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Contents

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Key to symbols used

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure: first reading
***II	Ordinary legislative procedure: second reading
***III	Ordinary legislative procedure: third reading

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments by Parliament:

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▌ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

EUROPEAN PARLIAMENT

2019-2020 SESSION

Sittings of 25 to 28 March 2019

The Minutes of this session have been published in OJ C 438, 18.12.2020.

The texts adopted of 26 March 2019 concerning the discharge for the financial year 2017 have been published in OJ L 249, 27.9.2019.

TEXTS ADOPTED

Tuesday 26 March 2019

I

(Resolutions, recommendations and opinions)

RESOLUTIONS

EUROPEAN PARLIAMENT

P8_TA(2019)0239

Fundamental rights of people of African descent

European Parliament resolution of 26 March 2019 on fundamental rights of people of African descent in Europe (2018/2899(RSP))

(2021/C 108/01)

The European Parliament,

— having regard to the Treaty on European Union (TEU), and in particular the second and the fourth to seventh indents of the preamble, Article 2, the second subparagraph of Article 3(3) and Article 6 thereof,

— having regard to Articles 10 and 19 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to the Charter of Fundamental Rights of the European Union,

— having regard to Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [1],

— having regard to Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2],

— having regard to Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law [3],

— having regard to Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA [4],

— having regard to the Second European Union Minorities and Discrimination Survey (EU-MIDIS II) published in December 2017 by the European Union Agency for Fundamental Rights (FRA) and to the FRA's report on experiences of racial discrimination and racist violence among people of African descent in the EU [5],

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[1] OJ L 180, 19.7.2000, p. 22.
[2] OJ L 303, 2.12.2000, p. 16.
[3] OJ L 328, 6.12.2008, p. 55.
[4] OJ L 315, 14.11.2012, p. 57.
[5] 'Being Black in Europe', November 2018, report outlining selected results from EU-MIDIS II.

— having regard to its resolution of 1 March 2018 on the situation of fundamental rights in the European Union in 2016 ([1]),

— having regard to the establishment in June 2016 of the EU High Level Group on combating racism, xenophobia and other forms of intolerance,

— having regard to the Code of Conduct on countering illegal hate speech online agreed on 31 May 2016 between the Commission and leading IT companies, as well as with other platforms and social media companies,

— having regard to General Recommendation No 34 of the UN Committee on the Elimination of Racial Discrimination of 3 October 2011 on racial discrimination against people of African descent,

— having regard to UN General Assembly Resolution 68/237 of 23 December 2013 proclaiming 2015-2024 the International Decade for People of African Descent,

— having regard to UN General Assembly Resolution 69/16 of 18 November 2014 containing the programme of activities for the implementation of the International Decade for People of African Descent,

— having regard to the Durban Declaration and Programme of Action from the World Conference on Racism in 2001, recognising centuries of racism, discrimination and injustice faced by people of African descent,

— having regard to the general policy recommendations of the European Commission against Racism and Intolerance (ECRI),

— having regard to the recommendation of the Council of Europe's Committee of Ministers of 19 September 2001 on the European Code of Police Ethics ([2]),

— having regard to the comment of the Council of Europe High Commissioner for Human Rights' Human Rights of 25 July 2017 entitled 'Afrophobia: Europe should confront this legacy of colonialism and the slave trade',

— having regard to Protocol No 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms on non-discrimination,

— having regard to the question to the Commission on fundamental rights of people of African descent in Europe (O-000022/2019 — B8-0016/2019),

— having regard to Rules 128(5) and 123(2) of its Rules of Procedure,

A. whereas the term 'people of African descent' may also be used with 'Afro-European', 'African European', 'Black European', 'Afro-Caribbean' or 'Black-Caribbean', and refers to people of African ancestry or descent who are born in, citizens of, or living in Europe;

B. whereas the terms 'Afrophobia', 'Afri-phobia' and 'anti-black racism' refer to a specific form of racism, including any act of violence or discrimination, fuelled by historical abuses and negative stereotyping, and leading to the exclusion and dehumanisation of people of African descent; whereas this correlates to historically repressive structures of colonialism and the transatlantic slave trade, as recognised by the Council of Europe's High Commissioner for Human Rights;

C. whereas there are an estimated 15 million people of African descent living in Europe ([3]), although equality data collection in EU Member States is neither systematic nor based on self-identification and often omits descendants of migrants or 'third generation migrants' and beyond;

([1]) Texts adopted, P8_TA(2018)0056.
([2]) https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e297e
([3]) See European Network Against Racism, *Afrophobia in Europe — ENAR Shadow Report 2014-15*, 2015, available at: http://www.enar-eu.org/IMG/pdf/shadowreport_afrophobia_final_with_corrections.pdf

Tuesday 26 March 2019

D. whereas the FRA has documented the fact that minorities in Europe with sub-Saharan African backgrounds are particularly likely to experience racism and discrimination in all areas of life [1];

E. whereas according to the recent Second European Union Minorities and Discrimination Survey conducted by the FRA [2], young respondents of African descent, aged between 16 and 24, experienced higher rates of hate-motivated harassment during the 12 months before the survey (32 %) than older respondents, and that cyber-harassment is highest towards young respondents and decreases with age;

F. whereas histories of injustices against Africans and people of African descent, including enslavement, forced labour, racial apartheid, massacres, and genocides in the context of European colonialism and the transatlantic slave trade, remain largely unrecognised and unaccounted for at an institutional level in the Member States;

G. whereas the persistence of discriminatory stereotypes in some traditions across Europe, including the use of blackfacing, perpetuates deeply rooted stereotypes about people of African descent which can exacerbate discrimination;

H. whereas the important work of national equality bodies and of the European Network of Equality Bodies (Eqinet) should be welcomed and supported;

I. whereas the OSCE Office for Democratic Institutions and Human Rights (ODHIR) Annual Hate Crimes Report [3] has found that people of African descent are often targets of racist violence, yet in many countries there is a lack of legal assistance and financial support for victims recovering from violent attacks;

J. whereas the primary responsibility for the rule of law and the fundamental rights of citizens lies with governments, and whereas the primary responsibility for monitoring and preventing violence, including Afrophobic violence, and prosecuting the perpetrators is therefore incumbent on governments;

K. whereas only limited data is available on racial discrimination in the education system; whereas, however, evidence suggests that children of African descent in the Member States are awarded lower grades than their white peers in schools, and early school leaving is markedly higher among children of African descent [4];

L. whereas adults and children of African descent are increasingly vulnerable when held in police custody, with numerous incidents of violence and deaths recorded; having regard to the routine use of racial profiling, discriminatory stop-and-search practices and surveillance in the context of abuse of power in law enforcement, crime prevention, counter-terrorism measures, or immigration control;

M. whereas legal remedies for discrimination exist and strong and specific policies are needed to address the structural racism experienced by people of African descent in Europe, including in employment, education, health, criminal justice and political participation and in the impact of migration and asylum policies and practices;

N. whereas people of African descent in Europe experience discrimination in the housing market and spatial segregation in low-income areas, with poor quality and cramped housing;

O. whereas people of African descent have contributed significantly to building European society throughout history, and whereas large numbers of them face discrimination in the labour market;

P. whereas people of African descent are disproportionally represented among the lower- income strata of the European population;

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[1] See Second European Union Minorities and Discrimination Survey (EU-MIDIS II) (2017) at: http://fra.europa.eu/en/publication/2017/eumidis-ii-main-results

[2] Ibid.

[3] See latest published in 2016: http://hatecrime.osce.org/2016-data

[4] FRA opinion 11.

Q. whereas people of African descent are overwhelmingly underrepresented in political and lawmaking institutions, at European, national and local levels in the European Union;

R. whereas politicians of African descent are still facing ignominious attacks in public sphere at both national and European levels;

S. whereas the racism and discrimination experienced by people of African descent is structural and often intersects with other forms of discrimination and oppression on the basis of 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;

T. whereas a rise in Afrophobic attacks in Europe has recently been directly targeted against third-country nationals, particularly refugees and migrants;

1. Calls on the Member States and the EU institutions to recognise that people of African descent are subjected to racism, discrimination and xenophobia in particular, and to the unequal enjoyment of human and fundamental rights in general, amounting to structural racism, and that they are entitled to protection from these inequities both as individuals and as a group, including positive measures for the promotion and the full and equal enjoyment of their rights;

2. Considers that active and meaningful social, economic, political and cultural participation by people of African descent is key to tackling the phenomenon of Afrophobia and ensuring their inclusion in Europe;

3. Calls on the Commission to develop an EU framework for national strategies for the social inclusion and integration of people of African descent;

4. Condemns strongly any physical or verbal attacks targeting people of African descent in both public and private spheres;

5. Encourages the EU institutions and the Member States to officially acknowledge and mark the histories of people of African descent in Europe, including of past and ongoing injustices and crimes against humanity, such as slavery and the transatlantic slave trade, or those committed under European colonialism, as well as the vast achievements and positive contributions of people of African descent, through both the official recognition at EU and national level of the International Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade and through establishing Black History Months;

6. Encourages the Member States and the European institutions to formally mark both the UN International Decade for People of African Descent and to take effective measures for the implementation of the programme of activities in a spirit of recognition, justice and development;

7. Recalls that some Member States have taken steps toward meaningful and effective redress for past injustices and crimes against humanity — bearing in mind their lasting impacts in the present — against people of African descent;

8. Calls for the EU institutions and the remainder of the Member States to follow this example, which may include some form of reparations such as offering public apologies and the restitution of stolen artefacts to their countries of origin;

9. Calls on the Member States to declassify their colonial archives;

10. Calls for the EU institutions and the Member States to make efforts to systematically fight ethnic discrimination and hate crime and, along with other key stakeholders, to develop effective, evidence-based legal and policy responses to these phenomena; considers that if data on ethnic discrimination and hate crime were to be collected, it should be for the sole purpose of identifying the roots of and combating xenophobic and discriminatory discourse and acts, in accordance with the relevant national legal frameworks and EU data protection legislation;

11. Calls on the Member States to develop national anti-racism strategies that address the comparative situation of people of African descent in areas such as education, housing, health, employment, policing, social services, the justice system and political participation and representation, and to encourage the participation of people of African descent in television programmes and other media, in order to adequately address their lack of representation, as well as the lack of role models for children of African descent;

12. Stresses the important role of civil society organisations in combating racism and discrimination, and calls for an increase in financial support at European, national and local level for grassroots organisations;

13. Calls for the Commission to include a focus on people of African descent in its current funding programmes and for the next multiannual period;

14. Calls on the Commission to set up a dedicated team within the relevant services, with a specific focus on Afrophobia issues;

15. Insists that Member States implement and properly enforce the Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law, in particular the inclusion of bias motivations for crimes based on race, national or ethnic origin as an aggravating factor to ensure that hate crimes against people of African descent are recorded, investigated, prosecuted and sanctioned;

16. Calls on the Member States to effectively respond to hate crime, including the investigation of bias motivation for crimes based on race, national or ethnic origin, and to ensure that hate crimes against people of African descent are recorded, investigated, prosecuted and sanctioned;

17. Calls on the Member States to end racial or ethnic profiling in all forms in criminal law enforcement, counter-terrorism measures and immigration controls, and to officially recognise and combat practices of unlawful discrimination and violence through anti-racism and anti-bias training for the authorities;

18. Calls on the Member States to denounce and discourage racist and Afrophobic traditions;

19. Calls on the Member States to monitor racial bias in their criminal justice and education systems and in their social services, and to take proactive steps to ensure equal justice and improve relations between the law enforcement authorities and minority communities, to ensure equal education and improve relations between the education authorities and minority communities, and to ensure equal social services and improve relations between the social service authorities and minority communities, in particular Black communities and people of African descent;

20. Calls on the Member States to ensure that adults and children of African descent have equal access to quality education and care free from discrimination and segregation, and to provide adequate learning support measures when necessary; encourages the Member States to make the history of people of African descent part of their curricula and to present a comprehensive perspective on colonialism and slavery which recognises their historical and contemporary adverse effects on people of African descent, and to ensure that teachers are adequately trained for this task and properly equipped to address diversity in the classroom;

21. Calls for the EU institutions and the Member States to promote and support employment, entrepreneurship and economic empowerment initiatives for people of African descent to address the above-average unemployment rates and labour market discrimination that they face;

22. Calls on the Member States to address discrimination against people of African descent in the housing market and take concrete steps to address inequalities in access to housing, as well as ensuring adequate housing;

23. Calls on the Commission and the Member States to ensure — taking into account existing legislation and practices — safe and legal avenues for migrants, refugees and asylum seekers to enter the EU;

24. Calls on the Commission and the European External Action Service to effectively ensure that no EU funds are being made available, or any support or collaboration given to organisations or groups engaged in or connected to enslavement, trafficking and torture or to extortion directed at Black and African migrants;

25. Calls for the European institutions to adopt a workforce diversity and inclusion strategy that establishes a strategic plan for the participation of ethnic and racial minorities in their workforce that complements existing efforts to this end;

26. Calls on European parties and political foundations, as well as parliaments at all levels in the EU, to support and develop initiatives encouraging the political participation of people of African descent;

27. Calls on the Commission to closely liaise with international actors such as the OSCE, the UN, the African Union and the Council of Europe, as well as other international partners, in order to combat Afrophobia at international level;

28. Instructs its President to forward this resolution to the Council, the Commission, the parliaments and governments of the Member States and the Parliamentary Assembly of the Council of Europe.

Tuesday 26 March 2019

P8_TA(2019)0240

Report on financial crimes, tax evasion and tax avoidance

European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (2018/2121(INI))

(2021/C 108/02)

The European Parliament,

— having regard to Articles 4 and 13 of the Treaty on European Union (TEU),

— having regard to Articles 107, 108, 113, 115 and 116 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to its decision of 1 March 2018 on setting up a special committee on financial crimes, tax evasion and tax avoidance (TAX3), and defining its responsibilities, numerical strength and term of office ([1]),

— having regard to its TAXE committee resolution of 25 November 2015 ([2]) and its TAX2 committee resolution of 6 July 2016 ([3]) on tax rulings and other measures similar in nature or effect,

— having regard to its resolution of 16 December 2015 with recommendations to the Commission on bringing transparency, coordination and convergence to corporate tax policies in the Union ([4]),

— having regard to the results of the Committee of Inquiry into money laundering, tax avoidance and tax evasion, which were submitted to the Council and the Commission on 13 December 2017 ([5]),

— having regard to the Commission's follow-up to each of the above-mentioned Parliament resolutions ([6]),

— having regard to the numerous revelations by investigative journalists, such as the LuxLeaks, the Panama Papers, the Paradise Papers and, more recently, the cum-ex scandals, as well as the money laundering cases involving, in particular, banks in Denmark, Estonia, Germany, Latvia, the Netherlands and the United Kingdom,

— having regard to its resolution of 29 November 2018 on the cum-ex scandal: financial crime and loopholes in the current legal framework ([7]),

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([1]) Decision of 1 March 2018 on setting up a special committee on financial crimes, tax evasion and tax avoidance (TAX3), and defining its responsibilities, numerical strength and term of office, Texts adopted, P8_TA(2018)0048.
([2]) Resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, OJ C 366, 27.10.2017, p. 51.
([3]) Resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect, OJ C 101, 16.3.2018, p. 79.
([4]) OJ C 399, 24.11.2017, p. 74.
([5]) Recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion, OJ C 369, 11.10.2018, p. 132.
([6]) The joint follow-up of 16 March 2016 on bringing transparency, coordination and convergence to corporate tax policies in the Union and TAXE 1 resolutions, the follow-up of 16 November 2016 to the TAXE 2 resolution and the follow-up to the PANA resolution of April 2018.
([7]) Texts adopted, P8_TA(2018)0475.

— having regard to its resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová ([1]),

— having regard to the studies prepared by the European Parliamentary Research Service on 'Citizenship by investment (CBI) and residency by investment (RBI) schemes in the EU: state of play, issues and impacts', 'Money laundering and tax evasion risks in free ports and customs warehouses' and 'An overview of shell companies in the European Union' ([2]),

— having regard to the study on 'VAT fraud: economic impact, challenges and policy issues' ([3]), the study on 'Cryptocurrencies and blockchain — Legal context and implications for financial crime, money laundering and tax evasion' and the study on the 'Impact of Digitalisation on International Tax Matters' ([4]),

— having regard to the Commission studies on 'aggressive tax planning indicators' ([5]),

— having regard to the evidence collected by the TAX3 committee in its 34 hearings with experts or exchanges of views with Commissioners and Ministers and during the missions to Washington, Riga, the Isle of Man, Estonia and Denmark,

— having regard to the modernised and more robust corporate tax framework introduced during this legislative term, notably the Anti-Tax Avoidance Directives (ATAD I ([6]) and ATAD II ([7])) and the reviews of the Directive on Administrative Cooperation in taxation (DAC) ([8]),

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([1]) Texts adopted, P8_TA(2018)0183.

([2]) Scherrer A. and Thirion E., Citizenship by Investment (CBI) and Residency by Investment (RBI) schemes in the EU, EPRS, PE 627.128, European Parliament, October 2018; Korver R., Money laundering and tax evasion risks in free ports, EPRS, PE 627.114, European Parliament, October 2018 and Kiendl Kristo I. and Thirion E., An overview of shell companies in the European Union, EPRS, PE 627.129, European Parliament, October 2018.

([3]) Lamensch M. and Ceci, E., VAT fraud: Economic impact, challenges and policy issues, European Parliament, Directorate-General for Internal Policies, Policy Department A — Economic, Scientific and Quality of Life Policies, 15 October 2018.

([4]) Houben R. and Snyers A, Cryptocurrencies and blockchain, European Parliament, Directorate-General for Internal Policies, Policy Department A — Economic, Scientific and Quality of Life Policies, 5 July 2018 and Hadzhieva E., Impact of Digitalisation on International Tax Matters, , European Parliament, Directorate-General for Internal Policies, Policy Department A — Economic, Scientific and Quality of Life Policies, 15 February 2019.

([5]) 'Study on Structures of Aggressive Tax Planning and Indicators — Final Report' (Taxation paper No 61, 27 January 2016), 'The Impact of Tax Planning on Forward-Looking Effective Tax Rates' (Taxation paper No 64, 25 October 2016) and 'Aggressive tax planning indicators — Final Report' (Taxation paper No 71, 7 March 2018).

([6]) Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, OJ L 193, 19.7.2016, p. 1.

([7]) Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries, OJ L 144, 7.6.2017, p. 1.

([8]) Relating respectively to the automatic exchange of tax rulings (Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 332, 18.12.2015, p. 1, DAC3), exchange of country-by-country reports between tax authorities (Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 146, 3.6.2016, p. 8, DAC4), access to anti-money-laundering information by tax authorities, beneficial ownership and other customer due diligence (Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 342, 16.12.2016, p. 1, DAC5), mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 139, 5.6.2018, p. 1, DAC6).

Tuesday 26 March 2019

— having regard to the Commission proposals pending for adoption, in particular on the CC(C)TB ([1]), the digital taxation package ([2]) and public country-by-country reporting (CBCR) ([3]), as well as Parliament's position on these proposals,

— having regard to the resolution of the Council and the Representatives of the Governments of the Member States of 1 December 1997 on a Code of Conduct Group on Business Taxation (CoC Group), and to this Group's regular reports to the ECOFIN Council,

— having regard to the Council list of non-cooperative jurisdictions for tax purposes adopted on 5 December 2017 and amended on the basis of the ongoing monitoring of third country commitments,

— having regard to the Commission communication of 21 March 2018 on new requirements against tax avoidance in EU legislation governing in particular financing and investment operations (C(2018)1756),

— having regard to the ongoing modernisation of the VAT framework, in particular the VAT definitive regime,

— having regard to its resolution of 24 November 2016 on towards a definitive VAT system and fighting VAT fraud ([4]),

— having regard to the recently adopted new EU anti-money laundering framework, in particular after the adoption of the fourth (AMLD4) ([5]) and fifth (AMLD5) ([6]) reviews of the Anti-Money Laundering Directive,

— having regard to the infringement procedures initiated by the Commission against 28 Member States for having failed to properly transpose AMLD4 into national law,

— having regard to the Commission Action Plan of 2 February 2016 on strengthening the fight against terrorist financing (COM(2016)0050) ([7]),

— having regard to the Commission communication of 12 September 2018 on strengthening the Union framework for prudential and anti-money laundering supervision (COM(2018)0645),

— having regard to its resolution of 14 March 2019 on the urgency for an EU blacklist of third countries in line with the Anti-Money Laundering Directive ([8]),

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([1]) Proposal of 25 October 2016 for a Council Directive on a Common Corporate Tax Base (CCTB), COM(2016)0685 and of 25 October 2016 on a Common Consolidated Corporate Tax Base (CCCTB), COM(2016)0683.

([2]) The package consists of the Commission communication of 21 March 2018 entitled 'Time to establish a modern, fair and efficient taxation standard for the digital economy' (COM(2018)0146), the proposal of 21 March 2018 for a Council directive laying down rules relating to the corporate taxation of a significant digital presence (COM(2018)0147, the proposal of 21 March 2018 for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services (COM(2018)0148, and the Commission recommendation of 21 March 2018 relating to the corporate taxation of a significant digital presence (C(2018)1650).

([3]) Proposal for a directive of the European Parliament and of the Council of 12 April 2016 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (COM(2016)0198).

([4]) OJ C 224, 27.6.2018, p. 107.

([5]) 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.

([6]) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU, OJ L 156, 19.6.2018, p. 43.

([7]) Communication of 2 February 2016 from the Commission to the European Parliament and the Council on an Action Plan for strengthening the fight against terrorist financing, COM(2016)0050.

([8]) Texts adopted, P8_TA(2019)0216.

— having regard to the Platform of the Financial Intelligence Units of the European Union (EU FIUs' Platform) mapping exercise and gap analysis of 15 December 2016 on EU FIUs' powers and obstacles in obtaining and exchanging information, and to the Commission Staff Working Document of 26 June 2017 on improving cooperation between EU Financial Intelligence units (SWD(2017)0275),

— having regard to the Recommendation of the European Banking Authority (EBA) and the Commission of 11 July 2018 to the Maltese Financial Intelligence Analysis Unit (FIAU) on action necessary to comply with the Anti-Money Laundering and Countering Terrorism Financing Directive,

— having regard to the letter of 7 December 2018 sent by the TAX3 Committee Chair to the Permanent Representative of Malta to the EU, HE Daniel Azzopardi, seeking explanations about the company '17 Black',

— having regard to the state aid investigations and decisions of the Commission ([1]),

— having regard to the proposal for a directive of the European Parliament and of the Council of 23 April 2018 on protection of persons reporting on breaches of Union law (COM(2018)0218),

— having regard to the Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community;

— having regard to the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom;

— having regard to the outcomes of the various G7, G8 and G20 summits held on international tax issues,

— having regard to the resolution adopted by the United Nations General Assembly on 27 July 2015 on the Addis Ababa Action Agenda,

— having regard to the report by the High Level Panel on Illicit Financial Flows from Africa, jointly commissioned by the African Union Commission(AUC)/UN Economic Commission for Africa (ECA) Conference of African Ministers of Finance, Planning and Economic Development,

— having regard to the Commission communication of 28 January 2016 on an External Strategy for Effective Taxation (COM(2016)0024), in which the Commission also called for the EU to 'lead by example',

— having regard to its resolutions of 8 July 2015 on tax avoidance and tax evasion as challenges for governance, social protection and development in developing countries ([2]), and of 15 January 2019 on gender equality and taxation policies in the EU ([3]),

— having regard to the obligation under Article 8(2) of the European Convention on Human Rights (ECHR) to observe privacy laws at all times,

— having regard to the Commission report of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union (COM(2019)0012),

— having regard to the Commission communication of 15 January 2019 entitled 'Towards a more efficient and democratic decision making in EU tax policy' (COM(2019)0008),

— having regard to the European Economic and Social Committee opinion of 18 October 2017 entitled 'EU development partnerships and the challenge posed by international tax agreements',

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([1]) Relating to Fiat, Starbucks and the Belgian excess-profit ruling, and decisions to open state aid investigations on McDonald's, Apple and Amazon.

([2]) OJ C 265, 11.8.2017, p. 59.

([3]) Texts adopted, P8_TA(2019)0014.

Tuesday 26 March 2019

— having regard to Rule 52 of its Rules of Procedure,

— having regard to the report of the Special Committee on financial crimes, tax evasion and tax avoidance (A8-0170/2019),

1. ***General introduction setting the scene***

1.1. ***Changes***

1. Asserts that existing tax rules are often unable to keep up with the increasing speed of the economy; recalls that current international and national tax rules were mostly conceived in the early 20th century; asserts that there is an urgent and continuous need for reform of the rules, so that international, EU and national tax systems are fit for the new economic, social and technological challenges of the 21st century; notes the broad understanding that current tax systems and accounting methods are not equipped to keep up with these developments and ensure that all market participants pay their fair share of taxes;

2. Highlights that the European Parliament has made a substantial contribution to the fight against financial crimes, tax evasion and tax avoidance as uncovered inter alia in the LuxLeaks, Panama Papers, Paradise Papers, Football Leaks, Bahamas Leaks, and cum-ex cases, notably with the work of the TAXE, TAX2 ([1]) and TAX3 special committees, the PANA inquiry committee and the Committee on Economic and Monetary Affairs (ECON);

3. Welcomes the fact that during its current term the Commission has put forward 26 legislative proposals aimed at closing some of the loopholes, improving the fight against financial crimes and aggressive tax planning, and enhancing tax collection efficiency and tax fairness; deeply regrets the lack of progress in the Council on major initiatives in relation to corporate tax reform that have not yet been finalised due to the lack of genuine political will; calls for the swift adoption of the EU initiatives that have not yet been finalised and for careful monitoring of the implementation to ensure efficiency and proper enforcement, in order to keep pace with the versatility of tax fraud, tax evasion and aggressive tax planning;

4. Recalls that a tax jurisdiction has control only over tax matters related to its territory, whereas economic flows and some taxpayers such as multinational enterprises (MNEs) and high net worth individuals (HNWIs) operate globally;

5. Emphasises that defining tax bases requires being in possession of a full picture of a taxpayer's situation, including the components that are outside of the given tax jurisdiction, and determining which component refers to which jurisdiction; notes that it also requires that such tax bases are allocated between tax jurisdictions to avoid double-taxation and double non-taxation; affirms that priority should be given to eliminating double non-taxation, as well as ensuring that the issue of double taxation is tackled;

6. Considers that efforts need to be made by all EU institutions, as well as Member States, to explain to citizens the work being done in the field of taxation and the actions taken to remedy existing problems and loopholes; considers that the EU needs to adopt a broad strategy whereby the EU supports, with relevant policies, Member States in moving from their current detrimental tax systems to a tax system compatible with the EU's legal framework and the spirit of the EU Treaties;

7. Notes that economic flows ([2]) and opportunities to change tax residence have substantially increased; warns that some new phenomena ([3]) are inherently opaque or facilitate opaqueness, allowing for tax fraud, tax evasion, aggressive tax planning, and money laundering;

([1]) According to Parliament's internal rules, Committee names can be abbreviated by a maximum of four letters, hence the former temporary Committees on taxation are referred to as TAXE, TAX2, PANA and TAX3. It should be noted, however, that the mandate 'Setting-up of a special committee on tax rulings and other measures similar in nature or effect' refers exclusively to TAXE2.

([2]) Such as financialisation

([3]) For example, the use of software programs to automatically skim cash from electronic cash registers or point-of-sale systems ('zapping'), the growing usage of third-party payroll processors enabling fraudsters to channel off legitimate taxes.

8. Deplores the fact that some Member States confiscate the tax base of other Member States by attracting profits generated elsewhere, thereby allowing companies to artificially lower their tax base; points out that this practice not only harms the principle of EU solidarity, but also gives rise to a redistribution of wealth towards MNEs and their shareholders at the expense of EU citizens; supports the important work by academics and journalists who are helping to shed light on these practices;

1.2. ***Purpose of taxation and the impact of tax fraud, tax evasion, harmful tax practices and money laundering on European societies***

9. Considers that fair taxation and the determined fight against tax fraud, tax evasion, aggressive tax planning and money laundering have a central role to play in shaping a fair society and a strong economy while defending the social contract and the rule of law; notes that a fair and efficient taxation system is key to addressing inequality, not only by financing public spending to support social mobility, but also by reducing income inequalities; highlights that tax policy can have a major influence on employment decisions, investment levels and the willingness of companies to expand;

10. Underlines that the most urgent priority is to reduce the tax gap resulting from tax fraud, tax evasion, aggressive tax planning and money laundering and their impact on national and EU budgets to ensure a level playing field and tax fairness between and among all taxpayers, to fight the rise in inequality and to strengthen trust in democratic policymaking by ensuring that fraudsters do not have a competitive tax advantage over honest taxpayers;

11. Stresses that joint efforts at EU and national level are crucial to defend the EU and national budgets from losses due to unpaid taxes; notes that only with fully and efficiently collected tax revenues, can states provide for, among other things, quality public services, including affordable education, healthcare and housing, security, crime control and emergency response, social security and care, enforcement of occupational and environmental standards, the fight against climate change, promotion of gender equality, public transport, and essential infrastructure in order to foster and, if necessary, to stabilise socially balanced development, to move towards the Sustainable Development Goals;

12. Considers that recent developments in taxation and tax collection, which have shifted the tax incidence from wealth to income, from capital income to labour income and consumption, from MNEs to small and medium-sized enterprises (SMEs), and from the financial sector to the real economy, has had a disproportionate impact on women and low-income people, who typically rely more on labour income and spend a higher proportion of their income on consumption ([1]); notes that higher rates of tax evasion exist among the wealthiest ([2]); calls on the Commission to consider the impact on social development, including gender equality and the other aforementioned policies, in its legislative proposals in the areas of tax and anti-money laundering;

1.3. ***Risk and benefits linked to cash transactions***

13. Stresses that cash transactions remain a very high risk in terms of money laundering and tax evasion, including VAT fraud, despite its benefits, such as accessibility and speed; notes that a number of Member States already have restrictions on cash payments in place; also notes that while rules on cash controls at the EU external borders have been harmonised, rules among Member states concerning cash movements within the EU's borders vary;

([1]) Gunnarsson A., Schratzenstaller M. and Spangenberg U., Gender equality and taxation in the European Union, European Parliament, Directorate-General for Internal Policies, Policy Department C — Citizens' Rights and Constitutional Affairs, 15 March 2017; Grown C. and Valodia I (editors), *Taxation and Gender Equity: A Comparative Analysis of Direct and Indirect Taxes in Developing and Developed Countries*, Routledge, 2010, pp. 32 — 74, pp. 309 — 310, and p. 315; Action Aid, *Value-Added Tax (VAT)*, Progressive taxation policy briefing, 2018; and Stotsky J. G., *Gender and Its Relevance to Macroeconomic Policy: A Survey*, IMF Working Paper, WP/06/233, p. 42.

([2]) TAX3 hearing of 24 January 2018 on the EU Tax Gap: see Figure 4.

Tuesday 26 March 2019

14. Notes that fragmentation and the divergent nature of these measures have the potential to disrupt the proper functioning of the internal market; calls on the Commission, therefore, to prepare a proposal on European restrictions on payments in cash, while maintaining cash as a means of payment; notes, furthermore, that high-denomination euro notes present a higher risk in terms of money laundering; welcomes the fact that the European Central Bank (ECB) announced in 2016 that it would no longer issue new EUR 500 notes (even though the outstanding stock remains legal tender); calls on the ECB to draw up a timetable to phase out the ability to use EUR 500 notes;

1.4. ***Quantitative assessment***

15. Stresses that tax fraud, tax evasion and aggressive tax planning result in lost resources for national and European Union budgets ([1]); acknowledges that quantification of these losses is not straightforward; notes, however, that increased transparency requirements would not only provide better data, but also would contribute to reducing opaqueness;

16. Notes that several assessments have attempted to quantify the magnitude of losses from tax fraud, tax evasion and aggressive tax planning; recalls that none of these provide a large enough picture on their own due to the nature of the data or the lack thereof; notes that some of the recent assessments supplement each other, based on different but complementary methodologies;

17. Notes that, to date, while the Commission performs a VAT tax gap estimate for the EU, only fifteen Member States prepare their own national tax gap estimates; calls on each Member State, under the guidance of the Commission, to prepare a comprehensive tax gap estimate, not limited to VAT and including an assessment of the cost of all tax incentives;

18. Deplores, once again, 'the lack of reliable and unbiased statistics on the magnitude of tax avoidance and tax evasion' and stresses 'the importance of developing appropriate and transparent methodologies to quantify the scale of these phenomena, as well as their impact on countries' public finances, economic activities and public investments' ([2]); points out the importance of the political and financial independence of statistical institutes to ensure the reliability of statistical data; calls for technical assistance to be requested from Eurostat for the collection of comprehensive and accurate statistics, so that they are provided in a comparable, easily coordinated digital format;

19. Recalls in particular the empirical assessment of the magnitude of annual revenue losses caused by aggressive corporate tax planning in the EU which was drawn up in 2015; notes that the assessment ranges from EUR 50-70 billion (sum lost to profit-shifting only, equivalent to at least 17 % of corporate income tax (CIT) revenue in 2013 and 0,4 % of GDP) to EUR 160-190 billion (adding individualised tax arrangements of major MNEs and inefficiencies in collection);

20. Calls on the Council and Member States to prioritise projects, notably with the support of the Fiscalis programme, aimed at quantifying the magnitude of tax avoidance in order to better address the current tax gap; stresses that the European Parliament has adopted ([3]) an increase in the Fiscalis programme; urges Member States, under the coordination of the Commission, to estimate their tax gaps and publish the results annually;

21. Notes that the IMF working paper ([4]) estimates worldwide losses due to base erosion and profit shifting (BEPS) and relating to tax havens to be approximately USD 600 billion per year; notes that the IMF long-run approximate estimates are USD 400 billion for OECD countries (1 % of their GDP) and USD 200 billion for developing countries (1,3 % of their GDP);

([1]) Paragraph 49 of its position of 14 November 2018 on the Multiannual Financial Framework 2021-2027, Texts adopted, P8_TA (2018)0449.

([2]) See paragraph 63 of the European Parliament's recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion, OJ C 369, 11.10.2018, p. 132.

([3]) In the Multiannual Financial Framework 2021-2027 — Parliament's position with a view to an agreement and the amendments adopted by the European Parliament on 17 January 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the 'Fiscalis' programme for cooperation in the field of taxation (Texts adopted, P8_TA(2019)0039).

([4]) Crivelli E., De Mooij R. A., and Keen M., *Base Erosion, Profit Shifting and Developing Countries*, 2015.

