SE IE FI FO GL IS NO	(Interreg VI-B) Northern Periphery and Arctic
	IE04	Northern and Western
	IE05	Southern
	FI19	Länsi-Suomi
	FI1D	Pohjois- ja Itä-Suomi
	SE32	Mellersta Norrland
	SE33	Övre Norrland
	FO	Faroe
	GL	Greenland (OCTs)
	IS	Ísland

	NO06	Trøndelag
	NO07	Nord-Norge
	NO0B	Svalbard og Jan Mayen
2021TC16RFTN004	DK BE DE FR NL SE NO	(Interreg VI-B) North Sea
	BE21	Prov. Antwerpen
	BE22	Prov. Limburg (BE)
	BE23	Prov. Oost-Vlaanderen
	BE24	Prov. Vlaams-Brabant
	BE25	Prov. West-Vlaanderen
	DK01	Hovedstaden
	DK02	Sjælland
	DK03	Syddanmark
	DK04	Midtjylland
	DK05	Nordjylland
	DE50	Bremen
	DE60	Hamburg
	DE91	Braunschweig
	DE92	Hannover
	DE93	Lüneburg
	DE94	Weser-Ems
	DEF0	Schleswig-Holstein
	FRD1	Basse-Normandie
	FRD2	Haute-Normandie
	FRE1	Nord-Pas de Calais
	FRE2	Picardie
	FRH0	Bretagne
	NL11	Groningen
	NL12	Friesland (NL)
	NL13	Drenthe
	NL21	Overijssel
	NL22	Gelderland
	NL23	Flevoland
	NL31	Utrecht
	NL32	Noord-Holland
	NL33	Zuid-Holland
	NL34	Zeeland

	NL41	Noord-Brabant
	NL42	Limburg (NL)
	SE21	Småland med öarna
	SE22	Sydsverige
	SE23	Västsverige
	SE31	Norra Mellansverige
	NO02	Innlandet
	NO06	Trøndelag
	NO08	Oslo og Viken
	NO09	Agder og Sør-Østlandet
	NO0A	Vestlandet
2021TC16RFTN005	FR BE DE IE NL LU CH	(Interreg VI-B) North West Europe
	BE10	Prov. Antwerpen
	BE21	Prov. Antwerpen
	BE22	Prov. Limburg (BE)
	BE23	Prov. Oost-Vlaanderen
	BE24	Prov. Vlaams-Brabant
	BE25	Prov. West-Vlaanderen
	BE31	Prov. Brabant Wallon
	BE32	Prov. Hainaut
	BE33	Prov. Liège
	BE34	Prov. Luxembourg (BE)
	BE35	Prov. Namur
	DE11	Stuttgart
	DE12	Karlsruhe
	DE13	Freiburg
	DE14	Tübingen
	DE24	Oberfranken
	DE25	Mittelfranken
	DE26	Unterfranken
	DE27	Schwaben
	DE50	Bremen
	DE71	Darmstadt
	DE72	Gießen
	DE73	Kassel
	DE92	Hannover

	DE94	Weser -Ems
	DEA1	Düsseldorf
	DEA2	Köln
	DEA3	Münster
	DEA4	Detmold
	DEA5	Arnsberg
	DEB1	Koblenz
	DEB2	Trier
	DEB3	Rheinhessen -Pfalz
	DEC0	Saarland
	FR10	Ile -de -France
	FRB0	Centre – Val de Loire
	FRC1	Bourgogne
	FRC2	Franche -Comté
	FRD1	Basse -Normandie
	FRD2	Haute -Normandie
	FRE1	Nord -Pas de Calais
	FRE2	Picardie
	FRF1	Alsace
	FRF2	Champagne -Ardenne
	FRF3	Lorraine
	FRG0	Pays de la Loire
	FRH0	Bretagne
	IE04	Northern and Western
	IE05	Southern
	IE06	Eastern and Midland
	LU	Luxembourg
	NL11	Groningen
	NL12	Friesland (NL)
	NL13	Drenthe
	NL21	Overijssel
	NL22	Gelderland
	NL23	Flevoland
	NL31	Utrecht
	NL32	Noord-Holland
	NL33	Zuid-Holland
	NL34	Zeeland
	NL41	Noord-Brabant

	NL42	Limburg (NL)
	CH	Schweiz/Suisse/Svizzera
2021TC16RFTN006	ES FR PT AD	(Interreg VI-B) South West Europe (SUDOE)
	ES11	Galicia
	ES12	Principado de Asturias
	ES13	Cantabria
	ES21	País Vasco
	ES22	Comunidad Foral de Navarra
	ES23	La Rioja
	ES24	Aragón
	ES30	Comunidad de Madrid
	ES41	Castilla y León
	ES42	Castilla-La Mancha
	ES43	Extremadura
	ES51	Cataluña
	ES52	Comunitat Valenciana
	ES53	Illes Balears
	ES61	Andalucía
	ES62	Región de Murcia
	ES63	Ciudad de Ceuta
	ES64	Ciudad de Melilla
	FRI3	Poitou-Charentes
	FRI1	Aquitaine
	FRJ2	Midi-Pyrénées
	FRI2	Limousin
	FRK1	Auvergne
	FRJ1	Languedoc-Roussillon
	PT11	Norte
	PT15	Algarve
	PT16	Centro (PT)
	PT17	Área Metropolitana de Lisboa
	PT18	Alentejo
	AD	Andorra
2021TC16NXTN001	IT EL ES FR CY MT PT TR DZ EG IL JO LB PS TN	(Interreg VI-B) NEXT Mediterranean Sea Basin (NEXT MED)
	EL30	Αττική/Attiki

	EL41	Βόρειο Αιγαίο/Voreio Aigaio
	EL42	Νότιο Αιγαίο/Notio Aigaio
	EL43	Κρήτη/Kriti
	EL51	Ανατολική Μακεδονία, EN - Cleaned document 13/16 Θράκη/Anatoliki Makedonia, Thraki
	EL52	Κεντρική Μακεδονία/Kentriki Makedonia
	EL53	Δυτική Μακεδονία/Dytiki Makedonia
	EL54	Ήπειρος/Ipeiros
	EL61	Θεσσαλία/Thessalia
	EL62	Ιόνια Νησιά/Ionia Nisia
	EL63	Δυτική Ελλάδα/Dytiki Elláda
	EL64	Στερεά Ελλάδα/Stereá Elláda
	EL65	Πελοπόννησος/Peloponnisos
	ES51	Cataluña
	ES52	Comunitat Valenciana
	ES53	Illes Balears
	ES61	Andalucía
	ES62	Región de Murcia
	ES63	Ciudad de Ceuta
	ES64	Ciudad de Melilla
	FRJ1	Languedoc-Roussillon
	FRJ2	Midi-Pyrénées
	FRL0	Provence-Alpes-Côte d'Azur
	FRM0	Corse
	ITC3	Liguria
	ITF3	Campania
	ITF4	Puglia
	ITF5	Basilicata
	ITF6	Calabria
	ITG1	Sicilia
	ITG2	Sardegna
	ITI1	Toscana
	ITI4	Lazio
	CY	Κύπρος/Cyprus
	MT	Malta
	PT15	Algarve
	TR21	Tekirdağ, Edirne, Kırklareli
	TR22	Balıkesir, Çanakkale

	TR31	İzmir
	TR32	Aydın, Denizli, Muğla
	TR33	Manisa, Afyonkarahisar, Kütahya, Uşak
	TR61	Antalya, Isparta, Burdur
	TR62	Adana, Mersin
	TR63	Hatay, Kahramanmaraş, Osmaniye
	DZ	Tlemcen
	DZ	Ain-Temouchent
	DZ	Oran
	DZ	Mostaganem
	DZ	Chlef
	DZ	Tipaza
	DZ	Boumerdes
	DZ	Tizi Ouzou
	DZ	Bejaia
	DZ	Jijel
	DZ	Skikda
	DZ	Annaba
	DZ	El-Tarf
	DZ	Alger
	EG	Matruh
	EG	Al Iskandariyah (alex.)
	EG	Al Buhayrah (behera)
	EG	Kafr-el-sheikh
	EG	Ash Sharqiyah (sharkia)
	EG	Al Daqahliyah (dakahlia)
	EG	Dumyat (damietta)
	EG	As Ismailiyah (ismailia)
	EG	Bur Said (port Said)
	EG	Governorate of Cairo
	IL	Israel (²)
	JO	Jordan
	LB	Lebanon
	PS	Palestine (³)
	TN	Zaghouan
	TN	Kairouan
	TN	Sidi Bouz
	TN	Manouba

	TN	Siliana
	TN	Le Kef
	TN	Gafsa
	TN	Kebili
	TN	Tataouine
	TN	Jendouba
	TN	Beja
	TN	Bizerte
	TN	Ariana
	TN	Tunis
	TN	Ben Arous
	TN	Nabeul
	TN	Sousse
	TN	Monastir
	TN	Mahdia
	TN	Sfax
	TN	Gabes
	TN	Medenine
2021TC16NXTN003	ES PT MA	(Interreg VI-B) NEXT Mid-Atlantic ⁽⁴⁾
	ES61	Andalucía
	ES70	Canarias
	PT15	Algarve
	PT18	Alentejo
	PT30	Região Autónoma da Madeira
	MA	Morocco
2021TC16NXTN002	BG EL RO TR AM GE MD UA RU	(Interreg VI-B) NEXT Black Sea Basin ⁽⁵⁾
	BG33	Североизточен/Severoiztochen
	BG34	Югоизточен/Yugoiztochen
	EL51	Ανατολική Μακεδονία, Θράκη/Anatoliki Makedonia, Thraki
	EL52	Κεντρική Μακεδονία/Kentriki Makedonia
	RO22	Sud-Est
	TR10	İstanbul
	TR21	Tekirdağ, Edirne, Kırklareli
	TR42	Kocaeli, Sakarya, Düzce, Bolu, Yalova

	TR81	Zonguldak, Karabük, Bartın
	TR82	Kastamonu, Çankırı, Sinop
	TR83	Samsun, Tokat, Çorum, Amasya
	TR90	Trabzon, Ordu, Giresun, Rize, Artvin, Gümüşhane
	AM	Armenia
	GE	Georgia
	MD	Rep.Moldova
	UA	Donetsk oblast ^(*) (Bakhmut District, Kramatorsk District, Volnovakha District, Mariupol District, Pokrovsk District)
	UA	Kherson oblast
	UA	Mykolayiv oblast
	UA	Odessa oblast
	UA	Zaporizhzhia oblast
	RU	Adygea Republic
	RU	Krasnodar Krai
	RU	Rostov oblast

(¹) UA: The general EU restrictions on cooperation in regions that are illegally annexed by Russia are also applicable to the Interreg programmes.

(²) In accordance with the EU policy, the CBC programme does not apply to the territories occupied by Israel since June 1967. Thus, in accordance with the Guidelines on the eligibility of Israeli entities and their activities in the territories occupied by Israel since June 1967 for grants, prizes and financial instruments funded by the EU from 2014 onwards (OJ C 205/9 of 19.7.2013) only Israeli entities having their place of establishment within Israel's pre-1967 borders are considered eligible for EU funding. In addition, activities of Israeli entities funded by the EU must not be carried out in the territories occupied by Israel since June 1967.

(³) This designation shall not be construed as a recognition of a State of Palestine and is without prejudice to the individual positions of the MS on this issue.

(⁴) The definition of the geographical coverage outside the EU is ongoing.

(⁵) UA: The general EU restrictions on cooperation in regions that are illegally annexed by Russia are also applicable to Interreg NEXT.

(⁶) Only regions under the full control of the Government of Ukraine are eligible for the Donetsk oblast.

ANNEX III

List of Interreg programme areas to receive support under strand D

2021TC16FFOR001	ES PT Several third countries and overseas countries or territories	(Interreg VI-D) Madeira-Azores-Canary Islands (MAC)
	ES70	Canarias
	PT20	Região Autónoma dos Açores
	PT30	Região Autónoma da Madeira
	CV	Cap vert
	CI	Ivory Coast
	GM	Gambia
	GH	Ghana
	MR	Mauritania
	SN	Senegal
	ST	Sao Tome and Principe
2021TC16FFOR002	FR Several third countries and overseas countries or territories	(Interreg VI-D) Mozambique Channel
	FRY5	Mayotte
	FRY4	La Réunion
	KM	Union of Comoros
	MG	Madagascar
	MZ	Mozambique
	SC	Seychelles
	TZ	Tanzania
2021TC16FFOR003	FR Several third countries and overseas countries or territories	(Interreg VI-D) Caribbean
	FRY1	Guadeloupe
	FRY1	Saint-Martin
	FRY2	Martinique
	FRY3	Guyane
	AG	Antigua and Barbuda
	AW	Aruba (OCTs)
	BS	Bahamas

	BB	Barbados
	BL	Saint Barthélemy (OCTs)
	BZ	Belize
	BQ	Bonaire (OCTs)
	BQ	Sint Eustatius (OCTs)
	BQ	Saba (OCTs)
	BR	Brazil (only the States of Amapa, Para, Amazonas and Roraima)
	CO	Colombia
	CR	Costa Rica
	CU	Cuba
	CW	Curaçao (OCTs)
	DM	Dominica
	DO	Dominican Republic
	SV	El Salvador
	GD	Grenada
	GT	Guatemala
	GY	Guyana
	HT	Haiti
	HN	HN
	JM	Jamaica
	MX	Mexico
	NI	Nicaragua
	PA	Panama
	PR	Puerto Rico
	KN	Saint Kitts and Nevis
	LC	Saint Lucia
	VC	Saint Vincent and the Grenadines
	SX	Sint Maarten (OCTs)
	SR	Suriname
	TT	Trinidad and Tobago
	VE	Venezuela
2021TC16FFOR004	FR Several third countries and overseas countries or territories	(Interreg VI-D) Indian Ocean
	FRY4	La Réunion
	FRY5	Mayotte

	TF	French Southern and Antarctic Lands (OCTs)
	AU	Australia
	KM	Comoros
	IN	India
	KE	Kenya
	MG	Madagascar
	MV	Maldives
	MU	Mauritius
	MZ	Mozambique
	SC	Seychelles
	ZA	South Africa
	LK	Sri Lanka
	TZ	Tanzania
2021TC16FFOR005	FR Several third countries and overseas countries or territories	(Interreg VI-D) Amazonia
	FRY3	Guyane
	BR	Brazil (Only the States of Amapa, Para and Amazonas)
	SR	Suriname
	GY	Guyana

ANNEX IV

NUTS level 3 regions of the Union taken into account for the ERDF allocation for cross-border cooperation at all internal borders and those external borders covered by the external financing instruments of the Union

BE211	Arr. Antwerpen
BE213	Arr. Turnhout
BE221	Arr. Hasselt
BE222	Arr. Maaseik
BE223	Arr. Tongeren
BE232	Arr. Dendermonde
BE233	Arr. Eeklo
BE234	Arr. Gent
BE236	Arr. Sint-Niklaas
BE251	Arr. Brugge
BE252	Arr. Diksmuide
BE253	Arr. Ieper
BE254	Arr. Kortrijk
BE255	Arr. Oostende
BE256	Arr. Roeselare
BE257	Arr. Tielt
BE258	Arr. Veurne
BE321	Arr. Ath
BE322	Arr. Charleroi
BE323	Arr. Mons
BE324	Arr. Mouscron
BE325	Arr. Soignies
BE326	Arr. Thuin
BE327	Arr. Tournai
BE332	Arr. Liège
BE335	Arr. Verviers – communes francophones
BE336	Bezirk Verviers – Deutschsprachige Gemeinschaft
BE341	Arr. Arlon
BE342	Arr. Bastogne
BE344	Arr. Neufchâteau
BE345	Arr. Virton
BE351	Arr. Dinant
BE353	Arr. Philippeville
BG311	Видин (Vidin)
BG312	Монтана (Montana)

BG313	Враца (Vratsa)
BG314	Плевен (Pleven)
BG321	Велико Търново (Veliko Tarnovo)
BG323	Русе (Ruse)
BG325	Силистра (Silistra)
BG332	Добрич (Dobrich)
BG341	Бургас (Burgas)
BG343	Ямбол (Yambol)
BG412	София (Sofia)
BG413	Благоевград (Blagoevgrad)
BG414	Перник (Pernik)
BG415	Кюстендил (Kyustendil)
BG422	Хасково (Haskovo)
BG424	Смолян (Smolyan)
BG425	Кърджали (Kardzhali)
CZ031	Jihočeský kraj
CZ032	Plzeňský kraj
CZ041	Karlovarský kraj
CZ042	Ústecký kraj
CZ051	Liberecký kraj
CZ052	Královéhradecký kraj
CZ053	Pardubický kraj
CZ064	Jihomoravský kraj
CZ071	Olomoucký kraj
CZ072	Zlínský kraj
CZ080	Moravskoslezský kraj
DK011	Byen København
DK012	Københavns omegn
DK013	Nordsjælland
DK014	Bornholm
DK021	Østsjælland
DK022	Vest- og Sydsjælland
DK031	Fyn
DK032	Syddjælland
DK042	Østjylland
DK050	Nordjylland
DE121	Baden-Baden, Stadtkreis
DE122	Karlsruhe, Stadtkreis
DE124	Rastatt

DE131	Freiburg im Breisgau, Stadtkreis
DE132	Breisgau-Hochschwarzwald
DE133	Emmendingen
DE134	Ortenaukreis
DE136	Schwarzwald-Baar-Kreis
DE138	Konstanz
DE139	Lörrach
DE13A	Waldshut
DE147	Bodenseekreis
DE213	Rosenheim, Kreisfreie Stadt
DE214	Altötting
DE215	Berchtesgadener Land
DE216	Bad Tölz-Wolfratshausen
DE21D	Garmisch-Partenkirchen
DE21F	Miesbach
DE21K	Rosenheim, Landkreis
DE21M	Traunstein
DE222	Passau, Kreisfreie Stadt
DE225	Freyung-Grafenau
DE228	Passau, Landkreis
DE229	Regen
DE22A	Rottal-Inn
DE233	Weiden i. d. Opf, Kreisfreie Stadt
DE235	Cham
DE237	Neustadt a. d. Waldnaab
DE239	Schwandorf
DE23A	Tirschenreuth
DE244	Hof, Kreisfreie Stadt
DE249	Hof, Landkreis
DE24D	Wunsiedel i. Fichtelgebirge
DE273	Kempten (Allgäu), Kreisfreie Stadt
DE27A	Lindau (Bodensee)
DE27B	Ostallgäu
DE27E	Oberallgäu
DE402	Cottbus, Kreisfreie Stadt
DE403	Frankfurt (Oder), Kreisfreie Stadt
DE405	Barnim
DE409	Märkisch-Oderland
DE40C	Oder-Spree

DE40G	Spree-Neiße
DE40I	Uckermark
DE803	Rostock, Kreisfreie Stadt
DE80K	Landkreis Rostock
DE80L	Vorpommern-Rügen
DE80M	Nordwestmecklenburg
DE80N	Vorpommern-Greifswald
DE942	Emden, Kreisfreie Stadt
DE949	Emsland
DE94B	Grafschaft Bentheim
DE94C	Leer
DEA15	Mönchengladbach, Kreisfreie Stadt
DEA1B	Kleve
DEA1E	Viersen
DEA26	Düren
DEA28	Euskirchen
DEA29	Heinsberg
DEA2D	Städteregion Aachen
DEA34	Borken
DEB21	Trier, Kreisfreie Stadt
DEB23	Eifelkreis Bitburg-Prüm
DEB25	Trier-Saarburg
DEB33	Landau in der Pfalz, Kreisfreie Stadt
DEB37	Pirmasens, Kreisfreie Stadt
DEB3A	Zweibrücken, Kreisfreie Stadt
DEB3E	Germersheim
DEB3H	Südliche Weinstraße
DEB3K	Südwestpfalz
DEC01	Regionalverband Saarbrücken
DEC02	Merzig-Wadern
DEC03	Neunkirchen
DEC04	Saarlouis
DEC05	Saarpfalz-Kreis
DED2C	Bautzen
DED2D	Görlitz
DED2F	Sächsische Schweiz-Osterzgebirg
DED42	Erzgebirgskreis
DED43	Mittelsachsen
DED44	Vogtlandkreis

DEF01	Flensburg, Kreisfreie Stadt
DEF02	Kiel, Kreisfreie Stadt
DEF03	Lübeck, Kreisfreie Stadt
DEF07	Nordfriesland
DEF08	Ostholstein
DEF0A	Plön
DEF0B	Rendsburg-Eckernförde
DEF0C	Schleswig-Flensburg
EE001	Põhja-Eesti
EE004	Lääne-Eesti
EE006	Kesk-Eesti
EE007	Kirde-Eesti
EE008	Lõuna-Eesti
IE041	Border
IE052	South-East
IE053	South-West
IE061	Dublin
IE062	Mid-East
EL411	Λέσβος, Λήμνος (Lesvos, Limnos)
EL412	Ικαρία, Σάμος (Ikaria, Samos)
EL413	Χίος (Chios)
EL421	Κάλυμνος, Κάρπαθος, Κως, Ρόδος (Kalymnos, Karpathos, Kos, Rodos)
EL422	Άνδρος, Θήρα, Κέα, Μήλος, Μύκονος, Νάξος, Πάρος, Σύρος, Τήνος (Andros, Thira, Kea, Milos, Mykonos, Naxos, Paros, Syros, Tinos)
EL511	Έβρος (Evros)
EL512	Ξάνθη (Xanthi)
EL513	Ροδόπη (Rodopi)
EL514	Δράμα (Drama)
EL515	Θάσος, Καβάλα (Thasos, Kavala)
EL523	Κιλκίς (Kilkis)
EL524	Πέλλα (Pella)
EL526	Σέρρες (Serres)
EL532	Καστοριά (Kastoria)
EL533	Φλώρινα (Florina)
EL541	Άρτα, Πρέβεζα (Arta, Preveza)
EL542	Θεσπρωτία (Thesprotia)
EL543	Ιωάννινα (Ioannina)
EL613	Μαγνησία, Σποράδες (Magnisia, Sporades)
EL622	Κέρκυρα (Kerkyra)

EL642	Εύβοια (Evvoia)
ES113	Ourense
ES114	Pontevedra
ES212	Gipuzkoa
ES220	Navarra
ES241	Huesca
ES415	Salamanca
ES419	Zamora
ES431	Badajoz
ES432	Cáceres
ES512	Girona
ES513	Lleida
ES611	Almería
ES612	Cádiz
ES614	Granada
ES615	Huelva
ES617	Málaga
ES630	Ceuta
ES640	Melilla
FRC21	Doubs
FRC22	Jura
FRC24	Territoire de Belfort
FRD11	Calvados
FRD12	Manche
FRD21	Eure
FRD22	Seine-Maritime
FRE11	Nord
FRE12	Pas-de-Calais
FRE21	Aisne
FRE23	Somme
FRF11	Bas-Rhin
FRF12	Haut-Rhin
FRF21	Ardennes
FRF31	Meurthe-et-Moselle
FRF32	Meuse
FRF33	Moselle
FRI15	Pyrénées-Atlantiques
FRJ15	Pyrénées-Orientales
FRJ21	Ariège

FRJ23	Haute-Garonne
FRJ26	Hautes-Pyrénées
FRK21	Ain
FRK27	Savoie
FRK28	Haute-Savoie
FRL01	Alpes-de-Haute-Provence
FRL02	Hautes-Alpes
FRL03	Alpes-Maritimes
FRM01	Corse-du-Sud
FRM02	Haute-Corse
HR031	Primorsko-goranska županija
HR032	Ličko-senjska županija
HR033	Zadarska županija
HR034	Šibensko-kninska županija
HR035	Splitsko-dalmatinska županija
HR036	Istarska županija
HR037	Dubrovačko-neretvanska županija
HR041	Grad Zagreb
HR042	Zagrebačka županija
HR043	Krapinsko-zagorska županija
HR044	Varaždinska županija
HR045	Koprivničko-križevačka županija
HR046	Međimurska županija
HR048	Virovitičko-podravska županija
HR049	Požeško-slavonska županija
HR04A	Brodsko-posavska županija
HR04B	Osječko-baranjska županija
HR04C	Vukovarsko-srijemska županija
HR04D	Karlovačka županija
HR04E	Sisačko-moslavačka županija
ITC11	Torino
ITC12	Vercelli
ITC14	Verbano-Cusio-Ossola
ITC16	Cuneo
ITC20	Valle d'Aosta/Vallée d'Aoste
ITC31	Imperia
ITC32	Savona
ITC33	Genova
ITC34	La Spezia

ITC41	Varese
ITC42	Como
ITC44	Sondrio
ITF44	Brindisi
ITF45	Lecce
ITF46	Foggia
ITF47	Bari
ITG11	Trapani
ITG14	Agrigento
ITG15	Caltanissetta
ITG18	Ragusa
ITG19	Siracusa
ITG25	Sassari
ITG26	Nuoro
ITG29	Olbia -Tempio
ITG2A	Ogliastra
ITH10	Bolzano -Bozen
ITH33	Belluno
ITH42	Udine
ITH43	Gorizia
ITH44	Trieste
ITH56	Ferrara
ITH57	Ravenna
ITH58	Forlì -Cesena
ITH59	Rimini
ITI11	Massa -Carrara
ITI12	Lucca
ITI16	Livorno
ITI17	Pisa
ITI1A	Grosseto
ITI31	Pesaro e Urbino
ITI32	Ancona
ITI33	Macerata
ITI35	Fermo
ITI41	Viterbo
CY000	Κύπρος (Kýpros)
LV003	Kurzeme
LV005	Latgale
LV007	Pierīga

LV008	Vidzeme
LV009	Zemgale
LT011	Vilniaus apskritis
LT021	Alytaus apskritis
LT023	Klaipėdos apskritis
LT024	Marijampolės apskritis
LT025	Panevėžio apskritis
LT026	Šiaulių apskritis
LT027	Tauragės apskritis
LT028	Telšių apskritis
LT029	Utenos apskritis
LU000	Luxembourg
HU120	Pest
HU212	Komárom-Esztergom
HU221	Győr-Moson-Sopron
HU222	Vas
HU223	Zala
HU231	Baranya
HU232	Somogy
HU311	Borsod-Abaúj-Zemplén
HU313	Nógrád
HU321	Hajdú-Bihar
HU323	Szabolcs-Szatmár-Bereg
HU331	Bács-Kiskun
HU332	Békés
HU333	Csongrád
MT001	Malta
MT002	Gozo and Comino/Ghawdex u Kemmuna
NL111	Oost-Groningen
NL112	Delfzijl en omgeving
NL132	Zuidoost-Drenthe
NL133	Zuidwest-Drenthe
NL211	Noord-Overijssel
NL213	Twente
NL225	Achterhoek
NL226	Arnhem/Nijmegen
NL33C	Groot-Rijnmond
NL341	Zeeuwsch-Vlaanderen
NL342	Overig Zeeland

NL411	West-Noord-Brabant
NL412	Midden-Noord-Brabant
NL414	Zuidoost-Noord-Brabant
NL421	Noord-Limburg
NL422	Midden-Limburg
NL423	Zuid-Limburg
AT111	Mittelburgenland
AT112	Nordburgenland
AT113	Südburgenland
AT124	Waldviertel
AT125	Weinviertel
AT126	Wiener Umland/Nordteil
AT127	Wiener Umland/Südteil
AT211	Klagenfurt-Villach
AT212	Oberkärnten
AT213	Unterkärnten
AT224	Oststeiermark
AT225	West - und Südsteiermark
AT311	Innviertel
AT313	Mühlviertel
AT322	Pinzgau -Pongau
AT323	Salzburg und Umgebung
AT331	Außerfern
AT332	Innsbruck
AT333	Osttirol
AT334	Tiroler Oberland
AT335	Tiroler Unterland
AT341	Bludenz -Bregenzer Wald
AT342	Rheintal -Bodenseegebiet
PL218	Nowosądecki
PL219	Nowotarski
PL225	Bielski
PL227	Rybnicki
PL424	Miasto Szczecin
PL426	Koszaliński
PL427	Szczecinecko -pyrzycki
PL428	Szczeciński
PL431	Gorzowsk
PL432	Zielonogórski

PL515	Jeleniogórski
PL517	Wałbrzyski
PL523	Nyski
PL621	Elbląski
PL622	Olsztyński
PL623	Elcki
PL634	Gdański
PL636	Ślupski
PL811	Bialski
PL812	Chełmsko -zamojski
PL821	Krośnieński
PL822	Przemyski
PL841	Białostocki
PL842	Łomżyński
PL843	Suwalski
PT111	Alto Minho
PT112	Cávado
PT11B	Alto Tâmega
PT11D	Douro
PT11E	Terras de Trás -os -Montes
PT150	Algarve
PT16H	Beira Baixa
PT16J	Beiras e Serra da Estrela
PT184	Baixo Alentejo
PT186	Alto Alentejo
PT187	Alentejo Central
RO111	Bihor
RO114	Maramureș
RO115	Satu Mare
RO212	Botoșani
RO213	Iași
RO215	Suceava
RO216	Vaslui
RO223	Constanța
RO224	Galați
RO225	Tulcea
RO312	Călărași
RO314	Giurgiu
RO317	Teleorman

RO411	Dolj
RO413	Mehedinți
RO414	Olt
RO421	Arad
RO422	Caraș -Severin
RO424	Timiș
SI031	Pomurska
SI032	Podravska
SI033	Koroška
SI034	Savinjska
SI036	Posavska
SI037	Jugovzhodna Slovenija
SI038	Primorsko -notranjska
SI042	Gorenjska
SI043	Goriška
SI044	Obalno -kraška
SK010	Bratislavský kraj
SK021	Trnavský kraj
SK022	Trenčiansky kraj
SK023	Nitriansky kraj
SK031	Žilinský kraj
SK032	Banskobystrický kraj
SK041	Prešovský kraj
SK042	Košický kraj
FI195	Pohjanmaa
FI1B1	Helsinki -Uusimaa
FI1C1	Varsinais -Suomi
FI1C4	Kymenlaakso
FI1C5	Etelä-Karjala
FI1D3	Pohjois-Karjala
FI1D5	Keski-Pohjanmaa
FI1D7	Lappi
FI1D8	Kainuu
FI1D9	Pohjois-Pohjanmaa
FI200	Åland
SE110	Stockholms län
SE121	Uppsala län
SE213	Kalmar län
SE214	Gotlands län

SE221	Blekinge län
SE224	Skåne län
SE231	Hallands län
SE232	Västra Götalands län
SE311	Värmlands län
SE312	Dalarnas län
SE313	Gävleborgs län
SE321	Västernorrlands län
SE322	Jämtlands län
SE331	Västerbottens län
SE332	Norrbottens län

I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2021/1529 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 15 September 2021
establishing the Instrument for Pre-Accession assistance (IPA III)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 212(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the ordinary legislative procedure ⁽³⁾,

Whereas:

- (1) Regulation (EU) No 231/2014 of the European Parliament and of the Council ⁽⁴⁾ expired on 31 December 2020. In order to maintain the Union's effectiveness in external action, a framework for planning and delivering external assistance should be maintained for the period between 2021 and 2027.
- (2) The objective of an instrument for pre-accession assistance is to prepare beneficiaries for future membership of the Union and to support their accession process. It is therefore essential to have a dedicated instrument for pre-accession assistance to the beneficiaries listed in Annex I for the 2021-2027 period (IPA III) in support of enlargement, while ensuring that its objectives and functioning are consistent with, and complementary to, the general objectives of Union external action as laid down in Article 21 of the Treaty on European Union (TEU), including respect for fundamental rights and principles as well as the protection and promotion of human rights, democracy and the rule of law. This instrument should also be complementary with the Neighbourhood, Development and International Cooperation Instrument – Global Europe (NDICI) established under Regulation (EU) 2021/947 of the European Parliament and of the Council ⁽⁵⁾.

⁽¹⁾ OJ C 110, 22.3.2019, p. 156.

⁽²⁾ OJ C 86, 7.3.2019, p. 295.

⁽³⁾ Position of the European Parliament of 27 March 2019 (OJ C 108, 26.3.2021, p. 409) and position of the Council at first reading of 7 September 2021 (not yet published in the Official Journal). Position of the European Parliament of 15 September 2021 (not yet published in the Official Journal).

⁽⁴⁾ Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) (OJ L 77, 15.3.2014, p. 11).

⁽⁵⁾ Regulation (EU) 2021/947 of the European Parliament and of the Council of 9 June 2021 establishing the Neighbourhood, Development and International Cooperation Instrument – Global Europe, amending and repealing Decision No 466/2014/EU and repealing Regulation (EU) 2017/1601 and Council Regulation (EC, Euratom) No 480/2009 (OJ L 209, 14.6.2021, p. 1).

- (3) Article 49 TEU provides that any European State which respects the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities, and is committed to promoting those values may apply to become a member of the Union. Those values are common to Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.
- (4) A European State which has applied to join the Union can become a member of the Union only where it has been confirmed that it fully meets the accession criteria established at the Copenhagen European Council in June 1993 (the 'Copenhagen criteria') and provided that the Union has the capacity to integrate the new member. The Copenhagen criteria relate to the stability of institutions which guarantee democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union, and the ability to assume not only the rights but also the obligations under the Treaties, including the pursuit of the aims of political, economic and monetary union.
- (5) The enlargement policy of the Union is a strategic investment in peace, security, stability and prosperity in Europe and allows the Union to be better positioned to address global challenges. It also provides increased economic and trade opportunities to the mutual benefit of the Union and the aspiring Member States, while ensuring a gradual transformation of the beneficiaries. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change.
- (6) The enlargement process is built on established criteria and fair and rigorous conditionality. Each beneficiary is assessed on its own merits. The assessment of progress achieved and the identification of shortcomings aim to provide incentives and guidance to the beneficiaries listed in Annex I to pursue the necessary far-reaching reforms. For the prospect of enlargement to become a reality, a firm commitment to 'fundamentals first' remains essential. The 'fundamentals first' approach links the rule of law and fundamental rights with the two other crucial areas of the accession process: economic governance – strengthened focus on economic development and improved competitiveness – and the strengthening of democratic institutions and public administration reform. Each of the three fundamentals is of crucial importance for the reform processes in the beneficiaries listed in Annex I and addresses key concerns of the people. Progress towards accession depends on each applicant's respect for the Union's values and its capacity to undertake and implement the necessary reforms to align its political, institutional, legal, administrative and economic systems with the rules, standards, policies and practices of the Union.
- (7) Good neighbourly relations and regional cooperation are essential elements of the enlargement process and are critical for security and stability of the Union as a whole. The definitive, inclusive and binding resolution of bilateral disputes is also important.
- (8) Embracing and committing to core European values is a choice, and is essential for all partners aspiring to Union membership. In line with this, the partners should take ownership and fully commit to European values as well as to upholding a global order based on rules and values and vigorously pursuing the necessary reforms in the interest of their people. This includes progressive alignment with the Union's common foreign and security policy, in particular on issues where major common interests are at stake, such as restrictive measures and tackling disinformation and other hybrid threats.
- (9) The Commission emphasised the firm, merit-based prospect of Union membership for the Western Balkans in its communication of 6 February 2018 entitled 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans'. On 5 February 2020, the Commission presented a revised methodology for the accession process in its communication entitled 'Enhancing the accession process – A credible EU perspective for the Western Balkans', which was endorsed by the Council. The Commission also presented an economic and investment plan for the Western Balkans for their recovery over the longer term following the COVID-19 crisis.
- (10) The Union and its Member States, in the Sofia Declaration of 17 May 2018 and the Zagreb Declaration of 6 May 2020, reaffirmed their unequivocal support for the European perspective of the Western Balkans as well as their engagement at all levels to support the region's political, economic and social transformation. In the Zagreb Declaration, the Union and its Member States reiterated their strong solidarity with the Western Balkans partners, in particular in the context of the COVID-19 crisis.

- (11) The European Council has granted the status of candidate country to the Republic of Albania, Iceland, Montenegro, the Republic of North Macedonia, the Republic of Serbia and the Republic of Turkey. It confirmed the European perspective of the Western Balkans, based on the Stabilisation and Association Process which remains the common framework for relations with the Western Balkans. Without prejudice to positions on status or to any future decisions to be taken by the European Council or by the Council, those benefiting from such a European perspective which have not been granted candidate country status may be considered as potential candidates solely for the purposes of this Regulation. In March 2015, the Government of Iceland asked the Union to no longer consider Iceland a candidate country, without, however, officially withdrawing Iceland's membership application.
- (12) Assistance should also be provided in compliance with the agreements concluded by the Union with the beneficiaries listed in Annex I. Assistance under this Regulation should mainly focus on assisting the beneficiaries listed in Annex I to strengthen democratic institutions and the rule of law, reform the judiciary and public administration, respect fundamental rights, including those of persons belonging to minorities, and promote gender equality, tolerance, social inclusion and non-discrimination, including in relation to persons in vulnerable situations, children or persons with disabilities. It should also support the development of a social market economy in line with the key principles and rights set out in the European Pillar of Social Rights solemnly proclaimed and signed on 17 November 2017 by the European Parliament, the Council and the Commission ⁽⁹⁾. It should not support actions that contribute to any form of segregation or social exclusion.
- (13) As good neighbourly relations and regional cooperation are essential elements of the enlargement process, assistance should also continue the support for the efforts of the beneficiaries listed in Annex I to advance regional, macro-regional and cross-border cooperation and territorial development, including through the implementation of Union macro-regional strategies. Those programmes should further contribute to the high visibility of assistance in the Union and in the beneficiaries listed in Annex I. Assistance under this Regulation should also enhance beneficiaries' economic and social development and economic governance, foster economic integration with the Union single market, including customs cooperation, promote open and fair trade that underpins a smart, sustainable and inclusive growth agenda, including through the implementation of regional development and cohesion policies, agriculture and rural development policies, social and employment policies, including labour mobility, the development of the digital economy and society, and boost research and innovation, also in the context of the 2018 flagship initiative Digital Agenda for the Western Balkans.
- (14) Actions under IPA III should support reconciliation, peace-building and conflict prevention through mediation efforts, confidence-building measures and processes that promote justice, truth-seeking, reparations and guarantees of non-recurrence.
- (15) Assistance under this Regulation should be used to strengthen health security and preparedness for public health emergencies as well as to address, in complementarity with other Union instruments, the major economic shock generated by the COVID-19 outbreak and to mitigate its severe socioeconomic impact, by mobilising resources to accelerate the economic recovery of the region.
- (16) Special emphasis should be put on creating further opportunities for the youth, including for young professionals, while ensuring that such opportunities contribute to the socioeconomic development of the beneficiaries listed in Annex I. Assistance under this Regulation should also aim to tackle brain drain.
- (17) The Union's efforts to support reform progress in the beneficiaries listed in Annex I through funding under IPA III should be well communicated by those beneficiaries as well as by the Union. In that regard, the Union should enhance communication and campaign efforts in order to ensure visibility of funding under IPA III.
- (18) The Union should provide support to the transition towards accession for the benefit of the beneficiaries listed in Annex I, drawing on the experience of the Member States. Such cooperation should focus particularly on the sharing of experience that was acquired by the Member States during their own reform processes.

⁽⁹⁾ OJ C 428, 13.12.2017, p. 10.

- (19) Strengthening the rule of law, including the independence of the judiciary, the fight against corruption, money laundering and organised crime, as well as transparency, good governance at all levels, and public administration reform, including in the fields of public procurement, competition and State aid, remain key challenges and are essential for beneficiaries to come closer to the Union and to prepare to fully assume the obligations of Union membership. In view of the longer-term nature of the reforms pursued in those areas and the need to build up track records, financial assistance under this Regulation should address those issues as early as possible.
- (20) In accordance with the principle of participatory democracy, the Commission should encourage the strengthening of parliamentary capacities, parliamentary oversight, democratic procedures and fair representation in each beneficiary listed in Annex I.
- (21) Enhanced strategic and operational cooperation between the Union and the beneficiaries listed in Annex I on security is pivotal to addressing effectively and efficiently the threats of security, organised crime and terrorism.
- (22) Cooperation on migration at international and regional level, including further consolidating border and migration management capacities, ensuring access to international protection, sharing relevant information, enhancing border control and efforts to tackle irregular migration, addressing forced displacement and fighting against trafficking in human beings and people smuggling, is an important aspect of cooperation between the Union and the beneficiaries listed in Annex I.
- (23) The communication capacities of the beneficiaries listed in Annex I should be enhanced in order to ensure public support for and understanding of Union values and the benefits and obligations of potential Union membership, while addressing disinformation.
- (24) It is necessary that the Union lead the transition to a healthy planet and a more connected world. The European Green Deal as set out in the Commission communication of 11 December 2019 provides a renewed commitment and a new strategic framework to achieve that global objective. The Union should use its influence, expertise and financial assistance to mobilise the beneficiaries listed in Annex I to join it on a sustainable path. This Regulation should therefore promote the green agenda by reinforcing environmental protection, contributing to the mitigation of climate change and increasing resilience to climate change, and accelerating the shift towards a low-carbon economy.
- (25) The beneficiaries listed in Annex I need to be better prepared to address global challenges, such as sustainable development and climate change, and to align with the Union's efforts to address those issues. Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement adopted under the United Nations Framework Convention on Climate Change⁽⁷⁾ and the United Nations Sustainable Development Goals, IPA III should contribute to mainstreaming climate action in the Union's policies and to the achievement of an overall target of 30 % of Union budget expenditure supporting climate objectives and the ambition of 7,5 % of the budget reflecting biodiversity expenditures in 2024 and 10 % in 2026 and 2027, while taking into account the existing overlaps between climate and biodiversity goals. Actions under IPA III are expected to contribute 18 % of the overall financial envelope of IPA III to climate objectives, with the objective of increasing this percentage to 20 % by 2027. Relevant actions are to be identified during the preparation and implementation of IPA III, and the overall contribution from IPA III should be considered in the relevant evaluations and review processes.
- (26) Actions under IPA III should support the implementation of the United Nations 2030 Agenda for Sustainable Development adopted in September 2015 as a universal agenda, to which the Union and its Member States are fully committed and which all beneficiaries listed in Annex I have endorsed. In order to achieve those objectives, in addition to actions in which climate is one of the main objectives, actions under IPA III should, whenever possible, mainstream environmental sustainability and climate change objectives across all sectors, with particular attention to environmental protection and tackling cross-border pollution, and should pursue green growth in national and local strategies, including supporting sustainability criteria in public procurement. Actions under IPA III should be consistent with the principle of 'do no harm' and should comply with Union taxonomy to the extent possible, in particular to ensure the sustainability of investments in the Western Balkans and Turkey.

⁽⁷⁾ OJ L 282, 19.10.2016, p. 4.

- (27) The implementation of this Regulation should be guided by the principles of gender equality and the empowerment of women and girls, and should seek to protect and promote women's and girls' rights in line with the EU Gender Action Plans and relevant Council conclusions and international conventions, including the Council conclusions on women, peace and security of 10 December 2018. Strengthening gender equality and the empowerment of women and girls in Union external action and increasing efforts to reach the minimum standards of performance indicated by the EU Gender Action Plans should lead to a gender-sensitive and transformative approach in the cooperation between the Union and the beneficiaries listed in Annex I. Gender equality should be reflected and mainstreamed throughout the implementation of this Regulation.
- (28) This Regulation lays down a financial envelope for the entire duration of IPA III, which is to constitute the prime reference amount, within the meaning of point 18 of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources ⁽⁹⁾, for the European Parliament and the Council during the annual budgetary procedure.
- (29) The Commission and the Member States should ensure the compliance, coherence, consistency and complementarity of their assistance, in particular through regular consultations and frequent exchanges of information during the different phases of the assistance cycle, including at local level. The necessary steps should also be taken to ensure better coordination and complementarity with other donors, including through regular consultations. The Commission should ensure that relevant stakeholders in the beneficiaries listed in Annex I, including civil society organisations and local and regional authorities, as appropriate, are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of programmes and the related monitoring processes. The role of civil society should be enhanced in programmes implemented through government bodies and as a direct beneficiary of Union assistance. Likewise, Union assistance should also support human rights' defenders.
- (30) The priorities of the actions aimed at achieving objectives in the relevant policy areas supported under this Regulation should be set out in a programming framework established by the Commission for the duration of the Union multiannual financial framework for the 2021-2027 period ('IPA programming framework'). The IPA programming framework should be established in partnership with the beneficiaries listed in Annex I, in line with the overall policy framework and principles, as well as with the general and specific objectives laid down in this Regulation, and should take into due account relevant national strategies. The IPA programming framework should identify the areas to be supported through assistance with an indicative allocation for each area of support, including an estimate of climate-related expenditure.
- (31) It is in the common interest of the Union and the beneficiaries listed in Annex I to advance the efforts of those beneficiaries to reform their political, legal and economic systems with a view to Union membership. Assistance should be based both on a performance-based approach and the fair share principle, ensuring progress in all beneficiaries listed in Annex I. Assistance should be targeted and adjusted to their specific situations, taking into account any further efforts needed to meet the objectives of this Regulation. The needs and capacities of the beneficiaries listed in Annex I should be taken into account in accordance with the fair share principle in order to avoid a disproportionately low level of assistance as compared to other beneficiaries. Assistance under this Regulation should be differentiated in scope and intensity according to the performance of the beneficiaries listed in Annex I, in particular their commitment to and progress in implementing reforms, in particular in the field of the rule of law and fundamental rights, democratic institutions and public administration reform, economic development and competitiveness.
- (32) Where the relevant indicators show a significant regression or persistent lack of progress by a beneficiary listed in Annex I in the areas covered by the 'fundamentals first' approach, the scope and intensity of assistance should be modulated accordingly, without prejudice to the powers of the Council to adopt restrictive measures following a decision on the interruption or reduction, in part or completely, of economic and financial relations with one or more third countries in accordance with Article 215 of the Treaty on the Functioning of the European Union

⁽⁹⁾ OJ L 433I, 22.12.2020, p. 28.

(TFEU) and without prejudice to the Commission's power to suspend payments or the implementation of financing agreements in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁾ (the 'Financial Regulation'). Due consideration should be given to the respect by the beneficiaries of the principles of the United Nations Charter and international law.

- (33) The Commission should assess each year the implementation of the IPA programming framework, describing how the performance-based approach and the fair share principle were implemented. That assessment should also include the state of play of the level of funding for each objective, as well as for each beneficiary listed in Annex I. It should also allow the committee established by this Regulation to have adequate information to assist the Commission.
- (34) The Commission should ensure clear monitoring and evaluation mechanisms are in place in order to provide effective accountability and transparency in implementing the Union budget, and in order to ensure effective assessment of progress towards the achievement of this Regulation's objectives. Whenever possible and appropriate, the results of the Union's action should be monitored and evaluated on the basis of pre-defined, transparent, country-specific and measurable indicators, adapted to the specificities and objectives of IPA III.
- (35) The transition from the direct management of pre-accession funds by the Commission to indirect management by the beneficiaries should be progressive and in line with the respective capacities of those beneficiaries, having regard to principles of good governance. The Commission should take appropriate supervisory measures ensuring the protection of the financial interests of the Union, and be able, where necessary, to reverse that transition. Assistance should continue to make use of the structures and instruments that have proved their worth in the pre-accession process.
- (36) The Union should seek the most efficient use of available resources in order to optimise the impact of its external action. That should be achieved through coherence, consistency and complementarity with the Union's external financing instruments, as well as through synergies with other Union policies and programmes, such as Horizon Europe – the Framework Programme for Research and Innovation – established by Regulation (EU) 2021/695 of the European Parliament and of the Council ⁽¹⁰⁾, Erasmus+ established by Regulation (EU) 2021/817 of the European Parliament and of the Council ⁽¹¹⁾, the Creative Europe Programme established by Regulation (EU) 2021/818 of the European Parliament and of the Council ⁽¹²⁾, the European Green Deal, the Just Transition Fund established by Regulation (EU) 2021/1056 of the European Parliament and of the Council ⁽¹³⁾ and the Connecting Europe Facility established by Regulation (EU) 2021/1153 of the European Parliament and of the Council ⁽¹⁴⁾, including, where relevant, coherence and complementarity with macro-financial assistance.
- (37) In order to maximise the impact of combined interventions to achieve a common objective, IPA III should be able to contribute to actions under other programmes, as long as the contributions do not cover the same costs.
- (38) Union funding under IPA III should be used to finance actions under the international dimension of Erasmus+, the implementation of which should be carried out in accordance with Regulation (EU) 2021/817.

⁽⁹⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽¹⁰⁾ Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).

⁽¹¹⁾ Regulation (EU) 2021/817 of the European Parliament and of the Council of 20 May 2021 establishing Erasmus+: the Union Programme for education and training, youth and sport and repealing Regulation (EU) No 1288/2013 (OJ L 189, 28.5.2021, p. 1).

⁽¹²⁾ Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 (OJ L 189, 28.5.2021, p. 34).

⁽¹³⁾ Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund (OJ L 231, 30.6.2021, p. 1).

⁽¹⁴⁾ Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).

- (39) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. Those rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, prizes, procurement and indirect management, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (40) As the respect for democracy, human rights and the rule of law is essential for sound financial management and effective Union funding as referred to in the Financial Regulation, assistance could be suspended in the event of the degradation of democracy, human rights or the rule of law by a beneficiary listed in Annex I.
- (41) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, administrative burdens, and the expected risk of non-compliance. That should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as referred to in Article 125(1) of the Financial Regulation.
- (42) The Union should continue to apply common rules for the implementation of its external action. Rules and procedures for the implementation of the Union's instruments for financing external action are laid down in Regulation (EU) 2021/947. Additional detailed provisions should be laid down to address specific situations, in particular for cross-border cooperation, agriculture and rural development policy areas.
- (43) External actions are often implemented in a highly volatile environment that requires continuous and rapid adaptation to the evolving needs of Union partners and to global challenges such as human rights, democracy and good governance, security and stability, climate change and environment, irregular migration and forced displacement and their root causes. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial implementation of the programmes. To increase the ability of the Union to respond to unforeseen needs, while respecting the principle that the Union budget is set annually, this Regulation should preserve the flexibility allowed under the Financial Regulation to other policies, namely carry-overs and re-commitments of committed funds, while adhering to the goals and objectives laid down in this Regulation. This will ensure the efficient use of Union funds, both for Union citizens and for the beneficiaries listed in Annex I, thereby maximising the Union funds available for the Union's external action interventions.
- (44) The new European Fund for Sustainable Development Plus (EFSD+) established by Regulation (EU) 2021/947, which builds on its predecessor, should constitute an integrated financial package supplying financing capacity in the form of grants, budgetary guarantees and other financial instruments worldwide, including to the beneficiaries listed in Annex I. The governance of the EFSD+ operations covering the Western Balkans carried out under this Regulation should be ensured by the Western Balkans Investment Framework (WBIF). The steering committee of the WBIF includes the beneficiaries from the Western Balkans listed in Annex I, the contributors to the European Western Balkans Joint Fund, relevant financial institutions and relevant regional organisations, as appropriate. The specific strategic board for the EFSD+ operations covering the Western Balkans should continue to be as inclusive.
- (45) The External Action Guarantee, established by Regulation (EU) 2021/947, supports the EFSD+ operations, and IPA III should contribute to the provisioning needs in respect of the operations to the benefit of the beneficiaries listed in Annex I, including the provisioning and liabilities arising from macro-financial assistance loans.
- (46) It is important to ensure that cross border cooperation programmes are implemented consistently with the framework established in the external action programmes and Regulation (EU) 2021/1059 of the European Parliament and of the Council ⁽¹⁵⁾. Specific co-financing provisions should be established in this Regulation.

⁽¹⁵⁾ Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94).

- (47) Annual or multiannual action plans and measures referred to in this Regulation constitute work programmes under the Financial Regulation. Annual or multiannual action plans consist of a set of measures grouped into one document.
- (48) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽¹⁶⁾ and Council Regulations (EC, Euratom) No 2988/95 ⁽¹⁷⁾, (Euratom, EC) No 2185/96 ⁽¹⁸⁾ and (EU) 2017/1939 ⁽¹⁹⁾, the financial interests of the Union are to be protected by means of proportionate measures, including measures relating to the prevention, detection, correction and investigation of irregularities, including fraud, to the recovery of funds lost, wrongly paid or incorrectly used, and, where appropriate, to the imposition of administrative penalties. In particular, in accordance with Regulations (Euratom, EC) No 2185/96 and (EU, Euratom) No 883/2013, the European Anti-Fraud Office (OLAF) has the power to carry out administrative investigations, including on-the-spot checks and inspections, with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union. The European Public Prosecutor's Office (EPPO) is empowered, in accordance with Regulation (EU) 2017/1939, to investigate and prosecute criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ⁽²⁰⁾. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the financial interests of the Union, grant the necessary rights and access to the Commission, OLAF, the Court of Auditors and, in respect of those Member States participating in enhanced cooperation pursuant to Regulation (EU) 2017/1939, the EPPO, and ensure that any third parties involved in the implementation of Union funds grant equivalent rights. Beneficiaries listed in Annex I should also report the irregularities including fraud which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep the latter informed of the progress of administrative and legal proceeding. With the objective of alignment to good practices in Member States, this reporting should be done by electronic means, using the Irregularity Management System, established by the Commission.
- (49) Assistance under this Regulation should be implemented in a transparent, accountable and depoliticised manner. The Commission should monitor this closely, including at local level.
- (50) Communication fosters democratic debate, reinforces institutional control and scrutiny over Union funding, and contributes to boosting the credibility of the Union. The Union and the beneficiaries of Union funding should enhance the visibility of Union actions, and should communicate adequately the added value of Union support. In that regard, in accordance with the Financial Regulation, agreements concluded with recipients of Union funding should contain obligations to ensure appropriate visibility, and the Commission should act in an appropriate and timely manner when those obligations are not met.
- (51) In order to take account of any changes in the enlargement policy framework or of significant developments in the beneficiaries listed in Annex I, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to adapt and update the thematic priorities for assistance listed in Annexes II and III as well as to adopt a delegated act to supplement this Regulation by setting out certain specific objectives and thematic priorities for assistance. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽²¹⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁽¹⁶⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽¹⁷⁾ Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

⁽¹⁸⁾ Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

⁽¹⁹⁾ Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

⁽²⁰⁾ Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

⁽²¹⁾ OJ L 123, 12.5.2016, p. 1.

- (52) In order to ensure uniform conditions for the implementation of this Regulation, in particular on specific conditions and structures for indirect management with the beneficiaries listed in Annex I and on the implementation of rural development assistance, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽²³⁾. When establishing the uniform conditions for implementing this Regulation, the lessons learnt from the management and implementation of past pre-accession assistance should be taken into account. Those uniform conditions should be amended if developments so require.
- (53) The committee established under this Regulation should be competent also for legal acts and commitments under Council Regulation (EC) No 1085/2006 ⁽²³⁾ and Regulation (EU) No 231/2014, as well as for the implementation of Article 3 of Council Regulation (EC) No 389/2006 ⁽²⁴⁾.
- (54) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (55) In order to ensure continuity in providing support in the relevant policy area and to allow implementation to start from the beginning of the multiannual financial framework 2021-2027, this Regulation should enter into force as a matter of urgency and should apply, with retroactive effect, from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Subject matter

This Regulation establishes the Instrument for Pre-accession Assistance ('IPA III') for the period of the multiannual financial framework 2021-2027 ('2021-2027 MFF').

It lays down the objectives of IPA III, the budget for the 2021-2027 period, the forms of Union assistance and the rules for providing such assistance.

Article 2

Definition

For the purpose of this Regulation, 'cross-border cooperation' means cooperation between:

- (a) Member States and beneficiaries listed in Annex I to this Regulation as referred to in Article 3(1), point (b), of Regulation (EU) 2021/1059;
- (b) two or more beneficiaries listed in Annex I to this Regulation; or

⁽²³⁾ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

⁽²³⁾ Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, 31.7.2006, p. 82).

⁽²⁴⁾ Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community and amending Council Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (OJ L 65, 7.3.2006, p. 5).

- (c) beneficiaries listed in Annex I to this Regulation and countries and territories listed in Annex I to Regulation (EU) 2021/947.

Article 3

Objectives of IPA III

1. The general objective of IPA III is to support the beneficiaries listed in Annex I in adopting and implementing the political, institutional, legal, administrative, social and economic reforms required by those beneficiaries to comply with Union values and to progressively align to Union rules, standards, policies and practices ('acquis') with a view to future Union membership, thereby contributing to mutual stability, security, peace and prosperity.
2. IPA III shall have the following specific objectives:
 - (a) to strengthen the rule of law, democracy, the respect of human rights and fundamental freedoms, including through promoting an independent judiciary, reinforced security and the fight against corruption and organised crime, compliance with international law, freedom of media and academic freedom and an enabling environment for civil society, to promote non-discrimination and tolerance, to ensure respect for the rights of persons belonging to minorities and the promotion of gender equality and to improve migration management, including border management and tackling irregular migration, as well as addressing forced displacement;
 - (b) to reinforce the effectiveness of public administration and to support transparency, structural reforms and good governance at all levels, including in the areas of public procurement and State aid;
 - (c) to shape the rules, standards, policies and practices of the beneficiaries listed in Annex I in alignment with those of the Union and to reinforce regional cooperation, reconciliation and good neighbourly relations, as well as people-to-people contacts and strategic communication;
 - (d) to strengthen economic and social development and cohesion, with particular attention to youth, including through quality education and employment policies, through supporting investment and private sector development, with a focus on small and medium-sized enterprises (SMEs), as well as on agriculture and rural development;
 - (e) to reinforce environmental protection, to increase resilience to climate change, to accelerate the shift towards a low-carbon economy, to develop the digital economy and society and to strengthen sustainable connectivity in all its dimensions;
 - (f) to support territorial cohesion and cross-border cooperation across land and maritime borders, including transnational and interregional cooperation.
3. In accordance with the specific objectives, assistance may, as appropriate, address the following thematic priorities:
 - (a) establishing and promoting from an early stage the proper functioning of the institutions necessary to secure the rule of law and further consolidating democratic institutions;
 - (b) strengthening capacities to face migration challenges at regional and international levels;
 - (c) enhancing capacities for strategic communication, including communicating to the public about necessary reforms for meeting the Union's membership criteria;
 - (d) enhancing good governance and reforming public administration in line with the principles of public administration;
 - (e) strengthening fiscal and economic governance;
 - (f) strengthening all aspects of good neighbourly relations, regional stability and mutual cooperation;
 - (g) strengthening the capacity of the Union and its partners to prevent conflict, build peace and address pre- and post-crisis needs;
 - (h) strengthening the capacities, independence and plurality of civil society organisations;
 - (i) promoting the alignment of beneficiaries' rules, standards, policies and practices with those of the Union;

- (j) promoting gender equality and the empowerment of women and girls;
- (k) strengthening access to and the quality of education, training and lifelong learning at all levels, and offering support to cultural and creative sectors and sport;
- (l) fostering quality employment and access to the labour market;
- (m) promoting social protection and inclusion and combating poverty;
- (n) promoting smart, sustainable, inclusive and safe transport, removing bottlenecks in key network infrastructures, and enhancing energy security and diversification;
- (o) improving the private-sector environment and competitiveness of enterprises, in particular of SMEs;
- (p) improving access to digital technologies and services and strengthening research, technological development and innovation;
- (q) contributing to the security and safety of the supply of food and water;
- (r) protecting the environment and improving the quality of the environment;
- (s) cooperating with the beneficiaries listed in Annex I in the peaceful use of nuclear energy in the areas of health, agriculture and food safety;
- (t) increasing the ability of the agri-food and fisheries sectors to cope with competitive pressure and market forces.

4. With a view to promoting good neighbourly relations, fostering Union integration and promoting socioeconomic development, assistance for cross-border cooperation between the beneficiaries listed in Annex I may, as appropriate, address the following thematic priorities:

- (a) promoting employment, labour mobility and social and cultural inclusion across borders;
- (b) protecting the environment and promoting adaptation to climate change, the mitigation of climate change, and risk prevention and management;
- (c) promoting sustainable transport and improving public infrastructures;
- (d) promoting the digital economy and society;
- (e) encouraging tourism and preserving and promoting cultural and natural heritage;
- (f) investing in youth, sport, education and skills;
- (g) promoting local and regional governance;
- (h) promoting cross-border initiatives to foster reconciliation and transitional justice;
- (i) enhancing competitiveness, the business environment and the development of SMEs, trade and investment;
- (j) strengthening research, technological development, innovation and digital technologies.

5. The thematic priorities for providing assistance according to the needs and capacities of the beneficiaries listed in Annex I are further set out in Annex II. The thematic priorities for cross-border cooperation between beneficiaries listed in Annex I are further set out in Annex III. Each of those thematic priorities may contribute to the attainment of more than one specific objective.

6. The Commission is empowered to adopt, prior to the adoption of the IPA programming framework, a delegated act in accordance with Articles 14 and 15 in order to supplement this Regulation by setting out certain specific objectives and thematic priorities for assistance related to the matters referred to in paragraph 3, points (a) to (m) and point (r), and paragraph 4, points (a) to (j), of this Article.

Article 4

Budget

1. The financial envelope for the implementation of IPA III for the 2021-2027 period shall be EUR 14 162 000 000 in current prices.
2. The amount referred to in paragraph 1 of this Article may be used to finance support measures for the implementation of IPA III, such as preparatory, monitoring, control, audit and evaluation activities, including corporate information technology systems, in accordance with Article 24 of Regulation (EU) 2021/947.

Article 5

Cross-programme provisions

1. In implementing this Regulation, consistency, synergies and complementarities with other areas of the Union's external action and with other relevant Union policies and programmes, and policy coherence for development shall be ensured.
2. Regulation (EU) 2021/947 shall apply to activities implemented under this Regulation where it is referred to in this Regulation.
3. IPA III shall contribute funds to actions implemented and managed in accordance with Regulation (EU) 2021/817. Regulation (EU) 2021/817 applies to the use of those funds. To that end, the contribution of IPA III shall be included in the single programming document referred to in Article 13(6) of Regulation (EU) 2021/947 and adopted in accordance with the procedures laid down in that Regulation. That programming document shall contain an indicative minimum amount to be allocated to actions established under Regulation (EU) 2021/817.
4. Assistance under this Regulation may be provided to the type of actions provided for under the European Regional Development Fund and the Cohesion Fund the specific objectives and scope of support of which are set out in Regulation (EU) 2021/1058 of the European Parliament and of the Council ⁽²⁵⁾, the European Social Fund Plus established by Regulation (EU) 2021/1057 of the European Parliament and of the Council ⁽²⁶⁾ and the European Agricultural Fund for Rural Development to be established by a Regulation of the European Parliament and of the Council establishing rules on support for strategic plans to be drawn up by Member States under the Common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulation (EU) No 1305/2013 of the European Parliament and of the Council and Regulation (EU) No 1307/2013 of the European Parliament and of the Council.
5. The European Regional Development Fund shall contribute to programmes or measures established for cross-border cooperation between the beneficiaries listed in Annex I and one or more Member States. The Commission shall adopt those programmes and measures in accordance with Article 17(3) of this Regulation. The amount of the contribution from IPA III funds allocated to cross-border cooperation (IPA III-CBC), as referred to in Article 10(3) of Regulation (EU) 2021/1059, shall be determined in accordance with that Article. IPA III-CBC programmes shall be managed in accordance with Regulation (EU) 2021/1059.

⁽²⁵⁾ Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund (OJ L 231, 30.6.2021, p. 60).

⁽²⁶⁾ Regulation (EU) 2021/1057 of the European Parliament and of the Council of 24 June 2021 establishing the European Social Fund Plus (ESF+) and repealing Regulation (EU) No 1296/2013 (OJ L 231, 30.6.2021, p. 21).

6. IPA III may contribute to transnational and interregional cooperation programmes or measures that are established and implemented under Regulation (EU) 2021/1059, taking into account macro-regional strategies or sea basin strategies, where applicable, and in which the beneficiaries listed in Annex I to this Regulation participate.

Where a transnational and interregional cooperation programme or measure is also supported by NDICI, pre-financing shall be paid in accordance with Article 22(5) of Regulation (EU) 2021/947.

7. Where appropriate, other Union programmes may contribute to actions established under this Regulation in accordance with Article 9, provided that the contributions do not cover the same costs. This Regulation may also contribute to measures established under other Union programmes, provided that the contributions do not cover the same costs. In such cases, the work programme covering those actions shall establish which set of rules shall be applicable.

8. To ensure the coherence and effectiveness of Union financing or to foster regional cooperation, the Commission may, where duly justified, decide to extend the eligibility of action plans and measures referred to in Article 9(1) to countries, territories or regions which would not otherwise be eligible for financing pursuant to Article 3(1), provided that the plan or measure to be implemented is of a global, regional or cross-border nature.

CHAPTER II

Strategic planning

Article 6

Policy framework and general principles

1. The enlargement policy framework defined by the European Council and the Council, the agreements that establish a legally binding relationship with the beneficiaries listed in Annex I, as well as resolutions of the European Parliament, communications of the Commission and joint communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, shall constitute the overall policy framework for the implementation of this Regulation. The Commission shall ensure coherence between the assistance under this Regulation and the enlargement policy framework.

2. Programmes and actions under IPA III in pursuit of the specific objectives referred to in Article 3(2) shall mainstream the horizontal priorities of climate change, environmental protection, human rights and gender equality, in order to promote integrated actions that create co-benefits and meet multiple objectives in a coherent way. Where applicable, programmes and actions shall address interlinkages between Sustainable Development Goals, including the goals of promoting peaceful and inclusive societies, as well as of poverty reduction.

3. The Commission, in liaison with Member States, shall contribute to the implementation of Union commitments to increased transparency and accountability in the delivery of assistance, including by making information on assistance volume and allocation available through web-based databases, and shall ensure that data is comparable and can be easily accessed, shared and published.

4. The Commission and the Member States shall cooperate in ensuring coherence and shall strive to avoid duplication between assistance under this Regulation and other assistance provided by the Union, the Member States and the European Investment Bank Group, in line with the established principles for strengthening operational coordination in the field of external assistance, including through enhanced coordination with Member States at local level and through the harmonisation of policies and procedures, in particular the international principles on development effectiveness. Such coordination shall involve regular and timely consultations, frequent exchanges of information during the different phases of the assistance cycle, shall involve inclusive meetings aimed at coordinating the assistance, including at local level, and shall constitute a key step in the programming processes of the Union and the Member States.

5. In line with the principle of inclusive partnership, where appropriate, the Commission shall ensure that relevant stakeholders in the beneficiaries listed in Annex I, including civil society organisations and local and regional authorities, as appropriate, are duly consulted and have timely access to relevant information to allow them to play a meaningful role during the design and implementation of programmes and the related monitoring processes. The Commission shall encourage coordination among the relevant stakeholders.

The capacities of civil society organisations shall be strengthened, including their capacities as direct beneficiaries of assistance, where appropriate.

6. The Commission, in liaison with the Member States, shall take the necessary steps to ensure coordination and complementarity with multilateral and regional organisations and entities, such as international organisations and financial institutions, and agencies and non-Union donors.

CHAPTER III

Implementation

Article 7

IPA programming framework

1. Assistance under this Regulation shall be based on an IPA programming framework for the delivery of the specific objectives referred to in Article 3(2) and the thematic priorities referred to in Article 3(3) and further set out in Annexes II and III. The Commission shall establish the IPA programming framework for the duration of the 2021-2027 MFF.

2. The European Parliament and the Council shall authorise the annual appropriations within the limits of the 2021-2027 MFF.

3. The IPA programming framework shall be developed in accordance with the policy framework and general principles set out in Article 6 and shall take relevant national strategies and sector policies into due account.

4. The IPA programming framework shall include indicative allocations of Union funds for thematic areas in accordance with the specific objectives referred to in Article 3(2), as applicable, broken down by year, without prejudice to the possibility of combining assistance contributing to the achievement of different specific objectives.

5. The IPA programming framework shall include indicators for assessing progress towards the achievement of the specific objectives referred to in Article 3(2). Those indicators shall be coherent with the key performance indicators referred to in Annex IV.

6. The Commission shall carry out an annual assessment of the implementation of the IPA programming framework in light of the evolution of the policy framework referred to in Article 6 and based on the indicators referred to in paragraph 5 of this Article. That assessment shall also include the state of play of the allocations committed and planned for beneficiaries listed in Annex I and how the performance-based approach and the fair share principle referred to in Article 8 have been implemented. The Commission shall submit that assessment to the committee referred to in Article 17.

7. On the basis of the annual assessment referred to in paragraph 6, the Commission may propose to revise the IPA programming framework as appropriate. Furthermore, the Commission may review the IPA programming framework following the mid-term evaluation referred to in Article 42 of Regulation (EU) 2021/947 and, where appropriate, may revise it. Any revision of the IPA programming framework shall be carried out in accordance with the procedure referred to in paragraph 8.

8. Without prejudice to paragraph 9, the Commission shall adopt the IPA programming framework by means of an implementing act. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 17(3).

9. The Commission shall adopt the programming framework for cross-border cooperation with Member States in accordance with Article 17(3).

Article 8

Assistance to beneficiaries, performance assessment and fair share principle

1. Assistance under this Regulation shall be based both on a performance-based approach and the fair share principle, as set out in paragraphs 2, 3 and 4.

2. Assistance shall aim to ensure progress with respect to all the beneficiaries listed in Annex I and shall be targeted and adjusted to their specific situations, taking into account any further efforts needed to meet the objectives of this Regulation. The needs and capacities of those beneficiaries shall be taken into account in accordance with the fair share principle in order to avoid a disproportionately low level of assistance as compared to other beneficiaries.
3. Assistance shall be differentiated in scope and intensity according to performance of the beneficiaries listed in Annex I, in particular as regards their commitment to and progress in implementing reforms, as well as according to their needs.
4. In assessing the performance of the beneficiaries listed in Annex I and deciding on the assistance to be provided, particular attention shall be paid to the efforts made in the fields of the rule of law and fundamental rights, democratic institutions and public administration reform, as well as economic development and competitiveness.
5. In the case of a significant regression or persistent lack of progress by a beneficiary listed in Annex I in the areas referred to in paragraph 4 of this Article as measured by the indicators referred to in Article 7(5), the scope and intensity of assistance shall be modulated accordingly, in accordance with paragraph 6, including by reducing the funds proportionally and redirecting them in ways that avoid compromising support for improving fundamental rights, democracy and the rule of law, including support to civil society and, where appropriate, cooperation with local authorities. Where progress has resumed, the assistance shall also be modulated accordingly in accordance with paragraph 6 to further support those efforts.
6. Assistance to the beneficiaries listed in Annex I shall be decided in the framework of measures referred to in Article 9.

Article 9

Implementing measures and methods

1. Assistance under this Regulation shall be implemented in direct management or indirect management in accordance with the Financial Regulation through annual or multiannual action plans and measures as referred to in Chapter III of Title II of Regulation (EU) 2021/947. The Commission shall adopt, by means of implementing acts, action plans and measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 17(3). Chapter III of Title II of Regulation (EU) 2021/947 shall apply to this Regulation with the exception of Article 28(1) of that Regulation.
2. The transition from direct management by the Commission to indirect management by the beneficiaries listed in Annex I shall be progressive and in line with the respective capacities of those beneficiaries as well as with regard to principles of good governance. The Commission shall take appropriate supervisory measures ensuring the protection of the financial interests of the Union, as appropriate. The Commission may also reverse that transition in the event that a beneficiary listed in Annex I fails to fulfil relevant obligations, principles, objectives and rules established in the Financial Regulation.
3. The European Parliament may hold regular exchanges of views with the Commission regarding its own assistance programmes, on matters such as capacity-building, including related mediation and dialogue, and election observation.
4. Action plans under this Regulation may be adopted for a period of up to seven years.
5. Budget support shall be based on mutual accountability and a shared commitment to democracy, human rights and the rule of law, and shall be provided in accordance with Article 236 of the Financial Regulation and Article 27 of Regulation (EU) 2021/947. Actions under IPA III shall support the development of parliamentary control, audit capacities and increased transparency and public access to information.

Article 10

Cross-border cooperation

1. Up to 3 % of the financial envelope shall be indicatively allocated to programmes for cross-border cooperation between the beneficiaries listed in Annex I and the Member States, in line with their needs and priorities.

2. The Union co-financing rate at the level of each priority shall not be higher than 85 % of the eligible expenditure of a cross-border cooperation programme.

3. The level of pre-financing for cross-border cooperation with Member States may exceed the percentage referred to in Article 51(3) of Regulation (EU) 2021/1059 and shall amount to 50 % of the first three budgetary commitments to the programme.

4. Where cross-border cooperation programmes are discontinued in accordance with Article 12 of Regulation (EU) 2021/1059, support under this Regulation to the discontinued programme that remains available may be used to finance other actions eligible under this Regulation.

CHAPTER IV

Eligibility

Article 11

Eligibility for funding under IPA III

Participation in procurement, grant and prize award procedures for actions financed under this Regulation shall be open to international and regional organisations and to all other natural persons who are nationals of, and to legal persons which are effectively established in:

- (a) Member States, beneficiaries listed in Annex I to this Regulation, contracting parties to the Agreement on the European Economic Area and countries covered by the Annex I to Regulation (EU) 2021/947; and
- (b) countries for which reciprocal access to external assistance is established by the Commission.

For the purposes of point (b), reciprocal access may be granted, for a limited period of at least one year, where a country grants eligibility on equal terms to entities from the Union and from countries eligible under this Regulation. The Commission shall decide on the reciprocal access after consulting the recipient country or countries concerned.

CHAPTER V

EFSD+ and budgetary guarantees

Article 12

Financial instruments and guarantee for external actions

1. In accordance with Article 31(7) of Regulation (EU) 2021/947, the beneficiaries listed in Annex I to this Regulation shall be eligible for support through the European Fund for Sustainable Development Plus (EFSD+) and the External Action Guarantee (EAG). EFSD+ and EAG operations shall be financed under this Regulation as provided for in Chapter IV of Title II of Regulation (EU) 2021/947 *mutatis mutandis*, subject to the special provisions of this Article.

2. The Commission shall be advised by a specific strategic board in the management of the EFSD+ operations for the Western Balkans ('strategic board').

3. The strategic board shall advise the Commission on the strategic orientation of investments for the Western Balkans under EFSD+, and contribute to their alignment with the guiding principles, policy framework and objectives set out in this Regulation.

The strategic board shall support the Commission in setting overall investment goals for the Western Balkans as regards the use of the EAG to support EFSD+ operations and shall monitor an appropriate and diversified thematic coverage for investment windows.

4. The strategic board shall include representatives of the Commission, all Member States and the European Investment Bank (EIB).

The European Parliament shall have observer status. Participation in the strategic board may be open to other relevant stakeholders. The strategic board shall decide on the inclusion of any new member or observer.

Without prejudice to specific arrangements on co-chairing, the strategic board shall be chaired by the Commission, and shall, to the extent possible, adopt opinions by consensus.

Participation in the meetings of the strategic board shall be voluntary.

5. Before the first meeting of the strategic board, the Commission shall propose the rules of procedure for adoption by the strategic board, including rules on participation of representatives in the Western Balkans Investment Framework, the role of observers and on the designation of co-chairs.

The minutes and agendas of the meetings of the strategic board shall be made public following their adoption.

6. The Commission shall report every year to the strategic board about the progress made in respect of the implementation of the operations covering the Western Balkans.

CHAPTER VI

Monitoring, reporting and evaluation

Article 13

Monitoring, audit, evaluation and protection of the Union's financial interests

1. Article 41 of Regulation (EU) 2021/947 in relation to monitoring and reporting shall apply to this Regulation *mutatis mutandis*. The annual report referred to in Article 41(5) of Regulation (EU) 2021/947 shall also contain information on commitments and payments per instrument (IPA, IPA II and IPA III).

2. The key performance indicators for monitoring the implementation and progress of IPA III towards the achievement of the specific objectives set out in Article 3 are listed in Annex IV to this Regulation.

3. For cross-border cooperation with Member States, the indicators shall be those referred to in Article 34 of Regulation (EU) 2021/1059.

4. In addition to the indicators listed in Annex IV, the reports accompanying the annual Commission communication on the Union's enlargement policy and the Commission's assessments of the economic reform programmes shall be taken into account in the results framework of IPA III assistance.

5. In addition to the elements referred to in Article 41(5) and (6) of Regulation (EU) 2021/947, the annual report shall contain information on the commitments for specific objectives referred to in Article 3 of this Regulation.

6. Article 42 of Regulation (EU) 2021/947 in relation to the mid-term and the final evaluation shall apply *mutatis mutandis*.

7. In addition to Article 129 of the Financial Regulation on the protection of the financial interests of the Union, under indirect management, beneficiaries listed in Annex I to this Regulation shall report any irregularities, including fraud, which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and shall keep the Commission informed of the progress of any administrative and legal proceedings in relation to such irregularities. Such reporting shall be done by electronic means, using the Irregularity Management System, established by the Commission.

CHAPTER VII

Final provisions

Article 14

Delegation of power

The Commission is empowered to adopt delegated acts in accordance with Article 15 to amend Annexes II, III and IV and a delegated act to supplement this Regulation in order to set out certain specific objectives and thematic priorities for assistance as referred to in Article 3(6).

Article 15

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts as referred to in Article 14 shall be conferred on the Commission for the period of validity of this Regulation.
3. The delegation of power referred to in Article 14 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 14 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 16

Adoption of further implementing rules

Specific rules establishing uniform conditions for implementing this Regulation, in particular in relation to the structures to be set up in preparation for accession and to rural development assistance, shall be adopted by the Commission in accordance with the examination procedure referred to in Article 17(3).

Article 17

Committee procedure

1. The Commission shall be assisted by a committee for the Instrument for Pre-accession Assistance (the 'IPA III committee'). That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. The IPA III committee shall assist the Commission to fulfil the objectives referred to in Article 3 in light of the annual assessment provided by the Commission in accordance with Articles 7(6) and 13(5).
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

4. The rules of procedure of the IPA III committee shall provide for proportionate time limits allowing committee members early and effective opportunities to examine the draft implementing acts and express their views, in accordance with Article 3 of Regulation (EU) No 182/2011.
5. Where the opinion of the committee is to be obtained by a written procedure, that procedure shall be terminated without result when, within the time limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so requests.
6. An observer from the EIB shall take part in the IPA III committee's proceedings with regard to questions concerning the EIB.
7. The IPA III committee shall assist the Commission and shall be competent also for legal acts and commitments under Regulations (EC) No 1085/2006 and (EU) No 231/2014 and the implementation of Article 3 of Regulation (EC) No 389/2006.
8. The IPA III committee shall not be competent for the contribution to Erasmus+ as referred to in Article 5(3).

Article 18

Information, communication and visibility

1. The recipients of Union funding under IPA III shall acknowledge the origin of, and ensure the visibility of, the Union funding, in particular when promoting and reporting on the actions and their results, by highlighting the support received from the Union and its benefits for people in a visible manner in communication materials related to the actions supported under this Regulation and by providing coherent, effective and proportionate targeted information to multiple audiences in a strategic manner, including to the media and the public.

Agreements concluded with recipients of Union funding under IPA III shall contain obligations in that respect.

Agreements concluded with beneficiaries listed in Annex I shall include the principles to be followed in visibility and communication activities and the objectives of those activities, and a clear obligation to actively publicise information about programmes and actions under IPA III.

In order to improve the results of communication activities for cross-border cooperation programmes between the beneficiaries listed in Annex I, specific joint communication activities shall be planned.

Actions under IPA III shall be carried out in accordance with communication and visibility requirements in Union-financed external actions and in other relevant guidelines.

2. The Commission shall carry out information and communication actions relating to IPA III and its actions and results, in particular at local and regional level, in order to ensure the visibility of the Union's financial assistance. Financial resources allocated under IPA III shall also contribute to the corporate communication of, and reporting on, the political priorities of the Union, as far as these priorities are directly related to the objectives referred to in Article 3.

3. IPA III shall support strategic communication and public diplomacy, including the fight against disinformation, with a view to communicating the Union's values as well as the added value of, and results achieved by the Union's actions.

4. The Commission shall make publicly available relevant information on all actions financed under this Regulation in accordance with Article 38 of the Financial Regulation, including as appropriate through a comprehensive single website.

5. Where security issues or political sensitivities may make it preferable or necessary to limit communication and visibility activities in certain countries or areas or during certain periods, the target audience and the visibility tools, products and channels to be used in promoting a given action shall be determined on a case-by-case basis, in consultation with and in agreement with the Union. Any such exceptions shall be duly justified and their scope shall be specified and limited in each case. Where rapid intervention is required in response to a sudden crisis, it shall not be necessary to produce a full communication and visibility plan immediately. In such situations, however, the Union's support shall nevertheless be appropriately indicated from the start.

Article 19

Transitional provisions

1. This Regulation shall not affect the continuation or modification of actions under Regulations (EC) No 1085/2006 or (EU) No 231/2014, which shall continue to apply to those actions until their closure. Chapter III of Title II of Regulation (EU) 2021/947 shall apply to those actions, except for Article 28(1) and (3) thereof, instead of which Articles 8(4), 10(1) and 10(3) of Regulation (EU) No 236/2014 of the European Parliament and of the Council ⁽²⁷⁾ shall apply.

2. The financial envelope for IPA III may also cover technical and administrative assistance expenses necessary to ensure the transition between the measures adopted under IPA II and under IPA III, as well as any activities related to the preparation of the successor programme for pre-accession assistance.

3. If necessary, appropriations may be entered in the Union budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed by 31 December 2027.

Article 20

Entry into force

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg, 15 September 2021.

For the European Parliament

The President

D. M. SASSOLI

For the Council

The President

A. LOGAR

⁽²⁷⁾ Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77 15.3.2014, p. 95).

ANNEX I

The Republic of Albania

Bosnia and Herzegovina

Iceland

Kosovo *

Montenegro

The Republic of North Macedonia

The Republic of Serbia

The Republic of Turkey

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

ANNEX II

THEMATIC PRIORITIES FOR ASSISTANCE

Assistance may, as appropriate, address the following thematic priorities:

- (a) Establishing and promoting from an early stage the proper functioning of the institutions necessary to secure the rule of law and further consolidating democratic institutions. Interventions in this area shall aim at: establishing independent, accountable, impartial, professional, depoliticised, and efficient judicial systems, including through transparent and merit-based recruitment, evaluation and promotion systems and effective disciplinary procedures in cases of wrongdoing, and promoting judicial cooperation; ensuring access to justice; promoting police cooperation and information exchange; developing effective tools to prevent and fight organised crime, trafficking in human beings and of small arms and light weapons, migrants smuggling, drug trafficking, money laundering/financing of terrorism and corruption; supporting engagement with the Union on counter-terrorism and preventing radicalisation; and promoting and protecting human rights, including non-discrimination and gender equality, the rights of the child, rights of persons belonging to minorities including national minorities and Roma, as well as rights of lesbian, gay, bisexual, transgender and intersex persons, and fundamental freedoms, including freedom of expression, freedom of the media, freedom of assembly and association and data protection.
- (b) Strengthening capacities to face migration challenges at regional and international level. Interventions in this area shall aim at: sharing relevant information, further consolidating border and migration management capacities, ensuring access to international protection, enhancing border control and efforts to tackle irregular migration and addressing forced displacement.
- (c) Enhancing capacities for strategic communication, including communicating to the public about necessary reforms for meeting the Union's membership criteria. Efforts in this area shall aim at supporting further development of independent and pluralistic media and media literacy and shall serve, inter alia, as a means of building capacities in the area of cyber-security and increasing state and societal resilience to disinformation and other forms of hybrid threats.
- (d) Enhancing good governance and reforming public administration in line with the principles of public administration. Interventions shall aim at: strengthening public administration reform frameworks, including in the field of public procurement, improving strategic planning and inclusive and evidence-based policy and legislative development; enhancing professionalisation and de-politicisation of public service by embedding meritocratic principles; promoting transparency and accountability; improving the quality and delivery of services, including adequate administrative procedures and the use of citizen-centred eGovernment; strengthening public financial management; and improving the production of good quality statistics.
- (e) Strengthening fiscal and economic governance. Interventions shall aim at: supporting the implementation of the economic reform programmes and systematic cooperation with international financial institutions on fundamentals of economic policy and strengthening of economic institutions; enhancing the capacity to strengthen macroeconomic stability and social cohesion; supporting sustainable development and progress towards becoming a functioning market economy with the capacity to cope with competitive pressures and market forces within the Union; and advancing towards the Common Regional Market.
- (f) Strengthening all aspects of good neighbourly relations, regional stability and mutual cooperation.
- (g) Strengthening the capacity of the Union and its partners to prevent conflict, build peace and address pre- and post-crisis needs, including through: early warning and conflict-sensitive risk analysis; promoting people to people networking, reconciliation, peace-building and confidence-building measures, initiatives promoting reconciliation, transitional justice, truth-seeking, reparations and guarantees of non-recurrence (such as RECOM); and supporting capacity building in support of security and development (CBSD) actions in accordance with Article 9 of Regulation (EU) 2021/947.
- (h) Strengthening the capacities, independence and plurality of civil society organisations and social partners' organisations, including professional associations, in beneficiaries listed in Annex I and encouraging networking at all levels among Union-based organisations and those of beneficiaries listed in Annex I, enabling them to engage in an effective dialogue with public and private actors.
- (i) Promoting the alignment of beneficiaries' rules, standards, policies and practices with those of the Union, including public procurement and State aid rules.

- (j) Promoting gender equality and the empowerment of women and girls. Interventions in this area shall aim at: establishing a more enabling environment for the fulfilment of women's and girls' rights and achieving real and tangible improvements in gender equality in strategic policy areas such as freedom from all forms of gender-based violence; sexual and reproductive health and rights; economic and social rights and the empowerment of women and girls; equal participation and leadership; women, peace and security; and the gender dimension of green and digital transformations, including through supporting gender budgeting.
- (k) Strengthening access to and the quality of education, training and lifelong learning at all levels, and offering support to cultural and creative sectors and sport. Interventions in this area shall aim at: promoting equal access to quality early childhood education and care, primary and secondary education; improving the provision of basic skills; increasing educational attainment levels; tackling brain drain; reducing early school-leaving; reinforcing teachers' training; empowering children and youth and enabling them to reach their full potential; developing vocational education and training systems and promoting work-based learning systems to facilitate the transition to the labour market, including for persons with disabilities; improving the quality and relevance of higher education and research; encouraging alumni-related activities; and enhancing access to lifelong learning and supporting investment in education and accessible training infrastructure, particularly with a view to reducing territorial disparities and fostering non-segregated inclusive education and including through the use of accessible digital technologies.
- (l) Fostering quality employment and access to the labour market. Interventions in this area shall aim at tackling high unemployment and inactivity by supporting sustainable labour market integration in particular of young people (especially those not in employment, education or training), women, long-term unemployed and all under-represented groups. Measures shall stimulate quality job creation and support the effective enforcement of labour rules and standards across the entire territory in line with the key principles and rights defined in the European Pillar of Social Rights. Other key areas of intervention shall be supporting gender equality and youth and promoting employability and productivity, the adaptation of workers and enterprises to change, the establishment of a sustainable social dialogue and the modernisation and strengthening of labour market institutions such as public employment services and labour inspectorates.
- (m) Promoting social protection and inclusion and combating poverty. Interventions in this area shall aim at modernising social protection systems to provide effective, efficient and adequate protection throughout all stages of a person's life, promoting the transition from institutional to family and community-based care, fostering social inclusion, promoting equal opportunities and addressing inequalities and poverty. Interventions in this area shall also focus on: integrating marginalised communities such as the Roma; combating discrimination based on sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation; and enhancing access to affordable, sustainable and high quality services, such as early childhood education and care, housing, healthcare and essential social services and long term care, including through the modernisation of social protection systems.
- (n) Promoting smart, sustainable, inclusive and safe transport, removing bottlenecks in key network infrastructures, and enhancing energy security and diversification, by investing in projects with high European added-value. The investments should be prioritised according to their relevance to TEN-T connections with the Union, cross-border links, job creation, contribution to sustainable mobility, reduced emissions, environmental impact and safe mobility, in synergy with the reforms promoted by the Transport Community Treaty. Interventions in the area of energy shall aim at increasing energy efficiency and sustainable production as well as diversifying supplier countries and routes.
- (o) Improving the private-sector environment and competitiveness of enterprises, in particular of SMEs, including smart specialisation, as key drivers of growth, job creation and cohesion. Priority shall be given to sustainable projects which improve the business environment.
- (p) Improving access to digital technologies and services and strengthening research, technological development and innovation by investing in digital connectivity, digital trust and security, digital skills and entrepreneurship, in capacity building in research and innovation systems, in mobility, in research infrastructure and in enabling environment and by promoting networking and collaboration.
- (q) Contributing to the security and safety of the supply of food and water and the maintenance of diversified and viable farming systems in vibrant rural communities and the countryside.

- (r) Protecting the environment and improving the quality of the environment, addressing environmental degradation and halting biodiversity loss, promoting the conservation and sustainable management of terrestrial and marine ecosystems and renewable natural resources, investing in air quality, water and waste management and sustainable chemical management, promoting resource efficiency, sustainable consumption and production and supporting the transition to green and circular economies, contributing to the reduction of greenhouse gas emissions, increasing resilience to climate change and promoting climate action governance and information and energy efficiency. IPA III shall promote policies to support the shift towards a resource-efficient, safe and sustainable low-carbon economy and strengthen disaster resilience as well as disaster prevention, preparedness and response.
 - (s) Cooperating with the beneficiaries listed in Annex I in the peaceful use of nuclear energy in the areas of health, agriculture and food safety, ensuring full compliance with the highest international standards, as well as supporting actions addressing the consequences on the local population exposed to any radiological accident and aiming at improving their living conditions, and promoting knowledge-management, training and education in nuclear-related fields. Where applicable, these activities shall be coherent with those of the European Instrument for Nuclear Safety and in line with Regulation (EU) 2021/947.
 - (t) Increasing the ability of the agri-food and fisheries sectors to cope with competitive pressure and market forces as well as to progressively align with the Union rules and standards, while pursuing economic, social and environmental goals in balanced territorial development of rural and coastal areas.
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ANNEX III

**THEMATIC PRIORITIES FOR ASSISTANCE FOR CROSS-BORDER COOPERATION BETWEEN BENEFICIARIES
LISTED IN ANNEX I**

With a view to promoting good neighbourly relations, fostering Union integration and promoting socioeconomic development, assistance for cross-border cooperation may address the following thematic priorities, as appropriate:

- (a) promoting employment, labour mobility and social and cultural inclusion across borders through, inter alia: integrating cross-border labour markets, including cross-border mobility; joint local employment initiatives; information and advisory services and joint training; gender equality; equal opportunities; integration of immigrants' communities and vulnerable groups; investment in public employment services; and supporting investment in public health and social services;
- (b) protecting the environment and promoting adaptation to climate change, the mitigation of climate change, and risk prevention and management through, inter alia: joint actions for environmental protection; promoting sustainable use of natural resources, coordinated maritime spatial planning, resource efficiency and circular economy, renewable energy sources and the shift towards a safe and sustainable low-carbon, green economy; improving air and water quality, including by enhancing alignment with European environmental standards, and waste and water management; promoting investment to address specific risks; ensuring disaster resilience and disaster prevention, preparedness and response; and promoting and enhancing international coordination of transboundary rivers;
- (c) promoting sustainable transport and improving public infrastructures by, inter alia, reducing isolation through improved access to transport, digital networks and services and investing in cross-border water, waste and energy systems and facilities;
- (d) promoting the digital economy and society by, inter alia, the deployment of digital connectivity and the development of eGovernment services, digital trust and security as well as digital skills and entrepreneurship;
- (e) encouraging tourism, especially sustainable tourism, and preserving and promoting cultural and natural heritage;
- (f) investing in youth, sport, education and skills through, inter alia, developing and implementing joint education, vocational training, training schemes and infrastructure supporting joint youth activities;
- (g) promoting local and regional governance and enhancing the planning and administrative capacity of local and regional authorities;
- (h) promoting cross-border initiatives to foster reconciliation and transitional justice (such as RECOM);
- (i) enhancing competitiveness, the business environment and the development of SMEs, trade and investment through, inter alia, the promotion of and support to entrepreneurship, in particular in relation to SMEs, and the development of local cross-border markets and internationalisation, also contributing to the Common Regional Market;
- (j) strengthening research, technological development, innovation and digital technologies, inter alia, through promoting mobility and through the sharing of human resources and facilities for research and technology development.

ANNEX IV

LIST OF KEY PERFORMANCE INDICATORS

The following list of key performance indicators shall be used to help measure the progress and, where appropriate, readiness by beneficiaries listed in Annex I and the Union's contribution to the achievement of the specific objectives of IPA III:

1. Composite indicator ⁽¹⁾ on political criteria (source: European Commission).
2. Attitude towards the EU: Percentage of population with a positive general attitude towards the EU (source: European Commission/EU Delegations).
3. Composite indicator on Union *acquis* alignment (source: European Commission).
4. Composite indicator on economic criteria (source: European Commission).
5. Expenditure on social protection as % of GDP (source: Eurostat) and Employment Rate of persons aged 20 to 64 and changes in the Gini coefficient of a beneficiary over time (source: Eurostat).
6. Digital skills (source: Eurostat).
7. 'Ease of doing business' (source: World Bank).
8. Energy intensity measured in terms of primary energy and GDP (source: Eurostat). Share of renewable energy in gross final energy consumption % (source: Eurostat).
9. Greenhouse Gas (GHG) emissions avoided (tonnes CO₂-eq) with IPA III support (source: European Commission). PM 10 concentrations compared to the EU daily limit value (50 µg/m³); (Source: European Environmental Agency).
10. Areas of marine, terrestrial and freshwater ecosystems under a) protection, b) sustainable management with IPA III support.
11. Good neighbourly relations, such as number of cross-border partnerships established, formalised and implemented, percentage of intra-regional trade to GDP (Source of data: National statistics, Regional Cooperation Council), number of persons crossing the border/day, and number of goods transporting vehicles crossing the border every day ⁽²⁾ (Source: Transport Observatory).

Indicators will, where relevant and possible, and where data is available, be disaggregated by gender and age.

⁽¹⁾ The indicator includes 5 elements:

- Functioning of judiciary
- Fighting against corruption
- Fighting against organised crime
- Freedom of expression (which is an element of fundamental rights)
- Public administration reform.

⁽²⁾ Data on the latter to only be available from 2023 onwards.

I

(Legislative acts)

REGULATIONS

REGULATION (EU, Euratom) 2018/1046 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 18 July 2018

on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

EXTRACT

TITLE VII

PROCUREMENT AND CONCESSIONS

CHAPTER 1

Common provisions*Article 160***Principles applicable to contracts and scope**

1. All contracts financed in whole or in part by the budget shall respect the principles of transparency, proportionality, equal treatment and non-discrimination.
2. All contracts shall be put out to competition on the broadest possible basis, except when use is made of the procedure referred to in point (d) of Article 164(1).

The estimated value of a contract shall not be determined with a view to circumventing the applicable rules, nor shall a contract be split up for that purpose.

The contracting authority shall divide a contract into lots, whenever appropriate, with due regard to broad competition.

3. Contracting authorities shall not use framework contracts improperly or in such a way that their purpose or effect is to prevent, restrict or distort competition.
4. The JRC may receive funding charged to appropriations other than research and technological development appropriations in respect of its participation in procurement procedures financed in whole or in part from the budget.
5. The rules on procurement laid down in this Regulation shall not apply to the activities of the JRC on behalf of third parties, with the exception of the principles of transparency and equal treatment.

*Article 161***Annex on procurement and delegation of powers**

Detailed rules on procurement are laid down in Annex I to this Regulation. To ensure that Union institutions, when awarding contracts on their own account, apply the same standards as those imposed on contracting authorities covered by Directives 2014/23/EU and 2014/24/EU, the Commission is empowered to adopt delegated acts in accordance with Article 269 of this Regulation to amend Annex I to this Regulation, in order to align that Annex to amendments to those Directives and to introduce related technical adjustments.

*Article 162***Mixed contracts and common procurement vocabulary**

1. A mixed contract covering two or more types of procurement (works, supplies or services) or concessions (works or services) or both, shall be awarded in accordance with the provisions applicable to the type of procurement that characterises the main subject matter of the contract in question.
2. In the case of mixed contracts consisting of supplies and services, the main subject matter shall be determined by a comparison of the values of the respective supplies or services.

A contract covering one type of procurement (works, supplies or services) and concessions (works or services) shall be awarded in accordance with the provisions applicable to the public contract concerned.

3. This Title shall not apply to contracts for technical assistance concluded with the EIB or the EIF.
4. Any references to nomenclatures in the context of procurement shall be made using the Common Procurement Vocabulary (CPV) as set out in Regulation (EC) No 2195/2002 of the European Parliament and of the Council ⁽¹⁾.

*Article 163***Publicity measures**

1. For procedures with a value equal to or greater than the thresholds referred to in Article 175(1) or Article 178, the contracting authority shall publish in the *Official Journal of the European Union*:
 - (a) a contract notice to launch a procedure, except in the case of the procedure referred to in point (d) of Article 164(1);

⁽¹⁾ Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16.12.2002, p. 1).

(b) a contract award notice on the results of the procedure.

2. Procedures with a value below the thresholds referred to in Article 175(1) or Article 178 shall be advertised by appropriate means.

3. Publication of certain information on a contract award may be withheld where its release would impede law enforcement, or otherwise be contrary to the public interest, would harm the legitimate commercial interests of economic operators or might prejudice fair competition between them.

Article 164

Procurement procedures

1. Procurement procedures for awarding concession contracts or public contracts, including framework contracts shall take one of the following forms:

- (a) open procedure;
- (b) restricted procedure, including through a dynamic purchasing system;
- (c) design contest;
- (d) negotiated procedure, including without prior publication;
- (e) competitive dialogue;
- (f) competitive procedure with negotiation;
- (g) innovation partnership;
- (h) procedures involving a call for expression of interest.

2. In open procedures any interested economic operator may submit a tender.

3. In restricted procedures, competitive dialogues, competitive procedures with negotiation and innovation partnerships, any economic operator may submit a request to participate by providing the information that is requested by the contracting authority. The contracting authority shall invite all candidates, that satisfy the selection criteria and that are not in any of the situations referred to in Articles 136(1) and 141(1), to submit a tender.

Notwithstanding the first subparagraph, the contracting authority may limit the number of candidates to be invited to participate in the procedure on the basis of objective and non-discriminatory selection criteria, which shall be indicated in the contract notice or the call for expression of interest. The number of candidates invited shall be sufficient to ensure genuine competition.

4. In all procedures involving negotiation, the contracting authority shall negotiate with tenderers the initial and any subsequent tenders or parts thereof, except their final tenders, in order to improve their content. The minimum requirements and the criteria specified in the procurement documents shall not be subject to negotiation.

A contracting authority may award a contract on the basis of the initial tender without negotiation where it has indicated in the procurement documents that it reserves the possibility to do so.

5. The contracting authority may use:

- (a) the open or restricted procedure for any purchase;
- (b) the procedures involving a call for expression of interest for contracts with a value below the thresholds referred to in Article 175(1), to preselect candidates to be invited to submit tenders in response to future restricted invitations to tender, or to collect a list of vendors to be invited to submit requests to participate or submit tenders;
- (c) the design contest to acquire a plan or design selected by a jury after being put out to competition;
- (d) the innovation partnership to develop an innovative product, service or innovative works and for the subsequent purchase of the resulting supply, services or works;
- (e) the competitive procedure with negotiation or the competitive dialogue for concession contracts, for the service contracts referred to in Annex XIV to Directive 2014/24/EU, in cases where only irregular or unacceptable tenders were submitted in response to an open or restricted procedure after the initial procedure has been completed, and for cases where this is justified by the specific circumstances linked, inter alia, to the nature or the complexity of the subject matter of the contract or to the specific type of contract, as further detailed in Annex I to this Regulation;

- (f) the negotiated procedure for contracts with a value below the thresholds referred to in Article 175(1), or the negotiated procedure without prior publication for specific types of purchases falling outside the scope of Directive 2014/24/EU or in the clearly defined exceptional circumstances set out in Annex I to this Regulation.

6. A dynamic purchasing system shall be open throughout its duration to any economic operator who satisfies the selection criteria.

The contracting authority shall follow the rules of the restricted procedure for procurement through a dynamic purchasing system.

Article 165

Interinstitutional procurement and joint procurement

1. Where a contract or a framework contract is of interest to two or more Union institutions, executive agencies or Union bodies referred to in Articles 70 and 71, and whenever there is a possibility for realising efficiency gains, the contracting authorities concerned may carry out the procedure and the management of the subsequent contract or framework contract on an interinstitutional basis under the lead of one of the contracting authorities.

The bodies and persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU as well as the Office of the Secretary of the Board of Governors of the European Schools may also participate in interinstitutional procedures.

The terms of a framework contract shall only apply between those contracting authorities that are identified for that purpose in the procurement documents and those economic operators that are party to the framework contract.

2. Where a contract or framework contract is necessary for the implementation of a joint action between a Union institution and one or more contracting authorities from Member States, the procurement procedure may be carried out jointly by the Union institution and the contracting authorities.

Joint procurement may be conducted with EFTA States and Union candidate countries if that possibility has been specifically provided for in a bilateral or multilateral treaty.

The procedural provisions applicable to Union institutions shall apply to the joint procurement.

Where the share pertaining to or managed by the contracting authority of a Member State in the total estimated value of the contract is equal to or above 50 %, or in other duly justified cases, the Union institution may decide that the procedural rules applicable to the contracting authority of a Member State shall apply to the joint procurement, provided that those rules may be considered as equivalent to those of the Union institution.

The Union institution and the contracting authority from a Member State, an EFTA State or a Union candidate country concerned by the joint procurement shall agree in particular upon the detailed practical arrangements for the evaluation of the requests for participation or of the tenders, the award of the contract, the law applicable to the contract and the competent court for hearing disputes.

Article 166

Preparation of a procurement procedure

1. Before launching a procurement procedure, the contracting authority may conduct a preliminary market consultation with a view to preparing the procedure.

2. In the procurement documents, the contracting authority shall identify the subject matter of the procurement by providing a description of its needs and the characteristics required of the works, supplies or services to be bought, and shall specify the applicable exclusion, selection and award criteria. The contracting authority shall also indicate which elements define the minimum requirements to be met by all tenders. Minimum requirements shall include compliance with applicable environmental, social and labour law obligations established by Union law, national law, collective agreements or the applicable international social and environmental conventions listed in Annex X to Directive 2014/24/EU.

Article 167

Award of contracts

1. Contracts shall be awarded on the basis of award criteria provided that the contracting authority has verified the following:

- (a) the tender complies with the minimum requirements specified in the procurement documents;

- (b) the candidate or tenderer is not excluded under Article 136 or rejected under Article 141;
 - (c) the candidate or tenderer meets the selection criteria specified in the procurement documents and is not subject to conflicts of interest which may negatively affect the performance of the contract.
2. The contracting authority shall apply the selection criteria to evaluate the capacity of the candidate or tenderer. Selection criteria shall only relate to the legal and regulatory capacity to pursue the professional activity, the economic and financial capacity, and the technical and professional capacity. The JRC shall be presumed to meet the requirements relating to financial capacity.
3. The contracting authority shall apply the award criteria to evaluate the tender.
4. The contracting authority shall base the award of contracts on the most economically advantageous tender, which shall consist in one of three award methods: lowest price, lowest cost or best price-quality ratio.

For the lowest cost method, the contracting authority shall use a cost-effectiveness approach including life-cycle costing.

For the best price-quality ratio, the contracting authority shall take into account the price or cost and other quality criteria linked to the subject matter of the contract.

Article 168

Submission, electronic communication and evaluation

1. The contracting authority shall lay down time limits for the receipt of tenders and requests to participate in accordance with point 24 of Annex I and taking into account the complexity of the purchase, leaving an adequate period for economic operators to prepare their tenders.
2. If deemed appropriate and proportionate, the contracting authority may require tenderers to lodge a guarantee to make sure that the tenders submitted are not withdrawn before contract signature. The required guarantee shall represent 1 to 2 % of the total estimated value of the contract.

The contracting authority shall release the guarantees:

- (a) in respect of tenderers or tenders rejected as referred to in point 30.2(b) or (c) of Annex I, after having provided the information on the outcome of the procedure;
 - (b) in respect of tenderers ranked as referred to in point 30.2(e) of Annex I, after the contract is signed.
3. The contracting authority shall open all requests to participate and tenders. However, it shall reject:
- (a) requests to participate and tenders which do not comply with the time limit for receipt, without opening them;
 - (b) tenders already open when they are received, without examining their content.
4. The contracting authority shall evaluate all requests to participate or tenders not rejected during the opening phase as laid down in paragraph 3 on the basis of the criteria specified in the procurement documents with a view to awarding the contract or to proceeding with an electronic auction.
5. The authorising officer may waive the appointment of an evaluation committee as provided for in Article 150(2) in the following cases:
- (a) the value of the contract is below the thresholds referred to in Article 175(1);
 - (b) on the basis of a risk analysis for the cases referred to in points (c), (e), (f)(i), (f)(iii) and (h) of the second subparagraph of point 11.1 of Annex I;
 - (c) on the basis of a risk analysis when reopening competition within a framework contract;
 - (d) for procedures in the field of external actions having a value of less than or equal to EUR 20 000.
6. Requests to participate and tenders which do not comply with all the minimum requirements set out in the procurement documents shall be rejected.

Article 169

Contacts during the procurement procedure

1. Before the time limit for receipt of requests to participate or tenders, the contracting authority may communicate additional information about the procurement documents if it discovers an error or omission in the text or upon request from candidates or tenderers. Information provided shall be disclosed to all candidates or tenderers.

2. After the time limit for receipt of requests to participate or tenders, in every case where contact has been made, and in the duly justified cases where contact has not been made as provided for in Article 151, a record shall be kept in the procurement file.

Article 170

Award decision and information to candidates or tenderers

1. The authorising officer responsible shall decide to whom the contract is to be awarded, in compliance with the selection and award criteria specified in the procurement documents.

2. The contracting authority shall notify all candidates or tenderers, whose requests to participate or tenders are rejected, of the grounds on which the decision was taken, as well as the duration of the standstill periods referred to in Articles 175(2) and 178(1).

For the award of specific contracts under a framework contract with reopening of competition, the contracting authority shall inform the tenderers of the result of the evaluation.

3. The contracting authority shall inform each tenderer who is not in an exclusion situation referred to in Article 136(1), who is not rejected under Article 141, whose tender is compliant with the procurement documents and who makes a request in writing, of any of the following:

- (a) the name of the tenderer, or tenderers in the case of a framework contract, to whom the contract is awarded and, except in the case of a specific contract under a framework contract with reopening of competition, the characteristics and relative advantages of the successful tender, the price paid or contract value, whichever is appropriate;
- (b) the progress of negotiation and dialogue with tenderers.

However, the contracting authority may decide to withhold certain information where its release would impede law enforcement, would be contrary to the public interest or would prejudice the legitimate commercial interests of economic operators or might distort fair competition between them.

Article 171

Cancellation of the procurement procedure

The contracting authority may, before the contract is signed, cancel the procurement procedure without the candidates or tenderers being entitled to claim any compensation.

The decision shall be justified and brought to the attention of the candidates or tenderers as soon as possible.

Article 172

Performance and modifications of the contract

1. Performance of the contract shall not start before it is signed.

2. The contracting authority may modify a contract or framework contract without a procurement procedure only in the cases provided for in paragraph 3 and provided the modification does not alter the subject matter of the contract or framework contract.

3. A contract, a framework contract or a specific contract under a framework contract may be modified without a new procurement procedure in any of the following cases:

- (a) for additional works, supplies or services by the original contractor that have become necessary and that were not included in the initial procurement, where the following conditions are fulfilled:
 - (i) a change of contractor cannot be made for technical reasons linked to interchangeability or interoperability requirements with existing equipment, services or installations;
 - (ii) a change of contractor would cause substantial duplication of costs for the contracting authority;
 - (iii) any increase in price, including the net cumulative value of successive modifications, does not exceed 50 % of the initial contract value;
- (b) where all of the following conditions are fulfilled:
 - (i) the need for modification has been brought about by circumstances which a diligent contracting authority could not foresee;
 - (ii) any increase in price does not exceed 50 % of the initial contract value;

- (c) where the value of the modification is below the following thresholds:
- (i) the thresholds referred to in Article 175(1), and in point 38 of Annex I in the field of external actions, applicable at the time of the modification; and
 - (ii) 10 % of the initial contract value for public service and supply contracts and works or services concession contracts and 15 % of the initial contract value for public works contracts;
- (d) where both of the following conditions are fulfilled:
- (i) the minimum requirements of the initial procurement procedure are not altered;
 - (ii) any ensuing modification of value complies with the conditions set out in point (c) of this subparagraph, unless such modification of value results from the strict application of the procurement documents or contractual provisions.

The initial contract value shall not take into account price revisions.

The net cumulative value of several successive modifications under point (c) of the first subparagraph shall not exceed any threshold referred to therein.

The contracting authority shall apply the *ex post* publicity measures set out in Article 163.

Article 173

Performance guarantees and retention money guarantees

1. A performance guarantee shall amount to a maximum of 10 % of the total value of the contract.

It shall be fully released after final acceptance of the works, supplies or complex services, within a period subject to the time limits set out in Article 116(1) and to be specified in the contract. It may be released partially or fully upon provisional acceptance of the works, supplies or complex services.

2. A retention money guarantee amounting to a maximum of 10 % of the total value of the contract may be constituted by deductions from interim payments as and when they are made or by deduction from the final payment.

The contracting authority shall determine the amount of the retention money guarantee which shall be proportionate to the risks identified in relation to the performance of the contract, taking into account its subject matter and the usual commercial terms applicable in the sector concerned.

A retention money guarantee shall not be used in a contract where a performance guarantee has been requested and not released.

3. Subject to approval by the contracting authority, the contractor may request to replace the retention money guarantee by another type of guarantee referred to in Article 152.

4. The contracting authority shall release the retention money guarantee after the expiry of the contractual liability period, within a period subject to the time limits set out in Article 116(1) and to be specified in the contract.

CHAPTER 2

Provisions applicable to contracts awarded by Union institutions on their own account

Article 174

The contracting authority

1. Union institutions, executive agencies and Union bodies referred to in Articles 70 and 71 shall be deemed to be contracting authorities in respect of contracts awarded on their own account, except where they purchase from a central purchasing body. Departments of Union institutions shall not be deemed to be contracting authorities where they conclude service-level agreements amongst themselves.

Union institutions deemed to be contracting authorities in accordance with the first subparagraph shall, in accordance with Article 60, delegate the necessary powers for the exercise of the function of the contracting authority.

2. Each authorising officer by delegation or subdelegation within each Union institution shall assess whether the thresholds referred to in Article 175(1) have been reached.

ANNEX I

CHAPTER 1

Common provisions

SECTION 1

Framework contracts and publicity

1. Framework contracts and specific contracts

- 1.1. The duration of a framework contract shall not exceed four years, save in exceptional cases duly justified in particular by the subject matter of the framework contract.

Specific contracts based on framework contracts shall be awarded in accordance with the terms of the framework contract.

When concluding specific contracts, the parties shall not substantially deviate from the framework contract.

- 1.2. Where a framework contract is concluded with a single economic operator, the specific contracts shall be awarded within the limits of the terms laid down in the framework contract.

In such circumstances and where duly justified, contracting authorities may request the contractor in writing to supplement its tender if necessary.

- 1.3. Where a framework contract is to be concluded with several economic operators ('multiple framework contract'), it may take the form of separate contracts signed in identical terms with each contractor.

Specific contracts based on multiple framework contracts shall be implemented in one of the following ways:

- (a) in accordance with the terms of the framework contract: without reopening of competition, where it sets out all the terms governing the provision of the works, supplies or services concerned and the objective conditions for determining which of the contractors shall perform them;
- (b) where not all the terms governing the provision of the works, supplies or services concerned are laid down in the framework contract: through reopening of competition among the contractors, in accordance with point 1.4 and on the basis of any of the following:
 - (i) the same terms, where necessary more precisely formulated;
 - (ii) where appropriate, on the basis of other terms referred to in the procurement documents relating to the framework contract.
- (c) partly without reopening of competition in accordance with point (a) and partly with reopening of competition amongst the contractors in accordance with point (b), where that possibility has been stipulated by the contracting authority in the procurement documents relating to the framework contract.

The procurement documents referred to in point (c) of the second subparagraph shall also specify which terms may be subject to reopening of competition.

- 1.4. A multiple framework contract with reopening of competition shall be concluded with at least three economic operators, provided that there is a sufficient number of admissible tenders as referred to in point 29.3.

When awarding a specific contract through reopening of competition among the contractors, the contracting authority shall consult them in writing and fix a time limit which is sufficiently long to allow specific tenders to be submitted. Specific tenders shall be submitted in writing. The contracting authority shall award each specific contract to the tenderer who has submitted the most economically advantageous specific tender on the basis of the award criteria set out in the procurement documents relating to the framework contract.

- 1.5. In sectors subject to a rapid price and technological evolution, framework contracts without reopening of competition shall contain a clause either on a mid-term review or on a benchmarking system. After the mid-term review, if the conditions initially laid down are no longer adapted to the price or technological evolution, the contracting authority shall not use the framework contract concerned and shall take appropriate measures to terminate it.
- 1.6. Specific contracts based on framework contracts shall be preceded by a budgetary commitment.
2. Advertising of procedures for contracts with a value equal to or greater than the thresholds referred to in Article 175(1) of this Regulation or for contracts falling within the scope of Directive 2014/24/EU
- 2.1. The notices for publication in the *Official Journal of the European Union* shall include all the information set out in the relevant standard forms referred to in Directive 2014/24/EU to ensure transparency of the procedure.

- 2.2. The contracting authority may make known its intentions of planned procurement for the financial year through the publication of a prior information notice. It shall cover a period equal to or less than 12 months from the date on which the notice is sent to the Publications Office of the European Union (the Publications Office).

The contracting authority may publish the prior information notice either in the *Official Journal of the European Union* or on its buyer profile. In the latter case, a notice of publication on the buyer profile shall be published in the *Official Journal of the European Union*.

- 2.3. The contracting authority shall send to the Publications Office an award notice on the results of the procedure no later than 30 days after the signature of a contract or framework contract with a value equal to or greater than the thresholds referred to in Article 175(1).

Notwithstanding the first subparagraph, award notices relating to contracts based on a dynamic purchasing system may be grouped together on a quarterly basis. In such cases, the contracting authority shall send the award notice no later than 30 days after the end of each quarter.

Award notices shall not be published for specific contracts based on a framework contract.

- 2.4. The contracting authority shall publish an award notice:
 - (a) before concluding a contract or a framework contract with a value equal to or greater than the thresholds referred to in Article 175(1) and awarded in accordance with point (b) of the second subparagraph of point 11.1;
 - (b) after concluding a contract or a framework contract with a value equal to or greater than the thresholds referred to in Article 175(1), including contracts awarded in accordance with point (a) and points (c) to (f) of the second subparagraph of point 11.1.
- 2.5. The contracting authority shall publish in the *Official Journal of the European Union* a notice of modification of contract during its duration in the cases set out in points (a) and (b) of the first subparagraph of Article 172(3) where the value of the modification is equal to or greater than the thresholds referred to in Article 175(1) or is equal to or greater than the thresholds set out in Article 178(1) for procedures in the field of external actions.
- 2.6. For an interinstitutional procedure, the contracting authority responsible for the procedure shall be in charge of the applicable publicity measures.
3. Advertising of procedures for contracts with a value below the thresholds referred to in Article 175(1) of this Regulation or for contracts outside the scope of Directive 2014/24/EU
- 3.1. Procedures with an estimated contract value below the thresholds referred to in Article 175(1) shall be advertised by appropriate means. Such advertising shall involve appropriate *ex ante* publicity on the internet or a contract notice or, for contracts awarded in accordance with the procedure set out in point 13, the publication of a notice for a call for expression of interest in the *Official Journal of the European Union*. That obligation shall not apply to the procedure set out in point 11 and the negotiated procedure for very low value contracts set out in point 14.4.

- 3.2. For contracts awarded in accordance with points (g) and (i) of the second subparagraph of point 11.1, the contracting authority shall send a list of contracts to the European Parliament and Council no later than 30 June of the following financial year. Where the contracting authority is the Commission, that list shall be annexed to the summary of the annual activity report referred to in Article 74(9).
- 3.3. Contract award information shall contain the name of the contractor, the amount legally committed and the subject matter of the contract and, in the case of direct contracts and specific contracts, it shall comply with Article 38(3).

The contracting authority shall publish a list of contracts on its website no later than 30 June of the following financial year for:

- (a) contracts below the thresholds referred to in Article 175(1);
- (b) contracts awarded in accordance with point (h) and points (j) to (m) of the second subparagraph of point 11.1;
- (c) modifications of contracts as set out in point (c) of the first subparagraph of Article 172(3);
- (d) modifications of contracts as set out in points (a) and (b) of the first subparagraph of Article 172(3) where the value of the modification is below the thresholds referred to in Article 175(1);
- (e) specific contracts under a framework contract.

For the purposes of point (e) of the second subparagraph, the published information may be aggregated per contractor for specific contracts under the same framework contract.

- 3.4. For interinstitutional framework contracts, each contracting authority shall be responsible for advertising its specific contracts and their modifications in accordance with point 3.3.
4. Publication of notices
- 4.1. The contracting authority shall draw up and transmit the notices referred to in points 2 and 3 by electronic means to the Publications Office.
- 4.2. The Publications Office shall publish the notices referred to in points 2 and 3 in the *Official Journal of the European Union* no later than:
- (a) seven days after their dispatch if the contracting authority uses the electronic system for filling out the standard forms referred to in point 2.1 and limits free text to 500 words;
 - (b) 12 days after their dispatch in all other cases.
- 4.3. The contracting authority shall be able to provide evidence of the date of dispatch.
5. Other forms of advertising

In addition to the advertising provided for in points 2 and 3 procurement procedures may be advertised in any other way, in particular in electronic form. Any such advertising shall refer to the notice published in the *Official Journal of the European Union*, if the notice has been published, and shall not precede the publication of that notice, which alone is authentic.

Such advertising shall not introduce any discrimination between candidates or tenderers nor contain details other than those contained in the contract notice, if the notice has been published.

SECTION 2

Procurement procedures

6. Minimum number of candidates and arrangements for negotiation
- 6.1. In a restricted procedure and in the procedures referred to in points (a) and (b) of point 13.1 and for contracts awarded in accordance with point 14.2, the minimum number of candidates shall be five.

6.2. In a competitive procedure with negotiation, a competitive dialogue, an innovation partnership, a prospection of the local market in accordance with point (g) of the second subparagraph of point 11.1 and a negotiated procedure for low value contracts in accordance with point 14.3, the minimum number of candidates shall be three.

6.3. Points 6.1 and 6.2 shall not apply in the following cases:

(a) negotiated procedures for very low value contracts in accordance with point 14.4;

(b) negotiated procedures without prior publication in accordance with point 11, except for design contests in accordance with point (d) of the second subparagraph of point 11.1 and prospections of the local market in accordance with point (g) of the second subparagraph of point 11.1.

6.4. Where the number of candidates meeting the selection criteria is below the minimum number specified in points 6.1 and 6.2, the contracting authority may continue the procedure by inviting the candidates with the required capacities. The contracting authority shall not include other economic operators that did not initially request to participate or that it did not initially invite.

6.5. During a negotiation, the contracting authority shall ensure equal treatment for all tenderers.

A negotiation may take place in successive stages in order to reduce the number of tenders to be negotiated by applying the award criteria specified in the procurement documents. The contracting authority shall indicate whether it will use that option in the procurement documents.

6.6. For contracts awarded in accordance with points (d) and (g) of the second subparagraph of point 11.1 and points 14.2 and 14.3, the contracting authority shall invite at least all economic operators who have expressed interest following *ex ante* publicity as set out in point 3.1 or prospection of the local market or a design contest.

7. Innovation partnership

7.1. An innovation partnership shall aim at the development of an innovative product, service or innovative works and the subsequent purchase of the resulting works, supplies or services, provided that they correspond to the performance levels and maximum costs agreed between the contracting authorities and the partners.

The innovation partnership shall be structured in successive phases following the sequence of steps in the research and innovation process, which may include the completion of the works, the manufacturing of the products or the provision of the services. The innovation partnership shall set intermediate targets to be attained by the partners.

Based on those intermediate targets, the contracting authority may decide after each phase to terminate the innovation partnership or, in the case of an innovation partnership with several partners, to reduce the number of partners by terminating individual contracts, provided that the contracting authority has indicated those possibilities and the conditions for their use in the procurement documents.

7.2. Before launching an innovation partnership, the contracting authority shall consult the market as provided for in point 15 in order to ascertain that the work, supply or service does not exist on the market or as near-to-market development activity.

The arrangements on negotiation set out in Article 164(4) and in point 6.5 shall be complied with.