22. Welcomes the recent estimates of the non-observed economy (NOE) — often called the shadow economy — in the 2017 Survey of Tax Policies in the European Union ([1]), which provides a broader indication of tax evasion; stresses that the value of the NOE measures economic activities which may not be captured in the basic data sources used for compiling national accounts;

23. Highlights that close to 40 % of MNEs' profits are shifted to tax havens globally each year with some European Union countries appearing to be the prime losers of profit shifting, as 35 % of shifted profits come from EU countries, followed by developing countries (30 %) ([2]); points out that about 80 % of the profits shifted from many EU Member States are channelled to or through a few other EU Member States; points out that MNEs can pay up to 30 % less tax than domestic competitors, and that aggressive tax planning distorts competition for domestic firms, in particular SMEs;

24. Notes that the latest estimates of tax evasion within the EU point to a figure of approximately EUR 825 billion per year ([3]);

25. Notes that the MNEs heard by the TAX3 committee produce their own estimates of Effective Tax Rates (ETR) ([4]); points out that these estimates are questioned by some experts;

26. Calls for statistics to be collected on large transactions at free ports, customs warehouses and special economic zones, as well as disclosures made by intermediaries and whistle-blowers;

1.5. ***Tax fraud, tax evasion, tax avoidance and aggressive tax planning (ATP)***

27. Recalls that the fight against tax evasion and fraud tackles illegal acts, whereas the fight against tax avoidance addresses situations that exploit loopholes in the law or are *a priori* within the limits of the law — unless deemed illegal by the tax or, ultimately, the judicial authorities — but against its spirit; calls, therefore, for simplification of the tax framework;

28. Recalls that improving tax collection in EU countries is likely to reduce crime associated with tax evasion and the money laundering that follows it;

29. Recalls that ATP describes the setting of a tax design aimed at reducing tax liability by using the technicalities of a tax system or arbitrating between two or more tax systems that go against the spirit of the law;

30. Welcomes the Commission's reply to the calls made in its TAXE, TAX2 and PANA resolutions to better identify ATP and harmful tax practices;

31. Calls on the Commission and the Council to propose and adopt a comprehensive and specific definition of ATP indicators, building on both the hallmarks identified in the fifth review of the Directive on administrative cooperation (DAC6) ([5]) and the Commission's relevant studies and recommendations ([6]); stresses that these clear indicators may be based, where necessary, on internationally agreed standards; calls on Member States to use these indicators as a basis to repeal all

([1]) Tax Policies in the European Union 2017 Survey, ISBN 978-92-79-72282-0.
([2]) Tørsløv T. R., Wier L. S. and Zucman G., *The missing profits of nations*, National Bureau of Economic Research, Working Paper No 24701, 2018.
([3]) Richard Murphy, 'The European Tax Gap', 2019 — http://www.taxresearch.org.uk/Documents/EUTaxGapJan19.pdf
([4]) Mission Report of the Delegation to Washington D.C.
Verbatim report of the TAX3 public hearing of 27 November 2018
([5]) Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements, OJ L 139, 5.6.2018, p. 1.
([6]) Study on Structures of Aggressive Tax Planning and Indicators — Final Report (Taxation paper No 61, 27 January 2016) and Tax policies in the EU — 2017 Survey

harmful tax practices deriving from existing tax loopholes; calls on the Commission and the Council to regularly update these indicators if new ATP arrangements or practices emerge;

32. Stresses the similarity between corporate taxpayers and HNWIs in the use of corporate structures and similar structures such as trusts and offshore locations for the purpose of ATP; points out the role of intermediaries ([1]) in setting up such schemes; recalls, in this context, that most of the HNWIs' income arrives in the form of capital gains rather than earnings;

33. Welcomes the Commission's assessment and inclusion of ATP indicators in its 2018 European Semester country reports; calls for such an assessment to become a regular feature in order to ensure a level playing field in the EU internal market, as well as the greater stability of public revenue in the long run; invites the Commission to ensure clear follow-up to end ATP practices, if appropriate in the form of formal recommendations;

34. Reiterates its call on companies, as taxpayers, to fully comply with their tax obligations and refrain from ATP leading to BEPS, and to consider fair taxation strategy, as well as abstaining from harmful tax practices, as an important part of their corporate social responsibility, taking into account the United Nations Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises in order to secure taxpayers' trust in tax frameworks;

35. Urges Member States taking part in the enhanced cooperation procedure to agree as quickly as possible on the adoption of a Financial Transaction Tax (FTT), while acknowledging that a global solution would be the most appropriate;

2. ***Corporate taxation***

36. Recalls that opportunities for choosing a business or residence location on the basis of the regulatory framework have increased with globalisation and digitalisation;

37. Recalls that taxes must be paid in the jurisdictions where the actual substantive and genuine economic activity and value creation take place or, in the case of indirect taxation, where consumption takes place; highlights that this can be achieved by adopting the Common Consolidated Corporate Tax Base (CCCTB) in the EU with an appropriate and fair distribution, incorporating among other things all tangible assets;

38. Notes that an exit tax was adopted by the EU in ATAD I, allowing Member States to tax the economic value of capital gain created on its territory even when that gain has not yet been realised at the time of exit; considers that the principle of taxing profits made in Member States before they leave the Union should be strengthened, for example through coordinated withholding taxes on interests and royalties, so as to close existing loopholes and avoid profits leaving the EU untaxed; calls on the Council to resume negotiations on the interest and royalties proposal ([2]); notes that tax treaties often reduce the withholding tax rate with a view to avoiding double taxation ([3]);

39. Reaffirms that the adaptation of international tax rules needs to respond to avoidance deriving from the possible exploitation of the interplay between national tax provisions, and networks of tax treaties, resulting in an erosion of the tax base and double non-taxation while ensuring that there is no double-taxation;

2.1. ***BEPS action plan and its implementation in the EU: ATAD***

40. Acknowledges that the G20/OECD-led BEPS project was meant to tackle in a coordinated manner the causes and circumstances creating BEPS practices, by improving the coherence of tax rules across borders, reinforcing substance requirements and enhancing transparency and certainty; states, however, that the degree of willingness and commitment to cooperate on the OECD BEPS action plan varies among countries and the particular actions concerned;

([1]) Sometimes also referred to as enablers or promoters of tax evasion.

([2]) Proposal for a Council directive of 11 November 2011 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (COM(2011)0714).

([3]) Hearson M., *The European Union's Tax Treaties with Developing Countries: leading By Example?*, 27 September 2018.

41. Notes that the G20/OECD 15-point BEPS action plan, intended to tackle in a coordinated manner the causes and circumstances creating BEPS practices, is being implemented and monitored and further discussions are taking place, in a broader context than just the initial participating countries, through the Inclusive Framework; calls, therefore, on Member States to support a reform of both the mandate and the functioning of the Inclusive Framework to ensure that remaining tax loopholes and unsolved tax questions are covered by the current international framework; welcomes the initiative of the Inclusive Framework to discuss and find a global consensus on a better allocation of taxing rights among countries;

42. Takes note of the fact that the actions require implementation; takes note of the policy note [1] of the Inclusive Framework on BEPS, which aims to devise possible solutions to the identified challenges relating to the taxation of the digital economy;

43. Points out that some countries have recently adopted unilateral countermeasures against harmful tax practices (such as the UK's Diverted Profits Tax and the Global Intangible Low-Taxed Income (GILTI) provisions of the US tax reform) to ensure that the foreign income of MNEs is duly taxed at a minimum effective tax rate in the parent's country of residence; calls for an EU assessment of these measures; notes that, in contrast to these unilateral measures, the EU generally promotes multilateral and consensual solutions to deal with a fair allocation of taxing rights; stresses that, for example, the EU prioritises a global solution for taxing the digital sector, but is nevertheless proposing an EU Digital Services Tax (DST) as global discussions have been progressing slowly;

44. Recalls that the 2016 EU 'anti-tax-avoidance package' supplements existing provisions so as to implement the 15 BEPS actions in a coordinated manner across the EU in the single market;

45. Welcomes the adoption by the EU of ATAD I and ATAD II; notes that these directives provide fairer taxation by establishing a minimum level of protection against corporate tax avoidance throughout the EU and ensuring a fairer and more stable environment for businesses, from both demand and supply perspectives; welcomes the provisions on hybrid mismatches to prevent double non-taxation in order to eliminate existing mismatches and refrain from creating further mismatches, between Member States and with third countries;

46. Welcomes the provisions on Controlled Foreign Corporation (CFC) included in ATAD I to ensure that profits made by related companies parked in low or no-tax countries are effectively taxed; acknowledges that they prevent the absence or diversity of national CFC rules within the Union from distorting the functioning of the internal market beyond situations of wholly artificial arrangements as called for repeatedly by Parliament; deplores the coexistence of two approaches to implement CFC rules in ATAD I and calls on Member States to implement only the simpler and most efficient CFC rules as in ATAD I Article 7(2)(a);

47. Welcomes the general anti-abuse rule for the purposes of calculating corporate tax liability included in ATAD I, allowing Member States to ignore arrangements that are not genuine and having regard to all relevant facts and circumstances aimed solely at obtaining a tax advantage; reiterates its repeated call for the adoption of a general and common, stringent anti-abuse rule, namely in existing legislation and in particular in the parent-subsidiary directive, the merger directive and the interest and royalties directive;

48. Reiterates its call for a clear definition of permanent establishment and significant economic presence so that companies cannot artificially avoid having a taxable presence in a Member State in which they have economic activity;

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[1] Policy note as approved by the Inclusive Framework on BEPS entitled 'Addressing the Tax Challenges of the Digitalisation of the Economy', released on 29 January 2019.

Tuesday 26 March 2019

49. Calls for the finalisation of the work being done within the EU Joint Transfer Pricing Forum (JTPF) on the development of good practices and monitoring of Member States' implementation by the Commission;

50. Recalls its concerns relating to the use of transfer prices in ATP and consequently recalls the need for adequate action and improvement of the transfer pricing framework to address the issue; stresses the need to ensure that they reflect the economic reality, provide certainty, clarity and fairness for Member States and for companies operating within the Union, and reduce the risk of misuse of the rules for profit-shifting purposes, taking into account the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administration 2010 ([1]); notes, however, that, as has been highlighted by experts and publications, the use of the 'independent entity concept' or 'arm's length principle' constitutes one of the main factors enabling harmful tax practices ([2]);

51. Emphasises that the EU actions aimed at addressing BEPS and ATP have equipped tax authorities with an updated toolbox to ensure fair tax collection while maintaining the competitiveness of EU businesses; stresses that tax authorities should be responsible for making effective use of the tools without imposing an additional burden on responsible taxpayers, particularly SMEs;

52. Recognises that the new flow of information to tax authorities following the adoption of ATAD I and DAC4 creates the need for adequate resources to ensure the most efficient use of such information and to effectively reduce the current tax gap; calls on all Member States to make sure that the tools used by the authorities are sufficient and adequate to use this information and to combine and cross-check information from different sources and data sets;

2.2. ***Strengthening EU actions to fight against ATP and supplementing BEPS action plan***

2.2.1. ***Scrutinising Member States' tax systems and overall tax environment — ATP within the EU (European Semester)***

53. Welcomes the fact that Member States' tax systems and overall tax environment have become part of the European Semester in line with Parliament's call to that effect ([3]); welcomes the studies and data drawn up by the Commission ([4]) that allow situations that provide economic ATP indicators to be better addressed, and give a clear indication of the exposure to tax planning as well as furnishing a rich data base for all Member States on the phenomenon; points out that Member States, in the spirit of loyal cooperation, must not facilitate the creation of ATP schemes incompatible with the EU legal framework and the spirit of the EU Treaties;

54. Calls for these new tax indicators for the European Semester to be given the same status as the indicators relating to expenditure control; underlines the benefit of providing the European Semester with this tax dimension, as it will make it possible to tackle certain harmful tax practices that had not thus far been tackled through the ATAD Directive and other existing European regulations;

55. Welcomes the fact that DAC6 sets out the hallmarks of reportable cross-border arrangements that intermediaries must report to tax authorities to allow them to be assessed by the latter; welcomes the fact that these features of ATP schemes can be updated if new arrangements or practices emerge; points out that the deadline for the implementation of the directive has not yet elapsed and that the provisions will need to be monitored to ensure their efficiency;

56. Calls on the CoC Group to report yearly to the Council and Parliament on the main arrangements reported in Member States to allow decision makers to keep up with the new tax schemes which are being elaborated, and to take the necessary countermeasures that might potentially be needed;

([1]) See OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2017 from 10 July 2017.

([2]) Public hearing of 24 January 2019 on the evaluation of the tax gap and 'Addressing the Tax Challenges of the Digitalisation of the Economy', OECD Policy Note, published 29 January 2019.

([3]) European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, OJ C 366, 27.10.2017, p. 51, paragraph 96.

([4]) Referred to above. The studies provide an overview of Member States' exposure to ATP structures affecting their tax base (erosion or increase), although there is no stand-alone indicator of the phenomenon, a set of indicators seen as a 'body of evidence' nevertheless exists.

57. Calls for both the EU institutions and the Member States to ensure that public procurement contracts do not facilitate tax avoidance by suppliers; points out that Member States should monitor and ensure that companies or other legal entities involved in tenders and procurement contracts do not participate in tax fraud, tax evasion and ATP; calls on the Commission to clarify existing procurement practice under the EU Procurement Directive, and if necessary, propose an update of the directive that does not prohibit the application of tax-related considerations as criteria for exclusion or even as selection criteria in public procurement;

58. Calls on the Commission to publish a proposal that would oblige the Member States to ensure that economic operators participating in public procurement procedures comply with a minimum level of transparency regarding tax, in particular public country-by-country reporting and transparent ownership structures;

59. Calls on the Commission to issue as soon as possible a proposal aimed at repealing patent boxes, and calls on Member States to favour non-harmful and, if appropriate, direct support for R&D on their territory; stresses that tax reliefs for companies need to be carefully constructed and implemented only where there is a positive impact on jobs and growth and any risk of creating new loopholes in the taxation system is excluded;

60. Reiterates, in the meantime, its call to ensure that current patent boxes establish a genuine link to economic activity, such as expenditure tests, and that they do not distort competition; notes the growing role of intangible assets in the MNE value chain; notes the improved definition of R&D costs in the common corporate tax base (CCTB) proposal; upholds Parliament's position on tax credit for genuine R&D expenses instead of R&D deduction;

2.2.2. ***Better cooperation in the area of taxation, including the CCCTB***

61. Stresses that taxation policy in the European Union should focus both on fighting tax avoidance and ATP and on facilitating cross-border economic activity through cooperation between tax authorities and smart tax policy design;

62. Underlines that there is a multitude of tax-related obstacles that hamper cross-border economic activity; notes, in this regard, its resolution of 25 October 2012 on the 20 main concerns of European citizens and business with the functioning of the Single Market ([1]); urges the Commission to adopt an action plan addressing these obstacles as a matter of priority;

63. Welcomes the re-launch of the CCCTB project with the Commission's adoption of interconnected proposals on CCTB and CCCTB; stresses that once implemented fully, the CCCTB will eliminate loopholes between national tax systems, in particular transfer pricing;

64. Calls on the Council to swiftly adopt and implement the two proposals simultaneously taking into consideration Parliament's opinion that already includes the concept of virtual permanent establishment and apportionment formulas that would close the remaining loopholes allowing tax avoidance to take place and level the playing field in light of digitalisation; regrets the continued refusal of certain Member States to find a solution, and calls on the Member States to bridge their diverging positions;

65. Recalls that the application of the C(C)CTB should be accompanied by the implementation of common accounting rules and appropriate harmonisation of administrative practices;

66. Recalls that in order to end the practice of profit shifting and introduce the principle that tax is paid where profit is generated, the CCTB and CCCTB should be introduced simultaneously in all Member States; calls on the Commission to issue a new proposal based on Article 116 of the TFEU, whereby the European Parliament and the Council act in accordance with the ordinary legislative procedure to issue the necessary legislation, should the Council fail to adopt a unanimous decision on the proposal to establish a CCCTB;

([1]) OJ C 72 E, 11.3.2014, p. 1.

Tuesday 26 March 2019

2.2.3. ***Corporate digital taxation***

67. Notes that the phenomenon of digitalisation has created a new situation in the market, whereby digital and digitalised companies are able to take advantage of local markets without having a physical, and therefore taxable, presence in that market, creating a non-level playing field and putting traditional companies at a disadvantage; notes that digital businesses models in the EU face a lower effective average tax burden than traditional business models ([1]);

68. Points out, in this context, the gradual shift from tangible production to intangible assets in the value chains of MNEs, as reflected in the relative rates of growth over the last five years of royalties and licensing fee receipts (almost 5 % annually) compared with trade in goods and foreign direct investment (FDI) (less than 1 % annually) ([2]); deplores the fact that digital businesses pay almost no taxes in some Member States despite their significant digital presence and large revenues in those Member States;

69. Believes that the EU should allow for an attractive business environment in order to achieve a smoothly functioning digital single market while ensuring fair taxation of the digital economy; recalls that, when it comes to the digitalisation of the economy as a whole, the location of the value creation should take users' input into account, as well as information collected on consumers' behaviour online;

70. Underlines that a lack of a common Union approach to addressing the taxation of the digital economy will lead — and indeed already has led — Member States to adopt unilateral solutions, which will lead to regulatory arbitrage and the fracturing of the single market, and might become a burden for companies operating on a cross-border basis, as well as for tax authorities;

71. Notes the leading role played by the Commission and some Member States in the global debate on the taxation of the digitalised economy; encourages the Member States to continue their proactive work at OECD and UN level, especially via the process introduced by the Inclusive Framework on BEPS in its Policy Note ([3]); recalls, however, that the EU should not wait for a global solution and must act immediately;

72. Welcomes the digital tax package adopted by the Commission on 21 March 2018; regrets, however, that Denmark, Finland, Ireland and Sweden maintained their reservations or their fundamental opposition to the DST package during the ECOFIN meeting on 12 March 2019 ([4]);

73. Emphasises that the agreement on what constitutes digital permanent establishment, the only one to have been reached hitherto, is a step in the right direction, but does not resolve the issue of tax base allocation;

74. Calls on the Member States willing to consider the introduction of a digital tax to do so within the framework of enhanced cooperation in order to avoid further fragmentation of the single market, as is already happening with individual Member States considering the introduction of national solutions;

75. Understands that the so-called interim solution is not optimal; believes that it will help speed up the search for a better solution at global level, while levelling the playing field in local markets to some extent; calls on the EU Member States to discuss, adopt and implement the long-term solution concerning the taxation of the digital economy (on significant digital presence) as soon as possible in order for the EU to remain a trendsetter at global level; stresses that the long-term solution proposed by the Commission should serve as a basis for further work at international level;

([1]) As evidenced in the impact assessment of 21 March 2018 accompanying the digital tax package (SWD(2018)0081), according to which on average, digitalised businesses face an effective tax rate of only 9,5 %, compared to 23,2 % for traditional business models.
([2]) UNCTAD, World Investment Report, 2018.
([3]) Addressing the Tax Challenges of the Digitalisation of the Economy — Policy Note, published on 29 January 2019.
([4]) Conclusions of the Economic and Financial Affairs Council, 12 March 2019.

76. Notes the strong demand for the DST by the EU citizens; recalls that surveys show that 80 % of citizens from Germany, France, Austria, the Netherlands, Sweden and Denmark are supportive of a DST, and think that the EU should pioneer international efforts; underlines, furthermore, that a majority of the surveyed citizens would like a broad scope for a DST ([1]);

77. Calls on the Member States to ensure that the DST remains a temporary measure by including a 'sunset clause' to the proposal for a Council Directive of 21 March 2018 on the common system of a digital services tax on revenues resulting from the provision of certain digital services ([2]) (COM(2018)0148), and by speeding up the discussion on a significant digital presence;

2.2.4. ***Effective Taxation***

78. Notes that nominal corporate tax rates have decreased at EU level from an average of 32 % in 2000 to 21,9 % in 2018 ([3]), which represents a decrease of 32 %; is concerned about the implications of this competition on the sustainability of tax systems and its potential spillover effects on other countries; observes that the first G20/OECD-led BEPS project did not touch upon this phenomenon; welcomes the announcement of the Inclusive Framework on BEPS to explore on a 'without prejudice' basis taxing rights that would strengthen the ability of jurisdictions to tax profits where the other jurisdiction with taxing rights applies a low effective rate of tax to those profits, by 2020 ([4]), which translates into minimum effective taxation; notes that, as stated by the Inclusive Framework on BEPS, the current OECD-led work does not imply changes to the fact that countries or jurisdictions remain free to set their own tax rates or not to have a corporate income tax system at all ([5]);

79. Welcomes the new OECD global standard on substantial activities factor to no or only nominal tax jurisdiction ([6]), largely inspired by the EU's work on the EU listing process (Fair criterion 2.2 of the EU list);

80. Notes the discrepancies between estimates of large corporations' effective tax rates — often based on provision for taxes ([7]) — and the actual tax paid by large MNEs; notes that traditional sectors pay on average an effective corporate tax rate of 23 %, while the digital sector pays about 9,5 % ([8]);

81. Notes the diverging methodologies in assessing effective tax rates, which do not allow for reliable comparison of ETRs in the EU and globally; notes that some assessments of effective tax rates in the EU diverge from 2,2 % to 30 % ([9]); calls on the Commission to develop its own methodology and regularly publish the ETRs in the Member States;

82. Calls on the Commission to assess the phenomenon of decreasing nominal tax rates and its impact on ETRs in the EU, and to propose remedies, both within the EU and towards third countries as applicable, including strong anti-abuse rules, defensive measures, such as stronger controlled foreign company rules, and a recommendation to amend tax treaties;

([1]) KiesKompas, Public Perception towards taxing digital companies in six countries, December 2018.
([2]) COM(2018)0148.
([3]) Taxation Trends in the European Union, Table 3: Top statutory corporate income tax rates (including surcharges), 1995-2018, European Commission, 2018.
([4]) Addressing the Tax Challenges of the Digitalisation of the Economy — Policy Note, as approved by the Inclusive Framework on BEPS on 23 January 2019.
([5]) Ibid.
([6]) OECD, Resumption of Application of Substantial Activities Factor to No or only Nominal Tax Jurisdictions — Inclusive Framework on BEPS: Action 5, 2018.
([7]) Public hearing of 27 November 2018 on 'Alleged aggressive tax planning schemes within the EU'.
([8]) Commission communication entitled 'Time to establish a modern, fair and efficient taxation standard for the digital economy' (COM(2018)0146).
([9]) Public hearing of 24 January 2019 on The Evaluation of the Tax Gap'.

83. Believes that the global coordination on the tax base as a result of the OECD/BEPS project should be accompanied by better coordination on tax rates in an effort to achieve improved efficiency;

84. Invites the Member States to update the mandate of the CoC Group to explore the concept of minimum effective taxation of corporate profits to follow up on the OECD's work on the Tax Challenges of the Digitalisation of the Economy;

85. Takes note of the statement made by the French Finance Minister at the TAX3 meeting of 23 October 2018 regarding the need to discuss the concept of minimum taxation; welcomes France's readiness to include the debate on minimum taxation as one of the priorities of its G7 Presidency in 2019, as reiterated during the ECOFIN meeting of 12 March 2019;

2.3. ***Administrative cooperation in relation to direct taxes***

86. Stresses that since June 2014 the DAC has been amended four times;

87. Calls on the Commission to assess and present proposals to close loopholes in DAC2, particularly by including hard assets and cryptocurrencies in the scope of the directive, by prescribing sanctions for non-compliance or false reporting from financial institutions, as well as by including more types of financial institution and types of accounts that are not being reported at the moment, such as pension funds;

88. Reiterates its call for a broader scope in relation to the exchange of tax rulings and broader access by the Commission, and for greater harmonisation of the tax ruling practices of different national tax authorities;

89. Calls on the Commission to swiftly release its first assessment of DAC3 in this regard, looking in particular at the number of rulings exchanged and the number of occasions on which national tax administrations accessed information held by another Member State; asks that the assessment also consider the impact of disclosing key information related to tax rulings (the number of rulings, the names of beneficiaries, the effective tax rate deriving from each ruling); invites the Member States to publish domestic tax rulings;

90. Deplores the fact that the Commissioner in charge of taxation does not recognise the need to extend the existing system for the exchange of information between national tax authorities;

91. Reiterates, furthermore, its call to ensure simultaneous tax audits of persons of common or complementary interests (including parent companies and their subsidiaries), and its call to further enhance tax cooperation between Member States through an obligation to answer group requests on tax matters; points out that the right to remain silent in dealings with tax authorities does not apply to a purely administrative investigation and that cooperation is mandatory [1];

92. Considers that coordinated on-site inspections and joint audits should be part of the European framework of cooperation between tax administrations;

93. Emphasises that not only information exchanges and the processing of information, but also the sharing of best practices among tax authorities, contribute to more efficient tax collection; calls on Member States to give priority to the sharing of best practices among tax authorities, particularly regarding the digitalisation of tax administrations;

94. Calls on the Commission and Member States to harmonise procedures for a digital system of filing tax returns in order to facilitate cross-border activities and reduce red tape;

95. Calls on the Commission to swiftly assess the implementation of DAC4 and whether national tax administrations effectively access country-by-country information held by another Member State; asks the Commission to assess how DAC4 relates to Action 13 of the G20/BEPS action plan on exchange of country-by-country information;

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[1] ECtHR, judgment of 16 June 2015 (No 787/14), *van Weerelt* v *the Netherlands*.

96. Welcomes the automatic exchange of financial account information based on the global standard which has been developed by the OECD with Andorra, Liechtenstein, Monaco, San Marino and Switzerland; calls on the Commission and the Member States to upgrade the Treaty provisions so as to match the DAC as amended;

97. Stresses, furthermore, the contribution made through the Fiscalis 2020 Programme, which aims to enhance cooperation between participating countries, their tax authorities and their officials; stresses the added value brought by joint actions in this field and the role of the possible programme in developing and operating major trans-European IT systems;

98. Reminds Member States of all their obligations under the Treaty [1], in particular to cooperate loyally, sincerely and expeditiously; calls, therefore, in the light of cross-border cases, and most notably the so-called cum-ex files, for the nomination of Single Points of Contact (SPoC) by all Member States' national tax authorities, in line with the SPoC-system of the Joint International Taskforce on Shared Intelligence and Collaboration (JITSIC) in the framework of the OECD [2], to facilitate and enhance cooperation in combating tax fraud, tax evasion and ATP; calls further on the Commission to facilitate and coordinate cooperation between Member States' SPoCs;

99. Recommends that Member States' authorities which are notified by their counterparts in other Member States of potential breaches of law be required to provide an official notification of receipt and, where appropriate, a substantive response on actions taken following the aforementioned notification in a timely manner;

2.4. ***Dividend stripping and coupon washing***

100. Notes that cum-ex transactions have been a known global problem since the 1990s, including in Europe, yet no coordinated counteraction has been taken; deplores the tax fraud revealed by the so-called cum-ex files scandal which has led to publicly reported losses of Member States' tax revenue, amounting to as much as EUR 55,2 billion according to some media estimates; highlights that the consortium of European journalists identifies Germany, Denmark, Spain, Italy and France as allegedly the main target markets for cum-ex trading practices, followed by Belgium, Finland, Poland, the Netherlands, Austria and the Czech Republic;

101. Stresses that the complexity of tax systems can give rise to legal loopholes facilitating tax fraud schemes such as cum-ex;

102. Notes that the systematic fraud centred around the cum-ex and cum-cum schemes was made possible in part because the relevant authorities in the Member States did not perform sufficient checks on applications for the reimbursement of taxes and lack a clear and complete picture of the actual ownership of shares; calls on the Member States to give access to all relevant authorities to complete and up-to-date information on ownership of shares; calls on the Commission to assess whether EU action is needed in this regard, and to present a legislative proposal should the assessment demonstrate a need for such action;

103. Underlines that the revelations seem to indicate possible shortcomings in national taxation laws and in the current systems of exchange of information and cooperation between Member State authorities; urges the Member States to effectively use all communication channels, national data and data made available by the strengthened framework for exchange of information;

104. Stresses that the cross-border aspects of the cum-ex files should be addressed multilaterally; warns that the introduction of new bilateral treaties on exchanges of information and bilateral cooperation mechanisms between individual Member States would complicate the already complex web of international rules, introduce new loopholes and contribute to the lack of transparency;

105. Urges all Member States to thoroughly investigate and analyse dividend payment practices in their jurisdictions, to identify the loopholes in their tax laws that generate opportunities for exploitation by tax fraudsters and avoiders, to analyse any potential cross-border dimension of these practices and to put an end to all these harmful tax practices; calls on Member States to exchange best practices in this regard;

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[1] Article 4(3) of the TEU.
[2] Joint International Taskforce on Shared Intelligence and Collaboration.

106. Calls on the Member States and their financial supervisory authorities to assess the need to ban exclusively tax-driven financial practices such as dividend arbitrage or dividend stripping and similar schemes, in absence of proof to the contrary by the issuer that these financial practices have a substantive economic purpose other than unjustified tax reimbursement and/or tax avoidance; calls for the EU legislators to evaluate the possibility of implementing this measure at EU level;

107. Calls on the Commission to start working immediately on a proposal for a European financial police force within the framework of Europol with its own investigatory capabilities, as well as on a European framework for cross-border tax investigations and other cross-border financial crimes;

108. Concludes that the cum-ex-files demonstrate the urgent need to improve cooperation between EU Member States' tax authorities, particularly with regard to information sharing; urges, therefore, the Member States to enhance their cooperation in detecting, stopping, investigating and prosecuting tax fraud and evasion schemes such as cum-ex and, where applicable, cum-cum, including exchange of best practices, and to support EU-level solutions where justified;

2.5. ***Transparency in relation to corporate tax***

109. Welcomes the adoption of DAC4 providing for CBCR to tax authorities, in line with the BEPS Action 13 standard;

110. Recalls that public CBCR is one of the key measures to create greater transparency on tax information of companies; stresses that the proposal for public CBCR by certain undertakings and branches was submitted to the co-legislators just after the Panama Papers scandal on 12 April 2016, and that Parliament adopted its position on it on 4 July 2017 ([1]); recalls that it called for an enlargement of the scope of reporting and protection of commercially sensitive information with due regard to the competitiveness of EU enterprises;

111. Recalls Parliament's position in the PANA recommendations calling for ambitious public country-by-country reporting (CBCR) in order to enhance tax transparency and the public scrutiny of multinational enterprises (MNEs); urges the Council to reach a common agreement in order to adopt public CBCR, as one of the key measures for achieving greater transparency for all citizens in relation to companies' tax information;

112. Deplores the lack of progress and cooperation from the Council since 2016; urges that swift progress be made in the Council so that it enters into negotiations with Parliament;

113. Recalls that public scrutiny is useful for researchers ([2]), investigative journalists, investors and other stakeholders to properly assess risks, liabilities and opportunities to stimulate fair entrepreneurship; recalls that similar provisions already exist for the banking sector in Article 89 of Directive 2013/36/EU (CDR IV) ([3]) and for the extractive and logging industries in Directive 2013/34/EU ([4]); notes that some private stakeholders are voluntarily developing new reporting tools enhancing tax transparency, such as the Global Reporting Initiative standard 'Disclosure on tax and payments to governments', as part of their corporate social responsibility policy;

114. Recalls that measures on corporate tax transparency are to be regarded as relating to Article 50, paragraph 1 of the TFEU on freedom of establishment, hence the above-mentioned article is the appropriate legal base for the proposal for public CBCR as found in the Commission's impact assessment published on 12 April 2016 (COM(2016)0198);

115. Notes that, with regard to the limited capacity of developing countries to meet requirements through existing exchange of information procedures, transparency is particularly important, as it would ease access to information for their tax administrations;

([1]) See also the European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (OJ C 369, 11.10.2018, p. 132).

([2]) Public hearing of 24 January 2019 on 'The Evaluation of the Tax Gap'.

([3]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, OJ L 176, 27.6.2013, p. 63.

([4]) 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, OJ L 182, 29.6.2013, p. 19.

Tuesday 26 March 2019

2.6. ***State aid rules***

116. Recalls that the area of direct business taxation falls within the scope of State aid [1] when fiscal measures discriminate between taxpayers, contrary to fiscal measures of a general nature that apply to all undertakings without distinction;

117. Calls on the Commission and, in particular, the Directorate-General for Competition, to assess possible measures to discourage Member States from granting such State aid in the form of a tax advantage;

118. Welcomes the Commission's new proactive and open approach to investigations into illegal State aid during the present term, which has led to a number of high-profile cases being concluded by the Commission;

119. Deplores the fact that companies can make agreements with governments to pay almost no tax in a given country despite conducting substantial activity there; points in this regard to a tax ruling between the Dutch tax revenue authority and Royal Dutch Shell plc that seems to be in violation of Dutch tax law, issued on the sole ground that the head office would be located in the Netherlands after the unification of the two former parent companies, and which results in an exemption from Dutch dividend withholding tax; points out that at the same time, recent investigations seem to show that the company pays no profit tax in the Netherlands either; reiterates its call on the Commission to investigate this case of potentially illegal State aid;

120. Welcomes the fact that since 2014, the Commission has been investigating the tax ruling practices of Member States, following up on allegations of the favourable tax treatment of certain companies, and has launched nine formal investigations since 2014, six of which concluded that the tax ruling constituted illegal State aid [2]; notes that one investigation was closed concluding that the double non-taxation of certain profits did not constitute State aid [3], while the other two are ongoing [4];

121. Deplores the fact that, nearly five years on from the LuxLeaks revelations, the Commission has opened a formal investigation [5] into only one of the over 500 tax rulings granted by Luxembourg that were disclosed as part of the LuxLeaks investigation led by the International Consortium of Investigative Journalists (ICIJ);

122. Notes that despite the fact that the Commission found McDonald's benefited from double non-taxation on certain of its profits in the EU, no decision under EU State aid rules could be issued, as the Commission concluded that the double non-taxation stemmed from a mismatch between Luxembourg and US tax laws and the Luxembourg-United States double taxation treaty [6]; acknowledges the announcement by Luxembourg to revise its double taxation treaties to conform with international tax law;

123. Is concerned about the fact that the Commission has ruled that the double non taxation achieved by McDonald's stemmed from a mismatch between Luxembourg and US tax laws and the Luxembourg-US double taxation treaty, a mismatch from which McDonald's profited by arbitrating between the jurisdictions; is further concerned about the fact that such arbitration-led tax avoidance is being enabled in the EU;

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(1) As the Court of Justice of the European Union stated as early as 1974.

(2) Decision of 20 June 2018 on State aid implemented by Luxembourg in favour of ENGIE (SA.44888); decision of 4 October 2017 on State aid granted by Luxembourg to Amazon (SA.38944); decision of 30 August 2016 on State aid implemented by Ireland to Apple (SA.38373); decision of 11 January 2016 on 'Excess Profit exemption in Belgium — Art. 185§ 2 b) CIR92' (SA.37667); decision of 21 October 2015 on State aid implemented by the Netherlands to Starbucks(SA.38374); and decision of 21 October 2015 on State aid which Luxembourg granted to Fiat (SA.38375). There are pending proceedings before the Court of Justice of the European Union and the General Court related to all six decisions.

(3) Decision of 19 September 2018 on 'Alleged aid to Mc Donald's — Luxembourg' (SA.38945).

(4) 'Possible State aid in favour of Inter IKEA investigation' opened on 18 December 2017 (SA.46470) and 'UK tax scheme for multinationals (Controlled Foreign Company rules)' opened on 26 October 2018 (SA.44896).

(5) Decision of 7 March 2019 on 'Alleged aid to Huhtamaki — Luxembourg' (SA.50400).

(6) http://europa.eu/rapid/press-release_IP-18-5831_en.htm

Tuesday 26 March 2019

124. Is concerned by the magnitude of tax unpaid for all Member States over long periods ([1]); recalls that the aim of the recovery of unlawful aid is to restore the position to the status quo, and that calculating the exact amount of aid to be repaid is part of the implementation obligation incumbent on the national authorities; calls on the Commission to assess and establish viable countermeasures, including fines, to help Member States avoid offering selective favourable tax treatment which constitutes State aid that is non-compliant with EU rules;

125. Reiterates its calls to the Commission for guidelines clarifying what constitutes tax-related State aid and 'appropriate' transfer pricing; calls also for the Commission to remove legal uncertainties for both compliant taxpayers and tax administrations, and provide a comprehensive framework for Member States' tax practices accordingly;

126. Expresses its regret at the Commission's failure to use the State aid rules against any tax measure that seriously distorts competition, and that it only applies these rules in select cases with particular characteristics so as to change the practice of the state concerned; calls on the Commission to make every effort to recover undue State aid, including for all companies mentioned in the Luxleaks scandal, in order to level the playing field; also calls on the Commission to provide further guidance to the Member States and market players on the application of State aid rules and what it means for companies' tax planning practices;

127. Calls for a reform of competition law to extend the scope of State aid rules in order to be able to act more vigorously against harmful fiscal State aid for multinational companies, which include tax rulings;

2.7. ***Letterbox companies***

128. Notes that there is no single definition of letterbox companies, i.e. companies registered in a jurisdiction for tax avoidance or tax evasion purposes only and without any significant economic presence; points out, however, that simple criteria such as actual business activity or the physical presence of staff working for a company could serve to identify letterbox companies and combat their proliferation; reiterates its call for a clear definition;

129. Stresses that, as proposed in Parliament's position for inter-institutional negotiations for the amending directive as regards cross-border conversions, mergers and divisions ([2]), Member States should be required to ensure that cross-border conversions correspond to the actual pursuit of a genuine economic activity, including in the digital sector, to avoid the setting up of 'letterbox' companies;

130. Calls for Member States to request that a set of financial information be exchanged between the competent authorities ahead of the execution of cross-border conversions, mergers or divisions;

131. Recommends that any entity creating an offshore structure should provide the competent authorities with the legitimate reasons behind such a decision in order to guarantee that offshore accounts are not used for money laundering or tax evasion purposes;

132. Calls for the identities of the actual owners to be disclosed to tax authorities;

133. Points out national measures to specifically ban commercial relationships with letterbox companies; highlights, in particular, the Latvian legislation which defines a letterbox company as an entity having no actual economic activity and holding no documentary proof to the contrary, as being registered in a jurisdiction where companies are not required to submit financial statements, and/or as having no place of business in its country of residence; notes, however, that, according to EU law, the banning of letterbox companies in Latvia cannot be used to ban letterbox companies resident in EU Member States, as that would be considered discriminatory ([3]); calls for the Commission to propose changes to the current EU law that would enable the banning of letterbox companies even if resident in EU Member States;

([1]) As in the case of decision of 30 August 2016 (SA.38373) on State aid implemented by Ireland to Apple. The tax rulings in question were issued by Ireland on 29 January 1991 and 23 May 2007.

([2]) Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law, OJ L 169, 30.6.2017, p. 46.

([3]) TAX3 Delegation to Riga (Latvia), 30-31 August 2018, Mission Report.