In the procurement documents, the contracting authority shall describe the need for innovative works, supplies or services that cannot be met by purchasing works, supplies or services already available on the market. It shall indicate which elements of that description define the minimum requirements. The information provided shall be sufficiently precise to enable economic operators to identify the nature and scope of the required solution and decide whether to request to participate in the procedure.

The contracting authority may decide to set up the innovation partnership with one partner or with several partners conducting separate research and development activities.

The contracts shall be awarded on the sole basis of the best price-quality ratio as set out in Article 167(4).

- 7.3. In the procurement documents, the contracting authority shall specify the arrangements applicable to intellectual property rights.

In the framework of the innovation partnership, the contracting authority shall not reveal to the other partners solutions proposed or other confidential information communicated by a partner without its agreement.

The contracting authority shall ensure that the structure of the partnership and, in particular, the duration and value of the different phases reflect the degree of innovation of the proposed solution and the sequence of the research and innovation activities required for the development of an innovative solution not yet available on the market. The estimated value of works, supplies or services shall be proportionate in relation to the investment required for their development.

8. Design contests

- 8.1. Design contests shall be subject to the rules on advertising set out in point 2 and may include the award of prizes.

Where design contests are restricted to a limited number of candidates, the contracting authority shall lay down clear and non-discriminatory selection criteria.

The number of candidates invited to participate shall be sufficient to ensure genuine competition.

- 8.2. The jury shall be appointed by the authorising officer responsible. It shall be composed exclusively of natural persons who are independent of candidates in the contest. Where a particular professional qualification is required from candidates in a contest, at least one third of the members of the jury shall have the same or an equivalent qualification.

The jury shall be autonomous in its opinions. Its opinions shall be adopted on the basis of projects submitted to it anonymously by the candidates and solely in the light of the criteria set out in the contest notice.

- 8.3. The proposals of the jury, based on the merits of each project, and its ranking and remarks, shall be recorded in a report signed by its members.

Candidates shall remain anonymous until the jury has given its opinion.

Candidates may be asked by the jury to answer the questions recorded in the report in order to clarify a project. A full report of the resulting dialogue shall be drawn up.

- 8.4. The contracting authority shall take an award decision that includes the name and address of the candidate selected and the reasons for the choice by reference to the criteria announced in the contest notice, especially if the choice departs from the proposals made in the jury's opinion.

9. Dynamic purchasing system

- 9.1. A dynamic purchasing system may be divided into categories of works, supplies or services that are objectively defined on the basis of characteristics of the procurement to be undertaken in the category concerned. In that case, selection criteria shall be defined for each category.

- 9.2. The contracting authority shall indicate in the procurement documents the nature and estimated quantity of the purchases envisaged and all the necessary information concerning the purchasing system, the electronic equipment used and the technical connection arrangements and specifications.

- 9.3. The contracting authority shall give any economic operator, throughout the period of validity of the dynamic purchasing system, the possibility of requesting to participate in the system. It shall complete its evaluation of such requests within 10 working days of their receipt. That deadline may be prolonged to 15 working days where justified. However, the contracting authority may extend the evaluation period provided that no invitation to tender is issued in the meantime.

The contracting authority shall inform the candidate as soon as possible of whether or not it has been admitted to the dynamic purchasing system.

9.4. The contracting authority shall invite all candidates admitted to the system in the relevant category to submit a tender within a reasonable time. The contracting authority shall award the contract to the tenderer who has submitted the most economically advantageous tender on the basis of the award criteria set out in the contract notice. Those criteria may, if appropriate, be formulated more precisely in the invitation to tender.

9.5. The contracting authority shall indicate the period of validity of the dynamic purchasing system in the contract notice.

A dynamic purchasing system shall not last for more than four years, except in duly justified exceptional cases.

The contracting authority shall not resort to such a system to prevent, restrict or distort competition.

10. Competitive dialogue

10.1. The contracting authority shall specify its needs and requirements, the award criteria and an indicative timeframe in the contract notice or in a descriptive document.

It shall award the contract to the tender offering the best price-quality ratio.

10.2. The contracting authority shall open a dialogue with the candidates satisfying the selection criteria in order to identify and define the means best suited to satisfying its needs. It may discuss all aspects of the procurement with the selected candidates during that dialogue but it cannot alter its needs and requirements and award criteria as provided for in point 10.1.

During the course of the dialogue, the contracting authority shall ensure equality of treatment among all tenderers and shall not reveal the solutions proposed or other confidential information communicated by a tenderer without its agreement to waive that confidentiality.

The competitive dialogue may take place in successive stages in order to reduce the number of solutions to be discussed by applying the announced award criteria if provision is made for that possibility in the contract notice or the descriptive document.

10.3. The contracting authority shall continue the dialogue until it can identify the solution or solutions which are capable of meeting its needs.

After informing the remaining tenderers that the dialogue is concluded, the contracting authority shall ask each of them to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue. Those tenders shall contain all the elements required and necessary for the performance of the project.

At the request of the contracting authority, those final tenders may be clarified, specified and optimised provided this does not involve substantial changes to the tender or to the procurement documents.

The contracting authority may negotiate with the tenderer having submitted the tender offering the best price-quality ratio to confirm commitments contained in the tender provided this does not have the effect of modifying substantial aspects of the tender and does not risk distorting competition or causing discrimination.

10.4. The contracting authority may specify the payments to be made to the selected candidates taking part in the dialogue.

11. Use of a negotiated procedure without prior publication of a contract notice

11.1. Where the contracting authority uses the negotiated procedure without prior publication of a contract notice, it shall comply with the arrangements on negotiation set out in Article 164(4) and in point 6.5.

The contracting authority may use the negotiated procedure without prior publication of a contract notice, regardless of the estimated value of the contract, in the following cases:

- (a) where no tenders, or no suitable tender, or no request to participate or no suitable request to participate as provided for in point 11.2 have been submitted in response to an open procedure or restricted procedure after that procedure has been completed, provided that the original procurement documents are not substantially altered;

- (b) where the works, supplies or services can only be provided by a single economic operator under the conditions set out in point 11.3 and for any of the following reasons:
 - (i) the aim of the procurement is the creation or acquisition of a unique work of art or an artistic performance;
 - (ii) competition is absent for technical reasons;
 - (iii) the protection of exclusive rights, including intellectual property rights, must be ensured;
- (c) in so far as is strictly necessary where, for reasons of extreme urgency brought about by unforeseeable events, it is impossible to comply with the time limits laid down in points 24, 26 and 41 and where the justification of such extreme urgency is not attributable to the contracting authority;
- (d) where a service contract follows a design contest and is to be awarded to the winner or to one of the winners; in the latter case, all winners shall be invited to participate in the negotiations;
- (e) for new services or works consisting in the repetition of similar services or works entrusted to the economic operator to which the same contracting authority awarded an original contract, provided that those services or works are in conformity with a basic project for which the original contract was awarded after publication of a contract notice, subject to the conditions set out in point 11.4;
- (f) for supply contracts:
 - (i) for additional deliveries which are intended either as a partial replacement of supplies or installations or as the extension of existing supplies or installations, where a change of supplier would oblige the contracting authority to acquire supplies having different technical characteristics which would result in incompatibility or disproportionate technical difficulties in operation and maintenance; when Union institutions award contracts on their own account, the duration of such contracts shall not exceed three years;
 - (ii) where the products are manufactured purely for the purpose of research, experimentation, study or development; however, such contracts shall not include quantity production to establish commercial viability or to recover research and development costs;
 - (iii) for supplies quoted and purchased on a commodity market;
 - (iv) for purchases of supplies on particularly advantageous terms, from either an economic operator which is definitively winding up its business activities, or the liquidators in an insolvency procedure, an arrangement with creditors, or a similar procedure under national law;
- (g) for building contracts, after prospecting the local market;
- (h) for contracts for any of the following:
 - (i) legal representation by a lawyer within the meaning of Article 1 of Council Directive 77/249/EEC ⁽¹⁾ in arbitration or conciliation or judicial proceedings;
 - (ii) legal advice given in the preparation of the proceedings referred to in point (i), or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings, provided that the advice is given by a lawyer within the meaning of Article 1 of Directive 77/249/EEC;

⁽¹⁾ Council Directive 77/249/EEC of 22 March 1977 to facilitate the effective exercise by lawyers of freedom to provide services (OJ L 78, 26.3.1977, p. 17).

- (iii) arbitration and conciliation services;
 - (iv) document certification and authentication services which must be provided by notaries;
 - (i) for contracts declared to be secret or for contracts whose performance must be accompanied by special security measures, in accordance with the administrative provisions in force or when the protection of the essential interests of the Union so requires, provided the essential interests concerned cannot be guaranteed by other measures; such measures may consist of requirements to protect the confidential nature of information which the contracting authority makes available in the procurement procedure;
 - (j) for financial services in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2014/65/EU of the European Parliament and of the Council ⁽¹⁾, central bank services and operations conducted with the European Financial Stability Facility and the European Stability Mechanism;
 - (k) loans, whether or not in connection with the issue, sale, purchase or transfer of securities or other financial instruments within the meaning of Directive 2014/65/EU;
 - (l) for the purchase of public communication networks and electronic communications services within the meaning of Directive 2002/21/EC of the European Parliament and of the Council ⁽²⁾;
 - (m) services provided by an international organisation where it cannot participate in competitive procedures according to its statute or act of establishment.
- 11.2. A tender shall be considered unsuitable where it does not relate to the subject matter of the contract and a request to participate shall be considered unsuitable where the economic operator is in an exclusion situation referred to in Article 136(1) or does not meet the selection criteria.
- 11.3. The exceptions set out in points (b)(ii) and (iii) of the second subparagraph of point 11.1 shall only apply when no reasonable alternative or substitute exists and the absence of competition is not the result of an artificial narrowing down of the parameters when defining the procurement.
- 11.4. In the cases referred to in point (e) of the second subparagraph of point 11.1, the basic project shall indicate the extent of possible new services or works and the conditions under which they will be awarded. As soon as the basic project is put up for tender, the possible use of the negotiated procedure shall be disclosed, and the total estimated amount for the subsequent services or works shall be taken into consideration in applying the thresholds referred to in Article 175(1), or in Article 178(1) in the field of external actions. When Union institutions award contracts on their own account, that procedure shall only be used during the performance of the original contract and at the latest during the three years following its conclusion.
12. Use of a competitive procedure with negotiation or competitive dialogue
- 12.1. When the contracting authority uses the competitive procedure with negotiation or the competitive dialogue, it shall follow the arrangements on negotiation set out in Article 164(4) and in point 6.5. The contracting authority may use those procedures, regardless of the estimated value of the contract, in the following cases:
- (a) where only irregular or unacceptable tenders as specified in points 12.2 and 12.3 have been submitted in response to an open or restricted procedure after that procedure has been completed provided that the original procurement documents are not substantially altered;
 - (b) with regard to works, supplies or services fulfilling one or more of the following criteria:
 - (i) where the needs of the contracting authority cannot be met without the adaptation of a readily available solution;

⁽¹⁾ Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173 12.6.2014, p. 349).

⁽²⁾ Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (OJ L 108, 24.4.2002, p. 33).

- (ii) the works, supplies or services include design or innovative solutions;
 - (iii) the contract cannot be awarded without prior negotiations because of specific circumstances related to the nature, complexity or the legal and financial make-up of the contract or the risks attached to the subject matter of the contract;
 - (iv) the technical specifications cannot be established with sufficient precision by the contracting authority with reference to a standard, as set out in point 17.3;
- (c) for concession contracts;
- (d) for the service contracts referred to in Annex XIV to Directive 2014/24/EU;
- (e) for research and development services other than those covered by CPV codes 73000000-2 to 73120000-9, 73300000-5, 73420000-2 and 73430000-5 as set out in Regulation (EC) No 2195/2002 unless the benefits accrue exclusively to the contracting authority for its use in the conduct of its own affairs, or unless the service provided is wholly remunerated by the contracting authority;
- (f) for service contracts for the acquisition, development, production or co-production of programme material intended for audiovisual media services as defined in Directive 2010/13/EU of the European Parliament and of the Council ⁽¹⁾ or radio media services or contracts for broadcasting time or programme provision.

12.2. A tender shall be considered irregular in any of the following cases:

- (a) when it does not comply with the minimum requirements specified in the procurement documents;
- (b) when it does not comply with the requirements for submission set out in Article 168(3);
- (c) when the tenderer is rejected under point (b) or (c) of the first subparagraph of Article 141(1);
- (d) when the contracting authority has declared the tender to be abnormally low.

12.3. A tender shall be considered unacceptable in any of the following cases:

- (a) when the price of the tender exceeds the contracting authority's maximum budget as determined and documented prior to the launching of the procurement procedure;
- (b) when the tender fails to meet the minimum quality levels for award criteria.

12.4. In the cases referred to in point (a) of point 12.1, the contracting authority shall not be required to publish a contract notice if it includes in the competitive procedure with negotiation all those tenderers who satisfied the exclusion and selection criteria except those who submitted a tender declared to be abnormally low.

13. Procedure involving a call for expression of interest

13.1. For contracts with a value below the thresholds referred to in Article 175(1) or in Article 178(1), and without prejudice to points 11 and 12, the contracting authority may use a call for expression of interest to do either of the following:

- (a) to pre-select candidates to be invited to submit tenders in response to future restricted invitations to tender;
- (b) to collect a list of vendors to be invited to submit requests to participate or tenders.

13.2. The list drawn up following a call for expression of interest shall be valid for not more than four years from the date on which the notice referred to in point 3.1 is published.

The list referred to in the first subparagraph may include sub-lists.

Any interested economic operator may express interest at any time during the period of validity of the list, with the exception of the last three months of that period.

⁽¹⁾ Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1).

- 13.3. Where a contract is to be awarded, the contracting authority shall invite all candidates or vendors entered on the relevant list or sub-list to do either of the following:
- (a) to submit a tender in the case referred to in point (a) of point 13.1;
 - (b) to submit, in case referred to in point (b) of point 13.1, either of the following:
 - (i) tenders including documents relating to exclusion and selection criteria;
 - (ii) documents relating to exclusion and selection criteria and, as a second step, tenders, for those fulfilling those criteria.
14. Middle, low and very low value contracts
- 14.1. Middle, low and very low value contracts may be awarded by negotiated procedure in accordance with the arrangements on negotiation set out in Article 164(4) and in point 6.5. Only candidates invited simultaneously and in writing by the contracting authority shall submit an initial tender.
- 14.2. A contract of a value exceeding EUR 60 000 and below the thresholds referred to in Article 175(1) shall be deemed of middle value. Points 3.1, 6.1 and 6.4 shall apply to such contracts.
- 14.3. A contract of a value not exceeding EUR 60 000, but exceeding the threshold set out in point 14.4, shall be deemed of low value. Points 3.1, 6.2 and 6.4 shall apply to such contracts.
- 14.4. A contract of a value not exceeding EUR 15 000 shall be deemed of very low value. Point 6.3 shall apply to such contracts.
- 14.5. Payments of amounts not exceeding EUR 1 000 in respect of items of expenditure may be carried out simply as payment against invoices, without prior acceptance of a tender.
15. Preliminary market consultation
- 15.1. For preliminary market consultation, the contracting authority may seek or accept advice from independent experts or authorities or from economic operators. That advice may be used in the planning and conduct of the procurement procedure, provided that such advice does not have the effect of distorting competition and does not result in a violation of the principles of non-discrimination and transparency.
- 15.2. Where an economic operator has advised the contracting authority or has otherwise been involved in the preparation of the procurement procedure, the contracting authority shall take appropriate measures as set out in Article 141 to ensure that competition is not distorted by the participation of that economic operator in the award procedure.
16. Procurement documents
- 16.1. The procurement documents shall include the following:
- (a) if applicable, the contract notice or other advertising measure as provided for in points 2 to 5;
 - (b) the invitation to tender;
 - (c) the tender specifications or the descriptive documents in the case of a competitive dialogue, including the technical specifications and the relevant criteria;
 - (d) the draft contract based on the model contract.
- Point (d) of the first subparagraph shall not apply to cases where, due to exceptional and duly justified circumstances, the model contract cannot be used.
- 16.2. The invitation to tender shall:
- (a) specify the rules governing the submission of tenders, including in particular the conditions to maintain them confidential until opening, the closing date and time for receipt and the address to which they are to be sent or delivered or the internet address in case of electronic submission;

- (b) state that submission of a tender implies acceptance of the terms and conditions set out in the procurement documents and that such submission binds the contractor to whom the contract is awarded during performance of the contract;
- (c) specify the period during which a tender will remain valid and shall not be modified in any respect;
- (d) forbid any contact between the contracting authority and the tenderer during the procedure, save, exceptionally, under the conditions laid down in Article 169, and, where provision is made for an on-the-spot visit, specify the arrangements for such a visit;
- (e) specify the means of proof for compliance with the time limit for receipt of tenders;
- (f) state that submission of a tender implies acceptance of receiving notification of the outcome of the procedure by electronic means.

16.3. The tender specifications shall contain the following:

- (a) the exclusion and selection criteria;
- (b) the award criteria and their relative weighting or, where weighting is not possible for objective reasons, their decreasing order of importance, which shall also apply to variants if they are authorised in the contract notice;
- (c) the technical specifications referred to in point 17;
- (d) if variants are authorised, the minimum requirements which they must meet;
- (e) information whether the Protocol No 7 on the privileges and immunities of the European Union, annexed to the TEU and the TFEU, or, where appropriate, the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations applies;
- (f) the evidence of access to procurement;
- (g) the requirement to indicate in which country the tenderers are established and to present the supporting evidence normally acceptable under the law of that country;
- (h) in the case of a dynamic purchasing system or electronic catalogues, information on the electronic equipment used and the technical connection arrangements and specifications needed.

16.4. The draft contract shall:

- (a) specify the liquidated damages for failure to comply with its clauses;
- (b) specify the details which must be contained in invoices and in the relevant supporting documents in accordance with Article 111;
- (c) state that, when Union institutions award contracts on their own account, the law which applies to the contract is Union law complemented, where necessary, by a national law or, if necessary for building contracts, exclusively national law;
- (d) specify the competent court for hearing disputes;
- (e) specify that the contractor shall comply with applicable obligations in the fields of environmental, social and labour law established by Union law, national law, collective agreements or by the international social and environmental conventions listed in Annex X to Directive 2014/24/EU;
- (f) specify whether the transfer of intellectual property rights will be required;
- (g) state that the price quoted in the tender is firm and non-revisable, or lay down the conditions or formulas for revision of prices during the lifetime of the contract.

For the purposes of point (g) of the first subparagraph, if a revision of prices is set out in the contract, the contracting authority shall take particular account of:

- (a) the subject matter of the procurement and the economic situation in which it is taking place;
- (b) the type of contract and tasks and its duration;
- (c) the financial interests of the contracting authority.

Points (c) and (d) of the first subparagraph of this point may be waived for contracts signed in accordance with point (m) of the second subparagraph of point 11.1.

17. Technical specifications

- 17.1. Technical specifications shall allow equal access of economic operators to the procurement procedures and not have the effect of creating unjustified obstacles to the opening up of procurement to competition.

Technical specifications shall include the characteristics required for works, supplies or services, including minimum requirements, so that they fulfil the use for which they are intended by the contracting authority.

- 17.2. The characteristics referred to in point 17.1 may include as appropriate:

- (a) the quality levels;
- (b) environmental performance and climate performance;
- (c) for purchases intended for use by natural persons, the accessibility criteria for people with disabilities or the design for all users, except in duly justified cases;
- (d) the levels and procedures of conformity assessment;
- (e) performance or use of the supply;
- (f) safety or dimensions, including, for supplies, the sales name and user instructions, and, for all contracts, terminology, symbols, testing and test methods, packaging, marking and labelling, production processes and methods;
- (g) for works contracts, the procedures relating to quality assurance and the rules relating to design and costing, the test, inspection and acceptance conditions for works and methods or techniques of construction and all the other technical conditions which the contracting authority is in a position to prescribe under general or specific regulations in relation to the finished works and to the materials or parts which they involve.

- 17.3. The technical specifications shall be formulated in any of the following ways:

- (a) in order of preference, by reference to European standards, European technical assessments, common technical specifications, international standards, other technical reference systems established by European standardisation bodies or, failing this, their national equivalents; every reference shall be accompanied by the words 'or equivalent';
- (b) in terms of performance or of functional requirements, including environmental characteristics, provided that the parameters are sufficiently precise to allow tenderers to determine the subject matter of the contract and to allow the contracting authority to award the contract;
- (c) by a combination of the methods set out in points (a) and (b).

- 17.4. Where the contracting authority uses the option of referring to the specifications provided for in point (a) of point 17.3, it shall not reject a tender on the grounds that it does not comply with those specifications once the tenderer proves, by any appropriate means, that the solution proposed satisfies, in an equivalent manner, the requirements defined in the technical specifications.
- 17.5. Where the contracting authority uses the option provided for in point (b) of point 17.3 to formulate technical specifications in terms of performance or of functional requirements, it shall not reject a tender which complies with a national standard transposing a European standard, a European technical approval, a common technical specifications, an international standard or technical reference systems established by a European standardisation body, if those specifications address the performance or functional requirements which it has laid down.

The tenderer shall prove by any appropriate means that the work, supply or service in compliance with the standard meets the performance or functional requirements set out by the contracting authority.

- 17.6. Where a contracting authority intends to purchase works, supplies or services with specific environmental, social or other characteristics, it may require a specific label or specific requirements from a label, provided that all of the following conditions are satisfied:
- (a) the label requirements only concern criteria which are linked to the subject matter of the contract and are appropriate to define the characteristics of the purchase;
 - (b) the label requirements are based on objectively verifiable and non-discriminatory criteria;
 - (c) the labels are established in an open and transparent procedure in which all the relevant stakeholders may participate;
 - (d) the labels are accessible to all interested parties;
 - (e) the label requirements are set by a third party over which the economic operator applying for the label cannot exercise a decisive influence.

The contracting authority may require that economic operators provide a test report or a certificate as means of proof of conformity with the procurement documents from a conformity assessment body accredited in accordance with Regulation (EC) No 765/2008 of the European Parliament and of the Council ⁽¹⁾ or an equivalent conformity assessment body.

- 17.7. The contracting authority shall accept any other appropriate means of proof than those referred to in point 17.6, such as a technical dossier from the manufacturer, where the economic operator had no access to the certificates or test reports, or no possibility of obtaining them or obtaining a specific label within the relevant time limits, for reasons that are not attributable to that economic operator and provided that the economic operator concerned proves that the works, supplies or services to be provided fulfil the requirements of the specific label or the specific requirements indicated by the contracting authority.
- 17.8. Unless justified by the subject matter of the contract, technical specifications shall not refer to a specific make or source, or a particular process which characterises the products or services provided by a specific economic operator, or to trade marks, patents, types or a specific origin or production with the effect of favouring or eliminating certain products or economic operators.

Such reference shall be permitted on an exceptional basis where a sufficiently detailed and intelligible description of the subject matter of the contract is not possible. Such reference shall be accompanied by the words 'or equivalent'.

18. Exclusion and selection criteria

- 18.1. For the purpose of Article 137, the contracting authority shall accept the European Single Procurement Document (ESPD) referred to in Directive 2014/24/EU, or, failing that, a declaration on honour signed and dated.

An economic operator may reuse an ESPD which has already been used in a previous procedure, provided that the economic operator confirms that the information contained therein continues to be correct.

⁽¹⁾ Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93 (OJ L 218, 13.8.2008, p. 30).

- 18.2. The contracting authority shall indicate in the procurement documents the selection criteria, the minimum levels of capacity and the evidence required to prove that capacity. All requirements shall be related and proportionate to the subject matter of the contract.

The contracting authority shall specify in the procurement documents how groups of economic operators are to meet the selection criteria taking into account point 18.6.

Where a contract is divided into lots, the contracting authority may set minimum levels of capacity for each lot. It may set additional minimum levels of capacity in the event that several lots are awarded to the same contractor.

- 18.3. With regard to capacity to pursue the professional activity, the contracting authority may require an economic operator to fulfil at least one of the following conditions:

- (a) be enrolled in a relevant professional or trade register, except when the economic operator is an international organisation;
- (b) for service contracts, hold a particular authorisation proving that it is authorised to perform the contract in its country of establishment or be a member of a specific professional organisation.

- 18.4. When receiving requests to participate or tenders, the contracting authority shall accept the ESPD or, failing that, a declaration on honour stating that the candidate or tenderer fulfils the selection criteria. The requirement to submit an ESPD or a declaration on honour may be waived for very low value contracts.

The contracting authority may ask tenderers and candidates at any moment during the procedure to submit an updated declaration or all or part of the supporting documents where this is necessary to ensure the proper conduct of the procedure.

The contracting authority shall require the candidates or successful tenderers to submit up-to-date supporting documents except where it has already received them for the purpose of another procedure and provided that the documents are still up-to-date or it can access them in a national database free of charge.

- 18.5. The contracting authority may, depending on its assessment of risks, decide not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators in the following cases:

- (a) procedures for contracts awarded by Union institutions on their own account, with a value not exceeding the thresholds referred to in Article 175(1);
- (b) procedures for contracts awarded in the field of external actions, with a value not exceeding the thresholds referred to in Article 178(1);
- (c) procedures for contracts awarded in accordance with points (b), (e), (f)(i) and (iv), (h) and (m) of the second subparagraph of point 11.1.

Where the contracting authority decides not to require evidence of the legal, regulatory, financial, economic, technical and professional capacity of economic operators, no pre-financing shall be made except in duly justified cases.

- 18.6. An economic operator may, where appropriate and for a particular contract, rely on the capacities of other entities, regardless of the legal nature of the links which it has with them. It shall in that case prove to the contracting authority that it will have at its disposal the resources necessary for the performance of the contract by producing a commitment by those entities to that effect.

With regard to technical and professional criteria, an economic operator shall only rely on the capacities of other entities where the latter will perform the works or services for which those capacities are required.

Where an economic operator relies on the capacities of other entities with regard to criteria relating to economic and financial capacity, the contracting authority may require that the economic operator and those entities be jointly liable for the performance of the contract.

The contracting authority may request information from the tenderer on any part of the contract that the tenderer intends to subcontract and on the identity of any subcontractors.

For works or services provided at a facility directly under the oversight of the contracting authority, the contracting authority shall require the contractor to indicate the names, contacts and authorised representatives of all subcontractors involved in the performance of the contract, including any changes of subcontractors.

- 18.7. The contracting authority shall verify whether the entities on whose capacity the economic operator intends to rely and the envisaged subcontractors, when subcontracting represents a significant part of the contract, fulfil the relevant selection criteria.

The contracting authority shall require that the economic operator replaces an entity or subcontractor which does not meet a relevant selection criterion.

- 18.8. In the case of works contracts, service contracts and siting or installation operations in the context of a supply contract, the contracting authority may require that certain critical tasks be performed directly by the tenderer itself or, where the tender is submitted by a group of economic operators, a participant in the group.

- 18.9. The contracting authority shall not demand that a group of economic operators have a given legal form in order to submit a tender or request to participate, but the selected group may be required to adopt a given legal form after it has been awarded the contract if such change is necessary for the proper performance of the contract.

19. Economic and financial capacity

- 19.1. To ensure that economic operators possess the necessary economic and financial capacity to perform the contract, the contracting authority may require in particular that:

- (a) economic operators have a certain minimum yearly turnover, including a certain minimum turnover in the area covered by the contract;
- (b) economic operators provide information on their annual accounts showing ratios between assets and liability;
- (c) economic operators provide an appropriate level of professional risk indemnity insurance.

For the purposes of point (a) of the first subparagraph, the minimum yearly turnover shall not exceed two times the estimated annual contract value, except in duly justified cases linked to the nature of the purchase, which the contracting authority shall explain in the procurement documents.

For the purposes of point (b) of the first subparagraph, the contracting authority shall explain the methods and criteria for such ratios in the procurement documents.

- 19.2. In the case of dynamic purchasing systems, the maximum yearly turnover shall be calculated on the basis of the expected maximum size of specific contracts to be awarded under that system.

- 19.3. The contracting authority shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its economic and financial capacity. It may request in particular one or more of the following documents:

- (a) appropriate statements from banks or, where appropriate, evidence of relevant professional risk indemnity insurance;
- (b) financial statements or their extracts for a period equal to or less than the last three financial years for which accounts have been closed;

- (c) a statement of the economic operator's overall turnover and, where appropriate, turnover in the area covered by the contract for a maximum of the last three financial years available.

If, for any valid reason, the economic operator is unable to provide the references requested by the contracting authority, it may prove its economic and financial capacity by any other document which the contracting authority considers appropriate.

20. Technical and professional capacity

20.1. The contracting authority shall verify that candidates or tenderers fulfil the minimum selection criteria concerning technical and professional capacity in accordance with points 20.2 to 20.5.

20.2. The contracting authority shall define in the procurement documents the evidence to be provided by an economic operator to demonstrate its technical and professional capacity. It may request one or more of the following documents:

- (a) for works, supplies requiring siting or installation operations or services, information on the educational and professional qualifications, skills, experience and expertise of the persons responsible for performance;
- (b) a list of the following:
 - (i) the principal services provided and supplies delivered in the past three years, with the sums, dates and clients, public or private accompanied upon request by statements issued by the clients;
 - (ii) the works carried out in the last five years, accompanied by certificates of satisfactory execution for the most important works;
- (c) a statement of the technical equipment, tools or the plant available to the economic operator for performing a service or works contract;
- (d) a description of the technical facilities and means available to the economic operator for ensuring quality, and a description of available study and research facilities;
- (e) a reference to the technicians or technical bodies available to the economic operator, whether or not belonging directly to it, especially those responsible for quality control;
- (f) in respect of supplies: samples, descriptions or authentic photographs or certificates drawn up by official quality control institutes or agencies of recognised competence attesting the conformity of the products clearly identified by references to technical specifications or standards;
- (g) for works or services, a statement of the average annual manpower and the number of managerial staff of the economic operator for the last three years;
- (h) an indication of the supply chain management and tracking systems that the economic operator will be able to apply when performing the contract;
- (i) an indication of the environmental management measures that the economic operator will be able to apply when performing the contract.

For the purposes of point (b)(i) of the first subparagraph, where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant supplies or services delivered or performed more than three years before will be taken into account.

For the purposes of point (b)(ii) of the first subparagraph, where necessary in order to ensure an adequate level of competition, the contracting authority may indicate that evidence of relevant works delivered or performed more than five years before will be taken into account.

20.3. Where the supplies or services are complex or, exceptionally, are required for a special purpose, evidence of technical and professional capacity may be secured by means of a check carried out by the contracting authority or on its behalf by a competent official body of the country in which the economic operator is established, subject to that body's agreement. Such checks shall concern the supplier's technical capacity and production capacity and, if necessary, its study and research facilities and quality control measures.

- 20.4. Where the contracting authority requires the provision of certificates drawn up by independent bodies attesting the compliance of the economic operator with certain quality assurance standards, including on accessibility for disabled persons, it shall refer to quality assurance systems based on the relevant European standards series certified by accredited bodies. The contracting authority shall also accept other evidence of equivalent quality assurance measures from an economic operator that has demonstrably no access to such certificates or has no possibility of obtaining such certificates within the relevant time limits, for reasons that are not attributable to that economic operator and provided that the economic operator proves that the proposed quality assurance measures comply with the required quality assurance standards.
- 20.5. Where the contracting authority requires the provision of certificates drawn up by independent bodies attesting that the economic operator complies with certain environmental management systems or standards, it shall refer to the European Union Eco-Management and Audit Scheme or to other environmental management systems as recognised in accordance with Article 45 of Regulation (EC) No 1221/2009 of the European Parliament and of the Council ⁽¹⁾ or other environmental management standards based on the relevant European or international standards by accredited bodies. Where an economic operator had demonstrably no access to such certificates, or no possibility of obtaining them within the relevant time limits for reasons that are not attributable to that economic operator, the contracting authority shall also accept other evidence of environmental management measures, provided that the economic operator proves that those measures are equivalent to those required under the applicable environmental management system or standard.
- 20.6. A contracting authority may conclude that an economic operator does not possess the required professional capacity to perform the contract to an appropriate quality standard where the contracting authority has established that the economic operator has conflicting interests which may negatively affect its performance.
21. Award criteria
- 21.1. Quality criteria may include elements such as technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics, production, provision and trading process and any other specific process at any stage of the life cycle of the works, supplies or services, organisation of the staff assigned to performing the contract, after-sales service, technical assistance or delivery conditions such as delivery date, delivery process and delivery period or period of completion.
- 21.2. The contracting authority shall specify in the procurement documents the relative weighting which it gives to each of the criteria chosen to determine the most economically advantageous tender except when using the lowest price method. Those weightings may be expressed as a range with an appropriate maximum spread.
- The weighting applied to price or cost in relation to the other criteria shall not result in the neutralisation of price or cost.
- If weighting is not possible for objective reasons, the contracting authority shall indicate the criteria in decreasing order of importance.
- 21.3. The contracting authority may lay down minimum levels of quality. Tenders below those levels of quality shall be rejected.
- 21.4. Life-cycle costing shall cover parts or all of the following costs, to the extent relevant, over the life cycle of works, supplies or services:
- (a) costs, borne by the contracting authority or other users, such as:
 - (i) costs relating to acquisition;
 - (ii) costs of use, such as consumption of energy and other resources;
 - (iii) maintenance costs;
 - (iv) end-of-life costs, such as collection and recycling costs;

⁽¹⁾ Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).

- (b) costs attributed to environmental externalities linked to the works, supplies or services during their life cycle, provided their monetary value can be determined and verified.

21.5. Where the contracting authority assesses the costs using a life-cycle costing approach, it shall indicate in the procurement documents the data to be provided by the tenderers and the method which it will use to determine the life-cycle costs on the basis of those data.

The method used for the assessment of costs attributed to environmental externalities shall fulfil the following conditions:

- (a) it is based on objectively verifiable and non-discriminatory criteria;
- (b) it is accessible to all interested parties;
- (c) economic operators can provide the required data with reasonable effort.

Where applicable, the contracting authority shall use the mandatory common methods for the calculation of life-cycle costs provided for in Union legal acts listed in Annex XIII to Directive 2014/24/EU.

22. Use of electronic auctions

22.1. The contracting authority may use electronic auctions, in which new prices, revised downwards, or new values concerning certain elements of tenders are presented.

The contracting authority shall structure the electronic auction as a repetitive electronic process, which occurs after an initial full evaluation of the tenders, enabling them to be ranked using automatic evaluation methods.

22.2. In open, restricted or competitive procedures with negotiation, the contracting authority may decide that the award of a public contract is preceded by an electronic auction when the procurement documents can be established with precision.

An electronic auction may be held on the reopening of competition among the parties to a framework contract as referred to in point (b) of the second subparagraph of point 1.3 and on the opening for competition of contracts to be awarded under the dynamic purchasing system referred to in point 9.

The electronic auction shall be based on one of the award methods set out in Article 167(4).

22.3. The contracting authority which decides to hold an electronic auction shall state that fact in the contract notice.

The procurement documents shall include the following details:

- (a) the values of the features which will be the subject of an electronic auction, provided that those features are quantifiable and can be expressed in figures or percentages;
- (b) any limits on the values which may be submitted, as they result from the specifications relating to the subject matter of the contract;
- (c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- (d) the relevant information concerning the electronic auction process including whether it includes phases and how it will be closed, as set out in point 22.7;
- (e) the conditions under which the tenderers will be able to tender and, in particular, the minimum differences which will, where appropriate, be required when submitting the tender;
- (f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

- 22.4. All tenderers who have submitted admissible tenders shall be invited simultaneously by electronic means to participate in the electronic auction using the connections in accordance with the instructions. The invitation shall specify the date and time of the start of the electronic auction.

The electronic auction may take place in a number of successive phases. The electronic auction shall not start sooner than two working days after the date on which invitations are sent out.

- 22.5. The invitation shall be accompanied by the outcome of a full evaluation of the relevant tender.

The invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic re-rankings on the basis of the new prices and/or new values submitted. That formula shall incorporate the weighting of all the criteria fixed to determine the most economically advantageous tender, as indicated in the procurement documents. For that purpose, any ranges shall, however, be reduced beforehand to a specified value.

Where variants are authorised, a separate formula shall be provided for each variant.

- 22.6. Throughout each phase of an electronic auction the contracting authority shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any moment. It may also, where this has been previously indicated, communicate other information concerning other prices or values submitted as well as announce the number of tenderers in any specific phase of the auction. It shall not however disclose the identities of the tenderers during any phase of an electronic auction.

- 22.7. The contracting authority shall close an electronic auction in one or more of the following ways:

- (a) at the previously indicated date and time;
- (b) when it receives no more new prices or new values which meet the requirements concerning minimum differences, provided that it has previously stated the time which it will allow to elapse after receiving the last submission before it closes the electronic auction;
- (c) when the previously indicated number of phases in the auction has been completed.

- 22.8. After closing an electronic auction, the contracting authority shall award the contract on the basis of the results of the electronic auction.

23. Abnormally low tenders

- 23.1. If, for a given contract, the price or costs proposed in a tender appears to be abnormally low, the contracting authority shall request in writing details of the constituent elements of the price or costs which it considers relevant and shall give the tenderer the opportunity to present its observations.

The contracting authority may, in particular, take into consideration observations relating to:

- (a) the economics of the manufacturing process, of the provision of services or of the construction method;
- (b) the technical solutions chosen or the exceptionally favourable conditions available to the tenderer;
- (c) the originality of the tender;
- (d) compliance of the tenderer with applicable obligations in the fields of environmental, social and labour law;
- (e) compliance of subcontractors with applicable obligations in the fields of environmental, social and labour law;
- (f) the possibility of the tenderer obtaining State aid in compliance with applicable rules.

- 23.2. The contracting authority shall only reject the tender where the evidence supplied does not satisfactorily account for the low price or costs proposed.

The contracting authority shall reject the tender where it has established that the tender is abnormally low because it does not comply with applicable obligations in the fields of environmental, social and labour law.

- 23.3. Where the contracting authority establishes that a tender is abnormally low because the tenderer has obtained State aid, it may reject the tender on that sole ground only if the tenderer is unable to prove, within a sufficient time limit fixed by the contracting authority, that the aid in question was compatible with the internal market within the meaning of Article 107 TFEU.

24. Time limits for receipt of tenders and requests to participate

- 24.1. The time limits shall be longer than the minimum time limits set out in this point where tenders can only be drawn up after a visit to the site or after an on-the-spot consultation of the documents supporting the procurement documents.

The time limits shall be prolonged by five days in any of the following cases:

- (a) the contracting authority does not offer direct access free of charge by electronic means to the procurement documents;
 - (b) the contract notice is published in accordance with point (b) of point 4.2.
- 24.2. In open procedures, the time limit for receipt of tenders shall be no less than 37 days from the day following dispatch of the contract notice.
- 24.3. In restricted procedures, in competitive dialogue, in competitive procedures with negotiation, in dynamic purchasing systems and in innovation partnerships, the time limit for receipt of requests to participate shall be no less than 32 days from the day following dispatch of the contract notice.
- 24.4. In restricted procedures and in competitive procedures with negotiation, the time limit for receipt of tenders shall be no less than 30 days from the day following dispatch of the invitation to tender.
- 24.5. In a dynamic purchasing system, the time limit for receipt of tenders shall be no less than 10 days from the day following dispatch of the invitation to tender.
- 24.6. In the procedures after a call for expression of interest referred to in point 13.1, the time limit shall be:
- (a) no less than 10 days from the day following dispatch of the invitation to tender for receipt of tenders in the case of the procedure referred to in point (a) of point 13.1 and point (b)(i) of point 13.3;
 - (b) no less than 10 days for receipt of requests to participate and no less than 10 days for receipt of tenders in the case of the two-step procedure referred to in point (b)(ii) of point 13.3.
- 24.7. The contracting authority may reduce the time limits for receipt of tenders by five days for the open or restricted procedures if it accepts that tenders may be submitted by electronic means.

25. Access to procurement documents and time limit to provide additional information

- 25.1. The contracting authority shall offer direct access free of charge by electronic means to the procurement documents from the date of publication of the contract notice or, for the procedures without contract notice or referred to in point 13, from the date of dispatch of the invitation to tender.

In justified cases, the contracting authority may transmit the procurement documents by other means it specifies if direct access by electronic means is not possible for technical reasons or if the procurement documents contain information of a confidential nature. In such cases, the second subparagraph of point 24.1 shall apply except in urgent cases as provided for in point 26.1.

The contracting authority may impose on economic operators requirements aimed at protecting the confidential nature of information contained in the procurement documents. It shall announce those requirements as well as how access to the procurement documents concerned can be obtained.

- 25.2. The contracting authority shall provide additional information linked to the procurement documents simultaneously and in writing to all interested economic operators as soon as possible.

The contracting authority shall not be bound to reply to requests for additional information made less than six working days before the deadline for receipt of tenders.

25.3. The contracting authority shall extend the time limit for receipt of tenders where:

- (a) it did not provide additional information at the latest six days before the deadline for the receipt of tenders although the economic operator requested it in good time;
- (b) it makes significant changes to the procurement documents.

26. Time limits in urgent cases

26.1. Where duly substantiated urgency renders impracticable the minimum time limits laid down in points 24.2 and 24.3 for open or restricted procedures, the contracting authority may set:

- (a) a time limit for the receipt of requests to participate or tenders in open procedures which shall not be less than 15 days from the date of dispatch of the contract notice;
- (b) a time limit for the receipt of tenders for restricted procedures which shall not be less than 10 days from the date of dispatch of the invitation to tender.

26.2. In urgent cases, the time limit set out in the first subparagraph of point 25.2 and in point (a) of point 25.3 shall be four days.

27. Electronic catalogues

27.1. Where the use of electronic means of communication is required, the contracting authority may require tenders to be presented in the format of an electronic catalogue or to include an electronic catalogue.

27.2. Where the presentation of tenders in the form of electronic catalogues is accepted or required, the contracting authority shall:

- (a) state so in the contract notice;
- (b) indicate in the procurement documents all the necessary information concerning the format, the electronic equipment used and the technical connection arrangements and specifications for the catalogue.

27.3. Where a multiple framework contract has been concluded following the submission of tenders in the form of electronic catalogues, the contracting authority may provide that the reopening of competition for specific contracts takes place on the basis of updated catalogues by using one of the following methods:

- (a) the contracting authority invites contractors to resubmit their electronic catalogues, adapted to the requirements of the specific contract in question;
- (b) the contracting authority notifies contractors that it intends to collect from the electronic catalogues which have already been submitted the information needed to constitute tenders adapted to the requirements of the specific contract in question, provided that the use of that method has been announced in the procurement documents for the framework contract.

27.4. When using the method referred to in point (b) of point 27.3, the contracting authority shall notify contractors of the date and time at which they intend to collect the information needed to constitute tenders adapted to the requirements of the specific contract in question and shall give contractors the possibility to refuse such collection of information.

The contracting authority shall allow for an adequate period between the notification and the actual collection of information.

Before awarding the specific contract, the contracting authority shall present the collected information to the contractor concerned so as to give it the opportunity to contest or confirm that the tender thus constituted does not contain any material errors.

28. Opening of tenders and requests to participate

28.1. In open procedures, authorised representatives of tenderers may attend the opening session.

28.2. Where the value of a contract is equal to or greater than the thresholds referred to in Article 175(1), the authorising officer responsible shall appoint a committee to open the tenders. The authorising officer may waive that obligation on the basis of a risk analysis when reopening competition within a framework contract and for the cases referred to in the second subparagraph of point 11.1 except points (d) and (g) of that subparagraph.

The opening committee shall be made up of at least two persons representing at least two organisational entities of the Union institution concerned with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 61.

In the representations or local units referred to in Article 150 or isolated in a Member State, if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

28.3. For a procurement procedure launched on an interinstitutional basis, the opening committee shall be appointed by the authorising officer responsible from the Union institution responsible for the procurement procedure.

28.4. The contracting authority shall verify and ensure the integrity of the original tender, including the financial offer, and of the evidence of date and time of its receipt as provided for in Article 149(3) and (5) by any appropriate method.

28.5. In open procedures, where the contract is awarded under the lowest price or lowest cost methods in accordance with Article 167(4), the prices quoted in tenders satisfying the requirements shall be read out loud.

28.6. The written record of the opening of the tenders received shall be signed by the person or persons in charge of opening or by members of the opening committee. It shall identify those tenders which comply with Article 149 and those which do not, and shall give the grounds on which tenders were rejected as set out in Article 168(4). That record may be signed in an electronic system providing sufficient identification of the signatory.

29. Evaluation of tenders and requests to participate

29.1. The authorising officer responsible may decide that the evaluation committee is to evaluate and rank the tenders on the basis of the award criteria only and that the exclusion and selection criteria are to be evaluated by other appropriate means guaranteeing the absence of conflicts of interests.

29.2. For a procurement procedure launched on an interinstitutional basis, the evaluation committee shall be appointed by the authorising officer responsible from the Union institution responsible for the procurement procedure. The composition of the evaluation committee shall reflect, in so far as possible, the interinstitutional character of the procurement procedure.

29.3. Requests to participate and tenders which are suitable under point 11.2 and neither irregular under point 12.2 nor unacceptable under point 12.3 shall be considered admissible.

30. Results of the evaluation and award decision

30.1. The outcome of the evaluation shall be an evaluation report containing the proposal to award the contract. The evaluation report shall be dated and signed by the person or persons who carried out the evaluation or by the members of the evaluation committee. That report may be signed in an electronic system providing sufficient identification of the signatory.

If the evaluation committee was not given responsibility to verify the tenders against the exclusion and selection criteria, the evaluation report shall also be signed by the persons who were given that responsibility by the authorising officer responsible.

30.2. The evaluation report shall contain the following:

- (a) the name and address of the contracting authority, and the subject matter and value of the contract, or the subject matter and maximum value of the framework contract;

- (b) the names of the candidates or tenderers rejected and the reasons for their rejection by reference to a situation referred to in Article 141(1) or to selection criteria;
 - (c) the references to the tenders rejected and the reasons for their rejection by reference to any of the following:
 - (i) non-compliance with minimum requirements as set out in point (a) of Article 167(1);
 - (ii) not meeting the minimum quality levels laid down in point 21.3;
 - (iii) tenders found to be abnormally low as referred to in point 23;
 - (d) the names of the candidates or tenderers selected and the reasons for their selection;
 - (e) the names of the tenderers to be ranked with the scores obtained and their justifications;
 - (f) the names of the proposed candidates or successful tenderer and the reasons for that choice;
 - (g) if known, the proportion of the contract or the framework contract which the proposed contractor intends to subcontract to third parties.
- 30.3. The contracting authority shall take its award decision providing any of the following:
- (a) an approval of the evaluation report containing all the information listed in point 30.2 complemented by the following:
 - (i) the name of the successful tenderer and the reasons for that choice by reference to the pre-announced selection and award criteria, including where appropriate the reasons for not following the recommendation provided in the evaluation report;
 - (ii) in the case of negotiated procedure without prior publication, competitive procedure with negotiation or competitive dialogue, the circumstances referred to in points 11, 12 and 39 which justify their use;
 - (b) where appropriate, the reasons why the contracting authority has decided not to award a contract.
- 30.4. The authorising officer may merge the content of the evaluation report and the award decision into a single document and sign it in any of the following cases:
- (a) for procedures below the thresholds referred to in Article 175(1) where only one tender was received;
 - (b) when reopening competition within a framework contract where no evaluation committee was nominated;
 - (c) for cases referred to in points (c), (e), (f)(i), (f)(iii) and (h) of the second subparagraph of point 11.1 where no evaluation committee was nominated.
- 30.5. For a procurement procedure launched on an interinstitutional basis, the decision referred to in point 30.3 shall be taken by the contracting authority responsible for the procurement procedure.
31. Information for candidates and tenderers
- 31.1. The contracting authority shall inform all candidates or tenderers, simultaneously and individually, by electronic means of decisions reached concerning the outcome of the procedure as soon as possible after any of the following stages:
- (a) the opening phase for the cases referred to in Article 168(3);
 - (b) a decision has been taken on the basis of exclusion and selection criteria in procurement procedures organised in two separate stages;
 - (c) the award decision.

In each case, the contracting authority shall indicate the reasons why the request to participate or tender has not been accepted and the available legal remedies.

When informing the successful tenderer, the contracting authority shall specify that the decision notified does not constitute a commitment on its part.

- 31.2. The contracting authority shall communicate the information provided for in Article 170(3) as soon as possible and in any case within 15 days of receipt of a request in writing. When the contracting authority awards contracts on its own account, it shall use electronic means. The tenderer may also send the request by electronic means.
- 31.3. When the contracting authority communicates by electronic means, information shall be deemed to have been received by candidates or tenderers if the contracting authority can prove to have sent it to the electronic address referred to in the tender or in the request to participate.

In such case, information shall be deemed to have been received by the candidate or tenderer on the date of dispatch by the contracting authority.

CHAPTER 2

Provisions applicable to contracts awarded by Union institutions on their own account

32. Central purchasing body

32.1. A central purchasing body may act as any of the following:

- (a) as wholesaler by buying, stocking and reselling supplies and services to other contracting authorities;
- (b) as intermediary by awarding framework contracts or operating dynamic purchasing systems that may be used by other contracting authorities as announced in the initial notice.

32.2. The central purchasing body shall carry out all procurement procedures using electronic means of communication.

33. Lots

33.1. Whenever appropriate, technically feasible and cost efficient, contracts shall be awarded in the form of separate lots within the same procedure.

33.2. Where the subject matter of a contract is subdivided into several lots, each one being the subject of an individual contract, the total value of all the lots shall be taken into account for the overall evaluation pursuant to the applicable threshold.

Where the total value of all the lots is equal to or greater than the thresholds referred to in Article 175(1), Article 163(1) and Articles 164 and 165 shall apply to each of the lots.

33.3. Where a contract is to be awarded in the form of separate lots, tenders shall be evaluated separately for each lot. If several lots are awarded to the same tenderer, a single contract covering those lots may be signed.

34. Arrangements for estimating the value of a contract

34.1. The contracting authority shall estimate the value of a contract based on the total amount payable, including any form of options and any renewal.

This estimate shall be made at the latest when the contracting authority launches the procurement procedure.

34.2. For framework contracts and dynamic purchasing systems the value to be taken into account shall be the maximum value of all the contracts envisaged during the total duration of the framework contract or dynamic purchasing system.

For innovation partnerships, the value to be taken into account shall be the maximum estimated value of the research and development activities to take place during all stages of the envisaged partnership as well as of the works, supplies or services to be purchased at the end of the envisaged partnership.

Where the contracting authority provides for payments to candidates or tenderers it shall take them into account when calculating the estimated value of the contract.

34.3. For service contracts, account shall be taken of the following:

- (a) in the case of insurance services, the premium payable and other forms of remuneration;
- (b) in the case of banking or financial services, the fees, commissions, interest and other types of remuneration;
- (c) in the case of design contracts, the fees, commissions payable and other forms of remuneration.

34.4. In the case of service contracts which do not specify a total price or of supply contracts for leasing, hire, rental or hire purchase of products, the basis for calculating the estimated contract value shall be:

- (a) in the case of fixed-term contracts:
 - (i) where their duration is 48 months or less in the case of services or 12 months or less in the case of supplies, the total contract value for their duration;
 - (ii) where their duration is more than 12 months in the case of supplies, the total value including the estimated residual value;
- (b) in the case of contracts without a fixed term or, in the case of services, for a duration exceeding 48 months, the monthly value multiplied by 48.

34.5. In the case of service or supply contracts which are awarded regularly or are to be renewed within a given period, the basis for calculating the estimated contract value shall be any of the following:

- (a) the total actual value of successive contracts of the same type awarded during the preceding 12 months or the preceding financial year, adjusted, where possible, to take account of the changes in quantity or value which would occur in the course of the 12 months following the initial contract;
- (b) the total estimated value of successive contracts of the same type to be awarded during the financial year.

34.6. In the case of works contracts, account shall be taken not only of the value of the works but also of the estimated total value of the supplies and services needed to carry out the works and made available to the contractor by the contracting authority.

34.7. In the case of concession contracts, the value shall be the estimated total turnover of the concessionaire generated over the duration of the contract.

The value shall be calculated using an objective method specified in the procurement documents, taking into account in particular:

- (a) the revenue from the payment of fees and fines by the users of the works or services other than those collected on behalf of the contracting authority;
- (b) the value of grants or any other financial advantages from third parties for the performance of the concession;
- (c) the revenue from sales of any assets which are part of the concession;
- (d) the value of all the supplies and services that are made available to the concessionaire by the contracting authority provided that they are necessary for executing the works or services;
- (e) the payments to candidates or tenderers.

35. Standstill period before signature of the contract

35.1. The standstill period shall run from either of the following dates:

- (a) the day after the simultaneous dispatch of the notifications to successful and unsuccessful tenderers by electronic means;

- (b) where the contract or framework contract is awarded pursuant to point (b) of the second subparagraph of point 11.1, the day after the award notice referred to in point 2.4 has been published in the *Official Journal of the European Union*.

If necessary, the contracting authority may suspend the signature of the contract for additional examination if this is justified by the requests or comments made by unsuccessful or aggrieved candidates or tenderers or by any other relevant information received during the period set out in Article 175(3). In the case of suspension all the candidates or tenderers shall be informed within three working days following the suspension decision.

Where the contract or framework contract cannot be signed with the successful envisaged tenderer, the contracting authority may award it to the following best tenderer.

35.2. The period set out in point 35.1 shall not apply in the following cases:

- (a) any procedure where only one tender has been submitted;
- (b) specific contracts based on a framework contract;
- (c) dynamic purchasing systems;
- (d) negotiated procedure without prior publications referred to in point 11 except for contracts awarded in accordance with point (b) of the second subparagraph of point 11.1.

CHAPTER 3

Procurement in the field of external actions

36. Special provisions relating to thresholds and the arrangements for awarding contracts in the field of external actions

Point 2, with the exception of point 2.5, points 3, 4 and 6, point (a) and points (c) to (f) of point 12.1, point 12.4, point 13.3, points 14 and 15, points 17.3 to 17.7, points 20.4 and 23.3, point 24, points 25.2 and 25.3, points 26, 28, and 29, with the exception of point 29.3, shall not apply to public contracts concluded by the contracting authorities referred to in Article 178(2) or on their behalf. Points 32, 33 and 34 shall not apply to procurement in the field of external actions. Point 35 shall apply to procurement in the field of external actions. For the purposes of the second subparagraph of point 35.1, the duration of the standstill period shall be the one set out in Article 178(1).

Implementation of the procurement provisions under this Chapter shall be decided by the Commission, including as regards the appropriate controls to be applied by the authorising officer responsible where the Commission is not the contracting authority.

37. Advertising

37.1. If applicable, the prior information notice for calls for tender following the restricted procedure or the open procedure as referred to, respectively, in points (a) and (b) of point 38.1, shall be sent to the Publications Office by electronic means as early as possible.

37.2. The award notice shall be sent when the contract is signed except where, if still necessary, the contract was declared secret or where the performance of the contract must be accompanied by special security measures, or when the protection of the essential interests of the Union or the beneficiary country so requires, and where the publication of the award notice is deemed not to be appropriate.

38. Thresholds and procedures

38.1. The procurement procedures in the field of external actions shall be as follows:

- (a) the restricted procedure as provided for in point (b) of Article 164(1);
- (b) the open procedure as provided for in point (a) of Article 164(1);
- (c) the local open procedure;
- (d) the simplified procedure;

38.2. The use of procurement procedures according to thresholds shall be as follows:

- (a) the open or restricted procedure may be used for:
 - (i) service and supply contracts and service concession contracts with a value of at least EUR 300 000;
 - (ii) works contracts and works concessions contracts with a value of at least EUR 5 000 000;
- (b) the local open procedure may be used for:
 - (i) supply contracts with a value of at least EUR 100 000 and less than EUR 300 000;
 - (ii) works contracts and works concessions contracts with a value of at least EUR 300 000 and less than EUR 5 000 000;
- (c) the simplified procedure may be used for:
 - (i) service contracts, service concession contracts, works contracts and works concessions contracts with a value of less than EUR 300 000;
 - (ii) supply contracts with a value of less than EUR 100 000;
- (d) contracts with a value of less than or equal to EUR 20 000 may be awarded on the basis of a single tender;
- (e) payments of amounts less than or equal to EUR 2 500 in respect of items of expenditure may be carried out simply as payment against invoices, without prior acceptance of a tender.

38.3. In the restricted procedure referred to in point (a) of point 38.1, the contract notice shall state the number of candidates who will be invited to submit tenders. For service contracts at least four candidates shall be invited. The number of candidates allowed to submit tenders shall be sufficient to ensure genuine competition.

The list of selected candidates shall be published on the Commission's website.

If the number of candidates satisfying the selection criteria or the minimum capacity levels is less than the minimum number, the contracting authority may invite to submit a tender only those candidates who satisfy the criteria to submit a tender.

38.4. Under the local open procedure referred to in point (c) of point 38.1, the contract notice shall be published at least in the official gazette of the recipient State or in any equivalent publication for local invitations to tender.

38.5. Under the simplified procedure referred to in point (d) of point 38.1, the contracting authority shall draw up a list of at least three tenderers of its choice, without publication of a notice.

Tenderers for the simplified procedure may be chosen from a list of vendors as referred to in point (b) of point 13.1 advertised by a call for expression of interest.

If, following consultation of the tenderers, the contracting authority receives only one tender that is administratively and technically valid, the contract may be awarded provided that the award criteria are met.

38.6. For legal services not covered in point (h) of the second subparagraph of point 11.1, the contracting authorities may use the simplified procedure, whatever is the estimated value of the contract.

39. Use of the negotiated procedure for service, supply and works contracts

39.1. Contracting authorities may use the negotiated procedure with a single tender in the following cases:

- (a) where the services are entrusted to public-sector bodies or to non-profit institutions or associations and relate to activities of an institutional nature or are designed to provide assistance to people in the social field;

- (b) where the tender procedure has been unsuccessful, that is to say, where no qualitatively and/or financially worthwhile tender has been received, in which case, after cancelling the tender procedure, the contracting authority may negotiate with one or more tenderers of its choice, from among those that took part in the invitation to tender, provided that the procurement documents are not substantially altered;
 - (c) where a new contract has to be concluded after early termination of an existing contract.
- 39.2. For the purposes of point (c) of the second subparagraph of point 11.1, operations carried out in a crisis shall be considered to satisfy the test of extreme urgency. The authorising officer by delegation, where appropriate in concertation with the other authorising officers by delegation concerned, shall establish that a situation of extreme urgency exists and shall review his or her decision regularly having regard to the principle of sound financial management.
- 39.3. Activities of an institutional nature referred to in point (a) of point 39.1 shall include services directly linked to the statutory mission of the public sector bodies.
40. Tender specifications
- By way of derogation from point 16.3, for all procedures involving a request to participate, the tender specifications may be split according to the two stages of the procedure and the first stage may contain only the information referred to in points (a) and (f) of point 16.3.
41. Time limits for procedures
- 41.1. For service contracts, the minimum time between the day following the date of dispatch of the letter of invitation to tender and the final date for receipt of tenders shall be 50 days. However, in urgent cases other time limits may be authorised.
- 41.2. Tenderers may put questions in writing before the closing date for receipt of tenders. The contracting authority shall provide the answers to the questions before the closing date for receipt of tenders.
- 41.3. In restricted procedures, the time limit for receipt of requests to participate shall be no less than 30 days from the date following that on which the contract notice is published. The period between the date following that on which the letter of invitation is sent and the final date for the receipt of tenders shall be no less than 50 days. However, in certain exceptional cases other time limits may be authorised.
- 41.4. In open procedures, the time limits for receipt of tenders, running from the date following that on which the contract notice is published, shall be at least:
- (a) 90 days for works contracts;
 - (b) 60 days for supply contracts.
- However, in certain exceptional cases other time limits may be authorised.
- 41.5. In local open procedures, the time limits for receipt of tenders, running from the date when the contract notice is published, shall be at least:
- (a) 60 days for works contracts;
 - (b) 30 days for supply contracts.
- However, in certain exceptional cases other time limits may be authorised.
- 41.6. For the simplified procedures referred to in point (d) of point 38.1, candidates shall be allowed at least 30 days from the date of dispatch of the letter of invitation to tender in which to submit their tenders.
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II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 1407/2013

of 18 December 2013

on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽¹⁾,

Having published a draft of this Regulation ⁽²⁾,

After consulting the Advisory Committee on State Aid,

Whereas:

(1) State funding meeting the criteria in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) of the Treaty. However, under Article 109 of the Treaty, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) of the Treaty the Commission may adopt regulations relating to those categories of State aid. By virtue of Regulation (EC) No 994/98 the Council decided, in accordance with Article 109 of the Treaty, that *de minimis* aid could constitute one such category. On that basis, *de minimis* aid, being aid granted to a single undertaking over a given period of time that does not exceed a certain fixed amount, is deemed not to meet all the criteria laid down in Article 107(1) of the Treaty and is therefore not subject to the notification procedure.

(2) The Commission has, in numerous decisions, clarified the notion of aid within the meaning of Article 107(1) of the Treaty. The Commission has also stated its policy with regard to a *de minimis* ceiling below which Article 107(1) of the Treaty can be considered not to apply, initially in its notice on the *de minimis* rule for State aid ⁽³⁾ and subsequently in Commission Regulations (EC) No 69/2001 ⁽⁴⁾ and (EC) No 1998/2006 ⁽⁵⁾. In the light of the experience gained in applying Regulation (EC) No 1998/2006, it is appropriate to revise some of the conditions laid down in that Regulation and to replace it.

(3) It is appropriate to maintain the ceiling of EUR 200 000 as the amount of *de minimis* aid that a single undertaking may receive per Member State over any period of three years. That ceiling remains necessary to ensure that any measure falling under this Regulation can be deemed not to have any effect on trade between Member States and not to distort or threaten to distort competition.

(4) For the purposes of the rules on competition laid down in the Treaty an undertaking is any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed ⁽⁶⁾. The Court of Justice of the European Union has ruled that all entities which are controlled (on a legal or on a *de facto* basis) by the same entity should be considered as a single undertaking ⁽⁷⁾. For the sake of legal certainty and to reduce the administrative burden, this Regulation should provide

⁽³⁾ Commission notice on the *de minimis* rule for State aid (OJ C 68, 6.3.1996, p. 9).

⁽⁴⁾ Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ L 10, 13.1.2001, p. 30).

⁽⁵⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ L 379, 28.12.2006, p. 5).

⁽⁶⁾ Case C-222/04 *Ministero dell'Economia e delle Finanze v Cassa di Risparmio di Firenze SpA et al.* [2006] ECR I-289.

⁽⁷⁾ Case C-382/99 *Netherlands v Commission* [2002] ECR I-5163.

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.

⁽²⁾ OJ C 229, 8.8.2013, p. 1.

an exhaustive list of clear criteria for determining when two or more enterprises within the same Member State are to be considered as a single undertaking. The Commission has selected from the well-established criteria for defining 'linked enterprises' in the definition of small or medium-sized enterprises (SMEs) in Commission Recommendation 2003/361/EC ⁽¹⁾ and in Annex I to Commission Regulation (EC) No 800/2008 ⁽²⁾ those criteria that are appropriate for the purposes of this Regulation. The criteria are already familiar to public authorities and should be applicable, given the scope of this Regulation, to both SMEs and large undertakings. Those criteria should ensure that a group of linked enterprises is considered as one single undertaking for the application of the *de minimis* rule, but that enterprises which have no relationship with each other except for the fact that each of them has a direct link to the same public body or bodies are not treated as being linked to each other. The specific situation of enterprises controlled by the same public body or bodies, which may have an independent power of decision, is therefore taken into account.

- (5) In order to take account of the small average size of undertakings active in the road freight transport sector, it is appropriate to maintain the ceiling of EUR 100 000 for undertakings performing road freight transport for hire or reward. The provision of an integrated service where the actual transportation is only one element, such as removal services, postal or courier services or waste collection or processing services, should not be considered a transport service. In view of the overcapacity in the road freight transport sector and the objectives of transport policy as regards road congestion and freight transport, aid for the acquisition of road freight transport vehicles by undertakings performing road freight transport for hire or reward should be excluded from the scope of application of this Regulation. In view of the development of the road passenger transport sector, it is no longer appropriate to apply a lower ceiling to this sector.
- (6) In view of the special rules which apply in the sectors of primary production of agricultural products, fishery and aquaculture and of the risk that amounts of aid below the ceiling laid down in this Regulation could nonetheless fulfil the criteria in Article 107(1) of the Treaty, this Regulation should not apply to those sectors.
- (7) Considering the similarities between the processing and marketing of agricultural products and of non-agricultural products, this Regulation should apply to the

processing and marketing of agricultural products, provided that certain conditions are met. Neither on-farm activities necessary for preparing a product for the first sale, such as harvesting, cutting and threshing of cereals, or packing of eggs, nor the first sale to resellers or processors should be considered as processing or marketing in this respect.

- (8) The Court of Justice of the European Union has established that, once the Union has legislated for the establishment of a common organisation of the market in a given sector of agriculture, Member States are under an obligation to refrain from taking any measure which might undermine or create exceptions to it ⁽³⁾. For that reason, this Regulation should not apply to aid the amount of which is fixed on the basis of the price or quantity of products purchased or put on the market. Nor should it apply to support which is linked to an obligation to share the aid with primary producers.
- (9) This Regulation should not apply to export aid or aid contingent upon the use of domestic over imported products. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other Member States or in third countries. Aid towards the costs of participating in trade fairs, or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or a third country does not normally constitute export aid.
- (10) The period of three years to be taken into account for the purposes of this Regulation should be assessed on a rolling basis so that, for each new grant of *de minimis* aid, the total amount of *de minimis* aid granted in the fiscal year concerned and during the previous two fiscal years needs to be taken into account.
- (11) Where an undertaking is active in sectors excluded from the scope of this Regulation and is also active in other sectors or has other activities, this Regulation should apply to those other sectors or activities provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the excluded sectors do not benefit from the *de minimis* aid. The same principle should apply where an undertaking is active in sectors to which lower *de minimis* ceilings apply. If it cannot be

⁽¹⁾ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36).

⁽²⁾ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (OJ L 214, 9.8.2008, p. 3).

⁽³⁾ Case C-456/00 *France v Commission* [2002] ECR I-11949.

ensured that the activities in sectors to which lower *de minimis* ceilings apply benefit from *de minimis* aid only up to those lower ceilings, the lowest ceiling should apply to all activities of the undertaking.

(12) This Regulation should lay down rules to ensure that it is not possible to circumvent maximum aid intensities laid down in specific regulations or Commission decisions. It should also provide for clear rules on cumulation that are easy to apply.

(13) This Regulation does not exclude the possibility that a measure might be considered not to be State aid within the meaning of Article 107(1) of the Treaty on grounds other than those set out in this Regulation, for instance because the measure complies with the market economy operator principle or because the measure does not involve a transfer of State resources. In particular, Union funding centrally managed by the Commission which is not directly or indirectly under the control of the Member State does not constitute State aid and should not be taken into account in determining whether the relevant ceiling is complied with.

(14) For the purposes of transparency, equal treatment and effective monitoring, this Regulation should apply only to *de minimis* aid for which it is possible to calculate precisely the gross grant equivalent *ex ante* without any need to undertake a risk assessment ('transparent aid'). Such a precise calculation can, for instance, be made for grants, interest rate subsidies, capped tax exemptions or other instruments that provide for a cap ensuring that the relevant ceiling is not exceeded. Providing for a cap means that as long as the precise amount of aid is not or not yet known, the Member State has to assume that the amount equals the cap in order to ensure that several aid measures together do not exceed the ceiling set out in this Regulation and to apply the rules on cumulation.

(15) For the purposes of transparency, equal treatment and the correct application of the *de minimis* ceiling, all Member States should apply the same method of calculation. In order to facilitate such calculation, aid amounts not taking the form of a cash grant should be converted into their gross grant equivalent. Calculation of the gross grant equivalent of transparent types of aid other than grants and of aid payable in several instalments requires the use of market interest rates prevailing at the time such aid is granted. With a view to uniform, transparent and simple application of the State aid rules, the market rates applicable for the purposes of this Regulation should be the reference rates, as set out in the Communication from the Commission on the revision of the method for setting the reference and discount rates⁽¹⁾.

⁽¹⁾ Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ C 14, 19.1.2008, p. 6).

(16) Aid comprised in loans, including *de minimis* risk finance aid taking the form of loans, should be considered transparent *de minimis* aid if the gross grant equivalent has been calculated on the basis of market interest rates prevailing at the time the aid is granted. In order to simplify the treatment of small loans of short duration, this Regulation should provide for a clear rule that is easy to apply and takes into account both the amount of the loan and its duration. Based on the Commission's experience, loans that are secured by collateral covering at least 50 % of the loan and that do not exceed either EUR 1 000 000 and a duration of five years or EUR 500 000 and a duration of 10 years can be considered as having a gross grant equivalent not exceeding the *de minimis* ceiling. Given the difficulties linked to determining the gross grant equivalent of aid granted to undertakings that may not be able to repay the loan, this rule should not apply to such undertakings.

(17) Aid comprised in capital injections should not be considered as transparent *de minimis* aid, unless the total amount of the public injection does not exceed the *de minimis* ceiling. Aid comprised in risk finance measures taking the form of equity or quasi-equity investments, as referred to in the risk finance guidelines⁽²⁾, should not be considered as transparent *de minimis* aid unless the measure concerned provides capital not exceeding the *de minimis* ceiling.

(18) Aid comprised in guarantees, including *de minimis* risk finance aid taking the form of guarantees, should be considered as transparent if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice for the type of undertaking concerned⁽³⁾. In order to simplify the treatment of guarantees of short duration securing up to 80 % of a relatively small loan, this Regulation should provide for a clear rule that is easy to apply and takes into account both the amount of the underlying loan and the duration of the guarantee. This rule should not apply to guarantees on underlying transactions not constituting a loan, such as guarantees on equity transactions. Where the guarantee does not exceed 80 % of the underlying loan, the amount guaranteed does not exceed EUR 1 500 000 and the duration of the guarantee does not exceed five years the guarantee can be considered as having a gross grant equivalent not exceeding the *de minimis* ceiling. The same applies where the guarantee does not exceed 80 % of the underlying loan, the amount guaranteed does not exceed EUR 750 000 and the duration of the guarantee does not exceed 10 years. In addition, Member States can use a methodology to calculate the gross grant equivalent of guarantees which has been notified to the Commission under another

⁽²⁾ Community guidelines on state aid to promote risk capital investments in small and medium-sized enterprises (OJ C 194, 18.8.2006, p. 2).

⁽³⁾ For instance, Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (OJ C 155, 20.6.2008, p. 10).

Commission Regulation in the State aid area applicable at that time and which has been accepted by the Commission as being in line with the Guarantee Notice, or any successor notice, provided that the accepted methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation. Given the difficulties linked to determining the gross grant equivalent of aid granted to undertakings that may not be able to repay the loan, this rule should not apply to such undertakings.

- (19) Where a *de minimis* aid scheme is implemented through financial intermediaries, it should be ensured that the latter do not receive any State aid. This can be done, for example, by requiring financial intermediaries that benefit from a State guarantee to pay a market-conform premium or to fully pass on any advantage to the final beneficiaries, or by respecting the *de minimis* ceiling and other conditions of this Regulation also at the level of the intermediaries.
- (20) Upon notification by a Member State, the Commission may examine whether a measure which does not consist of a grant, loan, guarantee, capital injection or risk finance measure taking the form of an equity or quasi-equity investment leads to a gross grant equivalent that does not exceed the *de minimis* ceiling and could therefore fall within the scope of this Regulation.
- (21) The Commission has a duty to ensure that State aid rules are complied with and in accordance with the cooperation principle laid down in Article 4(3) of the Treaty on European Union, Member States should facilitate the fulfilment of this task by establishing the necessary tools in order to ensure that the total amount of *de minimis* aid granted to a single undertaking under the *de minimis* rule does not exceed the overall permissible ceiling. To that end, when granting *de minimis* aid, Member States should inform the undertaking concerned of the amount of *de minimis* aid granted and of its *de minimis* character and should make express reference to this Regulation. Member States should be required to monitor aid granted to ensure the relevant ceilings are not exceeded and the cumulation rules are complied with. To comply with that obligation, before granting such aid, the Member State concerned should obtain from the undertaking a declaration about other *de minimis* aid covered by this Regulation or by other *de minimis* regulations received during the fiscal year concerned and the previous two fiscal years. Alternatively it should be possible for Member States to set up a central register with complete information on *de minimis* aid granted and check that any new grant of aid does not exceed the relevant ceiling.
- (22) Before granting any new *de minimis* aid each Member State should verify that the *de minimis* ceiling will not be exceeded in that Member State by the new *de minimis* aid and that the other conditions of this Regulation are complied with.

- (23) Having regard to the Commission's experience and in particular the frequency with which it is generally necessary to revise State aid policy, the period of application of this Regulation should be limited. If this Regulation expires without being extended, Member States should have an adjustment period of six months with regard to *de minimis* aid covered by this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. This Regulation applies to aid granted to undertakings in all sectors, with the exception of:
- (a) aid granted to undertakings active in the fishery and aquaculture sector, as covered by Council Regulation (EC) No 104/2000 ⁽¹⁾;
 - (b) aid granted to undertakings active in the primary production of agricultural products;
 - (c) aid granted to undertakings active in the sector of processing and marketing of agricultural products, in the following cases:
 - (i) where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned;
 - (ii) where the aid is conditional on being partly or entirely passed on to primary producers;
 - (d) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current expenditure linked to the export activity;
 - (e) aid contingent upon the use of domestic over imported goods.

⁽¹⁾ Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.1.2000, p. 22).

2. Where an undertaking is active in the sectors referred to in points (a), (b) or (c) of paragraph 1 and is also active in one or more of the sectors or has other activities falling within the scope of this Regulation, this Regulation shall apply to aid granted in respect of the latter sectors or activities, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the sectors excluded from the scope of this Regulation do not benefit from the *de minimis* aid granted in accordance with this Regulation.

Article 2

Definitions

1. For the purposes of this Regulation the following definitions shall apply:

- (a) 'agricultural products' means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products covered by Regulation (EC) No 104/2000;
- (b) 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;
- (c) 'marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.

2. 'Single undertaking' includes, for the purposes of this Regulation, all enterprises having at least one of the following relationships with each other:

- (a) one enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
- (b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other enterprises shall also be considered to be a single undertaking.

Article 3

De minimis aid

1. Aid measures shall be deemed not to meet all the criteria in Article 107(1) of the Treaty, and shall therefore be exempt from the notification requirement in Article 108(3) of the Treaty, if they fulfil the conditions laid down in this Regulation.

2. The total amount of *de minimis* aid granted per Member State to a single undertaking shall not exceed EUR 200 000 over any period of three fiscal years.

The total amount of *de minimis* aid granted per Member State to a single undertaking performing road freight transport for hire or reward shall not exceed EUR 100 000 over any period of three fiscal years. This *de minimis* aid shall not be used for the acquisition of road freight transport vehicles.

3. If an undertaking performs road freight transport for hire or reward and also carries out other activities to which the ceiling of EUR 200 000 applies, the ceiling of EUR 200 000 shall apply to the undertaking, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the benefit to the road freight transport activity does not exceed EUR 100 000 and that no *de minimis* aid is used for the acquisition of road freight transport vehicles.

4. *De minimis* aid shall be deemed granted at the moment the legal right to receive the aid is conferred on the undertaking under the applicable national legal regime irrespective of the date of payment of the *de minimis* aid to the undertaking.

5. The ceilings laid down in paragraph 2 shall apply irrespective of the form of the *de minimis* aid or the objective pursued and regardless of whether the aid granted by the Member State is financed entirely or partly by resources of Union origin. The period of three fiscal years shall be determined by reference to the fiscal years used by the undertaking in the Member State concerned.

6. For the purposes of the ceilings laid down in paragraph 2, aid shall be expressed as a cash grant. All figures used shall be gross, that is, before any deduction of tax or other charge. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.

Aid payable in several instalments shall be discounted to its value at the moment it is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the time the aid is granted.

7. Where the relevant ceiling laid down in paragraph 2 would be exceeded by the grant of new *de minimis* aid, none of that new aid may benefit from this Regulation.

8. In the case of mergers or acquisitions, all prior *de minimis* aid granted to any of the merging undertakings shall be taken into account in determining whether any new *de minimis* aid to the new or the acquiring undertaking exceeds the relevant ceiling. *De minimis* aid lawfully granted before the merger or acquisition shall remain lawful.

9. If one undertaking splits into two or more separate undertakings, *de minimis* aid granted prior to the split shall be allocated to the undertaking that benefited from it, which is in principle the undertaking taking over the activities for which the *de minimis* aid was used. If such an allocation is not possible, the *de minimis* aid shall be allocated proportionately on the basis of the book value of the equity capital of the new undertakings at the effective date of the split.

Article 4

Calculation of gross grant equivalent

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment ('transparent aid').

2. Aid comprised in grants or interest rate subsidies shall be considered as transparent *de minimis* aid.

3. Aid comprised in loans shall be considered as transparent *de minimis* aid if:

- (a) the beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-; and
- (b) the loan is secured by collateral covering at least 50 % of the loan and the loan amounts to either EUR 1 000 000 (or EUR 500 000 for undertakings performing road freight transport) over five years or EUR 500 000 (or EUR 250 000 for undertakings performing road freight transport) over 10 years; if a loan is for less than those amounts and/or is granted for a period of less than five or 10 years respectively, the gross grant equivalent of that loan shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 3(2); or

(c) the gross grant equivalent has been calculated on the basis of the reference rate applicable at the time of the grant.

4. Aid comprised in capital injections shall only be considered as transparent *de minimis* aid if the total amount of the public injection does not exceed the *de minimis* ceiling.

5. Aid comprised in risk finance measures taking the form of equity or quasi-equity investments shall only be considered as transparent *de minimis* aid if the capital provided to a single undertaking does not exceed the *de minimis* ceiling.

6. Aid comprised in guarantees shall be treated as transparent *de minimis* aid if:

- (a) the beneficiary is not subject to collective insolvency proceedings nor fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors. In case of large undertakings, the beneficiary shall be in a situation comparable to a credit rating of at least B-; and
- (b) the guarantee does not exceed 80 % of the underlying loan and either the amount guaranteed is EUR 1 500 000 (or EUR 750 000 for undertakings performing road freight transport) and the duration of the guarantee is five years or the amount guaranteed is EUR 750 000 (or EUR 375 000 for undertakings performing road freight transport) and the duration of the guarantee is 10 years; if the amount guaranteed is lower than these amounts and/or the guarantee is for a period of less than five or 10 years respectively, the gross grant equivalent of that guarantee shall be calculated as a corresponding proportion of the relevant ceiling laid down in Article 3(2); or
- (c) the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
- (d) before implementation,
 - (i) the methodology used to calculate the gross grant equivalent of the guarantee has been notified to the Commission under another Commission Regulation in the State aid area applicable at that time and accepted by the Commission as being in line with the Guarantee Notice, or any successor Notice; and
 - (ii) that methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation.

II

(Non-legislative acts)

REGULATIONS

COMMISSION REGULATION (EU) No 651/2014**of 17 June 2014****declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EC) No 994/98 of 7 May 1998 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 1(1)(a) and (b) thereof,

After consulting the Advisory Committee on State Aid,

Whereas:

- (1) State funding meeting the criteria in Article 107(1) of the Treaty constitutes State aid and requires notification to the Commission by virtue of Article 108(3) of the Treaty. However, according to Article 109 of the Treaty, the Council may determine categories of aid that are exempted from this notification requirement. In accordance with Article 108(4) of the Treaty the Commission may adopt regulations relating to those categories of State aid. Council Regulation (EC) No 994/98 empowers the Commission to declare, in accordance with Article 109 of the Treaty, that the following categories may, under certain conditions, be exempted from the notification requirement: aid to small and medium-sized enterprises (SMEs), aid in favour of research and development, aid in favour of environmental protection, employment and training aid and aid that complies with the map approved by the Commission for each Member State for the grant of regional aid. On that basis, the Commission adopted Commission Regulation (EC) No 800/2008 ⁽²⁾. Regulation (EC) No 800/2008 originally applied until 31 December 2013 but was subsequently prolonged by Commission Regulation (EU) No 1224/2013 of 29 November 2013 amending Regulation (EC) No 800/2008 as regards its period of application ⁽³⁾ and now expires on 30 June 2014. On 22 July 2013 Regulation (EC) No 994/98 was amended by Council Regulation (EU) No 733/2013 of 22 July 2013 amending Regulation (EC) No 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid ⁽⁴⁾ to empower the Commission to extend the block exemption to new categories of aid, in respect of which clear compatibility conditions can be defined. Such new categories of block exempted aid include: aid to make good the damage caused by certain natural disasters, social aid for transport for residents of remote regions, aid for broadband infrastructures, aid for innovation, aid for culture and heritage conservation, aid for sport and multifunctional recreational infrastructures. Provided that sufficient case experience is further developed allowing the design of

⁽¹⁾ OJ L 142, 14.5.1998, p. 1.⁽²⁾ OJ L 241, 9.8.2008, p. 3.⁽³⁾ OJ L 320, 30.11.2013, p. 22.⁽⁴⁾ OJ L 204, 31.7.2013, p. 11.

operational exemption criteria ensuring the *ex-ante* compatibility of other categories of aid, the Commission intends to review the scope of this Regulation with a view to including certain types of aid in those areas. In particular, the Commission envisages developing criteria for port and airport infrastructure by December 2015.

- (2) With its Communication on EU State Aid Modernisation (SAM) ⁽¹⁾, the Commission launched a wider review of the State aid rules. The main objectives of this modernisation are (i) to achieve sustainable, smart and inclusive growth in a competitive internal market, while contributing to Member State efforts towards a more efficient use of public finances, (ii) to focus Commission *ex ante* scrutiny of aid measures on cases with the biggest impact on the internal market, while strengthening Member State cooperation in State aid enforcement, and (iii) to streamline the rules and provide for faster, better informed and more robust decisions based on a clear economic rationale, a common approach and clear obligations. The review of Regulation (EC) No 800/2008 constitutes a central element of SAM.
- (3) This Regulation should allow for better prioritisation of State aid enforcement activities, greater simplification and should enhance transparency, effective evaluation and the control of compliance with the State aid rules at national and Union levels, while preserving the institutional competences of the Commission and the Member States. In accordance with the principle of proportionality this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (4) The Commission's experience in applying Regulation (EC) No 800/2008 has allowed it to better define the conditions under which certain categories of aid can be considered compatible with the internal market and to extend the scope of block exemptions. It also revealed the necessity to strengthen transparency, monitoring and proper evaluation of very large schemes in light of their effect on competition in the internal market.
- (5) The general conditions for the application of this Regulation should be defined on the basis of a set of common principles that ensure the aid serves a purpose of common interest, has a clear incentive effect, is appropriate and proportionate, is granted in full transparency and subject to a control mechanism and regular evaluation, and does not adversely affect trading conditions to an extent that is contrary to the common interest.
- (6) Aid that fulfils all the conditions laid down in this Regulation both general and specific to the relevant categories of aid should be exempted from the notification obligation laid down in Article 108(3) of the Treaty.
- (7) State aid within the meaning of Article 107(1) of the Treaty not covered by this Regulation remains subject to the notification requirement of Article 108(3) of the Treaty. This Regulation is without prejudice to the possibility for Member States to notify aid the objectives of which correspond to objectives covered by this Regulation.
- (8) In view of the greater potential impact of large schemes on trade and competition, aid schemes with an average annual State aid budget exceeding a threshold based on an absolute value should in principle be subject to State aid evaluation. The evaluation should aim at verifying whether the assumptions and conditions underlying the compatibility of the scheme have been achieved, as well as the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade. In order to ensure equal treatment, State aid evaluation should be carried out on the basis of an evaluation plan approved by the Commission. While such plan should normally be drawn up at the moment of the design of the scheme and approved in time for the scheme to enter into force, this may not be possible in all cases. Therefore, in order not to delay their entry into force, this Regulation will apply to such schemes for a maximum period of six months. The Commission may decide to extend this period, upon approval of the evaluation plan. To this end, the evaluation plan should be notified to the Commission within 20 working days following the entry into force of the scheme. The Commission can also exceptionally decide that an evaluation is not necessary given the specificities of the case. The Commission should receive from the Member State the necessary information to be able to carry out the assessment of the evaluation plan and request additional information without undue delay allowing the Member State to complete the missing elements for the Commission to take a decision. In view of the novelty of this process, the Commission will provide, in a separate document, a detailed guidance on the procedure applicable during the 6 months period for the approval of the evaluation plan and the relevant

⁽¹⁾ COM(2012) 209, 8.5.2012.

templates through which the evaluation plans will have to be submitted. Alterations of schemes subject to evaluation, other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan, should be assessed taking account of the outcome of such evaluation and should be excluded from the scope of this Regulation. The alterations such as purely formal modifications, administrative modifications or alterations carried out within the framework of the EU co-financed measures should not, in principle, be considered as significantly affecting the content of the approved evaluation plan.

- (9) This Regulation should not apply to aid contingent upon the use of domestic over imported products or aid to export-related activities. In particular, it should not apply to aid financing the establishment and operation of a distribution network in other countries. Aid towards the cost of participating in trade fairs or of studies or consultancy services needed for the launch of a new or existing product on a new market in another Member State or third country does not normally constitute aid to export-related activities.
- (10) This Regulation should apply in principle across most sectors of the economy. However, in some sectors, such as the fisheries and aquaculture sector and primary agricultural production, the scope should be limited in the light of the special rules applicable.
- (11) This Regulation should apply to the processing and marketing of agricultural products, provided that certain conditions are met. For the purposes of this Regulation neither on-farm activities necessary for preparing a product for the first sale, nor the first sale by a primary producer to resellers or processors or any activity preparing a product for a first sale should be considered processing or marketing.
- (12) This Regulation should not apply to aid to facilitate the closure of uncompetitive coal mines, which is dealt with by the Council Decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines ⁽¹⁾. This Regulation should apply to other types of aid in the coal sector, with the exception of regional aid.
- (13) The Commission should ensure that authorised aid does not adversely affect trading conditions to an extent that is contrary to the common interest. Therefore, aid in favour of a beneficiary which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market should be excluded from the scope of this Regulation, with the exception of aid schemes to make good the damage caused by certain natural disasters.
- (14) Aid granted to undertakings in difficulty should be excluded from the scope of this Regulation, since such aid should be assessed under the Community guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004 ⁽²⁾ as prolonged by Commission communication concerning the prolongation of the application of the Community guidelines on State aid for rescuing and restructuring firms in difficulty of 1 October 2004 ⁽³⁾ or their successor Guidelines, in order to avoid their circumvention, with the exception of aid schemes to make good the damage caused by certain natural disasters. In order to provide legal certainty, it is appropriate to establish clear criteria that do not require an assessment of all the particularities of the situation of an undertaking to determine whether an undertaking is considered to be in difficulty for the purposes of this Regulation.
- (15) State aid enforcement is highly dependent on the cooperation of Member States. Therefore, Member States should take all necessary measures to ensure compliance with this Regulation, including compliance of individual aid granted under block-exempted schemes.
- (16) Due to the high risk of adversely affecting trading conditions, large amounts of aid granted either individually or cumulatively should be assessed by the Commission upon notification. Thresholds should therefore be set for each category of aid falling within the scope of this Regulation at a level which takes into account the category of

⁽¹⁾ OJ L 336, 21.12.2010, p. 24.

⁽²⁾ OJ C 244, 1.10.2004, p. 2.

⁽³⁾ OJ C 296, 2.10.2012, p. 3.

aid concerned and its likely effect on trading conditions. Any aid granted above those thresholds should remain subject to the notification requirement of Article 108(3) of the Treaty. The thresholds set out in this Regulation should not be circumvented by artificially splitting up aid schemes or aid projects into several aid schemes or projects with similar characteristics, objectives or beneficiaries.

- (17) For the purpose of transparency, equal treatment and effective monitoring, this Regulation should apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent *ex ante* without the need to undertake a risk assessment ('transparent aid'). For certain specific aid instruments, such as loans, guarantees, tax measures, risk finance measures and, in particular, repayable advances, this Regulation should define the conditions under which they can be considered transparent. Capital injections should not be considered transparent aid, without prejudice to specific conditions concerning risk finance and start-up aid. Aid comprised in guarantees should be considered as transparent if the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down for the respective type of undertaking. In the case of small and medium-sized enterprises (SMEs), the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees ⁽¹⁾ indicates levels of annual premium above which a State guarantee would be deemed not to constitute aid.
- (18) In order to ensure that the aid is necessary and acts as an incentive to further develop activities or projects, this Regulation should not apply to aid for activities in which the beneficiary would in any case engage even in the absence of the aid. Aid should only be exempted from notification under this Regulation if the work on the aided project or activity starts after the beneficiary has submitted a written application for the aid.
- (19) As regards any ad hoc aid covered by this Regulation granted to a beneficiary who is a large enterprise, the Member State should ensure that, in addition to complying with the conditions relating to incentive effect which apply to beneficiaries who are SMEs, the beneficiary has analysed, in an internal document, the viability of the aided project or activity with aid and without aid. The Member State should verify that this internal document confirms a material increase in the scope of the project/activity, a material increase in the total amount spent by the beneficiary on the subsidised project or activity or a material increase in the speed of completion of the project/activity concerned. Regional aid should be considered to have an incentive effect if the investment project would not have been carried out in the assisted region concerned in the absence of the aid.
- (20) Automatic aid schemes in the form of tax advantages should continue to be subject to a specific condition concerning the incentive effect, due to the fact that this kind of aid is granted under different procedures than other categories of aid. Such schemes should already have been adopted before work on the aided project or activity started. However, this condition should not apply in the case of fiscal successor schemes provided the activity was already covered by the previous fiscal schemes in the form of tax advantages. For the assessment of the incentive effect of such schemes, the crucial moment is the moment when the tax measure was set out for the first time in the original scheme, which is then replaced by the successor scheme.
- (21) As regards regional operating aid, regional urban development aid, aid for access to finance for SMEs, aid for the recruitment of disadvantaged workers, aid for employment of workers with disabilities and aid compensating for the additional costs of employing workers with disabilities, aid in the form of reductions in environmental taxes, aid to make good the damage caused by certain natural disasters, social aid for transport for residents of remote regions and aid for culture and heritage conservation, the requirement regarding the existence of an incentive effect does not apply or should be presumed as having been complied with, if the specific conditions set out for those categories of aid in this Regulation are fulfilled.
- (22) With a view to ensuring that aid is proportionate and limited to the amount necessary, maximum aid amounts should, whenever possible, be defined in terms of aid intensities in relation to a set of eligible costs. Where the maximum aid intensity cannot be set, because eligible costs cannot be identified or in order to provide simpler instruments for small amounts, maximum aid amounts defined in nominal terms should be set out in order to ensure proportionality of aid measures. The aid intensity and the maximum aid amounts should be fixed, in the light of the Commission's experience, at a level that minimises distortions of competition in the aided sector while appropriately addressing the market failure or cohesion issue. For regional investment aid, the aid intensity should comply with the allowable aid intensities under the regional aid maps.

⁽¹⁾ OJ C 155, 20.6.2008, p. 10.

- (23) For the calculation of aid intensity, only eligible costs should be included. The Regulation shall not exempt aid which exceeds the relevant aid intensity as a result of including ineligible costs. The identification of eligible costs should be supported by clear, specific and up-to date documentary evidence. All figures used should be taken before any deduction of tax or other charges. Aid payable in several instalments should be discounted to its value at the moment it is granted. The eligible costs should also be discounted to their value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the amount of aid in the case of aid which does not take the form of a grant should be respectively the discount rate and the reference rate applicable at the time of the grant, as laid down in the Commission Communication on the revision of the method for setting the reference and discount rates ⁽¹⁾. Where aid is granted by means of tax advantages, aid tranches should be discounted on the basis of the discount rates applicable on the various dates when the tax advantages become effective. The use of aid in the form of repayable advances should be promoted, since such risk-sharing instruments are conducive to strengthened incentive effect of aid. It is therefore appropriate to establish that where aid is granted in the form of repayable advances the applicable aid intensities laid down in this Regulation may be increased, with the exception of regional aid since the latter may only be exempted if it complies with approved maps.
- (24) In the case of tax advantages on future taxes, the applicable discount rate and the exact amount of the aid tranches may not be known in advance. In such cases, Member States should set in advance a cap on the discounted value of the aid respecting the applicable aid intensity. Subsequently, when the amount of the aid tranche at a given date becomes known, discounting can take place on the basis of the discount rate applicable at that time. The discounted value of each aid tranche should be deducted from the overall amount of the cap (capped amount).
- (25) To determine whether the notification thresholds and the maximum aid intensities laid down in this Regulation are respected, the total amount of State aid measures for the aided activity or project should be taken into account. Moreover, this Regulation should specify the circumstances under which different categories of aid may be cumulated. Aid exempted by this Regulation and any other compatible aid exempted under other Regulation or approved by the Commission may be cumulated as long as those measures concern different identifiable eligible costs. Where different sources of aid are related to the same — partly or fully overlapping — identifiable eligible costs, cumulation should be allowed up to the highest aid intensity or aid amount applicable to that aid under this Regulation. This Regulation should also set out special rules for cumulation of aid measures with and without identifiable eligible costs, for cumulation with *de minimis* aid and for cumulation with aid in favour of workers with disabilities. *De minimis* aid is often not granted for or attributable to specific identifiable eligible costs. In such a case it should be possible to freely cumulate *de minimis* aid with State aid exempted under this Regulation. Where, however, *de minimis* aid is granted for the same identifiable eligible costs as State aid exempted under this Regulation, cumulation should only be allowed up to the maximum aid intensity as set out in Chapter III of this Regulation.
- (26) Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union, that is not directly or indirectly under the control of Member States, does not constitute State aid. Where such Union funding is combined with State aid, only the latter should be considered for determining whether notification thresholds and maximum aid intensities are respected, provided the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law.
- (27) Given that State aid within the meaning of Article 107(1) of the Treaty is, in principle, prohibited, it is important for all parties to be able to check whether an aid is granted in compliance with the applicable rules. Transparency of State aid is, therefore, essential for the correct application of Treaty rules and leads to better compliance, greater accountability, peer review and ultimately more effective public spending. To ensure transparency, Member States should be required to establish comprehensive State aid websites, at regional or national level, setting out summary information about each aid measure exempted under this Regulation. That obligation should be a condition for the compatibility of the individual aid with the internal market. Following the standard practice regarding the publication of information in Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information ⁽²⁾, a standard format should be used which allows the information to be searched, downloaded and easily published on the internet. The links to the State aid websites of all the Member States should be published on the Commission's

⁽¹⁾ OJ C 14, 19.1.2008, p. 6.

⁽²⁾ OJ L 175 27.6.2013, p. 1.

website. In accordance with Article 3 of Regulation (EC) No 994/98, as amended by Regulation (EU) No 733/2013, summary information on each aid measure exempted under this Regulation should be published on the website of the Commission.

- (28) To ensure effective monitoring of aid measures in accordance with Regulation (EC) No 994/98, as amended by Regulation (EU) No 733/2013, it is appropriate to establish requirements regarding the reporting by the Member States of aid measures which have been exempted pursuant to this Regulation and the application of this Regulation. Moreover, it is appropriate to establish rules concerning the records that Member States should keep regarding the aid exempted by this Regulation, in light of the limitation period established in Article 15 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾.
- (29) To reinforce the effectiveness of compatibility conditions set out in this Regulation, it should be possible for the Commission to withdraw the benefit of the block exemption for the future aid measures in the event of failure to comply with these requirements. The Commission should be able to restrict the withdrawal of the benefit of the block exemption to certain types of aid, certain beneficiaries or aid measures adopted by certain authorities, where non-compliance with this Regulation affects only a limited group of measures or certain authorities. Such a targeted withdrawal should provide a proportionate remedy directly linked to the identified non-compliance with this Regulation. In case of failure to meet compatibility conditions set out in Chapters I and III, aid granted is not covered by this Regulation and, as a consequence, constitutes unlawful aid, which the Commission will examine in the framework of the relevant procedure as set out in Regulation No (EC) No 659/1999. In case of failure to fulfil the requirements of Chapter II, the withdrawal of the benefit of the block exemption in respect of the future aid measures does not affect the fact that the past measures complying with this Regulation were block exempted.
- (30) To eliminate differences that might give rise to distortions of competition and to facilitate coordination between different Union and national initiatives concerning SMEs, as well as for reasons of administrative clarity and legal certainty, the definition of SME used for the purpose of this Regulation should be based on the definition in Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium sized enterprises ⁽²⁾.
- (31) By addressing the handicaps of disadvantaged regions, regional aid promotes the economic, social and territorial cohesion of Member States and the Union as a whole. Regional aid is designed to assist the development of the most disadvantaged areas by supporting investment and job creation in a sustainable context. In areas fulfilling the conditions of Article 107(3)(a) of the Treaty, regional aid may be granted to promote the setting-up of new establishments, the extension of the capacity of an existing establishment, the diversification of the output of an establishment or a fundamental change in the overall production process of an existing establishment. Considering that large enterprises are less affected by regional handicaps than SMEs when investing in an area fulfilling the conditions of Article 107(3)(c) of the Treaty, regional aid to large enterprises should be exempted from the notification requirement only for initial investments in favour of new economic activity in those areas.
- (32) Where a regional aid scheme is targeted at a limited number of sectors of the economy, the objective and likely effects of the scheme may be sectorial rather than horizontal. Therefore, sectorial schemes cannot be exempted from the notification requirement. However, the Commission, upon notification, can assess their possible positive effects under the applicable guidelines or frameworks or decisions. In particular, this is the case for aid schemes covering economic activities in the coal sector, the shipbuilding sector, the transport sector. Furthermore, due to particular characteristics of the steel and synthetic fibres sectors, it is considered that the negative effects of regional aid in those sectors cannot be outweighed by the positive cohesion effects; for those reasons, regional aid cannot be granted in these sectors. Finally, the tourism and broadband sectors play an important role in national economies and, in general, have a particularly positive effect on regional development. Regional aid schemes aimed at tourism activities and broadband should therefore be exempted from the notification requirement. Processing and marketing of agricultural products are also strongly linked with local and regional economies and should benefit from the block exemption.

⁽¹⁾ OJ L 83, 27.3.1999, p. 1.

⁽²⁾ OJ L 124, 20.5.2003, p. 36.

- (33) Energy generation, distribution and infrastructure are subject to sector-specific internal market legislation, which is reflected in the criteria for ensuring that aid in these areas is compatible with the internal market and consistent with the Union's environmental and energy policies. Regional aid granted under Section 1 of this Regulation pursues economic development and cohesion objectives, and is therefore subject to very different compatibility conditions. The provisions of this Regulation on regional aid should therefore not apply to measures concerning energy generation, distribution and infrastructure.
- (34) Investments enabling undertakings to go beyond Union standards or increase the level of environmental protection in the absence of Union standards, investments for early adaptation to future Union standards, investments for energy efficiency measures, including energy efficiency projects in buildings, investments for remediation of contaminated sites and aid for environmental studies do not directly influence the functioning of energy markets. At the same time, such investments may contribute to both regional policy objectives and to the energy and environmental objectives of the European Union. In such cases, the provisions of this Regulation relating to both regional aid and aid for environmental protection may be applicable, depending on the main objective pursued by the measure concerned.
- (35) In order not to favour capital investment over investment in labour costs, it should be possible to measure regional investment aid on the basis of either the costs of the investment or the wage costs of employment directly created by an investment project.
- (36) Regional investment aid should not be exempted from notification when it is granted to a beneficiary that has closed down the same or a similar activity in the European Economic Area in the two years preceding its application for regional investment aid or, at the time of the aid application, has concrete plans to close down such an activity within a period of up to two years after the initial investment for which aid is requested is completed in the area concerned.
- (37) The Commission has gained sufficient experience in the application of Article 107(3)(a) and (c) of the Treaty as regards regional operating aid to compensate for the additional transport costs of goods produced in the outermost regions or in sparsely populated areas, and of goods further processed in those areas, as well as the additional production and operating costs (other than additional transport costs) incurred by beneficiaries established in the outermost regions. Since there is a risk of over-compensation for transport costs resulting from additional support under the POSEI programmes in the agriculture sector and since it cannot be excluded that some agricultural products are not produced in an alternative location, the agriculture sector should be excluded from regional operating aid to compensate the additional transport costs of goods produced in the outermost regions or in sparsely populated areas under this Regulation. Regional operating aid to compensate for additional costs in the outermost regions, other than additional transport costs, should only be considered compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty in so far as the level of that aid is limited to either 15 % of the gross value added annually created by the beneficiary in the outermost region concerned or 25 % of the annual labor costs incurred by the beneficiary in the outermost region concerned, or 10 % of the annual turnover of the beneficiary in the outermost region concerned. Where the aid does not exceed the amount resulting from one of those alternative methods to determine the additional operating costs (other than transport costs), it can be considered as justified in terms of contributing to regional development and proportionate to the handicaps that undertakings face in the outermost regions.
- (38) By addressing the high concentration of economic, environmental and social problems of urban areas located in assisted areas identified in a regional aid map, urban development aid contributes to the economic, social and territorial cohesion of the Member States and the Union as a whole. The market failures to be addressed by urban development aid refer to the urban development funding environment, the lack of an integrated urban development approach, a funding deficit necessitating greater leverage of scarce public resources and the need for a more commercial approach to the regeneration of urban areas. Urban development aid to support the development of participative, integrated and sustainable strategies to tackle the additional problems identified in the assisted areas should therefore be covered by the block exemption.
- (39) Investments corresponding to the Europe 2020 ⁽¹⁾ priorities in green technologies and the shift towards a low carbon economy, undertaken in assisted areas as identified in the relevant regional aid map, should be eligible for higher aid amounts by means of a regional bonus.

⁽¹⁾ EUCO 13/10 REV 1.

- (40) SMEs play a decisive role in job creation and, more generally, act as a factor of social stability and economic development. However, their development may be hampered by market failures, leading to these SMEs suffering from the following typical handicaps. SMEs often have difficulties in obtaining capital or loans, given the risk-averse nature of certain financial markets and the limited collateral that they may be able to offer. Their limited resources may also restrict their access to information, notably regarding new technology and potential markets. To facilitate the development of the economic activities of SMEs, this Regulation should therefore exempt certain categories of aid when they are granted in favour of SMEs. Those categories should include, in particular SME investment aid and SME participation in fairs.
- (41) SMEs participating in the European Territorial Cooperation (ETC) projects covered by Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal ⁽¹⁾ often find difficulties in financing additional costs stemming from the cooperation between partners located in different regions and in different Member States or third countries. Given the importance of the ETC for the cohesion policy providing a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States or third countries, this Regulation should address certain difficulties faced by ETC projects in order to facilitate their compliance with State aid rules. The ETC-specific issues that this Regulation should address relate to the applicable regional aid intensity for ETC projects, SMEs' co-operation costs linked to ETC projects and to obligations concerning publication and information, reporting and keeping records for monitoring purposes.
- (42) Having regard to the specific handicaps and differences between SMEs, different basic aid intensities and different bonuses may apply.
- (43) On the basis of the experience gained in applying the Community guidelines on State aid to promote risk capital investments in SMEs ⁽²⁾, there are a number of specific risk capital market failures in the Union in respect of certain types of investments at the different stages of the undertakings' development. Those market failures result from an imperfect matching of supply and demand for risk capital. As a result, the level of risk capital provided in the market may be too restricted and undertakings do not obtain funding despite having a valuable business model and growth prospects. The main source of market failure relevant to risk capital markets, which particularly affects access to capital by SMEs and which may justify public intervention, relates to imperfect or asymmetric information. It not only affects the provision of risk capital, but also hampers access to debt finance for certain SMEs. Consequently, risk finance measures which seek to attract private capital for risk finance provision to unlisted SMEs affected by the funding gap and which ensure profit-driven financing decisions and commercial management of financial intermediaries should be exempted from the notification requirement under certain conditions.
- (44) Start-up aid for small enterprises, aid to alternative trading platforms specialised in SMEs and aid for costs related to the scouting of SMEs should also be exempted from the notification requirement under certain conditions.
- (45) Aid for research and development and innovation aid can contribute to sustainable economic growth, strengthen competitiveness and boost employment. Experience with the application of Regulation (EC) No 800/2008 and the Community framework for State aid for research and development and innovation ⁽³⁾ shows that market failures may prevent the market from reaching optimal output and lead to inefficiencies related to externalities, public goods/knowledge spill-overs, imperfect and asymmetric information, and coordination and network failures.
- (46) SMEs, may experience difficulties in gaining access to new technological developments, knowledge transfer or highly qualified personnel. Aid for research and development projects, aid for feasibility studies and innovation aid for SMEs, including aid to cover the costs of industrial property rights, may remedy those problems and should therefore be exempted from the notification requirement under certain conditions.

⁽¹⁾ OJ L 347, 20.12.2013, p. 259.

⁽²⁾ OJ C 194, 18.8.2006, p. 2.

⁽³⁾ OJ C 323, 30.12.2006, p. 1.

- (47) As regards project aid for research and development, the aided part of the research project should completely fall within the categories of fundamental research, industrial research or experimental development. When a project encompasses different tasks, each task should be qualified as falling under one of those categories or as not falling under any of those categories. That qualification need not necessarily be chronological, moving sequentially over time from fundamental research to activities closer to the market. Accordingly, a task which is carried out at a late project stage may be qualified as industrial research. Similarly, an activity carried out at an earlier stage may constitute experimental development. The aided part of the project may also include feasibility studies preparatory to research activities.
- (48) High-quality research infrastructures are increasingly necessary for ground-breaking research and innovation because they attract global talent and are essential in supporting new information and communication technologies and key enabling technologies. Public research infrastructures should continue to partner with industry research. Access to publicly funded research infrastructures should be granted on a transparent and non-discriminatory basis and on market terms. If those conditions are not respected, the aid measure should not be exempted from the notification requirement. Multiple parties may own, operate and use a given research infrastructure, and public entities and undertakings may use the infrastructure collaboratively.
- (49) Research infrastructures may perform both economic and non-economic activities. In order to avoid granting State aid to economic activities through public funding of non-economic activities, the costs and financing of economic and non-economic activities should be clearly separated. Where an infrastructure is used for both economic and non-economic activities, the funding through State resources of the costs linked to the non-economic activities of the infrastructure does not constitute State aid. Public funding falls under State aid rules only insofar as it covers costs linked to the economic activities. Only the latter should be taken into account with a view to ensuring compliance with the notification thresholds and maximum aid intensities. If the infrastructure is used almost exclusively for a non-economic activity, its funding may fall outside State aid rules in its entirety, provided that the economic use remains purely ancillary, that is to say, an activity which is directly related to and necessary for the operation of the infrastructure or intrinsically linked to its main non-economic use, and is limited in scope. This should be considered to be the case when the economic activities consume the same inputs (such as material, equipment, labour and fixed capital) as the non-economic activities and the capacity allocated each year to such economic activity does not exceed 20 % of the research infrastructure's overall annual capacity.
- (50) Aid for innovation clusters aims at tackling market failures linked with coordination problems hampering the development of clusters, or limiting the interactions and knowledge flows within clusters. State aid can either support investment in open and shared infrastructures for innovation clusters, or support the operation of clusters, so that collaboration, networking and learning is enhanced. Operating aid for innovation clusters should, however, only be allowed on a temporary basis for a limited period not exceeding 10 years. The ratio of the total amount of aid granted to the total eligible costs should not exceed 50 % during the period over which the aid is granted,
- (51) Process and organisational innovation may suffer from market failures in the form of imperfect information and positive externalities, which should be addressed by specific measures. Aid for this type of innovation is mainly relevant for SMEs, as they face constraints that may hamper their capability to improve their production or delivery methods or to significantly enhance their business practices, workplace organisation and external relations. In order to stimulate large enterprises to collaborate with SMEs in process and organisational innovation activities, aid measures which support the costs of large enterprises for such activities should also benefit from the block exemption regulation under certain conditions.
- (52) The promotion of training and the recruitment/employment of disadvantaged workers and of workers with disabilities constitutes a central objective of the economic and social policies of the Union and its Member States.
- (53) Training usually generates positive externalities for society as a whole, since it increases the pool of skilled workers from which other firms may draw, improves the competitiveness of the Union industry and plays an important role in the Union employment strategy. Aid to promote training should therefore be exempted from the notification requirement under certain conditions. In the light of the particular handicaps which SMEs face and the higher relative costs that they must bear when they invest in training, the intensities of aid exempted by this Regulation should be increased for SMEs. Furthermore, the intensities of aid exempted by this Regulation should be increased if the training is given to disadvantaged workers or to workers with disabilities. The characteristics of training in the maritime transport sector justify a specific approach for that sector.

- (54) Certain categories of disadvantaged workers and workers with disabilities still experience particular difficulties in entering and remaining in the labour market. For this reason, public authorities may apply measures providing incentives to undertakings to increase the levels of employment of these categories of workers, in particular of young people. As employment costs form part of the normal operating costs of any undertaking aid for the employment of disadvantaged workers and of workers with disabilities should have a positive effect on employment levels of those categories of workers and should not merely enable undertakings to reduce costs which they would otherwise have to bear. Consequently, such aid should be exempted from the notification requirement when it is likely to assist those categories of workers in entering or re-entering and remaining in the job market. As set out in the Communication from the Commission to The European Parliament, the Council, the European Economic And Social Committee and the Committee Of The Regions — European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe ⁽¹⁾ the core elements of the EU disability strategy, combine anti-discrimination, equal opportunities and active inclusion measures and reflect the United Nations Convention on the Rights of Persons with Disabilities to which the EU and the majority of the Member States are a party. This Regulation should refer to aid for workers with disabilities in the sense of Article 1 of the Convention.
- (55) As stated in the Communication from the Commission — Europe 2020: A strategy for smart, sustainable and inclusive growth ⁽²⁾, Sustainable growth for a resource efficient, greener and more competitive economy is one of the main pillars of the Europe 2020 objective of the smart, sustainable and inclusive growth strategy. Sustainable development is based, amongst other things, on a high level of protection and improvement of the quality of the environment. The area of environmental protection is confronted with market failures so that, under normal market conditions, undertakings may not necessarily have an incentive to reduce the pollution caused by them since any such reduction may increase their costs without corresponding benefits. When undertakings are not obliged to internalise the costs of pollution, society as a whole bears these costs.
- (56) Introducing mandatory environmental standards can address such market failure. A higher level of environmental protection can be achieved by investments that go beyond mandatory Union standards. In order to incentivise undertakings to improve the level of environmental protection beyond these mandatory Union standards, State aid in this area should be covered by the block exemption. In order not to dissuade Member States from setting mandatory national standards which are more stringent than the corresponding Union standards, such State aid should be exempt, irrespective of the presence of mandatory national standards that are more stringent than the Union standard.
- (57) In principle aid should not be granted where investments bring undertakings into compliance with Union standards already adopted and not yet in force. However, State aid may result in undertakings improving their environmental behaviour if such State aid incentivises undertakings to adapt early to future Union standards before such standards enter into force and as long as such standards do not apply retroactively. Aid to undertakings to adapt to future Union standards, may result in a high level of environmental protection being achieved sooner and such aid should therefore be exempted.
- (58) As part of the Europe 2020 strategy, the Union has set itself the objective of achieving a 20 % increase in energy efficiency by 2020 and has, in particular, adopted Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC ⁽³⁾ which establishes a common framework to promote energy efficiency within the Union pursuing the overall objective of saving at least 20 % of the Union's primary energy consumption. In order to facilitate the achievement of those targets, measures supporting energy efficiency, high-efficiency cogeneration as well as energy efficient district heating and cooling should be covered by the block exemption.
- (59) Measures increasing the energy efficiency of buildings correspond to Europe 2020 priorities concerning a shift towards a low carbon economy. Due to the lack of an integrated approach for energy efficiency in buildings, such investments may often face a funding deficit necessitating greater leverage of scarce public resources. Therefore the Member States should have the possibility to support energy efficiency investments in buildings by granting aid in the form of direct grants to the building owners or tenants in line with the general provisions on energy

⁽¹⁾ Com(2010)636, 15.11.2010.

⁽²⁾ Com(2010) 2020, 3.3.2010.

⁽³⁾ OJ L 315, 14.11.2012, p. 1.

efficiency measures but also in the form of loans and guarantees via financial intermediaries chosen under a transparent selection mechanism under the specific provisions for energy efficiency projects in buildings.

- (60) To achieve the Union's renewable energy targets set out in Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC⁽¹⁾ and to the extent that additional support is needed on top of a regulatory framework such as the Union emission trading scheme in Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC⁽²⁾, aid granted to investments supporting energy from renewable sources should be covered by the block exemption.
- (61) In view of the limited distortions of trade and competition, the block exemption should also cover operating aid for small scale installations producing renewable energy, subject to well-defined conditions. Operating aid to larger scale installations should be covered by the block exemption where distortions of competition are limited. Therefore, such operating aid can be block exempted when granted to new and innovative technologies if the aid is granted on the basis of a competitive bidding process open to at least one such technology using a mechanism which exposes renewable energy producers to market prices. The total aid granted on this basis cannot be granted for more than 5 % of the planned new electricity capacity from renewable energy sources. Aid granted through bidding processes open to all renewable energy technologies should be fully covered by the block exemption. Operating aid schemes should in principle be opened to other EEA countries and contracting parties of the Energy Community to limit the overall distortive effects. Member States are encouraged to consider having a co-operation mechanism in place before allowing cross border support. In the absence of a cooperation mechanism, production from installations in other countries will not count towards their national renewable energy target. In view of these constraints, Member States should be allowed sufficient lead time in order to design appropriate support schemes that are open to other countries. Therefore, such opening is not a condition for exemption from notification, to the extent it is not required under the Treaty.
- (62) With regard to aid for the production of hydropower, its impact can be twofold. On the one hand, it has a positive impact in terms of low greenhouse gas emissions and on the other hand it might also have a negative impact on water systems and biodiversity. Therefore, when granting aid to hydropower Member States should comply with Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy⁽³⁾ and in particular Article 4(7) which lays down criteria in relation to allowing new modifications of bodies of water.
- (63) Aid should only be granted to sustainable forms of renewable energy. Aid to biofuels should only be covered by this Regulation in so far as it is granted for sustainable biofuels in accordance with the Directive 2009/28/EC of the European Parliament and the Council. However, aid for food based biofuels should be excluded from aid under this Regulation to incentivise the shift towards the production of more advanced forms of biofuels. Aid to biofuels that are subject to a supply or blending obligation should be excluded from the scope of the block exemption as the above legal obligation may provide sufficient incentive for investments in these types of renewable energy.
- (64) Aid in the form of tax reductions pursuant to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity⁽⁴⁾ favouring environmental protection covered by this Regulation can indirectly benefit the environment. However, environmental taxes should reflect the social cost of emissions while reductions from taxes may adversely impact on this objective. It therefore seems appropriate to limit their duration to the period of application of this Regulation. After this period, Member States should re-evaluate the appropriateness of the tax reductions concerned. In order to minimise the distortion of competition, the aid should be granted in the same way for all competitors found to be in a similar factual situation. To better preserve the price signal for undertakings which the environmental tax aims to give, Member States should have the option to design the tax reduction scheme based on a fixed annual compensation amount (tax refund) disbursement mechanism.

⁽¹⁾ OJ L 140, 5.6.2009, p. 16.

⁽²⁾ OJ L 275, 25.10.2003, p. 32.

⁽³⁾ OJ L 327, 22.12.2000, p. 1.

⁽⁴⁾ OJ L 283, 31.10.2003, p. 51.

- (65) In the light of the 'polluter pays principle', the costs of measures to deal with pollution should be borne by the polluter who causes the pollution. Aid for the remediation of contaminated sites is justified in cases where the person liable under the applicable law for the contamination cannot be identified. However, the conditions on environmental liability with regard to the prevention and remediation of environmental damage as defined in the Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage ⁽¹⁾ as amended by Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC ⁽²⁾ and Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 ⁽³⁾ should apply. Therefore, to facilitate the correction of existing environmental damage, this type of aid should be covered by the block exemption under certain conditions.
- (66) In line with the waste hierarchy established in the European Union's Waste Framework Directive, the Seventh Environment Action Programme identifies waste re-use and recycling as key priorities of the European Union environmental policy. State aid for these activities can contribute to environmental protection provided that Article 4(1) of Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Waste Framework Directive) ⁽⁴⁾ are respected. Moreover, such aid should not indirectly relieve the polluters of a burden they should bear under Union law, or of a burden that should be considered a normal company cost. Therefore, aid benefitting such activities should be covered by the block exemption including when it concerns waste of other undertakings and where the materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner.
- (67) A modern energy infrastructure is crucial both for an integrated energy market and to enable the Union to meet its climate and energy goals. In particular, infrastructure construction and upgrade in assisted regions contribute to the economic, social and territorial cohesion of Member States and the Union as a whole by supporting investment and job creation and the functioning of energy markets in the most disadvantaged areas. In order to limit any undue distortive effects of such aid, only aid to infrastructures subject to and in accordance with the internal energy market legislation should be block exempted.
- (68) Environmental studies can help to identify the investments necessary to achieve a higher level of environmental protection. State aid to support the carrying out of environmental studies which aim to support investments in environmental protection as covered by this Regulation should therefore be covered by the block exemption. As energy audits are mandatory for large enterprises, they should not benefit from State aid.
- (69) In accordance with Article 107(2)(b) of the Treaty, aid to make good the damage caused by natural disasters is compatible with the internal market. In order to provide legal certainty it is necessary to define the type of events that may constitute a natural disaster exempted by this Regulation. For the purposes of this Regulation, earthquakes, landslides, floods, in particular floods brought about by waters overflowing river banks or lake shores, avalanches, tornadoes, hurricanes, volcanic eruptions and wildfires of natural origin should be considered events constituting a natural disaster. Damage caused by adverse weather conditions such as frost, hail, ice, rain or drought, which occur on a more regular basis, should not be considered a natural disaster within the meaning of Article 107(2)(b) of the Treaty. In order to ensure that aid granted to make good the damage caused by natural disasters is indeed covered by the exemption, this Regulation should lay down conditions following established practice the fulfilment of which will ensure that aid schemes to make good the damage caused by natural disasters can benefit from block exemption. Those conditions should relate, in particular, to the formal recognition by the competent Member States' authorities of the character of the event as a natural disaster and to a direct causal link between the natural disaster and the damages suffered by the beneficiary undertaking, which may include undertakings in difficulty, and should ensure that overcompensation is avoided. The compensation should not exceed what is necessary to enable the beneficiary to return to the situation prevailing before the disaster occurred.

⁽¹⁾ OJ L 143, 30.4.2004, p. 56.

⁽²⁾ OJ L 102, 11.4.2006, p. 15.

⁽³⁾ OJ L 140, 5.6.2009, p. 114.

⁽⁴⁾ OJ L 312, 22.11.2008, p. 3.