134. Highlights that the high level of inward and outward FDI as a percentage of GDP in seven Member States (Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta, and the Netherlands) can only to a limited extent be explained by real economic activities taking place in these Member States ([1]);

135. Underlines the high share of FDI in several Member States, particularly in Luxembourg, Malta, Cyprus, the Netherlands and Ireland ([2]); notes that such FDI is usually held by special purpose entities (SPEs) that often serve to exploit loopholes; calls on the Commission to assess the role of the SPEs holding FDI;

136. Notes that economic indicators such as an unusually high level of FDI, as well as FDI held by SPEs, are included among ATP indicators ([3]);

137. Notes that the ATAD anti-abuse rules (artificial arrangements) cover letterbox companies, while the CCTB and CCCTB would ensure that the income is attributed to where the real economic activity takes place;

138. Urges the Commission and the Member States to establish coordinated, binding, enforceable and substantial economic activity requirements as well as expenditure tests;

139. Calls on the Commission to carry out, within two years, fitness checks of the interconnected legislative and policy initiatives aimed at addressing the use of letterbox companies in the context of tax fraud, tax evasion, aggressive tax planning and money laundering;

3. ***VAT***

140. Underscores the need for harmonisation of VAT rules at EU level to the extent that it is necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition ([4]);

141. Stresses that VAT is an important source of tax revenue for national budgets; notes that in 2016, VAT revenues in the EU-28 Member States amounted to EUR 1 044 billion, which corresponds to 18 % of all tax revenues in the Member States; takes note of the fact that the 2017 annual EU budget amounted EUR 157 billion;

142. Regrets, however, that every year, large amounts of the expected VAT revenue are lost because of fraud; highlights that according to the Commission's statistics, the VAT gap (which is the difference between the expected VAT revenue and the VAT actually collected, thereby providing an estimate of the VAT lost due not only to fraud, but also to bankruptcy, miscalculations and avoidance) in the EU in 2016 amounted to EUR 147 billion, which represents more than 12 % of the total expected VAT revenue ([5]), although the situation is much worse in a number of Member States where the gap is close to or even above 20 %, showing a big difference between Member States in their handling of the VAT gap;

143. Notes that the Commission estimates that around EUR 50 billion — or EUR 100 per EU citizen each year — is lost to cross-border VAT fraud ([6]); while Europol estimates that around EUR 60 billion of VAT fraud is linked to organised crime and terrorism financing; notes the increased harmonisation and simplification of VAT regimes in the EU, although cooperation between Member States is neither sufficient nor effective as of yet; calls on the Commission and the Member States to reinforce their cooperation to better fight against VAT fraud; calls on the next Commission to prioritise the introduction and implementation of the definitive VAT regime in order to improve it;

([1]) Kiendl Kristo I. and Thirion E., An overview of shell companies in the European Union, EPRS, PE 627.129, European Parliament, October 2018, p. 23.

([2]) Kiendl Kristo I. and Thirion E., op. cit., p. 23; 'Study on Structures of Aggressive Tax Planning and Indicators — Final Report' (Taxation paper No 61, 27 January 2016); 'The Impact of Tax Planning on Forward-Looking Effective Tax Rates' (Taxation paper No 64, 25 October 2016) and 'Aggressive tax planning indicators — Final Report' (Taxation paper No 71, 7 March 2018).

([3]) IHS, Aggressive tax planning indicators, prepared for the European Commission, DG TAXUD Taxation papers, Working paper No 71, 7 March 2018.

([4]) Article 113 of the TFEU

([5]) Study and Reports on the VAT Gap in the EU-28 Member States: 2018 Final Report / TAXUD/2015/CC/131.

([6]) See Commission press release.

Tuesday 26 March 2019

144. Calls for reliable statistics to estimate the VAT gap and stresses the need for a common approach to data collection and sharing within the EU; urges the Commission to ensure that harmonised statistics are collected and published regularly in the Member States;

145. Underlines that the feature of the current VAT (transitional) regime of applying an exemption to intracommunity supplies within the EU and exports has been abused by fraudsters, in particular in the VAT carousel fraud or missing trader intra-community fraud (MTIC);

146. Takes note of the fact that according to the Commission, businesses trading on a cross-border basis currently suffers from compliance costs which are 11 % higher compared to those incurred by companies that only trade domestically; notes that, in particular, SMEs suffer from disproportionate VAT compliance costs, which is one of the reasons they have remained wary of reaping the advantages of the single market; calls on the Commission and Member States to develop solutions to reduce the VAT compliance costs linked to cross-border trade;

3.1. ***Modernisation of the VAT framework***

147. Welcomes, therefore, the Commission's VAT action plan of 6 April 2016 to reform the VAT framework and the 13 legislative proposals adopted by the Commission since December 2016 that address the shift towards the definitive VAT regime, remove VAT obstacles to e-commerce, review the VAT regime for SMEs, modernise the VAT rates policy and tackle the VAT tax gap;

148. Welcomes the fact that a VAT Mini One Stop Shop (MOSS) on telecommunications, broadcasting and electronic services was introduced in 2015 as a voluntary system for the registration, declaration and payment of VAT; welcomes the extension of the MOSS to other supplies of goods and services to final consumers as of 1 January 2021;

149. Notes that the Commission estimates that the reform to modernise VAT is expected to reduce red tape by 95 %, which amounts to an estimated EUR 1 billion;

150. Welcomes in particular the fact that on 5 December 2017 the Council adopted new rules making it easier for online businesses to comply with VAT obligations; welcomes in particular the fact that the Council took Parliament's opinion on board in relation to introducing online platforms' liability for collecting VAT on the distance sales that they facilitate; considers that this measure will ensure a level playing field with non-EU businesses, as many goods that are imported for distance sales currently enter the EU VAT-free; calls on the Member States to correctly implement the new rules by 2021;

151. Welcomes the definitive VAT system proposals adopted on 4 October 2017 ([1]) and 24 May 2018 ([2]); welcomes in particular the Commission's proposal to apply the destination principle to taxation, which means that VAT would be paid to the tax authorities of the Member State of the final consumer at the rate applicable in that Member State;

152. Welcomes in particular the progress made by the Council towards the definitive VAT regime by adopting the Quick Fixes ([3]) on 4 October 2018; expresses its concern, however, that no safeguards in relation to its fraud-sensitive aspects were adopted along the lines of Parliament's position ([4]) on the Certified Taxable Person (CTP) proposal ([5]), as expressed in its opinion of 3 October 2018 ([6]); profoundly regrets that the Council postponed the decision on introduction of CTP status until the adoption of the definitive VAT regime;

([1]) COM(2017)0569, COM(2017)0568 and COM(2017)0567.
([2]) COM(2018)0329.
([3]) Proposal for a Council Directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between the Member States (COM(2017)0569).
([4]) European Parliament legislative resolution of 3 October 2018 on the proposal for a Council directive amending Directive 2006/112/EC as regards harmonising and simplifying certain rules in the value added tax system and introducing the definitive system for the taxation of trade between Member States, texts adopted, P8_TA(2018)0366.
([5]) Proposal for a Council Directive amending Directive 2006/112/EC and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (COM(2016)0757).
([6]) Texts adopted, P8_TA(2018)0367.

153. Calls on the Council to ensure that CTP status is consistent with Authorised Economic Operator (AEO) status, which is granted by the customs authorities;

154. Calls for a minimal EU transparent coordination on the definition of CTP status, including a regular assessment by the Commission on how Member States grant CTP status; calls for the exchange of information between Member States' tax authorities about refusals to grant CTP status to certain companies, in order to enhance coherence and common standards;

155. Welcomes, furthermore, the revision of the special schemes for SMEs ([1]) which is key to ensuring a level playing field, as VAT exemption schemes are currently only available to domestic entities, and can contribute to the reduction of VAT compliance costs for SMEs; calls on the Council to take Parliament's opinion of 11 September 2018 ([2]) into account, particularly when it comes to further administrative simplification for SMEs; calls, therefore, on the Commission to set up an online portal through which SMEs willing to avail themselves of the exemption in another Member State are required to register, and to put in place a one-stop shop through which small enterprises can file VAT returns for the different Member States in which they operate;

156. Notes the adoption of the Commission proposal for a general reverse charge Mechanism (GRCM) ([3]) that will allow temporary derogations from normal VAT rules in order to better prevent carousel fraud in the Member States that are most severely affected by this type of fraud; calls on the Commission to closely monitor the application and the potential risks and benefits of this new legislation; insists, however, that the GRCM should by no means delay the swift implementation of a definitive VAT system;

157. Notes that the expansion of e-commerce can often pose a challenge for tax authorities, e.g. the absence of a seller's taxable identification in the EU, and the registration of VAT declarations well below the real value of the declared transactions; welcomes, therefore, the spirit of the proposed implementing rules relating to distance sales of goods adopted on 11 December 2018 by the Commission (COM(2018)0819 and COM(2018)0821), according to which, notably, from 2021 online platforms will have the responsibility to ensure that VAT is collected on sales of goods by non-EU companies to EU consumers taking place on their platforms;

158. Calls on the Commission and Member States to monitor e-commerce transactions involving sellers based outside the EU that would declare no VAT (for example by unduly using the 'sample' statute) or would deliberately underestimate the value in order to avoid altogether or reduce the VAT due; considers that such practices endanger the integrity and smooth functioning of the EU's internal market; calls on the Commission to come up with proposals if appropriate and necessary;

3.2. ***The VAT gap, the fight against VAT fraud and administrative cooperation on VAT***

159. Reiterates its call to the factors contributing to the tax gap, not least VAT;

160. Welcomes the opening of infringement procedures by the Commission on 8 March 2018 against Cyprus, Greece and Malta, and on 8 November 2018 against Italy and the Isle of Man as regards abusive VAT practices in relation to the acquisition of yachts and aircraft, to ensure that they stop offering allegedly unlawful favourable tax treatment for private yachts and aircraft, which distorts competition in the maritime and aviation sectors;

([1]) Proposal for a Council Directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises (COM(2018)0021).

([2]) European Parliament legislative resolution of 11 September 2018 on the proposal for a Council directive amending Directive 2006/112/EC on the common system of value added tax as regards the special scheme for small enterprises, Texts adopted, P8_TA (2018)0319.

([3]) Proposal for a Council Directive of 21 December 2016 amending Directive 2006/112/EC on the common system of value added tax as regards the temporary application of a generalised reverse charge mechanism in relation to supplies of goods and services above a certain threshold (COM(2016)0811).

Tuesday 26 March 2019

161. Welcomes the amendments to Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in the field of VAT; welcomes the Commission's monitoring visits to 10 Member States carried out in 2017, notably the subsequent recommendation to improve the reliability of the VAT Information Exchange System (VIES);

162. Notes that the Commission has recently proposed additional control tools and an enhanced role for Eurofisc, as well as mechanisms for closer cooperation between customs and tax administrations; calls on all Member States to participate more actively in the Transactional Network Analysis (TNA) system in the framework of Eurofisc;

163. Is of the opinion that the participation of all Member States in Eurofisc must be mandatory and a condition for receiving EU funds; echoes the preoccupation of the European Court of Auditors on VAT reimbursement in Cohesion spending ([1]) and on the EU Anti-Fraud Programme ([2]);

164. Urges the Commission to examine the possibilities for real-time collection and communication of transactional VAT data by the Member States, as this would increase the effectiveness of Eurofisc and allow the further development of new strategies to defeat VAT fraud; calls on all relevant authorities to use a variety of statistical and data-mining technologies to identify anomalies, suspicious relationships and patterns, enabling tax agencies to better address a wide spectrum of non-compliance behaviours in a proactive, targeted and cost-effective way;

165. Welcomes the adoption of the Protection of Financial Interests (PIF) Directive ([3]) which clarifies the issues of cross-border cooperation and mutual legal assistance between Member States, Eurojust, Europol, the European Public Prosecutor's Office (EPPO), the European Anti-Fraud Office (OLAF) and the Commission in tackling VAT fraud; calls on the EPPO, OLAF, Eurofisc, Europol and Eurojust to cooperate closely with a view to coordinating their efforts against VAT fraud and to identifying and adapting to new fraudulent practices;

166. Points, however, to the need for better cooperation between the administrative, judicial and law-enforcement authorities within the EU, as highlighted by experts during the hearing held on 28 June 2018 and in a study commissioned by the TAX3 committee;

167. Welcomes the Commission's communication to extend the competences of the EPPO to cross-border terrorist crimes; calls on the Commission and Member States to ensure that the EPPO can begin operating as soon as possible and no later than 2022, ensuring close cooperation with the already established institutions, bodies, agencies and offices of the Union in charge of the protection of the financial interests of the Union; calls for exemplary, dissuasive and proportional sanctions to be pronounced; considers that anyone engaged in an organised VAT fraud scheme should be severely sanctioned in order to avoid a perception of impunity;

168. Considers that one of the main issues allowing fraudulent behaviour in relation to VAT to occur is the 'cash profit' that a fraudster can make; calls, therefore, on the Commission to analyse the proposal made by experts ([4]) to place cross-border transactional data on a blockchain, and to use secured digital currencies that can only be used for VAT payments (single purpose) instead of using fiat currency;

([1]) ECA, Rapid case review, VAT reimbursement in Cohesion — an error-prone and sub-optimal use of EU funds, 29 November 2018.

([2]) ECA Opinion No 9/2018 of 22 November 2018 concerning the proposal for a Regulation of the European Parliament and of the Council establishing the EU Anti-Fraud Programme.

([3]) 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, in particular Articles 3 and 15 thereof.

([4]) Ainsworth, R. T., Alwohabi, M., Cheetham, M. and Tirand, C.: 'A VATCoin Solution to MTIC Fraud: Past Efforts, Present Technology, and the EU's 2017 Proposal', Boston University School of Law, Law and Economics Series Paper, No 18-08, 26 March 2018. See also: Ainsworth, R. T., Alwohabi, M. and Cheetham, M.: 'VATCoin: Can a Crypto Tax Currency Prevent VAT Fraud?', *Tax Notes International*, Vol 84, 14 November 2016.

169. Welcomes the fact that the fraud linked to imports has been addressed by the Council ([1]); considers that the proper integration of data from customs declarations into the VIES will allow the Member States of destination to cross-check customs and VAT information in order to ensure that VAT is paid at the country of destination; calls on Member States to implement this new legislation in an effective and timely manner by 1 January 2020;

170. Considers that administrative cooperation between tax and customs authorities is suboptimal ([2]); calls on Member States to mandate Eurofisc to develop new strategies to track goods under customs procedure 42, the mechanism which allows the importer to obtain a VAT exemption when the imported goods are eventually intended for transport to a business customer in a Member State other than the Member State of importation;

171. Highlights the importance of the implementation of a register of beneficial owners of corporate entities under AMLD5 as an important tool to tackle VAT fraud; urges Member States to enhance the competences and qualifications of the police forces, tax services, prosecutors and judges dealing with this type of fraud;

172. Is concerned by the results of the study ([3]) commissioned by the TAX3 committee stating that the Commission's proposals will reduce fraud on imports but not eliminate it; takes note that the issue of undervaluation and enforcement of EU rules in general in the case of non-EU taxable persons will not be solved; calls on the Commission to investigate alternative collection methods for these supplies for the longer term; stresses that relying on the good faith of non-EU taxable persons to collect EU VAT is not a sustainable option; considers that such alternative collection models should not only target sales made via electronic platforms, but encompass all sales made by non-EU taxable persons, irrespective of the business model that they use;

173. Calls on the Commission to closely monitor the consequences of the introduction of the definitive regime for VAT revenues on Member States; calls on the Commission to investigate seriously the possibilities of new fraud risks in the definitive VAT system, notably the potentially missing supplier in cross-border transactions supplanting the missing customer type of carousel fraud; stresses, in this regard, that the custom transit system, among others, can certainly facilitate trade within the EU; notes, however, that abuses are possible and that criminal organisations, by avoiding the payment of taxes and duties, may cause a huge loss both to Member States and the EU (by avoiding VAT); calls, therefore, on the Commission to monitor the custom transit system and come up with proposals building on the recommendations made notably by OLAF, Europol and Eurofisc;

174. Believes that a large majority of European citizens expect clear European and national legislation that enables those who do not pay the tax which they are due to pay to be identified and sanctioned, and for the missing tax to be recuperated in a timely manner;

4. ***Taxation of individuals***

175. Emphasises that natural persons do not generally exercise their freedom of movement for the purposes of tax fraud, tax evasion and aggressive tax planning; underlines, however, that some natural persons have a tax base large enough to span several tax jurisdictions;

176. Regrets the fact that HNWIs and ultra HNWIs (UHNWIs), using complex tax structures, including the setting up of companies, continue to have the possibility to shift their earnings and funds or their purchases through different tax jurisdictions to obtain substantially reduced or zero liability by using the services of wealth managers and other intermediaries; deplores the fact that some EU Member States have implemented tax schemes to attract HNWIs without creating real economic activity;

([1]) Council Regulation (EU) 2017/2454 of 5 December 2017 amending Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of value added tax, OJ L 348, 29.12.2017, p. 1.

([2]) Lamensch M. and Ceci E., *VAT fraud: Economic impact, challenges and policy issues*, European Parliament, Directorate-General for Internal Policies, Policy Department A — Economic, Scientific and Quality of Life Policies, 15 October 2018.

([3]) Ibid.

Tuesday 26 March 2019

177. Notes that headline rates for labour income are usually higher than for income from capital throughout the EU; notes that, overall, the contribution of wealth-based taxes to overall tax revenues has remained rather limited, at 4,3 % of overall tax revenues in the EU ([1]);

178. Notes with regret that corporate tax fraud, tax evasion and ATP contribute to shifting the tax liability on to honest and fair taxpayers;

179. Calls on the Member States to impose dissuasive, effective, and proportionate penalties in cases of tax fraud, tax evasion and illegal ATP, and to ensure that these penalties are enforced;

180. Deplores the fact that some Member States have created dubious tax regimes allowing individuals who become resident for tax purposes to obtain income tax benefits, thereby undermining other Member States' tax base and fostering harmful policies which discriminate against their own citizens; notes that these regimes may include benefits not available to national citizens, such as the non-taxation of foreign possessions and income, lump-sum tax on foreign income, tax-free allowances on a part of incomes earned domestically or lower tax rates on pensions remitted to the country of origin;

181. Recalls that the Commission, in a communication from 2001, suggested the inclusion of special regimes for highly-qualified expatriate staff in the list of harmful tax practices of the CoC Group (on Business Taxation) ([2]), but has not provided any data on the scope of the problem since; calls on the Commission to reassess this issue and, in particular, to assess the risks of double taxation as well as double non-taxation of such schemes;

4.1. ***Citizenship by investment (CBI) and residency by investment (RBI) schemes***

182. Is concerned that a majority of Member States have adopted citizenship by investment (CBI) or residency by investment (RBI) schemes ([3]), generally known as 'golden visa and passports' or investor programmes, by which citizenship or residence is granted to EU and non-EU citizens in exchange for financial investment;

183. Observes that the investments made under these programmes do not necessarily promote the real economy of the Member State granting citizenship or residency, and that they often do not require applicants to spend any time on the territory in which the investment is made, and that even when such a requirement formally exists, its fulfilment is usually not verified; stresses that such schemes jeopardise the attainment of the Union's objectives and are therefore in breach of the principle of sincere cooperation;

184. Observes that at least 5 000 non-EU citizens have obtained EU citizenship through citizenship by investment schemes ([4]); notes that, according to a study ([5]), at least 6 000 people have been granted citizenship and almost 100 000 residence permits have been issued;

185. Worries that CBI and RBI are awarded without proper security screening of the applicants, including to high-risk third-country nationals, and therefore pose security risks for the Union; deplores the fact that the opaqueness surrounding the origin of the money connected to CBI and RBI schemes has significantly increased the political, economic and security risks for European countries;

([1]) Gunnarson A., Spangenberg U. and Schratzenstaller M., *Gender equality and taxation in the European Union*, European Parliament, Directorate-General for Internal Policies, Policy Department C — Citizens' Rights and Constitutional Affairs , 17 January 2017.

([2]) Commission communication entitled 'Tax policy in the European Union — Priorities for the years ahead' (COM(2001)0260).

([3]) 18 Member States have some form of RBI scheme in place, including four Member States that operate CBI schemes in addition to RBI schemes: Bulgaria, Cyprus, Malta, and Romania. 10 Member States have no such schemes: Austria, Belgium, Denmark, Finland, Germany, Hungary, Poland, Slovakia, Slovenia and Sweden. Source: Scherrer A. and Thirion E., *Citizenship by investment (CBI) and residency by investment (RBI) schemes in the EU*, EPRS, PE 627.128, European Parliament, October 2018, pp. 12-13 and 55-56; ISBN: 978-92-846-3375-3.

([4]) See the above-mentioned study. Other studies provide higher figures, also including RBI.

([5]) Transparency International and Global Witness, *European Getaway: Inside the Murky World of Golden Visas*, 10 October 2018.

186. Stresses that CBI and RBI schemes carry other significant risks, including a devaluation of EU and national citizenships and the potential for corruption, money laundering and tax evasion; notes that one Member State's decision to implement CBI and RBI schemes has spillover effects on other Member States; reiterates its concern that citizenship or residence could be granted through these schemes without proper or indeed any customer due diligence (CDD) having been carried out by the competent authorities;

187. Notes that the obligation laid down by AMLD5, whereby obliged entities should consider CBI and RBI applicants as high-risk in the course of their CDD process, does not absolve Member States of their responsibility to establish and conduct enhanced due diligence themselves; notes that several formal investigations into corruption and money laundering have been launched at national and EU level directly related to CBI and RBI schemes;

188. Underlines that, at the same time, the economic sustainability and viability of the investments provided through these schemes remain uncertain; highlights that citizenship and the rights associated to it should never be for sale;

189. Notes that the CBI and RBI schemes of some Member States have been used profusely by Russian citizens and by citizens from countries under Russian influence; highlights that these schemes may serve Russian citizens included in the sanctions list adopted after the illegal annexation of Crimea by Russia and the aggression of Russia on Crimea as a means to avoid EU sanctions;

190. Criticises that these programmes regularly involve tax privileges or special tax regimes for the beneficiaries; is concerned that these privileges could hamper the objective of making all citizens contribute fairly to the tax system;

191. Worries about the lack of transparency in relation to the number and origin of applicants, the numbers of individuals granted citizenship or residency by these schemes, the amount invested through these schemes and the origin thereof; appreciates the fact that some Member States make explicit the name and nationalities of the individuals who are granted citizenship or residency under these schemes; encourages other Member States to follow this example;

192. Is concerned that according to the OECD, CBI and RBI schemes could be misused to undermine the common reporting standard (CRS) due diligence procedures, leading to inaccurate or incomplete reporting under the CRS, in particular when not all jurisdictions of tax residence are disclosed to the financial institution; notes that in the OECD's view, the visa schemes which are potentially high-risk for the integrity of the CRS are those that give a taxpayer access to a low personal income tax rate of less than 10 % on offshore financial assets, and do not require a significant physical presence of at least 90 days in the jurisdiction offering the golden visa scheme;

193. Is concerned that Malta and Cyprus have schemes ([1]) among those that potentially pose a high risk to the integrity of CRS;

194. Concludes that the potential economic benefits of CBI and RBI schemes do not offset the serious security, money laundering and tax evasion risks they present;

195. Calls on Member States to phase out all existing CBI or RBI schemes as soon as possible;

([1]) The Cypriot Citizenship by Investment: Scheme for Naturalisation of Investors by Exception, the Cypriot Residence by Investment, the Maltese Individual Investor Programme, and the Maltese Residence and Visa programme.

196. Stresses that, in the meantime, Member States should require physical presence in the country as a condition for benefiting from CBI and RBI schemes, and should properly ensure that enhanced CDD on applicants for citizenship or residence through these schemes is duly carried out, as required by AMLD5; stresses that AMLD5 imposes enhanced CDD for politically exposed persons (PEPs); calls on Member States to ensure that governments bear the ultimate responsibility for performing due diligence on applicants for CBI or RBI; calls on the Commission to monitor rigorously and continuously the proper implementation and application of CDD within the framework of CBI and RBI schemes until they are repealed in each Member State;

197. Notes that the acquisition of a residence permit for or citizenship of a Member State gives the grantee access to a wide range of rights and entitlements in the entire territory of the Union, including the right to move and reside freely in the Schengen area; calls, therefore, on Member States implementing CBI and RBI programmes, until they are finally repealed, to duly verify the character of the applicants and refuse their application if they present security risks, including money laundering; further alerts to the dangers posed by CBI and RBI schemes associated with family reunification, whereby family members of CBI or RBI beneficiaries can acquire citizenship or residence with little or no checks;

198. Calls, in this context, on all Member States to compile and publish transparent data related to their CBI and RBI schemes, including the number of refusals and the reasons for denial; calls on the Commission, until the schemes are finally repealed, to issue guidelines and to ensure better data collection and exchange of information among Member States in the context of their CBI and RBI schemes, including in relation to applicants who have had their application denied due to security issues;

199. Considers that until CBI and RBI are finally repealed, Member States should impose the same obligations on intermediaries in the trade of CBI and RBI as apply to obliged entities under AML legislation, and calls on Member States to prevent conflicts of interest linked to CBI and RBI schemes, which might arise when private firms which assisted the government in the design, management and promotion of these schemes, also advised and supported individuals by screening them for suitability and filing their applications for citizenship or residence;

200. Welcomes the Commission's report of 23 January 2019 on Investor Citizenship and Residence Schemes in the European Union (COM(2019)0012); notes that the report confirms that both types of schemes pose serious risks for the Member States and the Union as a whole, particularly in terms of security, money laundering, corruption, the circumvention of EU rules and tax evasion, and that these serious risks are further accentuated by shortcomings in the transparency and governance of the schemes; worries that the Commission has concerns that the risks posed by the schemes are not always sufficiently mitigated by the measures taken by the Member States;

201. Takes note of the Commission's intention to set up a group of experts to address matters of the transparency, governance and security of these schemes; welcomes the fact that the Commission has undertaken to monitor the impact of investor citizenship schemes implemented by visa-free countries as part of the visa suspension mechanism; calls on the Commission to coordinate information sharing between Member States on rejected applications; calls on the Commission to assess the risks associated with the selling of citizenship and residence as part of its next supranational risk assessment; calls on the Commission to assess the extent to which these schemes have been used by EU citizens;

4.2. ***Free ports, customs warehouses and other specific economic zones (SEZs)***

202. Welcomes the fact that free ports will become obliged entities under AMLD5, and that they will be under an obligation to carry out CDD requirements and report suspicious transactions to the financial intelligence units (FIUs);

203. Notes that free ports within the EU can be established under the 'free zone' procedure; notes that free zones are enclosed areas within the customs territory of the Union where non-Union goods can be introduced free of import duty, other charges (i.e. taxes) and commercial policy measures;

204. Recalls that free ports are warehouses in free zones, which were — originally — intended as spaces to store merchandise in transit; deplores the fact that they have since become popular for the storage of substitute assets, including art, precious stones, antiques, gold and wine collections — often on a permanent basis ([1]) — and financed from unknown sources; stresses that free ports or free zones must not be used for the purposes of tax evasion or to achieve the same effects as tax havens;

205. Notes that, apart from secure storage, the motivations for the use of free ports include a high degree of secrecy and the deferral of import duties and indirect taxes such as VAT or user tax;

206. Underlines that there are over 80 free zones in the EU ([2]) and many thousands of other warehouses under "special storage procedures" in the EU, notably "customs warehouses", which can offer the same degree of secrecy and (indirect) tax advantages ([3]);

207. Observes that under the Union Customs Code, customs warehouses are on an almost identical legal footing with free ports; recommends, therefore, that they be put on an equal footing with free ports under legal measures aimed at mitigating money laundering and tax evasion risks therein, such as AMLD5; considers that warehouses should be equipped with sufficient and qualified staff to be able to undertake the necessary scrutiny of the operations that they host;

208. Notes that money laundering risks in free ports are directly associated with money laundering risks in the substitute assets market;

209. Notes that under DAC5, as of 1 January 2018, direct tax authorities have "access upon request" to a broad information set with regard to ultimate beneficial ownership (UBO) information collected under the AMLD; notes that EU AML legislation is built on the trust in reliable CDD research and the diligent reporting of suspicious transactions by obliged entities, which will become AML gatekeepers; notes with concern that "access upon request" to information held by free ports may only have very limited effect in specific cases ([4]);

210. Calls on the Commission to assess the extent to which free ports and shipping licenses may be misused for the purposes of tax evasion ([5]); calls on the Commission, moreover, to table a legislative proposal to ensure the automatic exchange of information between the relevant authorities such as law enforcement, tax and customs authorities and Europol, on beneficial ownership and transactions taking place in free ports, customs warehouses or SEZs, and to include a traceability obligation;

211. Calls on the Commission to bring forward a proposal for the urgent phasing out of the system of free ports in the EU;

212. Notes that the end of banking secrecy has led to the emergence of investment in new assets such as art, which has led to rapid growth of the art market in recent years; stresses that free zones provide them with a safe and widely disregarded storage space, where trade can be conducted untaxed and ownership can be concealed, while art itself remains an unregulated market, due to factors such as the difficulty of determining market prices and finding specialists; points out that, for example, it is easier to move a valuable painting to the other side of the world than a similar amount of money;

([1]) Korver R.,'Money Laundering and tax evasion risks in free ports", EPRS, PE: 627.114, October 2018; ISBN: 978-92-846-3333-3.
([2]) European Commission list of EU free zones.
([3]) Korver R., op. cit.
([4]) Korver R., op. cit.
([5]) European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (OJ C 369, 11.10.2018, p. 132).

Tuesday 26 March 2019

4.3. ***Tax amnesties***

213. Recalls ([1]) the need to use amnesties with extreme caution or to refrain from using them altogether, as they only represent a source of easy and quick tax collection in the short run, often introduced to close budget loopholes, but may also serve to encourage residents to evade taxes and wait for the next amnesty without being subject to dissuasive sanctions or penalties; calls on the Member States which enact tax amnesties to always require the beneficiary to explain the source of funds previously omitted;

214. Calls on the Commission to assess past amnesty programmes enacted by Member States, and, in particular, the public revenues recovered and their impact in the medium and long term on tax base volatility; urges Member States to ensure that relevant data related to the beneficiaries of previous and future tax amnesties is duly shared with the judiciary, law enforcement and tax authorities, and to ensure compliance with AML/CFT rules and possible prosecution for other financial crimes;

215. Takes the view that the CoC Group should mandatorily screen and clear each tax amnesty programme before its implementation by a Member State; takes the view that a taxpayer or UBO of a company who has already benefited from one or more tax amnesties should never be entitled to benefit from another one; calls for national authorities managing the data on persons who have benefited from tax amnesties to engage in an effective exchange of the data from law enforcement or other competent authorities investigating crimes other than tax fraud or tax evasion;

4.4. ***Administrative cooperation***

216. Acknowledges the fact that administrative cooperation in the field of direct tax frameworks now covers both individual and corporate taxpayers;

217. Stresses that international standards on administrative cooperation are minimum standards; considers, therefore, that Member States should go further than merely complying with these minimum standards; calls on the Member States to further remove barriers to administrative and legal cooperation;

218. Welcomes the fact that, with the adoption of the global standard on the automatic exchange of information (AEOI) implemented by DAC1, and the repeal of the 2003 Savings Directive, a single EU mechanism for the exchange of information has been established;

5. ***Anti-Money Laundering (AML)***

219. Stresses that money laundering can assume various forms, and that the money laundered can have its origin in various illicit activities, such as corruption, arms and human trafficking, drug dealing, tax evasion and fraud, and can be used to finance terrorism; notes with concern that the proceeds from criminal activity in the EU are estimated to amount to EUR 110 billion per year ([2]), corresponding to 1 % of the Union's total GDP; highlights that the Commission estimates that in some Member States up to 70 % of money laundering cases have a cross-border dimension ([3]); further notes that the scale of money laundering is estimated by the UN ([4]) to be the equivalent of between 2 to 5 % of global GDP, or around EUR 715 billion and 1,87 trillion a year;

220. Underlines that various recent cases of money laundering within the Union are linked to capital, ruling elites, and/or citizens who come from Russia and from the Commonwealth of Independent States (CIS) in particular; expresses its concern about the threat posed to European security and stability by illicit proceeds from Russia and CIS countries which

([1]) European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (OJ C 369, 11.10.2018, p. 132).

([2]) From illegal markets to legitimate businesses: the portfolio of organised crime in Europe, Final report of Project OCP — Organised Crime Portfolio, March 2015.

([3]) http://www.europarl.europa.eu/news/en/press-room/20171211IPR90024/new-eu-wide-penalties-for-money-laundering; Commission proposal of 21 December 2016 for a directive of the European Parliament and of the Council on countering money laundering by criminal law (COM(2016)0826).

([4]) UNODC

enter the European financial system in order to be laundered and further used to finance criminal activities; stresses that these proceeds endanger the security of EU citizens and create distortions and unfair competitive disadvantages for law-abiding citizens and companies; considers that, in addition to capital flight, which cannot be curbed without solving the economic and administrative problems of the country of origin, and money laundering for purely criminal reasons, these hostile activities, the intention of which is to weaken European democracies, their economies and their institutions, are carried out at such a magnitude as to destabilise the European continent; calls for better cooperation between Member States regarding the control of capital entering the Union from Russia;

221. Reiterates its call ([1]) for EU-wide sanctions on human rights abuses, inspired by the US Global Magnitsky Act, which should allow for the imposition of visa bans and targeted sanctions such as the blocking of property and interests in property within the EU jurisdiction vis-à-vis individual public officials or persons acting in an official capacity who are responsible for acts of corruption or serious human rights violations; welcomes Parliament's adoption of the report on the proposal for a regulation of the European Parliament and of the Council establishing a framework for screening of foreign direct investments into the European Union ([2]); calls for increased scrutiny and supervision of banks" non-resident portfolios and the share thereof originating in countries deemed to pose security risks for the Union;

222. Welcomes the adoption of AMLD4 and of AMLD5; stresses that they represent significant steps in improving the effectiveness of the Union's efforts to combat the laundering of money from criminal activities and to counter the financing of terrorist activities; notes that the Union's AML framework chiefly relies on a preventive approach to money laundering, with a focus on the detection and the reporting of suspicious transactions;

223. Deplores the fact that Member States have failed to fully or partially transpose AMLD4 into their domestic legislation within the set deadline, and that for this reason, infringement procedures have had to be opened by the Commission against them, including referrals before the Court of Justice of the European Union ([3]); calls on these Member States to swiftly remedy this situation; urges Member States, in particular, to comply with their legal obligation to respect the deadline of 10 January 2020 for transposing AMLD5 into their domestic legislation; emphasises and welcomes the Council conclusions of 23 November 2018 inviting Member States to transpose AMLD5 into their domestic legislation ahead of the 2020 deadline; calls on the Commission to make full use of the instruments at hand to provide support and ensure that Member States duly transpose and implement AMLD5 as soon as possible;

224. Recalls the crucial importance of CDD as part of the know-your-customer (KYC) obligation which consists of obliged entities having to properly identify their customers and the source of their funds as well as the UBOs of the assets, including the immobilisation of anonymous accounts; deplores the fact that some financial institutions and their related business models have actively facilitated money laundering; calls on the private sector to take an active role in combating the financing of terrorism and in the prevention of terrorist activities, as far as they may be able; calls on financial institutions to actively review their internal procedures to prevent any risk of money laundering;

225. Welcomes the Action Plan adopted by the Council on 4 December 2018, which includes several non-legislative measures to better tackle money laundering and the financing of terrorism in the Union; calls on the Commission to regularly update Parliament on the progress of the implementation of the Action Plan;

([1]) See, for example, the European Parliament resolution of 13 September 2017 on corruption and human rights in third countries (OJ C 337, 20.9.2018, p. 82), paragraphs 35 and 36, and the Outcome of the 3662nd Council Meeting on Foreign Affairs held in Brussels on 10 December 2018.

([2]) European Parliament legislative resolution of 14 February 2019 (Texts adopted, P8_TA(2019)0121).

([3]) On 19 July 2018, the Commission referred Greece and Romania to the Court of Justice of the European Union for failing to transpose the fourth Anti-Money Laundering Directive into their national law. Ireland had transposed only a very limited part of the rules and was also referred to the Court of Justice. On 7 March 2019, the Commission sent a reasoned opinion to Austria and the Netherlands and a letter of formal notice to the Czech Republic, Hungary, Italy, Slovenia, Sweden and the United Kingdom for failing to fully transpose the 4th Anti-Money Laundering Directive.

226. Is concerned by the absence of concrete procedures to assess and review the probity of members of the Governing Council of the ECB, especially when they are formally accused of criminal activity; calls for mechanisms to monitor and review the conduct and propriety of the members of the Governing Council of the ECB, and calls for them to be protected in the case of abuse of power by the appointing authority;

227. Condemns the fact that systemic failures in the enforcement of AML requirements, coupled with inefficient supervision, has led to a number of recent high-profile cases of ML in European banks linked to systematic breaches of the most basic KYC and CDD requirements;

228. Recalls that KYC and CDD are essential and should continue throughout the business relationship, and that customers' transactions should be continuously and carefully monitored for suspicious or unusual activities; recalls, in this context, the obligation for obliged entities to promptly inform national FIUs, on their own initiative, of transactions suspected of ML, associate predicate offences or terrorist financing; regrets the fact that, in spite of Parliament's efforts, AMLD5 continues, as a last resort, to allow for the natural person(s) who hold(s) the position of senior managing official to be registered as beneficial owners of a company or trust, while the real beneficial owner is not known or there is a suspicion about them; calls on the Commission, on the occasion of the next revision of AML rules in the EU, to make a clear assessment of the impact of this provision on the availability of reliable information on beneficial ownership in Member States, and to propose its removal should there be indications that the provision is prone to abuse aimed at shielding the identity of beneficial owners;

229. Notes that in some Member States there are unexplained wealth control mechanisms tracking the proceeds of criminal activities; stresses that this mechanism often consists of a court order requiring a person who is reasonably suspected of being involved in serious crime, or of being connected to a person involved in it, to explain the nature and extent of their interest in particular property, and to explain how that property was obtained, where there are reasonable grounds to suspect that the respondent's known lawfully obtained income would be insufficient to enable the respondent to obtain the property; invites the Commission to assess the effects and feasibility of such a measure at Union level;

230. Welcomes the decision in some Member States to ban the issuing of bearer shares and to convert existing ones into nominal securities; asks the Member States to consider the need to enact similar measures in their jurisdictions, in view of the new provisions of AMLD5 concerning beneficial ownership reporting and risks identified;

231. Stresses the urgent need to create a more efficient system for the exchange of communication and information among judicial authorities within the Union, thereby replacing the traditional instruments of mutual legal assistance in criminal matters, which provide for lengthy and burdensome procedures and therefore harm cross-border investigations into money laundering and other serious crimes; reiterates its call for the Commission to assess the need for legislative action in this regard;

232. Calls on the Commission to assess and report to Parliament on the role and particular money laundering risks posed by legal arrangements such as special purpose vehicles (SPVs), SPEs and non-charitable purpose trusts (NCPTs), particularly in the UK and its Crown Dependencies and Overseas Territories;

233. Urges the Member States to fully comply with AML legislation when issuing sovereign bonds on the financial markets; considers that due diligence in such financial operations is also strictly necessary;

234. Notes that during the mandate of the TAX3 committee alone, three deplorable cases of money laundering through EU banks have been disclosed: ING Bank N.V. recently admitted serious shortcomings in the application of AML/CFT provisions and agreed to pay EUR 775 million in a settlement with the Netherlands' Public Prosecution Service ([1]); ABLV Bank in Latvia went into voluntary liquidation after the United States Financial Crimes Enforcement Network (FinCEN) decided to propose a ban on ABLV from having a correspondence account in the United States due to money laundering concerns ([2]), and Danske Bank admitted, after an investigation into 15 000 customers and around 9,5 million transactions linked to its Estonian branch had taken place, that major deficiencies in the bank's governance and control systems had made it possible to use its Estonian branch for suspicious transactions ([3]);

235. Notes with concern that the 'Troika Laundromat' case has also exposed publicly how USD 4,6 billion from Russia and elsewhere passed through European banks and businesses; highlights that at the centre of the scandal is Troika Dialog, formerly one of the largest Russian private investment banks, and the network that may have enabled the Russian ruling elite to make secret use of illicit proceeds to acquire shares in state-owned companies, purchase real estate both in Russia and abroad and buy luxury items; further deplores the fact that several European banks have reportedly been involved in these suspicious transactions, namely Danske Bank, Swedbank AB, Nordea Bank Abp, ING Groep NV, Credit Agricole SA, Deutsche Bank AG, KBC Group NV, Raiffeisen Bank International AG, ABN Amro Group NV, Cooperatieve Rabobank U.A. and the Dutch unit of Turkiye Garanti Bankasi A.S.;

236. Notes that in the case of Danske Bank, transactions worth upwards of EUR 200 billion flowed in and out of its Estonian branch ([4]) without the bank having put in place adequate internal AML and KYC procedures, as subsequently admitted by the bank itself and confirmed by both the Estonian and Danish Financial Supervisory Authorities; considers that this failure shows a complete lack of responsibility on the part of both the bank and the competent national authorities; calls on the competent authorities to carry out urgent evaluations of the adequacy of AML and KYC procedures in all European banks to ensure proper enforcement of the Union's AML legislation;

237. Further notes that 6 200 customers of the Estonian branch of Danske Bank have been found to have engaged in suspicious transactions, that around 500 customers have been linked to publicly reported money laundering schemes, that 177 have been linked with the 'Russian Laundromat' scandal, and 75 to the 'Azerbaijani Laundromat' scandal, and that 53 customers were companies found to share addresses and directors ([5]); calls on the relevant national authorities to track the destinations of the suspicious transactions of the 6 200 customers of the Estonian branch of Danske Bank in order to confirm that the money laundered was not used for further criminal activities; calls on the relevant national authorities to duly cooperate in this matter as the chains of suspicious transactions are clearly cross-border;

238. Highlights that the ECB has withdrawn the banking licence of Malta's Pilatus Bank following the arrest in the United States of Ali Sadr Hashemi Nejad, Chairman of Pilatus Bank and its sole shareholder, on, among other things, charges of money laundering; stresses that the EBA concluded that the Maltese FIAU had breached EU law because it had failed to conduct an effective supervision of Pilatus Bank due to, among other things, procedural deficiencies and lack of supervisory actions; notes that on 8 November 2018, the Commission addressed a formal opinion to the Maltese FIAU calling on it to take additional measures to comply with its legal obligations ([6]); calls on the Maltese FIAU to take steps to comply with the respective recommendations;

([1]) Netherlands' Public Prosecution Service, 4 September 2018

([2]) European Parliament, Directorate-General for Internal Policies, Economic Governance Support Unit, in-depth analysis entitled 'Money laundering — Recent cases from a EU banking supervisory perspective', April 2018, PE 614.496.

([3]) Bruun & Hjejle: Report on the Non-Resident Portfolio at Danske Bank's Estonian Branch, Copenhagen, 19 September 2018.

([4]) Ibid.

([5]) Ibid.

([6]) Commission Opinion of 8 November 2018 addressed to the Financial Intelligence Analysis Unit of Malta, based on Article 17(4) of Regulation (EU) No 1093/2010, on the action necessary to comply with Union law (C(2018)7431).

Tuesday 26 March 2019

239. Takes note of the letter to the TAX3 committee from the Permanent Representative of Malta to the EU in reply to the committee's concerns regarding the alleged involvement of some Maltese PEPs in a possible new episode of money laundering and tax evasion connected to a United Arab Emirates (UAE)-based company called '17 Black' ([1]); regrets the lack of precision in the answers received; is concerned about the apparent political inaction by the Maltese authorities; is particularly concerned at the fact that according to the 17 Black revelations, PEPs from the highest levels of the Maltese Government seem to be implicated; calls on the Maltese authorities to request evidence from the UAE in the form of letters of legal assistance; calls on the UAE to cooperate with the Maltese and European authorities and to ensure that funds frozen in the bank accounts of 17 Black remain frozen until a thorough investigation has been conducted; highlights, in particular, the apparent lack of independence of both the Maltese FIAU and the Maltese Commissioner of Police; regrets the fact that no measures have hitherto been taken against those PEPs involved in alleged corruption cases; underlines that the Maltese investigation would benefit from the establishment of a Joint Investigation Team (JIT), based on an ad hoc agreement ([2]), in order to address the serious doubts about the independence and quality of ongoing national investigations, with the support of Europol and Eurojust;

240. Notes that at the time of her murder, the investigative journalist Daphne Caruana Galizia had been working on the largest information leak she had ever received from the servers of ElectroGas, the company operating Malta's power station; further notes that the owner of 17 Black, who was due to transfer large amounts of money to Maltese PEPs responsible for the power station, is also the director and a shareholder of ElectroGas;

241. Is concerned about the rise of money laundering in the context of other forms of business activities, in particular the phenomenon of the so-called 'flying money' and 'notorious streets'; stresses that stronger coordination and cooperation between local and regional administrative and law enforcement authorities is necessary in order to address these issues in European cities;

242. Is aware that the current AML legal framework has so far consisted of directives and is based on minimum harmonisation, which has led to different national supervisory and enforcement practices in the Member States; calls on the Commission to assess, in the context of a future revision of the AML legislation, in the required impact assessment, whether a regulation would be a more appropriate legal act than a directive; calls, in this context, for a swift transformation into a regulation of the AML legislation if the impact assessment so advises;

5.1. ***Cooperation between anti-money laundering and prudential supervisors in the European Union***

243. Welcomes the fact that, following recent cases of breaches or alleged breaches of AML rules, supplementary action was announced by the President of the Commission in his State of the Union address of 12 September 2018;

244. Calls for the necessary increased scrutiny and continuous supervision of the members of management boards and shareholders of credit institutions and investment firms and insurers in the Union, and stresses in particular the difficulty of revoking banking licences or equivalent specific authorisations;

245. Supports the work undertaken by the Joint Working Group comprising representatives of the Commission's Directorate-General for Justice and Consumers and its Directorate-General for Financial Stability, Financial Services and Capital Markets Union, the ECB, the European Supervisory Authorities (ESAs) and the Chair of the ESAs Joint Committee Anti-Money Laundering Sub-committee, with a view to detecting current shortcomings and proposing measures to enable effective cooperation and the coordination and exchange of information among supervisory and enforcement agencies;

([1]) Letter from the Permanent Representative of Malta to the EU of 20 December 2018 in reply to the letter from the Chair of the TAX3 committee of 7 December 2018.

([2]) Based on the annex to the Council Resolution on a Model Agreement for setting up a Joint Investigation Team (JIT) (OJ C 18, 19.1.2017, p. 1).

246. Concludes that the current level of coordination of anti-money laundering and combating the financing of terrorism (AML/CFT) supervision of financial institutions, particularly in AML/CFT situations with cross-border effects, is not sufficient to address current challenges in this sector and that the Union's ability to enforce coordinated AML rules and practices is currently inadequate;

247. Calls for an assessment of long-term objectives leading to an enhanced AML/CFT framework as mentioned in the 'Reflection paper on possible elements of a Roadmap for seamless cooperation between Anti Money Laundering and Prudential Supervisors in the European Union' ([1]), such as the establishment at EU level of a mechanism to better coordinate the activities of AML/CFT supervisors of financial sector entities, notably in situations where AML/CFT concerns are likely to have cross-border effects, and a possible centralisation of AML supervision via an existing or new Union body empowered to enforce harmonised rules and practices across Members States; supports further efforts for centralisation of anti-money laundering supervision and considers that if such a mechanism is established, it should be allocated sufficient human and financial resources in order for its functions to be carried out efficiently;

248. Recalls that the ECB has the competence and responsibility for withdrawing authorisation from credit institutions for serious breaches of AML/CFT rules; notes, however, that the ECB is fully dependent on national AML supervisors for information relating to such breaches detected by national authorities; calls on national AML authorities, therefore, to make quality information available to the ECB in a timely manner, so that the ECB can perform its function properly; welcomes, in this regard, the Multilateral Agreement on the practical modalities for exchange of information between the ECB and all competent authorities (CAs) responsible for supervising the compliance of credit and financial institutions with AML/CFT obligations under AMLD4;

249. Considers that prudential and anti-money laundering supervision cannot be treated separately; highlights that ESAs have limited capabilities to take a more substantial role in the fight against money laundering owing to their decision-making structures, a lack of powers and limited resources; stresses that the EBA should take a leading role in this fight, while coordinating closely with the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Authority (EIOPA), and should therefore, as a matter of urgency, be provided with sufficient capacity in human and material resources to contribute effectively to the consistent and efficient prevention of the use of the financial system for the purposes of money laundering, including by conducting risk assessments of competent authorities and reviews within its overall framework; calls for greater publicity for those reviews and, in particular, for relevant information to be systematically provided to Parliament and the Council in the event of serious shortcomings identified at national or EU level ([2]);

250. Notes the increased importance of national financial supervisors; urges the Commission, following a consultation with the EBA, to propose mechanisms to facilitate increased cooperation and coordination between financial supervisory authorities; calls, in the long term, for increased harmonisation of the supervisory procedures of the different national AML authorities;

251. Welcomes the Commission communication of 12 September 2018 on strengthening the Union framework for prudential and anti-money laundering supervision for financial institutions (COM(2018)0645) and the proposal it contains on the ESAs' review to strengthen supervisory convergence; considers that the EBA should take a leading, coordinating and monitoring role at Union level to protect the financial system effectively from money laundering and the risks of terrorism financing, in view of the undesirable potential systemic consequences for the Union's financial stability which could ensue from abuses of the financial sector for money laundering or terrorism financing purposes, and in the light of the experience already gained by the EBA in protecting the banking sector from such abuses as an authority with the power of oversight over all Member States;

([1]) Reflection paper on possible elements of a Roadmap for seamless cooperation between Anti Money Laundering and Prudential Supervisors in the European Union, 31 August 2018.

([2]) At the time of the TAX3 committee vote on 27 February 2019, interinstitutional negotiations were still ongoing.

252. Notes the EBA's concerns about the implementation of the Capital Requirements Directive (2013/36/EU) on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms ([1]); welcomes the EBA's suggestions to tackle the deficiencies caused by the current EU legal framework; calls on Member States to swiftly transpose the recently adopted changes to the Capital Requirements Directive into national law;

5.2. ***Cooperation between financial intelligence units (FIUs)***

253. Recalls that pursuant to AMLD5, Member States are obliged to set up automated centralised mechanisms enabling swift identification of holders of bank and payment accounts, and to ensure that any FIU is able to provide information held in those centralised mechanisms to any other FIU in a timely manner; stresses the importance of having access to information in a timely manner in order to prevent financial crimes and the discontinuation of investigations; calls on the Member States to speed up the establishment of these mechanisms so that Member States' FIUs are able to cooperate effectively with each other in order to detect and counteract money laundering activities; strongly encourages Member States' FIUs to use the FIU.net system; notes the importance of data protection also in this field;

254. Considers that in order to help fight money laundering activities effectively, it is crucial that national FIUs should be provided with adequate resources and capacities;

255. Highlights that in order to fight money laundering activities effectively, cooperation is also essential, not only between Member States' FIUs but also between Member States' FIUs and the FIUs of third countries; notes the political agreements on the interinstitutional negotiations ([2]) with a view to the future adoption of the directive of the European Parliament and of the Council laying down rules facilitating the use of financial and other information for the prevention, detection, investigation or prosecution of certain criminal offences and repealing Council Decision 2000/642/JHA;

256. Calls on the Commission to develop specialised training courses for FIUs, with particular regard to the more reduced capacities in some Member States; notes the contribution of the Egmont Group, which brings together 159 FIUs and aims to strengthen their operational cooperation by encouraging the continuation and implementation of numerous projects; awaits the Commission's assessment of the framework for FIUs' cooperation with third countries and obstacles and opportunities to enhance cooperation between FIUs in the Union, including the possibility of establishing a coordination and support mechanism; recalls that this assessment should be ready by 1 June 2019; calls on the Commission to consider this opportunity to issue a legislative proposal for an EU FIU, which would create a hub for joint investigative work and coordination with its own remit of autonomy and investigatory competences on cross-border financial criminality, as well as an early warning mechanism; takes the view that an EU FIU should have the broad role of coordinating, assisting and supporting Member States' FIUs in cross-border cases in order to extend the exchange of information and ensure joint analysis of cross-border cases and strong coordination of work;

257. Calls on the Commission to engage actively with Member States to find mechanisms to improve and enhance the cooperation of Member States' FIUs with the FIUs of third countries; calls on the Commission to take opportune action in this regard at the relevant international forums, such as the OECD and the Financial Action Task Force (FATF); considers that in any resulting agreement proper consideration should be given to the protection of personal data;

258. Calls on the Commission to draw up a report to be addressed to Parliament and the Council assessing whether the differences in status and organisation between Member States' FIUs are hampering cooperation in the fight against serious crimes with a cross-border dimension;

([1]) Letter to Tiina Astola of 24 September 2018 on the request to investigate a possible breach of Union law under Article 17 of Regulation (EU) No 1093/2010.

([2]) COM(2018)0213.

259. Points out that the non-standardisation of suspicious transaction report (STR) formats and of STR thresholds among Member States and with respect to the different obliged entities leads to difficulties in the processing and exchange of information between FIUs; calls on the Commission to explore, with support from the EBA, mechanisms to set up, as soon as possible, standardised reporting formats for obliged entities in order to facilitate and enhance the processing and exchange of information between FIUs in cases with a cross-border dimension, and to consider the standardisation of suspicious transaction thresholds;

260. Calls on the Commission to explore the possibility of setting up automated STR retrieval systems that would allow Member States' FIUs to look up transactions and their initiators and receivers repeatedly reported as suspicious in different Member States;

261. Encourages the competent authorities and FIUs to engage with financial institutions and other obliged entities to enhance suspicious activity reporting and to reduce defensive reporting, thereby helping to ensure that FIUs receive more useful, focused and complete information to properly perform their duties, while at the same time ensuring compliance with the General Data Protection Regulation;

262. Recalls the importance of developing enhanced channels for dialogue, communication and the exchange of information between public authorities and specific private sectors stakeholders, generally known as public–private partnerships (PPPs), particularly for obliged entities under the AMLD, and highlights the existence and positive results of the only transnational PPP, the Europol Financial Intelligence Public-Private Partnership, which promotes strategic information-sharing between banks, FIUs, law enforcement agencies (LEAs) and national regulators across Member States;

263. Supports the continuous improvement of information-sharing between FIUs and LEAs, including Europol; considers that such a partnership should be established in the field of new technologies, including virtual assets, so as to formalise pre-existing operations in the Member States; calls on the European Data Protection Board (EDPB) to provide further clarification to market operators that process personal data as part of their due diligence obligations to enable them to comply with the relevant provisions on data protection;

264. Highlights that increasing and improving the cooperation between national supervisory authorities and FIUs is crucial to fight money laundering and tax evasion effectively; further highlights that the fight against money laundering and tax evasion also requires good cooperation between FIUs and customs authorities;

265. Calls on the Commission to report on the status quo and improvements in Member States' FIUs regarding the dissemination, exchange and processing of information, following the PANA recommendations ([1]) and the mapping report carried out by the Member States' FIUs Platform;

5.3. ***Obliged entities (scope)***

266. Welcomes the fact that AMLD5 has broadened the list of obliged entities to include providers engaged in exchange services between virtual currencies and fiat currencies, custodian wallet providers, art traders and free ports;

267. Calls on the Commission to take action to improve the enforcement of CDD, in particular to better clarify that the responsibility for correct application of CDD always falls on the obliged entity, even when outsourced, and for provision to be made for penalties in the event of negligence or conflicts of interest in cases of outsourcing; underlines the legal

([1]) European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (OJ C 369, 11.10.2018, p. 132).

obligation under AMLD5 for obliged entities to conduct enhanced checks and systematic reporting when performing CDD relating to business relationships or transactions involving countries identified by the Commission as high-risk third countries for money-laundering purposes;

5.4. ***Registers***

268. Welcomes the access to beneficial ownership and other CDD information granted to tax authorities in DAC5; recalls that this access is necessary for tax authorities to properly carry out their duties;

269. Notes that the Union's AML legislation obliges Member States to establish central registers containing complete beneficial ownership data for companies and trusts, and that it also provides for their interconnection; welcomes the fact that AMLD5 obliges Member States to ensure that the information on beneficial ownership is accessible in all cases to any member of the general public;

270. Notes, however, that in respect of trusts, national registers will only be accessible in principle to those demonstrating a legitimate interest to access; stresses that Member States remain free to open beneficial ownership registers for trusts to the public, as recommended by Parliament already; invites Member States to establish freely accessible and open data registers; recalls, in any case, that the fee they may decide to impose should not exceed the administrative costs of making the information available, including the registers' maintenance and developments costs;

271. Stresses that the interconnection of registers of beneficial owners should be ensured by the Commission; considers that the Commission should closely monitor the functioning of this interconnected system and assess within reasonable time whether it is working properly and whether it should be supplemented by the establishment of an EU public register of beneficial ownership or other instruments that could remedy any potential shortcomings effectively; calls on the Commission, in the meantime, to develop and issue technical guidelines to promote convergence of format, interoperability and interconnection of Member States' registers; takes the view that beneficial ownership of trusts should have the same level of transparency as companies under AMLD5, while ensuring appropriate safeguards;

272. Is concerned that the information in the registers of beneficial owners is not always sufficient and/or accurate; calls on Member States to ensure, therefore, that registers of beneficial owners contain verification mechanisms to ensure the accuracy of the data; calls on the Commission to assess their verification mechanisms and reliability of the data in its reviews;

273. Calls for a more stringent and precise definition of beneficial ownership to ensure that all natural persons who ultimately own or control a legal entity are identified;

274. Recalls the need for clear rules facilitating straightforward identification of beneficial owners, including an obligation for trusts and similar arrangements to exist in written form and to be registered in the Member State where the trust is created, administered or operated;

275. Underscores the problem of money laundering through investment in real estate in European cities through foreign shell companies; recalls that the Commission should assess the necessity and proportionality of harmonising the information in the land and real estate registers and assess the need for the interconnection of those registers; calls on the Commission to accompany the report with a legislative proposal, if appropriate; takes the view that Member States should have publicly accessible information in place on the ultimate beneficial ownership of land and real estate;

276. Reiterates its position on the creation of beneficial ownership registers for life insurance contracts, as articulated in the interinstitutional negotiations on AMLD5; calls on the Commission to assess the feasibility and necessity of making beneficial ownership information on life insurance contracts and financial instruments accessible to the relevant authorities;

277. Notes that under AMLD5 the Commission must carry out an analysis of the feasibility of specific measures and mechanisms at Union and Member State level making it possible to collect and access the beneficial ownership information of corporate and other legal entities incorporated outside of the Union; calls on the Commission to present a legislative proposal for such a mechanism should the feasibility analysis be favourable;

5.5. ***Technology risks and virtual assets, including virtual and crypto-currencies***

278. Underlines the positive potential of new distributed ledger technologies (DLTs), such as blockchain technology; notes at the same time the increasing abuse of new payment and transfer methods based on these technologies to launder criminal proceeds or to commit other financial crimes; acknowledges the need to monitor fast-changing technological developments to ensure that legislation addresses in an effective manner the abuse of new technologies and anonymity, which facilitates criminal activity, without curtailing its positive aspects;

279. Urges the Commission to closely examine those relevant crypto players not yet covered by the Union's AML legislation, and to expand the list of obliged entities if required, particularly service providers in the field of transactions involving exchanges of one or more virtual currencies; calls on the Member States, meanwhile, to transpose as soon as possible the provisions of AMLD5 imposing an obligation on virtual currency wallets and on the exchange of services to identify their customers, which would make the anonymous use of virtual currencies very difficult;

280. Calls on the Commission to closely monitor technological developments, including the swift expansion of innovative Fintech business models and the adoption of emerging technologies such as AI, DLTs, cognitive computing and machine learning, in order to assess technological risks and potential loopholes and boost resilience to cyberattacks or system breakdowns, namely by promoting data protection; encourages the competent authorities and the Commission to undertake a thorough assessment of the possible systemic risks involving DLT applications;

281. Stresses that the development and use of virtual assets is a long-term trend that is expected to continue and increase in the coming years, in particular through the use of virtual coins for various purposes, such as corporate financing; calls on the Commission to develop an appropriate framework at EU level to manage these developments, drawing inspiration from work at international level and from European bodies such as ESMA; considers that this framework should provide the necessary safeguards against the specific risks posed by virtual assets without hindering innovation;

282. Notes, in particular, that the opacity of virtual assets could be used to facilitate money laundering and tax evasion; urges the Commission, in this context, to provide clear guidance about the conditions under which virtual assets could be classified as an existing or new financial instrument in MiFID2 and the circumstances in which EU legislation is applicable to initial coin offerings;

283. Calls on the Commission to assess the banning of certain anonymity measures on specific virtual assets, and, should it be deemed necessary, to consider regulating virtual assets as financial instruments; considers that FIUs should be able to link virtual and crypto-currency addresses to the identity of the owner of virtual assets; considers that the Commission should assess the possibility of the mandatory registration of virtual assets users; recalls that some Member States have already adopted various types of measures for specific segments in this field, such as initial coin offerings, which could be a source of inspiration for future EU action;

284. Stresses that the FATF has recently highlighted the urgent need for all countries to take coordinated action to prevent the use of virtual assets for crime and terrorism, urging all jurisdictions to take legal and practical steps to prevent the misuse of virtual assets ([1]); calls on the Commission to seek ways of incorporating into the European legal framework the recommendations and standards developed by the FATF on virtual assets; stresses that the Union should continue advocating a coherent and coordinated international regulatory framework around virtual assets, building on the efforts it has undertaken at the G20;

285. Reiterates its call for an urgent assessment by the Commission of the implications of e-gaming activities for money laundering and tax crimes; considers such an assessment to be a priority; notes the rise of the e-gaming sector in some jurisdictions, including certain UK Crown Dependencies such as the Isle of Man, where e-gaming already accounts for 18 % of national income;

([1]) FATF, Regulation of virtual assets, 19 October 2018

286. Takes note of the expert-level work on electronic identification and remote KYC processes, which explores issues such as the possibility of financial institutions using electronic identification (e-ID) and of KYC portability to identify customers digitally; calls on the Commission, in this regard, to assess the potential advantages of introducing a European e-ID system; recalls the importance of maintaining a proper balance between data and privacy protection and the need for the competent authorities to have access to information for the purposes of criminal investigations;

5.6. ***Sanctions***

287. Stresses that EU AML legislation requires Member States to lay down sanctions for breaches of anti-money laundering rules; stresses that these sanctions must be effective, proportionate and dissuasive; calls for the introduction of simplified procedures in Member States for the enforcement of financial sanctions imposed for breaches of AML legislation;

288. Urges Member States to publish, as soon as possible and unfailingly, information on the nature and value of the sanctions imposed, in addition to information on the type and nature of the breach and the identity of the person responsible; calls on Member States to also apply sanctions and measures vis-à-vis the members of the management body and other natural persons who are responsible for breaches of AML rules under national law [1];

289. Calls on the Commission to report to Parliament every two years on the national legislation and practices with regard to sanctions for breaches of AML legislation;

290. Welcomes the adoption of Regulation (EU) 2018/1805 of the European Parliament and of the Council of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders [2], which aims to facilitate the cross-border recovery of criminal assets and will therefore help to strengthen the Union's capacity to fight organised crime and terrorism and cut off the sources of financing for criminals and terrorists across the Union;

291. Welcomes the adoption of Directive (EU) 2018/1673 of the European Parliament and of the Council of 23 October 2018 on combating money laundering by criminal law [3], which introduces new criminal law provisions and facilitates more efficient and faster cross-border cooperation between competent authorities in order to prevent, more effectively, money laundering and the related financing of terrorism and organised crime; notes that Member States should have to take the necessary measures to ensure, as appropriate, that their competent authorities freeze or confiscate, in accordance with Directive 2014/42/EU [4], the proceeds derived from and instrumentalities used or intended to be used in the commission or contributing to the commission of those offences;

5.7. ***International dimension***

292. Notes that under AMLD4, the Commission is obliged to identify high-risk third countries that present strategic deficiencies in their regimes on anti-money laundering and counter-terrorism financing;

293. Considers that, even if the work undertaken at international level to identify high-risk third countries for the purposes of fighting money laundering and terrorist financing should be taken into consideration, particularly that of the FATF, it is essential that the Union have an autonomous list of high-risk third countries; welcomes, in this regard, the Commission Delegated Regulation of 13 February 2019 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council by identifying high-risk third countries with strategic deficiencies (C(2019)1326), and regrets that the Council objected to the delegated act; welcomes, in addition, the Commission Delegated Regulation of 31 January

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[1] TAX3 mission report of the delegation to Estonia and Denmark, 6-8 February 2019.
[2] OJ L 303, 28.11.2018, p. 1.
[3] OJ L 284, 12.11.2018, p. 22.
[4] Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union (OJ L 127, 29.4.2014, p. 39).

2019 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council with regard to regulatory technical standards for the minimum action and the type of additional measures credit and financial institutions must take to mitigate money laundering and terrorist financing risk in certain third countries ([1]);

294. Welcomes the Commission's adoption of the Methodology for identifying high-risk third countries under Directive (EU) 2015/849, published on 22 June 2018 ([2]); welcomes the Commission's assessment of 31 January 2019 regarding 'Priority 1' countries;

295. Stresses the need to ensure consistency and complementarity between the AML list of high-risk third countries and the European list of non-cooperative jurisdictions; reiterates its call to entrust the Commission with a central role for the management of both lists; calls on the Commission to ensure the transparency of the jurisdictions' screening process;

296. Is concerned at allegations that the competent authorities in Switzerland are not performing their AML/CFT functions properly ([3]); calls on the Commission to take these elements into consideration when updating the list of high-risk third countries and in future bilateral relations between Switzerland and the Union;

297. Calls on the Commission to provide technical assistance to third countries with the aim of developing effective systems for combating money laundering and the continuous improvement thereof;

298. Calls on the Commission and the Member States to ensure that the EU speaks with one voice at the FATF and that they actively contribute to the ongoing reflection on its reform, with a view to strengthening its resources and its legitimacy; calls on the Commission to include European Parliament staff as observers in the Commission delegation to the FATF;

299. Calls on the Commission to lead a global initiative for the establishment of public central registers of beneficial ownership in all jurisdictions; stresses, in this regard, the vital role of international organisations such as the OECD and the UN;

6. ***International dimension of taxation***

300. Points out that a European fair tax system requires a fairer global tax environment; reiterates its call to monitor ongoing tax reforms of third countries;

301. Notes the effort made by some third countries to act decisively against BEPS; stresses, however, that such reforms should remain in line with existing WTO rules;

302. Considers the information gathered during the committee visit to Washington DC about the US tax reforms and their possible impact on international cooperation to be of particular importance; finds that some of the provisions of the US Tax Cuts and Jobs Act of 2017 would be incompatible with existing WTO rules according to some experts; notes that certain provisions of the US tax reform seek, unilaterally and without any reciprocity, to revitalise transnational benefits attributable to US territory (presuming that at least 50 % of these are generated on US territory); welcomes the fact that the Commission is currently in the process of assessing the potential regulatory and commercial implications of, in particular, the BEAT, GILTI and FDII ([4]) provisions of the new US tax reform; asks the Commission to inform Parliament of the results of the assessment;

([1]) C(2019)0646.
([2]) SWD(2018)0362.
([3]) At the TAX3 hearing of 1 October 2018 on relations with Switzerland in tax matters and the fight against money laundering, panellists stated that Switzerland was not complying with FATF Recommendations 9 and 40.
([4]) Respectively 'Base Erosion and Anti-Abuse Tax' (BEAT), 'Global Intangible Low Tax Income' (GILTI) and 'Foreign-Derived Intangible Income' (FDII).

Tuesday 26 March 2019

303. Notes that two types of intergovernmental agreements (IGAs) on the Foreign Account Tax Compliance Act (FATCA) were developed to help FATCA conform with international laws ([1]); notes that only one of the IGA Models is reciprocal; deplores the severe imbalance in the reciprocity of these agreements, as the US typically receives far more information from foreign governments than it provides; calls on the Commission to conduct a mapping exercise to analyse the extent of reciprocity in the exchange of information between the US and the Member States;

304. Calls on the Council to give a mandate to the Commission to negotiate an agreement with the US to ensure reciprocity in FATCA;

305. Reiterates the proposals put forward in its resolution of 5 July 2018 on the adverse effects of FATCA on EU citizens and in particular 'accidental Americans' ([2]), which calls on the Commission to take action to ensure that the fundamental rights of all citizens, in particular those of 'accidental Americans', are guaranteed;

306. Calls on the Commission and the Council to present a joint EU approach to FATCA in order to adequately protect the rights of European citizens (particularly 'accidental Americans') and ensure reciprocity in the automatic exchange of information by the US, with the CRS being the preferred standard; calls on the Commission and Council, in the meantime, to consider countermeasures, such as a withholding tax, where appropriate, to ensure a level playing field if the US does not ensure reciprocity in the framework of FATCA;

307. Calls on the Commission and the Member States to monitor new corporate tax provisions of countries that cooperate with the EU on the basis of an international agreement ([3]);

6.1. ***Tax havens and jurisdictions facilitating ATP within and outside the EU***

308. Recalls the importance of a common EU list of non-cooperative jurisdictions for tax purposes (referred to herein as 'the EU list') based on comprehensive, transparent, robust, objectively verifiable and commonly accepted criteria that are regularly updated;

309. Regrets the fact that the initial EU listing process only considered third countries; notes that the Commission, within the framework of the European Semester, has identified shortcomings in some Member States' tax systems which facilitate ATP; welcomes, nonetheless, the statement made by the Chair of the Code of Conduct Group on Business Taxation during the TAX3 committee hearing of 10 October 2018 about the possibility of screening Member States against the same criteria set for the EU list in the context of the revision of the mandate of the CoC Group ([4]);

310. Welcomes the adoption by the Council of the first EU list on 5 December 2017 and the ongoing monitoring of the commitments made by third countries; notes that the list has been updated several times on the basis of the assessment of those commitments and, as a consequence, various countries have been removed; notes that as a consequence of the revision of 12 March 2019 the list now comprises the following tax jurisdictions: American Samoa, Aruba, Guam, Barbados, Belize, Bermuda, Dominica, Fiji, Marshall Islands, Oman, Samoa, Trinidad and Tobago, United Arab Emirates, the US Virgin Islands, and Vanuatu;

([1]) More specifically: IGA Model 1, whereby foreign financial institutions report relevant information to their home authorities, which then passes this on to the US IRS, and IGA Model 2, whereby foreign financial institutions do not report to their home governments but directly to the IRS.

([2]) Texts adopted, P8_TA(2018)0316.

([3]) As mentioned in the TAX 3 hearing of 1 October 2018.

([4]) TAX3 exchange of views with Fabrizia Lapecorella, Chair of the Code of Conduct Group on Business Taxation, held on 10 October 2018.

311. Notes the addition of two other jurisdictions to the grey list (Australia and Costa Rica) ([1]);

312. Notes that eight major pass-through economies — the Netherlands, Luxembourg, Hong Kong, the British Virgin Islands, Bermuda, the Cayman Islands, Ireland and Singapore — host more than 85 % of global investment in special purpose entities, which are often established for tax reasons ([2]); regrets that only one of them (Bermuda) is currently listed on the EU list of non-cooperative jurisdictions for tax purposes ([3]);

313. Underlines that the screening and monitoring processes are opaque and that it is unclear whether real progress has been achieved with regard to those countries taken off the list;

314. Underlines that the assessment by the Council and its CoC Group on Business Taxation is based on criteria deriving from a technical scoreboard by the Commission and that Parliament had no legal involvement in this process; calls on the Commission and the Council, in this context, to inform Parliament in detail ahead of any proposed change to the list; calls on the Council to publish a regular progress report regarding black- and grey-listed jurisdictions as part of the regular update from the CoC Group to the Council;

315. Calls on the Commission and the Council to work on an ambitious and objective methodology which does not rely on commitments but on an assessment of the effects of duly and properly implemented legislation in those countries;

316. Deeply regrets the lack of transparency during the initial listing process and deplores the non-objective application of the listing criteria laid down by ECOFIN; insists that the process must be free from any political interference; welcomes, however, the improvement in transparency made by the disclosure of letters sent to jurisdictions screened by the CoC Group, as well as the set of commitment letters received; calls for all remaining undisclosed letters to be made publicly available to ensure scrutiny and proper implementation of commitments; takes the view that those jurisdictions refusing to consent to the disclosure of their commitments arouse public suspicion of not being cooperative in tax matters;

317. Welcomes the recent clarifications from the CoC Group on fair taxation criteria, especially regarding the lack of economic substance for jurisdictions having no corporate income tax rate or a rate close to 0 %; calls on the Member States to work towards the gradual improvement of the EU listing criteria to cover all harmful tax practices ([4]), notably by including a detailed economic analysis looking at the facilitation of tax avoidance and a 0 % tax rate or absence of corporate income tax as a stand-alone criterion;

318. Welcomes the new OECD global standard on application of substantial activities factor to no or only nominal tax jurisdictions ([5]), largely inspired by the EU's work on the EU listing process ([6]); calls on the Member States to push the G20 to reform the OECD blacklist criteria to go beyond pure tax transparency and tackle tax evasion and ATP;

319. Notes and welcomes the work done by the EU and UK negotiating teams on the issue of taxation, as indicated in Annex 4 to the Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ([7]); is concerned about possible divergences that may emerge even in the short run upon the UK's withdrawal from the EU in policies against financial crimes, tax evasion and tax

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([1]) Council conclusions of 12 March 2019 on the revised EU list of non-cooperative jurisdictions for tax purposes, available at https://www.consilium.europa.eu/media/38450/st07441-en19-eu-list-oop.pdf

([2]) https://www.oxfam.org/en/research/hook-how-eu-about-whitewash-worlds-worst-tax-havens

([3]) Council conclusions of 12 March 2019 on the revised EU list of non-cooperative jurisdictions for tax purposes, available at https://www.consilium.europa.eu/media/38450/st07441-en19-eu-list-oop.pdf

([4]) Work on fair taxation criteria 2.1 and 2.2 of Council conclusions 14166/16 of 8 November 2016.

([5]) OECD, 'Resumption of Application of Substantial Activities Factor to No or only Nominal Tax Jurisdictions Inclusive Framework on BEPS': Action 5, 2018.

([6]) Fair taxation criterion 2.2 of the EU List.