- (70) Aid has a social character for air and maritime passenger transport where it addresses the problem of steady connectivity for residents of remote regions by reducing certain transport ticket costs for them. This may be the case for outermost regions, Malta, Cyprus, Ceuta and Melilla, other islands which are part of the territory of a Member State and sparsely populated areas. Where a remote region is linked to the European Economic Area by several transport routes, including indirect routes, aid should be possible for all those routes and for transport by all carriers operating on these routes. Aid should be granted without discrimination as to the identity of the carrier or type of service and may include regular, charter and low-cost services.
- (71) Broadband connectivity is of strategic importance for the achievement of the Europe 2020 objective of smart, sustainable and inclusive growth and innovation and for social and territorial cohesion⁽¹⁾. Investment aid for broadband infrastructure aims at fostering the deployment of such infrastructure and related civil engineering works in areas where no comparable infrastructure exists nor is likely to be deployed by market operators in the near future. In the light of the Commission's experience, such investment aid does not give rise to undue distortions of trade and competition, provided that certain conditions are met. Such conditions should aim, in particular, at limiting distortions of competition by subjecting aid to technology-neutral competitive selection and by ensuring wholesale access to the subsidised networks, taking into account the aid received by the network operator. Although under certain conditions virtual unbundling may be considered equivalent to physical unbundling, until more experience is acquired, there is a need to assess on a case by case basis whether a particular non-physical or virtual wholesale access product should be considered equivalent to local loop unbundling of a copper or fibre network. For this reason, and until such experience in individual State aid cases or in the *ex ante* regulatory context can be taken into account in a future review, physical unbundling should be required for the purposes of benefiting from the present block exemption regulation. Where future costs and revenue developments are uncertain and there is a strong asymmetry of information, Member States should also adopt financing models that include monitoring and claw-back elements to allow a balanced sharing of unanticipated gains. To avoid a disproportionate burden on small, local projects, such models should be put in place only for projects exceeding a minimum threshold.
- (72) In the culture and heritage conservation sector, a number of measures taken by Member States may not constitute aid because they do not fulfil all the criteria of Article 107(1) of the Treaty, for example because the activity is not economic or because trade between Member States is not affected. To the extent that such measures are covered by Article 107(1) of the Treaty, cultural institutions and projects do not typically give rise to any significant distortion of competition, and case practice has shown that such aid has limited effects on trade. Article 167 of the Treaty recognises the importance of promoting culture for the Union and its Member States and provides that the Union should take cultural aspects into account in its action under other provisions of the Treaty, in particular in order to respect and to promote the diversity of its cultures. As natural heritage is often crucial to shaping of artistic and cultural heritage, heritage conservation in the sense of this Regulation should be understood to cover also natural heritage linked to cultural heritage or formally recognised by the competent public authorities of a Member State. Because of the dual nature of culture, being on the one hand an economic good that offers important opportunities for the creation of wealth and employment, and, on the other, a vehicle of identities, values and meanings that mirror and shape our societies, State aid rules should acknowledge the specificities of culture and the economic activities related to it. A list of eligible cultural purposes and activities should be established and eligible costs should be specified. The block exemption should cover both investment and operating aid below determined thresholds provided that overcompensation is excluded. In general, activities which, although they may present a cultural aspect, have a predominantly commercial character because of the higher potential for competition distortions, such as press and magazines (written or electronic), should not be covered. Furthermore, the list of eligible cultural purposes and activities should not include commercial activities such as fashion, design or video games.
- (73) Audiovisual works play an important role in shaping European identities and reflect the different traditions of Member States and regions. While there is strong competition between films produced outside the Union, there is limited circulation of European films outside their country of origin due to the fragmentation into national or regional markets. The sector is characterised by high investment costs, a perceived lack of profitability due to limited audiences and difficulties to generate additional private funding. Due to these factors the Commission has developed specific criteria to assess the necessity, proportionality and adequacy of aid to script-writing, development, production, distribution and promotion of audiovisual works. New criteria were determined in the

⁽¹⁾ COM(2010) 245, 19.5.2010.

Communication from the Commission on State aid for films and other audiovisual works ⁽¹⁾ and should be reflected in block exemption rules for aid schemes for audiovisual works. Higher aid intensities are justified for cross-border productions and co-productions which are more likely to be distributed in several Member States.

- (74) Investment aid measures for sport infrastructures should be covered by the block exemption if they fulfil the conditions laid down in this Regulation, to the extent they constitute State aid. In the sport sector a number of measures taken by Member States may not constitute State aid because the beneficiary does not carry out an economic activity or because there is no effect on trade between Member States. This could be, under certain circumstances, the case for aid measures which have a purely local character or which are taken in the field of amateur sport. Article 165 of the Treaty recognises the importance of promoting European sporting issues, while taking account of the specific nature of sport, its structures based on voluntary activity and its social and educational function. Aid to infrastructures which serve more than one purpose of recreation and are thus multifunctional should also be covered by the block exemption. However, aid to multifunctional tourism infrastructures such as leisure parks and hotel facilities should only be exempted if it is part of a regional aid scheme aimed at tourism activities in an assisted region which have a particular positive effect on regional development. The compatibility conditions regarding aid for sport or multifunctional infrastructures should ensure, in particular, open and non-discriminatory access to the infrastructures and a fair process of assignment of concessions to a third party in accordance with the relevant provisions of Union law and the case law of the Union to construct, upgrade and/or operate the infrastructure. If sport infrastructure is used by professional sport clubs, pricing conditions for the use of the infrastructure by those clubs should be made publicly available to ensure transparency and equal treatment of users. The exclusion of overcompensation should be ensured.
- (75) As emphasized by the conclusions of the European Council of the 17 June 2010 endorsing the Europe 2020 Strategy ⁽²⁾, efforts should seek to address the main bottlenecks constraining growth at EU level, including those related to the functioning of the internal market and infrastructure. The availability of local infrastructures is an important prerequisite for development of business and consumer environment and for modernising and developing the industrial base in order to ensure the full functioning of the internal market as referred to in the Council Recommendation on broad guidelines for economic policies of the Member States and of the Union ⁽³⁾, which form part of the Europe 2020 integrated guidelines. Such infrastructures, made available to interested parties on an open, transparent and non-discriminatory basis, enable the creation of an environment conducive to private investment and growth, thus contributing positively to objectives of common interest, and in particular to the Europe 2020 priorities and objectives ⁽⁴⁾, while the risks of distortions remain limited. A number of measures taken by Member States with regard to local infrastructures do not constitute aid because they do not fulfil all the criteria of Article 107(1) of the Treaty, for example because the beneficiary does not carry out an economic activity, because there is no effect on trade between Member States, or because the measure consists of compensation for a service of general economic interest which fulfils all the criteria of the Altmark case-law ⁽⁵⁾. However, where the financing of such local infrastructures does constitute State aid within the meaning of Article 107(1) of the Treaty, such aid should be exempted from the notification requirement when only small amounts of aid are granted.
- (76) Since aid for other types of infrastructures may be subject to specific and well-designed criteria which ensure its compatibility with the internal market, the provisions of this Regulation regarding aid for local infrastructures should not apply to aid to the following types of infrastructures: research infrastructures, innovation clusters, energy efficient district heating and cooling, energy infrastructures, waste recycling and re-use, broadband infrastructures, culture and heritage conservation, sport and multifunctional recreational infrastructures, airports and ports.
- (77) In the light of the Commission's experience in this area, State aid policy should periodically be revised. The period of application of this Regulation should therefore be limited. It is appropriate to lay down transitional provisions, including the rules applicable to exempted aid schemes at the end of the period of application of this Regulation. Such rules should give Member States time to adapt to any future regime. The adjustment period should not, however, apply to regional aid schemes, including regional urban development aid schemes, the exemption of which must expire on the date on which the approved regional aid maps expire, and to certain risk finance aid schemes,

⁽¹⁾ OJ C 332, 15.11.2013, p. 1.

⁽²⁾ EUCO 13/10 REV 1.

⁽³⁾ OJ L 191, 23.7.2010, p. 28.

⁽⁴⁾ Com(2010)2020, 3.3.2010.

⁽⁵⁾ Judgment of the Court of Justice of 24 July 2003 in Case C-280/00, Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH and Oberbundesanwalt beim Bundesverwaltungsgericht ([2003] ECR I-7747).

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CHAPTER I

COMMON PROVISIONS

Article 1

Scope

1. This Regulation shall apply to the following categories of aid:
 - (a) regional aid;
 - (b) aid to SMEs in the form of investment aid, operating aid and SMEs' access to finance;
 - (c) aid for environmental protection;
 - (d) aid for research and development and innovation;
 - (e) training aid;
 - (f) recruitment and employment aid for disadvantaged workers and workers with disabilities;
 - (g) aid to make good the damage caused by certain natural disasters;

- (h) social aid for transport for residents of remote regions;
- (i) aid for broadband infrastructures;
- (j) aid for culture and heritage conservation;
- (k) aid for sport and multifunctional recreational infrastructures; and
- (l) aid for local infrastructures.

2. This Regulation shall not apply to:

- (a) schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44), and 10 of Chapter III of this Regulation, if the average annual State aid budget exceeds EUR 150 million, from six months after their entry into force. The Commission may decide that this Regulation shall continue to apply for a longer period to any of these aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme's entry into force;
- (b) any alterations of schemes referred to in Article 1(2)(a), other than modifications which cannot affect the compatibility of the aid scheme under this Regulation or cannot significantly affect the content of the approved evaluation plan;
- (c) aid to export-related activities towards third countries or Member States, namely aid directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity;
- (d) aid contingent upon the use of domestic over imported goods.

3. This Regulation shall not apply to:

- (a) aid granted in the fishery and aquaculture sector, as covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 ⁽¹⁾, with the exception of training aid, aid for SMEs' access to finance, aid in the field of research and development, innovation aid for SMEs and aid for disadvantaged workers and workers with disabilities;
- (b) aid granted in the primary agricultural production sector, with the exception of compensation for additional costs other than transport costs in outermost regions as provided for in Article 15(2)(b), aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid and aid for disadvantaged workers and workers with disabilities;
- (c) aid granted in the sector of processing and marketing of agricultural products, in the following cases:
 - (i) where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or
 - (ii) where the aid is conditional on being partly or entirely passed on to primary producers;
- (d) aid to facilitate the closure of uncompetitive coal mines, as covered by Council Decision No 2010/787;
- (e) the categories of regional aid excluded in Article 13.

Where an undertaking is active in the excluded sectors as referred to in points (a), (b) or (c) of the first subparagraph and in sectors which fall within the scope of this Regulation, this Regulation applies to aid granted in respect of the latter sectors or activities, provided that Member States ensure by appropriate means, such as separation of activities or distinction of costs, that the activities in the excluded sectors do not benefit from the aid granted in accordance with this Regulation.

⁽¹⁾ OJ L 354, 28.12.2013, p. 1.

4. This Regulation shall not apply to:

- (a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by certain natural disasters;
- (b) ad hoc aid in favour of an undertaking as referred to in point (a);
- (c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters.

5. This Regulation shall not apply to State aid measures, which entail, by themselves, by the conditions attached to them or by their financing method a non-severable violation of Union law, in particular:

- (a) aid measures where the grant of aid is subject to the obligation for the beneficiary to have its headquarters in the relevant Member State or to be predominantly established in that Member State; However, the requirement to have an establishment or branch in the aid granting Member State at the moment of payment of the aid is allowed.
- (b) aid measures where the grant of aid is subject to the obligation for the beneficiary to use nationally produced goods or national services;
- (c) aid measures restricting the possibility for the beneficiaries to exploit the research, development and innovation results in other Member States.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

- (1) 'aid' means any measure fulfilling all the criteria laid down in Article 107(1) of the Treaty;
- (2) 'small and medium-sized enterprises' or 'SMEs' means undertakings fulfilling the criteria laid down in Annex I;
- (3) 'worker with disabilities' means any person who:
 - (a) is recognised as worker with disabilities under national law; or
 - (b) has long-term physical, mental, intellectual or sensory impairment(s) which, in interaction with various barriers, may hinder their full and effective participation in a work environment on an equal basis with other workers;
- (4) 'disadvantaged worker' means any person who:
 - (a) has not been in regular paid employment for the previous 6 months; or
 - (b) is between 15 and 24 years of age; or
 - (c) has not attained an upper secondary educational or vocational qualification (International Standard Classification of Education 3) or is within two years after completing full-time education and who has not previously obtained his or her first regular paid employment; or
 - (d) is over the age of 50 years; or
 - (e) lives as a single adult with one or more dependents; or
 - (f) works in a sector or profession in a Member State where the gender imbalance is at least 25 % higher than the average gender imbalance across all economic sectors in that Member State, and belongs to that underrepresented gender group; or
 - (g) is a member of an ethnic minority within a Member State and who requires development of his or her linguistic, vocational training or work experience profile to enhance prospects of gaining access to stable employment;
- (5) 'transport' means transport of passengers by aircraft, maritime transport, road, rail, or by inland waterway or freight transport services for hire or reward;

- (6) 'transport costs' means the costs of transport for hire or reward actually paid by the beneficiaries per journey, comprising:
- (a) freight charges, handling costs and temporary stocking costs, in so far as these costs relate to the journey;
 - (b) insurance costs applied to the cargo;
 - (c) taxes, duties or levies applied to the cargo and, if applicable, to the deadweight, both at point of origin and point of destination; and
 - (d) safety and security control costs, surcharges for increased fuel costs;
- (7) 'remote regions' means outermost regions, Malta, Cyprus, Ceuta and Melilla, islands which are part of the territory of a Member State and sparsely populated areas;
- (8) 'marketing of agricultural products' means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose;
- (9) 'primary agricultural production' means production of products of the soil and of stock farming, listed in Annex I to the Treaty, without performing any further operation changing the nature of such products;
- (10) 'processing of agricultural products' means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale;
- (11) 'agricultural product' means the products listed in Annex I to the Treaty, except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013;
- (12) 'outermost regions' means regions as defined in Article 349 of the Treaty. In accordance with European Council Decision 2010/718/EU, from 1 January 2012, Saint-Barthélemy ceased to be an outermost region. In accordance with European Council Decision 2012/419/EU on 1 January 2014, Mayotte became an outermost region;
- (13) 'coal' means high-grade, medium-grade and low-grade category A and B coal within the meaning of the international codification system for coal established by the United Nations Economic Commission for Europe and clarified in the Council decision of 10 December 2010 on State aid to facilitate the closure of uncompetitive coal mines ⁽¹⁾;
- (14) 'individual aid' means:
- (i) ad hoc aid; and
 - (ii) awards of aid to individual beneficiaries on the basis of an aid scheme;
- (15) 'aid scheme' means any act on the basis of which, without further implementing measures being required, individual aid awards may be made to undertakings defined within the act in a general and abstract manner and any act on the basis of which aid which is not linked to a specific project may be granted to one or several undertakings for an indefinite period of time and/or for an indefinite amount;
- (16) 'evaluation plan' means a document containing at least the following minimum elements: the objectives of the aid scheme to be evaluated, the evaluation questions, the result indicators, the envisaged methodology to conduct the evaluation, the data collection requirements, the proposed timing of the evaluation including the date of submission of the final evaluation report, the description of the independent body conducting the evaluation or the criteria that will be used for its selection and the modalities for ensuring the publicity of the evaluation;
- (17) 'ad hoc aid' means aid not granted on the basis of an aid scheme;

⁽¹⁾ OJ L 336, 21.12.2010, p. 24.

(18) 'undertaking in difficulty' means an undertaking in respect of which at least one of the following circumstances occurs:

- (a) In the case of a limited liability company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purposes of this provision, 'limited liability company' refers in particular to the types of company mentioned in Annex I of Directive 2013/34/EU ⁽¹⁾ and 'share capital' includes, where relevant, any share premium.
- (b) In the case of a company where at least some members have unlimited liability for the debt of the company (other than an SME that has been in existence for less than three years or, for the purposes of eligibility for risk finance aid, an SME within 7 years from its first commercial sale that qualifies for risk finance investments following due diligence by the selected financial intermediary), where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purposes of this provision, 'a company where at least some members have unlimited liability for the debt of the company' refers in particular to the types of company mentioned in Annex II of Directive 2013/34/EU.
- (c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- (d) Where the undertaking has received rescue aid and has not yet reimbursed the loan or terminated the guarantee, or has received restructuring aid and is still subject to a restructuring plan.
- (e) In the case of an undertaking that is not an SME, where, for the past two years:
 - (1) the undertaking's book debt to equity ratio has been greater than 7,5 and
 - (2) the undertaking's EBITDA interest coverage ratio has been below 1,0.

(19) 'territorial spending obligations': mean the obligations imposed by the authority granting the aid on beneficiaries to spend a minimum amount and/or conduct a minimum level of production activity in a particular territory;

(20) 'adjusted aid amount' means the maximum permissible aid amount for a large investment project, calculated according to the following formula:

$$\text{maximum aid amount} = R \times (A + 0,50 \times B + 0 \times C)$$

where: R is the maximum aid intensity applicable in the area concerned established in an approved regional map and which is in force on the date of granting the aid, excluding the increased aid intensity for SMEs; A is the initial EUR 50 million of eligible costs, B is the part of eligible costs between EUR 50 million and EUR 100 million and C is the part of eligible costs above EUR 100 million

(21) 'repayable advance' means a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project;

(22) 'gross grant equivalent' means the amount of the aid if it had been provided in the form of a grant to the beneficiary, before any deduction of tax or other charge;

(23) 'start of works' means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Buying land and preparatory works such as obtaining permits and conducting feasibility studies are not considered start of works. For take-overs, 'start of works' means the moment of acquiring the assets directly linked to the acquired establishment;

(24) 'large enterprises' means undertakings not fulfilling the criteria laid down in Annex I;

⁽¹⁾ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC.

- (25) 'fiscal successor scheme' means a scheme in the form of tax advantages which constitutes an amended version of a previously existing scheme in the form of tax advantages and which replaces it.
- (26) 'aid intensity' means the gross aid amount expressed as a percentage of the eligible costs, before any deduction of tax or other charge;
- (27) 'assisted areas' means areas designated in an approved regional aid map for the period 1.7.2014 - 31.12.2020 in application of Articles 107(3)(a) and (c) of the Treaty;
- (28) 'date of granting of the aid' means the date when the legal right to receive the aid is conferred on the beneficiary under the applicable national legal regime;
- (29) 'tangible assets' means assets consisting of land, buildings and plant, machinery and equipment;
- (30) 'intangible assets' means assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property;
- (31) 'wage cost' means the total amount actually payable by the beneficiary of the aid in respect of the employment concerned, comprising over a defined period of time the gross wage before tax and compulsory contributions such as social security, child care and parent care costs;
- (32) 'net increase in the number of employees' means a net increase in the number of employees in the establishment concerned compared with the average over a given period in time, and that any posts lost during that period must therefore be deducted and that the number of persons employed full-time, part-time and seasonal has to be considered with their annual labour unit fractions;
- (33) 'dedicated infrastructure' means infrastructure that is built for *ex-ante* identifiable undertaking(s) and tailored to their needs.
- (34) 'financial intermediary' means any financial institution regardless of its form and ownership, including fund-of-funds, private equity investment funds, public investment funds, banks, micro-finance institutions and guarantee societies;
- (35) 'journey' means the movement of goods from the point of origin to the point of destination, including any intermediary sections or stages within or outside the Member State concerned, made using one or more means of transport;
- (36) 'fair rate of return (FRR)' means the expected rate of return equivalent to a risk-adjusted discount rate which reflects the level of risk of a project and the nature and level of capital the private investors plan to invest;
- (37) 'total financing' means the overall investment amount made into an eligible undertaking or project under Section 3 or under Articles 16 or 39 of this Regulation to the exclusion of entirely private investments provided on market terms and outside the scope of the relevant State aid measure;
- (38) 'competitive bidding process' means a non-discriminatory bidding process that provides for the participation of a sufficient number of undertakings and where the aid is granted on the basis of either the initial bid submitted by the bidder or a clearing price. In addition, the budget or volume related to the bidding process is a binding constraint leading to a situation where not all bidders can receive aid;
- (39) 'operating profit' means the difference between the discounted revenues and the discounted operating costs over the relevant lifetime of the investment, where this difference is positive. The operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, but exclude, for the purpose of this Regulation, depreciation charges and the costs of financing if these have been covered by investment aid.

Definitions applying to regional aid

- (40) Definitions applying to aid for broadband infrastructures (Section 10) are applicable to the relevant regional aid provisions.
- (41) 'regional investment aid' means regional aid granted for an initial investment or an initial investment in favour of a new economic activity;

- (42) 'regional operating aid' means aid to reduce an undertaking's current expenditure that is not related to an initial investment. This includes cost categories such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, etc., but excludes depreciation charges and the costs of financing if these have been included in the eligible costs when granting investment aid;
- (43) 'steel sector' means all activities related to the production of one or more of the following products:
- (a) pig iron and ferro-alloys:
pig iron for steelmaking, foundry and other pig iron, spiegeleisen and high-carbon ferro-manganese, not including other ferro-alloys;
 - (b) crude and semi-finished products of iron, ordinary steel or special steel:
liquid steel whether or not cast into ingots, including ingots for forging semi-finished products: blooms, billets and slabs; sheet bars and tinplate bars; hot-rolled wide coils, with the exception of production of liquid steel for castings from small and medium-sized foundries;
 - (c) hot finished products of iron, ordinary steel or special steel:
rails, sleepers, fishplates, soleplates, joists, heavy sections of 80 mm and over, sheet piling, bars and sections of less than 80 mm and flats of less than 150 mm, wire rod, tube rounds and squares, hot-rolled hoop and strip (including tube strip), hot-rolled sheet (coated or uncoated), plates and sheets of 3 mm thickness and over, universal plates of 150 mm and over, with the exception of wire and wire products, bright bars and iron castings;
 - (d) cold finished products:
tinplate, terneplate, blackplate, galvanised sheets, other coated sheets, cold-rolled sheets, electrical sheets and strip for tinplate, cold-rolled plate, in coil and in strip;
 - (e) tubes:
all seamless steel tubes, welded steel tubes with a diameter of over 406.4 mm;
- (44) 'synthetic fibres sector' means:
- (a) extrusion/texturisation of all generic types of fibre and yarn based on polyester, polyamide, acrylic or polypropylene, irrespective of their end-uses; or
 - (b) polymerisation (including polycondensation) where it is integrated with extrusion in terms of the machinery used; or
 - (c) any ancillary process linked to the contemporaneous installation of extrusion/texturisation capacity by the prospective beneficiary or by another company in the group to which it belongs and which, in the specific business activity concerned, is normally integrated with such capacity in terms of the machinery used;
- (45) 'transport sector' means the transport of passengers by aircraft, maritime transport, road or rail and by inland waterway or freight transport services for hire or reward; more specifically, the 'transport sector' means the following activities in terms of NACE Rev. 2:
- (a) NACE 49: Land transport and transport via pipelines, excluding NACE 49.32 Taxi operation, 49.42 Removal services, 49.5 Transport via pipeline;
 - (b) NACE 50: Water transport;
 - (c) NACE 51: Air transport, excluding NACE 51.22 Space transport.
- (46) 'scheme targeted at a limited number of specific sectors of economic activity' means a scheme which covers activities falling within the scope of less than five classes (four-digit numerical code) of the NACE Rev. 2 statistical classification.
- (47) 'tourism activity' means the following activities in terms of NACE Rev. 2:
- (a) NACE 55: Accommodation;
 - (b) NACE 56: Food and beverage service activities;

- (c) NACE 79: Travel agency, tour operator reservation service and related activities;
 - (d) NACE 90: Creative, arts and entertainment activities;
 - (e) NACE 91: Libraries, archives, museums and other cultural activities;
 - (f) NACE 93: Sports activities and amusement and recreation activities;
- (48) 'sparsely populated areas' means those areas which are recognized by the Commission as such in the individual decisions on regional aid maps for the period 1.7.2014-31.12.2020;
- (49) 'initial investment' means:
- (a) an investment in tangible and intangible assets related to the setting-up of a new establishment, extension of the capacity of an existing establishment, diversification of the output of an establishment into products not previously produced in the establishment or a fundamental change in the overall production process of an existing establishment; or
 - (b) an acquisition of assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller and excludes sole acquisition of the shares of an undertaking;
- (50) 'the same or a similar activity' means an activity falling under the same class (four-digit numerical code) of the NACE Rev. 2 statistical classification of economic activities as laid down in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ⁽¹⁾;
- (51) 'initial investment in favour of new economic activity' means:
- (a) an investment in tangible and intangible assets related to the setting up of a new establishment, or to the diversification of the activity of an establishment, under the condition that the new activity is not the same or a similar activity to the activity previously performed in the establishment;
 - (b) the acquisition of the assets belonging to an establishment that has closed or would have closed had it not been purchased, and is bought by an investor unrelated to the seller, under the condition that the new activity to be performed using the acquired assets is not the same or a similar activity to the activity performed in the establishment prior to the acquisition;
- (52) 'large investment project' means an initial investment with eligible costs exceeding EUR 50 million, calculated at prices and exchange rates on the date of granting the aid;
- (53) 'point of destination' means the place where the goods are unloaded;
- (54) 'point of origin' means the place where the goods are loaded for transport;
- (55) 'areas eligible for operating aid', means an outermost region referred to in Article 349 of the Treaty or a sparsely populated area, as determined in the approved regional aid map for the Member State concerned for the period 1.7.2014-31.12.2020;
- (56) 'means of transport' means rail transport, road freight transport, inland waterway transport, maritime transport, air transport, and intermodal transport;
- (57) 'urban development fund' ('UDF') means a specialised investment vehicle set up for the purpose of investing in urban development projects under an urban development aid measure. UDFs are managed by an urban development fund manager;
- (58) 'urban development fund manager' means a professional management company with legal personality, selecting and making investments in eligible urban development projects;

⁽¹⁾ OJ L 393, 30.12.2006, p. 1.

- (59) 'urban development project' ('UDP') means an investment project that has the potential to support the implementation of interventions envisaged by an integrated approach to sustainable urban development and contribute to achieving of the objectives defined therein, including projects with an internal rate of return which may not be sufficient to attract financing on a purely commercial basis. An urban development project may be organised as a separate block of finance within the legal structures of the beneficiary private investor or as a separate legal entity, e.g. a special purpose vehicle;
- (60) 'integrated sustainable urban development strategy' means a strategy officially proposed and certified by a relevant local authority or public sector agency, defined for a specific urban geographic area and period, that set out integrated actions to tackle the economic, environmental, climate, demographic and social challenges affecting urban areas;
- (61) 'in-kind contribution' means the contribution of land or real estate where the land or real estate forms part of the urban development project;

Definitions for Aid to SMEs

- (62) 'employment directly created by an investment project' means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment;
- (63) 'organisational cooperation' means the development of joint business strategies or management structures, the provision of common services or services to facilitate cooperation, coordinated activities such as research or marketing, the support of networks and clusters, the improvement of accessibility and communication, the use of joint instruments to encourage entrepreneurship and trade with SMEs;
- (64) 'advisory services linked to cooperation' means consulting, assistance and training for the exchange of knowledge and experiences and for improvement of cooperation;
- (65) 'support services linked to cooperation' means the provision of office space, websites, data banks, libraries, market research, handbooks, working and model documents;

Definitions for Aid for access to finance for SMEs

- (66) 'quasi-equity investment' means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity and whose return for the holder is predominantly based on the profits or losses of the underlying target undertaking and which are unsecured in the event of default. Quasi-equity investments can be structured as debt, unsecured and subordinated, including mezzanine debt, and in some cases convertible into equity, or as preferred equity;
- (67) 'guarantee' in the context of sections 1, 3 and 7 of the Regulation means a written commitment to assume responsibility for all or part of a third party's newly originated loan transactions such as debt or lease instruments, as well as quasi-equity instruments.;
- (68) 'guarantee rate' means the percentage of loss coverage by a public investor of each and every transaction eligible under the relevant State aid measure;
- (69) 'exit' means the liquidation of holdings by a financial intermediary or investor, including trade sale, write-offs, repayment of shares/loans, sale to another financial intermediary or another investor, sale to a financial institution and sale by public offering, including an initial public offering (IPO);
- (70) 'financial endowment' means a repayable public investment made to a financial intermediary for the purposes of making investments under a risk finance measure, and where all the proceeds shall be returned to the public investor;
- (71) 'risk finance investment' means equity and quasi-equity investments, loans including leases, guarantees, or a mix thereof to eligible undertakings for the purposes of making new investments;
- (72) 'independent private investor' means a private investor who is not a shareholder of the eligible undertaking in which it invests, including business angels and financial institutions, irrespective of their ownership, to the extent that they bear the full risk in respect of their investment. Upon the creation of a new company, private investors, including the founders, are considered to be independent from that company;

- (73) 'natural person' for the purpose of Articles 21 and 23 means a person other than a legal entity who is not an undertaking for the purposes of Article 107(1) of the Treaty;
- (74) 'equity investment' means the provision of capital to an undertaking, invested directly or indirectly in return for the ownership of a corresponding share of that undertaking;
- (75) 'first commercial sale' means the first sale by a company on a product or service market, excluding limited sales to test the market;
- (76) 'unlisted SME' means an SME which is not listed on the official list of a stock exchange, except for alternative trading platforms.
- (77) 'follow-on investment' means additional risk finance investment in a company subsequent to one or more previous risk finance investment rounds;
- (78) 'replacement capital' means the purchase of existing shares in a company from an earlier investor or shareholder;
- (79) 'entrusted entity' means the European Investment Bank and the European Investment Fund, an international financial institution in which a Member State is a shareholder, or a financial institution established in a Member State aiming at the achievement of public interest under the control of a public authority, a public law body, or a private law body with a public service mission: the entrusted entity can be selected or directly appointed in accordance with the provisions of Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, ⁽¹⁾ or any subsequent legislation replacing that Directive in full or in part;
- (80) 'innovative enterprise' means an enterprise:
- (a) that can demonstrate, by means of an evaluation carried out by an external expert that it will in the foreseeable future develop products, services or processes which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure, or
 - (b) the research and development costs of which represent at least 10 % of its total operating costs in at least one of the three years preceding the granting of the aid or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor;
- (81) 'alternative trading platform' means a multilateral trading facility as defined in Article 4(1)(15) of Directive 2004/39/EC where the majority of the financial instruments admitted to trading are issued by SMEs;
- (82) 'loan' means an agreement which obliges the lender to make available to the borrower an agreed amount of money for an agreed period of time and under which the borrower is obliged to repay the amount within the agreed period. It may take the form of a loan, or another funding instrument, including a lease, which provides the lender with a predominant component of minimum yield. The refinancing of existing loans shall not be an eligible loan.

Definitions for Aid for research and development and innovation

- (83) 'research and knowledge-dissemination organisation' means an entity (such as universities or research institutes, technology transfer agencies, innovation intermediaries, research-oriented physical or virtual collaborative entities), irrespective of its legal status (organised under public or private law) or way of financing, whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities by way of teaching, publication or knowledge transfer. Where such entity also pursues economic activities the financing, the costs and the revenues of those economic activities must be accounted for separately. Undertakings that can exert a decisive influence upon such an entity, in the quality of, for example, shareholders or members, may not enjoy preferential access to the results generated by it;
- (84) 'fundamental research' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct commercial application or use in view;

⁽¹⁾ OJ L 134, 30.4.2004, p. 114.

- (85) 'industrial research' means the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components parts of complex systems, and may include the construction of prototypes in a laboratory environment or in an environment with simulated interfaces to existing systems as well as of pilot lines, when necessary for the industrial research and notably for generic technology validation;
- (86) 'experimental development' means acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills with the aim of developing new or improved products, processes or services. This may also include, for example, activities aiming at the conceptual definition, planning and documentation of new products, processes or services;

Experimental development may comprise prototyping, demonstrating, piloting, testing and validation of new or improved products, processes or services in environments representative of real life operating conditions where the primary objective is to make further technical improvements on products, processes or services that are not substantially set. This may include the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.

Experimental development does not include routine or periodic changes made to existing products, production lines, manufacturing processes, services and other operations in progress, even if those changes may represent improvements;

- (87) 'feasibility study' means the evaluation and analysis of the potential of a project, which aims at supporting the process of decision-making by objectively and rationally uncovering its strengths and weaknesses, opportunities and threats, as well as identifying the resources required to carry it through and ultimately its prospects for success;
- (88) 'personnel costs' means the costs of researchers, technicians and other supporting staff to the extent employed on the relevant project or activity;
- (89) 'arm's length' means that the conditions of the transaction between the contracting parties do not differ from those which would be stipulated between independent enterprises and contain no element of collusion. Any transaction that results from an open, transparent and non-discriminatory procedure is considered as meeting the arm's length principle;
- (90) 'effective collaboration' means collaboration between at least two independent parties to exchange knowledge or technology, or to achieve a common objective based on the division of labour where the parties jointly define the scope of the collaborative project, contribute to its implementation and share its risks, as well as its results. One or several parties may bear the full costs of the project and thus relieve other parties of its financial risks. Contract research and provision of research services are not considered forms of collaboration.
- (91) 'research infrastructure' means facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources) in accordance with Article 2(a) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium (ERIC) ⁽¹⁾;
- (92) 'innovation clusters' means structures or organised groups of independent parties (such as innovative start-ups, small, medium and large enterprises, as well as research and knowledge dissemination organisations, non-for-profit organisations and other related economic actors) designed to stimulate innovative activity through promotion, sharing of facilities and exchange of knowledge and expertise and by contributing effectively to knowledge transfer, networking, information dissemination and collaboration among the undertakings and other organisations in the cluster;
- (93) 'highly qualified personnel' means staff having a tertiary education degree and at least 5 years of relevant professional experience which may also include doctoral training;

⁽¹⁾ OJ L 206, 8.8.2009, p. 1.

- (94) 'innovation advisory services' means consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them;
- (95) 'innovation support services' means the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purpose of developing more effective products, processes or services;
- (96) 'organisational innovation' means the implementation of a new organisational method in an undertaking's business practices, workplace organisation or external relations, excluding changes that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;
- (97) 'process innovation' means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software), excluding minor changes or improvements, increases in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products;
- (98) 'secondment' means temporary employment of staff by a beneficiary with the right for the staff to return to the previous employer;

Definitions for aid for disadvantaged workers and for workers with disabilities

- (99) 'severely disadvantaged worker' means any person who:
- (a) has not been in regular paid employment for at least 24 months; or
 - (b) has not been in regular paid employment for at least 12 months and belongs to one of the categories (b) to (g) mentioned under the definition of 'disadvantaged worker'.
- (100) 'sheltered employment' means employment in an undertaking where at least 30 % of workers are workers with disabilities;

Definitions applying to aid for environmental protection

- (101) 'environmental protection' means any action designed to remedy or prevent damage to physical surroundings or natural resources by a beneficiary's own activities, to reduce risk of such damage or to lead to a more efficient use of natural resources, including energy-saving measures and the use of renewable sources of energy;
- (102) 'Union standard' means:
- (a) a mandatory Union standard setting the levels to be attained in environmental terms by individual undertakings; or
 - (b) the obligation under Directive 2010/75/EU of the European Parliament and of the Council ⁽¹⁾ to use the best available techniques (BAT) and ensure that emission levels of pollutants are not higher than they would be when applying BAT; for the cases where emission levels associated with the BAT have been defined in implementing acts adopted under Directive 2010/75/EU, those levels will be applicable for the purpose of this Regulation; where those levels are expressed as a range, the limit where the BAT is first achieved will be applicable;
- (103) 'energy efficiency' means an amount of saved energy determined by measuring and/or estimating consumption before and after implementation of an energy-efficiency improvement measure, whilst ensuring normalisation for external conditions that affect energy consumption;
- (104) 'energy efficiency project' means an investment project that increases the energy efficiency of a building;

⁽¹⁾ OJ L 24, 29.1.2008, p. 8.

- (105) 'energy efficiency fund (EEF)' means a specialised investment vehicle set up for the purpose of investing in energy efficiency projects aimed at improving the energy efficiency of buildings in both the domestic and non-domestic sectors. EEFs are managed by an energy efficiency fund manager;
- (106) 'energy efficiency fund manager' means a professional management company with a legal personality, selecting and making investments in eligible energy efficiency projects;
- (107) 'high-efficiency cogeneration' means cogeneration which satisfies the definition of high efficiency cogeneration as set out in Article 2(34) of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC ⁽¹⁾;
- (108) 'cogeneration' or combined heat and power (CHP) means the simultaneous generation in one process of thermal energy and electrical and/or mechanical energy;
- (109) 'energy from renewable energy sources' means energy produced by plants using only renewable energy sources, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources. It includes renewable electricity used for filling storage systems, but excludes electricity produced as a result of storage systems;
- (110) 'renewable energy sources' means the following renewable non-fossil energy sources: wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases;
- (111) 'biofuel' means liquid or gaseous fuel for transport produced from biomass;
- (112) 'sustainable biofuel' means a biofuel fulfilling the sustainability criteria set out in Article 17 of Directive 2009/28/EC;
- (113) 'food based biofuel' means a biofuel produced from cereal and other starch rich crops, sugars and oil crops as defined in the Commission's Proposal for a Directive of the European Parliament and of the Council amending Directive 98/70/EC relating to the quality of petrol and diesel fuels and amending Directive 2009/28/EC on the promotion of the use of energy from renewable sources ⁽²⁾;
- (114) 'new and innovative technology' means a new and unproven technology compared to the state of the art in the industry, which carries a risk of technological or industrial failure and is not an optimisation or scaling up of an existing technology;
- (115) 'balancing responsibilities' means responsibility for imbalances (deviations between generation, consumption and commercial transactions) of a market participant or its chosen representative, referred to as the 'Balance Responsible Party', within a given period of time, referred to as the 'Imbalance Settlement Period';
- (116) 'standard balancing responsibilities' means non-discriminatory balancing responsibilities across technologies which do not exempt any generator from those responsibilities;
- (117) 'biomass' means the biodegradable fraction of products, waste and residues from agriculture (including vegetal and animal substances), forestry and related industries including fisheries and aquaculture, as well as biogases and the biodegradable fraction of industrial and municipal waste;
- (118) 'total levelized costs of producing energy' is a calculation of the cost of generating electricity at the point of connection to a load or electricity grid. It includes the initial capital, discount rate, as well as the costs of continuous operation, fuel, and maintenance;
- (119) 'environmental tax' means a tax with a specific tax base that has a clear negative effect on the environment or which seeks to tax certain activities, goods or services so that the environmental costs may be included in their price and/or so that producers and consumers are oriented towards activities which better respect the environment;

⁽¹⁾ OJ L 315, 14.11.2012, p. 1.

⁽²⁾ COM (2012) 595, 17.10.2012.

- (120) 'Union minimum tax level' means the minimum level of taxation provided for in the Union legislation; for energy products and electricity it means the minimum level of taxation laid down in Annex I to Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽¹⁾;
- (121) 'contaminated site' means a site where there is a confirmed presence, caused by man, of hazardous substances of such a level that they pose a significant risk to human health or the environment taking into account current and approved future use of the land;
- (122) 'polluter pays principle' or 'PPP' means that the costs of measures to deal with pollution should be borne by the polluter who causes the pollution;
- (123) 'pollution' means the damage caused by a polluter directly or indirectly damaging the environment, or by creating conditions leading to such damage to physical surroundings or natural resources;
- (124) 'energy efficient district heating and cooling' means a district heating and cooling system which satisfies the definition of efficient district heating and cooling system set out in Article 2(41) and (42) of Directive 2012/27/EU. The definition includes the heating/cooling production plants and the network (including related facilities) necessary to distribute the heat/cooling from the production units to the customer premises;
- (125) 'polluter' means someone who directly or indirectly damages the environment or who creates conditions leading to such damage.
- (126) 're-use' means any operation by which products or components that are not waste are used again for the same purpose for which they were conceived;
- (127) 'preparing for re-use' means checking, cleaning or repairing recovery operations, by which products or components of products that have become waste are prepared so that they can be re-used without any other pre-processing;
- (128) 'recycling' means any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations;
- (129) 'state of the art' means a process in which the re-use of a waste product to manufacture an end product is economically profitable normal practice. Where appropriate, the concept of state of the art must be interpreted from a Union technological and internal market perspective;
- (130) 'energy infrastructure' means any physical equipment or facility which is located within the Union or linking the Union to one or more third countries and falling under the following categories:
- (a) concerning electricity:
- (i) infrastructure for transmission, as defined in Article 2(3) by Directive 2009/72/EC of 13 July 2009 concerning common rules for internal market in electricity ⁽²⁾;
- (ii) infrastructure for distribution, as defined in Article 2(5) by Directive 2009/72/EC;
- (iii) electricity storage, defined as facilities used for storing electricity on a permanent or temporary basis in above-ground or underground infrastructure or geological sites, provided they are directly connected to high-voltage transmission lines designed for a voltage of 110 kV or more;
- (iv) any equipment or installation essential for the systems defined in points (i) to (iii) to operate safely, securely and efficiently, including protection, monitoring and control systems at all voltage levels and substations; and

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

⁽²⁾ OJ L 211, 14.8.2009, p. 55.

- (v) smart grids, defined as any equipment, line, cable or installation, both at transmission and low and medium voltage distribution level, aiming at two-way digital communication, real-time or close to real-time, interactive and intelligent monitoring and management of electricity generation, transmission, distribution and consumption within an electricity network in view of developing a network efficiently integrating the behaviour and actions of all users connected to it — generators, consumers and those that do both — in order to ensure an economically efficient, sustainable electricity system with low losses and high quality and security of supply and safety;
 - (b) concerning gas:
 - (i) transmission and distribution pipelines for the transport of natural gas and bio gas that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas;
 - (ii) underground storage facilities connected to the high-pressure gas pipelines mentioned in point (i);
 - (iii) reception, storage and regasification or decompression facilities for liquefied natural gas ('LNG') or compressed natural gas ('CNG'); and
 - (iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations;
 - (c) concerning oil:
 - (i) pipelines used to transport crude oil;
 - (ii) pumping stations and storage facilities necessary for the operation of crude oil pipelines; and
 - (iii) any equipment or installation essential for the system in question to operate properly, securely and efficiently, including protection, monitoring and control systems and reverse-flow devices;
 - (d) concerning CO₂: networks of pipelines, including associated booster stations, for the transport of CO₂ to storage sites, with the aim to inject the CO₂ in suitable underground geological formations for permanent storage;
- (131) 'internal energy market legislation' includes Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity, Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas ⁽¹⁾, Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators ⁽²⁾; Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges ⁽³⁾ and Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks ⁽⁴⁾ or any subsequent legislation replacing these acts in full or in part;

Definitions applying to social aid for transport for residents of remote regions

- (132) 'normal residence' means the place where a natural person lives for at least 185 days, in each calendar year, because of personal and occupational ties; in the case of a person whose occupational ties are in a different place from his/her personal ties and who lives in two or more Member States, the place of normal residence is regarded as the place of his/her personal ties provided that he/she returns there regularly; where a person is living in a Member State in order to carry out a task of a set duration, the place of residence is still regarded as being the place of his/her personal ties, irrespective of whether he/she returns there during the course of this activity; attendance at a university or school in another Member State does not constitute a transfer of normal residence; alternatively, 'normal residence' shall have the meaning attributed to it in Member States' national law.

Definitions for aid for broadband infrastructures

- (133) 'basic broadband' 'Basic broadband networks' means networks with basic functionalities which are based on technology platforms such as asymmetric digital subscriber lines (up to ADSL2+ networks), non-enhanced cable (e.g. DOCSIS 2.0), mobile networks of third generation (UMTS) and satellite systems;

⁽¹⁾ OJ L 211, 14.8.2009, p. 94.

⁽²⁾ OJ L 211, 14.8.2009, p. 1.

⁽³⁾ OJ L 211, 14.8.2009, p. 15.

⁽⁴⁾ OJ L 211, 14.8.2009, p. 36.

- (134) 'broadband-related civil engineering works' means the civil engineering works which are necessary for the deployment of a broadband network, such as digging up a road in order to enable the placement of (broadband) ducts.
- (135) 'ducts' means underground pipes or conduits used to house (fibre, copper or coax) cables of a broadband network.
- (136) 'physical unbundling' grants access to the end-consumer access line and allows competitors' own transmission systems to directly transmit over it.
- (137) 'passive broadband infrastructure' means a broadband network without any active component. It typically comprises civil engineering infrastructure, ducts and dark fibre and street cabinets.
- (138) 'next generation access (NGA) networks' means advanced networks which have at least the following characteristics: (a) deliver services reliably at a very high speed per subscriber through optical (or equivalent technology) backhaul sufficiently close to user premises to guarantee the actual delivery of the very high speed; (b) support a variety of advanced digital services including converged all-IP services, and (c) have substantially higher upload speeds (compared to basic broadband networks). At the current stage of market and technological development, NGA networks are: (a) fibre-based access networks (FTTx), (b) advanced upgraded cable networks and (c) certain advanced wireless access networks capable of delivering reliable high-speeds per subscriber.
- (139) 'wholesale access' means access which enables an operator to utilise the facilities of another operator. The widest possible access to be provided over the relevant network shall include, on the basis of the current technological developments, at least the following access products. For FTTH/FTTB networks: ducts access, access to dark fibre, unbundled access to the local loop, and bitstream access. For cable networks: duct access and bit-stream access. For FTTC networks: duct access, sub-loop unbundling and bit-stream access. For passive network infrastructure: duct access, access to dark fibre and/or unbundled access to the local loop. For ADSL-based broadband networks: unbundled access to the local loop, bit-stream access. For mobile or wireless networks: bit-stream, sharing of physical masts and access to the backhaul networks. For satellite platforms: bit-stream access.

Definitions for aid for culture and heritage conservation

- (140) 'difficult audiovisual works': means the works identified as such by Member States on the basis of pre-defined criteria when setting up schemes or granting the aid and may include films whose sole original version is in a language of a Member State with a limited territory, population or language area, short films, films by first-time and second-time directors, documentaries, or low budget or otherwise commercially difficult works.
- (141) Development Assistance Committee (DAC) List of the OECD: means all countries and territories that are eligible to receive official development assistance and included in the list compiled by the Organisation for Economic Co-operation and Development (OECD);
- (142) 'reasonable profit' shall be determined with respect to the typical profit for the sector concerned. In any event, a rate of return on capital that does not exceed the relevant swap rate plus a premium of 100 basis points will be considered to be reasonable.

Definitions for aid for sport and multifunctional recreational infrastructures

- (143) 'professional sport' means the practice of sport in the nature of gainful employment or remunerated service, irrespective of whether or not a formal labour contract has been established between the professional sportsperson and the relevant sport organisation, where the compensation exceeds the cost of participation and constitutes a significant part of the income for the sportsperson. Travel and accommodation expenses to participate to the sport event shall not be considered as compensation for the purposes of this Regulation.

Article 3

Conditions for exemption

Aid schemes, individual aid granted under aid schemes and ad hoc aid shall be compatible with the internal market within the meaning of Article 107(2) or (3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that such aid fulfils all the conditions laid down in Chapter I of this Regulation, as well as the specific conditions for the relevant category of aid laid down in Chapter III of this Regulation.

Article 4

Notification thresholds

1. This Regulation shall not apply to aid which exceeds the following thresholds:
 - (a) for regional investment aid: the 'adjusted aid amount' of aid, as calculated in accordance with the mechanism defined in Article 2, point 20 for an investment with eligible costs of EUR 100 million;
 - (b) for regional urban development aid, EUR 20 million as laid down in Article 16(3);
 - (c) for investment aid to SMEs: EUR 7,5 million per undertaking per investment project;
 - (d) for aid for consultancy in favour of SMEs: EUR 2 million per undertaking, per project;
 - (e) for aid to SMEs for participation in fairs: EUR 2 million per undertaking, per year;
 - (f) for aid to SMEs for cooperation costs incurred by participating in European Territorial Cooperation projects: EUR 2 million per undertaking, per project;
 - (g) for risk finance aid: EUR 15 million per eligible undertaking as laid down in Article 21(9);
 - (h) for aid for start-ups: the amounts laid down per undertaking in Article 22(3), (4) and (5);
 - (i) for aid for research and development:
 - (i) if the project is predominantly fundamental research: EUR 40 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of fundamental research;
 - (ii) if the project is predominantly industrial research: EUR 20 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of industrial research or within the categories of industrial research and fundamental research taken together;
 - (iii) if the project is predominantly experimental development: EUR 15 million per undertaking, per project; that is the case where more than half of the eligible costs of the project are incurred through activities which fall within the category of experimental development;
 - (iv) if the project is a Eureka project or is implemented by a Joint Undertaking established on the basis of Article 185 or of Article 187 of the Treaty, the amounts referred to in points (i) to (iii) are doubled.
 - (v) if the aid for research and development projects is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the time of grant, the amounts referred to in points (i) to (iv) are increased by 50 %;
 - (vi) aid for feasibility studies in preparation for research activities: EUR 7,5 million per study;
 - (j) for investment aid for research infrastructures: EUR 20 million per infrastructure;
 - (k) for aid for innovation clusters: EUR 7,5 million per cluster;
 - (l) innovation aid for SMEs: EUR 5 million per undertaking, per project;
 - (m) for aid for process and organisational innovation: EUR 7,5 million per undertaking, per project;
 - (n) for training aid: EUR 2 million per training project;
 - (o) for aid for the recruitment of disadvantaged workers: EUR 5 million per undertaking, per year;
 - (p) for aid for the employment of workers with disabilities in the form of wage subsidies: EUR 10 million per undertaking, per year;
 - (q) for aid for compensating the additional costs of employing workers with disabilities: EUR 10 million per undertaking, per year;

- (r) for aid for compensating the costs of assistance provided to disadvantaged workers: EUR 5 million per undertaking, per year;
 - (s) for investment aid for environmental protection, excluding investment aid for the remediation of contaminated sites and aid for the distribution network part of the energy efficient district heating and cooling installation: EUR 15 million per undertaking per investment project;
 - (t) for investment aid for energy efficiency projects: EUR 10 million as laid down in Article 39(5);
 - (u) for investment aid for remediation of contaminated sites: EUR 20 million per undertaking per investment project;
 - (v) for operating aid for the production of electricity from renewable sources and operating aid for the promotion of energy from renewable sources in small scale installations: EUR 15 million per undertaking per project. When the aid is granted on the basis of a competitive bidding process under Article 42: EUR 150 million per year taking into account the combined budget of all schemes falling under Article 42;
 - (w) for investment aid for the district heating or cooling distribution network: EUR 20 million per undertaking per investment project;
 - (x) for investment aid for energy infrastructure: EUR 50 million per undertaking, per investment project;
 - (y) for aid for broadband infrastructures: EUR 70 million total costs per project;
 - (z) for investment aid for culture and heritage conservation: EUR 100 million per project; operating aid for culture and heritage conservation: EUR 50 million per undertaking per year;
 - (aa) for aid schemes for audiovisual works: EUR 50 million per scheme per year;
 - (bb) for investment aid for sports and multifunctional infrastructures: EUR 15 million or the total costs exceeding EUR 50 million per project; operating aid for sport infrastructure: EUR 2 million per infrastructure per year; and
 - (cc) for investment aid for local infrastructures: EUR 10 million or the total costs exceeding EUR 20 million for the same infrastructure.
2. The thresholds set out or referred to in paragraph 1 shall not be circumvented by artificially splitting up the aid schemes or aid projects.

Article 5

Transparency of aid

1. This Regulation shall apply only to aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment ('transparent aid').
2. The following categories of aid shall be considered to be transparent:
 - (a) aid comprised in grants and interest rate subsidies;
 - (b) aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant;
 - (c) aid comprised in guarantees:
 - (i) where the gross grant equivalent has been calculated on the basis of safe-harbour premiums laid down in a Commission notice; or
 - (ii) where before the implementation of the measure, the methodology to calculate the gross grant equivalent of the guarantee has been accepted on the basis of the Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees (⁽¹⁾), or any successor notice, following notification of that methodology to the Commission under any regulation adopted by the Commission in the State aid area applicable at the time, and the approved methodology explicitly addresses the type of guarantee and the type of underlying transaction at stake in the context of the application of this Regulation;
 - (d) aid in the form of tax advantages, where the measure provides for a cap ensuring that the applicable threshold is not exceeded;

(¹) OJ C 155, 20.6.2008, p. 10.

- (e) aid for regional urban development if the conditions laid down in Article 16 are fulfilled;
- (f) aid comprised in risk finance measures if the conditions laid down in Article 21 are fulfilled;
- (g) aid for start-ups if the conditions laid down in Article 22 are fulfilled;
- (h) aid for energy efficiency projects if the conditions laid down in Article 39 are fulfilled;
- (i) aid in the form of premiums in addition to the market price if the conditions laid down in Article 42 are fulfilled;
- (j) aid in the form of repayable advances, if the total nominal amount of the repayable advance does not exceed the thresholds applicable under this Regulation or if, before implementation of the measure, the methodology to calculate the gross grant equivalent of the repayable advance has been accepted following its notification to the Commission.

Article 6

Incentive effect

1. This Regulation shall apply only to aid which has an incentive effect.
2. Aid shall be considered to have an incentive effect if the beneficiary has submitted a written application for the aid to the Member State concerned before work on the project or activity starts. The application for the aid shall contain at least the following information:
 - (a) undertaking's name and size;
 - (b) description of the project, including its start and end dates;
 - (c) location of the project;
 - (d) list of project costs;
 - (e) type of aid (grant, loan, guarantee, repayable advance, equity injection or other) and amount of public funding needed for the project;
3. Ad hoc aid granted to large enterprises shall be considered to have an incentive effect if, in addition to ensuring that the condition laid down in paragraph 2 is fulfilled, the Member State has verified, before granting the aid concerned, that documentation prepared by the beneficiary establishes that the aid will result in one or more of the following:
 - (a) in the case of regional investment aid: that a project is carried out, which would not have been carried out in the area concerned or would not have been sufficiently profitable for the beneficiary in the area concerned in the absence of the aid.
 - (b) in all other cases, that there is:
 - a material increase in the scope of the project/activity due to the aid, or
 - a material increase in the total amount spent by the beneficiary on the project/activity due to the aid, or
 - a material increase in the speed of completion of the project/activity concerned;
4. By way of derogation from paragraphs 2 and 3, measures in the form of tax advantages shall be deemed to have an incentive effect if the following conditions are fulfilled:
 - (a) the measure establishes a right to aid in accordance with objective criteria and without further exercise of discretion by the Member State; and
 - (b) the measure has been adopted and is in force before work on the aided project or activity has started, except in the case of fiscal successor schemes, where the activity was already covered by the previous schemes in the form of tax advantages.
5. By way of derogation from paragraphs 2, 3 and 4, the following categories of aid are not required to have or shall be deemed to have an incentive effect:
 - (a) regional operating aid, if the conditions laid down in Article 15 are fulfilled,
 - (b) aid for access to finance for SMEs, if the relevant conditions laid down in Articles 21 and 22 are fulfilled,

- (c) aid for the recruitment of disadvantaged workers in the form of wage subsidies and aid for the employment of workers with disabilities in the form of wage subsidies, if the relevant conditions laid down in Articles 32 and 33 respectively are fulfilled;
- (d) aid compensating for the additional costs of employing workers with disabilities, if the conditions laid down in Article 34 are fulfilled;
- (e) aid in the form of reductions in environmental taxes under Directive 2003/96/EC, if the conditions laid down in Article 44 of this Regulation are fulfilled;
- (f) aid to make good the damage caused by certain natural disasters, if the conditions laid down in Article 50 are fulfilled;
- (g) social aid for transport for residents of remote regions, if the conditions laid down in Article 51 are fulfilled;
- (h) aid for culture and heritage conservation, if the conditions laid down in Article 53 are fulfilled.

Article 7

Aid intensity and eligible costs

1. For the purposes of calculating aid intensity and eligible costs, all figures used shall be taken before any deduction of tax or other charge. The eligible costs shall be supported by documentary evidence which shall be clear, specific and contemporary.
2. Where aid is granted in a form other than a grant, the aid amount shall be the gross grant equivalent of the aid.
3. Aid payable in several instalments shall be discounted to its value at the moment it is granted. The eligible costs shall be discounted to their value at the moment the aid is granted. The interest rate to be used for discounting purposes shall be the discount rate applicable at the moment the aid is granted.
4. Where aid is granted by means of tax advantages, discounting of aid tranches shall take place on the basis of the discount rates applicable at the various times the tax advantage takes effect.
5. Where aid is granted in the form of repayable advances which, in the absence of an accepted methodology to calculate their gross grant equivalent, are expressed as a percentage of the eligible costs and the measure provides that in case of a successful outcome of the project, as defined on the basis of a reasonable and prudent hypothesis, the advances will be repaid with an interest rate at least equal to the discount rate applicable at the moment the aid is granted, the maximum aid intensities laid down in Chapter III may be increased by 10 percentage points.
6. Where regional aid is granted in the form of repayable advances, the maximum aid intensities established in a regional aid map in force at the moment the aid is granted may not be increased.

Article 8

Cumulation

1. In determining whether the notification thresholds in Article 4 and the maximum aid intensities in Chapter III are respected, the total amount of State aid for the aided activity or project or undertaking shall be taken into account.
2. Where Union funding centrally managed by the institutions, agencies, joint undertakings or other bodies of the Union that is not directly or indirectly under the control of the Member State is combined with State aid, only the latter shall be considered for determining whether notification thresholds and maximum aid intensities or maximum aid amounts are respected, provided that the total amount of public funding granted in relation to the same eligible costs does not exceed the most favourable funding rate laid down in the applicable rules of Union law.
3. Aid with identifiable eligible costs exempted by this Regulation may be cumulated with:
 - (a) any other State aid, as long as those measures concern different identifiable eligible costs,

(b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.

4. Aid without identifiable eligible costs exempted under Articles 21, 22 and 23 of this Regulation may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission.

5. State aid exempted under this Regulation shall not be cumulated with any de minimis aid in respect of the same eligible costs if such cumulation would result in an aid intensity exceeding those laid down in Chapter III of this Regulation.

6. By way of derogation from paragraph 3(b), aid in favour of workers with disabilities, as provided for in Articles 33 and 34 may be cumulated with other aid exempted under this Regulation in relation to the same eligible costs above the highest applicable threshold under this Regulation, provided that such cumulation does not result in an aid intensity exceeding 100 % of the relevant costs over any period for which the workers concerned are employed.

Article 9

Publication and information

1. The Member State concerned shall ensure the publication on a comprehensive State aid website, at national or regional level of:

- (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
- (b) the full text of each aid measure, as referred to in Article 11 or a link providing access to the full text;
- (c) the information referred to in Annex III on each individual aid award exceeding EUR 500 000.

As regards aid granted to European Territorial Cooperation projects, the information referred to in this paragraph shall be placed on the website of the Member State in which the Managing Authority concerned, as defined in Article 21 of Regulation (EC) No 1299/2013 of the European Parliament and of the Council, is located. Alternatively, the participating Member States may also decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites.

2. For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 ⁽¹⁾ the conditions set out in paragraph 1(c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

0,5-1;

1-2;

2-5;

5-10;

10-30; and

30 and more.

3. For schemes under Article 51 of this Regulation, the publication obligations laid down in this article shall not apply to final consumers.

4. The information referred to in paragraph 1(c) of this Article shall be organised and accessible in a standardised manner, as described in Annex III, and shall allow for effective search and download functions. The information referred to in paragraph 1 shall be published within 6 months from the date the aid was granted, or for aid in the form of tax advantage, within 1 year from the date the tax declaration is due, and shall be available for at least 10 years from the date on which the aid was granted.

⁽¹⁾ For schemes under Article 16 and 21 of the present Regulation, the requirement to publish information on each individual award exceeding EUR 500 000 can be waived with respect to SMEs which have not carried out any commercial sale in any market.

5. The Commission shall publish on its website:

- (a) the links to the State aid websites referred to in paragraph 1 of this Article;
- (b) the summary information referred to in Article 11.

6. Member States shall comply with the provisions of this Article at the latest within two years after the entry into force of this Regulation.

CHAPTER II

MONITORING

Article 10

Withdrawal of the benefit of the block exemption

Where a Member State grants aid allegedly exempted from the notification requirement under this Regulation without fulfilling the conditions set out in Chapters I to III, the Commission may, after having provided the Member State concerned with the possibility to make its views known, adopt a decision stating that all or some of the future aid measures adopted by the Member State concerned which would otherwise fulfil the requirements of this Regulation, are to be notified to the Commission in accordance with Article 108(3) of the Treaty. The measures to be notified may be limited to the measures granting certain types of aid or in favour of certain beneficiaries or aid measures adopted by certain authorities of the Member State concerned.

Article 11

Reporting

Member States, or in the case of aid granted to European Territorial Cooperation projects, alternatively the Member State in which the Managing Authority, as defined in Article 21 of Regulation (EC) No 1299/2013 of the European Parliament and of the Council, is located, shall transmit to the Commission:

- (a) via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force;
- (b) an annual report, as referred to in the Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽¹⁾ as amended, in electronic form, on the application of this Regulation, containing the information indicated in the Implementing Regulation, in respect of each whole year or each part of the year during which this Regulation applies.

Article 12

Monitoring

In order to enable the Commission to monitor the aid exempted from notification by this Regulation, Member States, or alternatively, in the case of aid granted to European Territorial Cooperation projects, the Member State in which the Managing Authority is located, shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the ad hoc aid was granted or the last aid was granted under the scheme. The Member State concerned shall provide the Commission within a period of 20 working days or such longer period as may be fixed in the request, with all the information and supporting documentation which the Commission considers necessary to monitor the application of this Regulation.

⁽¹⁾ OJ L 140, 30.4.2004, p. 1.