([7]) The text of the Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community is available on https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-united-kingdom-great-britain-and-northern-ireland-european-union-and-european-atomic-energy-community-agreed-negotiators-level-14-november-2018_en

avoidance between the UK and the EU, which would constitute new economic, fiscal and security risks; calls on the Commission and the Council to immediately react to any such risks and ensure that the EU's interests are protected;

320. Recalls that, in accordance with Article 79 of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom ([1]), the future relationship should ensure open and fair competition through provisions on state aid, competition, social and employment standards, environmental standards, climate change, and relevant tax matters; notes with concern the announcement by the British Prime Minister, Theresa May, that 'the lowest level of corporation tax in the G20' would be introduced in the United Kingdom; calls on the UK to remain a strong partner in the global effort to ensure better and more efficient taxation and in combating financial crime as a member of the international community; calls on the Commission and the Council to include the UK in the assessment of the EU list of non-cooperative jurisdictions and the EU list of jurisdictions with deficiencies in their AML regimes, including detailed monitoring of its economic relationships with its crown dependencies and its overseas territories, as soon as the UK becomes a third country;

321. Highlights that, regardless of the developments after the withdrawal deadline, the UK will remain a member of the OECD bound by its OECD BEPS Action Plan recommendations and other tax good governance actions;

322. Calls, in the specific case of Switzerland, for which no precise deadline is envisaged due to a previous agreement between Switzerland and the EU, for the country to be put on Annex I by the end of 2019, provided that by then, following the proper escalation process, Switzerland does not repeal its non-compliant tax regimes, which allow unequal treatment of foreign and domestic income as well as tax benefits for certain types of companies;

323. Notes with concern that third countries may repeal non-compliant tax regimes but substitute them with new ones that are potentially harmful to the EU; stresses that this could be particularly true in the case of Switzerland; calls on the Council to properly reassess Switzerland and any other third country ([2]) that introduces similar legislative changes ([3]);

324. Notes that the negotiations between the EU and Switzerland on the revision of the bilateral approach to reciprocal market access are still ongoing; calls on the Commission to ensure that the final agreement between the EU and Switzerland contains a tax good governance clause including specific rules on State aid under the form of a tax advantage, automatic exchange of information on taxation, public access to beneficial ownership information, where appropriate, and anti-money laundering provisions; requests that the EU negotiators finalise an agreement that, inter alia, eliminates shortcomings ([4]) in the Swiss supervisory system and protects whistle-blowers;

325. Welcomes the revised EU list of 12 March 2019 ([5]); welcomes the release of the detailed assessment of commitments and reforms of jurisdictions which were listed in Annex II when the first EU list was released on 5 December 2017; welcomes the fact that jurisdictions which were previously listed in Annex II thanks to commitments made in 2017 are now listed in Annex I on account of the fact that reforms were not implemented by the end of 2018 or within the agreed timeframe;

([1]) The text of the Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom is available on https://www.consilium.europa.eu/media/37059/20181121-cover-political-declaration.pdf

([2]) Including Andorraand Liechtenstein.

([3]) TAX3 hearing on relations with Switzerland in tax matters and the fight against money laundering, 1 October 2018, and exchange of views with Fabrizia Lapecorella, Chair of the Code of Conduct Group on Business Taxation, 10 October 2018.

([4]) Ibid.

([5]) The revised EU list of non-cooperative jurisdictions for tax purposes — Council conclusions 7441/19 of 12 March 2019.

326. Is concerned that Austrian residents who hold bank accounts with credit institutions in Liechtenstein are not affected by the Act on Common Reporting Standards if their capital incomes are yielded from asset structures (private foundations, establishments, trusts and the like), and the credit institution in Liechtenstein takes care of the taxation in accordance with bilateral treaties; calls on Austria to change its law in this regard so as to close the loophole of the CRS;

327. Notes, by way of example, that according to OECD data on FDI, Luxembourg and the Netherlands combined have more inward investment than the US, a substantial part of which has been in SPEs with no evident substantial economic activity, and that Ireland has more inward investment than either Germany or France; points out that according to its National Statistics Office, foreign investment in Malta amounts to 1 474 % of the size of its economy;

328. Recalls a research study showing that tax avoidance via six EU Member States results in a loss of EUR 42,8 billion in tax revenue in the other 22 Member States ([1]), which means that the net payment position of these countries can be offset against the losses they inflict on the tax base of other Member States; notes, for instance, that the Netherlands imposes a net cost on the Union as a whole of EUR 11,2 billion, which means the country is depriving other Member States of tax income to the benefit of multinationals and their shareholders;

329. Recalls that, in order to improve the Union and Member States' fight against tax fraud, tax avoidance and money laundering, all available data, including macroeconomic data, must be used effectively;

330. Recalls that the Commission has criticised seven Member States ([2]) — Belgium, Cyprus, Hungary, Ireland, Luxembourg, Malta and the Netherlands — for shortcomings in their tax systems that facilitate aggressive tax planning, arguing that they undermine the integrity of the European single market; takes the view that these jurisdictions can also be regarded as facilitating aggressive tax planning globally; highlights that the Commission has acknowledged that some of the aforementioned Member States have taken measures to improve their tax systems to address the Commission's criticism ([3]); notes that a recent research study ([4]) has identified five EU Member States as corporate tax havens: Cyprus, Ireland, Luxembourg, Malta and the Netherlands; stresses that the criteria and methodology used to select those Member States included a comprehensive assessment of their harmful tax practices, measures that facilitate aggressive tax planning and distortion of economic flows based on Eurostat data, which included a combination of high inward and outward foreign direct investment, royalties, interests and dividend flows; calls on the Commission to currently regard at least these five Member States as EU tax havens until substantial tax reforms are implemented;

331. Asks the Council to release a detailed assessment of commitments from jurisdictions which voluntarily committed to reform and were listed in Annex II when the first EU list was released on 5 December 2017;

6.2. ***Countermeasures***

332. Renews its call for the EU and its Member States to undertake effective and dissuasive countermeasures against non-cooperative jurisdictions with a view to incentivising good cooperation on tax matters and compliance by the countries included in Annex I of the EU list;

([1]) In the first section of 'The missing profits of nations' by Tørsløv, T.R., Wier L.S. and Zucman G., it is suggested, using modern macroeconomic models and recently published balance of payments data, that the gap in global tax revenues amount to around USD 200 billion and that FDI channelled through tax-haven jurisdictions accounts for somewhere between 10 and 30 % of total FDI. These figures are rather higher than previous estimations using other methods.

([2]) Country Report Belgium 2018;
Country Report Cyprus 2018;
Country Report Hungary 2018;
Country Report Ireland 2018;
Country Report Luxembourg 2018;
Country Report Malta 2018;
Country Report The Netherlands 2018.

([3]) See Country Report Belgium 2019; Country Report Cyprus 2019; Country Report Hungary 2019; Country Report Ireland 2019; Country Report Luxembourg 2019; Country Report Malta 2019; Country Report The Netherlands 2019 (https://ec.europa.eu/info/sites/info/files/file_import/2019-european-semester-country-report-netherlands_en_0.pdf)

([4]) https://www.oxfam.org/en/research/hook-how-eu-about-whitewash-worlds-worst-tax-havens

333. Deplores the fact that most countermeasures proposed by the Council are left to national discretion; notes with concern that during the TAX3 committee hearing of 15 May 2018, some experts ([1]) highlighted the fact that countermeasures might not sufficiently incentivise non-cooperative jurisdictions to comply, since 'the EU list omits some of the most notorious tax havens'; believes that this undermines the credibility of the listing process, as some experts have also pointed out;

334. Calls on the Member States to adopt a single set of strong countermeasures, such as withholding taxes, exclusion from calls for public procurement tenders, increased auditing requirements and automatic CFC rules for companies present in listed non-cooperative jurisdictions unless the taxpayers convey genuine economic activities there;

335. Invites both tax administrations and taxpayers to cooperate to gather the relevant facts in case the controlled foreign company carries out substantive real economic activity and has substantial economic presence supported by staff, equipment, assets and premises, as evidenced by relevant facts and circumstances;

336. Notes that developing countries might not possess the resources to implement newly agreed international or European tax standards; calls on the Council, therefore, to exclude countermeasures such as cuts in development aid;

337. Notes that countermeasures are essential to fight tax evasion, aggressive tax planning and money laundering; further notes that the economic clout of the European Union can serve to deter non-cooperative jurisdictions and taxpayers from exploiting the tax loopholes and harmful tax practices offered by those jurisdictions;

338. Calls on the European financial institutions ([2]) to consider applying reinforced and enhanced due diligence on a project-by-project basis to jurisdictions listed in Annex II of the EU list in order to avoid EU funds being invested in or channelled through entities in third countries which do not comply with EU tax standards; notes the EIB's approval of its revised Group Policy Towards Weakly Regulated, Non-Transparent and Non-Cooperative Jurisdictions and Tax Good Governance and calls for this policy to be regularly updated and to include increased transparency requirements in line with EU standards; calls on the EIB to publish this policy as soon as it has been adopted; calls for a level playing field and for the same level of standards to be applied across the European financial institutions;

6.3. ***Position of the EU as a global leader***

339. Reiterates its call for the EU and its Member States to have, following ex-ante coordination, a leading role in the global fight against tax evasion, aggressive tax planning and money laundering, in particular through Commission initiatives in all related international forums, including the UN, G20 and OECD, which played a central role in tax matters, especially after the international financial crisis;

340. Recalls that multilateral policies and international cooperation between countries, including developing countries, remains the preferred means to achieve concrete results while respecting the principle of reciprocity; regrets the fact that some legislative proposals that go beyond the OECD BEPS recommendations and could serve as a basis for further fruitful work at an international level are stalled in the Council;

341. Believes that the creation of an intergovernmental tax body within the framework of the UN, which should be well equipped and have sufficient resources and, where appropriate, enforcement powers, would ensure that all countries can participate on an equal footing in the formulation and reform of a global tax agenda ([3]) to fight harmful tax practices effectively and ensure an appropriate allocation of taxing rights; takes notes of recent calls for the UN Committee of Experts on International Cooperation in Tax Matters to be upgraded to an intergovernmental UN Global Tax Body ([4]); stresses that the UN Model Tax Convention ensures a fairer distribution of taxing rights between source and residence countries;

([1]) Contributions by Alex Cobham (Tax Justice Network) and Johan Langerock (Oxfam), TAX3 committee hearing on the fight against harmful tax practices within the EU and abroad, 15 May 2018.

([2]) Namely the European Investment Bank and the European Bank for Reconstruction and Development.

([3]) European Parliament resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect (OJ C 101, 16.3.2018, p. 79) and recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion (OJ C 369, 11.10.2018, p. 132).

([4]) The G77 called for such a body in 2017.

342. Calls for an intergovernmental summit on the remaining necessary global tax reforms in order to enhance international cooperation and put pressure on all countries, in particular their financial centres, to comply with transparency and fair taxation standards; calls for the Commission to take the initiative for such a summit and for the summit to launch a second set of international tax reforms to follow up on the BEPS action plan and to allow for the establishment of the abovementioned intergovernmental global tax body;

343. Takes note of the Commission's action and contribution to the OECD Global Forum on Transparency and Exchange of Information and the Inclusive Framework on BEPS, namely to promote higher standards of tax good governance globally, while ensuring that the international tax good governance standards continue to be fully respected within the EU;

6.4. ***Developing countries***

344. Believes that supporting developing countries in combating tax evasion and aggressive tax planning, as well as corruption and secrecy that facilitate illicit financial flows, is of the utmost importance for strengthening policy coherence for development in the EU and improving developing countries' tax capacities and ability to mobilise their own resources for sustainable economic development; stresses the need to increase the share of financial and technical assistance to the tax administrations of developing countries, so as to create stable and modern legal taxation frameworks;

345. Welcomes the cooperation between the EU and the African Union (AU) as part of the Addis Tax Initiative (ATI), the Extractive Industries Transparency Initiative (EITI) and the Kimberley Process; calls on the Commission and Member States to support AU countries in the implementation of transparency policies; encourages, in this regard, national and regional tax authorities to exchange information automatically; recalls the convenience of close, reinforced cooperation between Interpol and Afripol;

346. Recalls the need for Member States, in close cooperation with the Commission, to undertake regular spillover analyses of the material impact of tax policies and bilateral tax treaties on other Member States and developing countries, while acknowledging that some work has taken place in this regard within the framework of the Platform for Tax Good Governance; calls on all Member States to conduct such spillover analyses under the supervision of the Commission;

347. Urges Member States to review and update bilateral taxation agreements between Member States and with third countries in order to close loopholes that incentivise tax-driven trading practices with the purpose of tax avoidance;

348. Recalls the need to take into account the specific legal features and vulnerabilities of developing countries, in particular in the context of automatic exchange of information, namely in terms of the transition period and their need for support in their capacity-building;

349. Notes that closer work with regional organisations is needed, in particular with the AU in order to combat illegal financial flows and corruption in the private and public sectors;

350. Welcomes the participation on an equal footing of all countries involved in the Inclusive Framework, which brings together over 115 countries and jurisdictions to collaborate on the implementation of the OECD/G20 BEPS Package; calls on the Member States to support a reform of both the mandate and functioning of the Inclusive Framework to ensure that developing countries' interests are taken into consideration; recalls, however, the exclusion of over 100 developing countries from the negotiations on the BEPS actions;

351. Acknowledges that tax haven regimes are also present in developing countries; welcomes the Commission's proposal for enhanced cooperation with third countries in fighting the financing of terrorism and, in particular, the creation of an import license for antiques;

352. Recalls that public development aid targeting poverty reduction should be directed to a greater extent towards the implementation of an appropriate regulatory framework and the bolstering of tax administrations and institutions responsible for fighting illicit financial flows; calls for this aid to be provided in the form of technical expertise in relation to resource management, financial information and anti-corruption rules; calls for this aid to also favour regional cooperation against tax fraud, tax evasion, ATP and money laundering; stresses that this aid should include support to civil society and media in developing countries to ensure public scrutiny over domestic tax policies;

353. Expects the Commission to come up with adequate resources to implement the 'Collect More — Spend Better' approach, notably through its flagships programmes ([1]);

354. Calls for concerted external action from the EU and its Member States, at all levels of policy, to provide third countries and developing countries in particular with the wherewithal to bolster balanced economic development and avoid dependence on one single sector, especially finance;

355. Recalls the need for fair treatment of developing countries when negotiating tax treaties, taking into account their particular situation and ensuring a fair allocation of tax rights according to genuine economic activity and value creation; calls, in this regard, for adherence to the UN Model Tax Convention to be considered as a minimum standard and for transparency around treaty negotiations to be ensured; acknowledges that the OECD Model Tax Treaty grants more rights to the country of residence;

356. Invites the Commission to include provisions against financial crimes, tax evasion and aggressive tax planning in the treaty to be negotiated with ACP countries upon expiry of the current Cotonou Agreement in February 2020; notes the particular importance of transparency in tax matters for such provisions to be implemented effectively;

6.5. ***EU agreements with third countries***

357. Recalls that tax good governance is a global challenge which requires, above all, global solutions; recalls its position therefore that a 'tax good governance' clause should be included systematically in new relevant EU agreements with third countries in order to ensure that these agreements cannot be misused by companies or intermediaries to avoid or evade taxes or launder illicit proceeds, without hampering the EU's exclusive competences; takes the view that this clause should include specific rules on State aid under the form of a tax advantage, transparency requirements and anti-money laundering provisions;

358. Encourages the Member States to use their bilateral relations with the respective third countries in a coordinated manner, with the support of the Commission if appropriate, to establish further bilateral cooperation between FIUs, tax authorities and competent authorities to fight financial crime;

359. Notes that, in parallel to the political agreements containing this tax good governance clause, the EU's free trade agreements (FTAs) include tax exceptions that provide policy space for implementing the EU's approach to fight tax evasion and money laundering, for example by insisting on tax good governance and via effective use of the EU list of non-cooperating tax jurisdictions; further notes that FTAs also aim to promote relevant international standards and their enforcement in third countries;

360. Considers that the EU should not conclude agreements with non-cooperative tax jurisdictions as appearing in Annex I of the EU list until the jurisdiction is compliant with EU tax good governance standards; calls on the Commission to investigate whether non-compliance with EU tax good governance standards affects the proper functioning of FTAs or of political agreements in cases where an agreement has already been signed;

361. Recalls that tax good governance and transparency clauses, as well as the exchange of information, should be included in all new relevant EU agreements with third countries, and should be negotiated as part of the revision of existing agreements, in view of the fact that they are core instruments of EU external policy and yet, depending on the specific policy field, involve different levels of competence;

([1]) European Commission discussion paper: A Contribution to the Third Financing for Development Conference in Addis Ababa.

6.6. ***Bilateral tax treaties concluded by Member States***

362. Notes that some experts consider that many tax treaties concluded by EU Member States currently in force restrict the tax rights of low and lower-middle income countries ([1]); requests than when negotiating tax treaties, the European Union and its Member States should comply with the principle of policy coherence for development established in Article 208 TFEU; underlines that it is the prerogative of Member States to conclude tax treaties;

363. Notes that the intensity of losses due to tax avoidance is substantially greater in low and middle-income countries, especially in sub-Saharan Africa, Latin America and the Caribbean, and South Asia than in other regions ([2]); asks Member States, therefore, to renegotiate their bilateral tax treaties with third countries with the aim of introducing anti-abuse clauses, preventing 'treaty shopping' and a race to the bottom among developing countries;

364. Calls on the Commission to review all tax treaties in force and signed by Member States with third countries to ensure that they are all compliant with new global standards such as the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ('MLI'); notes that the MLI represents OECD-based standards which were not established with consideration for the needs or challenges of developing countries; asks the Commission to release recommendations to Member States regarding their existing bilateral tax treaties to ensure that they include general anti-abuse rules, looking at genuine economic activity and value creation;

365. Is aware that bilateral tax treaties do not reflect the current reality of digitalised economies; calls on Member States to update their bilateral tax treaties based on the Commission recommendation relating to the corporate taxation of a significant digital presence ([3]);

6.7. ***Double taxation***

366. Welcomes the strengthened framework on avoiding double non-taxation; emphasises that the elimination of double taxation is of great importance for ensuring that honest taxpayers are treated fairly and their trust is not undermined; calls on Member States to abide by their double taxation treaties and cooperate sincerely and swiftly in cases of reported double taxation;

367. Welcomes the adoption of Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the EU, implementing the standard set out in BEPS action 14; points out that the implementation deadline of the directive (30 June 2019) has not yet elapsed and that the provisions will need to be monitored in order to ensure that they are efficient and effective;

368. Calls on the Commission to collect and release information on the number of tax disputes submitted and resolved, sorted by type of dispute per year and by countries involved, so as to monitor the mechanism and ensure that it is efficient and effective;

6.8. ***Outermost regions***

369. Calls on the Commission and the Member States to ensure that the EU's outermost regions implement the BEPS minimum standards, as well as ATAD;

370. Notes that the Commission has opened an in-depth investigation into the application of the Madeira Free Zone regional aid scheme by Portugal ([4]);

([1]) Action Aid, Mistreated Tax Treaties Report, February 2016.
([2]) Cobham, A and Janský, P., 2017. 'Global distribution of revenue loss from tax avoidance'.
([3]) C(2018)1650.
([4]) An in-depth Commission investigation to examine whether Portugal has applied the Madeira Free Zone regional aid scheme in conformity with its 2007 and 2013 decisions approving it, namely by verifying whether tax exemptions granted by Portugal to companies established in the Madeira Free Zone are in line with the Commission decisions and EU State aid rules; highlights that the Commission is verifying whether Portugal complied with the requirements of the schemes, i.e. whether the company profits benefiting from the income tax reductions originated exclusively from activities carried out in Madeira and whether the beneficiary companies actually created and maintained jobs in Madeira.

7. ***Intermediaries***

371. Welcomes the broad definition of both 'intermediary' ([1]) and 'reportable cross-border arrangement' in the recently adopted DAC6 ([2]); calls for the hallmarks under DAC6 to be updated in order to cover, amongst others, dividend arbitrage schemes, including the granting of dividend and capital gains tax refunds; calls on the Commission to reassess the extension of the DAC6 reporting obligation to domestic cases; recalls the obligation of intermediaries under DAC6 to report schemes based on structural loopholes in tax legislation to tax authorities, particularly in view of the increasing number of cross-border tax avoidance strategies; considers that schemes deemed to be harmful by the relevant domestic authorities should be addressed and made public in an anonymised manner;

372. Reiterates that intermediaries play a crucial role in facilitating money laundering and the financing of terrorism and should be held accountable for these actions;

373. Reiterates the need for enhanced cooperation between tax administrations and financial supervisors for joint and effective surveillance of the role of financial intermediaries and in the light of the fact that some tax-driven financial instruments may pose a risk to financial market stability and market integrity;

374. Considers that the Union should lead by example, and calls on the Commission to ensure that intermediaries promoting aggressive tax planning and tax evasion should not have a role in guiding or advising the Union's policy-making institutions on these matters;

375. Calls on the Commission and the Member States to recognise and address the risks of conflicts of interest stemming from the provision of legal advice, tax advice and auditing services when advising both corporate clients and public authorities; notes that a conflict of interest can take several forms, such as public procurement contracts that require the provision of paid advice for such services, the provision of informal or unpaid advice, official advisory and expert groups, or revolving doors; stresses, therefore, the importance of transparent indication of what services are provided to a particular client and a clear separation between these services; reiterates its requests from previous reports ([3]) on this issue;

376. Welcomes the monitoring of the enforcement of Directive 2014/56/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts ([4]) and of Regulation (EU) No 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC ([5]), in particular the provision on statutory auditors or audit firms carrying out statutory audits of public-interest entities; points out the need to ensure that the rules are properly applied;

377. Calls on the Member States to consider the introduction of mandatory tax reporting for all tax and financial intermediaries referred to in Action 12 of the BEPS Project who, in the course of their professional activities, become aware of the existence of abusive or aggressive transactions, devices or structures;

([1]) Also referred to as enablers, promoters or facilitators in some legislation.

([2]) Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (OJ L 139, 5.6.2018, p. 1).

([3]) See, for example, the European Parliament recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion, paragraph 143 (OJ C 369, 11.10.2018, p. 132).

([4]) OJ L 158, 27.5.2014, p. 196.

([5]) OJ L 158, 27.5.2014, p. 77.

378. Calls for a rotation of auditors every seven years to prevent conflicts of interest and for the provision of non-audit services to be kept to a minimum;

379. Reiterates that financial institutions, advisors and other intermediaries that knowingly, systematically and repeatedly facilitate, engage or participate in money laundering or tax evasion activities, or that establish offices, branches or subsidiaries in EU-listed jurisdictions to offer their clients aggressive tax planning schemes, should face effective, proportional and dissuasive penalties; calls for such institutions and individuals to have their operational businesses licenses subjected to a serious review in the event that they are convicted for participating in fraudulent behaviour, or they are cognisant of it being carried out by their clients, and, where applicable, for restrictions on their operating in the single market;

380. Points out that professional secrecy cannot be used for the purposes of protecting or covering up illegal practices or for violating the spirit of the law; urges that attorney-client privilege should not impede adequate STRs or the reporting of other potentially illegal activities, without prejudice to the rights guaranteed by the Charter of Fundamental Rights of the European Union and the general principles of criminal law;

381. Calls on the Commission to issue guidance on the interpretation and application of the legal privilege principle for professionals and to introduce a clear line of demarcation between traditional judicial advice and lawyers acting as financial operators, in line with the case-law of the European courts;

8. ***Protection of whistle-blowers and journalists***

382. Believes that the protection of whistle-blowers in both the private and public sectors is of major importance to ensure that unlawful activities and abuse of law are prevented or do not prosper; recognises that whistle-blowers play a crucial role in strengthening democracy in societies in the fight against corruption and other serious crimes or illegal activities, and in the protection of the Union's financial interests; stresses that whistle-blowers are often a crucial source for investigative journalism and should therefore be protected from all forms of harassment and retaliation; notes the importance of making all reporting channels available;

383. Deems it necessary to protect the confidentiality of the sources of investigative journalism, including whistle-blowers, if the role of investigative journalism as a watchdog in democratic society is to be safeguarded;

384. Considers, therefore, that the duty of confidentiality should only be waived in exceptional circumstances where disclosure of the information relating to the reporting person's personal data is a necessary and proportionate obligation required under Union or national law in the context of investigations or judicial proceedings or to safeguard the freedoms of others including the right of defence of the person concerned, and in any case should be subject to appropriate safeguards under such laws; considers that appropriate sanctions should be provided for in the event of breaches of the duty of confidentiality concerning the reporting person's identity [1];

385. Notes that the US False Claims Act provides a solid framework for rewarding whistle-blowers in cases where the government recovers funds lost as a result of fraud [2]; underlines that according to a US Justice Department report, whistle-blowers were directly responsible for the detection and reporting of 3,4 billion of the total USD 3,7 billion recovered; calls on Member States to establish safe and confidential communication channels for whistle-blowers' reporting within the relevant authorities and private entities;

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[1] Report on the proposal for a directive of the European Parliament and of the Council of 26 November 2018 on the protection of persons reporting on breaches of Union law (COM(2018)0218) — C8-0159/2018 — 2018/0106(COD)).

[2] TAX3 hearing of 21 November 2018.

386. Calls on the Commission to examine best practices around the world [1] on protecting and providing incentives for whistle-blowers and, where appropriate and necessary, to consider reviewing existing legislation in order to make similar schemes in the EU even more effective;

387. Calls for a general EU fund to be set up to provide appropriate financial support to whistle-blowers whose livelihoods are put at risk as a result of disclosures of criminal activity or facts which are clearly in the public interest;

388. Worries that whistle-blowers are often discouraged from reporting their concerns for fear of retaliation and that if retaliation is not discouraged and remains unpunished, potential whistle-blowers may be dissuaded from reporting their concerns; considers that the recognition in AMLD5 of the right of whistle-blowers to present a complaint in a safe manner to the respective competent authorities, i.e. via a single point of contact in complex international cases, when exposed to a threat or retaliation and of their right to an effective remedy, constitutes a significant improvement of the situation of individuals reporting suspicions of money laundering or terrorist financing internally within the company or to a FIU; urges Member States to transpose, in a timely manner, and to duly enforce, the provisions on whistle-blower protection laid down in AMLD5;

389. Welcomes the outcome of the interinstitutional negotiations between the European Parliament and the Council on the protection of persons reporting on breaches of Union law, and calls on Member States to adopt the new standards as soon as possible in order to protect whistleblowers through measures such as clear reporting channels, confidentiality, legal protections and sanctions for those who attempt to persecute whistleblowers;

390. Recalls that EU officials enjoy whistle-blower protection under the Staff Regulations and the Conditions of Employment of Other Servants of the European Union [2] and invites Member States to introduce comparable standards for their civil servants;

391. Considers that non-disclosure agreements included in employment contracts and dismissal agreements should by no means prevent employees from reporting suspected cases of violations of law and of human rights [3] to the competent authorities; calls on the Commission to assess the possibility of proposing legislation prohibiting abusive non-disclosure agreements;

392. Notes that the TAX3 committee invited the whistle-blowers in the cases of Julius Bär and Danske Bank to testify at public parliamentary hearings [4]; is concerned that whistle-blower protection in financial institutions is not fully satisfactory and that fears of retaliation from both employers and authorities may prevent whistle-blowers from coming forward with information on breaches of law; deeply regrets the fact that the Danske Bank whistle-blower could not freely and fully share his insight into the Danske Bank case owing to legal restraints;

393. Deplores the fact that the Danish Financial Supervisory Authority failed to make contact with the whistle-blower who reported massive money-laundering activities in Danske Bank; is of the opinion that this omission constitutes gross negligence on the part of the Danish Financial Supervisory Authority of its duty to conduct proper investigations following serious allegations of large-scale and systematic money laundering through a bank; calls on the relevant EU and Member State authorities to make full use of the information provided by whistle-blowers and to act swiftly and decisively on the information obtained from them;

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[1] In particular the relevant US legislation.

[2] Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (OJ L 124, 27.4.2004, p. 1).

[3] As suggested by the Council of Europe in its Recommendation CM/Rec(2014)7 of the Committee of Ministers to Member States on the protection of whistleblowers, adopted on 30 April 2014.

[4] Mr Rudolf Elmer, hearing on 1 October 2018; Mr Howard Wilkinson, hearing on 21 November 2018.

394. Calls on the Member States to work closely within the Council of Europe for the promotion and implementation in the domestic law of all Council of Europe Member States of the recommendation on the protection of whistle-blowers; calls on the Commission and the Member States to take the lead in other international fora to promote the adoption of binding international standards for the protection of whistle-blowers;

395. Notes that in addition to guaranteeing the confidentiality of the identity of whistle-blowers as an essential measure for the protection of the reporting person, anonymous reporting should be further protected from generalised threats and attacks issued by those allegedly offended which seek to discredit the reporting person;

396. Acknowledges the difficulties faced by journalists when investigating or reporting on cases of money laundering, tax fraud, tax evasion and ATP; worries that investigative journalists are often subjected to threats and intimidation, including legal intimidation by strategic lawsuits against public participation (SLAPPs); calls on the Member States to improve protection for journalists, particularly those involved in investigations on financial crime;

397. Calls on the Commission to set up a financial support scheme for investigative journalism as soon as possible, possibly in the form of a permanent and dedicated budget line to support independent, quality media and investigative journalism under the new multiannual financial framework;

398. Strongly condemns acts of violence against journalists; recalls with dismay that in recent years journalists involved in the investigation of dubious activities with a money laundering component have been murdered in Malta and Slovakia ([1]); underlines that according to the Council of Europe, abuses and crimes committed against journalists have a deeply chilling effect on freedom of expression and amplify the phenomenon of self-censorship;

399. Urges the Maltese authorities to deploy all available resources to make progress in identifying the instigators behind the murder of the investigative journalist Daphne Caruana Galizia; welcomes the initiative of 26 international media freedom and journalists' organisations pushing for an independent public inquiry into the murder of Daphne Caruana Galizia and to assess whether it could have been avoided; urges the Maltese Government to initiate this independent public inquiry without delay; notes that the Maltese Government has engaged with international organisations such as Europol, the FBI and the Dutch Forensic Institute, in an effort to strengthen its expertise;

400. Welcomes the charges brought by the Slovak authorities against the alleged instigator of the murders of Ján Kuciak and Martina Kušnírová as well as the alleged perpetrators of the murders; encourages the Slovak authorities to continue their investigation into the murders and to ensure that all aspects of the case are fully investigated, including any possible political links to the crimes; calls on the Slovak authorities to fully investigate the cases of large-scale tax evasion, VAT fraud and money laundering brought to light by Ján Kuciak's investigations;

401. Deplores the fact that investigative journalists, including Daphne Caruana Galizia, are often victims of abusive lawsuits intended to censor, intimidate and silence them by burdening them with the costs of legal defence until they are forced to abandon their criticism or opposition; recalls that these abusive lawsuits constitute a threat to fundamental democratic rights, such as to freedom of expression, freedom of the press and freedom to disseminate and receive information;

402. Calls on the Member States to put in place mechanisms to prevent SLAPPs; considers that these mechanisms should duly take into consideration the right to a good name and reputation; calls on the Commission to assess the possibility and the nature of the concrete action that should be taken in this area;

([1]) Daphne Caruana Galizia, killed in Malta on 16 October 2017; Ján Kuciak, killed together with his partner Martina Kušnírová, in Slovakia on 21 February 2018.

403. Deplores the fact that Swiss libel laws are used to silence critics in Switzerland and worldwide because the burden of proof lies with the defendant and not the plaintiff; highlights that this not only affects journalists and whistle-blowers, but also reporting entities in the European Union and obliged persons under the beneficial ownership register, as in the event that the obligation of reporting a Swiss beneficial owner should arise, the reporting person may end up being prosecuted in Switzerland for libel and slander, which are criminal offences ([1]);

9. ***Institutional aspects***

9.1. ***Transparency***

404. Welcomes the work done by the Platform for Tax Good Governance; notes that the mandate of the Platform applies until 16 June 2019; calls for it to be extended or renewed to ensure that civil society concerns and expertise are heard by Member States and the Commission; encourages the Commission to broaden the scope of the experts invited to the Expert Group on Money Laundering and Terrorist Financing (EGMLTF) to include experts from the private sector (business and NGOs);

405. Stresses that the European Ombudsman has the mandate to look into the EU institutions' application of EU rules on public access to documents, including into the working methods of the Council or the CoC Group in the area of taxation;

406. Recalls the results of the Ombudsman's own-initiative inquiry into the Council's working methods and its recommendation of 9 February 2018 concluding that the Council's practice of not making legislative documents widely accessible, its disproportionate use of the 'LIMITE' status and its systematic failure to record the identities of Member States that take a position in a legislative procedure constitute maladministration ([2]);

407. Recalls that taxation remains the competence of the Member States and that the European Parliament has limited powers in these matters;

408. Points out, however, that issues of tax fraud, tax evasion and aggressive tax planning cannot be effectively tackled by Member States individually; deplores the fact, therefore, that despite requests to the Council, no relevant documents have been made available to the TAX3 committee; is greatly concerned about the lack of political will from the Member States in the Council to take substantial steps in the fight against money laundering, tax fraud, tax evasion and aggressive tax planning or to comply with the TEU and the principle of sincere cooperation ([3]) by ensuring sufficient transparency and cooperation with the other EU institutions;

409. Regrets the fact that the rules currently in place for accessing classified and other confidential information made available to Parliament by the Council, Commission or Member States, do not provide full legal clarity but are generally interpreted as excluding accredited parliamentary assistants (APAs) from consulting and analysing non-classified 'other confidential information' in a secure reading room; calls, therefore, for the introduction of a clearly worded provision in a negotiated interinstituional agreement guaranteeing the right of access to documents for APAs on the basis of the 'need to know' principle, in their supporting role for Members;

410. Regrets the fact that despite repeated invitations, the representatives of the Council Presidency refused to appear before the TAX3 committee to report on progress in implementing the recommendations of the TAXE, TAX2 and PANA committees; emphasises that working contacts between the Council Presidency and special and inquiry committees of the European Parliament should be standard practice;

9.2. ***Code of Conduct Group on Business Taxation***

411. Notes the increased communication from the CoC Group and welcomes in particular the biannual publication of its report to the Council, as well as the letters sent to jurisdictions and commitments received in the context of the EU listing process;

([1]) TAX3 committee hearing of 1 October 2018.
([2]) Recommendation of tshe European Ombudsman in case OI/2/2017/TE on the Transparency of the Council legislative process.
([3]) Article 4(3) of the TEU.

412. Regrets, however, the opaque nature of the negotiations regarding the EU listing process, and calls on the Member States to ensure transparency in the forthcoming update of the lists;

413. Welcomes the fact that the Chair of the CoC Group appeared before the TAX3 committee, in a reversal of the CoC Group's previous position; also notes that since the start of the work of the TAX3 committee, compilations of the CoC Group's work have been made available [1]; regrets, however, that those documents were not published sooner and that important parts of them have been redacted;

414. Stresses that the abovementioned Ombudsman recommendations also apply to the CoC Group, which should provide the necessary information, relating in particular to harmful tax practices of Member States and the EU listing process;

415. Calls on the CoC Group to take further measures to ensure the transparency of its meetings, in particular by making public the positions of the different Member States on the discussed agenda no later than six months after the meeting;

416. Calls on the Commission to report on the implementation of the code of conduct for business taxation and on the application of fiscal State aid, as laid down in recital N of the code [2];

417. Believes that the mandate of the CoC Group needs to be updated, since it addresses matters beyond the assessment of harmful EU tax practices, which is more than simply providing technical input to the decisions made by the Council; calls, based on the nature of the work undertaken by the Group which is also of a political nature, for such tasks to be brought back under a framework which enables democratic control or supervision, starting by applying transparency;

418. Calls in this context for the opaque nature of the composition of CoC Group to be remedied by publishing a list of its members;

9.3. ***Enforcement of EU legislation***

419. Calls for the newly elected Parliament to initiate an overall assessment on progress as regards access to documents requested by the TAXE, TAX2, PANA and TAX3 committees, comparing the requests made with those granted by the Council and other EU institutions, and to initiate, if needed, the necessary procedural and/or legal measures;

420. Calls for the creation of a new Union Tax Policy Coherence and Coordination Centre (TPCCC) within the structure of the Commission, which should be able to assess and monitor Member States' tax policies at Union level and ensure that no new harmful tax measures are implemented by Member States;

9.4. ***Cooperation of non-institutional participants***

421. Welcomes the participation and input of stakeholders in TAX3 committee hearings, as referred to in section IV.3 of the overview of activities during the mandate of the TAX3 committee; deplores the fact that other stakeholders refused to participate in TAX3 committee hearings, as referred to in section IV.4 of the overview of activities; notes that no dissuasive sanctions could be found for cases where no reason was given for this refusal;

422. Calls on the Council and the Commission to agree on the establishment of a publicly accessible and regularly updated list of non-cooperative non-institutional parties in the interinstitutional agreement on a mandatory transparency register for lobbyists; considers, in the meantime, that a record should be kept of those professionals and organisations who without justifiable reason refused to attend the TAXE, TAX2, PANA and TAX3 committee hearings; invites the EU institutions to bear this attitude in mind during any future dealings with the stakeholders concerned and to withdraw their access badges to their premises;

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(1) In particular as recalled in the CoC Group report to the Council of June 2018: the Procedural Guidelines for carrying out the process of monitoring commitments concerning the EU list of non-cooperative jurisdictions for tax purposes (doc. 6213/18); a compilation of all the agreed guidance since the creation of the Group in 1998 (doc. 5814/18 REV1); a compilation of all the letters signed by the COCG Chair seeking commitments by jurisdictions (doc. 6671/18); a compilation of the commitment letters received in return, when consent was given by the jurisdiction concerned (doc. 6972/18 and addenda); and an overview of the individual measures assessed by the Group since 1998 (doc. 9 639/18).

(2) The code is set out in Annex I to the conclusions of the ECOFIN Council Meeting of 1 December 1997 concerning taxation policy, recital N of which relates to the monitoring and revision of the code's provisions (OJ C 2, 6.1.1998, p. 1.).

9.5. ***Parliament's right of inquiry/investigative right***

423. Considers that it is vital for the exercise of democratic control over the executive that Parliament be empowered with investigative and inquiry powers that match those of Member States' national parliaments; believes that in order to exercise this role Parliament must have the power to summon and compel witnesses to appear and to compel the production of documents;

424. Believes that in order for these rights to be exercised Member States must agree to implement sanctions against individuals for failure to appear or produce documents in line with national law governing national parliamentary inquiries and investigations;

425. Urges the Council and the Commission to engage in the timely conclusion of the negotiations on the proposal for a regulation of the European Parliament on the detailed provisions governing the exercise of Parliament's right of inquiry;

9.6. ***Unanimity vs qualified majority voting***

426. Reiterates its call on the Commission to use, if appropriate, the procedure laid down in Article 116 of the TFEU which makes it possible to change the unanimity requirement in cases where the Commission finds that a difference between the provisions laid down by law, regulation or administrative action in Member States is distorting the conditions of competition in the internal market;

427. Welcomes the Commission's contribution through its communication 'Towards a more efficient and democratic decision making in EU tax policy' proposing a roadmap to qualified majority voting for specific and pressing tax policy issues where vital legislative files and initiatives aimed at combating tax fraud, tax evasion and ATP have been blocked in the Council to the detriment of a large majority of Member States; welcomes the support expressed by some Member States for this proposal [1];

428. Stresses that all scenarios should remain envisaged, and not only that of shifting from unanimity to qualified majority voting through a passerelle clause; calls on the European Council to add this point to a Summit agenda before the end of 2019 in order to engage in a fruitful debate on how to facilitate decision-making on tax issues in the interests of the functioning of the single market;

9.7. ***Follow-up***

429. Takes the view that the work of the TAXE, TAX2, PANA and TAX3 committees should be continued, in the forthcoming parliamentary term, in a permanent structure within Parliament in the form of a subcommittee to the Committee on Economic and Monetary Affairs (ECON), allowing for cross-committee participation;

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430. Instructs its President to forward this resolution to the European Council, the Economic and Financial Affairs Council, the Commission, the European External Action Service, the European Supervisory Authorities, the European Public Prosecutor's Office, the European Central Bank, Moneyval, the Member States, the national parliaments, the UN, the G20, the Financial Action Task Force and the OECD.

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[1] TAX 3 hearing with the Spanish Secretary of State for Finance, 19 February 2019.

Wednesday 27 March 2019

P8_TA(2019)0313

Genetically modified soybean MON 87751 (MON-87751-7)

European Parliament resolution of 27 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87751 (MON-87751-7), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D060916/01 — 2019/2603(RSP))

(2021/C 108/03)

The European Parliament,

— having regard to the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87751 (MON-87751-7), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D060916/01,

— having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ([1]), and in particular Articles 7(3) and 19(3) thereof,

— having regard to the vote of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003, on 7 March 2019, at which no opinion was delivered,

— having regard to Articles 11 and 13 of 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 ([2]),

— having regard to the opinion adopted by the European Food Safety Authority (EFSA) on 20 June 2018 and published on 2 August 2018 ([3]),

— having regard to the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (COM(2017)0085, 2017/0035(COD),

— having regard to its previous resolutions objecting to the authorisation of genetically modified organisms ([4]),

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([1]) OJ L 268, 18.10.2003, p. 1.

([2]) OJ L 55, 28.2.2011, p. 13.

([3]) EFSA GMO Panel (EFSA Panel on genetically Modified Organisms), 2018. Scientific opinion on the assessment of genetically modified soybean MON 87751 for food and feed uses under Regulation (EC) No 1829/2003 (application EFSA-GMO-NL-2014–121). EFSA Journal 2018; 16(8):5346, 32 pp. doi: 10.2903/j.efsa.2018.5346.

([4]) — Resolution of 16 January 2014 on the proposal for a Council decision concerning the placing on the market for cultivation, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a maize product (Zea mays L., line 1507) genetically modified for resistance to certain lepidopteran pests (OJ C 482, 23.12.2016, p. 110).

— Resolution of 16 December 2015 on Commission Implementing Decision (EU) 2015/2279 of 4 December 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × T25 (OJ C 399, 24.11.2017, p. 71).

— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean MON 87705 × MON 89788 (OJ C 35, 31.1.2018, p. 19).

— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean MON 87708 × MON 89788 (OJ C 35, 31.1.2018, p. 17).

— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 (MST-FGØ72-2) (OJ C 35, 31.1.2018, p. 15).

— Resolution of 8 June 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize Bt11 × MIR162 × MIR604 × GA21, and genetically modified maizes combining two or three of those events (OJ C 86, 6.3.2018, p. 108).
— Resolution of 8 June 2016 on the draft Commission implementing decision as regards the placing on the market of a genetically modified carnation (Dianthus caryophyllus L., line SHD-27531-4) (OJ C 86, 6.3.2018, p. 111).
— Resolution of 6 October 2016 on the draft Commission implementing decision renewing the authorisation for the placing on the market for cultivation of genetically modified maize MON 810 seeds (OJ C 215, 19.6.2018, p. 76).
— Resolution of 6 October 2016 on the draft Commission implementing decision authorising the placing on the market of genetically modified maize MON 810 products (OJ C 215, 19.6.2018, p. 80).
— Resolution of 6 October 2016 on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize Bt11 seeds (OJ C 215, 19.6.2018, p. 70).
— Resolution of 6 October 2016 on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize 1507 seeds (OJ C 215, 19.6.2018, p. 73).
— Resolution of 6 October 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified cotton 281-24-236 × 3006-210-23 × MON 88913 (OJ C 215, 19.6.2018, p. 83).
— Resolution of 5 April 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize Bt11 × 59122 × MIR604 × 1507 × GA21, and genetically modified maizes combining two, three or four of the events Bt11, 59122, MIR604, 1507 and GA21 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 298, 23.8.2018, p. 34).
— Resolution of 17 May 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize DAS-40278-9, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 307, 30.8.2018, p. 71).
— Resolution of 17 May 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified cotton GHB119 (BCS-GHØØ5-8) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ C 307, 30.8.2018, p. 67).
— Resolution of 13 September 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean DAS-68416-4, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 337, 20.9.2018, p. 54).
— Resolution of 4 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 × A5547-127 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 55).
— Resolution of 4 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean DAS-44406-6, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 60).
— Resolution of 24 October 2017 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 (DAS-Ø15Ø7-1) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 122).
— Resolution of 24 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean 305423 × 40-3-2 (DP-3Ø5423-1 × MON-Ø4Ø32-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 127).
— Resolution of 24 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified oilseed rapes MON 88302 × Ms8 × Rf3 (MON-883Ø2-9 × ACSBNØØ5-8 × ACS-BNØØ3-6), MON 88302 × Ms8 (MON-883Ø2-9 × ACSBNØØ5-8) and MON 88302 × Rf3 (MON-883Ø2-9 × ACS-BNØØ3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 133).
— Resolution of 1 March 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122 (DAS-59122-7) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0051).
— Resolution of 1 March 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 87427 × MON 89034 × NK603 (MON-87427-7 × MON-89Ø34-3 × MON-ØØ6Ø3-6) and genetically modified maize combining two of the events MON 87427, MON 89034 and NK603, and repealing Decision 2010/420/EU (Texts adopted, P8_TA(2018)0052).

Wednesday 27 March 2019

— having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

— having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas on 26 September 2014, Monsanto Europe S.A./N.V. submitted on behalf of Monsanto company, United States, an application, in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003, for the placing on the market of foods, food ingredients and feed containing, consisting of or produced from genetically modified (GM) soybean MON 87751 ('the application') to the national competent authority of the Netherlands, and whereas the application also covered the placing on the market of products containing or consisting of GM soybean MON 87751 for uses other than food and feed, with the exception of cultivation;

— Resolution of 3 May 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of food and feed produced from genetically modified sugar beet H7-1 (KM-ØØØH71-4) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA (2018)0197).

— Resolution of 30 May 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize GA21 (MON-ØØØ21-9) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0221).

— Resolution of 30 May 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 × 59122 × MON 810 × NK603, and genetically modified maize combining two or three of the single events 1507, 59122, MON 810 and NK603, and repealing Decisions 2009/815/EC, 2010/428/EU and 2010/432/EU pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0222).

— Resolution of 24 October 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize NK603 × MON 810 (MON-ØØ6Ø3-6 × MON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2018)0416).

— Resolution of 24 October 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122, and genetically modified maize combining two, three or four of the single events MON 87427, MON 89034, 1507, MON 88017 and 59122 and repealing Decision 2011/366/EU (Texts adopted, P8_TA(2018)0417).

— Resolution of 31 January 2019 on the draft Commission implementing decision amending Implementing Decision 2013/327/EU as regards the renewal of the authorisation to place on the market feed containing or consisting of genetically modified oilseed rapes Ms8, Rf3 and Ms8 × Rf3 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0057).

— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 5307 (SYN-Ø53Ø7-1), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2019)0058).

— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87403 (MON-874Ø3-1), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0059).

— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified cotton GHB614 × LLCotton25 × MON 15985 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0060).

— European Parliament resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 4114 (DP-ØØ4114-3), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0196).

— European Parliament resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87411 (MON-87411-9), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0197).

— European Parliament resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize Bt11 × MIR162 × 1507 × GA21 and sub-combinations Bt11 × MIR162 × 1507, MIR162 × 1507 × GA21 and MIR162 × 1507 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0198).

Wednesday 27 March 2019

B. whereas, on 20 June 2018, EFSA adopted a favourable opinion in relation to the authorisation ([1]);

C. whereas GM soybean MON 87751 was developed to confer resistance against certain lepidopteran pests and expresses the Bt proteins Cry1A.105 and Cry2Ab2 for this purpose;

Bt toxins

D. whereas studies show that Bt toxins may have adjuvant properties which reinforce the allergenic properties of other foodstuffs; whereas soybeans themselves produce many plant allergens, and there is a specific risk that the Bt protein can enhance the immune system response to these compounds at the consumption stage;

E. whereas a member of the EFSA Panel on Genetically Modified Organisms (EFSA GMO Panel) previously stated that while unintended effects have never been identified in any application where Bt proteins are expressed, they could 'not be observed by the toxicological studies that are currently recommended and performed for the safety assessment of GM plants at EFSA because they do not include the appropriate tests for this purpose' ([2]);

F. whereas in relation to the current authorisation, the EFSA GMO Panel itself recognises that there is limited knowledge and experimental evidence available on the potential of the newly expressed proteins to act as adjuvants ([3]);

G. whereas studies stress the need for further research and long-term studies on the adjuvant properties of Bt toxins; whereas, while questions remain in relation to the role of Bt toxins and their adjuvant properties, GM plants containing them should not be authorised for import for food and feed uses;

Toxicity and 90-day feeding studies

H. whereas two 28-day repeated dose toxicity studies with mice were performed, one with the Cry1a.105 protein and one with the Cry2Ab2 protein;

I. whereas those toxicity studies were conducted with the isolated proteins, i.e. not with the proteins in combination, which were derived from bacteria and therefore not identical to those produced in the plant; whereas that means that the studies did not emulate exposure under practical conditions;

J. whereas the two toxicity studies did not fully comply with the relevant OECD requirements in that coagulation examinations were based on a relatively low number of samples and functional observational battery and locomotor activity tests were not performed; whereas it is essential that all such requirements are fulfilled in the authorisation procedure;

K. whereas multiple statistically significant differences between the control and test group were identified in the 90-day feeding study which, according to comments from a Member State competent authority, should have been examined further ([4]);

([1]) https://www.efsa.europa.eu/en/efsajournal/pub/5346

([2]) https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2018.5309 p34

([3]) EFSA response to Member States comments, p109, Annex G: http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2014-00719

([4]) Annex G, Member States comments, pp. 27-33, http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2014-00719

L. whereas the 90-day feeding study with rats contained the following weaknesses: the study did not use two different dosages of test material as required by Commission Implementing Regulation (EU) No 503/2013 ([1]) and none of the test materials were analysed for possible contamination with other genetically modified organisms (GMOs);

M. whereas, while EFSA identifies soymilk as being the main contributor in human diets with the highest chronic exposure ([2]), toasted defatted soybean meal was used as the test material in the feeding study; whereas expression levels of the Bt proteins in the soybean meal were not measured, meaning that it is not possible to link the outcome of the study with specific Bt toxin levels;

Member State competent authority comments

N. whereas Member State authorities submitted many critical comments during the three-month consultation period ([3]), inter alia that many questions regarding the safety and possible toxicity of GM soybeans remain unresolved, that the combinatory effects of both proteins have not been analysed, that further information should be considered before the risk assessment can be finalised, that the environmental monitoring plan does not meet the objectives set out in Annex VII to Directive 2001/18/EC of the European Parliament and of the Council ([4]) and that it should be amended before consent is given, and that there is no reason to presume that consumption of Cry proteins is safe and does not represent a danger to humans, animals or the environment;

O. whereas the Union is party to the UN Convention on Biological Diversity, which places on its parties the responsibility to ensure that activities within their jurisdictions do not cause damage to the environment of other States ([5]); whereas the decision on whether or not to authorise the GM soybean is within the Union's jurisdiction;

P. whereas, in line with a request from one Member State, existing data on the impact of the cultivation of GM soybean MON 87751 on producing and exporting countries should be considered in the application; whereas the same Member State recommends a study to assess how imports of certain products influence crop choices in Europe and therefore the biodiversity resulting from such agrosystem choices ([6]);

Q. whereas the competent authorities of several Member States have criticised the lack of robustness of the post-market monitoring plan;

Lack of democratic legitimacy

R. whereas the vote on 7 March 2019 of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003 delivered no opinion, meaning that there was not a qualified majority in favour of authorisation;

([1]) Commission Implementing Regulation (EU) No 503/2013 of 3 April 2013 on applications for authorisation of genetically modified food and feed in accordance with Regulation (EC) No 1829/2003 of the European Parliament and of the Council and amending Commission Regulations (EC) No 641/2004 and (EC) No 1981/2006 (OJ L 157, 8.6.2013, p. 1).

([2]) EFSA opinion, p. 22, https://www.efsa.europa.eu/en/efsajournal/pub/5346

([3]) Annex G, Member State comments, http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2014-00719

([4]) Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC (OJ L 106, 17.4.2001, p. 1).

([5]) United Nations Convention on Biological Diversity, 1992, Article 3, https://www.cbd.int/convention/articles/default.shtml?a=cbd-03

([6]) Annex G, Member States comments, pp. 67-68, http://registerofquestions.efsa.europa.eu/roqFrontend/questionLoader?question=EFSA-Q-2014-00719

Wednesday 27 March 2019

S. whereas on several occasions ([1]) the Commission has deplored the fact that, since the entry into force of Regulation (EC) No 1829/2003, it has adopted authorisation decisions without the support of the Standing Committee on the Food Chain and Animal Health and that the return of the dossier to the Commission for a final decision, which is very much the exception for the procedure as a whole, has become the norm for decision-making on GM food and feed authorisations; whereas that practice has also been deplored by President Juncker as undemocratic ([2]);

T. whereas, on 28 October 2015, Parliament rejected at first reading ([3]) the legislative proposal of 22 April 2015 amending Regulation (EC) No 1829/2003 and called on the Commission to withdraw it and submit a new one;

U. whereas recital 14 of Regulation (EU) No 182/2011 states that the Commission should, as far as possible, act in such a way as to avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of an implementing act, especially on sensitive issues such as consumer health, food safety and the environment;

V. whereas Regulation (EC) No 1829/2003 states that GM food or feed must not have adverse effects on human health, animal health or the environment and that the Commission must take into account any relevant provisions of Union law and other legitimate factors relevant to the matter under consideration when drafting its decision to renew the authorisation;

1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1829/2003;

2. Considers that the draft Commission implementing decision is not consistent with Union law, in that it is not compatible with the aim of Regulation (EC) No 1829/2003, which is, in accordance with the general principles laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council ([4]), to provide the basis for ensuring a high level of protection of human life and health, animal health and welfare, and environmental and consumer interests in relation to GM food and feed, while ensuring the effective functioning of the internal market;

3. Calls on the Commission to withdraw its draft implementing decision;

4. Reiterates its commitment to advancing work on the Commission proposal amending Regulation (EU) No 182/2011; calls on the Council to move forward with its work in relation to that Commission proposal as a matter of urgency;

5. Calls on the Commission to suspend any implementing decision regarding applications for authorisation of GMOs until the authorisation procedure has been revised in such a way as to address the shortcomings of the current procedure which has proven inadequate;

6. Calls on the Commission to withdraw proposals for GMO authorisations if no opinion is delivered by the Standing Committee on the Food Chain and Animal Health, whether for cultivation or for food and feed uses;

7. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

([1]) See, for example, the explanatory memorandum of its legislative proposal presented on 22 April 2015 amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory and in the explanatory memorandum of the legislative proposal presented on 14 February 2017 amending Regulation (EU) No 182/2011.

([2]) For example. in the Opening Statement at the European Parliament plenary session included in the political guidelines for the next European Commission (Strasbourg, 15 July 2014) or in the State of the Union Address 2016 (Strasbourg, 14 September 2016).

([3]) OJ C 355, 20.10.2017, p. 165.

([4]) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters on food safety (OJ L 31, 1.2.2002, p. 1.).

Wednesday 27 March 2019

P8_TA(2019)0314

Genetically modified maize 1507 × NK603 (DAS-Ø15Ø7-1 × MON-ØØ6Ø3-6)

European Parliament resolution of 27 March 2019 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 × NK603 (DAS-Ø15Ø7-1 × MON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D060917/01 — 2019/2604(RSP))

(2021/C 108/04)

The European Parliament,

— having regard to the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize 1507 × NK603 (DAS-Ø15Ø7-1 × MON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D060917/01,

— having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed ([1]), and in particular Articles 11(3) and 23(3) thereof,

— having regard to the vote of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003, on 7 March 2019, at which no opinion was delivered,

— having regard to Articles 11 and 13 of 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 ([2]),

— having regard to the opinion adopted by the European Food Safety Authority (EFSA) on 20 June 2018 and published on 25 July 2018 ([3]),

— having regard to the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 182/2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (COM(2017)0085, 2017/0035(COD)),

— having regard to its previous resolutions objecting to the authorisation of genetically modified organisms ([4]),

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([1]) OJ L 268, 18.10.2003, p. 1.

([2]) OJ L 55, 28.2.2011, p. 13.

([3]) EFSA GMO Panel 2018. Scientific Opinion on the assessment of genetically modified maize 1507 x NK603 for renewal of authorisation under Regulation (EC) No 1829/2003 (application EFSA-GMO-RX-008). EFSA Journal 2018; 16(7): 5347.

([4]) — Resolution of 16 January 2014 on the proposal for a Council decision concerning the placing on the market for cultivation, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a maize product (Zea mays L., line 1507) genetically modified for resistance to certain lepidopteran pests (OJ C 482, 23.12.2016, p. 110).
— Resolution of 16 December 2015 on Commission Implementing Decision (EU) 2015/2279 of 4 December 2015 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize NK603 × T25 (OJ C 399, 24.11.2017, p. 71).
— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean MON 87705 × MON 89788 (OJ C 35, 31.1.2018, p. 19).
— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean MON 87708 × MON 89788 (OJ C 35, 31.1.2018, p. 17).
— Resolution of 3 February 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 (MST-FGØ72-2) (OJ C 35, 31.1.2018, p. 15).

— Resolution of 8 June 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize Bt11 × MIR162 × MIR604 × GA21, and genetically modified maizes combining two or three of those events (OJ C 86, 6.3.2018, p. 108).
— Resolution of 8 June 2016 on the draft Commission implementing decision as regards the placing on the market of a genetically modified carnation (Dianthus caryophyllus L., line SHD-27531-4) (OJ C 86, 6.3.2018, p. 111).
— Resolution of 6 October 2016 on the draft Commission implementing decision renewing the authorisation for the placing on the market for cultivation of genetically modified maize MON 810 seeds (OJ C 215, 19.6.2018, p. 76).
— Resolution of 6 October 2016 on the draft Commission implementing decision authorising the placing on the market of genetically modified maize MON 810 products (OJ C 215, 19.6.2018, p. 80).
— Resolution of 6 October 2016 on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize Bt11 seeds (OJ C 215, 19.6.2018, p. 70).
— Resolution of 6 October 2016 on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize 1507 seeds (OJ C 215, 19.6.2018, p. 73).
— Resolution of 6 October 2016 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified cotton 281-24-236 × 3006-210-23 × MON 88913 (OJ C 215, 19.6.2018, p. 83).
— Resolution of 5 April 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize Bt11 × 59122 × MIR604 × 1507 × GA21, and genetically modified maizes combining two, three or four of the events Bt11, 59122, MIR604, 1507 and GA21 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 298, 23.8.2018, p. 34).
— Resolution of 17 May 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize DAS-40278-9, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 307, 30.8.2018, p. 71).
— Resolution of 17 May 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified cotton GHB119 (BCS-GHØØ5-8) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ C 307, 30.8.2018, p. 67).
— Resolution of 13 September 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean DAS-68416-4, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 337, 20.9.2018, p. 54).
— Resolution of 4 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean FG72 × A5547-127 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 55).
— Resolution of 4 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean DAS-44406-6, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 60).
— Resolution of 24 October 2017 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 (DAS-Ø15Ø7-1) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 122).
— Resolution of 24 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified soybean 305423 × 40-3-2 (DP-3Ø5423-1 × MON-Ø4Ø32-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 127).
— Resolution of 24 October 2017 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified oilseed rapes MON 88302 × Ms8 × Rf3 (MON-883Ø2-9 × ACSBNØØ5-8 × ACS-BNØØ3-6), MON 88302 × Ms8 (MON-883Ø2-9 × ACSBNØØ5-8) and MON 88302 × Rf3 (MON-883Ø2-9 × ACS-BNØØ3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (OJ C 346, 27.9.2018, p. 133).
— Resolution of 1 March 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize 59122 (DAS-59122-7) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0051).
— Resolution of 1 March 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 87427 × MON 89034 × NK603 (MON-87427-7 × MON-89Ø34-3 × MON-ØØ6Ø3-6) and genetically modified maize combining two of the events MON 87427, MON 89034 and NK603, and repealing Decision 2010/420/EU (Texts adopted, P8_TA(2018)0052).

Wednesday 27 March 2019

— having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

— having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas Commission Decision 2007/703/EC ([2]) authorised the placing on the market of food and feed containing, consisting of, or produced from genetically modified (GM) maize 1507 × NK603; whereas the scope of that authorisation also covers the placing on the market of products, other than food and feed, containing or consisting of GM maize 1507 × NK603 for the same uses as any other maize with the exception of cultivation;

— Resolution of 3 May 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of food and feed produced from genetically modified sugar beet H7-1 (KM-ØØØH71-4) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA (2018)0197).
— Resolution of 30 May 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of, or produced from genetically modified maize GA21 (MON-ØØØ21-9) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0221).
— Resolution of 30 May 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507 × 59122 × MON 810 × NK603, and genetically modified maize combining two or three of the single events 1507, 59122, MON 810 and NK603, and repealing Decisions 2009/815/EC, 2010/428/EU and 2010/432/EU pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2018)0222).
— Resolution of 24 October 2018 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize NK603 × MON 810 (MON-ØØ6Ø3-6 × MON-ØØ81Ø-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2018)0416).
— Resolution of 24 October 2018 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87427 × MON 89034 × 1507 × MON 88017 × 59122, and genetically modified maize combining two, three or four of the single events MON 87427, MON 89034, 1507, MON 88017 and 59122 and repealing Decision 2011/366/EU (Texts adopted, P8_TA(2018)0417).
— Resolution of 31 January 2019 on the draft Commission implementing decision amending Implementing Decision 2013/327/EU as regards the renewal of the authorisation to place on the market feed containing or consisting of genetically modified oilseed rapes Ms8, Rf3 and Ms8 × Rf3 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0057).
— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 5307 (SYN-Ø53Ø7-1), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council on genetically modified food and feed (Texts adopted, P8_TA(2019)0058).
— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87403 (MON-874Ø3-1), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0059).
— Resolution of 31 January 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified cotton GHB614 × LLCotton25 × MON 15985 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0060).
— Resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize 4114 (DP-ØØ4114-3), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0196).
— Resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 87411 (MON-87411-9), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0197).
— Resolution of 13 March 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize Bt11 × MIR162 × 1507 × GA21 and sub-combinations Bt11 × MIR162 × 1507, MIR162 × 1507 × GA21 and MIR162 × 1507 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P8_TA(2019)0198).

([2]) Commission Decision 2007/703/EC of 24 October 2007 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize 1507xNK603 (DAS-Ø15Ø7-1xMON-ØØ6Ø3-6) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 285, 31.10.2007, p. 47).

Wednesday 27 March 2019

B. whereas, on 20 October 2016, Pioneer Overseas Corporation, on behalf of Pioneer Hi-Bred International, Inc., and Dow AgroSciences Europe, on behalf of Dow AgroSciences LLC, jointly submitted to the Commission an application, in accordance with Articles 11 and 23 of Regulation (EC) No 1829/2003, for the renewal of that authorisation;

C. whereas, on 25 July 2018, EFSA issued a favourable opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003;

D. whereas the EFSA opinion stated that the applicants' literature search had retrieved 120 publications, out of which, after having applied eligibility and inclusion criteria that had been defined a priori by the applicants, only one publication, an opinion by the EFSA Panel on Genetically Modified Organisms (EFSA GMO Panel), was considered as relevant by the applicants;

E. whereas EFSA, despite the fact that it considered that the applicants' future literature searches could be improved, did not perform a systematic literature search on its own, but simply assessed the literature search carried out by the applicants, and on that basis concluded that no new publication had been identified which would raise a safety concern;

F. whereas, likewise, for the other items assessed, such as bioinformatic data, post-market monitoring, as well as the overall assessment, EFSA simply relies on information given by the applicants, and as a consequence takes over the applicants' assessment;

G. whereas EFSA adopted its opinion on the assumption that the DNA sequence of the two events in GM maize NK603 x MON 810 is identical to the sequence of the originally assessed events; whereas this hypothesis does not seem to have been based on any data or evidence provided by the applicants but rather purely on a statement provided by them;

H. whereas EFSA acknowledges that the annual post-market environmental monitoring reports proposed by the applicants consist mainly of general surveillance of imported GM plant material; whereas EFSA considers that further discussion with applicants and risk managers is needed on the practical implementation of the post-market environmental monitoring reports, e.g. regarding actual data gathered on exposure and/or adverse effects as implemented in existing monitoring systems;

I. whereas the GM maize 1507 × NK603 expresses the cry1F gene, which confers protection against certain lepidopteran pests, the pat gene, which confers tolerance to glufosinate-ammonium based herbicides, and the cp4 epsps gene, which confers tolerance to glyphosate-based herbicides;

J. whereas GM Bt plants express the insecticidal toxin in every cell throughout their life, including in the parts eaten by humans and animals; whereas animal feeding experiments show that GM Bt plants may have toxic effects ([1]); whereas it has been shown that the Bt toxin in GM plants differs significantly from that of the naturally occurring Bt toxin ([2]); whereas there are concerns regarding a possible evolution of resistance to Cry proteins in lepidopteran target pests, which may lead to altered pest control practices in the countries where it is cultivated;

K. whereas glufosinate is classified as toxic to reproduction and thus falls under the exclusion criteria set out in Regulation (EC) No 1107/2009 of the European Parliament and of the Council ([3]); whereas the approval of glufosinate expired on 31 July 2018 ([4]);

([1]) See, for example, El-Shamei, Z.S., Gab-Alla, A.A., Shatta, A.A., Moussa, E.A., Rayan, A.M., Histopathological Changes in Some Organs of Male Rats Fed on Genetically Modified Corn (Ajeeb YG). Journal of American Science 2012; 8(9):1127-1123. https://www.researchgate.net/publication/235256452_Histopathological_Changes_in_Some_Organs_of_Male_Rats_Fed_on_Genetically_Modified_Corn_Ajeeb_YG

([2]) Székács, A., Darvas, B., Comparative aspects of Cry toxin usage in insect control. In: Ishaaya, I., Palli, S.R., Horowitz, A.R., eds. Advanced Technologies for Managing Insect Pests. Dordrecht, Netherlands: Springer; 2012:195-230. https://link.springer.com/chapter/10.1007/978-94-007-4497-4_10

([3]) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

([4]) https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/active-substances/?event=as.details&as_id=79

L. whereas questions remain concerning the carcinogenicity of glyphosate; whereas EFSA concluded in November 2015 that glyphosate was unlikely to be carcinogenic and the European Chemicals Agency (ECHA) concluded in March 2017 that no classification was warranted; whereas, on the contrary, in 2015 the World Health Organisation's International Agency for Research on Cancer classified glyphosate as a probable carcinogen for humans ([1]);

M. whereas application of the complementary herbicides, in this case glyphosate and glufosinate, is part of regular agricultural practice in the cultivation of herbicide-resistant plants and it can therefore be expected that residues from spraying will be present in the harvest and are inevitable constituents;

N. whereas it has to be expected that the GM maize will be exposed to both higher and repeated doses of glyphosate and glufosinate, which will not only lead to a higher burden of residues in the harvest, but may also influence the composition of the GM maize plant and its agronomic characteristics;

O. whereas information on residue levels of herbicides and their metabolites is essential for a thorough risk assessment of herbicide-tolerant GM plants; whereas residues from spraying with herbicides are considered outside the remit of the EFSA GMO Panel; whereas the impacts of spraying the GM maize with herbicides have not been assessed, nor has the cumulative effect of spraying with both glyphosate and glufosinate;

P. whereas the Union is party to the UN Convention on Biological Diversity, which places on its parties the responsibility to ensure that activities within their jurisdiction do not cause damage to the environment of other States ([2]); whereas the decision on whether or not to authorise the GM maize is within the Union's jurisdiction;

Q. whereas comments submitted by Member States during the three-month consultation period refer to, inter alia: non-compliance with EFSA's guidelines as regards the post-market environmental monitoring reports, several deficiencies in those reports, including the fact that the occurrence of teosinte as a wild relative of maize in Europe had been ignored and that information regarding the fate of Bt toxins in the environment is missing; concerns regarding the reliability of data to confirm the risk assessment conclusion; an insufficient proposed monitoring plan; an inadequate literature search, leading to the omission of important studies, and an improper declaration of identified literature as being irrelevant; and the failure to provide any data to demonstrate the sequence identity of a current maize variety containing the stacked event 1507 x NK603, with the originally assessed event ([3]);

R. whereas the vote on 7 March 2019 of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003 delivered no opinion, meaning that there was no qualified majority in favour of authorisation;

S. whereas on several occasions ([4]) the Commission has deplored the fact that, since the entry into force of Regulation (EC) No 1829/2003, it has adopted authorisation decisions without the support of the Standing Committee on the Food Chain and Animal Health, and that the return of the dossier to the Commission for a final decision, which is very much the exception for the procedure as a whole, has become the norm for decision-making on GM food and feed authorisations; whereas that practice has also been deplored by President Juncker as being undemocratic ([5]);

([1]) IARC Monographs Volume 112: Some organophosphate insecticides and herbicides, 20 March 2015 (http://monographs.iarc.fr/ENG/Monographs/vol112/mono112.pdf).

([2]) Article 3, https://www.cbd.int/convention/articles/default.shtml?a=cbd-03

([3]) See EFSA Register of Questions, Annex G to Question Number EFSA-Q-2018-00509, available online at: https://www.efsa.europa.eu/en/register-of-questions

([4]) See, for example, the explanatory memorandum of its legislative proposal presented on 22 April 2015 amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory and the explanatory memorandum of the legislative proposal presented on 14 February 2017 amending Regulation (EU) No 182/2011.

([5]) See, for example, the Opening Statement at the European Parliament plenary session included in the political guidelines for the next European Commission (Strasbourg, 15 July 2014) or the 2016 State of the Union Address (Strasbourg, 14 September 2016).

Wednesday 27 March 2019

T. whereas, on 28 October 2015, Parliament rejected at first reading ([1]) the legislative proposal of 22 April 2015 amending Regulation (EC) No 1829/2003 and called on the Commission to withdraw it and submit a new one;

U. whereas recital 14 of Regulation (EU) No 182/2011 states that the Commission should, as far as possible, act in such a way as to avoid going against any predominant position which might emerge within the appeal committee against the appropriateness of an implementing act, especially on sensitive issues such as consumer health, food safety and the environment;

V. whereas Regulation (EC) No 1829/2003 states that GM food or feed must not have adverse effects on human health, animal health or the environment and that the Commission shall take into account any relevant provisions of Union law and other legitimate factors relevant to the matter under consideration when drafting its decision renewing the authorisation;

1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1829/2003;

2. Considers that the draft Commission implementing decision is not consistent with Union law, in that it is not compatible with the aim of Regulation (EC) No 1829/2003, which is, in accordance with the general principles laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council ([2]), to provide the basis for ensuring a high level of protection of human life and health, animal health and welfare, and environmental and consumer interests, in relation to GM food and feed, while ensuring the effective functioning of the internal market;

3. Calls on the Commission to withdraw its draft implementing decision;

4. Reiterates its commitment to advancing work on the Commission proposal amending Regulation (EU) No 182/2011; calls on the Council to move forward with its work in relation to that Commission proposal as a matter of urgency;

5. Calls on the Commission to suspend any implementing decision regarding applications for authorisation of genetically modified organisms (GMOs) until the authorisation procedure has been revised in such a way as to address the shortcomings of the current procedure, which has proven inadequate;

6. Calls on the Commission to withdraw proposals for GMO authorisations if no opinion is delivered by the Standing Committee on the Food Chain and Animal Health, whether for cultivation or for food and feed uses;

7. Calls on the Commission to uphold its commitments under the UN Convention on Biological Diversity, and in particular not to authorise the import of any GM plant for food or feed uses which has been made tolerant to a herbicide which is not authorised for use in the Union;

8. Calls on the Commission not to authorise any herbicide-tolerant GM plants without full assessment of the residues from spraying with complementary herbicides and their commercial formulations as applied in the countries of cultivation;

9. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

([1]) OJ C 355, 20.10.2017, p. 165.
([2]) OJ L 31, 1.2.2002, p. 1.

P8_TA(2019)0315

Certain uses of bis(2-ethylhexyl) phthalate (DEHP) (DEZA a.s.)

European Parliament resolution of 27 March 2019 on the draft Commission implementing decision partially granting an authorisation for certain uses of bis(2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (DEZA a.s.) (D060865/01 — 2019/2605(RSP))

(2021/C 108/05)

The European Parliament,

— having regard to the draft Commission implementing decision partially granting an authorisation for certain uses of bis (2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (DEZA a.s.) (D060865/01,

— having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([1]) ('the REACH Regulation'), and in particular Article 64(8) thereof,

— having regard to the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-Economic Analysis (SEAC) ([2]), pursuant to the third subparagraph of Article 64(5) of Regulation (EC) No 1907/2006,

— having regard to Commission Regulation (EU) 2018/2005 of 17 December 2018 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards bis(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP) and diisobutyl phthalate (DIBP) ([3]),

— having regard to Articles 11 and 13 of 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 ([4]),

— having regard to its resolution of 25 November 2015 on draft Commission Implementing Decision XXX granting an authorisation for uses of bis(2-ethylhexhyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([5]),

— having regard to the judgment of the General Court of the European Union in Case T-837/16 ([6]),

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([1]) OJ L 396, 30.12.2006, p. 1.

([2]) RAC and SEAC Opinions for use 1: https://echa.europa.eu/documents/10162/60f338a5-09ac-423a-b7c1-2511ee2d9b77; for use 2: https://echa.europa.eu/documents/10162/1ce96eb6-9e30-447d-a9ff-dc315f75f124; for use 3: https://echa.europa.eu/documents/10162/bfbf6ddc-dd94-456b-bbff-32d7d32e6c92

([3]) OJ L 322, 18.12.2018, p. 14..

([4]) OJ L 55, 28.2.2011, p. 13.

([5]) OJ C 366, 27.10.2017, p. 96.

([6]) http://curia.europa.eu/juris/documents.jsf?oqp=&for=&mat=or&lgrec=en&jge= &td=%3BALL&jur=C%2CT%2CF&num=T-837%252F16&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=2535071

Wednesday 27 March 2019

— having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

— having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas DEHP was added to the candidate list of substances of very high concern under the REACH Regulation in 2008 ([1]) because of its classification as toxic to reproduction;

B. whereas DEHP was included in Annex XIV of the REACH Regulation in 2011 ([2]) due to that classification, its widespread use and high volume of production in the Union ([3]), with a sunset date of 21 February 2015;

C. whereas companies willing to continue using DEHP had to submit an application for authorisation by August 2013; whereas DEZA, having submitted its application before that deadline, was allowed to continue using DEHP pending the authorisation decision provided for in Article 58 of the REACH Regulation;

D. whereas the Commission received the opinions of RAC and SEAC in January 2015; whereas the Commission's delay in drafting the decision de facto led to the continued use of DEHP being tolerated for more than four years after the sunset date;

E. whereas DEHP was identified in 2014 as having endocrine disrupting properties for animals and humans; whereas the candidate list was updated accordingly in 2014 ([4]) regarding the environment and in 2017 ([5]) regarding human health;

F. whereas Regulation (EU) 2018/2005 restricted the use of DEHP and other phthalates in many articles based on an unacceptable risk to human health; whereas RAC highlighted, in the context of that restriction, the fact that 'the uncertainty assessment suggests that the hazards and thus the risks from the four phthalates may be underestimated' ([6]);

G. whereas Regulation (EU) 2018/2005 exempts certain applications insofar as they are not deemed to present an unacceptable risk to human health; whereas apart from the export of DEHP-containing formulations, the draft Commission implementing decision is therefore of particular relevance for those exempted applications;

H. whereas such applications could, however, represent an unacceptable risk to the environment, in particular due to the endocrine disrupting properties of DEHP;

I. whereas the primary objective of the REACH Regulation is to ensure a high level of protection of human health and the environment in light of its recital 16, as interpreted by the Court of Justice of the European Union ([7]);

([1]) https://echa.europa.eu/documents/10162/c94ac248-378f-4058-9907-205b497c286e

([2]) Commission Regulation (EU) No 143/2011 of 17 February 2011 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 44, 18.2.2011, p. 2).