CHAPTER III

SPECIFIC PROVISIONS FOR DIFFERENT CATEGORIES OF AID

SECTION 1

Regional aid

Subsection A

Regional investment and operating aid

Article 13

Scope of regional aid

This Section shall not apply to:

- (a) aid which favours activities in the steel sector, the coal sector, the shipbuilding sector, the synthetic fibres sector, the transport sector as well as the related infrastructure, energy generation, distribution and infrastructure;
- (b) regional aid in the form of schemes which are targeted at a limited number of specific sectors of economic activity; schemes aimed at tourism activities, broadband infrastructures or processing and marketing of agricultural products are not considered to be targeted at specific sectors of economic activity;
- (c) regional aid in the form of schemes which compensate the transport costs of goods produced in the outermost regions or in sparsely populated areas and granted in favour of:
 - (i) activities in the production, processing and marketing of products listed in Annex I to the Treaty; or
 - (ii) activities classified in Regulation (EC) No 1893/2006 of the European Parliament and of the Council of 20 December 2006 establishing statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No 3037/90 as well as certain EC Regulations on specific statistical domains ⁽¹⁾ as agriculture, forestry and fishing under section A of the NACE Rev. 2 statistical classification of economic activities, mining and quarrying under section B of the NACE Rev. 2 and electricity, gas, steam and air conditioning supply under section D of the NACE Rev. 2; or
 - (iii) transport of goods by pipeline;
- (d) individual regional investment aid to a beneficiary that has closed down the same or a similar activity in the European Economic Area in the two years preceding its application for regional investment aid or which, at the time of the aid application, has concrete plans to close down such an activity within a period of up to two years after the initial investment for which aid is requested is completed in the area concerned;
- (e) regional operating aid granted to undertakings whose principal activities fall under Section K 'Financial and insurance activities' of the NACE Rev. 2 or to undertakings that perform intra-group activities whose principal activities fall under classes 70.10 'Activities of head offices' or 70.22 'Business and other management consultancy activities' of NACE Rev. 2.

Article 14

Regional investment aid

1. Regional investment aid measures shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The aid shall be granted in assisted areas.

⁽¹⁾ OJ L 393, 30.12.2006, p. 1.

3. In assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty, the aid may be granted for an initial investment regardless of the size of the beneficiary. In assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty, the aid may be granted to SMEs for any form of initial investment. Aid to large enterprises shall only be granted for an initial investment in favour of new economic activity in the area concerned.

4. The eligible costs shall be as follows:

- (a) investment costs in tangible and intangible assets;
- (b) the estimated wage costs arising from job creation as a result of an initial investment, calculated over a period of two years; or
- (c) a combination of points (a) and (b) not exceeding the amount of (a) or (b), whichever is higher.

5. The investment shall be maintained in the recipient area for at least five years, or at least three years in the case of SMEs, after completion of the investment. This shall not prevent the replacement of plant or equipment that has become outdated or broken within this period, provided that the economic activity is retained in the area concerned for the relevant minimum period.

6. The assets acquired shall be new except for SMEs and for the acquisition of an establishment. Costs related to the lease of tangible assets may be taken into account under the following conditions:

- (a) for land and buildings, the lease must continue for at least five years after the expected date of completion of the investment project for large undertakings or three years in the case of SMEs;
- (b) for plant or machinery, the lease must take the form of financial leasing and must contain an obligation for the beneficiary of the aid to purchase the asset upon expiry of the term of the lease.

In the case of acquisition of the assets of an establishment within the meaning of Article 2 point 49, only the costs of buying the assets from third parties unrelated to the buyer shall be taken into consideration. The transaction shall take place under market conditions. If aid has already been granted for the acquisition of assets prior to their purchase, the costs of those assets shall be deducted from the eligible costs related to the acquisition of an establishment. Where a member of the family of the original owner, or an employee, takes over a small enterprise, the condition that the assets be bought from third parties unrelated to the buyer shall be waived. The acquisition of shares does not constitute initial investment.

7. For aid granted for a fundamental change in the production process, the eligible costs must exceed the depreciation of the assets linked to the activity to be modernised in the course of the preceding three fiscal years. For aid granted for a diversification of an existing establishment, the eligible costs must exceed by at least 200 % the book value of the assets that are reused, as registered in the fiscal year preceding the start of works.

8. Intangible assets are eligible for the calculation of investment costs if they fulfil the following conditions:

- (a) they must be used exclusively in the establishment receiving the aid;
- (b) they must be amortisable;
- (c) they must be purchased under market conditions from third parties unrelated to the buyer; and
- (d) they must be included in the assets of the undertaking receiving the aid and must remain associated with the project for which the aid is granted for at least five years or three years in the case of SMEs.

For large undertakings, costs of intangible assets are eligible only up to a limit of 50 % of the total eligible investment costs for the initial investment.

9. Where eligible costs are calculated by reference to the estimated wage costs as referred to in paragraph 4(b), the following conditions shall be fulfilled:

- (a) the investment project shall lead to a net increase in the number of employees in the establishment concerned, compared with the average over the previous 12 months, meaning that any job lost shall be deducted from the apparent created number of jobs during that period;
- (b) each post shall be filled within three years of completion of works; and
- (c) each job created through the investment shall be maintained in the area concerned for a period of at least five years from the date the post was first filled, or three years in the case of SMEs.

10. Regional aid for broadband network development shall fulfil the following conditions:

- (a) aid shall be granted only in areas where there is no network of the same category (either basic broadband or NGA) and where no such network is likely to be developed on commercial terms within three years from the decision to grant the aid; and
- (b) the subsidised network operator must offer active and passive wholesale access under fair and non-discriminatory conditions including physical unbundling in the case of NGA networks; and
- (c) aid shall be allocated on the basis of a competitive selection process.

11. Regional aid for research infrastructures shall be granted only if the aid is made conditional on giving transparent and non-discriminatory access to the aided infrastructure.

12. The aid intensity in gross grant equivalent shall not exceed the maximum aid intensity established in the regional aid map which is in force at the time the aid is granted in the area concerned. Where the aid intensity is calculated on the basis of paragraph 4(c), the maximum aid intensity shall not exceed the most favourable amount resulting from the application of that intensity on the basis of investment costs or wage costs. For large investment projects the aid amount shall not exceed the adjusted aid amount calculated in accordance with the mechanism defined in Article 2, point 20;

13. Any initial investment started by the same beneficiary (at group level) within a period of three years from the date of start of works on another aided investment in the same level 3 region of the Nomenclature of Territorial Units for Statistics shall be considered to be part of a single investment project. Where such single investment project is a large investment project, the total aid amount for the single investment project shall not exceed the adjusted aid amount for large investment projects.

14. The aid beneficiary must provide a financial contribution of at least 25 % of the eligible costs, either through its own resources or by external financing, in a form, which is free of any public support. In the outermost regions an investment made by an SME may receive an aid with a maximum aid intensity above 75 %, in such situations the remainder shall be provided by way of a financial contribution from the aid beneficiary.

15. For an initial investment linked to European territorial cooperation projects covered by Regulation (EU) No 1299/2013, the aid intensity of the area in which the initial investment is located shall apply to all beneficiaries participating in the project. If the initial investment is located in two or more assisted areas, the maximum aid intensity shall be the one applicable in the assisted area where the highest amount of eligible costs is incurred. In assisted areas eligible for aid under Article 107(3)(c) of the Treaty, this provision shall apply to large undertakings only if the initial investment concerns a new economic activity.

Article 15

Regional operating aid

1. Regional operating aid schemes in outermost regions and sparsely populated areas as designated by the Member States within their regional aid map approved by the Commission in accordance with paragraph 161 of the Guidelines on regional State aid for 2014-2020⁽¹⁾ shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The regional operating aid schemes shall compensate for:

- (a) the additional transport costs of goods which have been produced in areas eligible for operating aid, as well as additional transport costs of goods that are further processed in these areas, under the following conditions:
 - (i) the beneficiaries have their production activity in those areas;
 - (ii) the aid is objectively quantifiable in advance on the basis of a fixed sum or per tonne/kilometre ratio or any other relevant unit;
 - (iii) these additional transport costs are calculated on the basis of the journey of the goods inside the national border of the Member State concerned using the means of transport which results in the lowest costs for the beneficiary. Only for outermost regions, additional transport costs of goods that are further processed in these areas may include the costs of transporting goods from any place of their production to these areas.

⁽¹⁾ OJ C 209, 23.7.2013, p. 1.

- (b) the additional operating costs other than transport costs, incurred in outermost regions as a direct effect of one or several of the permanent handicaps referred to in Article 349 of the Treaty, under the following conditions:
- (i) the beneficiaries have their economic activity in an outermost region;
 - (ii) the annual aid amount per beneficiary under all operating aid schemes does not exceed:
 - 15 % of the gross value added annually created by the beneficiary in the outermost region concerned; or
 - 25 % of the annual labour costs incurred by the beneficiary in the outermost region concerned; or
 - 10 % of the annual turnover of the beneficiary realised in the outermost region concerned.
3. The aid intensity shall not exceed 100 % of the eligible additional costs as determined in this Article.

Subsection B

Urban development aid

Article 16

Regional urban development aid

1. Regional urban development aid shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Urban development projects shall fulfil the following criteria:
 - (a) they are implemented via urban development funds in assisted areas;
 - (b) they are co-financed by the European Structural and Investment Funds;
 - (c) they support the implementation of an 'integrated sustainable urban development strategy';
3. The total investment in an urban development project under any urban development aid measure shall not exceed EUR 20 million.
4. The eligible costs shall be the overall costs of the urban development project to the extent that they comply with Articles 65 and 37 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽¹⁾.
5. Aid granted by an urban development fund to the eligible urban development projects may take the form of equity, quasi-equity, loans, guarantees, or a mix thereof.
6. The urban development aid shall leverage additional investment from private investors at the level of the urban development funds or the urban development projects, so as to achieve an aggregate amount reaching minimum 30 % of the total financing provided to an urban development project.
7. Private and public investors may provide cash or an in-kind contribution or a combination of those for the implementation of an urban development project. An in-kind contribution shall be taken into account at its market value, as certified by an independent qualified expert or duly authorised official body.
8. The urban development measures shall fulfil the following conditions:
 - (a) urban development fund managers shall be selected through an open, transparent and non-discriminatory call in accordance with the applicable Union and national laws. In particular, there shall be no discrimination between urban development fund managers on the basis of their place of establishment or incorporation in any Member State. Urban development fund managers may be required to fulfil predefined criteria objectively justified by the nature of the investments;

⁽¹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

- (b) the independent private investors shall be selected through an open, transparent and non-discriminatory call in accordance with applicable Union and national laws aimed at establishing the appropriate risk-reward sharing arrangements whereby, for investments other than guarantees, asymmetric profit-sharing shall be given preference over downside protection. If the private investors are not selected by such a call, the fair rate of return to the private investors shall be established by an independent expert selected via an open, transparent and non-discriminatory call;
 - (c) in the case of asymmetric loss-sharing between public and private investors, the first loss assumed by the public investor shall be capped at 25 % of the total investment;
 - (d) in the case of guarantees to private investors in urban development projects, the guarantee rate shall be limited to 80 % and total losses assumed by a Member State shall be capped at 25 % of the underlying guaranteed portfolio;
 - (e) the investors shall be allowed to be represented in the governance bodies of the urban development fund, such as the supervisory board or the advisory committee;
 - (f) the urban development fund shall be established according to the applicable laws. The Member State shall provide for a due diligence process in order to ensure a commercially sound investment strategy for the purpose of implementing the urban development aid measure.
9. Urban development funds shall be managed on a commercial basis and shall ensure profit-driven financing decisions. This is considered to be the case when the managers of the urban development fund fulfill the following conditions:
- (a) the managers of urban development funds shall be obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;
 - (b) the remuneration of the managers of urban development funds shall conform to market practices. This requirement is considered to be met where a manager is selected through an open, transparent and non-discriminatory call, based on objective criteria linked to experience, expertise and operational and financial capacity;
 - (c) the managers of urban development funds shall receive a remuneration linked to performance, or shall share part of the investment risks by co-investing own resources so as to ensure that their interests are permanently aligned with the interests of the public investors;
 - (d) the managers of urban development funds shall set out an investment strategy, criteria and the proposed timing of investments in urban development projects, establishing the *ex ante* financial viability and their expected impact on urban development;
 - (e) a clear and realistic exit strategy shall exist for each equity and quasi-equity investment.
10. Where an urban development fund provides loans or guarantees to urban development projects, the following conditions shall be fulfilled:
- (a) in the case of loans, the nominal amount of the loan is taken into account in calculating the maximum investment amount for the purposes of paragraph 3 of this Article;
 - (b) in the case of guarantees, the nominal amount of the underlying loan is taken into account in calculating the maximum investment amount for the purposes of paragraph 3 of this Article.
11. The Member State may assign the implementation of the urban development aid measure to an entrusted entity.

SECTION 2

Aid to SMEs

Article 17

Investment aid to SMEs

1. Investment aid to SMEs operating inside or outside the territory of the Union shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be either or both of the following:
 - (a) the costs of investment in tangible and intangible assets;
 - (b) the estimated wage costs of employment directly created by the investment project, calculated over a period of two years.
3. In order to be considered an eligible cost for the purposes of this Article, an investment shall consist of the following:
 - (a) an investment in tangible and/or intangible assets relating to the setting-up of a new establishment, the extension of an existing establishment, diversification of the output of an establishment into new additional products or a fundamental change in the overall production process of an existing establishment; or
 - (b) the acquisition of the assets belonging to an establishment, where the following conditions are fulfilled:
 - the establishment has closed or would have closed had it not been purchased;
 - the assets are purchased from third parties unrelated to the buyer;
 - the transaction takes place under market conditions.

Where a member of the family of the original owner, or an employee, takes over a small enterprise, the condition that the assets shall be bought from third parties unrelated to the buyer shall be waived. The sole acquisition of the shares of an undertaking shall not constitute investment.

4. Intangible assets shall fulfil all of the following conditions:
 - (a) they shall be used exclusively in the establishment receiving the aid;
 - (b) they shall be regarded as amortizable assets;
 - (c) they shall be purchased under market conditions from third parties unrelated to the buyer;
 - (d) they shall be included in the assets of the undertaking for at least three years;
5. Employment directly created by an investment project shall fulfil the following conditions:
 - (a) it shall be created within three years of completion of the investment;
 - (b) there shall be a net increase in the number of employees in the establishment concerned, compared with the average over the previous 12 months;
 - (c) it shall be maintained during a minimum period of three years from the date the post was first filled.
6. The aid intensity shall not exceed:
 - (a) 20 % of the eligible costs in the case of small enterprises;
 - (b) 10 % of the eligible costs in the case of medium-sized enterprises.

Article 18

Aid for consultancy in favour of SMEs

1. Aid for consultancy in favour of SMEs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The aid intensity shall not exceed 50 % of the eligible costs.
3. The eligible costs shall be the costs of consultancy services provided by external consultants.
4. The services concerned shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services or advertising.

*Article 19***Aid to SMEs for participation in fairs**

1. Aid to SMEs for participation in fairs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The eligible costs shall be the costs incurred for renting, setting up and running the stand for the participation of an undertaking in any particular fair or exhibition.
3. The aid intensity shall not exceed 50 % of the eligible costs.

*Article 20***Aid for cooperation costs incurred by SMEs participating in European Territorial Cooperation projects**

1. Aid for cooperation costs incurred by SMEs participating in the European Territorial Cooperation projects covered by Regulation (EC) No 1299/2013 of the European Parliament and of the Council shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. The eligible costs shall be the following:
 - (a) costs for organisational cooperation including the cost of staff and offices to the extent that it is linked to the co-operation project;
 - (b) costs of advisory and support services linked to cooperation and delivered by external consultants and service providers;
 - (c) travel expenses, costs of equipment and investment expenditure directly related to the project and depreciation of tools and equipment used directly for the project.
3. The services referred to in paragraph 2(b) shall not be a continuous or periodic activity nor relate to the undertaking's usual operating costs, such as routine tax consultancy services, regular legal services or routine advertising.
4. The aid intensity shall not exceed 50 % of the eligible costs.

*SECTION 3****Aid for access to finance for SMEs****Article 21***Risk finance aid**

1. Risk finance aid schemes in favour of SMEs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. At the level of financial intermediaries, risk finance aid to independent private investors may take one of the following forms:
 - (a) equity or quasi-equity, or financial endowment to provide risk finance investments directly or indirectly to eligible undertakings;
 - (b) loans to provide risk finance investments directly or indirectly to eligible undertakings;
 - (c) guarantees to cover losses from risk finance investments directly or indirectly to eligible undertakings.

3. At the level of independent private investors, risk finance aid may take the forms mentioned in paragraph 2 of this Article, or be in the form of tax incentives to private investors who are natural persons providing risk finance directly or indirectly to eligible undertakings.

4. At the level of eligible undertakings, risk finance aid may take the form of equity, quasi-equity investments, loans, guarantees, or a mix thereof.

5. Eligible undertakings shall be undertakings which at the time of the initial risk finance investment are unlisted SMEs and fulfil at least one of the following conditions:

- (a) they have not been operating in any market;
- (b) they have been operating in any market for less than 7 years following their first commercial sale;
- (c) they require an initial risk finance investment which, based on a business plan prepared in view of entering a new product or geographical market, is higher than 50 % of their average annual turnover in the preceding 5 years.

6. The risk finance aid may also cover follow-on investments made in eligible undertakings, including after the 7 year period mentioned in paragraph 5(b), if the following cumulative conditions are fulfilled:

- (a) the total amount of risk finance mentioned in paragraph 9 is not exceeded;
- (b) the possibility of follow-on investments was foreseen in the original business plan;
- (c) the undertaking receiving follow-on investments has not become linked, within the meaning of Article 3(3) of Annex I with another undertaking other than the financial intermediary or the independent private investor providing risk finance under the measure, unless the new entity fulfils the conditions of the SME definition.

7. For equity and quasi-equity investments in eligible undertakings, a risk finance measure may provide support for replacement capital only if the latter is combined with new capital representing at least 50 % of each investment round into the eligible undertakings.

8. For equity and quasi-equity investments as referred to in paragraph 2(a), no more than 30 % of the financial intermediary's aggregate capital contributions and uncalled committed capital may be used for liquidity management purposes.

9. The total amount of risk finance referred to in paragraph 4 shall not exceed EUR 15 million per eligible undertaking under any risk finance measure.

10. For risk finance measures providing equity, quasi-equity or loan investments to eligible undertakings, the risk finance measure shall leverage additional finance from independent private investors at the level of the financial intermediaries or the eligible undertakings, so as to achieve an aggregate private participation rate reaching the following minimum thresholds:

- (a) 10 % of the risk finance provided to the eligible undertakings prior to their first commercial sale on any market;
- (b) 40 % of the risk finance provided to the eligible undertakings referred to in paragraph 5(b) of this Article;
- (c) 60 % of the risk finance for investment provided to eligible undertakings mentioned in paragraph 5(c) and for follow-on investments in eligible undertakings after the 7-year period mentioned in paragraph 5(b).

11. Where a risk finance measure is implemented through a financial intermediary targeting eligible undertakings at different development stages as referred to in paragraph 10 and does not provide for private capital participation at the level of the eligible undertakings the financial intermediary shall achieve a private participation rate that represents at least the weighted average based on the volume of the individual investments in the underlying portfolio and resulting from the application of the minimum participation rates to such investments as referred to in paragraph 10.

12. A risk finance measure shall not discriminate between financial intermediaries on the basis of their place of establishment or incorporation in any Member State. Financial intermediaries may be required to fulfil predefined criteria objectively justified by the nature of the investments.

13. A risk finance measure shall fulfil the following conditions:

- (a) it shall be implemented via one or more financial intermediaries, except for tax incentives to private investors in respect of their direct investments into eligible undertakings;
- (b) financial intermediaries, as well as investors or fund managers shall be selected through an open, transparent and non-discriminatory call which is made in accordance with applicable Union and national laws and aimed at establishing appropriate risk-reward sharing arrangements whereby, for investments other than guarantees, asymmetric profit sharing shall be given preference over downside protection;
- (c) in the case of asymmetric loss-sharing between public and private investors, the first loss assumed by the public investor shall be capped at 25 % of the total investment;
- (d) in the case of guarantees falling under point 2(c), the guarantee rate shall be limited to 80 % and total losses assumed by a Member State shall be capped at a maximum of 25 % of the underlying guaranteed portfolio. Only guarantees covering expected losses of the underlying guaranteed portfolio can be provided for free. If a guarantee also comprises coverage of unexpected losses, the financial intermediary shall pay, for the part of the guarantee covering unexpected losses, a market-conform guarantee premium.

14. Risk finance measures shall ensure profit-driven financing decisions. This is considered to be the case where all of the following conditions are fulfilled:

- (a) financial intermediaries shall be established according to the applicable laws.
- (b) the Member State, or the entity entrusted with the implementation of the measure, shall provide for a due diligence process in order to ensure a commercially sound investment strategy for the purpose of implementing the risk finance measure, including an appropriate risk diversification policy aimed at achieving economic viability and efficient scale in terms of size and territorial scope of the relevant portfolio of investments;
- (c) risk finance provided to the eligible undertakings shall be based on a viable business plan, containing details of product, sales and profitability development, establishing *ex-ante* financial viability;
- (d) a clear and realistic exit strategy shall exist for each equity and quasi-equity investment.

15. Financial intermediaries shall be managed on a commercial basis. This requirement is considered to be fulfilled where the financial intermediary and, depending on the type of risk finance measure, the fund manager, fulfil the following conditions:

- (a) they shall be obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;
- (b) their remuneration shall conform to market practices. This requirement is presumed to be met where the manager or the financial intermediary is selected through an open, transparent and non-discriminatory selection call, based on objective criteria linked to experience, expertise and operational and financial capacity;
- (c) they shall receive a remuneration linked to performance, or shall share part of the investment risks by co-investing own resources so as to ensure that their interests are permanently aligned with the interests of the public investor;
- (d) they shall set out an investment strategy, criteria and the proposed timing of investments;
- (e) investors shall be allowed to be represented in the governance bodies of the investment fund, such as the supervisory board or the advisory committee.

16. A risk finance measure providing guarantees or loans to eligible undertakings, shall fulfil the following conditions:

- (a) as a result of the measure, the financial intermediary shall undertake investments that would not have been carried out or would have been carried out in a restricted or different manner without the aid. The financial intermediary shall be able to demonstrate that it operates a mechanism that ensures that all the advantages are passed on to the largest extent to the final beneficiaries in the form of higher volumes of financing, riskier portfolios, lower collateral requirements, lower guarantee premiums or lower interest rates;

- (b) in the case of loans, the nominal amount of the loan is taken into account in calculating the maximum investment amount for the purposes of paragraph 9;
- (c) in the case of guarantees, the nominal amount of the underlying loan is taken into account in calculating the maximum investment amount for the purposes of paragraph 9. The guarantee shall not exceed 80 % of the underlying loan.

17. A Member State may assign the implementation of a risk finance measure to an entrusted entity.

18. Risk finance aid for SMEs that do not fulfil the conditions laid down in paragraph 5 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that

- (a) at the level of the SMEs, the aid fulfils the conditions laid down in Regulation (EU) No 1407/2013; and
- (b) all the conditions laid down in the present Article, with the exception of those set out in paragraphs 5, 6, 9, 10, and 11, are fulfilled; and
- (c) for risk finance measures providing equity, quasi-equity or loan investments to eligible undertakings, the measure shall leverage additional financing from independent private investors at the level of the financial intermediaries or the SMEs, so as to achieve an aggregate private participation rate reaching at least 60 % of the risk finance provided to the SMEs.

Article 22

Aid for start-ups

1. Start-up aid schemes shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. Eligible undertakings shall be unlisted small enterprises up to five years following their registration, which have not yet distributed profits and have not been formed through a merger. For eligible undertakings that are not subject to registration the five years eligibility period may be considered to start from the moment when the enterprise either starts its economic activity or is liable to tax for its economic activity.

3. Start-up aid shall take the form of:

- (a) loans with interest rates which are not conform with market conditions, with a duration of 10 years and up to a maximum nominal amount of EUR 1 million, or EUR 1,5 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty, or EUR 2 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty. For loans with a duration comprised between 5 and 10 years the maximum amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the loan. For loans with a duration of less than 5 years, the maximum amount shall be the same as for loans with a duration of 5 years;
- (b) guarantees with premiums which are not conform with market conditions, with a duration of 10 years and up to maximum EUR 1,5 million of amount guaranteed, or EUR 2,25 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty, or EUR 3 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty. For guarantees with a duration comprised between 5 and 10 years the maximum amount guaranteed amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the guarantee. For guarantees with a duration of less than 5 years, the maximum amount guaranteed shall be the same as for guarantees with a duration of 5 years. The guarantee shall not exceed 80 % of the underlying loan.
- (c) grants, including equity or quasi equity investment, interests rate and guarantee premium reductions up to EUR 0,4 million gross grant equivalent or EUR 0,6 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty, or EUR 0,8 million for undertakings established in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty.

4. A beneficiary can receive support through a mix of the aid instruments referred to in paragraph 3 of this Article, provided that the proportion of the amount granted through one aid instrument, calculated on the basis of the maximum aid amount allowed for that instrument, is taken into account in order to determine the residual proportion of the maximum aid amount allowed for the other instruments forming part of such a mixed instrument.

5. For small and innovative enterprises, the maximum amounts set out in paragraph 3 may be doubled.

*Article 23***Aid to alternative trading platforms specialised in SMEs**

1. Aid in favour of alternative trading platforms specialised in SMEs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. Where the platform operator is a small enterprise, the aid measure may take the form of start-up aid to the platform operator, in which case the conditions laid down in Article 22 shall apply.

The aid measure may take the form of tax incentives to independent private investors that are natural persons in respect of their risk finance investments made through an alternative trading platform into undertakings eligible under the conditions laid down in Article 21.

*Article 24***Aid for scouting costs**

1. Aid for scouting costs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be the costs for initial screening and formal due diligence undertaken by managers of financial intermediaries or investors to identify eligible undertakings pursuant to Articles 21 and 22.

3. The aid intensity shall not exceed 50 % of the eligible costs.

*SECTION 4****Aid for research and development and innovation****Article 25***Aid for research and development projects**

1. Aid for research and development projects shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The aided part of the research and development project shall completely fall within one or more of the following categories:

- (a) fundamental research;
- (b) industrial research;
- (c) experimental development;
- (d) feasibility studies.

3. The eligible costs of research and development projects shall be allocated to a specific category of research and development and shall be the following:

- (a) personnel costs: researchers, technicians and other supporting staff to the extent employed on the project;
- (b) costs of instruments and equipment to the extent and for the period used for the project. Where such instruments and equipment are not used for their full life for the project, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible.

- (c) Costs for of buildings and land, to the extent and for the duration period used for the project. With regard to buildings, only the depreciation costs corresponding to the life of the project, as calculated on the basis of generally accepted accounting principles are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.
 - (d) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions, as well as costs of consultancy and equivalent services used exclusively for the project;
 - (e) additional overheads and other operating expenses, including costs of materials, supplies and similar products, incurred directly as a result of the project;
4. The eligible costs for feasibility studies shall be the costs of the study.
5. The aid intensity for each beneficiary shall not exceed:
- (a) 100 % of the eligible costs for fundamental research;
 - (b) 50 % of the eligible costs for industrial research;
 - (c) 25 % of the eligible costs for experimental development;
 - (d) 50 % of the eligible costs for feasibility studies.
6. The aid intensities for industrial research and experimental development may be increased up to a maximum aid intensity of 80 % of the eligible costs as follows:
- (a) by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises;
 - (b) by 15 percentage points if one of the following conditions is fulfilled:
 - (i) the project involves effective collaboration:
 - between undertakings among which at least one is an SME, or is carried out in at least two Member States, or in a Member State and in a Contracting Party of the EEA Agreement, and no single undertaking bears more than 70 % of the eligible costs, or
 - between an undertaking and one or more research and knowledge-dissemination organisations, where the latter bear at least 10 % of the eligible costs and have the right to publish their own research results;
 - (ii) the results of the project are widely disseminated through conferences, publication, open access repositories, or free or open source software.
7. The aid intensities for feasibility studies may be increased by 10 percentage points for medium-sized enterprises and by 20 percentage points for small enterprises;

Article 26

Investment aid for research infrastructures

1. Aid for the construction or upgrade of research infrastructures that perform economic activities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Where a research infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles.
3. The price charged for the operation or use of the infrastructure shall correspond to a market price.
4. Access to the infrastructure shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and these conditions shall be made publicly available.

5. The eligible costs shall be the investment costs in intangible and tangible assets.
6. The aid intensity shall not exceed 50 % of the eligible costs.
7. Where a research infrastructure receives public funding for both economic and non-economic activities, Member States shall put in place a monitoring and claw-back mechanism in order to ensure that the applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid.

Article 27

Aid for innovation clusters

1. Aid for innovation clusters shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Aid for innovation clusters shall be granted exclusively to the legal entity operating the innovation cluster (cluster organisation).
3. Access to the cluster's premises, facilities and activities shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs of the innovation cluster may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and these conditions shall be made publicly available.
4. The fees charged for using the cluster's facilities and for participating in the cluster's activities shall correspond to the market price or reflect their costs.
5. Investment aid may be granted for the construction or upgrade of innovation clusters. The eligible costs shall be the investment costs in intangible and tangible assets.
6. The aid intensity of investment aid for innovation clusters shall not exceed 50 % of the eligible costs. The aid intensity may be increased by 15 percentage points for innovation clusters located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for innovation clusters located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.
7. Operating aid may be granted for the operation of innovation clusters. It shall not exceed 10 years.
8. The eligible costs of operating aid for innovation clusters shall be the personnel and administrative costs (including overhead costs) relating to:
 - (a) animation of the cluster to facilitate collaboration, information sharing and the provision or channelling of specialised and customised business support services;
 - (b) marketing of the cluster to increase participation of new undertakings or organisations and to increase visibility;
 - (c) management of the cluster's facilities; organisation of training programmes, workshops and conferences to support knowledge sharing and networking and transnational cooperation.
9. The aid intensity of operating aid shall not exceed 50 % of the total eligible costs during the period over which the aid is granted.

Article 28

Innovation aid for SMEs

1. Innovation aid for SMEs shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled:

2. The eligible costs shall be the following:
 - (a) costs for obtaining, validating and defending patents and other intangible assets;
 - (b) costs for secondment of highly qualified personnel from a research and knowledge-dissemination organization or a large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary and not replacing other personnel;
 - (c) costs for innovation advisory and support services;
3. The aid intensity shall not exceed 50 % of the eligible costs.
4. In the particular case of aid for innovation advisory and support services the aid intensity can be increased up to 100 % of the eligible costs provided that the total amount of aid for innovation advisory and support services does not exceed EUR 200 000 per undertaking within any three year period.

Article 29

Aid for process and organisational innovation

1. Aid for process and organisational innovation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. Aid to large undertakings shall only be compatible if they effectively collaborate with SMEs in the aided activity and the collaborating SMEs incur at least 30 % of the total eligible costs.
3. The eligible costs shall be the following:
 - (a) personnel costs;
 - (b) costs of instruments, equipment, buildings and land to the extent and for the period used for the project;
 - (c) costs of contractual research, knowledge and patents bought or licensed from outside sources at arm's length conditions;
 - (d) additional overheads and other operating costs, including costs of materials, supplies and similar products, incurred directly as a result of the project.
4. The aid intensity shall not exceed 15 % of the eligible costs for large undertakings and 50 % of the eligible costs for SMEs.

Article 30

Aid for research and development in the fishery and aquaculture sector

1. Aid for research and development in the fishery and aquaculture sector shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The aided project shall be of interest to all undertakings in the particular sector or sub-sector concerned.
3. Prior to the date of the start of the aided project the following information shall be published on the internet:
 - (a) that the aided project will be carried out;
 - (b) the goals of the aided project;

- (c) the approximate date for the publication of the results expected from the aided project and its place of publication on the internet;
- (d) a reference that the results of the aided project will be available to all undertakings active in the particular sector or sub-sector concerned at no cost.

4. The results of the aided project shall be made available on internet from the end date of the aided project or the date on which any information concerning those results is given to members of any particular organisation, whatever comes first. The results shall remain available on internet for a period of at least 5 years starting from the end date of the aided project.

5. Aid shall be granted directly to the research and knowledge-dissemination organisation and shall not involve the direct granting of non-research related aid to an undertaking producing, processing or marketing fishery or aquaculture products.

6. The eligible costs shall be those provided in Article 25(3).

7. The aid intensity shall not exceed 100 % of the eligible costs.

SECTION 5

Training aid

Article 31

Training aid

1. Training aid shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Aid shall not be granted for training which undertakings carry out to comply with national mandatory standards on training.

3. The eligible costs shall be the following:

- (a) trainers' personnel costs, for the hours during which the trainers participate in the training;
- (b) trainers' and trainees' operating costs directly relating to the training project such as travel expenses, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project. Accommodation costs are excluded except for the minimum necessary accommodation costs for trainees' who are workers with disabilities;
- (c) costs of advisory services linked to the training project;
- (d) trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training.

4. The aid intensity shall not exceed 50 % of the eligible costs. It may be increased, up to a maximum aid intensity of 70 % of the eligible costs, as follows:

- (a) by 10 percentage points if the training is given to workers with disabilities or disadvantaged workers;
- (b) by 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small enterprises.

5. Where the aid is granted in the maritime transport sector, the aid intensity may be increased to 100 % of the eligible costs provided that the following conditions are met:

- (a) the trainees are not active members of the crew but are supernumerary on board; and
- (b) the training is carried out on board of ships entered in Union registers.

SECTION 6

Aid for disadvantaged workers and for workers with disabilities*Article 32***Aid for the recruitment of disadvantaged workers in the form of wage subsidies**

1. Aid schemes for the recruitment of disadvantaged workers shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. Eligible costs shall be the wage costs over a maximum period of 12 months following recruitment of a disadvantaged worker. Where the worker concerned is a severely disadvantaged worker, eligible costs shall be the wage costs over a maximum period of 24 months following recruitment.
3. Where the recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disability, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.
4. Except in the case of lawful dismissal for misconduct, the disadvantaged workers shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements governing employment contracts.
5. If the period of employment is shorter than 12 months, or 24 months in the case of severely disadvantaged workers, the aid shall be reduced pro rata accordingly.
6. The aid intensity shall not exceed 50 % of the eligible costs.

*Article 33***Aid for the employment of workers with disabilities in the form of wage subsidies**

1. Aid for the employment of workers with disabilities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. Eligible costs shall be the wage costs over any given period during which the worker with disabilities is employed.
3. Where the recruitment does not represent a net increase, compared with the average over the previous 12 months, in the number of employees in the undertaking concerned, the post or posts shall have fallen vacant following voluntary departure, disabilities, retirement on grounds of age, voluntary reduction of working time or lawful dismissal for misconduct and not as a result of redundancy.
4. Except in the case of lawful dismissal for misconduct, the workers with disabilities shall be entitled to continuous employment for a minimum period consistent with the national legislation concerned or any collective agreements which are legally binding for the undertaking and governing employment contracts.
5. The aid intensity shall not exceed 75 % of the eligible costs.

*Article 34***Aid for compensating the additional costs of employing workers with disabilities**

1. Aid for compensating the additional costs of employing workers with disabilities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be the following:
 - (a) costs of adapting the premises;
 - (b) costs of employing staff solely for time spent on the assistance of the workers with disabilities and of training such staff to assist workers with disabilities;
 - (c) costs of adapting or acquiring equipment, or acquiring and validating software for use by workers with disabilities, including adapted or assistive technology facilities, which are additional to those which the beneficiary would have incurred had it employed workers who are not workers with disabilities;
 - (d) costs directly linked to transport of workers with disabilities to the working place and for work related activities;
 - (e) wage costs for the hours spent by a worker with disabilities on rehabilitation;
 - (f) where the beneficiary provides sheltered employment, the costs of constructing, installing or modernising the production units of the undertaking concerned, and any costs of administration and transport, provided that such costs result directly from the employment of workers with disabilities.
3. The aid intensity shall not exceed 100 % of the eligible costs.

Article 35

Aid for compensating the costs of assistance provided to disadvantaged workers

1. Aid for compensating the costs of assistance provided to disadvantaged workers shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempt from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.
2. The eligible costs shall be the costs of:
 - (a) employing staff solely for time spent on the assistance of the disadvantaged workers over a maximum period of 12 months following recruitment of a disadvantaged worker or over a maximum period of 24 months following recruitment of a severely disadvantaged worker;
 - (b) of training such staff to assist disadvantaged workers.
3. The assistance provided shall consist of measures to support the disadvantaged worker's autonomy and adaptation to the work environment, in accompanying the worker in social and administrative procedures, facilitation of communication with the entrepreneur and managing conflicts.
4. The aid intensity shall not exceed 50 % of the eligible costs.

SECTION 7

Aid for environmental protection

Article 36

Investment aid enabling undertakings to go beyond Union standards for environmental protection or to increase the level of environmental protection in the absence of Union standards

1. Investment aid enabling undertakings to go beyond Union standards for environmental protection or to increase the level of environmental protection in the absence of Union standards shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The investment shall fulfil one of the following conditions:
 - (a) it shall enable the beneficiary to increase the level of environmental protection resulting from its activities by going beyond the applicable Union standards, irrespective of the presence of mandatory national standards that are more stringent than the Union standards;

(b) it shall enable the beneficiary to increase the level of environmental protection resulting from its activities in the absence of Union standards.

3. Aid shall not be granted where investments are undertaken to ensure that undertakings comply with Union standards already adopted and not yet in force.

4. By way of derogation from paragraph 3, aid may be granted for

(a) the acquisition of new transport vehicles for road, railway, inland waterway and maritime transport complying with adopted Union standards, provided that the acquisition occurs before those standards enter into force and that, once mandatory, they do not apply to vehicles already purchased before that date.

(b) retrofitting of existing transport vehicles for road, railway, inland waterway and maritime transport, provided that the Union standards were not yet in force at the date of entry into operation of those vehicles and that, once mandatory, they do not apply retroactively to those vehicles.

5. The eligible costs shall be the extra investment costs necessary to go beyond the applicable Union standards or to increase the level of environmental protection in the absence of Union standards. They shall be determined as follows:

(a) where the costs of investing in environmental protection can be identified in the total investment cost as a separate investment, this environmental protection-related cost shall constitute the eligible costs;

(b) in all other cases, the costs of investing in environmental protection are identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the aid. The difference between the costs of both investments identifies the environmental protection-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of environmental protection shall not be eligible.

6. The aid intensity shall not exceed 40 % of the eligible costs.

7. The aid intensity may be increased by 10 percentage points for aid granted to medium sized undertakings and by 20 percentage points for aid granted to small undertakings.

8. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

Article 37

Investment aid for early adaptation to future Union standards

1. Aid encouraging undertakings to comply with new Union standards which increase the level of environmental protection and are not yet in force shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The Union standards shall have been adopted and the investment shall be implemented and finalised at least one year before the date of entry into force of the standard concerned.

3. The eligible costs shall be the extra investment costs necessary to go beyond the applicable Union standards. They shall be determined as follows:

(a) where the costs of investing in environmental protection can be identified in the total investment cost as a separate investment, this environmental protection-related cost shall constitute the eligible costs;

(b) in all other cases, the costs of investing in environmental protection are identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the aid. The difference between the costs of both investments identifies the environmental protection-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of environmental protection shall not be eligible.

4. The aid intensity shall not exceed the following:
 - (a) 20 % of the eligible costs for small undertakings, 15 % of the eligible costs for medium-sized undertakings and 10 % of the eligible costs for large undertakings if the implementation and finalisation of the investment take place more than three years before the date of entry into force of the new Union standard;
 - (b) 15 % of the eligible costs for small undertakings, 10 % of the eligible costs for medium-sized undertakings and 5 % of the eligible costs for large undertakings if the implementation and finalisation of the investment take place between one and three years before the date of entry into force of the new Union standard.
5. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

Article 38

Investment aid for energy efficiency measures

1. Investment aid enabling undertakings to achieve energy efficiency shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Aid shall not be granted under this Article where improvements are undertaken to ensure that undertakings comply with Union standards already adopted, even if they are not yet in force.
3. The eligible costs shall be the extra investment costs necessary to achieve the higher level of energy efficiency. They shall be determined as follows:
 - (a) where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency-related cost shall constitute the eligible costs;
 - (b) in all other cases, the costs of investing in energy efficiency are identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the aid. The difference between the costs of both investments identifies the energy efficiency-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible.

4. The aid intensity shall not exceed 30 % of the eligible costs.
5. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.
6. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

Article 39

Investment aid for energy efficiency projects in buildings

1. Investment aid for energy efficiency projects in buildings shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Eligible for aid under the present Article are energy efficiency projects relating to buildings.
3. The eligible costs shall be the overall costs of the energy efficiency project.
4. The aid shall be granted in the form of an endowment, equity, a guarantee or loan to an energy efficiency fund or other financial intermediary, which shall fully pass it on to the final beneficiaries being the building owners or tenants.

5. The aid granted by the energy efficiency fund or other financial intermediary to the eligible energy efficiency projects may take the form of loans or guarantees. The nominal value of the loan or the amount guaranteed shall not exceed EUR 10 million per project at the level of the final beneficiaries. The guarantee should not exceed 80 % of the underlying loan.

6. The repayment by the building owners to the energy efficiency fund or other financial intermediary shall not be less than the nominal value of the loan.

7. The energy efficiency aid shall leverage additional investment from private investors reaching at minimum 30 % of the total financing provided to an energy efficiency project. When the aid is provided by an energy efficiency fund, the leverage of private investment can be done at the level of the energy efficiency fund and/or at the level of the energy efficiency projects, so as to achieve an aggregate minimum 30 % of the total financing provided to an energy efficiency project.

8. Member States can set up energy efficiency funds and/or can use financial intermediaries when providing energy efficiency aid. The following conditions must then be fulfilled:

- (a) Financial intermediary managers, as well as energy efficiency fund managers shall be selected through an open, transparent and non-discriminatory call in accordance with applicable Union and national laws. In particular, there shall be no discrimination on the basis of their place of establishment or incorporation in any Member State. Financial intermediaries and energy efficiency fund managers may be required to fulfil predefined criteria objectively justified by the nature of the investments;
- (b) The independent private investors shall be selected through an open, transparent and non-discriminatory call in accordance with applicable Union and national laws aimed at establishing the appropriate risk-reward sharing arrangements whereby, for investments other than guarantees, asymmetric profit-sharing shall be given preference over downside protection. If the private investors are not selected by such a call, the fair rate of return to the private investors shall be established by an independent expert selected via an open, transparent and non-discriminatory call;
- (c) In the case of asymmetric loss-sharing between public and private investors, the first loss assumed by the public investor shall be capped at 25 % of the total investment;
- (d) In the case of guarantees, the guarantee rate shall be limited to 80 % and total losses assumed by a Member State shall be capped at 25 % of the underlying guaranteed portfolio. Only guarantees covering the expected losses of the underlying guaranteed portfolio can be provided for free. If a guarantee also comprises coverage of unexpected losses, the financial intermediary shall pay, for the part of the guarantee covering unexpected losses, a market-conform guarantee premium;
- (e) The investors shall be allowed to be represented in the governance bodies of the energy efficiency fund or financial intermediary, such as the supervisory board or the advisory committee;
- (f) The energy efficiency fund or financial intermediary shall be established according to the applicable laws and the Member State shall provide for a due diligence process in order to ensure a commercially sound investment strategy for the purpose of implementing the energy efficiency aid measure.

9. Financial intermediaries, including energy efficiency funds shall be managed on a commercial basis and shall ensure profit-driven financing decisions. This is considered to be the case when the financial intermediary and, as the case may be, the managers of the energy efficiency fund fulfil the following conditions:

- (a) they are obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;
- (b) their remuneration conforms with market practices. This requirement is considered to be met where the manager is selected through an open, transparent and non-discriminatory call, based on objective criteria linked to experience, expertise and operational and financial capacity;
- (c) they shall receive a remuneration linked to performance, or shall share part of the investment risks by co-investing own resources so as to ensure that their interests are permanently aligned with the interests of the public investor;
- (d) they shall set out an investment strategy, criteria and the proposed timing of investments in energy efficiency projects, establishing the *ex-ante* financial viability and their expected impact on energy efficiency.
- (e) a clear and realistic exit strategy shall exist for the public funds invested in the energy efficiency fund or granted to the financial intermediary, allowing the market to finance energy efficiency projects when the market is ready to do so.

10. Energy efficiency improvements undertaken to ensure that the beneficiary complies with Union standards which have already been adopted shall not be exempted from the notification requirement under this Article.

Article 40

Investment aid for high-efficiency cogeneration

1. Investment aid for high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The investment aid shall be granted in respect of newly installed or refurbished capacities only.

3. The new cogeneration unit shall provide overall primary energy savings compared to separate production of heat and electricity as provided for by Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC⁽¹⁾. The improvement of an existing cogeneration unit or conversion of an existing power generation unit into a cogeneration unit shall result in primary energy savings compared to the original situation.

4. The eligible costs shall be the extra investment costs for the equipment needed for the installation to operate as a high-efficiency cogeneration installation, compared to conventional electricity or heating installations of the same capacity or the extra investment cost to upgrade to a higher efficiency when an existing installation already meets the high-efficiency threshold.

5. The aid intensity shall not exceed 45 % of the eligible costs. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.

6. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

Article 41

Investment aid for the promotion of energy from renewable sources

1. Investment aid for the promotion of energy from renewable energy sources shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Investment aid for the production of biofuels shall be exempted from the notification requirement only to the extent that the aided investments are used for the production of sustainable biofuels other than food-based biofuels. However, investment aid to convert existing food-based biofuel plants into advanced biofuel plants shall be exempted under this Article, provided that the food-based production would be reduced commensurate to the new capacity.

3. Aid shall not be granted for biofuels which are subject to a supply or blending obligation.

4. Aid shall not be granted for hydropower installations that do not comply with Directive 2000/60/EC of the European Parliament.

5. The investment aid shall be granted to new installations only. No aid shall be granted or paid out after the installation started operations and aid shall be independent from the output.

6. The eligible costs shall be the extra investment costs necessary to promote the production of energy from renewable sources. They shall be determined as follows:

(a) where the costs of investing in the production of energy from renewable sources can be identified in the total investment cost as a separate investment, for instance as a readily identifiable add-on component to a pre-existing facility, this renewable energy-related cost shall constitute the eligible costs;

⁽¹⁾ OJ L 315, 14.11.2012, p. 1.

- (b) where the costs of investing in the production of energy from renewable sources can be identified by reference to a similar, less environmentally friendly investment that would have been credibly carried out without the aid, this difference between the costs of both investments identifies the renewable energy-related cost and constitutes the eligible costs;
- (c) for certain small installations where a less environmentally friendly investment cannot be established as plants of a limited size do not exist, the total investment costs to achieve a higher level of environmental protection shall constitute the eligible costs.

The costs not directly linked to the achievement of a higher level of environmental protection shall not be eligible.

7. The aid intensity shall not exceed:

- (a) 45 % of the eligible costs if the eligible costs are calculated on the basis of point (6)(a) or point (6)(b);
- (b) 30 % of the eligible cost if the eligible costs are calculated on the basis of point (6)(c).

8. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.

9. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

10. Where aid is granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria, the aid intensity may reach 100 % of the eligible costs. Such a bidding process shall be non-discriminatory and provide for the participation of all interested undertakings. The budget related to the bidding process shall be a binding constraint in the sense that not all participants can receive aid and the aid shall be granted on the basis of the initial bid submitted by the bidder, therefore excluding subsequent negotiations.

Article 42

Operating aid for the promotion of electricity from renewable sources

1. Operating aid for the promotion of electricity from renewable energy sources shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Aid shall be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria which shall be open to all generators producing electricity from renewable energy sources on a non-discriminatory basis.

3. The bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result which cannot be addressed in the process design in view of in particular:

- (i) the longer-term potential of a given new and innovative technology; or
- (ii) the need to achieve diversification; or
- (iii) network constraints and grid stability; or
- (iv) system (integration) costs; or
- (v) the need to avoid distortions on the raw material markets from biomass support

Member States shall carry out a detailed assessment of the applicability of such conditions and report it to the Commission according to the modalities described in Article 11 (a).

4. Aid shall be granted to new and innovative renewable energy technologies in a competitive bidding process open to at least one such technology on the basis of clear, transparent and non-discriminatory criteria. Such aid shall not be granted for more than 5 % of the planned new electricity capacity from renewable energy sources per year in total.

5. Aid shall be granted as a premium in addition to the market price whereby the generators sell their electricity directly in the market.

6. Aid beneficiaries shall be subject to standard balancing responsibilities. Beneficiaries may outsource balancing responsibilities to other undertakings on their behalf, such as aggregators.
7. Aid shall not be granted when prices are negative.
8. Aid may be granted in the absence of a competitive bidding process as described in paragraph 2 to installations with an installed electricity capacity of less than 1 MW for the production of electricity from all renewable sources except for wind energy, where aid may be granted in the absence of a competitive bidding process as described in paragraph 2 to installations with an installed electricity capacity of less than 6 MW or to installations with less than 6 generation units. Without prejudice to paragraph 9, when aid is granted in the absence of a competitive bidding process, the conditions under paragraphs 5, 6 and 7 shall be respected. In addition, when aid is granted in the absence of a competitive bidding process, the conditions under Article 43 paragraphs 5, 6 and 7 shall be applicable.
9. The conditions under paragraphs 5, 6 and 7 shall not apply to operating aid granted to installations with an installed electricity capacity of less than 500 kW for the production of electricity from all renewable sources except for wind energy, where these conditions shall not apply to operating aid granted to installations with an installed electricity capacity of less than 3 MW or to installations with less than 3 generation units.
10. For the purpose of calculating the above maximum capacities referred to in paragraphs 8 and 9, installations with a common connection point to the electricity grid shall be considered as one installation.
11. Aid shall only be granted until the plant generating the electricity from renewable sources has been fully depreciated according to generally accepted accounting principles. Any investment aid previously received must be deducted from the operating aid.

Article 43

Operating aid for the promotion of energy from renewable sources in small scale installations

1. Operating aid for the promotion of energy from renewable energy sources in small scale installations shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. Aid shall only be granted to installations with an installed capacity of less than 500 kW for the production of energy from all renewable sources except for wind energy, for which aid shall be granted to installations with an installed capacity of less than 3 MW or with less than 3 generation units and for biofuels, for which aid shall be granted to installations with an installed capacity of less than 50 000 tonnes/year. For the purpose of calculating those maximum capacities, small scale installations with a common connection point to the electricity grid shall be considered as one installation.
3. Aid shall only be granted to installations producing sustainable biofuels other than food-based biofuels. However, operating aid to plants producing food-based biofuels that have started operation before 31 December 2013 and are not yet fully depreciated shall be exempted under this Article but in any event no later than 2020.
4. Aid shall not be granted for biofuels which are subject to a supply or blending obligation.
5. The aid per unit of energy shall not exceed the difference between the total levelized costs of producing energy from the renewable source in question and the market price of the form of energy concerned. The levelized costs shall be updated regularly and at least every year.
6. The maximum rate of return used in the levelized cost calculation shall not exceed the relevant swap rate plus a premium of 100 basis points. The relevant swap rate shall be the swap rate of the currency in which the aid is granted for a maturity that reflects the depreciation period of the installations supported.
7. Aid shall only be granted until the installation has been fully depreciated according to generally accepted accounting principles. Any investment aid granted to an installation shall be deducted from the operating aid.

Article 44

Aid in the form of reductions in environmental taxes under Directive 2003/96/EC

1. Aid schemes in the form of reductions in environmental taxes fulfilling the conditions of Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity ⁽¹⁾ shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The beneficiaries of the tax reduction shall be selected on the basis of transparent and objective criteria and shall pay at least the respective minimum level of taxation set by Directive 2003/96/EC.
3. Aid schemes in the form of tax reductions shall be based on a reduction of the applicable environmental tax rate or on the payment of a fixed compensation amount or on a combination of these mechanisms.
4. Aid shall not be granted for biofuels which are subject to a supply or blending obligation.

Article 45

Investment aid for remediation of contaminated sites

1. Investment aid to undertakings repairing environmental damage by remediating contaminated sites shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The investment shall lead to the repair of the environmental damage, including damage to the quality of the soil or of surface water or groundwater.
3. Where the legal or physical person liable for the environmental damage under the law applicable in each Member State without prejudice to the Union rules in this matter — in particular Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage ⁽²⁾ as amended by Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries ⁽³⁾, Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 ⁽⁴⁾ and Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on safety of offshore oil and gas operations and amending Directive 2004/35/EC ⁽⁵⁾ — is identified, that person must finance the remediation in accordance with the 'polluter pays' principle, and no State aid shall be granted. Where the person liable under the applicable law is not identified or cannot be made to bear the costs, the person responsible for the remediation or decontamination work may receive State aid.
4. The eligible costs shall be the costs incurred for the remediation work, less the increase in the value of the land. All expenditure incurred by an undertaking in remediating its site, whether or not such expenditure can be shown as a fixed asset on its balance sheet, may be considered as eligible investment in the case of the remediation of contaminated sites.
5. Evaluations of the increase in value of the land resulting from remediation shall be carried out by an independent expert.
6. The aid intensity shall not exceed 100 % of the eligible costs.

⁽¹⁾ OJ L 283, 31.10.2003, p. 51.

⁽²⁾ OJ L 143, 30.4.2004, p. 56.

⁽³⁾ OJ L 102, 11.4.2006, p. 1.

⁽⁴⁾ OJ L 140, 5.6.2009, p. 114.

⁽⁵⁾ OJ L 178, 28.6.2013, p. 66.

Article 46

Investment aid for energy efficient district heating and cooling

1. Investment aid for the installation of energy efficient district heating and cooling system shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The eligible costs for the production plant shall be the extra costs needed for the construction, expansion and refurbishment of one or more generation units to operate as an energy efficient district heating and cooling system compared to a conventional production plant. The investment shall be an integral part of the energy efficient district heating and cooling system.
3. The aid intensity for the production plant shall not exceed 45 % of the eligible costs. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.
4. The aid intensity for the production plant may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.
5. The eligible costs for the distribution network shall be the investment costs.
6. The aid amount for the distribution network shall not exceed the difference between the eligible costs and the operating profit. The operating profit shall be deducted from the eligible costs *ex ante* or through a claw-back mechanism.

Article 47

Investment aid for waste recycling and re-utilisation

1. Investment aid for waste recycling and re-utilisation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The investment aid shall be granted for the recycling and re-utilisation of waste generated by other undertakings.
3. The recycled or re-used materials treated would otherwise be disposed of, or be treated in a less environmentally friendly manner. Aid to waste recovery operations other than recycling shall not be block exempted under this Article.
4. The aid shall not indirectly relieve the polluters from a burden that should be borne by them under Union law, or from a burden that should be considered a normal company cost.
5. The investment shall not merely increase demand for the materials to be recycled without increasing collection of those materials.
6. The investment shall go beyond the state of the art.
7. The eligible costs shall be the extra investment costs necessary to realise an investment leading to better or more efficient recycling or re-use activities compared to a conventional process of re-use and recycling activities with the same capacity that would be constructed in the absence the aid.
8. The aid intensity shall not exceed 35 % of the eligible costs. The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.
9. The aid intensity may be increased by 15 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(a) of the Treaty and by 5 percentage points for investments located in assisted areas fulfilling the conditions of Article 107(3)(c) of the Treaty.

10. Aid for investments relating to the recycling and re-utilisation of the beneficiary's own waste shall not be exempt from the notification requirement under this Article.

Article 48

Investment aid for energy infrastructure

1. Investment aid for the construction or upgrade of energy infrastructure shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Aid shall be granted for energy infrastructure located in assisted areas.

3. The energy infrastructure shall be subject to full tariff and access regulation according to internal energy market legislation.

4. The eligible costs shall be the investment costs.

5. The aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante* or through a claw-back mechanism.

6. Aid for investments in electricity and gas storage projects and oil infrastructure shall not be exempt from the notification requirement under this Article.

Article 49

Aid for environmental studies

1. Aid for studies, including energy audits, directly linked to investments referred to in this Section shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be the costs of the studies referred to in paragraph 1.

3. The aid intensity shall not exceed 50 % of the eligible costs.

4. The aid intensity may be increased by 20 percentage points for studies undertaken on behalf of small enterprises and by 10 percentage points for studies undertaken on behalf of medium size enterprises.

5. Aid shall not be granted to large undertakings for energy audits carried out under Article 8(4) of the Directive 2012/27/EU, unless the energy audit is carried out in addition to the mandatory energy audit under that Directive.

SECTION 8

Aid to make good the damage caused by certain natural disasters

Article 50

Aid schemes to make good the damage caused by certain natural disasters

1. Aid schemes to make good the damage caused by earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin shall be compatible with the internal market within the meaning of Article 107(2)(b) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Aid shall be granted subject to the following conditions:

(a) the competent public authorities of a Member State have formally recognised the character of the event as a natural disaster; and

(b) there is a direct causal link between the natural disaster and the damages suffered by the affected undertaking.

3. Aid schemes related to a specific natural disaster shall be introduced within three years following the occurrence of the event. Aid on the basis of such schemes shall be granted within four years following the occurrence.

4. The costs arising from the damage incurred as a direct consequence of the natural disaster, as assessed by an independent expert recognised by the competent national authority or by an insurance undertaking shall be eligible costs. Such damage may include material damage to assets such as buildings, equipment, machinery or stocks and loss of income due to the full or partial suspension of activity for a period not exceeding six months from the occurrence of the disaster. The calculation of the material damage shall be based on the repair cost or economic value of the affected asset before the disaster. It shall not exceed the repair cost or the decrease in fair market value caused by the disaster, that is to say the difference between the property's value immediately before and immediately after the occurrence of the disaster. Loss of income shall be calculated on the basis of financial data of the affected undertaking (earnings before interest and taxes (EBIT), depreciation and labour costs related only to the establishment affected by the natural disaster) by comparing the financial data for the six months after the occurrence of the disaster with the average of three years chosen among the five years preceding the occurrence of the disaster (by excluding the two years giving the best and the worst financial result) and calculated for the same six months period of the year. The damage shall be calculated at the level of the individual beneficiary.

5. The aid and any other payments received to compensate for the damage, including payments under insurance policies, shall not exceed 100 % of the eligible costs.

SECTION 9

Social aid for transport for residents of remote regions

Article 51

Social aid for transport for residents of remote regions

1. Aid for air and maritime passenger transport shall be compatible with the internal market pursuant to Article 107(2)(a) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The entire aid shall be for the benefit of final consumers who have their normal residence in remote regions.

3. The aid shall be granted for passenger transport on a route linking an airport or port in a remote region with another airport or port within the European Economic Area.

4. The aid shall be granted without discrimination as to the identity of the carrier or type of service and without limitation as to the precise route to or from the remote region.

5. The eligible costs shall be the price of a return ticket from or to the remote region, including all taxes and charges invoiced by the carrier to the consumer.

6. The aid intensity shall not exceed 100 % of the eligible costs.

SECTION 10

Aid for broadband infrastructures

Article 52

Aid for broadband infrastructures

1. Investment aid for broadband network development shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be the following:

- (a) investment costs for the deployment of a passive broadband infrastructure;
- (b) investment costs of broadband-related civil engineering works;
- (c) investment costs for the deployment of basic broadband networks; and
- (d) investment costs for the deployment of next generation access (NGA) networks.

3. The investment shall be located in areas where there is no infrastructure of the same category (either basic broadband or NGA network) and where no such infrastructure is likely to be developed on commercial terms within three years from the moment of publication of the planned aid measure, which shall also be verified through an open public consultation.

4. The aid shall be allocated on the basis of an open, transparent and non-discriminatory competitive selection process respecting the principle of technology neutrality.

5. The network operator shall offer the widest possible active and passive wholesale access, according to Article 2, point 139 of this Regulation, under fair and non-discriminatory conditions, including physical unbundling in the case of NGA networks. Such wholesale access shall be granted for at least seven years and the right of access to ducts or poles shall not be limited in time. In the case of aid for the construction of ducts, the ducts shall be large enough to cater for several cable networks and different network topologies.

6. The wholesale access price shall be based on the pricing principles set by the national regulatory authority and on benchmarks that prevail in other comparable, more competitive areas of the Member State or the Union taking into account the aid received by the network operator. The national regulatory authority shall be consulted on access conditions, including pricing, and in the event of dispute between access seekers and the subsidised infrastructure operator.

7. Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.

SECTION 11

Aid for culture and heritage conservation

Article 53

Aid for culture and heritage conservation

1. Aid for culture and heritage conservation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The aid shall be granted for the following cultural purposes and activities:

- (a) museums, archives, libraries, artistic and cultural centres or spaces, theatres, opera houses, concert halls, other live performance organisations, film heritage institutions and other similar artistic and cultural infrastructures, organisations and institutions;
- (b) tangible heritage including all forms of movable or immovable cultural heritage and archaeological sites, monuments, historical sites and buildings; natural heritage linked to cultural heritage or if formally recognized as cultural or natural heritage by the competent public authorities of a Member State;
- (c) intangible heritage in any form, including folklorist customs and crafts;
- (d) art or cultural events and performances, festivals, exhibitions and other similar cultural activities;
- (e) cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- (f) writing, editing, production, distribution, digitisation and publishing of music and literature, including translations.

3. The aid may take the form of:

- (a) investment aid, including aid for the construction or upgrade of culture infrastructure;
- (b) operating aid.

4. For investment aid, the eligible costs shall be the investment costs in tangible and intangible assets, including:

- (a) costs for the construction, upgrade, acquisition, conservation or improvement of infrastructure, if at least 80 % of either the time or the space capacity per year is used for cultural purposes;
- (b) costs for the acquisition, including leasing, transfer of possession or physical relocation of cultural heritage;
- (c) costs for safeguarding, preservation, restoration and rehabilitation of tangible and intangible cultural heritage, including extra costs for storage under appropriate conditions, special tools, materials and costs for documentation, research, digitalisation and publication;
- (d) costs for improving the accessibility of cultural heritage to the public, including costs for digitisation and other new technologies, costs to improve accessibility for persons with special needs (in particular, ramps and lifts for disabled persons, braille indications and hands-on exhibits in museums) and for promoting cultural diversity with respect to presentations, programmes and visitors;
- (e) costs for cultural projects and activities, cooperation and exchange programmes and grants including costs for selection procedures, costs for promotion and costs incurred directly as a result of the project;

5. For operating aid, the eligible costs shall be the following:

- (a) the cultural institution's or heritage site's costs linked to continuous or periodic activities including exhibitions, performances and events and similar cultural activities that occur in the ordinary course of business;
- (b) costs of cultural and artistic education activities as well as promotion of the understanding of the importance of protection and promotion of the diversity of cultural expressions through educational and greater public awareness programs, including with the use of new technologies;
- (c) costs of the improvement of public access to the cultural institution or heritage sites and activities including costs of digitisation and of use of new technologies as well as costs of improving accessibility for persons with disabilities;
- (d) operating costs directly relating to the cultural project or activity, such as rent or lease of real estate and cultural venues, travel expenses, materials and supplies directly related to the cultural project or activity, architectural structures for exhibitions and stage sets, loan, lease and depreciation of tools, software and equipment, costs for access rights to copyright works and other related intellectual property rights protected contents, costs for promotion and costs incurred directly as a result of the project or activity; depreciation charges and the costs of financing are only eligible if they have not been covered by investment aid;
- (e) costs for personnel working for the cultural institution or heritage site or for a project;
- (f) costs for advisory and support services provided by outside consultants and service providers, incurred directly as a result of the project.

6. For investment aid, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism. The operator of the infrastructure is allowed to keep a reasonable profit over the relevant period.

7. For operating aid, the aid amount shall not exceed what is necessary to cover the operating losses and a reasonable profit over the relevant period. This shall be ensured *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.

8. For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in paragraphs 6 and 7, at 80 % of eligible costs.

9. For publishing of music and literature as defined in paragraph 2(f), the maximum aid amount shall not exceed either the difference between the eligible costs and the project's discounted revenues or 70 % of the eligible costs. The revenues shall be deducted from the eligible costs *ex ante* or through a clawback mechanism. The eligible costs shall be the costs for publishing of music and literature, including the authors' fees (copyright costs), translators' fees, editors' fees, other editorial costs (proofreading, correcting, reviewing), layout and pre-press costs and printing or e-publication costs.

10. Aid to press and magazines, whether they are published in print or electronically, shall not be eligible under this Article.

Article 54

Aid schemes for audiovisual works

1. Aid schemes to support the script-writing, development, production, distribution and promotion of audiovisual works shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. Aid shall support a cultural product. To avoid manifest errors in the qualification of a product as cultural, each Member State shall establish effective processes, such as selection of proposals by one or more persons entrusted with the selection or verification against a predetermined list of cultural criteria.

3. Aid may take the form of:

- (a) aid to the production of audiovisual works;
- (b) pre-production aid; and
- (c) distribution aid.

4. Where a Member States makes the aid subject to territorial spending obligations, aid schemes for the production of audiovisual works may either:

- (a) require that up to 160 % of the aid granted to the production of a given audiovisual work is spent in the territory of the Member State granting the aid; or
- (b) calculate the aid granted to the production of a given audiovisual work as a percentage of the expenditure on production activities in the granting Member State, typically in case of aid schemes in the form of tax incentives.

In both cases, if a Member States requires a minimum level of production activity in the territory concerned for projects to be eligible for aid, that level shall not exceed 50 % of the overall production budget. In addition, the maximum expenditure subject to territorial spending obligations shall in no case exceed 80 % of the overall production budget.

5. The eligible costs shall be the following:

- (a) for production aid: the overall costs of production of audiovisual works including costs to improve accessibility for persons with disabilities.
- (b) for pre-production aid: the costs of script-writing and the development of audiovisual works.
- (c) for distribution aid: the costs of distribution and promotion of audiovisual works.

6. The aid intensity for the production of audiovisual works shall not exceed 50 % of the eligible costs.

7. The aid intensity may be increased as follows:

- (a) to 60 % of the eligible costs for cross-border productions funded by more than one Member State and involving producers from more than one Member State;
- (b) to 100 % of the eligible costs for difficult audiovisual works and co-productions involving countries from the Development Assistance Committee (DAC) List of the OECD.

8. The aid intensity for pre-production shall not exceed 100 % of the eligible costs. If the resulting script or project is made into an audiovisual work such as a film, the pre-production costs shall be incorporated in the overall budget and taken into account when calculating the aid intensity. The aid intensity for distribution shall be the same as the aid intensity for production.

9. Aid shall not be reserved for specific production activities or individual parts of the production value chain. Aid for film studio infrastructures shall not be eligible under this Article.

10. Aid shall not be reserved exclusively for nationals and beneficiaries shall not be required to have the status of undertaking established under national commercial law.

SECTION 12

Aid for sport and multifunctional recreational infrastructures

Article 55

Aid for sport and multifunctional recreational infrastructures

1. Aid for sport and multifunctional recreational infrastructures shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Sport infrastructure shall not be used exclusively by a single professional sport user. Use of the sport infrastructure by other professional or non-professional sport users shall annually account for at least 20 % of time capacity. If the infrastructure is used by several users simultaneously, corresponding fractions of time capacity usage shall be calculated.

3. Multifunctional recreational infrastructure shall consist of recreational facilities with a multi-functional character offering, in particular, cultural and recreational services with the exception of leisure parks and hotel facilities.

4. Access to the sport or multifunctional recreational infrastructures shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 30 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions, provided those conditions are made publicly available.

5. If sport infrastructure is used by professional sport clubs, Member States shall ensure that the pricing conditions for its use are made publicly available.

6. Any concession or other entrustment to a third party to construct, upgrade and/or operate the sport or multifunctional recreational infrastructure shall be assigned on a open, transparent and non-discriminatory basis, having due regard to the applicable procurement rules.

7. The aid may take the form of:

(a) investment aid, including aid for the construction or upgrade of sport and multifunctional recreational infrastructure;

(b) operating aid for sport infrastructure;

8. For investment aid for sport and multifunctional recreational infrastructure the eligible costs shall be the investment costs in tangible and intangible assets.

9. For operating aid for sport infrastructure the eligible costs shall be the operating costs of the provision of services by the infrastructure. Those operating costs include costs such as personnel costs, materials, contracted services, communications, energy, maintenance, rent, administration, etc., but exclude depreciation charges and the costs of financing if these have been covered by investment aid.

10. For investment aid for sport and multifunctional recreational infrastructure, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.

11. For operating aid for sport infrastructure, the aid amount shall not exceed the operating losses over the relevant period. This shall be ensured *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.

12. For aid not exceeding EUR 1 million, the maximum amount of aid may be set, alternatively to the method referred to in paragraphs 10 and 11, at 80 % of eligible costs.

SECTION 13

Aid for local infrastructures

Article 56

Investment aid for local infrastructures

1. Financing for the construction or upgrade of local infrastructures which concerns infrastructure that contribute at a local level to improving the business and consumer environment and modernising and developing the industrial base shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempt from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. This Article shall not apply to aid for infrastructures that is covered by other sections of Chapter III of this Regulation with the exception of Section 1 — Regional aid. This Article shall also not apply to airport infrastructure and port infrastructure.
3. The infrastructure shall be made available to interested users on an open, transparent and non-discriminatory basis. The price charged for the use or the sale of the infrastructure shall correspond to market price.
4. Any concession or other entrustment to a third party to operate the infrastructure shall be assigned on an open, transparent and non-discriminatory basis, having due regard to the applicable procurement rules.
5. The eligible costs shall be the investment costs in tangible and intangible assets.
6. The aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante*, on the basis of reasonable projections, or through a claw-back mechanism.
7. Dedicated infrastructure shall not be exempted under this Article.

CHAPTER IV

FINAL PROVISIONS

Article 57

Repeal

Regulation (EC) No 800/2008 shall be repealed.

Article 58

Transitional provisions

1. This Regulation shall apply to individual aid granted before its entry into force, if the aid fulfils all the conditions laid down in this Regulation, with the exception of Article 9.
2. Any aid not exempted from the notification requirement of Article 108(3) of the Treaty by virtue of this Regulation or other regulations adopted pursuant to Article 1 of Regulation (EC) No 994/98 previously in force shall be assessed by the Commission in accordance with the relevant frameworks, guidelines, communications and notices.

3. Any individual aid granted before 1 January 2015 by virtue of any regulation adopted pursuant to Article 1 of Regulation (EC) No 994/98 in force at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty with the exclusion of regional aid. Risk capital aid schemes in favour of SMEs set up before 1 July 2014 and exempted from the notification requirement of Article 108(3) of the Treaty under Regulation (EC) No 800/2008, shall remain exempted and compatible with the internal market until the termination of the funding agreement, provided the commitment of the public funding into the supported private equity investment fund, on the basis of such agreement, was made before 1 January 2015 and the other conditions for exemption remain fulfilled.

4. At the end of the period of validity of this Regulation, any aid schemes exempted under this Regulation shall remain exempted during an adjustment period of six months, with the exception of regional aid schemes. The exemption of regional aid schemes shall expire on the date of expiry of the approved regional aid maps. The exemption of risk finance aid exempted pursuant to Article 21(2)(a) shall expire at the end of the period foreseen in the funding agreement, provided the commitment of public funding to the supported private equity investment fund was made on the basis of such agreement within 6 months from the end of the period of validity of this Regulation and all other conditions for exemption remain fulfilled.

Article 59

This Regulation shall enter into force on 1 July 2014.

It shall apply until 31 December 2020.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 17 June 2014.

For the Commission

Joaquín ALMUNIA

Vice-President

ANNEX I

SME DEFINITION*Article 1***Enterprise**

An enterprise is considered to be any entity engaged in an economic activity, irrespective of its legal form. This includes, in particular, self-employed persons and family businesses engaged in craft or other activities, and partnerships or associations regularly engaged in an economic activity.

*Article 2***Staff headcount and financial thresholds determining enterprise categories**

1. The category of micro, small and medium-sized enterprises ('SMEs') is made up of enterprises which employ fewer than 250 persons and which have an annual turnover not exceeding EUR 50 million, and/or an annual balance sheet total not exceeding EUR 43 million.
2. Within the SME category, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.
3. Within the SME category, a micro-enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

*Article 3***Types of enterprise taken into consideration in calculating staff numbers and financial amounts**

1. An 'autonomous enterprise' is any enterprise which is not classified as a partner enterprise within the meaning of paragraph 2 or as a linked enterprise within the meaning of paragraph 3.
2. 'Partner enterprises' are all enterprises which are not classified as linked enterprises within the meaning of paragraph 3 and between which there is the following relationship: an enterprise (upstream enterprise) holds, either solely or jointly with one or more linked enterprises within the meaning of paragraph 3, 25 % or more of the capital or voting rights of another enterprise (downstream enterprise).

However, an enterprise may be ranked as autonomous, and thus as not having any partner enterprises, even if this 25 % threshold is reached or exceeded by the following investors, provided that those investors are not linked, within the meaning of paragraph 3, either individually or jointly to the enterprise in question:

- (a) public investment corporations, venture capital companies, individuals or groups of individuals with a regular venture capital investment activity who invest equity capital in unquoted businesses (business angels), provided the total investment of those business angels in the same enterprise is less than EUR 1 250 000;
 - (b) universities or non-profit research centres;
 - (c) institutional investors, including regional development funds;
 - (d) autonomous local authorities with an annual budget of less than EUR 10 million and less than 5 000 inhabitants.
3. 'Linked enterprises' are enterprises which have any of the following relationships with each other:
 - (a) an enterprise has a majority of the shareholders' or members' voting rights in another enterprise;
 - (b) an enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;

- (c) an enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) an enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders' or members' voting rights in that enterprise.

There is a presumption that no dominant influence exists if the investors listed in the second subparagraph of paragraph 2 are not involving themselves directly or indirectly in the management of the enterprise in question, without prejudice to their rights as shareholders.

Enterprises having any of the relationships described in the first subparagraph through one or more other enterprises, or any one of the investors mentioned in paragraph 2, are also considered to be linked.

Enterprises which have one or other of such relationships through a natural person or group of natural persons acting jointly are also considered linked enterprises if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

An 'adjacent market' is considered to be the market for a product or service situated directly upstream or downstream of the relevant market.

4. Except in the cases set out in paragraph 2, second subparagraph, an enterprise cannot be considered an SME if 25 % or more of the capital or voting rights are directly or indirectly controlled, jointly or individually, by one or more public bodies.

5. Enterprises may make a declaration of status as an autonomous enterprise, partner enterprise or linked enterprise, including the data regarding the thresholds set out in Article 2. The declaration may be made even if the capital is spread in such a way that it is not possible to determine exactly by whom it is held, in which case the enterprise may declare in good faith that it can legitimately presume that it is not owned as to 25 % or more by one enterprise or jointly by enterprises linked to one another. Such declarations are made without prejudice to the checks and investigations provided for by national or Union rules.

Article 4

Data used for the staff headcount and the financial amounts and reference period

1. The data to apply to the headcount of staff and the financial amounts are those relating to the latest approved accounting period and calculated on an annual basis. They are taken into account from the date of closure of the accounts. The amount selected for the turnover is calculated excluding value added tax (VAT) and other indirect taxes.
2. Where, at the date of closure of the accounts, an enterprise finds that, on an annual basis, it has exceeded or fallen below the headcount or financial thresholds stated in Article 2, this will not result in the loss or acquisition of the status of medium-sized, small or micro-enterprise unless those thresholds are exceeded over two consecutive accounting periods.
3. In the case of newly-established enterprises whose accounts have not yet been approved, the data to apply is to be derived from a bona fide estimate made in the course of the financial year.

Article 5

Staff headcount

The headcount corresponds to the number of annual work units (AWU), i.e. the number of persons who worked full-time within the enterprise in question or on its behalf during the entire reference year under consideration. The work of persons who have not worked the full year, the work of those who have worked part-time, regardless of duration, and the work of seasonal workers are counted as fractions of AWU. The staff consists of:

- (a) employees;
- (b) persons working for the enterprise being subordinated to it and deemed to be employees under national law;

- (c) owner-managers;
- (d) partners engaging in a regular activity in the enterprise and benefiting from financial advantages from the enterprise.

Apprentices or students engaged in vocational training with an apprenticeship or vocational training contract are not included as staff. The duration of maternity or parental leaves is not counted.

Article 6

Establishing the data of an enterprise

1. In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the accounts of that enterprise.

2. The data, including the headcount, of an enterprise having partner enterprises or linked enterprises are determined on the basis of the accounts and other data of the enterprise or, where they exist, the consolidated accounts of the enterprise, or the consolidated accounts in which the enterprise is included through consolidation.

To the data referred to in the first subparagraph are added the data of any partner enterprise of the enterprise in question situated immediately upstream or downstream from it. Aggregation is proportional to the percentage interest in the capital or voting rights (whichever is greater). In the case of cross-holdings, the greater percentage applies.

To the data referred to in the first and second subparagraph are added 100 % of the data of any enterprise, which is linked directly or indirectly to the enterprise in question, where the data were not already included through consolidation in the accounts.

3. For the application of paragraph 2, the data of the partner enterprises of the enterprise in question are derived from their accounts and their other data, consolidated if they exist. To these are added 100 % of the data of enterprises which are linked to these partner enterprises, unless their accounts data are already included through consolidation.

For the application of the same paragraph 2, the data of the enterprises which are linked to the enterprise in question are to be derived from their accounts and their other data, consolidated if they exist. To these are added, pro rata, the data of any possible partner enterprise of that linked enterprise, situated immediately upstream or downstream from it, unless it has already been included in the consolidated accounts with a percentage at least proportional to the percentage identified under the second subparagraph of paragraph 2.

4. Where in the consolidated accounts no staff data appear for a given enterprise, staff figures are calculated by aggregating proportionally the data from its partner enterprises and by adding the data from the enterprises to which the enterprise in question is linked.

ANNEX II

INFORMATION REGARDING STATE AID EXEMPT UNDER THE CONDITIONS OF THIS REGULATION

PART I

to be provided through the established Commission IT application as laid down in Article 11

Aid referenced		to be completed by the Commission	
Member State			
Member State reference number			
Region	Name of the Region(s) (NUTS 2)	Regional aid status	
	Name		
Granting authority	Postal address		
	Web address		
Title of the aid measure			
National legal basis (reference to the relevant national official publication)			
Web link to the full text of the aid measure			
Type of measure	<input type="checkbox"/> Scheme		
	<input type="checkbox"/> Ad hoc aid	Name of the beneficiary and the group it belongs to	
	Commission aid reference		
Amendment of an existing aid scheme or ad hoc aid	<input type="checkbox"/> Prolongation		
	<input type="checkbox"/> Modification		
Duration	<input type="checkbox"/> Scheme	Administrative aid number	
Date of granting	<input type="checkbox"/> Ad hoc aid	Commission aid reference	
	<input type="checkbox"/> All economic sectors eligible to receive aid		
Economic sector(s) concerned	<input type="checkbox"/> Limited to certain sectors: Please specify at NACE group level		

PART II

to be provided through the established Commission IT application as laid down in Article 11

Please indicate under which provision of the GBER the aid measure is implemented.

Thematic objective – Operational objective – Specific objective	Objectives	Eligible activities	Maximum eligible costs (in % of the eligible costs)	Maximum eligible costs (in % of the eligible costs)
Regional aid – Investment aid (Art. 107(3)(a))	<input type="checkbox"/> Scheme <input type="checkbox"/> Ad hoc aid			
Regional aid – Operating aid (Art. 107(3)(a))	<input type="checkbox"/> Transport costs of goods in eligible areas (Art. 107(3)(a)) <input type="checkbox"/> Additional costs in outermost regions (Art. 107(3)(b))			
<input type="checkbox"/> Regional urban development aid (Art. 107(3)(a))			national currency	%
<input type="checkbox"/> SME aid – Innovation			%	%
SME aid – SMEs access to finance (Art. 107(3)(a))	<input type="checkbox"/> Risk finance aid (Art. 107(3)(a)) <input type="checkbox"/> Ad hoc measures (Art. 107(3)(a))		national currency	%
			national currency	%
<input type="checkbox"/> SME aid – Aid for innovative financing platforms (see Annex 10 to the GBER)			%	%
<input type="checkbox"/> SME aid – Aid for seedling costs (Art. 107(3)(a))			national currency	%
			national currency	%
Aid for research development and innovation (Art. 107(3)(a))	Aid for research and development projects (Art. 107(3)(a))	<input type="checkbox"/> Fundamental research (Art. 107(3)(a))	%	%
		<input type="checkbox"/> Applied research (Art. 107(3)(a))	%	%
		<input type="checkbox"/> Experimental development (Art. 107(3)(a))	%	%
		<input type="checkbox"/> Feasibility studies (Art. 107(3)(a))	%	%
	<input type="checkbox"/> Investment aid for research infrastructure (Art. 107(3)(a))		%	%
<input type="checkbox"/> Aid for innovation clusters (Art. 107(3)(a))			%	%
<input type="checkbox"/> Innovation aid for SMEs (Art. 107(3)(a))			%	%

Primary objective – General objective	Specific objective	Reference to the relevant article of the Regulation	Estimated cost (in % of the total cost)
	<ul style="list-style-type: none"> Ad for process and organizational innovation (Article 25) Ad for research and development in the tertiary and agriculture sector (Art. 30) 	<ul style="list-style-type: none"> Yes Yes 	<ul style="list-style-type: none"> Yes Yes
Ad for training (Art. 35)		Yes	Yes
Ad for disadvantaged workers and persons with disabilities (Art. 32-33)	<ul style="list-style-type: none"> Ad for the recruitment of disadvantaged persons in the form of wage subsidies (Art. 32) Ad for the employment of workers with disabilities in the form of wage subsidies (Art. 33) Ad for compensating the additional costs of employing workers with disabilities (Art. 34) Ad for compensating the costs of assistance provided to disadvantaged workers (Art. 35) 	<ul style="list-style-type: none"> Yes Yes Yes Yes 	<ul style="list-style-type: none"> Yes Yes Yes Yes
Ad for environmental protection (Art. 36-43)	<ul style="list-style-type: none"> Investment aid enabling undertakings to go beyond the standards for environmental protection or increase the level of environmental protection in the absence of environmental standards (Art. 36) Investment aid for energy production facilities, other than power (Art. 37) Investment aid for energy efficiency measures (Art. 38) Investment aid for energy efficiency projects in buildings (Art. 39) Investment aid for high-efficiency cogeneration (Art. 40) Investment aid for the production of energy from renewable sources (Art. 41) Operating aid for the promotion of electricity from renewable sources (Art. 42) Operating aid for the production of energy from renewable sources, other than electricity (Art. 43) 	<ul style="list-style-type: none"> Yes Yes Yes Yes Yes Yes Yes Yes 	<ul style="list-style-type: none"> Yes Yes Yes Yes Yes Yes Yes Yes
	<ul style="list-style-type: none"> Ad in the form of reductions in tax payments (under Directive 2003/96/EC) (Art. 44) Investment aid for remediation of contaminated sites (Art. 45) Investment aid for energy efficient cold heating and cooling (Art. 46) Investment aid for waste heating and the circulation (Art. 47) Investment aid for energy infrastructure (Art. 48) 	<ul style="list-style-type: none"> Yes Yes Yes Yes Yes 	<ul style="list-style-type: none"> Yes Yes Yes Yes Yes
	Ad for micro-finance facilities (Art. 49)	Yes	Yes

Primary objective – general description	Geographical	Estimated cost	Estimated benefit to the beneficiary in the beneficiary region in the beneficiary region in the beneficiary region	Unit of cost benefit
<input type="checkbox"/> Aid schemes to improve road infrastructure caused by certain natural disasters Article 106	Maximum 10 Member States Type of natural disaster		<input type="checkbox"/> earthquake <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> storm <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wildfire	%
Date of decision of the aid scheme		for the 2014-2020 period		
<input type="checkbox"/> Aid for transport for residents of remote regions Article 107			%	%
<input type="checkbox"/> Aid for broadband infrastructure Article 108			national currency	%
<input type="checkbox"/> Aid for culture and heritage conservation Article 109			%	%
<input type="checkbox"/> Aid schemes to build or renovate Article 110			%	%
<input type="checkbox"/> Aid for sport and multifunctional recreational infrastructure Article 111			%	%
<input type="checkbox"/> Investment aid for local infrastructure Article 116			%	%
In the case of aid for regions, aid implementing aid awarded under the scheme, please indicate both the aid intensity granted under the scheme and the intensity of the aid received				

ANNEX III

Provisions for the publication of information as laid down in Article 9(1)

Member States shall organise their comprehensive State aid websites, on which the information laid down in Article 9(1) is to be published, in such a way as to allow easy access to the information. Information shall be published in a spreadsheet data format, which allows data to be searched, extracted and easily published on the internet, for instance in CSV or XML format. Access to the website shall be allowed to any interested party without restrictions. No prior user registration shall be required to access the website.

The following information on individual awards as laid down in Article 9(1)(c) shall be published:

- Name of the beneficiary
- Beneficiary's identifier
- Type of enterprise (SME/large) at the time of granting
- Region in which the beneficiary is located, at NUTS level II ⁽¹⁾
- Sector of activity at NACE group level ⁽²⁾
- Aid element, expressed as full amount in national currency ⁽³⁾
- Aid instrument ⁽⁴⁾ (Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Risk finance, Other (please specify))
- Date of granting
- Objective of the aid
- Granting authority
- For schemes under Articles 16 and 21, name of the entrusted entity, and the names of the selected financial intermediaries
- Reference of the aid measure. ⁽⁵⁾

⁽¹⁾ NUTS — Nomenclature of Territorial Units for Statistics. Typically, the region is specified at level 2.

⁽²⁾ Council Regulation (EEC) No 3037/90 of 9 October 1990 on the statistical classification of economic activities in the European Community (OJ L 293, 24.10.1990, p. 1), as amended by Commission Regulation (EEC) No 761/93 of 24 March 1993 (OJ L 83, 3.4.1993, p. 1, and corrigendum, OJ L 159, 11.7.1995, p. 31).

⁽³⁾ Gross grant equivalent, or for risk finance schemes, the amount of the investment. For operating aid, the annual amount of aid per beneficiary can be provided. For fiscal schemes and for schemes under Articles 16 (Regional urban development aid) and 21 (Risk finance aid), this amount can be provided by the ranges set out in Article 9(2) of this Regulation.

⁽⁴⁾ If the aid is granted through multiple aid instruments, the aid amount shall be provided by instrument.

⁽⁵⁾ As provided by the Commission under the electronic procedure referred to in Article 11 of this Regulation.

COMMISSION REGULATION (EU) 2021/1237**of 23 July 2021****amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 108(4) thereof,

Having regard to Council Regulation (EU) 2015/1588 of 13 July 2015 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal State aid ⁽¹⁾, and in particular Article 1(1), point (a), thereof,

After consulting the Advisory Committee on State aid,

Whereas:

- (1) Commission Regulation (EU) No 651/2014 ⁽²⁾ constitutes an important exemption from the general rule that Member States have to notify any plans to grant new aid to the Commission before implementing them, provided that certain pre-defined conditions have been fulfilled.
- (2) In view of the economic and financial consequences that the COVID-19 pandemic has had on undertakings and in order to ensure consistency with the general policy response adopted by the Commission, especially in the period 2020-2021, Regulation (EU) No 651/2014 should be adapted. Undertakings which became undertakings in difficulty as a consequence of the COVID-19 pandemic should remain eligible for aid under Regulation (EU) No 651/2014 for a limited period, namely from 1 January 2020 to 31 December 2021. In addition, beneficiaries of regional investment aid, which have temporarily or permanently laid off staff due to the COVID-19 pandemic in the period from 1 January 2020 to 30 June 2021, should not be considered to have breached the obligation to maintain those jobs in the area concerned for a period of five years from the date the post was first filled, or three years in the case of small and medium-sized enterprises ("SMEs").
- (3) State aid granted to undertakings participating in European Innovation Partnership for agricultural productivity and sustainability ("EIP") Operational Group projects covered by Article 35 of Regulation (EU) No 1305/2013 of the European Parliament and of the Council ⁽³⁾, or in community-led local development ("CLLD") projects covered by Regulation (EU) No 1303/2013 of the European Parliament and of the Council ⁽⁴⁾ or by Regulation (EU) 2021/1060 of the European Parliament and of the Council ⁽⁵⁾ has little impact on competition, in particular, in view of the positive role the aid plays for sharing knowledge, especially for local and farming communities, as well as the often collective nature of the aid, and its relatively small scale. The nature of these projects is integrated, multi-actor and multi-sector, which can lead to certain difficulties for their classification under State aid law. Given

⁽¹⁾ OJ L 248, 24.9.2015, p. 1.

⁽²⁾ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, p. 1).

⁽³⁾ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

⁽⁴⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁽⁵⁾ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

the local nature of individual EIP Operational Group and CLLD projects, selected on the basis of a multi-annual local development strategy determined and implemented by public-private partnership and their orientation to community, social, environmental and climate interest, this Regulation should address certain difficulties faced by EIP Operational Group and CLLD projects in order to facilitate their compliance with State aid rules.

- (4) Given the limited effect on trade and competition of small amounts of aid granted to SMEs benefitting, directly or indirectly, from EIP Operational Group and CLLD projects, simple rules for cases where the aggregate amount of aid per project does not exceed a certain ceiling should be laid down.
- (5) Undertakings participating in European Territorial Cooperation (ETC) projects covered by Regulation (EU) No 1299/2013 of the European Parliament and of the Council ⁽⁶⁾ or by Regulation (EU) 2021/1059 of the European Parliament and of the Council ⁽⁷⁾ often experience difficulties in financing additional costs stemming from the cooperation between partners located in different regions and in different Member States or third countries. Given the importance of ETC for the cohesion policy, providing a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States or third countries, certain difficulties faced by ETC projects should be addressed in order to facilitate their compliance with State aid rules. In the light of the Commission's experience, Regulation (EU) No 651/2014 should apply to aid for ETC projects, irrespective of the size of the beneficiary undertakings.
- (6) In addition, given the limited effect on trade and competition of small amounts of aid granted to undertakings participating in ETC projects, in particular, where those undertakings receive that aid indirectly, simple rules for cases where the aggregate amount of aid per undertaking per project does not exceed a certain ceiling should be laid down.
- (7) Research and development projects or feasibility studies awarded a Seal of Excellence quality label following an evaluation and ranking carried out by independent experts, which are regarded as excellent and worthy of receiving public funding, but cannot be funded under the Horizon Framework Programme due to lack of available budget, may be supported by national resources including resources from the European Structural and Investment Funds for the period 2014-2020, and from the European Regional Development Fund and the European Social Fund+ for the period 2021-2027. State aid granted to such research and development projects which are carried out by SMEs should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions. In addition, it should not be necessary to reassess eligibility conditions already assessed at Union level in accordance with the Horizon 2020 or Horizon Europe Framework programme rules prior to the awarding of the Seal of Excellence label. The profit or non-profit character of the entities carrying out the projects is not a relevant criterion under competition law.
- (8) State aid granted to support the deployment of certain performant fixed broadband networks and State aid granted to support the deployment of certain performant passive mobile networks should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting competition and crowding out private investment.
- (9) State aid granted in the form of connectivity vouchers for consumers in order to facilitate teleworking, online education and training services as well as for SMEs should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting competition and crowding out private investment.

⁽⁶⁾ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

⁽⁷⁾ Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94).

- (10) State aid granted to certain projects of common interest in the area of trans-European digital connectivity infrastructures financed under Regulation (EU) 2021/1153 of the European Parliament and of the Council ⁽⁹⁾ or awarded a Seal of Excellence quality label under that Regulation should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions, in order to help bridge the digital divide in market failure areas, while limiting risks of distorting the competition and crowding out private investment.
- (11) Grants provided to researchers under the European Research Council (ERC) Proof of Concept and under the Marie Skłodowska-Curie actions (MSCA) that qualify as economic activities should also be considered compatible with the internal market when they benefit from a Seal of Excellence quality label.
- (12) Combined public funding from national resources and resources directly managed by the Union for research and development projects (such as those implemented under a European institutionalised Partnership based on Article 185 or Article 187 of the Treaty or programme co-fund action as defined in the Horizon Europe Framework programme) can contribute to improving the competitiveness of European research and development, as such research and development projects are considered to meet objectives of common European interest and address well-defined market failures. This is considered to be the case where such projects are selected on the basis of the evaluation and ranking made by independent experts in line with Horizon 2020 or Horizon Europe Framework Programme rules, following trans-national calls, where at least three Member States (two Member States in the case of Teaming actions), or alternatively two Member States and at least one associated country, participate. The financial contributions made by Member States, including resources from the European Structural and Investment Funds for the period 2014-2020, and from the European Regional Development Fund and the European Social Fund+ for the period 2021-2027, to those co-funded research and development projects should be considered compatible with the internal market and be exempted from the notification requirement under certain conditions. In addition, it should not be necessary to reassess eligibility conditions already assessed at trans-national level in accordance with Horizon 2020 or Horizon Europe programme rules by independent experts prior to a research and development project's selection.
- (13) The Horizon 2020 and Horizon Europe Framework programmes define which research and innovation actions are eligible for funding. In this regard, research and innovation action, as defined under the Horizon Framework Programme, will normally correspond to fundamental research and industrial research activities, as defined in Regulation (EU) No 651/2014. Moreover, innovation action supported under the Horizon Framework Programme will normally correspond to the definition of experimental development activities under Regulation (EU) No 651/2014. The simplifications provided for in this Regulation in the area of research and development should, however, not be used to introduce aid measures that finance activities that are not eligible under State aid rules for research and development, that is to say, activities going beyond the scope of experimental development activities. To this effect, the definitions regarding Technological Readiness Level (TRL) may also be taken into account by the Member States. State aid for research and development activities at TRL 9 level is considered to go beyond the scope of the definition of experimental development and should consequently be excluded from the scope of Regulation (EU) No 651/2014.
- (14) Support for energy efficiency measures in certain buildings can be combined, under the InvestEU Fund and subject to simplified conditions, with support for the on-site production of renewable energy and its storage, for on-site charging points for vehicles and for the digitalisation of these buildings. This combined support under simplified conditions is possible for residential buildings, buildings dedicated to the provision of education or social services, buildings dedicated to activities related to public administration or to justice, police or fire-fighting services, and buildings in which economic activities occupy less than 35 % of the internal floor area. Given the nature of the activities taking place in such buildings, support to improve the energy performance of such buildings has a more limited impact on competition. To ensure a consistent treatment of projects financed with the InvestEU Fund and with purely national resources, it is appropriate to amend the provisions of Regulation (EU) No 651/2014 concerning investment aid for energy efficiency measures and to introduce compatibility conditions for facilitating the combination under the same project of investments in energy efficiency measures with investments improving

⁽⁹⁾ Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).

the energy performance of the building (that is to say, integrated on-site installations generating renewable energy, on-site equipment for the charging of electric vehicles of the building's users), and investments for the digitalisation of the building, in particular to increase its smart readiness. To that end, the entire investment cost of the energy efficiency measure and the various pieces of equipment should constitute the eligible costs while a uniform maximum aid intensity would apply.

- (15) To ensure a consistent treatment between projects financed with the support of the InvestEU Fund and with purely national resources, it is appropriate to amend Regulation (EU) No 651/2014 by introducing compatibility conditions for investment aid for certain types of low emission mobility infrastructure for road vehicles. Investment aid for publicly accessible recharging or refuelling infrastructure for road vehicles should be considered compatible with the internal market and be exempted from the notification requirement of Article 108(3) of the Treaty in so far as it allows for an increased level of environmental protection and does not unduly distort competition. As regards refuelling infrastructure, in the absence of a harmonised definition of low-carbon hydrogen, only investment aid for refuelling infrastructure supplying road vehicles with renewable hydrogen should be covered by the block exemption. The Commission will consider extending the scope of the relevant provisions to also include low-carbon hydrogen once a harmonised definition is adopted. In addition, for both recharging and refuelling infrastructure certain safeguards should be in place to limit distortions of competition. The compatibility conditions should, in particular, ensure that support generates additional investments and addresses market failures or sub-optimal investment situations, that the development of the market is not hindered by support and, in particular, that there is open and non-discriminatory access to the infrastructure. In addition, investment aid for recharging or refuelling infrastructure should be granted on the basis of a competitive bidding process to ensure proportionality and minimise distortions on the infrastructure market. Finally, to stimulate effective competition, aid granted to the same beneficiary under each measure should be capped.
- (16) Financial products supported by the InvestEU Fund may involve funds controlled by Member States, including Union shared management funds, contributions stemming from the Recovery and Resilience Facility, or other contributions by Member States, in order to increase leverage and support additional investments in the Union. For instance, Member States have the possibility of contributing a part of Union shared management funds or Recovery and Resilience Facility resources to the Member State compartment of the EU guarantee under the InvestEU Fund. Moreover, Member States could finance the financial products backed by the InvestEU Fund through their own funds or national promotional banks. Such financing may qualify as 'State resources' and may be imputable to the State if the Member States have discretion as to the use of those resources. Conversely, when Member States have no discretion as to the use of the resources or act in line with normal market conditions, the use of those funds may not constitute State aid.
- (17) Where national funds, including Union shared management funds, constitute State aid within the meaning of Article 107(1) of the Treaty, a set of conditions should be set out on the basis of which the aid could be considered compatible with the internal market and be exempted from the notification requirement in order to facilitate the implementation of the InvestEU Fund.
- (18) The design of the InvestEU Fund incorporates a number of important competition safeguards, such as supporting investments which deliver Union policy objectives and Union added value and the requirement for the InvestEU Fund to be additional and address market failures and sub-optimal investment situations. Moreover, the governance system and decision-making process will ensure, before issuing the EU guarantee, that the InvestEU supported operations meet the above requirements. Finally, the support provided by the InvestEU Fund will be transparent and its effects will be evaluated. Therefore, State aid involved in the financial products supported by the InvestEU Fund should be considered compatible with the internal market and be exempted from the notification requirement based on a limited set of conditions.
- (19) Regulation (EU) No 651/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 651/2014 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) points (m) and (n) are replaced by the following:

‘(m) aid for regional airports;

(n) aid for ports;’;

(ii) the following points (o) and (p) are added:

‘(o) aid for European Territorial Cooperation projects; and

(p) aid involved in financial products supported by the InvestEU Fund.’;

(b) in paragraph 2, point (a) is replaced by the following:

‘(a) schemes under Sections 1 (with the exception of Article 15), 2, 3, 4, 7 (with the exception of Article 44) and 10 of Chapter III of this Regulation and aid implemented in the form of financial products under Section 16 of that Chapter, if the average annual State aid budget per Member State exceeds EUR 150 million, from six months after their entry into force. For aid under Section 16 of Chapter III of this Regulation, only contributions by a Member State to the Member State compartment of the EU guarantee, referred to in Article 9(1), point (b), of Regulation (EU) 2021/523 of the European Parliament and the Council *, which are earmarked for a specific financial product shall be taken into account for assessing whether the average annual State aid budget of that Member State related to the financial product exceeds EUR 150 million. The Commission may decide that this Regulation shall continue to apply for a longer period to any of these aid schemes after having assessed the relevant evaluation plan notified by the Member State to the Commission, within 20 working days from the scheme's entry into force. Where the Commission has already extended the application of this Regulation beyond the initial six months as regards such schemes, Member States may decide to extend those schemes until the end of the period of application of this Regulation, provided that the Member State concerned has submitted an evaluation report in line with the evaluation plan approved by the Commission. However, regional aid granted under this Regulation may be extended, by derogation, until the end of the period of validity of the relevant regional aid maps;

* Regulation (EU) 2021/523 of the European Parliament and the Council of 24 March 2021 establishing the InvestEU Programme and amending Regulation (EU) 2015/1017 (OJ L 107, 26.3.2021, p. 30).’;

(c) in paragraph 3, points (a) and (b) are replaced by the following:

‘(a) aid granted in the fishery and aquaculture sector, as covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council * with the exception of training aid, aid for SMEs’ access to finance, aid in the field of research and development, innovation aid for SMEs, aid for disadvantaged workers and workers with disabilities, regional investment aid in outermost regions, regional operating aid schemes, aid for European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects, aid for community-led local development (“CLLD”) projects, aid to European Territorial Cooperation projects, and aid involved in financial products supported by the InvestEU Fund, except for operations listed in Article 1(1) of Commission Regulation (EU) No 717/2014 **;

(b) aid granted in the primary agricultural production sector, with the exception of regional investment aid in outermost regions, regional operating aid schemes, aid for consultancy in favour of SMEs, risk finance aid, aid for research and development, innovation aid for SMEs, environmental aid, training aid, aid for disadvantaged workers and workers with disabilities, aid to European Innovation Partnership for agricultural

productivity and sustainability (EIP) Operational Group projects, aid to community-led local development (CLLD) projects, aid to European Territorial Cooperation projects and aid involved in financial products supported by the InvestEU Fund;

* Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

** Commission Regulation (EU) No 717/2014 of 27 June 2014 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid in the fishery and aquaculture sector (OJ L 190, 28.6.2014, p. 45).;

(d) paragraph 4 is replaced by the following:

‘4. This Regulation shall not apply to:

(a) aid schemes which do not explicitly exclude the payment of individual aid in favour of an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid granted by the same Member State illegal and incompatible with the internal market, with the exception of aid schemes to make good the damage caused by certain natural disasters and aid schemes covered by Article 19b, Section 2a as well as Section 16 of Chapter III;

(b) ad hoc aid in favour of an undertaking as referred to in point (a);

(c) aid to undertakings in difficulty, with the exception of aid schemes to make good the damage caused by certain natural disasters, start-up aid schemes, regional operating aid schemes, aid schemes covered by Article 19b, aid to SMEs under Article 56f and aid to financial intermediaries under Articles 16, 21, 22 and 39 as well as Section 16 of Chapter III, provided undertakings in difficulty are not treated more favourably than other undertakings. However, this Regulation shall apply, by derogation, to undertakings which were not in difficulty on 31 December 2019 but became undertakings in difficulty during the period from 1 January 2020 to 31 December 2021.;

(2) Article 2 is amended as follows:

(a) points (63), (64) and (65) are deleted;

(b) the following points (102a), (102b) and (102c) are inserted:

‘(102a) “recharging infrastructure” means a fixed or mobile infrastructure supplying road vehicles with electricity;

(102b) “refuelling infrastructure” means a fixed or mobile infrastructure supplying road vehicles with hydrogen;

(102c) “renewable hydrogen” means hydrogen produced through the electrolysis of water (in an electrolyser, powered by electricity stemming from renewable sources), or through the reforming of biogas or biochemical conversion of biomass, if in compliance with sustainability criteria set out in Article 29 of Directive (EU) 2018/2001 of the European Parliament and of the Council *.

* Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).;

(c) the following points (103a) to (103e) are inserted:

‘(103a) “residential building” means a building constituted exclusively of single-family or multi-family dwellings;

(103b) “social services” means clearly identified services, meeting social needs, in particular as regards health and long-term care, childcare, access to and reintegration into the labour market, social housing (which means housing for disadvantaged citizens or socially less advantaged groups who due to solvency constraints are unable to obtain housing at market conditions) and the care and social inclusion of vulnerable groups (as explained in recital 11 of Commission Decision 2012/21/EU *);

- (103c) “digitalisation” means the adoption of technologies carried out by electronic devices and/or systems which make it possible to increase product functionality, develop online services, modernise processes, or migrate to business models based on the disintermediation of goods production and service delivery, eventually producing a transformative impact;
- (103d) “smart readiness” means the capability of buildings (or building units) to adapt their operation to the needs of the occupant, including optimising energy efficiency and overall performance, and to adapt their operation in reaction to signals from the grid;
- (103e) “small mid-cap” means an undertaking that is not an SME and whose number of employees does not exceed 499, calculated in accordance with Articles 3 to 6 of Annex I, the annual turnover of which does not exceed EUR 100 million or the annual balance sheet of which does not exceed EUR 86 million; several entities shall be considered as one undertaking if any of the conditions listed in Article 3(3) of Annex I is fulfilled;

* Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ L 7, 11.1.2012, p. 3).;

(d) point (133) is deleted;

(e) point (137) is replaced by the following:

‘(137) “passive network” means a network without any active element, such as: civil engineering infrastructure, pipes, ducts, inspection chambers, manholes, dark fibre, cabinets, power supply, antenna installations, passive antennas, masts, poles and towers;’

(f) point (138) is deleted;

(g) the following points (139a), (139b), and (139c) are inserted:

‘(139a) “premises passed” means premises which can be connected within a short period of time at the normal activation fee for the end-user, regardless of whether those premises are connected to the network. An operator shall report premises as passed only if, following a request from an end-user, it commits to connect the premises for normal activation fees, meaning without any additional or exceptional cost and, in any case, not exceeding the average activation fee in the Member State concerned. The provider of electronic communications networks and services shall be able to connect and activate the service at the specific premises within four weeks from the date of the request;

(139b) “socioeconomic drivers” means entities which by their mission, nature or location can directly or indirectly generate important socioeconomic benefits to citizens, business and local communities located in their surrounding territory or in their area of influence, including among others public authorities, public or private entities entrusted with the operation of services of general interest or of services of general economic interest as set out in Article 106(2) of the Treaty and digitally intensive enterprises;

(139c) “5G corridor” means a transport path, road, railway or inland waterway, fully covered with digital connectivity infrastructure, in particular 5G systems, and enabling the uninterrupted provision of synergy digital services as defined in Regulation (EU) 2021/1153 of the European Parliament and of the Council *, such as connected and automated mobility, similar smart mobility services for railways or digital connectivity on inland waterways;

* Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).;

(h) the following heading and points (166) to (172) are added:

'Definitions for aid involved in financial products supported by the InvestEU Fund (terms defined under other headings of this Article shall have the same meaning as laid down therein also for aid involved in financial products supported by the InvestEU Fund)

- (166) "InvestEU Fund", "EU guarantee", "financial product", "national promotional banks or institutions" and "implementing partner" have the meaning set out in Article 2 of Regulation (EU) 2021/523;
- (167) "financial intermediary" for the purposes of Section 16 means a financial intermediary within the meaning of point (34), with the exception of implementing partners;
- (168) "commercial financial intermediary" means a financial intermediary which operates on a for profit basis and at full own risk, without a public guarantee, national promotional banks or institutions are not considered to be commercial financial intermediaries;
- (169) "TEN-T urban node" has the meaning set out in Article 3, point (p), of Regulation (EU) No 1315/2013 of the European Parliament and of the Council *;
- (170) "new entrant" means a railway undertaking within the meaning of Article 3(1) of Directive 2012/34/EU of the European Parliament and of the Council **, which fulfils the following conditions:
 - (a) it received a licence pursuant to Article 17(3) of Directive 2012/34/EU for the relevant market segment less than 20 years before the aid is granted;
 - (b) it is not linked within the meaning of Article 3(3) of Annex I to this Regulation to a railway undertaking that received a license within the meaning of Article 3(14) of Directive 2012/34/EU prior to 1 January 2010;
- (171) "urban transport" means transport within a city or an agglomeration and its commuting zones;
- (172) "ecosystem", "biodiversity" and "the good condition of an ecosystem" have the meaning set out in Article 2 of Regulation (EU) 2020/852 of the European Parliament and of the Council ***.

* Regulation (EU) No 1315/2013 of the European Parliament and of the Council of 11 December 2013 on Union guidelines for the development of the trans-European transport network and repealing Decision No 661/2010/EU (OJ L 348, 20.12.2013, p. 1).

** Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

*** Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13).;

(3) in Article 4, paragraph 1 is amended as follows:

(a) point (f) is replaced by the following:

'(f) for aid for undertakings participating in European Territorial Cooperation projects: for aid under Article 20, EUR 2 million per undertaking, per project; for aid under Article 20a, the amounts laid down in Article 20a(2) per undertaking, per project;';

(b) in point (i), the following points (vii) to (x) are inserted:

'(vii) for aid for SMEs for research and development projects awarded a Seal of Excellence quality label and implemented under Article 25a, the amount referred to in Article 25a;

(viii) for aid Marie Skłodowska-Curie actions and ERC Proof of Concept actions implemented under Article 25b, the amounts referred to in Article 25b;

(ix) for aid involved in co-funded research and development projects implemented under Article 25c, the amounts referred to in Article 25c;

(x) for aid for Teaming actions, the amounts referred to in Article 25d;';

(c) point (s) is replaced by the following:

‘(s) for investment aid for environmental protection, excluding investment aid for publicly accessible recharging or refuelling infrastructure for zero or low emission vehicles, investment aid for the remediation of contaminated sites and aid for the distribution network part of the energy efficient district heating and cooling installation: EUR 15 million per undertaking per investment project; EUR 30 million for aid for energy efficiency investments in certain buildings falling within the scope of Article 38(3a); and EUR 30 million of total nominal outstanding financing for aid for energy efficiency investments in certain buildings falling within the scope of Article 38(7);

(d) the following point (sa) is inserted:

‘(sa) for investment aid for publicly accessible recharging or refuelling infrastructure for zero or low emission vehicles: EUR 15 million per undertaking per project and, in the case of schemes, an average annual budget of up to EUR 150 million;’;

(e) point (t) is replaced by the following:

‘(t) for investment aid for energy efficiency projects, the amounts set out in Article 39(5);’;

(f) point (y) is replaced by the following:

‘(y) for aid for the deployment of fixed broadband networks awarded in the form of a grant: EUR 100 million total costs per project; for aid for fixed broadband infrastructures awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;’;

(g) the following points (ya), (yb) and (yc) are inserted:

‘(ya) for aid for the deployment of 4G or 5G mobile networks awarded in the form of a grant: EUR 100 million total costs per project; for aid for 4G or 5G mobile networks awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;

(yb) for aid for certain projects of common interest in the area of trans-European digital connectivity infrastructures financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation awarded in the form of a grant: EUR 100 million total costs per project; for aid for certain projects of common interest in the area of trans-European digital connectivity infrastructures awarded in the form of a financial instrument the nominal amount of total financing provided to any final beneficiary per project must not exceed EUR 150 million;

(yc) for aid in the form of connectivity vouchers schemes: the total State aid budget over 24 months for all connectivity voucher schemes in a Member State must not exceed EUR 50 million (total amount including national and regional or local voucher schemes);’;

(h) the following points (gg) and (hh) are added:

‘(gg) for aid involved in financial products supported by the InvestEU Fund: the amounts laid down in Section 16 of Chapter III;

(hh) for aid to SMEs for costs incurred by participating in community-led local development (“CLLD”) projects and European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects: for aid under Article 19a, EUR 2 million per undertaking, per project; for aid under Article 19b, the amounts laid down in Article 19b(2) per project.’;

(4) in Article 5, paragraph 2 is amended as follows:

(a) the following point (ea) is inserted:

‘(ea) aid to undertakings for their participation in European Territorial Cooperation projects under Article 20a, where it provides for a cap ensuring that the applicable threshold laid down in Article 20a is not exceeded;’;

(b) the following point (l) is added:

‘(l) aid involved in financial products supported by the InvestEU Fund, if the conditions laid down in Section 16 of Chapter III are fulfilled;’;

(5) in Article 6(5), the following points (i), (j), (k) and (l) are added:

- '(i) aid for undertakings participating in European Territorial Cooperation projects, if the relevant conditions in Article 20 or Article 20a are fulfilled;
- (j) aid for research and development projects awarded a Seal of Excellence quality label, Marie Skłodowska-Curie actions and ERC Proof of Concept actions awarded a Seal of Excellence quality label, aid involved in co-funded projects and in co-funded Teaming actions, if the relevant conditions laid down in Article 25a, Article 25b, Article 25c or Article 25d are fulfilled;
- (k) aid involved in financial products supported by the InvestEU Fund, if the conditions laid down in Section 16 of Chapter III are fulfilled;
- (l) aid for SMEs participating in or benefitting from community-led local development ("CLLD") projects and European Innovation Partnership for agricultural productivity and sustainability ("EIP") Operational Group projects, if the relevant conditions in Article 19a or Article 19b are fulfilled.;

(6) in Article 7(1), the second sentence is replaced by the following:

'The amounts of eligible costs may be calculated in accordance with the simplified cost options set out in Regulation (EU) No 1303/2013 of the European Parliament and of the Council *, or Regulation (EU) 2021/1060 of the European Parliament and of the Council **, whichever is applicable provided that the operation is at least partly financed through a Union fund that allows the use of those simplified cost options and that the category of costs is eligible according to the relevant exemption provision.

* Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 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 and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

** Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).;

(7) Article 8 is amended as follows:

(a) in paragraph 3, point (b) is replaced by the following:

- '(b) any other State aid, in relation to the same eligible costs, partly or fully overlapping, only if such cumulation does not result in exceeding the highest aid intensity or aid amount applicable to this aid under this Regulation.

Financing provided to the final beneficiaries with support from the InvestEU Fund covered by Section 16 of Chapter III and the cost covered by this financing shall not be considered for determining compliance with the cumulation provisions laid down in the first sentence of this point. Instead, the amount relevant for determining compliance with the cumulation provisions of the first sentence of this point shall be calculated as follows. First, the nominal amount of the financing supported by the InvestEU Fund shall be deducted from the total eligible project costs, obtaining the total remaining eligible costs; second, the maximum aid shall be calculated by applying the relevant highest aid intensity or aid amount only to the total remaining eligible costs.

In cases of Articles for which the notification threshold is expressed as a maximum aid amount, the nominal amount of financing provided to the final beneficiaries with the support from the InvestEU Fund shall also not be considered for determining whether the notification thresholds in Article 4 are respected.

Alternatively, for senior loans or guarantees on senior loans supported by the InvestEU Fund under Section 16 of Chapter III, the gross grant equivalent of the aid entailed in such loans or guarantees provided to the final beneficiaries may be calculated in accordance with Article 5(2), point (b) or (c), as appropriate. This gross grant equivalent of the aid can be used for ensuring, in line with the first sentence of this point, that cumulation with any other aid for the same identifiable eligible costs does not result in exceeding the highest aid intensity or aid amount applicable to the aid under this Regulation or the relevant notification threshold under this Regulation.;

(b) paragraph 4 is replaced by the following:

‘4. Aid without identifiable eligible costs exempted under Article 19b, 20a, 21, 22 or 23, Article 56e(5), point (a)(ii) or (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f may be cumulated with any other State aid with identifiable eligible costs. Aid without identifiable eligible costs may be cumulated with any other State aid without identifiable eligible costs, up to the highest relevant total financing threshold fixed in the specific circumstances of each case by this or another block exemption regulation or decision adopted by the Commission. Aid without identifiable eligible costs exempted under Article 56e(5), point (a)(ii) or (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f may be cumulated with other aid without identifiable eligible costs exempted under those Articles.’;

(8) Article 9 is amended as follows:

(a) paragraphs 1 and 2 are replaced by the following:

‘1. The Member State concerned shall ensure the publication on a comprehensive State aid website, at national or regional level of:

- (a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;
- (b) the full text of each aid measure, as referred to in Article 11 or a link providing access to the full text;
- (c) the information referred to in Annex III on each individual aid award exceeding EUR 500 000, or for beneficiaries active in primary agricultural production, other than those to which Section 2a applies, each individual aid award for such production exceeding EUR 60 000 and for beneficiaries active in the fishery and aquaculture sector, other than those to which Section 2a applies, each individual aid award exceeding EUR 30 000.

As regards aid granted to European Territorial Cooperation projects referred to in Article 20, the information referred to in this paragraph shall be placed on the website of the Member State in which the Managing Authority concerned, as defined in Article 21 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council *, or Article 45 of Regulation (EU) 2021/1059 of the European Parliament and of the Council **, whichever is applicable, is located. Alternatively, the participating Member States may decide that each of them shall provide the information relating to the aid measures within their territory on the respective websites.

The publication obligations laid down in the first subparagraph shall not apply to aid granted to European Territorial Cooperation projects referred to in Article 20a, as well as European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects and community-led local development (“CLLD”) projects under Article 19b.

2. For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 *** the conditions set out in paragraph 1, first subparagraph, point (c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

0,03-0,5 (only for fishery and aquaculture);

0,06-0,5 (only for primary agricultural production);

0,5-1;

1-2;

2-5;

5-10;

10-30; and

30 and more.

* Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

** Regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L 231, 30.6.2021, p. 94).

*** For schemes under Article 16 and 21 of the present Regulation, the requirement to publish information on each individual award exceeding EUR 500 000 can be waived with respect to SMEs which have not carried out any commercial sale in any market.;

(b) the following paragraph 3a is inserted:

‘3a. If a financial product has been implemented by a Member State under the InvestEU Member State compartment or by a national promotional bank acting as an implementing partner or acting as a financial intermediary under InvestEU, the Member State remains under the obligation to ensure the publication of information as laid down in paragraph 1, first subparagraph, point (c). However, this obligation is deemed to be fulfilled if the implementing partner provides to the Commission the information as laid down in paragraph 1, first subparagraph, point (c), no later than 30 June of the year following the financial year in which the aid was granted and if the guarantee agreement signed between the Commission and the implementing partner stipulates the requirement to provide to the Commission the information as laid down in paragraph 1, first subparagraph, point (c).’;

(9) in Article 11, paragraph 1 is replaced by the following:

‘1. Member States, or in the case of aid granted to European Territorial Cooperation projects under Article 20, alternatively the Member State in which the Managing Authority, as defined in Article 21 of Regulation (EU) No 1299/2013, or Article 45 of Regulation (EU) 2021/1059, whichever is applicable, is located, shall transmit to the Commission:

(a) via the Commission's electronic notification system, the summary information about each aid measure exempted under this Regulation in the standardised format laid down in Annex II, together with a link providing access to the full text of the aid measure, including its amendments, within 20 working days following its entry into force; and

(b) an annual report, as referred to in Commission Regulation (EC) No 794/2004 * in electronic form, on the application of this Regulation, containing the information indicated in that Regulation, in respect of each whole year or each part of the year during which this Regulation applies. For financial products implemented by a Member State under the InvestEU Member State compartment or by a national promotional bank acting as an implementing partner or acting as a financial intermediary under InvestEU, this obligation of the Member State is deemed to be fulfilled if the implementing partner provides the annual reports to the Commission, in accordance with the relevant reporting requirements laid down in the guarantee agreement signed between the Commission and the implementing partner.

This first subparagraph shall not apply in respect of aid granted to European Territorial Cooperation projects referred to in Article 20a, as well as to European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects and to community-led local development (“CLLD”) projects as referred to Article 19b.

* Commission Regulation (EC) No 794/2004 of 21 April 2004 implementing Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 140, 30.4.2004, p. 1).;

(10) in Article 12, paragraph 1 is replaced by the following:

‘1. In order to enable the Commission to monitor the aid exempted from notification by this Regulation, Member States, or alternatively, in the case of aid granted to European Territorial Cooperation projects referred to in Article 20, the Member State in which the Managing Authority is located, shall maintain detailed records with the information and supporting documentation necessary to establish that all the conditions laid down in this Regulation are fulfilled. Such records shall be kept for 10 years from the date on which the *ad hoc* aid was granted or the last aid was granted under the scheme.

The first subparagraph shall not apply in respect of aid granted to European Territorial Cooperation projects referred to in Article 20a, as well as to European Innovation Partnership for agricultural productivity and sustainability Operational Group projects and to community-led local development (“CLLD”) projects as referred to Article 19b.;

(11) Article 14 is amended as follows:

(a) in paragraph 9, point (c) is replaced by the following:

‘(c) each job created through the investment shall be maintained in the area concerned for a period of at least five years from the date the post was first filled, or three years in the case of SMEs, except if the job is lost between 1 January 2020 and 30 June 2021.;

(b) paragraph 15 is replaced by the following:

‘15. For an initial investment linked to European territorial cooperation projects covered by Regulation (EU) No 1299/2013, or Regulation (EU) 2021/1059, the aid intensity of the area in which the initial investment is located shall apply to all beneficiaries participating in the project. If the initial investment is located in two or more assisted areas, the maximum aid intensity shall be the one applicable in the assisted area where the highest amount of eligible costs is incurred. In assisted areas eligible for aid under Article 107(3)(c) of the Treaty, this provision shall apply to large undertakings only if the initial investment concerns a new economic activity.;

(12) in Article 16, paragraph 4 is replaced by the following:

‘4. The eligible costs shall be the overall costs of the urban development project to the extent that they comply with Articles 37 and 65 of Regulation (EU) No 1303/2013, or Articles 67 and 68 of Regulation (EU) 2021/1060, whichever is applicable.;

(13) the following Articles 19a and 19b are inserted:

‘Article 19a

Aid for costs incurred by SMEs participating in community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects

1. Aid for costs incurred by SMEs participating in CLLD projects, designated as LEADER local development under the European Agricultural Fund for Rural Development, covered by Regulation (EU) No 1303/2013 or Regulation (EU) 2021/1060, as well as for EIP Operational Group projects covered by Article 35 of Regulation (EU) No 1305/2013, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The following costs, set out in Article 35(1) of Regulation (EU) No 1303/2013 or Article 34(1) of Regulation (EU) 2021/1060, whichever is applicable, shall be eligible for CLLD and EIP Operational Group projects:

- (a) the costs of preparatory support, capacity building, training and networking with a view of preparing and implementing a CLLD strategy or an EIP Operational Group project;
- (b) implementation of approved operations;
- (c) preparation and implementation of the group's cooperation activities;
- (d) running costs linked to the management of the implementation of the CLLD strategy or of the EIP Operational Group project;
- (e) animation of the EIP community or the CLLD strategy in order to facilitate exchange between stakeholders to provide information and to promote the strategy and the projects, and to support potential beneficiaries with a view of developing operations and preparing applications.