([3]) https://echa.europa.eu/documents/10162/6f89a308-c467-4836-ae1e-9c6163a9ae10

([4]) https://echa.europa.eu/documents/10162/30b654ce-1de3-487a-8696-e05617c3173b

([5]) https://echa.europa.eu/documents/10162/88c20879-606b-03a6-11e4-9edb90e7e615

([6]) 'The uncertainty assessment suggests that the hazards and thus the risks from the four phthalates may be underestimated. The DNELs for DEHP and BBP may be lower than currently derived. A number of experimental and epidemiological studies have suggested possible effects on the immune system, the metabolic system and neurological development. Some of these studies indicate that reproductive toxicity may not be the most sensitive endpoint and that the selected DNELs may not be sufficiently protective against these other effects. Moreover, the Member State Committee (MSC) has confirmed that these four phthalates are endocrine disruptors related to human health and the Commission is considering to identify them as substances of equivalent concern under Article 57(f) of REACH. This raises additional uncertainties with the risk of these substances.' See https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66, p. 9.

([7]) Case C-558/07, *S.P.C.M. SA and Others* v *Secretary of State for the Environment, Food and Rural Affairs*, ECLI:EU:C:2009:430, paragraph 45.

J. whereas according to Article 55 and recital 12 of the REACH Regulation, the replacement of substances of very high concern with suitable alternative substances or technologies is a central aim of authorisation;

K. whereas point (d) of Article 62(4) of the REACH Regulation requires the applicant to provide a chemical safety report in accordance with Annex I;

L. whereas in this case the RAC opinion identified major deficiencies in the information provided by the applicant ([1]); whereas for one use no information was provided at all ([2]);

M. whereas the RAC and the Commission concluded that the applicant failed to demonstrate that the risk was adequately controlled under Article 60(2); whereas RAC also concluded that, contrary to Article 60(10), the risk was not reduced to as low a level as is technically and practically possible;

N. whereas the draft Commission implementing decision refuses authorisation for the one use for which no information was provided in the application, on the basis of Article 60(7) of the REACH Regulation;

O. whereas the draft Commission implementing decision elsewhere acknowledges the deficiencies indicated by RAC by referring to 'limited information submitted on workplace exposure', ([3]) but instead of similarly rejecting the authorisation in accordance with Article 60(7), requires the applicant to provide the missing data in its review report 18 months after adoption of the decision ([4]);

P. whereas the review report provided for in Article 61 is not intended to give more time to companies to fill gaps in information that had to be provided initially, but is meant to ensure that the information initially provided in the application is still up-to-date after a set period, including, in particular, as regards whether new alternatives have become available;

Q. whereas the General Court clearly stated that conditions to an authorisation, within the meaning of Article 60(8) and (9), cannot be legally used to remedy the potential failures or gaps in the information provided by the applicant for authorisation ([5]);

R. whereas Article 60(4) provides for an obligation to show that the socio-economic benefits of using the substance outweigh the risk to human health or the environment and that no suitable alternative substances are available;

S. whereas the SEAC opinion highlighted significant deficiencies in the socio-economic analysis presented by the applicant, also reflected in the draft Commission implementing decision ([6]);

([1]) 'RAC evaluates that the exposure data presented in the CSR are not representative for the extensive scope of the application. Therefore, a well-founded exposure assessment by RAC is not possible. The following evaluations are only based on a deficient data base and by this [are] of little significance for the following risk assessment'- see RAC opinion on use 2, p. 10: https://echa.europa.eu/documents/10162/1ce96eb6-9e30-447d-a9ff-dc315f75f124

([2]) Draft decision, paragraph 19.

([3]) Draft decision, paragraph 17.

([4]) Draft decision, paragraph 17

([5]) Judgment of the General Court on 7 March 2019, Sweden v. Commission, Case T-837/16, § 82-83

([6]) 'a quantitative assessment of the human health impact of the continued use was not possible due to limitations in the available information' — Draft authorisation, paragraph 5

Wednesday 27 March 2019

T. whereas, in light of Article 55 and Article 60(4), an applicant must prove that there are no suitable alternatives to the uses it has applied for;

U. whereas the draft Commission implementing decision acknowledges that use 2 was not specific enough ([1]); whereas SEAC found severe deficiencies in the application with regard to the availability of alternatives ([2]), ([3]);

V. whereas it is not a legitimate justification for the applicant to rely on its status as manufacturer of the substance to fail to provide sufficient information on the suitability of alternatives for the uses covered in the application;

W. whereas due to the deficient data provided a member of SEAC officially disagreed with the conclusion of SEAC on the lack of suitable alternatives ([4]);

X. whereas Article 60(5) cannot be interpreted to mean that the suitability of the alternatives from the perspective of the applicant is the unique and determinant factor; whereas Article 60(5) does not set an exhaustive list of the information to be taken into account in the analysis of alternatives; whereas point (c) of Article 60(4) also requires that information from third party contributions be taken into account; whereas information provided in the public consultation did reveal already at the time the availability of alternatives for uses covered ([5]);

Y. whereas the General Court reminded the Commission that, in order to legally grant an authorisation under Article 60 (4), it has to verify a sufficient amount of substantial and verifiable information in order to conclude either that no suitable alternatives are available for any of the uses covered in the application or that remaining uncertainties on the lack of available alternatives, at the date of the adoption of the authorisation, are negligible ([6]);

Z. whereas the draft Commission implementing decision gives having taken into account 'the new available information from the restriction process' ([7]) as a reason for the delay in its adoption; whereas it is therefore surprising that the draft Commission implementing decision has failed to consider the availability of alternatives that is clearly documented in the restriction dossier ([8]); whereas alternatives mentioned in the restriction proposal are also relevant for uses covered in the draft Commission implementing decision ([9]);

AA. whereas, finally, the Commission did not take into account the fact that DEHP has been officially recognised as an endocrine disruptor affecting human health and the environment; whereas this information ought to have been taken into account by the Commission in the context of the socio-economic assessment under Article 60(4), as the benefits of a refusal to authorise are otherwise underestimated;

AB. whereas the authorisation proposed by the Commission is thus in breach of Article 60(4) and 60(7) of the REACH Regulation;

([1]) Draft decision, paragraph 18

([2]) 'the conclusion of the applicant regarding the suitability and availability of alternatives … is not sufficiently justified' — SEAC Opinion on use 2, p. 18 — https://echa.europa.eu/documents/10162/1ce96eb6-9e30-447d-a9ff-dc315f75f124

([3]) 'the assessment of alternatives does not address specifically the varied situations covered by the very broad scope of this application and therefore does not demonstrate that alternatives are not technically feasible' — SEAC Opinion on use 2, p. 19

([4]) https://echa.europa.eu/documents/10162/03434073-5619-4395-8293-92ddaf6c85ad

([5]) https://echa.europa.eu/comments-public-consultation-0004-02 — see in particular line 58;

([6]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, EU:T:2019:144, § 86

([7]) Draft authorisation, paragraph 3.

([8]) 'Technically feasible alternatives with lower risk are currently available at similar prices for all uses in the scope of this proposal' — https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66

([9]) https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66 — p. 69; see 'applications' in the table, also covering outdoor uses.

AC. whereas the draft Commission implementing decision would reward laggards, and negatively affect companies which have invested in alternatives ([1]);

AD. whereas the draft Commission implementing decision states that 'the Commission took note' of the resolution of the European Parliament of 25 November 2015; whereas many of the structural flaws in the implementation of the authorisation chapter of the REACH Regulation that Parliament highlighted in that resolution also vitiate the present draft Commission implementing decision ([2]);

AE. whereas the European Parliament, in its resolution of 13 September 2018 on the implementation of the circular economy package: options to address the interface between chemical, product and waste legislation' ([3]), reiterated that 'moving towards a circular economy requires strict application of the waste hierarchy and, where possible, phasing out of substances of concern, in particular where safer alternatives exist or will be developed';

1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1907/2006;

2. Calls on the Commission to withdraw its draft implementing decision and to submit a new draft rejecting the application for authorisation;

3. Calls on the Commission to end swiftly the use of DEHP in all remaining applications, especially given the fact that safer alternatives to soft PVC and to DEHP are available;

4. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

([1]) See for example: https://marketplace.chemsec.org/Alternative/Non-phthalate-plasticizer-for-extreme-applications-302; https://marketplace.chemsec.org/Alternative/Safe-plasticizer-for-demanding-outdoor-applications-298; http://grupaazoty.com/en/wydarzenia/plastyfikatory-nieftalanowe.html

([2]) See in particular recitals N, O, P and R of that resolution.

([3]) Texts adopted, P8_TA(2018)0353.

Wednesday 27 March 2019

P8_TA(2019)0316

Certain uses of bis(2-ethylhexyl) phthalate (DEHP) (Grupa Azoty Zakłady Azotowe Kędzierzyn S.A.)

European Parliament resolution of 27 March 2019 on the draft Commission implementing decision partially granting an authorisation for certain uses of bis(2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Grupa Azoty Zakłady Azotowe Kędzierzyn S.A.) (D060866/01 — 2019/2606(RSP))

(2021/C 108/06)

The European Parliament,

— having regard to the draft Commission implementing decision partially granting an authorisation for certain uses of bis (2-ethylhexyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Grupa Azoty Zakłady Azotowe Kędzierzyn S.A.) (D060866/01,

— having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([1]) ('the REACH Regulation'), and in particular Article 64(8) thereof,

— having regard to the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-Economic Analysis (SEAC) ([2]), pursuant to the third subparagraph of Article 64(5) of Regulation (EC) No 1907/2006,

— having regard to Commission Regulation (EU) 2018/2005 of 17 December 2018 amending Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) as regards bis(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), benzyl butyl phthalate (BBP) and diisobutyl phthalate (DIBP) ([3]),

— having regard to Articles 11 and 13 of 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 ([4]),

— having regard to its resolution of 25 November 2015 on draft Commission Implementing Decision XXX granting an authorisation for uses of bis(2-ethylhexhyl) phthalate (DEHP) under Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([5]),

— having regard to the judgment of the General Court of the European Union in Case T-837/16 ([6]),

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([1]) OJ L 396, 30.12.2006, p. 1.

([2]) RAC and SEAC opinions on use 1 — https://echa.europa.eu/documents/10162/99c8c723-b76e-4ca4-a747-6e1b59a8d7f7; and 2 — https://echa.europa.eu/documents/10162/29db4e36-94dd-41bd-b9ea-9d0f08fbbac7

([3]) OJ L 322, 18.12.2018, p. 14.

([4]) OJ L 55, 28.2.2011, p. 13.

([5]) OJ C 366, 27.10.2017, p. 96.

([6]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, T-837/16, ECLI:EU:T:2019:144, available at http://curia.europa.eu/juris/documents.jsf?oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=T-837%252F16&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=2535071

— having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

— having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas DEHP was added to the candidate list of substances of very high concern under the REACH Regulation in 2008 ([1]) because of its classification as toxic to reproduction;

B. whereas DEHP was included in Annex XIV of the REACH Regulation in 2011 ([2]) due to that classification, its widespread use and high volume of production in the Union ([3]), with a sunset date of 21 February 2015;

C. whereas companies willing to continue using DEHP had to submit an application for authorisation by August 2013; whereas Grupa Azoty, having submitted its application before that deadline, was allowed to continue using DEHP pending the authorisation decision provided for in Article 58 of the REACH Regulation;

D. whereas the Commission received the opinions of RAC and SEAC in January 2015; whereas the Commission's delay in drafting the decision de facto led to the continued use of DEHP being tolerated for more than four years after the sunset date;

E. whereas DEHP was identified in 2014 as having endocrine disrupting properties for animals and humans; whereas the candidate list was updated accordingly in 2014 ([4]) regarding the environment, and in 2017 ([5]) regarding human health;

F. whereas Regulation (EU) 2018/2005 restricted the use of DEHP and other phthalates in many articles based on an unacceptable risk to human health; whereas RAC highlighted, in the context of that restriction, the fact that 'the uncertainty assessment suggests that the hazards and thus the risks from the four phthalates may be underestimated' ([6]);

G. whereas Regulation (EU) 2018/2005 restricted the use of DEHP and other phthalates in most articles, while exempting certain applications; whereas apart from the export of DEHP-containing formulations, the draft Commission implementing decision is therefore of particular relevance for those exempted applications;

H. whereas such applications could however represent an unacceptable risk to the environment, in particular due to the endocrine disrupting properties of DEHP;

I. whereas the primary objective of the REACH Regulation is to ensure a high level of protection of human health and the environment in light of its recital 16, as interpreted by the Court of Justice of the European Union ([7]);

([1]) https://echa.europa.eu/documents/10162/c94ac248-378f-4058-9907-205b497c286e

([2]) Commission Regulation (EU) No 143/2011 of 17 February 2011 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals ('REACH') (OJ L 44, 18.2.2011, p. 2)

([3]) https://echa.europa.eu/documents/10162/6f89a308-c467-4836-ae1e-9c6163a9ae10

([4]) https://echa.europa.eu/documents/10162/30b654ce-1de3-487a-8696-e05617c3173b

([5]) https://echa.europa.eu/documents/10162/88c20879-606b-03a6-11e4-9edb90e7e615

([6]) 'The uncertainty assessment suggests that the hazards and thus the risks from the four phthalates may be underestimated. The DNELs for DEHP and BBP may be lower than currently derived. A number of experimental and epidemiological studies have suggested possible effects on the immune system, the metabolic system and neurological development. Some of these studies indicate that reproductive toxicity may not be the most sensitive endpoint and that the selected DNELs may not be sufficiently protective against these other effects. Moreover, the Member State Committee (MSC) has confirmed that these four phthalates are endocrine disruptors related to human health and the Commission is considering to identify them as substances of equivalent concern under Article 57(f) of REACH. This raises additional uncertainties with the risk of these substances.' See https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66, p. 9.

([7]) Case C-558/07, *S.P.C.M. SA and Others v Secretary of State for the Environment, Food and Rural Affairs*, § 45, ECLI:EU:C:2009:430

Wednesday 27 March 2019

J. whereas according to Article 55 and recital 12 of the REACH Regulation, the replacement of substances of very high concern with suitable alternative substances or technologies is a central aim of authorisation;

K. whereas point (d) of Article 62(4) of the REACH Regulation requires the applicant to provide a chemical safety report in accordance with Annex I;

L. whereas in this case the RAC opinion identified major deficiencies in the information provided by the applicant ([1]);

M. whereas the RAC and the Commission concluded that the applicant failed to demonstrate that the risk was adequately controlled under Article 60(2); whereas RAC also concluded that, contrary to Article 60(10), the risk was not reduced to as low a level as is technically and practically possible;

N. whereas the draft Commission implementing decision acknowledges the 'limited information submitted on workplace exposure' ([2]) but, instead of rejecting the authorisation in accordance with Article 60(7), requires the applicant to provide the missing data in its review report 18 months after adoption of that decision ([3]);

O. whereas the review report, provided for in Article 61, is not intended to give more time to companies to fill gaps in information that had to be provided initially, but is meant to ensure that the information initially provided in the application is still up-to-date after a set period, including, in particular, as regards whether new alternatives have become available;

P. whereas the General Court clearly stated that conditions to an authorisation, within the meaning of Article 60(8) and (9) cannot be legally used to remedy the potential failures or gaps in the information provided by the applicant for authorisation ([4]);

Q. whereas Article 60(4) provides for an obligation to show that the socio-economic benefits of using the substance outweigh the risk to human health or the environment and that no suitable alternative substances are available;

R. whereas the SEAC opinion highlighted significant deficiencies in the socio-economic analysis presented by the applicant, also reflected in the draft Commission implementing decision ([5]);

S. whereas, in light of Article 55 and Article 60(4), an applicant must prove that there are no suitable alternatives to the uses it has applied for;

T. whereas the draft Commission implementing decision acknowledges that use 2 was not specific enough ([6]); whereas SEAC found severe deficiencies in the application with regard to the availability of alternatives ([7]), ([8]);

([1]) 'RAC evaluates that the exposure data presented in the CSR are not representative for the extensive scope of the application. Therefore, a well-founded exposure assessment by RAC is not possible. The following evaluations are only based on a deficient data base and by this of little significance for the following risk assessment' — see RAC opinion on use 2, p. 10.

([2]) Draft decision § 17.

([3]) Draft decision § 17.

([4]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, Case T-837/16, § 82-83, ECLI:EU:T:2019:144.

([5]) 'a quantitative assessment of the human health impact of the continued use was not possible due to limitations in the available information' — draft decision, § 5.

([6]) Draft decision § 18.

([7]) 'the conclusion of the applicant regarding the suitability and availability of alternatives … is not sufficiently justified' — SEAC Opinion on use 2, p. 18.

([8]) 'the assessment of alternatives does not address specifically the varied situations covered by the very broad scope of this application and therefore does not demonstrate that alternatives are not technically feasible' — SEAC Opinion on use 2, p. 19.

U. whereas it is not a legitimate justification for the applicant to rely on its status as manufacturer of the substance to fail to provide sufficient information on the suitability of alternatives for the uses covered in the application;

V. whereas due to the deficient data provided, a member of SEAC officially disagreed with the conclusion of SEAC on the lack of suitable alternatives ([1]);

W. whereas Article 60(5) cannot be interpreted to mean that the suitability of the alternatives from the perspective of the applicant is the unique and determinant factor; whereas Article 60(5) does not set an exhaustive list of the information to be taken into account in the analysis of alternatives; whereas point (c) of Article 60(4) also requires that information from third party contributions be taken into account; whereas information provided in the public consultation did reveal already at the time the availability of alternatives for uses covered ([2]);

X. whereas the General Court reminded the Commission that, in order to legally grant an authorisation under Article 60 (4), it has to verify a sufficient amount of substantial and verifiable information in order to conclude either that no suitable alternatives are available for any of the uses covered in the application or that remaining uncertainties on the lack of available alternatives, at the date of the adoption of the authorisation, are negligible ([3]);

Y. whereas the draft Commission implementing decision gives having taken into account 'the new available information from the restriction process' ([4]) as a reason for the delay in its adoption; whereas it is therefore surprising that the draft Commission implementing decision has failed to consider the availability of alternatives that is clearly documented in the restriction dossier ([5]); whereas alternatives mentioned in the restriction proposal are also relevant for uses covered in the draft Commission implementing decision ([6]);

Z. whereas the applicant itself has announced that it has now switched away from ortho-phthalates, including DEHP ([7]);

AA. whereas, finally, the Commission did not take into account the fact that DEHP has been officially recognised as an endocrine disruptor affecting human health and the environment; whereas this information ought to have been taken into account by the Commission in the context of the socioeconomic assessment under Article 60(4), as the benefits of a refusal to authorise are otherwise underestimated;

AB. whereas the authorisation proposed by the Commission is thus in breach of Articles 60(4) and 60(7) of the REACH Regulation;

AC. whereas the draft Commission implementing decision would reward laggards, and negatively affect companies which have invested in alternatives ([8]);

AD. whereas the draft Commission implementing decision states that 'the Commission took note' of the resolution of the European Parliament of 25 November 2015; whereas many of the structural flaws in the implementation of the authorisation chapter of the REACH Regulation that the Parliament highlighted in that resolution also vitiate the present draft Commission implementing decision ([9]);

([1]) See Minority Opinion: https://echa.europa.eu/documents/10162/7211effb-0e5a-430b-a1f1-15114cb9fcc9

([2]) https://echa.europa.eu/comments-public-consultation-0003-02, see in particular line 56.

([3]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, Case T-837/16, § 86, ECLI:EU:T:2019:144.

([4]) Draft decision § 3.

([5]) 'Technically feasible alternatives with lower risk are currently available at similar prices for all uses in the scope of this proposal' — https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66

([6]) https://www.echa.europa.eu/documents/10162/713fd91d-2919-0575-836a-f66937202d66, p. 69 — see 'applications' in the table covering also outdoor uses

([7]) http://grupaazoty.com/en/wydarzenia/plastyfikatory-nieftalanowe.html

([8]) See, for example, https://marketplace.chemsec.org/Alternative/Non-phthalate-plasticizer-for-extreme-applications-302; https://marketplace.chemsec.org/Alternative/Safe-plasticizer-for-demanding-outdoor-applications-298

([9]) See in particular recitals N, O, P and R of that resolution.

Wednesday 27 March 2019

AE. whereas the European Parliament in its resolution of 13 September 2018 on implementation of the circular economy package: options to address the interface between chemical, product and waste legislation ([1]), reiterated that 'moving towards a circular economy requires strict application of the waste hierarchy and, where possible, phasing out of substances of concern, in particular where safer alternatives exist or will be developed';

1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1907/2006;

2. Calls on the Commission to withdraw its draft implementing decision and to submit a new draft rejecting the application for authorisation;

3. Calls on the Commission to end swiftly the use of DEHP in all remaining applications, especially given the fact that safer alternatives to soft PVC and to DEHP are available;

4. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

([1]) Texts adopted, P8_TA(2018)0353.

Wednesday 27 March 2019

P8_TA(2019)0317

Certain uses of chromium trioxide

European Parliament resolution of 27 March 2019 on the draft Commission implementing decision granting an authorisation for certain uses of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Lanxess Deutschland GmbH and others) (D060095/03 — 2019/2654(RSP))

(2021/C 108/07)

The European Parliament,

— having regard to the draft Commission implementing decision granting an authorisation for certain uses of chromium trioxide under Regulation (EC) No 1907/2006 of the European Parliament and of the Council (Lanxess Deutschland GmbH and others) (D060095/03,

— having regard to Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC ([1]) (the 'REACH Regulation'), and in particular Article 64(8) thereof,

— having regard to the opinions of the Committee for Risk Assessment (RAC) and the Committee for Socio-Economic Analysis (SEAC) ([2]), pursuant to the second subparagraph of Article 64(5) of Regulation (EC) No 1907/2006,

— having regard to Articles 11 and 13 of 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 ([3]),

— having regard to the judgment of the General Court of 7 March 2019 in Case T-837/16 ([4]),

— having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

— having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas chromium trioxide was added to the candidate list of substances of very high concern under the REACH Regulation in 2010 ([5]) because of its classification as carcinogenic (category 1A) and mutagenic (category 1B);

([1]) OJ L 396, 30.12.2006, p. 1.

([2]) Use 1: https://echa.europa.eu/documents/10162/a43a86ab-fcea-4e2b-87d1-78a26cde8f80
Use 2: https://echa.europa.eu/documents/10162/dc9ea416-266e-4f49-88cb-35576f574f4a
Use 3: https://echa.europa.eu/documents/10162/fab6fe18-3d69-483b-8618-f781d18d472e
Use 4: https://echa.europa.eu/documents/10162/0f5571f8-d3aa-4031-9454-843cd7f765a8
Use 5: https://echa.europa.eu/documents/10162/6ee57573-de19-43b5-9153-dad5d9de3c1e
Use 6: https://echa.europa.eu/documents/10162/ab92f048-a4df-4d06-a538-1329f666727a

([3]) OJ L 55, 28.2.2011, p. 13.

([4]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, T-837/16, ECLI:EU:T:2019:144: http://curia.europa.eu/juris/documents.jsf?oqp=&for=&mat=or&lgrec=en&jge=&td=%3BALL&jur=C%2CT%2CF&num=T-837%252F16&page=1&dates=&pcs=Oor&lg=&pro=&nat=or&cit=none%252CC%252CCJ%252CR%252C2008E%252C%252C%252C%252C%252C%252C%252C%252C%252Ctrue%252Cfalse%252Cfalse&language=en&avg=&cid=2535071

([5]) https://echa.europa.eu/documents/10162/6b11ec66-9d90-400a-a61a-90de9a0fd8b1

Wednesday 27 March 2019

B. whereas chromium trioxide was included in Annex XIV to the REACH Regulation in 2013 ([1]) due to that classification, the high volumes currently in use, the high number of sites where it is used in the Union and the risk of significant exposure to workers ([2]), with a sunset date of 21 September 2017;

C. whereas companies willing to continue using chromium trioxide had to submit an application for authorisation by 21 March 2016;

D. whereas Lanxess and six other companies ('the Applicants') formed a consortium, with a membership of more than 150 companies, but whose exact membership is unknown, to submit a joint application ([3]);

E. whereas, having jointly submitted an application before the deadline of 21 March 2016, the Applicants and their downstream users were allowed to continue using chromium trioxide, pending the authorisation decision in application of Article 58 of the REACH Regulation, in respect of the uses applied for;

F. whereas the Commission received the opinions of the RAC and SEAC in September 2016; whereas the Commission's delay in drafting the decision de facto led to the continued use of chromium trioxide being tolerated for one and a half years after the sunset date;

G. whereas the primary objective of the REACH Regulation, in light of its recital 16, as interpreted by the Court of Justice of the European Union ([4]), is to ensure a high level of protection of human health and the environment;

H. whereas according to Article 55 and in light of recital 12 of the REACH Regulation, a central aim of authorisation is the substitution of substances of very high concern with safer alternative substances or technologies;

I. whereas the RAC confirmed that it is not possible to determine a derived no-effect level for the carcinogenic properties of chromium trioxide, which is therefore considered as a 'non-threshold substance' for the purposes of point (a) of Article 60(3) of the REACH Regulation; whereas this means that a theoretical 'safe level of exposure' to this substance cannot be set and used as a benchmark to assess whether the risk of using it is adequately controlled;

J. whereas the RAC has estimated that the granting of such an authorisation would lead to 50 statistical fatal cancer cases every year;

K. whereas Article 60(4) of the REACH Regulation provides that an authorisation to use a substance whose risks are not adequately controlled may only be granted if it is shown that socio-economic benefits outweigh the risk to human health or the environment arising from the use of the substance and if there are no suitable alternative substances or technologies;

L. whereas the application concerns the use of 20 000 tonnes of chromium trioxide per year;

([1]) Commission Regulation (EU) No 348/2013 of 17 April 2013 amending Annex XIV to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) (OJ L 108, 18.4.2013, p. 1).

([2]) https://echa.europa.eu/documents/10162/13640/3rd_a_xiv_recommendation_20dec2011_en.pdf

([3]) http://www.jonesdayreach.com/SubstancesDocuments/CTAC%20Press%20Release%20Conclusion%20plus%20Annex%20+%20Cons%20Agt+amendm.PDF

([4]) Judgment of the Court of 7 July 2009, *S.P.C.M. SA and Others* v *Secretary of State for the Environment, Food and Rural Affairs*, C-558/07, ECLI:EU:C:2009:430, paragraph 45.

M. whereas the application concerns a very large number of downstream users (more than 4 000 sites) active in industry sectors ranging from cosmetics to aerospace, from food packaging to automotive, and from sanitary to construction, with an unprecedented number of workers who are exposed (more than 100 000 workers);

N. whereas the application formally concerns six 'uses'; whereas those use descriptions are nevertheless so generic that they result in a very broad scope, or even an 'extremely broad scope' ([1]); whereas this vitiates both the socio-economic assessment as well as the assessment of suitable alternatives;

O. whereas point (d) of Article 62(4) of the REACH Regulation requires the Applicants to provide a chemical safety report in accordance with Annex I; whereas this must include an exposure assessment ([2]);

P. whereas the RAC noted a major discrepancy between the scope of the application submitted and the information provided therein ([3]);

Q. whereas the RAC identified major gaps in the information provided by the Applicants regarding the exposure scenarios for workers ([4]);

R. whereas the failure of the Applicants to provide the necessary information regarding the exposure scenarios of workers was acknowledged in the draft Commission implementing decision ([5]);

S. whereas, instead of considering the application not to be in conformity under Article 60(7) of the REACH Regulation, the draft Commission implementing decision simply requires that the Applicants provide the missing data in their review report, years after adoption of this draft decision ([6]);

T. whereas the review report, in accordance with Article 61 of the REACH Regulation, is not intended to give companies additional time to fill gaps in information that had to be provided up front (since such information is key to the decision-making), but is meant to ensure that the information initially provided in the application is still up-to-date;

U. whereas the General Court clearly stated that conditions attached to an authorisation, within the meaning of Article 60(8) and (9) of the REACH Regulation, cannot aim at remedying the potential failures of or gaps in the application for authorisation ([7]);

V. whereas the SEAC opinion furthermore highlighted significant uncertainties in the analysis of alternatives presented by the Applicants, which were also reflected in the draft Commission implementing decision ([8]);

W. whereas, in light of Article 55 and Article 60(4) of the REACH Regulation, an applicant must prove that there are no suitable alternative substances or technologies for the uses for which it has applied;

([1]) See RAC/SEAC opinion on use 2, p. 25, or on use 5, p. 61.

([2]) REACH, Annex I, section 5.1.

([3]) 'RAC notes the discrepancy in each use applied for, […] between a) the total number of potential sites which the applicant […] considers may be covered by this application (up to 1 590 sites as given in the SEA) [for use 2], b) the number of CTAC members (150+) and c) the measured exposure data provided (from 6 to 23 sites for uses 1 to 5)'.

([4]) 'The greatest uncertainty arises from the lack of clear link between the OCs [operational conditions], RMMs [risk management measures] and exposure values for specific tasks and sites, which could justifiably represent the application. RAC sees this as a substantial weakness of the application' (RAC opinion on use 2, p. 12).

([5]) 'RAC concluded that there are significant uncertainties regarding worker exposure due to limited availability of measured exposure data. It further concluded that a prevalent lack of contextual information has made it difficult to establish a link between the operational conditions and risk management measures described in the application and the claimed exposure levels for specific tasks and sites, thereby preventing RAC from further evaluation. Those uncertainties concern the reliability and representativeness of the exposure data and how it relates to the specific risk management measures in place', Draft decision, recital 7.

([6]) Draft decision, recital 25 and Article 8.

([7]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, ECLI:EU:T:2019:144, paragraphs 82 and 83.

([8]) 'Due to the very broad scope of the intended uses, the SEAC could not exclude possible uncertainty with regard to the technical feasibility of alternatives for a limited number of specific applications that are covered by the description of the uses applied for', Draft decision, recital 14.

Wednesday 27 March 2019

X. whereas suitable alternatives have been shown to be available for many of the applications that are covered by the uses to be authorised ([1]);

Y. whereas the General Court reminded the Commission that, in order to legally grant an authorisation under Article 60 (4) of the REACH Regulation, it has to verify a sufficient amount of substantial and verifiable information in order to conclude either that no suitable alternatives are available for any of the uses covered in the application or that, at the date of the adoption of the authorisation, the remaining uncertainties on the lack of available alternatives are only negligible ([2]);

Z. whereas in this case, the uncertainties on the analysis of alternatives were far from negligible ([3]);

AA. whereas the fact that the 'uses' for which the Applicants decided to apply are very broad cannot legitimately justify an incomplete analysis of alternatives;

AB. whereas Article 62 of the REACH Regulation does not provide for any information waiver for companies applying together as a consortium;

AC. whereas the authorisation proposed by the Commission is therefore in breach of Article 60(7) and (4) of the REACH Regulation;

AD. whereas, moreover, a number of downstream users covered by the draft Commission implementing decision have already applied separately for authorisation; whereas the RAC and SEAC have already issued their opinion on some of these applications; whereas some authorisations for downstream users have already been granted;

AE. whereas, however, there may be specific applications among the very broad uses of the joint application by the Applicants for which downstream users did not make a separate request for authorisation, but for which the conditions of Article 60(4) of the REACH Regulation may be fulfilled;

AF. whereas such applications may be in important areas;

AG. whereas it would therefore be appropriate, exceptionally, to give a chance to such downstream users that have not yet made a specific application to submit a separate application within a short deadline;

1. Calls on the Commission to withdraw its draft implementing decision and to submit a new draft;

2. Calls on the Commission to carefully assess whether any authorisations can be granted in full compliance with the REACH Regulation for specific, well-defined uses covered by the application submitted by the Applicants;

3. Calls on the Commission to grant, exceptionally, to downstream users whose use is covered by the application by the Applicants, but for which no separate application for authorisation has yet been made, and for which the relevant data is missing, the possibility to submit the missing data within a short deadline;

([1]) Alternatives related to applications 2 to 5:
- PVD CROMATIPIC plasma coating, see https://marketplace.chemsec.org/Alternative/Eco-friendly-chrome-plating-based-on-nanotechnologies-94
- EHLA process, see https://marketplace.chemsec.org/Alternative/Effective-Protection-against-Wear-Corrosion-with-the-EHLA-Process–185
- TripleHard, see https://marketplace.chemsec.org/Alternative/TripleHard-REACH-compliant-hard-chrome-is-the-best-in-the-market-96
- Hexigone Inhibitors, see https://marketplace.chemsec.org/Alternative/Chrome-and-Zinc-free-Corrosion-Inhibitor-for-Coatings-Highly-Effective-Drop-In-Replacement-of-Hexavalent-Chromate–95
- SUPERCHROME PVD COATING, see https://marketplace.chemsec.org/Alternative/SUPERCHROME-PVD-COATING-a-green-alternative-to-hexavalent-chrome-plating-10
- Oerlikon Balzers ePD, see https://marketplace.chemsec.org/Alternative/Oerlikon-Balzers-ePD-Reach-compliant-Chrome-look-for-plastic-parts-on-a-new-level-69

([2]) Judgment of the General Court of 7 March 2019, *Sweden* v *Commission*, ECLI:EU:T:2019:144, paragraph 86.

([3]) 'According to the applicant, applications where substitution is already possible are not covered by the application anyhow. The applicant does, however, not specify such applications or their related technical requirements. SEAC finds the applicant's approach to resolve this issue not fully appropriate and emphasises the need for the applicant to demonstrate more concretely that substitution has taken place where indeed already feasible. This could have been achieved by undertaking a more precise and use-specific assessment of alternatives', SEAC opinion on use 2, p. 25.

4. Calls on the RAC and SEAC to assess swiftly those subsequently completed applications, including a proper check that those applications have included all the necessary information specified in Article 62 of the REACH Regulation;

5. Calls on the Commission to take swift decisions with regard to those applications in full compliance with the REACH Regulation;

6. Calls on the RAC and SEAC to no longer accept applications that do not include the information to be provided pursuant to Article 62 of the REACH Regulation;

7. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.

Wednesday 27 March 2019

P8_TA(2019)0318

Post-Arab Spring: way forward for the Middle East and North Africa (MENA) region

European Parliament resolution of 27 March 2019 on the post-Arab Spring: way forward for the MENA region (2018/2160(INI))

(2021/C 108/08)

The European Parliament,

— having regard to the document entitled 'Shared Vision, Common Action: A Stronger Europe — A Global Strategy for the European Union's Foreign and Security Policy', presented by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on 28 June 2016 ([1]), and to the 2017 and 2018 implementation reports,

— having regard to Regulation (EU) No 232/2014 ([2]) of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (ENI),

— having regard to Regulation (EU) No 235/2014 ([3]) of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide,

— having regard to the Commission proposal for a regulation of the European Parliament and of the Council of 14 June 2018 establishing the Neighbourhood, Development and International Cooperation Instrument (COM(2018)0460),

— having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 18 November 2015 entitled 'Review of the European Neighbourhood Policy' (JOIN(2015) 0050), and to the joint report from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 18 May 2017 on the Implementation of the European Neighbourhood Policy Review (JOIN(2017) 0018),

— having regard to the joint communications from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 8 March 2011 entitled 'A partnership for democracy and shared prosperity with the Southern Mediterranean' (COM(2011)0200), and of 25 May 2011 entitled 'A new response to a changing Neighbourhood' (COM(2011)0303),

— having regard to the joint communication by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy to the European Parliament and the Council of 14 March 2017 entitled 'Elements for an EU Strategy for Syria' (JOIN(2017)0011) and to the Council conclusions on Syria of 3 April 2017, which together make up the new EU strategy on Syria,

— having regard to the partnership priorities concluded between the European Union and a variety of countries in the Middle East, including Egypt, Lebanon and Jordan,

— having regard to the 2018 NATO Summit Declaration,

— having regard to NATO's Mediterranean Dialogue and ongoing crisis management and cooperative security efforts in the region,

— having regard to the EU Global Approach to Migration and Mobility (GAMM),

([1]) https://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf
([2]) OJ L 77, 15.3.2014, p. 27.
([3]) OJ L 77, 15.3.2014, p. 85.