3. The aid intensity shall not exceed the maximum co-financing rates provided for in the Fund specific Regulations supporting CLLD and EIP Operational Groups.

Article 19b

Limited amounts of aid to SMEs benefitting from community-led local development (“CLLD”) or European Innovation Partnership for agricultural productivity and sustainability (“EIP”) Operational Group projects

1. Aid to undertakings participating in, or benefitting from, CLLD or EIP Operational Group projects, as referred to in Article 19a(1), shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The total amount of aid under this Article granted per project shall not exceed EUR 200 000 for CLLD projects, and EUR 350 000 for EIP Operational Group projects.;

(14) after Article 19b, the following section heading is inserted:

‘SECTION 2a

Aid for European Territorial Cooperation’;

(15) Article 20 is replaced by the following:

‘Article 20

Aid for costs incurred by undertakings participating in European Territorial Cooperation project

1. Aid for costs incurred by undertakings participating in European Territorial Cooperation projects covered by Regulation (EU) No 1299/2013 or Regulation (EU) 2021/1059 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. To the extent that they are linked to the cooperation project, the following costs, which shall have the meaning ascribed to them in Commission Delegated Regulation (EU) No 481/2014 *, or Articles 38 to 44 of Regulation (EU) 2021/1059, whichever is applicable, shall be eligible costs:

- (a) staff costs;
- (b) office and administrative costs;
- (c) travel and accommodation costs;
- (d) external expertise and services costs;
- (e) equipment costs;
- (f) costs for infrastructure and works.

3. The aid intensity shall not exceed the maximum co-financing rate provided for in Regulation (EU) No 1303/2013 or Regulation (EU) 2021/1060 and/or Regulation (EU) 2021/1059, whichever is applicable.

* Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45).;

(16) the following Article 20a is inserted:

‘Article 20a

Limited amounts of aid to undertakings for participation in European Territorial Cooperation projects

1. Aid to undertakings for their participation in European Territorial Cooperation projects covered by Regulation (EU) No 1299/2013 or by Regulation (EU) 2021/1059 shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided the conditions laid down in this Article and in Chapter I are fulfilled.

2. The total amount of aid under this Article granted to an undertaking per project shall not exceed EUR 20 000.’;

(17) in Article 25, paragraph 1 is replaced by the following:

‘1. Aid for research and development projects, including research and development projects having received a Seal of Excellence quality label under the Horizon 2020 or under the Horizon Europe programme and co-funded research and development projects and, where applicable, aid for co-funded Teaming actions, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.’;

(18) the following Articles 25a to 25d are inserted:

‘Article 25a

Aid for projects awarded a Seal of Excellence quality label

1. Aid for SMEs for research and development projects as well as feasibility studies awarded a Seal of Excellence quality label under the Horizon 2020 or the Horizon Europe programme, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules, excluding activities going beyond experimental development activities.

3. The categories, maximum amounts and methods of calculation of eligible costs of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon 2020 or Horizon Europe programme rules.

4. The maximum aid amount shall not exceed EUR 2,5 million per SME per research and development project or feasibility study.

5. The total public funding provided for each research and development project or feasibility study shall not exceed the funding rate set out for that research and development project or feasibility study under the Horizon 2020 or under the Horizon Europe programme rules.

Article 25b

Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions

1. Aid for Marie Skłodowska-Curie actions and ERC Proof of Concept actions awarded a Seal of Excellence quality label under the Horizon 2020 or the Horizon Europe programme shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided action shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules.

3. The categories, maximum amounts and methods of calculation of eligible costs of the aided action shall be those defined as eligible under the Horizon 2020 or Horizon Europe programme rules.

4. The total public funding provided for each aided action shall not exceed the maximum level of support provided for in the Horizon 2020 or the Horizon Europe programme.

Article 25c

Aid involved in co-funded research and development projects

1. Aid provided to a co-funded research and development project or a feasibility study (including research and development projects implemented under a European institutionalised Partnership based on Article 185 or Article 187 of the Treaty or a programme co-fund action, as defined in the Horizon Europe programme rules) which is implemented by at least three Member States, or alternatively two Member States and at least one associated country, and selected on the basis of the evaluation and ranking made by independent experts following transnational calls in line with the Horizon 2020 or Horizon Europe programme rules, shall be compatible with the

internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the aided research and development project or feasibility study shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules, excluding activities going beyond experimental development activities.

3. The categories, maximum amounts and methods of calculation of eligible costs shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules.

4. The total public funding provided shall not exceed the funding rate established for the research and development project or feasibility study following the selection, ranking and evaluation under the Horizon 2020 or Horizon Europe programme rules.

5. The funding provided by the Horizon 2020 or Horizon Europe programme shall cover at least 30 % of the total eligible costs of a research and innovation action or an innovation action as defined under the Horizon 2020 or Horizon Europe programme.

Article 25d

Aid for Teaming actions

1. Aid provided to co-funded Teaming actions, involving at least two Member States and selected on the basis of the evaluation and ranking made by independent experts following transnational calls under the Horizon 2020 or the Horizon Europe programme rules, shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible activities of the co-funded Teaming action shall be those defined as eligible under the Horizon 2020 or Horizon Europe programme rules. Activities going beyond experimental development activities are excluded.

3. The categories, maximum amounts and methods of calculation of eligible costs shall be those defined as eligible under the Horizon 2020 or the Horizon Europe programme rules. In addition, investment costs in project-related tangible and intangible assets shall be eligible.

4. The total public funding provided shall not exceed the funding rate established for the Teaming action following the selection, ranking and evaluation under the Horizon 2020 or the Horizon Europe programme rules. In addition, for investments in project related tangible and intangible assets the aid shall not exceed 70 % of the investment costs.

5. For investment aid for infrastructures under a Teaming action the following additional conditions shall apply:

(a) where the infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles;

(b) the price charged for the operation or use of the infrastructure shall correspond to a market price;

(c) access to the infrastructure shall be open to several users and be granted on a transparent and non-discriminatory basis. Undertakings which have financed at least 10 % of the investment costs of the infrastructure may be granted preferential access under more favourable conditions. In order to avoid overcompensation, such access shall be proportional to the undertaking's contribution to the investment costs and these conditions shall be made publicly available;

(d) where the infrastructure receives public funding for both economic and non-economic activities, Member States shall put in place a monitoring and claw-back mechanism in order to ensure that the applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid.;

(19) the following Article 36a is inserted:

'Article 36a

Investment aid for publicly accessible recharging or refuelling infrastructure for zero and low emission road vehicles

1. Aid for the deployment of recharging or refuelling infrastructure for the supply of energy to zero and low emission road vehicles for transport purposes shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. This Article shall only cover aid granted for the deployment of recharging or refuelling infrastructures that supply vehicles with electricity or renewable hydrogen for transport purposes. The Member State shall ensure that the requirement to supply renewable hydrogen is complied with throughout the economic lifetime of the infrastructure.
3. The eligible costs shall be the costs of the construction, installation or upgrade of the recharging or refuelling infrastructure. These may include the costs of the recharging or refuelling infrastructure itself, installation of or upgrades to electrical or other components, including power transformers that are required for connecting the recharging or refuelling infrastructure to the grid or to a local electricity or hydrogen production or storage unit, as well as related technical equipment, civil engineering works, land or road adaptations, installation costs and costs for obtaining related permits. The costs of local production or storage units generating or storing the electricity and the costs of local hydrogen production units are excluded.
4. Aid under this Article shall be granted in a competitive bidding process on the basis of clear, transparent and non-discriminatory criteria and the aid intensity may reach up to 100 % of the eligible costs.
5. The aid granted to any one beneficiary shall not exceed 40 % of the overall budget of the scheme concerned.
6. Aid under this Article shall only be granted for the construction, installation or upgrade of recharging or refuelling infrastructure accessible to the public and providing non-discriminatory access to users, including in relation to tariffs, authentication and payment methods and other terms and conditions of use.
7. The necessity of aid to incentivise the deployment of recharging or refuelling infrastructure of the same category (for example, for recharging infrastructure: normal or high power) shall be verified through an *ex ante* open public consultation or an independent market study. In particular, it shall be verified that no such infrastructure is likely to be deployed on commercial terms within three years from the publication of the aid measure.
8. By way of derogation from paragraph 7, the necessity of aid for recharging or refuelling infrastructure can be presumed where either battery electric vehicles (for recharging infrastructures) or hydrogen vehicles (for refuelling infrastructures) represent respectively less than 2 % of the total number of vehicles of the same category registered in the Member State concerned. For the purpose of this paragraph, passenger cars and light commercial vehicles shall be considered as being part of the same category of vehicles.
9. Any concession or other entrustment to a third party to operate the supported recharging or refuelling infrastructure shall be assigned on a competitive, transparent and non-discriminatory basis, having due regard to the applicable procurement rules;'

(20) Article 38 is amended as follows:

(a) paragraph 3 is replaced by the following:

'3. The eligible costs shall be the extra investment costs necessary to achieve the higher level of energy efficiency. They shall be determined as follows:

- (a) where the costs of investing in energy efficiency can be identified in the total investment cost as a separate investment, this energy efficiency-related cost shall constitute the eligible costs;

- (b) where the investment relates to the improvement of the energy efficiency of (i) residential buildings; (ii) buildings dedicated to the provision of education or social services; (iii) buildings dedicated to activities related to public administration or to justice, police or fire-fighting services; or (iv) buildings referred to in points (i), (ii) or (iii) and in which activities other than those mentioned in those points occupy less than 35 % of the internal floor area, the entire investment costs necessary to achieve a higher level of energy efficiency shall constitute the eligible costs, provided that the energy efficiency improvements lead to a reduction in primary energy demand of at least 20 % in the case of renovation and to primary energy savings of at least 10 % compared to threshold set for the nearly zero-energy building requirements in national measures implementing Directive 2010/31/EU of the European Parliament and of the Council * in the case of new buildings. The initial primary energy demand and the estimated improvement shall be established by reference to an Energy Performance Certificate as defined in Article 2(12) of Directive 2010/31/EU;
- (c) in all other cases, the costs of investing in energy efficiency shall be identified by reference to a similar, less energy efficient investment that would have been credibly carried out without the aid. The difference between the costs of the two investments identifies the energy efficiency-related cost and constitutes the eligible costs.

The costs not directly linked to the achievement of a higher level of energy efficiency shall not be eligible.

* Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).;

- (b) the following paragraph 3a is inserted:

‘3a. For the buildings referred to in paragraph 3, point (b), the investment in improving the energy efficiency of the building may be combined with investments in any or all of the following:

- (a) integrated on-site renewable energy installations generating electricity and/or heat;
- (b) equipment for the storage of the energy generated by the on-site renewable energy installation;
- (c) equipment and related infrastructure incorporated in the building for the recharging of electric vehicles of the building's users;
- (d) investments in the digitalisation of the building, in particular to increase its smart readiness. Eligible investments may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded.

In case of any such combined works as set out in the first subparagraph, points (a) to (d), the entire investment cost of the various pieces of equipment shall constitute the eligible costs.

The aid may be granted either to the building owner(s) or to the tenant(s), depending on who is commissioning the energy efficiency works.;

- (c) the following paragraph 7 is inserted:

‘7. Aid for measures that improve the energy efficiency of buildings may also relate to the facilitation of energy performance contracts subject to the following cumulative conditions:

- (a) the support takes the form of a loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed to refinance the respective provider (e.g. factoring, forfeiting);
- (b) the nominal amount of total outstanding financing provided under this paragraph per beneficiary does not exceed EUR 30 million;
- (c) the support is provided to SMEs or small mid-caps;
- (d) the support is provided for energy performance contracting within the meaning of Article 2, point (27) of Directive 2012/27/EU;
- (e) the energy performance contracting relates to a building referred to in paragraph 3, point (b).;

(21) Article 39 is amended as follows:

(a) the title is replaced by the following:

'Article 39

Investment aid for energy efficiency projects in buildings in the form of financial instruments';

(b) the following paragraph 2a is inserted:

'2a. Where the investment relates to the improvement of the energy efficiency of (i) residential buildings; (ii) buildings dedicated to the provision of education or social services; (iii) buildings dedicated to activities related to public administration or to justice, police or fire-fighting services; or (iv) buildings referred to in points (i), (ii) or (iii) and in which activities other than those mentioned in those points occupy less than 35 % of the floor area, energy efficiency projects under this Article may also be combined with any of the following investments:

(a) integrated on-site renewable energy installation generating electricity and/or heat;

(b) equipment for the storage of the energy generated from the on-site renewable energy installation;

(c) equipment and related infrastructure incorporated in the building for the charging of electric vehicles of the building users;

(d) investments in the digitalisation of the building, in particular to increase its smart readiness. Eligible investments may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded.;

(c) paragraphs 3, 4 and 5 are replaced by the following:

'3. The eligible costs shall be the overall costs of the energy efficiency project, except for buildings referred to in paragraph 2a, where the eligible costs shall be the overall costs of the energy efficiency project as well as the investment cost of the various pieces of equipment listed in paragraph 2a.

4. The aid shall be granted in the form of an endowment, equity, a guarantee or a loan to an energy efficiency fund or other financial intermediary, which shall pass it on to the largest extent possible to the final beneficiaries, being the building owners or tenants, in the form of higher volumes of financing, lower collateral requirements, lower guarantee premiums or lower interest rates.

5. The aid granted by the energy efficiency fund or other financial intermediary to the eligible energy efficiency projects may take the form of loans or guarantees. The nominal value of the loan or the amount guaranteed shall not exceed EUR 15 million per project at the level of the final beneficiaries, except in the case of combined investments referred to in paragraph 2a, where it shall not exceed EUR 30 million. The guarantee shall not exceed 80 % of the underlying loan.;

(22) Article 52 is replaced by the following:

'Article 52

Aid for fixed broadband networks

1. Aid for fixed broadband network deployment shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be all costs for the construction, management and operation of a fixed broadband network. The maximum aid amount for a project shall be established on the basis of a competitive selection process as set out in paragraph 6, point (a). Where an investment is carried out in accordance with paragraph 6, point (b), without a competitive selection process, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante* on the basis of reasonable projections and verified *ex post* through a claw-back mechanism.

3. The following alternative types of investment are eligible:

- (a) fixed broadband network deployment to connect households and socioeconomic drivers in areas where there is no network able to reliably provide speeds of at least 30 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 30 Mbps download shall be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 30 Mbps download speeds (target speeds);
- (b) fixed broadband network deployment to connect households and socioeconomic drivers in areas where there is no network able to reliably provide speeds of at least 100 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 100 Mbps download shall be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 300 Mbps download and 100 Mbps upload speeds (target speeds);
- (c) fixed broadband network deployment to connect only socioeconomic drivers in areas where there is only one network able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. Areas with at least one present or credibly planned network able to reliably provide speeds of at least 300 Mbps download shall be excluded. Areas with at least two present or credibly planned networks able to reliably provide speeds of at least 100 Mbps download shall also be excluded. The aided network shall ensure at least a doubling of download and upload speeds compared to the present or credibly planned networks and shall be able to reliably provide at least 1 Gbps download speeds (target speeds).

4. The mapping and public consultation referred to in paragraph 3 shall meet all the following requirements:

- (a) the mapping shall identify the geographic target areas envisaged to be covered under the public intervention and shall take into account all present public and private networks able to reliably provide the threshold speeds identified in paragraph 3 depending on the type of investment. The mapping shall be performed: (i) for purely fixed networks, at address level on the basis of premises passed and (ii) for fixed wireless access networks, at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. For points (i) and (ii) the mapping shall always be verified through a public consultation;
- (b) the public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise in accordance with point (a) on an appropriate website (including at national level). The public consultation shall invite interested parties to comment on the measure and to submit substantiated information in accordance with point (a) regarding their networks able to reliably provide the threshold speeds set out in paragraph 3 in the target area that are present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure. If the granting authority takes a shorter or longer time horizon than three years for the deployment of the subsidised infrastructure, the same time horizon, which cannot be shorter than two years, must also be used to assess whether networks referred to in the previous sentence are credibly planned to be deployed. The public consultation shall last at least 30 days.

5. The aided project shall bring a significant improvement (step change) compared to networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, in accordance with paragraph 4. A step change takes place if, as a result of the subsidised intervention, a significant new

investment in the broadband network is undertaken and the subsidised network brings significant new capabilities to the market in terms of broadband internet access service availability and capacity, speeds and competition compared to the present or credibly planned networks. The project must include substantial investments in passive infrastructure going beyond marginal investments related merely to the upgrade of the active elements of the network.

6. The aid shall be granted as follows:

- (a) the aid shall be allocated to providers of electronic communications networks and services on the basis of an open, transparent and non-discriminatory competitive selection procedure in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the applicable public procurement rules, based on the most economically advantageous offer. For the purposes of the competitive selection procedure, the aid granting authority shall establish in advance objective, transparent and non-discriminatory qualitative award criteria that have to be weighed against the requested aid amount. At similar quality conditions the bidder with the lowest amount of aid requested shall be awarded the aid;
- (b) when the aid is granted without a competitive selection procedure to a public authority to deploy and manage, directly or through an in-house entity, a fixed broadband network, the public authority or the in-house entity, as the case may be, shall provide only wholesale services using the subsidised network. The public authority shall ensure accounting separation between the funds used for the operation of the network and other funds at its disposal. Any concession or other entrustment to a third party to build or operate the network shall be allocated through an open, transparent and non-discriminatory competitive selection procedure, in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the applicable public procurement rules, based on the most economically advantageous offer.

7. The operation of the subsidised network shall offer the widest possible active and passive wholesale access, in accordance with Article 2, point (139), under fair and non-discriminatory conditions, including physical unbundling. A project may offer virtual unbundling instead of physical unbundling if the virtual access product is declared as equivalent to physical unbundling by the national regulatory authority. Active wholesale access shall be granted for at least seven years and the wholesale access to the physical infrastructure including ducts or poles shall not be limited in time. The same access conditions shall apply to the entirety of the subsidised network, including on parts of the network where existing infrastructures have been used. The access obligations shall be enforced irrespective of any change in ownership, management or operation of the subsidised network. In the case of aid for the construction of ducts, the ducts shall be large enough to cater for at least three networks and different network topologies.

8. The wholesale access price shall be based on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

9. Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.;

(23) the following Articles 52a, 52b, and 52c are inserted:

'Article 52a

Aid for 4G and 5G mobile networks

1. Aid for 4G and 5G mobile network deployment shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. The eligible costs shall be all costs for the construction, management and operation of a passive mobile network. The maximum aid amount for a project shall be established on the basis of a competitive selection process as set out in paragraph 7, point (a). Where an investment is carried out in accordance with paragraph 7, point (b), without a competitive selection process, the aid amount shall not exceed the difference between the eligible costs and the operating profit of the investment. The operating profit shall be deducted from the eligible costs *ex ante* on the basis of reasonable projections and verified *ex post* through a claw-back mechanism.
3. 5G investment shall be located in areas where mobile networks have not been deployed or where only mobile networks able to support mobile services of up to 3G are available and where there are no 4G and no 5G mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4. 4G investment shall be located in areas where mobile networks have not been deployed or where only mobile networks able to support mobile services of up to 2G are available and where there are no 3G, 4G or 5G mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which shall not be shorter than two years. This shall be verified by mapping and public consultation in accordance with paragraph 4.
4. The mapping and public consultation referred to in paragraph 3 shall meet all the following requirements:
- (a) the mapping shall clearly identify the geographic target areas envisaged to be covered under the public intervention and shall take into account all present mobile networks, depending on the type of investment. Mapping shall be performed on the basis of maximum 100 x100 metre grids. Mapping shall always be verified through a public consultation;
 - (b) the public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise in accordance with point (a) on an appropriate website (including at national level). The public consultation shall invite interested parties to comment on the measure and to submit substantiated information in accordance with point (a) regarding their mobile networks in the target area that are present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure. If the granting authority takes a shorter or longer time horizon than three years for the deployment of the subsidised infrastructure, the same time horizon, which cannot be shorter than two years, must also be used to assess whether networks referred to in the previous sentence are credibly planned to be deployed. The public consultation shall last at least 30 days.
5. The aided infrastructure shall not be taken into account to meet the coverage obligations of the mobile networks operators that arise out of conditions attached to rights of use of 4G and 5G spectrum.
6. The supported project shall bring a significant improvement (step change) compared to mobile networks present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, in accordance with paragraph 4. A step change takes place if, as a result of the subsidised intervention, a significant new investment in the mobile network is undertaken and the subsidised network brings significant new capabilities to the market in terms of mobile service availability, capacity, speeds and competition compared to the present or credibly planned networks. The project must include substantial investments in passive infrastructure going beyond marginal investments related merely to the upgrade of the active elements of the network.
7. The aid shall be granted as follows:
- (a) the aid shall be allocated to providers of electronic communications networks and services on the basis of an open, transparent and non-discriminatory competitive selection process in line with the principles of public procurement rules and respecting the principle of technology neutrality, without prejudice to the applicable public procurement rules, based on the most economically advantageous offer. For the purposes of the

competitive selection procedure, the aid granting authority shall establish in advance objective, transparent and non-discriminatory qualitative award criteria that have to be weighed against the requested aid amount. At similar quality conditions the bidder with the lowest amount of aid requested shall be awarded the aid;

- (b) when the aid is granted without a competitive selection procedure to a public authority to deploy and manage, directly or through an in-house entity, a passive mobile network, the public authority or the in-house entity, as the case may be, shall provide only wholesale services using the subsidised network. The public authority shall ensure accounting separation between the funds used for the operation of the network and other funds at the disposal of the public authority. Any concession or other entrustment to a third party to build or operate the network shall be allocated through an open, transparent and non-discriminatory competitive selection process, in line with the principles of public procurement rules and respecting the principle of technology neutrality without prejudice to the to the applicable public procurement rules, based on the most economically advantageous offer.

8. The operation of the subsidised network shall offer the widest possible active and passive wholesale access, in accordance with Article 2, point (139), under fair and non-discriminatory conditions. Active wholesale access shall be granted for at least seven years and wholesale access to the physical infrastructure including ducts or poles shall not be limited in time. The same access conditions shall apply on the entirety of the subsidised network, including on the parts of such network where existing infrastructures have been used. The access obligations shall be enforced irrespective of any change in ownership, management or operation of the subsidised network. In the case of aid for the construction of ducts, the ducts shall be large enough to cater at least for all existing mobile networks operators.

9. The wholesale access price shall be based on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with the cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

10. Member States shall put in place a monitoring and claw-back mechanism if the amount of aid granted to the project exceeds EUR 10 million.

11. The use of the publicly funded 4G or the 5G network to provide fixed wireless access services shall only be allowed as follows:

- (a) in areas where there is no network able to reliably provide speeds of at least 30 Mbps download present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, if the following cumulative conditions are met: (i) the mapping and public consultation exercise also takes into account the fixed broadband networks present or credibly planned determined according to Article 52(4); (ii) the supported 4G or 5G fixed wireless access solution is able to reliably provide speeds of at least 30 Mbps download and at least a doubling of download and upload speed compared to the fixed networks present or credibly planned in those areas;
- (b) in areas where there is no network able to reliably provide speeds of at least 100 Mbps download present or credibly planned to be deployed within three years from the moment of publication of the planned aid measure or within the same time horizon as the deployment of the subsidised network, which cannot be shorter than two years, if the following cumulative conditions are met: (i) the mapping and public consultation exercise takes also into account the fixed broadband networks present or credibly planned determined according to Article 52(4); (ii) the supported 4G or 5G fixed wireless access solution is able to reliably provide speeds of at least 300 Mbps download and 100 Mbps upload and at least a doubling of download and upload speed compared to the fixed networks present or credibly planned in those areas.

*Article 52b***Aid for projects of common interest in the area of trans-European digital connectivity infrastructure**

1. Aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Projects shall fulfil the cumulative general compatibility conditions laid down in paragraph 3. They shall, in addition, fall under one of the categories of eligible projects laid down in paragraph 4 and shall fulfil all specific compatibility conditions for the relevant category laid down in that paragraph. Only projects which refer solely to the elements and entities specified under each relevant category in paragraph 4 shall fall within the scope of the exemption in paragraph 1.

3. The general cumulative compatibility conditions shall be the following:

- (a) the beneficiary must provide a financial contribution of at least 25 % of the eligible costs through its own resources or through external financing not containing any public financial support. When the 25 % contribution of the beneficiary is provided through external financing via an investment platform combining different sources of financing, the condition that external financing must not contain any public financial support laid down in the previous sentence is replaced by the requirement of a presence in the platform of at least 30 % of private investment;
- (b) only costs that are eligible investment costs under Regulation (EU) 2021/1153 for the deployment of the infrastructure are eligible for aid;
- (c) the project must be selected in compliance with Regulation (EU) 2021/1153 in one of the following ways:
 - (i) by an independent financial intermediary appointed by the Commission on the basis of commonly agreed investment guidelines;
 - (ii) by the Commission through a competitive bidding process based on clear, transparent and non-discriminatory criteria;
 - (iii) by independent experts appointed by the Commission;
- (d) the project must enable connectivity capabilities going beyond the requirements relating to any existing legal obligations, such as those attached to a right to use spectrum;
- (e) the project must ensure third party open wholesale access including unbundling under fair, reasonable and non-discriminatory conditions in accordance with Article 52(7) and (8) or Article 52a(8) and (9) as appropriate.

4. The categories of eligible projects and the specific cumulative compatibility conditions applicable to them shall be the following:

- (a) investments in the deployment of a cross-border section of a 5G corridor along a transport corridor identified in the trans-European transport network guidelines as laid down in Regulation (EU) No 1315/2013 (TEN-T corridors) that meet the following specific cumulative conditions:
 - (i) the project consists of a cross-border section of a 5G corridor which crosses the border between two or more Member States, or crosses the border of at least one Member State and at least one European Economic Area country;
 - (ii) the total cross-border sections of 5G corridors located in a Member State shall not represent more than 15 % of the total length of the 5G corridors along the trans-European transport core network in that Member State that are not covered by any existing legal obligations, such as those attached to a right to use spectrum. Exceptionally, if a Member State supports the deployment of cross-border 5G corridors along its trans-European transport comprehensive network, the total cross-border sections of 5G corridors located in that Member State shall not represent more than 15 % of the total length of the 5G corridors along the trans-European transport comprehensive network in that Member State that are not covered by any existing legal obligations, such as those attached to a right to use spectrum;

- (iii) the project ensures a significant new investment in the 5G mobile network suitable for connected and automated mobility services going beyond marginal investments related merely to the upgrade of the active elements of the network;
 - (iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;
- (b) investments in the deployment of a cross-border section of a pan-European terabit backbone network supporting the objectives of the European High-Performance Computing Joint Undertaking by interconnecting certain computing facilities, supercomputing facilities and data infrastructures that meet the following specific cumulative conditions:
- (i) the project shall deploy or acquire connectivity assets, including Indefeasible Rights of Use, dark fibre or equipment, for building a cross-border section of a pan-European backbone network that supports the interconnection with unconstrained end to end connectivity of a minimum of 1 Tbps, of at least two computing facilities, supercomputing facilities or data infrastructures that: (1) are hosting entities of the European High Performance Computing Joint Undertaking established in accordance with Council Regulation (EU) 2018/1488 *, or are research infrastructures and other computing and data infrastructures supporting research flagships and missions set out in Regulation (EU) 2021/695 of the European Parliament and of the Council ** and Council Regulation (EC) No 723/2009 that contribute to the objectives of the European High-Performance Computing Joint Undertaking; and (2) are located in at least two Member States or at least one Member State and at least one member of the European Research Area;
 - (ii) the project ensures a significant new investment in the backbone network going beyond marginal investments, such as investments related to mere software upgrades or licensing;
 - (iii) the acquisition of connectivity assets is carried out through public procurement;
 - (iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;
- (c) investments in the deployment of a cross-border section of a backbone network interconnecting cloud infrastructures of certain socioeconomic drivers that meet the following specific cumulative conditions:
- (i) the project interconnects cloud infrastructures of socioeconomic drivers that are public administrations or public or private entities entrusted with the operation of services of general interest or of services of general economic interest within the meaning of Article 106(2) of the Treaty;
 - (ii) the project consists of a cross-border section of the deployment of new cross-border backbone networks or a significant upgrade of existing ones that (1) crosses the border between two or more Member States; or (2) crosses the border between at least one Member State and at least one European Economic Area country;
 - (iii) the project covers at least two eligible socioeconomic drivers under point (i), each operating in a different Member State or in one Member State and one European Economic Area country;
 - (iv) the project ensures a significant new investment in the backbone network going beyond marginal investments, such as investments related to mere software upgrades or licensing. The project shall be able to reliably provide symmetric download and upload speeds of at least multiples of 10 Gbps;
 - (v) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused;
- (d) investments in the deployment of a submarine cable network that meet the following specific cumulative conditions:
- (i) the project consists of a cross-border section of a submarine cable network which (1) crosses the border between two or more Member States; or (2) crosses the border of at least one Member State and at least one European Economic Area country. Alternatively, the entity receiving aid shall only ensure the provision of wholesale services and the supported infrastructure shall improve the connectivity of European outermost regions, overseas territories, or island regions, even within a single Member State;
 - (ii) the project must not concern routes served already by at least two present or credibly planned backbone infrastructures;

- (iii) the project ensures a significant new investment in the submarine cable network, by rolling-out a new submarine cable or connection to an existing submarine cable, addressing redundancy issues and going beyond marginal investments. The project shall be able to reliably provide symmetric download and upload speeds of at least 1 Gbps;
- (iv) the project supports the deployment of new passive infrastructure only if existing passive infrastructure cannot be reused.

Article 52c

Connectivity vouchers

1. Aid in the form of a connectivity voucher scheme for consumers in order to facilitate teleworking, online education, training services or for SMEs shall be compatible with the internal market pursuant to Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.
2. The duration of a voucher scheme shall not exceed 24 months.
3. The following categories of voucher schemes shall be eligible:
 - (a) voucher schemes available to consumers for subscribing to a new broadband internet access service or upgrading the current subscription to a service providing speeds of at least 30 Mbps download, provided that all providers of electronic communications services able to reliably provide speeds of at least 30 Mbps download are eligible under the vouchers scheme, whereas vouchers shall not be awarded for switching providers providing the same speeds or for upgrades of an existing subscription of at least 30 Mbps download;
 - (b) voucher schemes available to SMEs for subscribing to a new broadband internet access service or upgrading the current subscription to a service providing speeds of at least 100 Mbps download, provided that all providers able to reliably provide speeds of at least 100 Mbps download are eligible under the vouchers scheme, whereas vouchers shall not be awarded for switching providers providing the same speeds or upgrades of an existing subscription of at least 100 Mbps download.
4. The vouchers shall cover up to 50 % of the total set-up costs and monthly fee to subscribe to a broadband internet access service with the speeds specified in paragraph 3, whether on a stand-alone basis or as part of a bundle of services, which include at least the necessary terminal equipment (modem/router) for access to the internet with the speed specified in paragraph 3. The voucher shall be paid by the public authorities directly to the end-users or directly to the service provider chosen by the end-users, in which case the amount of the voucher shall be deducted from the end-users' invoice.
5. The vouchers shall be available to consumers or SMEs only in areas where there is at least one existing network able to reliably provide the speeds specified in paragraph 3, which shall be verified by mapping and public consultation. The mapping exercise and the public consultation shall identify the geographic target areas covered by at least one network able to reliably provide the speed specified in paragraph 3 for the duration of the vouchers scheme, the eligible providers present in the area and collect information to calculate their market share. The mapping shall be performed (i) for wireline-based fixed networks at address level on the basis of premises passed; and (ii) for fixed wireless access networks or mobile networks at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. The mapping shall always be verified through a public consultation. The public consultation shall be carried out by the competent public authority through publication of the main characteristics of the planned measure and the list of geographic target areas identified in the mapping exercise on an appropriate website, including at national level. The public consultation shall invite interested parties to comment on the draft measure and to submit substantiated information regarding their existing networks able to reliably provide the speed specified in paragraph 3. The public consultation shall last at least 30 days.
6. The voucher scheme shall comply with the principle of technological neutrality, in the sense that the vouchers can be used for subscriptions to services of any operators able to reliably provide the speeds specified in paragraph 3 over an existing broadband network, irrespective of the technologies used. In order to facilitate the choice of the consumers or SMEs, the list of eligible providers for each of the geographic target areas shall be published on-line and every interested providers shall be able to apply for being included on the basis of open, transparent and non-discriminatory criteria.

7. In order to be eligible, in cases where the provider of the broadband internet access service is vertically integrated and has a retail market share above 25 %, it must offer on the corresponding wholesale access market to any electronic communication services provider at least one wholesale access product able to ensure that the access-seeker will be able to reliably provide a retail service at the speed specified in paragraph 3, under open, transparent and non-discriminatory conditions. The wholesale access price shall be set on one of the following benchmarks: (i) the average published wholesale prices that prevail in other comparable, more competitive areas of the Member State or the Union; or (ii) in the absence of such published prices, the regulated prices already set or approved by the national regulatory authority for the markets and services concerned; or (iii) in the absence of such published or regulated prices, the pricing shall comply with the cost orientation and the methodology mandated in accordance with the sectorial regulatory framework. Without prejudice to the competences of the national regulatory authority under the regulatory framework, the national regulatory authority shall be consulted on the terms and conditions for access, including on prices, and on disputes related to the application of this Article.

* Council Regulation (EU) 2018/1488 of 28 September 2018 establishing the European High Performance Computing Joint Undertaking (OJ L 252, 8.10.2018, p. 1).

** Regulation (EU) 2021/695 of the European Parliament and of the Council of 28 April 2021 establishing Horizon Europe – the Framework Programme for Research and Innovation, laying down its rules for participation and dissemination, and repealing Regulations (EU) No 1290/2013 and (EU) No 1291/2013 (OJ L 170, 12.5.2021, p. 1).;

(24) the following Section 16 is inserted after Article 56c:

SECTION 16

Aid involved in financial products supported by the InvestEU Fund

Article 56d

Scope and common conditions

1. This Section shall apply to aid involved in financial products supported by the InvestEU Fund that provide aid to implementing partners, financial intermediaries or final beneficiaries.
2. The aid shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in Chapter I, this Article, and either Article 56e or Article 56f are fulfilled.
3. The aid shall comply with all applicable conditions laid down in Regulation (EU) 2021/523 and the InvestEU Investment Guidelines laid down in the Annex to Commission Delegated Regulation (EU) 2021/1078 *.
4. The maximum thresholds laid down in Articles 56e and 56f shall apply to the total outstanding financing, in so far as that financing provided under any financial product supported by the InvestEU Fund contains aid. The maximum thresholds shall apply:
 - (a) per project in the case of aid covered by Article 56e(2) and (4), Article 56e(5), point (a)(i), Article 56e(6) and (7), Article 56e(8), points (a) and (b), and Article 56e(9);
 - (b) per final beneficiary in the case of aid covered by Article 56e(5), points (a)(ii) and (iii), Article 56e(8), point (d), Article 56e(10) and Article 56f.
5. Aid shall not be granted in the form of refinancing of or guarantees on existing portfolios of financial intermediaries.

Article 56e

Conditions for aid involved in financial products supported by the InvestEU Fund

1. Aid to the final beneficiary under a financial product supported by the InvestEU Fund shall:
 - (a) comply with the conditions set out in one of paragraphs 2 to 9; and
 - (b) where the financing is provided in the form of loans to the final beneficiary, have an interest rate that corresponds at least to the base rate of the reference rate applicable at the time of the granting of the loan.

2. Aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation shall only be granted to projects fulfilling all general and specific compatibility conditions laid down in Article 52b. The nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 150 million.

3. Aid for investments in fixed broadband networks to connect only certain eligible socioeconomic drivers shall comply with the following conditions:

(a) aid shall only be granted to projects fulfilling all compatibility conditions laid down in Article 52 unless indicated otherwise in points (c) and (d) of this paragraph;

(b) the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 150 million;

(c) the project connects only socioeconomic drivers that are public administrations or public or private entities entrusted with the operation of services of general interest or of services of general economic interest within the meaning of Article 106(2) of the Treaty. Projects including elements or entities other than those specified under this point are excluded;

(d) by way of derogation from Article 52(4), the identified market failure must be verified either by available appropriate mapping or, when such mapping is not available, by a public consultation, as follows:

(i) the mapping can be considered appropriate if it is not older than 18 months and includes all networks able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) that pass the premises of an eligible socioeconomic driver identified in point (c). This mapping must be carried out by the competent public authority, must take into account all networks able to reliably provide the threshold speeds present or credibly planned in the next three years or within the same time horizon as the planned supported intervention, which cannot be shorter than two years, and must be performed (i) for purely fixed networks at address level on the basis of premises passed; and (ii) for fixed wireless access networks at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids;

(ii) the public consultation must be carried out by the competent public authority through publication on an appropriate website inviting interested parties to comment on the draft measure and to submit substantiated information regarding networks able to reliably provide speeds of at least 100 Mbps download but below 300 Mbps download (threshold speeds) present or credibly planned in the next three years or within the same time horizon as the planned supported intervention, which cannot be shorter than two years, that pass the premises of an eligible socioeconomic driver as referred to in point (c), based on information: (i) for purely fixed networks, at address level on the basis of premises passed; and (ii) for fixed wireless access networks, at address level on the basis of premises passed or on the basis of maximum 100 x100 metre grids. The public consultation shall last at least 30 days.

4. Aid for energy generation and energy infrastructure shall comply with the following conditions:

(a) aid shall only be granted for investments in energy infrastructure in gas and electricity not exempted from third party access, tariff regulation and unbundling, based on the internal energy market legislation for the following categories of projects:

(i) as regards gas infrastructure, projects included in the prevailing Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013 of the European Parliament and of the Council **;

(ii) as regards electricity infrastructure:

(1) smart grids, including investments in the development, smartening and modernisation of electricity transmission and distribution infrastructure;

(2) other projects:

— which fulfil any of the criteria laid down in Article 4(1)(c) of Regulation (EU) No 347/2013, or

— which are included in the prevailing Union list of Projects of Common Interest in Annex VII to Regulation (EU) No 347/2013;

- (3) other projects, with the exclusion of electricity storage, in assisted areas;
 - (iii) electricity storage projects, based on new and innovative technology, irrespective of the voltage level of the connection to the network;
 - (b) investment aid for generation of energy from renewable energy sources shall comply with the following requirements:
 - (i) aid shall only be granted for new installations selected on a competitive, transparent, objective and non-discriminatory basis;
 - (ii) aid may be granted to new installations also in combination with storage equipment or hydrogen electrolyzers, provided that both the electricity or hydrogen storage equipment and the hydrogen electrolyzers only use the energy generated by renewable energy installation(s);
 - (iii) aid shall not be granted for hydropower installations that do not comply with the conditions laid down in Directive 2000/60/EC;
 - (iv) in case of installations producing biofuels, aid shall only be granted for installations producing sustainable biofuels other than food based biofuels.
 - (c) The nominal amount of total financing provided to any final beneficiary per project referred to in point (a) under the support of the InvestEU Fund shall not exceed EUR 150 million. The nominal amount of total financing provided to any final beneficiary per project referred to in point (b) under the support of the InvestEU Fund shall not exceed EUR 75 million.
5. Aid for social, educational, cultural and natural heritage infrastructure and activities shall comply with the following conditions:
- (a) the nominal amount of total financing provided to any final beneficiary under the support of the InvestEU Fund shall not exceed:
 - (i) EUR 100 million per project for investments in infrastructure used for the provision of social services and for education; EUR 150 million per project for cultural and heritage conservation purposes and activities set out in Article 53(2), including natural heritage;
 - (ii) EUR 30 million for activities related to social services;
 - (iii) EUR 75 million for activities related to culture and heritage conservation; and
 - (iv) EUR 5 million for education and training.
 - (b) aid shall not be granted for training aimed at complying with mandatory national training requirements.
6. Aid for transport and transport infrastructures shall comply with the following conditions:
- (a) aid for infrastructure, except ports, shall be provided only to the following projects:
 - (i) projects of common interest as defined in Article 3, point (a), of Regulation (EU) No 1315/2013, except for projects concerning port or airport infrastructure;
 - (ii) connections to Trans-European transport network urban nodes;
 - (iii) rolling stock only for the provision of rail transport services not covered by a public service contract within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council ^{***}, provided the beneficiary is a new entrant;
 - (iv) urban transport;
 - (v) recharging or refuelling infrastructure that supplies vehicles with electricity or renewable hydrogen;
 - (b) aid for port infrastructure projects shall comply with the following requirements:
 - (i) aid may only be provided for investments in access infrastructure and port infrastructure that are made available to interested users on an equal and non-discriminatory basis on market terms;
 - (ii) any concession or other entrustment to a third party to construct, upgrade, operate or rent aided port infrastructure shall be assigned on a competitive, transparent, non-discriminatory and unconditional basis;
 - (iii) aid shall not be granted for investments in port superstructures.

(c) the nominal amount of total financing provided under point (a) or (b) to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 150 million.

7. Aid for other infrastructures shall comply with the following conditions:

(a) aid shall be provided only to the following projects:

- (i) investment in water supply and waste water infrastructure for the general public;
- (ii) investment in waste recycling and preparation for re-use in line with Article 47(1) to (6), insofar as it is aimed at managing waste generated by other undertakings;
- (iii) investment in research infrastructure;
- (iv) investment in the construction or upgrade of innovation cluster facilities;

(b) the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 100 million.

8. Aid for environmental protection, including climate protection, shall comply with the following conditions:

(a) aid shall be provided only to the following projects:

- (i) investments enabling undertakings to remedy or prevent damage to physical surroundings (including climate change) or natural resources by a beneficiary's own activities, insofar as the investment goes beyond Union standards for environmental protection or increases the level of environmental protection in the absence of Union standards or constitutes an early adaptation to future Union standards for environmental protection;
- (ii) measures improving the energy efficiency of an undertaking, insofar as the energy efficiency improvements are not undertaken to ensure that the undertaking complies with Union standards already adopted, even if they are not yet in force;
- (iii) remediation of contaminated sites, insofar as no legal or physical person liable for the environmental damage under the applicable law is identified in line with the "polluter pays" principle as referred to in Article 45(3);
- (iv) environmental studies;
- (v) enhancement and restoration of biodiversity and ecosystems where that activity contributes to protecting, conserving or restoring biodiversity and to achieving the good condition of ecosystems, or to protecting ecosystems that are already in good condition;

(b) without prejudice to point (a), where the aid measure relates to the improvement of the energy efficiency of (1) residential buildings; (2) buildings dedicated to the provision of education or social services or to activities related to justice, police or fire-fighting services; (3) buildings dedicated to activities related to public administration; or (4) buildings referred to in (1), (2) or (3) and in which activities other than those mentioned in (1), (2) or (3) occupy less than 35 % of the internal floor area, aid may also be granted for measures that simultaneously improve the energy efficiency of those buildings and integrate any or all of the following investments:

- (i) integrated installations generating renewable energy on-site of the building concerned by the energy efficiency aid measure. The integrated on-site renewable energy installation relates to production of electricity and/or heat. It may be combined with equipment for the storage of the renewable energy generated on-site;
- (ii) on-site storage installations;
- (iii) equipment and related infrastructure incorporated to the building for the recharging of electric vehicles of the building's users;
- (iv) investments for the digitalisation of the building, in particular to increase its smart readiness. The investments for the digitalisation of the building may include interventions limited to passive in-house wiring or structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded;

The final beneficiary of the aid may be either building owner(s) or tenant(s), depending on who obtains the financing for the project;

- (c) the nominal amount of total financing provided to any final beneficiary per project referred to in point (a) under the support of the InvestEU Fund shall not exceed EUR 50 million;
- (d) the nominal amount of total financing provided per project referred to in point (b) under the support of the InvestEU Fund shall not exceed EUR 50 million per final beneficiary and building;
- (e) aid for measures that improve the energy efficiency of buildings referred to in point (b) may also relate to the facilitation of energy performance contracts subject to the following conditions:
 - (i) the support takes the form of a loan or guarantee to the provider of the energy efficiency improvement measures under an energy performance contract, or consists in a financial product aimed to refinance the respective provider (e.g. factoring, forfeiting);
 - (ii) the nominal amount of total financing provided under the support of the InvestEU Fund does not exceed EUR 30 million;
 - (iii) the support is provided to SMEs or small mid-caps;
 - (iv) the support is provided for energy performance contracting within the meaning of Article 2(27) of Directive 2012/27/EU;
 - (v) the energy performance contracting relates to a building referred to in paragraph 8, point (b).

9. Aid for research, development, innovation and digitalisation shall comply with the following conditions:

- (a) aid may be granted for:
 - (i) fundamental research;
 - (ii) industrial research;
 - (iii) experimental development;
 - (iv) process innovation or organisational innovation for SMEs;
 - (v) innovation advisory services and innovation support services for SMEs;
 - (vi) digitalisation for SMEs;
- (b) for projects falling under points (a) (i), (ii) and (iii), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 75 million. For projects falling under point (a) (iv), (v) and (vi), the nominal amount of total financing provided to any final beneficiary per project under the support of the InvestEU Fund shall not exceed EUR 30 million.

10. SMEs or, where applicable, small mid-caps may, in addition to the categories of aid provided for in paragraphs 2 to 9, also receive aid in the form of financing supported by the InvestEU Fund provided that one of the following conditions are fulfilled:

- (a) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 15 million and is provided to:
 - (i) unlisted SMEs that have not yet been operating in any market or have been operating for less than 7 years following their first commercial sale;
 - (ii) unlisted SMEs entering a new product or geographical market, where the initial investment for entering into a new product or geographical market must be higher than 50 % of the average annual turnover in the preceding 5 years;
 - (iii) SMEs and small mid-caps that are innovative enterprises as defined in Article 2, point (80);
- (b) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 15 million and is provided to SMEs or small mid-caps whose principal activities are located in assisted areas provided that the financing is not used for relocation of activities as defined in Article 2, point (61a);

- (c) the nominal amount of total financing provided per final beneficiary under the support of the InvestEU Fund does not exceed EUR 2 million and is provided to SMEs or small mid-caps.

Article 56f

Conditions for aid involved in intermediated commercially-driven financial products supported by the InvestEU Fund

1. Financing to the final beneficiaries shall be provided by commercial financial intermediaries which shall be selected in an open, transparent and non-discriminatory way based on objective criteria.
2. The commercial financial intermediary that provides financing to the final beneficiary shall retain a minimum risk exposure of 20 % of each financing transaction.
3. The nominal amount of total financing provided to each final beneficiary through the commercial financial intermediary shall not exceed EUR 7,5 million.

* Commission Delegated Regulation (EU) 2021/1078 of 14 April 2021 supplementing Regulation (EU) 2021/523 of the European Parliament and of the Council by setting out the investment guidelines for the InvestEU Fund (OJ L 234, 2.7.2021, p. 18).

** Regulation (EU) No 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009 (OJ L 115, 25.4.2013, p. 39).

*** Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) No 1191/69 and (EEC) No 1107/70 (OJ L 315, 3.12.2007, p. 1).;

- (25) in Article 58, paragraph 3a is replaced by the following:

‘3a. Any individual aid granted between 1 July 2014 and 2 August 2021 in accordance with the provisions of this Regulation as applicable at the time of granting the aid shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty. Any individual aid granted before 1 July 2014 in accordance with the provisions of this Regulation, with the exception of Article 9, as applicable either before or after 10 July 2017, or before or after 3 August 2021, shall be compatible with the internal market and exempted from the notification requirement of Article 108(3) of the Treaty.’;

- (26) in Annex II, Part II is replaced by the text set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 July 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

PART II

to be provided through the established Commission electronic notification system as laid down in Article 11

Please indicate under which provision of the GBER the aid measure is implemented.

Primary Objective – General Objectives (list)	Objectives (list)	Maximum aid intensity in % or Maximum annual aid amount in national currency (in full amounts)	SME – bonuses in %
Regional aid – investment aid ⁽¹⁾ (Art. 14)	<input type="checkbox"/> Scheme	...%	...%
	<input type="checkbox"/> Ad hoc aid	...%	...%
Regional aid – operating aid (Art. 15)	<input type="checkbox"/> In sparsely populated areas (Art. 15(2))	...%	...%
	<input type="checkbox"/> In very sparsely populated areas (Art. 15(3))	...%	...%
	<input type="checkbox"/> In outermost regions (Art. 15(4))	...%	...%
<input type="checkbox"/> Regional urban development aid (Art. 16)		... national currency	...%
SME aid (Arts. 17 – 19b)	<input type="checkbox"/> Investment aid to SMEs (Art. 17)	...%	...%
	<input type="checkbox"/> Aid for consultancy in favour of SMEs (Art. 18)	...%	...%
	<input type="checkbox"/> Aid to SMEs for participation in fairs (Art. 19)	...%	...%
	<input type="checkbox"/> Aid for costs incurred by SMEs participating in community-led local development ("CLLD") or European Innovation Partnership for agricultural productivity and sustainability ("EIP") Operational Group projects (Art. 19a)	...%	...%
	<input type="checkbox"/> Limited amounts of aid to SMEs benefitting from community-led local development ("CLLD") or European Innovation Partnership for agricultural productivity and sustainability ("EIP") Operational Group projects (Art 19b) ⁽²⁾	...national currency	...%
Aid for European Territorial Cooperation (Arts. 20 – 20a)	<input type="checkbox"/> Aid for costs incurred by undertakings participating in European Territorial Cooperation projects (Art. 20)	...%	...%
	<input type="checkbox"/> Limited amounts of aid to undertakings for participation in European Territorial Cooperation projects (Art. 20a) ⁽¹⁾	...national currency	...%

SME aid – SMEs' access to finance (Arts. 21-22)	<input type="checkbox"/> Risk finance aid (Art. 21)		...national currency	...%
	<input type="checkbox"/> Aid for start-ups (Art. 22)		...national currency	...%
<input type="checkbox"/> SME aid – Aid to alternative trading platforms specialised in SMEs (Art. 23)			...%; in case the aid measure takes the form of start-up aid: ... national currency	...%
<input type="checkbox"/> SME aid – Aid for scouting costs (Art. 24)			...%	...%
Aid for research, development and innovation (Arts. 25 – 30)	Aid for research and development projects (Art. 25)	<input type="checkbox"/> Fundamental research (Art. 25(2)(a))	...%	...%
		<input type="checkbox"/> Industrial research (Art. 25(2) b))	...%	...%
		<input type="checkbox"/> Experimental development (Art. 25(2)(c))	...%	...%
		<input type="checkbox"/> Feasibility studies (Art. 25(2)(d))	...%	...%
	<input type="checkbox"/> Aid for projects awarded a Seal of Excellence quality label (Art. 25a)		...national currency	...%
	<input type="checkbox"/> Aid for Marie Skłodowska-Curie actions and European Research Council Proof of Concept actions (Art. 25b)		...national currency	...%
	<input type="checkbox"/> Aid involved in co-funded research and development projects (Art. 25c)		...%	...%
	<input type="checkbox"/> Aid for Teaming actions (Art. 25d)		...%	...%
	<input type="checkbox"/> Investment aid for research infrastructures (Art. 26)		...%	...%
	<input type="checkbox"/> Aid for innovation clusters (Art. 27)		...%	...%
	<input type="checkbox"/> Innovation aid for SMEs (Art. 28)		...%	...%
	<input type="checkbox"/> Aid for process and organisational innovation (Article 29)		...%	...%
	<input type="checkbox"/> Aid for research and development in the fishery and aquaculture sector (Art. 30)		...%	...%
<input type="checkbox"/> Training aid (Art. 31)			...%	...%

Aid for disadvantaged workers and workers with disabilities (Arts. 32-35)	<input type="checkbox"/> Aid for the recruitment of disadvantaged workers in the form of wage subsidies (Art. 32)	...%	...%
	<input type="checkbox"/> Aid for the employment of workers with disabilities in the form of wage subsidies (Art. 33)	...%	...%
	<input type="checkbox"/> Aid for compensating the additional costs of employing workers with disabilities (Art. 34)	...%	...%
	<input type="checkbox"/> Aid for compensating the costs of assistance provided to disadvantaged workers (Art. 35)	...%	...%
Aid for Environmental protection (Arts. 36-49)	<input type="checkbox"/> Investment aid enabling undertakings to go beyond Union standards for environmental protection or increase the level of environmental protection in the absence of Union standards (Art. 36)	...%	...%
	<input type="checkbox"/> Investment aid for publicly accessible recharging or refuelling infrastructure for zero and low emission road vehicles (Art. 36a)	...%	...%
	<input type="checkbox"/> Investment aid for early adaptation to future Union standards (Art. 37)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficiency measures (Art. 38)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficiency projects in buildings in the form of financial instruments (Art. 39)	...national currency	...%
	<input type="checkbox"/> Investment aid for high-efficiency cogeneration (Art. 40)	...%	...%
	<input type="checkbox"/> Investment aid for the promotion of energy from renewable sources (Art. 41)	...%	...%
	<input type="checkbox"/> Operating aid for the promotion of electricity from renewable sources (Art. 42)	...%	...%
	<input type="checkbox"/> Operating aid for the promotion of energy from renewable sources in small scale installation (Art. 43)	...%	...%
	<input type="checkbox"/> Aid in the form of reductions in environmental taxes under Council Directive 2003/96/EC (Art. 44 of this Regulation)	...%	...%
	<input type="checkbox"/> Investment aid for remediation of contaminated sites (Art. 45)	...%	...%
	<input type="checkbox"/> Investment aid for energy efficient district heating and cooling (Art. 46)	...%	...%
	<input type="checkbox"/> Investment aid for waste recycling and re-utilisation (Art. 47)	...%	...%
	<input type="checkbox"/> Investment aid for energy infrastructure (Art. 48)	...%	...%
	<input type="checkbox"/> Aid for environmental studies (Art. 49)	...%	...%

<input type="checkbox"/> Aid schemes to make good the damage caused by certain natural disasters (Art. 50)	Maximum aid intensity		...%	...%
	Type of natural disaster		<input type="checkbox"/> earthquake <input type="checkbox"/> avalanche <input type="checkbox"/> landslide <input type="checkbox"/> flood <input type="checkbox"/> tornado <input type="checkbox"/> hurricane <input type="checkbox"/> volcanic eruption <input type="checkbox"/> wild fire	
	Date of occurrence of the natural disaster		dd/mm/yyyy to dd/mm/yyyy	
<input type="checkbox"/> Social aid for transport for residents of remote regions (Art. 51)			...%	...%
<input type="checkbox"/> Aid for fixed broadband networks (Art. 52)			...national currency	...%
<input type="checkbox"/> Aid for 4G and 5G mobile networks (Art. 52a)			...national currency	...%
<input type="checkbox"/> Aid for projects of common interest in the area of trans-European digital connectivity infrastructure (Art. 52b)			...national currency	...%
<input type="checkbox"/> Connectivity vouchers (Art. 52c)			...%	...%
<input type="checkbox"/> Aid for culture and heritage conservation (Art. 53)			...%	...%
<input type="checkbox"/> Aid schemes for audiovisual works (Art. 54)			...%	...%
<input type="checkbox"/> Aid for sport and multifunctional recreational infrastructures (Art. 55)			...%	...%
<input type="checkbox"/> Investment aid for local infrastructures (Art. 56)			...%	...%
<input type="checkbox"/> Aid for regional airports (Art. 56a)			...%	...%
<input type="checkbox"/> Aid for maritime ports (Art. 56b)			...%	...%
<input type="checkbox"/> Aid for inland ports (Art. 56c)			...%	...%
Aid involved in financial products supported by the InvestEU Fund (Arts. 56d-56f)	Art. 56e	<input type="checkbox"/> Aid for projects of common interest in the area of trans-European digital connectivity infrastructure financed under Regulation (EU) 2021/1153 or awarded a Seal of Excellence quality label under that Regulation (Art. 56e(2))	...national currency	...%
		<input type="checkbox"/> Aid for investments in fixed broadband networks to connect only certain eligible socioeconomic drivers (Art. 56e(3))	...national currency	...%
		<input type="checkbox"/> Aid for energy generation and energy infrastructure (Art. 56e(4))	...national currency	...%
		<input type="checkbox"/> Aid for social, educational, cultural and natural heritage infrastructure and activities (Art. 56e(5))	...national currency	...%

		<input type="checkbox"/> Aid for transport and transport infrastructures (Art. 56e(6))	...national currency	...%
		<input type="checkbox"/> Aid for other infrastructures (Art. 56e(7))	...national currency	...%
		<input type="checkbox"/> Aid for environmental protection, including climate protection (Art. 56e(8))	...national currency	...%
		<input type="checkbox"/> Aid for research, development, innovation and digitalisation (Art. 56e(9))	...national currency	...%
		<input type="checkbox"/> Aid in the form of financing supported by the InvestEU Fund provided to SMEs or small mid-caps (Art 56e(10))	...national currency	...%
	<input type="checkbox"/>	Aid involved in intermediated commercially-driven financial products supported by the InvestEU Fund (Art. 56f)	...national currency	...%

(¹) In the case of ad hoc regional aid supplementing aid awarded under aid scheme(s), please indicate both the aid intensity granted under the scheme and the intensity of the ad hoc aid.

(²) According to Article 11(1), reporting on aid granted under Article 19b is not mandatory. Reporting on such aid is, therefore, merely optional.

(³) According to Article 11(1), reporting on aid granted under Article 20a is not mandatory. Reporting on such aid is, therefore, merely optional.²

Programme

Interreg IPA South Adriatic (Italy-Albania-Montenegro)

Map



Priority Axes

Specific Objectives



PA 1. A smarter South Adriatic programme area, by promoting innovative and smart economic transformation (SMART)

S.O. 1.1 Enhancing growth and competitiveness of SMEs, through joint cross-border actions (SMEs).



PA 2. A greener South Adriatic programme area, by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk management (GREEN)

S.O. 2.1 Promoting climate change adaptation, risk prevention and disaster resilience with joint cross-border actions (Risks).

S.O. 2.2 Enhancing biodiversity, green infrastructure in the urban environment, and reducing pollution with joint cross-border actions (Biodiversity).

S.O. 2.3 Promoting energy efficiency with joint cross-border actions (Energy).



PA 3. A more connected South Adriatic programme area by enhancing mobility and regional connectivity (CONNECTED)

S.O. 3.1 Developing sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility, through joint cross-border actions (Connectivity).



PA 4. A more social South Adriatic programme area (SOCIAL)

S.O. 4.1 Improving access to inclusive and quality services in education, training and life-long learning through developing infrastructure, and cross-border actions (Skills).

S.O. 4.2 Enhancing the role of culture and tourism in economic development, social inclusion and social innovation, through cross-border actions (Tourism).



PA 5. A better governance in the South Adriatic programme area (GOVERNANCE)

S.O. 5.1 Enhance efficient public administration by promoting legal and administrative cooperation and cooperation between citizens and institutions, in particular, with a view to solving legal and other obstacles in border regions (Governance).

Cross-cutting themes

Pre-accession assistance, cultural heritage and tourism,
security at borders, digitalisation

Budget

Axes	IPA Fund	Axes	T.A.	National	Total
1. Smart	14.819.556	13.361.773	1.457.782	3.146.758	17.966.314
2. Green	20.717.886	18.679.892	2.037.994	4.399.199	25.117.086
3. Connected	11.327.476	10.213.205	1.114.271	2.405.256	13.732.732
4. Social	13.458.918	12.134.980	1.323.938	2.857.843	16.316.761
5. Governed	6.702.648	6.043.317	659.332	1.423.229	8.125.877
TOTAL	67.026.484	60.433.167	6.593.317	14.232.285	81.258.769

National Co-financing

Italy: 20% CIPESS n. 78/2021
Albania and Montenegro: 15%

Type of actions financed

- 1) Public services;
- 2) Digital services;
- 3) Small investments;
- 4) Innovative experimental applications;
- 5) Agreements;
- 6) Joint models/processes;
- 7) Capacity building/trainings.

Type of beneficiaries and target groups

- 1) Public authorities (ministries, regions, local, municipalities etc.)
- 2) Public bodies (agencies, bodies governed by public law, Universities, research centres, etc.)
- 3) Social partners (Chambers of commerce, Unions, NGOs, associations, foundations, etc.)
- 4) TARGET GROUPS: SMEs, public, private and non-profit organisations, citizens

Type of projects

Small-scale projects: first call published on 29/12/2022, and last call towards programme closure.

Strategic projects (top-down development).

Standard Projects: call expected in January 2024.

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