— having regard to the sets of EU thematic guidelines on human rights, including on human rights dialogues with third countries and on human rights defenders,

— having regard to the EU guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, adopted by the Council on 24 June 2013,

— having regard to the joint communication from the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 January 2017 entitled 'Migration on the Central Mediterranean route — Managing flows, saving lives' (JOIN(2017)0004),

— having regard to the Global Compact for Migration,

— having regard to the UN Sustainable Development Goals (SDGs),

— having regard to the Action Plan on Human Rights and Democracy 2015-2019, adopted by the Council on 20 July 2015, and to its mid-term review of June 2017,

— having regard to the joint staff working document of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 21 September 2015 entitled 'Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020' (SWD(2015)0182),

— having regard to the recommendation of the Committee on Women's Rights of the Parliamentary Assembly of the Union for the Mediterranean (PA UfM) entitled 'Participation of women in the leadership positions and decision making: Challenges and prospects', adopted at its 13th Plenary Session held in May 2017 in Rome,

— having regard to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),

— having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),

— having regard to the Beijing Declaration and Platform for Action of September 1995 and to the Programme of Action of the International Conference on Population and Development (Cairo Conference) of September 1994, as well as to the outcomes of their review conferences,

— having regard to its resolution of 9 July 2015 on the review of the European Neighbourhood Policy [1],

— having regard to its resolution of 9 July 2015 on the security challenges in the Middle East and North Africa region and the prospects for political stability [2],

— having regard to its resolution of 14 September 2016 on the EU relations with Tunisia in the current regional context [3],

— having regard to its resolution of 18 April 2018 on the implementation of the EU external financing instruments: mid-term review 2017 and the future post-2020 architecture [4],

— having regard to its recommendation of 30 May 2018 to the Council, the Commission and the VP/HR on Libya [5],

— having regard to its resolution of 14 November 2018 on the Multiannual Financial Framework 2021-2027 [6],

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[1] OJ C 265, 11.8.2017, p. 110.
[2] OJ C 265, 11.8.2017, p. 98.
[3] OJ C 204, 13.6.2018, p. 100.
[4] Texts adopted, P8_TA(2018)0119.
[5] Texts adopted, P8_TA(2018)0227.
[6] Texts adopted, P8_TA(2018)0449.

Wednesday 27 March 2019

— having regard to the EU-Tunisia Association Agreement Councils of 11 May 2017 and 15 May 2018, the EU-Algeria Association Council of 14 May 2018, the EU-Egypt Association Council of 25 July 2017,

— having regard to the Foreign Affairs Council conclusions on Libya of 6 February 2017 and 15 October 2018, and on Syria of 3 April 2017 and 16 April 2018,

— having regard to Rule 52 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Women's Rights and Gender Equality (A8-0077/2019),

A. whereas the Arab uprisings that affected the MENA region in 2011 constituted a moment of mass upheavals against authoritarian regimes and deteriorating socio-economic conditions; whereas a large segment of the protesters was composed of young women and men aspiring to democracy, freedom and the rule of law, as well as to a better and more inclusive future, recognition of their dignity and better social inclusion and economic prospects; whereas the overthrow of some of the regimes and, in some cases, the introduction of democratic reforms gave rise to great hope and expectations;

B. whereas the majority of the population in the MENA region is under the age of 35; whereas youth unemployment in the region is still among the highest in the world; whereas this gives rise to social exclusion and political disenfranchisement, as well as a brain drain towards other countries; whereas all these factors were at the root of the 2011 protests and are again generating protests in some countries; whereas young people in vulnerable settings, without agency or prospects, can constitute targeted groups for radical movements;

C. whereas in oil-importing countries in particular, the global financial crisis, the decline in oil prices, demographic trends, conflict and terrorism have further aggravated the situation after the 2011 events; whereas the economic model typifying such countries is no longer viable, resulting in a crisis of trust that needs to be urgently addressed by the governments concerned, with a view to establishing a new social contract with their respective citizens; whereas the increasing social impact of the decline in state subsidies, public sector jobs and public services, the spread of poverty and environmental problems, especially in remote areas and among marginalised communities, have been a source of continuing unrest and spontaneous protests in the region, which are likely to continue growing in the years ahead;

D. whereas, eight years after the Arab Spring and political developments which have led countries in the Maghreb and Mashreq regions to follow many diverse evolutionary paths in terms of politics and stability, it is still essential to assess how to respond to the legitimate democratic aspirations and the desire for sustainable stability in the region, as well as to the urgent need for jobs, the rule of law and improvement in living conditions and sustainable security; whereas it is important to take stock of the efforts and policy stance adopted by the EU in response to the Arab Spring and to assess its capacity for policy delivery; whereas it is essential to reassess and adapt the policy framework of the EU towards Southern Neighbourhood countries and its future objectives and the means to achieve them, while taking into account the diversity of the situations in the countries of the region;

E. whereas insufficient coordination between the Member States and the EU undermines the capacity of both to exert a positive influence in the Maghreb and Mashreq regions; whereas individual Member States' action in the region needs to be coordinated, and needs to be in synergy with the EU's objectives; whereas the EU must pursue the objectives set out in Articles 8 and 21 of the Treaty on European Union; whereas the EU needs to increase its political and diplomatic leverage; whereas long-term political and economic stability, as well as resilience in the Maghreb and Mashreq regions is of fundamental strategic importance to the EU, and as such requires a longer-term, integrated and forward-looking approach as regards the policy framework and its objectives, in line with the needs of citizens in partner countries and the EU's strategic interests;

F. whereas the EU's policy towards North African and Middle Eastern countries has two main objectives, namely to encourage political and economic reforms in each individual country taking due account of its specific features, and to encourage regional cooperation among the countries of the region themselves and with the EU;

G. whereas the EU should play a central role in promoting conflict prevention, mediation and resolution, the protection and promotion of human rights, the rule of law and space for civil society, as well as democratic, social and fair economic governance in the Maghreb and Mashreq regions; whereas an open civil society and the work of human rights defenders as actors for social change are fundamental to the long-term resilience and prosperity of the region;

H. whereas any detention that results from the exercise of the rights or freedoms guaranteed by international law, such as freedom of expression and freedom of assembly, constitutes arbitrary detention that is prohibited under international law; whereas, in significant swathes of the MENA region, human rights defenders, journalists, lawyers, political opposition activists and civil society at large have faced increasing systematic persecution, threats, attacks, reprisals, judicial harassment, arbitrary detention, torture and ill-treatment; whereas the EU and the Member States must significantly step up their efforts in order to adequately address this issue;

I. whereas in the region, there are numerous armed conflicts and thousands of people have been murdered and disappeared and millions displaced; whereas ISIS/Daesh and other jihadist groups have committed atrocities, including brutal executions and unspeakable sexual violence, abductions, torture, forced conversions and the enslavement of women and girls; whereas children have been recruited and used in terrorist attacks; whereas there are serious concerns about the welfare of the population currently under the control of ISIS/Daesh and their possible use as human shields during the liberation campaign; whereas these crimes may amount to war crimes and crimes against humanity;

J. whereas in response to the developments in the region, the EU revised its Neighbourhood Policy in 2015; whereas the review provides for a deeper involvement of Member States in the European Neighbourhood Policy (ENP);

K. whereas state and societal resilience are among the key priorities of the EU Global Strategy; whereas the latter recognises that a resilient society hallmarked by democracy, trust in institutions, and sustainable development lies at the heart of a resilient state, while repressive states are inherently fragile in the long term;

L. whereas, for those countries with which the EU has signed association agreements, the legally binding commitments of these agreements, including on human rights, should form a basis for relations and, notably, the partnership priorities agreed between the EU and certain neighbourhood countries;

M. whereas according to UNICEF, the first threat affecting children living in MENA conflict areas is child labour; whereas 2,1 million children in Syria and 700 000 Syrian refugee children do not have access to education; whereas continuing violence and external displacement, natural disasters, growing economic and gender inequality, and high rates of youth unemployment and poverty in several MENA countries have left 28 million children in need of humanitarian assistance;

1. Notes with concern that, eight years after the first upheavals, most of the legitimate aspirations of the peaceful protesters for dignity, human rights and progressive social, economic and political reforms have still not been met in most countries; acknowledges that in some cases there have been a few positive developments and some democratic gains have been consolidated, but points to the fact that these are still insufficient; condemns the persistent and continuing violations of human rights, the rule of law and fundamental freedoms, and widespread discrimination against minorities; is very worried about the continued dire socio-economic situation in the region and, in particular, about the high levels of unemployment (affecting, in particular, women and young people) and social exclusion, which cause disillusionment and disenfranchisement on a large scale, especially among young people, pushing them into despair, to irregular migration as a way out or making them more vulnerable to radicalisation; stresses that the economic situation of these countries has a strong impact on their security situation as well; deplores the persistent levels of corruption, nepotism and unaccountability in the region;

2. Stresses that the long-term prosperity of post-Arab Spring countries goes hand in hand with their capacity to actively ensure the protection of universal human rights and the establishment and anchorage of democratic and transparent institutions that are engaged in protecting citizens' fundamental rights; is, therefore, very concerned about ongoing human rights violations, the shrinking or closing space for democracy and local civil society organisations, the rollback of gains in

freedom of expression — both online and offline — and of assembly and association, the repression of human rights defenders and the suppression of the role of the media — including through abuses of anti-terrorism legislation and surveillance technology and the curtailment of the rule of law, in a number of MENA countries; notes with concern the particular role and responsibility of the military and the security services in the deterioration in the political trajectory of several countries in the aftermath of the Arab Spring, and their persistent and dominating control over State and economic resources; calls, therefore, for the EU and the Member States to adequately incorporate this fundamental dimension within their engagement with the MENA region; calls for the EU and Member States to engage with third-country governments to end such practices and repeal repressive legislation, as well as to ensure proper vetting of the exports of European surveillance technology and technical assistance; urges the EU to give priority to supporting parliamentary and civil society efforts towards greater accountability and transparency of the security and military services;

3. Welcomes the EU and its Member States' continued efforts to promote democracy, the rule of law, human rights, fundamental freedoms, as well as economic development and the important nexus between democracy and sustainable security in post-Arab Spring countries, and acknowledges the complexity of such a task; takes the view, however, that, despite a fifteen-year policy focus on Southern and Eastern Mediterranean countries, renewed policy efforts and increased budgetary resources in the wake of the Arab Spring (or Arab Springs), the EU's goals and policies have not yet been achieved to the extent needed (and in some instances the situation has become worse), and that a real process of socio-economic inclusion has yet to begin; stresses that the external action of the EU vis-à-vis post-Arab Spring countries should factor in the realities on the ground and adapt policy strategies and their implementation accordingly; considers that insufficient EU leadership and initiative in working towards the resolution of protracted conflicts have weakened the EU's capacity to make a diplomatic impact in the region; calls for the EU to strongly support the UN peace processes aimed at the resolution of conflicts in the MENA region;

4. Recalls the harm and suffering caused by extremism and terrorism in the region, and highlights that violence is a serious threat to its stability and that security cooperation within the region, as well as cooperation with the EU and its Member States, in full respect for international human rights law, remains of the utmost importance in order to successfully overcome terrorist organisations such as Daesh and, in so doing, help the people in the region to eventually live in peace and in an environment of stability and progress; welcomes, therefore, EU initiatives aimed at addressing the terrorist threat in the MENA region; underlines the importance of strengthening the capacity of state actors that play a key role in countering terrorism and violent extremism, as well as the essential need to focus on partnerships between the authorities, young people and communities to address underlying factors that can make communities vulnerable to violent extremism, and to tackle the root causes of conflict;

5. Expresses concern about the fact that, in spite of its considerable political and budgetary investments and continuous political and economic outreach, the EU has not been able to gain real, substantive political and economic leverage, that the impact of EU policies remains limited, and the EU is not perceived as a game changer by the countries in the region; points to the dissatisfaction felt by civil society, local NGOs and young people in general at how the EU fails to fully translate its vision into action on the ground; is concerned about the increasingly complex political situation in the Maghreb and Mashreq regions, and notes the emergence of new and resurgent political and economic regional players such as Russia and China in addition to the competing narratives and financing from the Gulf countries and Iran, which pursue objectives that could even be in conflict with those of the EU; calls for a stronger commitment by and firmer vision on the part of the EU to enable it to become a more central player; calls for the EU to engage in more dialogue with civil society organisations (CSOs) in order to pursue policies which are able to meet the expectations of all democratic stakeholders; emphasises the need for the EU to engage in dialogue with all political actors in the MENA countries;

6. Highlights the importance of the Union for the Mediterranean(UfM), which is the only political forum that brings together the EU Member States and all the Mediterranean countries; stresses that the UfM that has recently celebrated its 10th anniversary, must play a greater role in jointly addressing the challenges we have in common; takes positive note of the Third Regional Forum of the UfM on 8 October 2018, which commemorated the 10th Anniversary of the Paris Summit for the Mediterranean, recognised the usefulness of continuing to develop the interactions between the UfM and other actors in the Euro-Mediterranean region; calls on the Commission, the European External Action Service (EEAS) and the High Representative to substantially rethink and revive the project of the UfM; encourages the use of this project as a means of fostering closer cooperation between the EU and Mediterranean countries;

7. Regrets that partnership priorities are being concluded with countries without any conditions attached and despite significant and continuing backsliding in the field of democracy, human rights and the rule of law;

8. Takes the view that for far too long the policy stance towards Maghreb and Mashreq countries was marred by an approach which was based to too great an extent on the EU's expectations and objectives, which did not fully take into account the interests and realities of the EU's partner countries, and with little incentive for and ownership by the latter and too little consideration for the aspirations of the populations who ought to benefit from EU policies, and for the particular political situation in different countries; regrets that the initial efforts after the Arab Spring (or Arab Springs) to introduce stricter conditionality and delivery incentives for beneficiary countries through the 'more for more' principle did not lead to greater leverage on the part of the EU in its ability to promote real change in the areas of democracy, the rule of law, human rights and fundamental freedoms, economic and social development and sustainable security in most countries; stresses that differentiation and enhanced mutual ownership are the hallmarks of the ENP, recognising different levels of engagement, and reflecting the interests of each country in relation to the nature and focus of its partnership with the Union; calls for a more consistent application of the 'more for more' principle by defining, at policy, programme and project levels in bilateral relations, concrete goals and benchmarks for increased support; recalls that the goal of democratisation can only be achieved in a sustainable manner if it is thoroughly pursued throughout the respective countries in both urban as well as, in particular, rural areas, and highlights that stability supports the development of a democracy, and that a well-timed preparation process which should include a wide consultation and inclusion of relevant societal groups and leaders, is beneficial to achieving this goal; further underlines that democratisation both supports economic development and strengthens the rule of law;

9. Acknowledges the initial efforts by the EEAS and the Commission, in cooperation and dialogue with the European Parliament, to substantially reform the EU policy framework for post-Arab Spring countries in order to increase its political leverage capacity in the Maghreb and Mashreq regions; points to the Global Strategy for the European Union's Foreign and Security Policy and its added value as regards the potential for achieving synergies in actions at EU level, building on political, economic and social dialogue, stressing further the nexus between socio-economic development and sustainable security, and ensuring adequate support and implementation through the Financial Instruments for the external action of the EU; takes note of the 2015 revision of the ENP aimed at taking into account the changing scenarios in the region; insists on the importance of in-depth, annual country-by-country reporting on the implementation of the ENP; recalls also the important support provided by the European Instrument for Democracy and Human Rights (EIDHR) in the implementation of the EU's Strategic Framework and Action Plan on Human Rights and Democracy and its human rights guidelines and country strategies, which has enabled the EU to act more strategically in this area, including in the Southern Neighbourhood, and has ensured greater accountability, visibility and effectiveness;

10. Stresses the need to strive for the most efficient use of available resources in order to optimise the impact of the EU's external action that should be achieved through coherence and complementarity among the Union's external action financing instruments;

11. Points out the complexity of responding appropriately to the migration and refugee flows from and through the Maghreb and Mashreq regions, of a security-focused perspective on migration, of the challenge of terrorism and the legitimate concerns about the fragility of certain countries in the region, and the need for stronger consideration of climate change imperatives, as well as the challenges arising from the lack of a cohesive approach by the Member States; is concerned that these factors are leading the EU's action in relation to the region to rely excessively on an ideology of short-term stability, thereby disregarding other important aspects; takes the view that when stability and security become the predominant objectives, they lead to a shorter-term and short-sighted policy vision and deprive EU action directed at reaffirming human rights and fundamental freedoms of the required intensity; recalls that fostering state and societal resilience should not lead to the continuation of authoritarian regimes; reiterates that human rights are not subordinate to migration management or counter-terrorism actions, and is convinced that a credible and coherent stability and sustainable security policy can only be achieved through the pursuit of longer-term interests and principles, such as inclusive and beneficial economic and social development, as well as the strengthening of human rights and fundamental freedoms, in the framework of a human-centred and conflict-sensitive approach; recalls, however, that the long-term stability of those countries can only be achieved through a balanced relationship between security requirements and development, based on the rule of law and human rights;

12. Calls for the EU to address the root causes of migration such as conflicts, environmental issues, extreme poverty and social exclusion and to re-orient political cooperation towards a more balanced and equal partnership with the MENA region, putting youth policies and investments towards local small and medium-sized enterprises (SMEs) at its heart;

13. Notes that some countries host millions of refugees, the majority of whom are women and children living in poverty, which exacerbates domestic violence, the prostitution of women and young girls, forced child marriage and child labour in the community;

14. Calls for the European institutions, its Member States as well as national development agencies, to strive to provide a unified European stance towards the region, focusing on our common interests, to ensure a single and coherent European strategy, in order to fulfil the EU's full potential as a meaningful supporter of democratic, economic and social reforms;

15. Notes with particular concern that civil society and human rights defenders across the MENA region face increasing threats, reprisals, judicial harassment, arbitrary detention, torture and ill-treatment as well as other forms of persecution; underlines that the work of human rights defenders is crucial for the long-term development and stability of the region; reiterates, in this context, its call for full implementation of the EU guidelines on human rights defenders; emphasises the need for EU and Member State leaders and diplomats at all levels to raise cases of individual human rights defenders at risk with third-country governments including, where appropriate, through public statements, démarches and regular dialogue, meetings with defenders, visiting defenders in detention, and observing defenders' trials; highlights the need for the EU and Member States to increase their funding and capacity for supporting human rights defenders at risk, through emergency grants as well as through support for civil society protection mechanisms such as ProtectDefenders.eu; welcomes the European Endowment for Democracy and the EIDHR's consistent efforts to promote democracy and respect for fundamental rights and freedoms in the Southern Neighbourhood of the EU; insists that the EU and its Member States must actively seek to engage with and support the most vulnerable human rights defenders and civil society actors across the region, including those in remote and rural regions, those fighting for LGBTI, indigenous, environmental and land rights, refugee and labour rights defenders, and women, who face specific risks and threats due to their gender;

16. Welcomes the concept of co-ownership put forward by the revised ENP; is concerned, however, that it runs the risk of allowing authoritarian regimes in certain partner countries to cherry-pick priorities according to their national agenda, instead of advancing along the path towards democratisation; stresses, therefore, the importance of a long-term policy framework and synergies in programming for post-Arab Springs countries based on the primacy of democracy, the inclusion of all democratic political forces and the primacy of the rule of law, human rights and fundamental values; reiterates that strengthening these aspects, as well as developing an attractive economic climate and support for positive reforms are in the interests of the partner countries and their populations, as well as of the EU, and calls for stronger conditionality in cases of systematic violations of human rights by the authorities; recalls that partner countries that are willing to pursue reforms, closer political dialogue and that attain more should be given new incentives and support adequate to their aspirations and commitment, and demands a performance-based approach, based on inclusive dialogue, clear priorities and objectives in this sense; insists that in cases of systematic violations of human rights by the authorities, EU budgetary assistance should be redirected to local civil society;

17. Supports the aspirations of all those in the MENA region, including the majority of young people, who want to establish free, stable, prosperous, inclusive, and democratic countries which respect their national and international commitments on human rights and fundamental freedoms; welcomes democratic processes in the region and the sustained partnership with the EU; calls for the EU to take this into account in all its policy areas, in order to enhance their coherence and to assist the partner countries in a more effective way; highlights that, for any political transformation to be fully sustainable, it is important and necessary to come to terms with the past and, in this context, points to the important work of the 'Truth and Dignity Commission' of Tunisia, which sets an example for the entire region;

18. Regrets that in certain instances, bilateral investigative and judicial cooperation on cases of detention, violence or the deaths of EU citizens has been inadequate, as in the case of the Italian researcher Giulio Regeni; considers it essential to link further collaboration in other sectors to substantial improvements in this field;

19. Is convinced that where the prerequisites for the negotiation of Deep and Comprehensive Free Trade Areas (DCFATs), conditional on democratic progress, are not yet in place or do not meet the respective countries' aspirations, the EU should provide increased access to sustainable trade and investment, notably for the benefit of Southern Mediterranean populations and economies, supporting production capacities, the modernisation of infrastructure and the creation of attractive economic climates, with a focus on the domestic and regional markets, fostering decent work, social protection and inclusive socio-economic development;

20. Takes the view that, as the EU struggles to come up with a forward-looking, rights-based and people-centred vision for its migration and asylum policy, there is an increasing risk that some countries in the region might use migration containment and their role therein to seek greater leverage in their political and policy dialogue with the EU; considers that more assistance should be provided to the MENA countries to deal with the influx of immigrants from sub-Saharan Africa, and, in this context, welcomes the efforts made by the EU to tackle the root causes of migration, but recalls that more efforts will be needed to be successful in this endeavour; considers it important to involve MENA region partners in the implementation of common solutions to tackle issues such as the fight against human trafficking; is concerned, however, about the possible instrumentalisation of EU foreign policy as 'migration management', and emphasises that all attempts to work with post-Arab Springs countries, including countries of origin and transit, on migration must go hand in hand with improving human rights conditions within these countries and their compliance with international human rights and refugee law; stresses that the challenge posed by migration flows is a common challenge for the countries of the MENA region (countries of origin and transit) and those of the Union (countries of destination); stresses, in addition, the importance of a policy framework promoting democratic, political and socio-economic inclusion as mutually reinforcing factors, including with regard to fostering conditions for a safe, dignified life for people in the region and reducing forced displacement;

21. Points out the risk that the EU's action for the region and the approach pursued by Member States through bilateral relations may be undermined by uncoordinated and unilateral approaches, and that the EU's capacity to make a political impact might be lost as a result; welcomes, in this context, the proposal made by the President of the Commission to move beyond unanimity in Council decision-making in common foreign and security policy areas, as it could help the EU to speak with one voice, unite behind one clear strategy in its foreign relations and have greater leverage; takes the view that the deeper involvement of Member States in the ENP as envisaged in the 2015 review of the ENP, although positive, should be better pursued; stresses the importance and the depth of the links between several Member States and their peoples and many Southern Mediterranean countries; calls, in this context, on EU Member States to strengthen the coordination of their actions in the region and examine ways in which they can act more effectively;

22. Calls for the EU and the Member States, taking into account the EU anti-corruption *acquis*, to strengthen their judicial cooperation programmes with partner countries in the region in order to promote the exchange of best practices and establish an effective legal arsenal to fight corruption; believes that reforms of the public administrations and the public sector in the Southern Neighbourhood should be a priority, together with the fight against corruption, and should be pursued through increased financial resources, capacity building and closer cooperation with the Member States, as well as support to civil society actors in the areas of anti-corruption, transparency and accountability;

23. Reiterates that the promotion and protection of human rights, democracy and the rule of law are among the fundamental tenets of the EU's foreign policy; is concerned about the ongoing sales of arms and security equipment from EU Member States, including of surveillance technologies used for internal repression, to authorities in the region which fail to respect human rights and international humanitarian law; urges Member States to strictly comply with Council Common Position 2008/994/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment ([1]), which among other things states that export licences should be denied where there is a clear risk that the military technology or equipment to be exported might be used for internal repression, or for the commission of serious violations of international humanitarian law; reiterates its position as laid down in its amendments to the proposal for a regulation of the European Parliament and of the Council setting up a Union regime for the control of exports, transfer, brokering, technical assistance and transit of dual-use items, as adopted on 17 January 2018 ([2]); urges the EU Member States to give the utmost importance to this file in trying to reach agreement with the Council;

([1]) OJ L 335, 13.12.2008, p. 99.
([2]) OJ C 458, 19.12.2018, p. 187.

24. Considers that the partnership priorities agreed between the EU and partner countries under the ENP should make explicit reference to the relevant association agreement, notably its human rights clause, ensuring that human rights constitute an essential and transversal aspect of the agreed partnership priorities, to be discussed at all levels, notably at the highest political level, and not confined to low-level sub-committee meetings;

25. Calls for greater inclusiveness and a closer involvement of local civil society in the identification of needs in the partner countries; welcomes the efforts by the EEAS and the Commission to broaden civil society outreach and include the private sector, and encourages them to do more in this regard; emphasises the need to ensure the participation of independent civil society representatives, including unregistered human rights groups and human rights defenders, and regrets that this is being hindered in particular in instances where dialogue and support pass through government-controlled agencies or focus solely on pro-government organisations; takes the view that the EU should facilitate access to available funds for smaller and local CSOs, including social partners, and streamline the application processes and focus on local CSOs; points out the perception among local civil society interlocutors of a primary focus by the EU on large, international CSOs; calls for the EU to invest more resources in promoting the capacity building of local CSOs and facilitating enhanced partnerships between them and large, international CSOs, as well as improving social partners' capacity for social dialogue with the government, with a view to increasing local ownership;

26. Calls on the EEAS to step up its efforts to exchange best practices when it comes to women's role in public life;

27. Underlines that women's commitment and empowerment in the public, political, economic and cultural spheres of the countries in the MENA region are vital if long-term stability, peace and economic prosperity are to be achieved; underlines that in the countries in which the Arab Spring has led to ongoing conflict, women's involvement in peace-making processes and mediation are essential to restoring a non-violent society; considers that women's access to education, supported by CSOs, and gender equality are essential in order to accomplish this;

28. Stresses that strengthening local authorities contributes to the spread of democracy and the principles of the rule of law; calls, therefore, for the process of decentralisation to be encouraged and for empowerment of the regions through the development of local autonomies; encourages and supports partnerships with EU Member States and decentralised cooperation projects carried out by Member States' local authorities with the aim of developing municipal and regional governance in the countries of the region;

29. Recalls the importance of securing adequate visibility for EU efforts and EU assistance and investment in the region by means of enhanced strategic communication, public diplomacy, people-to-people contacts, cultural diplomacy, cooperation in educational and academic matters, and outreach activities to promote the Union's values; calls, in particular, or the reinstatement of the mandate of an EU Special Representative for the Southern Mediterranean, which would spearhead EU engagement with the region and ensure heightened EU visibility;

30. Believes that with a view to increasing the EU's capacity to make a political and policy impact and to promoting ownership and widespread support by beneficiary countries, each EU Delegation should envisage regular consultations with experts and CSO representatives, and should, in particular, set up high-level advisory councils reflecting the social, economic and political diversity of the country concerned, comprising economic, media, cultural, academic, civil society and prominent youth leaders, as well as social partners and leading human rights defenders from the country concerned and providing input as regards policy priorities and the policy architecture devised by the EU;

31. Is convinced that young people should be a primary focus of the EU's action towards the region, with an intersectional approach; calls for youth policies to be mainstreamed in all the Union's policies in the MENA region; believes it is crucial to devise durable solutions commensurate to the scale of the youth employment challenge, and underlines the relevance of promoting decent job, entrepreneurship and self-employment opportunities; proposes, in this context, that each EU Delegation work to set up informal youth boards comprising young political, social, economic, media, cultural and CSO leaders with a view to providing input and advice on policy priorities, the capacity of EU policies to make an impact in the country and introduce an additional element of accountability in relation to policy choices; calls on European political families and think tanks to engage in enhanced exchanges with active local young people from the MENA countries, with a view to promoting their empowerment, training and capacity-building to enable them to stand in local elections and become new actors of positive change in their respective countries;

32. Calls for the EU to assist its partners in addressing the root causes of radicalisation such as poverty, unemployment, social and political exclusion and society's inability to address people's needs and create opportunities for young people through enhanced cooperation with the MENA region putting people, especially youngsters, at its heart; calls for the EU to support young people's access to entrepreneurship through, for example, encouraging and supporting investments in start-ups; believes that the EU's action in relation to the region should put greater emphasis on inclusive economic and social development to promote job creation, the employability of young people, the introduction of training better tailored to the labour market and labour rights reforms, together with reforms aimed at establishing strong universal social protection systems, with a specific focus on the most vulnerable groups; calls for the EU to invest more resources in actions aimed at improving access to quality essential services for all, such as education and healthcare, and to increase its efforts to enhance social dialogue as well as in promoting legislative reforms in relation to freedom of association, peaceful assembly and expression, freedom of the press, fighting corruption and ensuring access to resources and information as key ingredients for stability and for an open, dynamic and resilient society;

33. Is very concerned about the escalation of tensions in the region; denounces the instrumentalisation of religious differences in order to instigate political crises and sectarian wars;

34. Calls for the EU to strongly support the countries of the MENA region in their fight against the dangers of religious radicalism to which unemployed young people are particularly exposed;

35. Believes that mechanisms are required to stop the financing of terrorism through offshore entities involving states and financial institutions, and to stop arms trafficking and the buying and selling of energy resources and raw materials which benefit terrorist groups;

36. Points to the challenges of climate change, desertification and water shortages that are deeply affecting the region; strongly encourages policymakers as well as all actors in both the EU and the MENA region to step up their cooperation with partner countries, including local authorities and CSOs, on energy security, promoting renewable and sustainable energy and energy efficiency targets, in order to contribute to the implementation of the Paris Agreement; highlights the opportunity for the region to move forward in its energy transition through increased exploitation of renewable energy sources that hold great economic potential for many of the MENA countries; points to the opportunities for sustainable growth and job creation this would bring about, as well as to the opportunities for regional cooperation on energy and climate change; stresses, in this context, the opportunity that recent discoveries of natural gas reserves in the Eastern Mediterranean can constitute for all the countries involved;

37. Points to the fact that opening the private sector and further differentiating economies can contribute to much-needed job creation in the area, particularly for young people and women; welcomes the positive signs of recovery in the tourism sector in the area, recognises its great potential to foster sustainable growth and job opportunities, and calls for particular EU attention and support for the areas affected by infrastructural and/or security challenges; calls for the EU to enhance its support to the countries more willing to advance on democratisation, the rule of law and respect for human rights and fundamental freedoms by using all the available financial tools at its disposal, from macro-financial assistance, through the ENI, to the European External Investment Plan, as well as to the future Neighbourhood, Development and International Cooperation Instrument (NDICI);

38. Recalls the need to exploit the largely untapped potential for innovation and dynamism of the private sector in the region to a greater extent; encourages the EU to step up its dialogue and financial and technical assistance in this sense; welcomes initiatives such as Startup Europe Mediterranean (SEMED) aimed at mapping and establishing a network between startups, investors, universities, research institutions and policymakers on the two shores of the Mediterranean, as a key action to stimulate cooperation on innovation, job creation and sustainable economic growth;

39. Stresses the importance of linking all reforms and investments, as well as the EU's action in relation to the area, to the achievement of the SDGs and to sustainable development in general;

40. Recalls the added value of parliamentary diplomacy and of the regular bilateral interparliamentary meetings which Parliament holds with its counterparts from the Southern Neighbourhood as a tool for exchanging experiences and fostering mutual understanding; points out the importance of the Joint Parliamentary Committees in this context as a unique instrument for formulating ambitious joint policies between the EU and its closest partners; encourages the EU's national parliaments to hold bilateral interparliamentary meetings within the framework of the ENP; underlines once more that political parties in the national parliaments and the European Parliament can play a role in this regard; takes the view that dialogue between the European Parliament, EU national parliaments and the parliaments of the Southern Neighbourhood could provide a very valuable opportunity to foster regional dialogue and cooperation in the Southern Neighbourhood; points in this regard to the important role which PA UfM could play as a venue where regional integration and an ambitious political and economic agenda for this organisation could be dynamised; notes the overlap between the PA UfM and the Parliamentary Assembly for the Mediterranean; takes the view that the PA UfM should play a more important role within the regional framework of the Union for the Mediterranean, ensuring transparency and parliamentary oversight of UfM activities, notably the UfM-labelled projects;

41. Emphasises that women can be powerful drivers in promoting and building peace, conflict resolution and stabilisation processes, and highlights the vital role of women in preventing radicalisation, tackling violent extremism and counterterrorism; recalls that women's participation at all levels of decision-making in designing and implementing these strategies contributes to the effectiveness and sustainability of policies and programmes; calls on the Commission and the Member States to support women in the MENA region and organisations that defend and promote their rights; highlights the need for easy access to justice and transitional justice, focusing on women survivors of conflict-related sexual violence;

42. Reiterates the call of the PA UfM for support for a Euro-Mediterranean project on gender gaps, to include an analysis of the rate of women's representation in national and regional parliaments and in local institutions; takes the view that the Committee on Women's Rights of that Parliamentary Assembly and the Committee on Women's Rights and Gender Equality of the European Parliament should receive information annually on gender inequality indicators in the Euro-Mediterranean region;

43. Recalls that women's rights, women's empowerment, gender equality, children's rights, freedom of religion or belief and the right to non-discrimination of ethnic and religious minorities and vulnerable groups, including people with disabilities and LGBTQI people, are fundamental rights and key principles of the EU's external action;

44. Calls for the gender equality and women's rights dimension of the ENP to be strengthened, in line with the GAP II priorities; welcomes the recent reforms approved in some of the countries on matters such as the exoneration of rapists who subsequently marry their victims, violence against women and inheritance rights; calls for strong enforcement of such laws; is concerned, however, that — overall — the situation of women has not improved in most countries affected by the Arab Spring; underlines that women's commitment and empowerment in the public, political, economic and cultural spheres of the countries in the region are vital if long-term stability, peace and economic prosperity are to be achieved; considers that women's access to education is essential in order to accomplish this; is further concerned about the fact that female participation in the labour market in the region is one of the lowest in the world, causing social exclusion and a substantial loss for the economy as a whole; points out the importance of addressing this issue as a fundamental component of sustainable economic growth and social cohesion; notes also that women's rights defenders face arbitrary detention, judicial harassment, smear campaigns and intimidation;

45. Denounces the widespread persecution of LGBTI persons and LGBTI rights defenders across the MENA region, including judicial harassment, torture, physical attacks and smear campaigns; calls for the Commission, the European Parliament and Member States to actively and consistently defend the indivisibility of human rights, including LGBTQI rights, in the framework of their cooperation with MENA states, and to emphasise that these rights need to be upheld through state practice as well as legislation;

46. Calls on the MENA countries to play an active part in tackling all forms of violence against women; calls on the MENA countries to sign and ratify the Istanbul Convention, an instrument for tackling violence against women and girls, including domestic violence and female genital mutilation (FGM); calls, in particular, on countries that have yet to do so to revise their legislation by adding wording on gender-based violence and honour crimes, by making threats to commit such acts an offence and by imposing more severe penalties for all crimes of that kind;

47. Calls on the countries in the MENA region to implement the Beijing Action Plan for women's access to education and health as fundamental human rights, including access to voluntary family planning and sexual reproductive health and rights, such as access to free contraception, safe and legal abortions, and sex and relationship education for girls and boys;

48. Is concerned about restrictions on access to public healthcare and, in particular, on access to sexual and reproductive health, especially for women and girls in rural areas;

49. Urges all these countries to ratify and lift all existing reservations to CEDAW; urges these countries to take the requisite measures to uphold gender equality in society, for example by adopting national action plans that include effective gender equality measures, in conjunction with women's organisations and other civil society stakeholders;

50. Believes that the EU should develop a more comprehensive approach to assistance on education reforms in partner countries and devote the relevant resources and programmes to early education, including pre-school level, as well as to ensuring the development of competencies and skills, including digital skills, adequate vocational and educational training and entrepreneurship education programmes, critical thinking and social awareness within society at large, and from a very young age; stresses the importance of providing quality education as a means of empowering young people and strengthening social cohesion;

51. Welcomes programmes developed by the Secretariat of the Union for the Mediterranean, such as Med4Jobs, as means of addressing the problem of the employability of young people and women in the Mediterranean; calls on the member states of the Union for the Mediterranean to instruct its Secretariat to focus its work on the economic and social development of MENA countries with a view to supporting the consolidation of its transition process, giving particular prominence to women and girls;

52. Calls once again on the Commission to act on Parliament's proposal for the creation of an ambitious Euro-Mediterranean Erasmus programme separate from Erasmus+, with dedicated funds and an ambitious dimension in terms of scope and available resources, and with a focus not only on primary, secondary and higher education cycles, but also on vocational and educational learning; reiterates that investing in youth will provide a solid basis for the long-term resilience and prosperity of the region; calls for the Commission and Parliament to increase the scope and participation of their European Union Visitors programme and to facilitate the participation of young people and of women political leaders; calls, furthermore, for the EU to support reforms to modernise education systems in these countries;

53. Recalls its support for the funding of academic and vocational training programmes to create wide reserves of professional skills in the MENA countries, as well as for actions such as the Erasmus+ VET Mobility Charter, that should be extended as far as possible to all MENA countries by means of flexible and evolving tools such as mobility partnerships;

54. Strongly condemns, once again, all atrocities and the widespread violations of human rights and international humanitarian law committed during the conflict, and in particular those committed by forces of the Assad regime, including with the support of its allies, as well as by the UN-listed terrorist organisations; deeply regrets the failure of repeated regional and international attempts to end the war, and urges renewed and intensive global cooperation to achieve a peaceful, sustainable solution to the conflict; stresses that there should not be any tolerance of or impunity for the horrific crimes committed in Syria; reiterates its call for independent, impartial, thorough and credible investigations and prosecutions of those responsible, and supports the work of the International, Impartial and Independent Mechanism on international crimes committed in the Syrian Arab Republic since March 2012 (IIIM); calls, furthermore, for support for CSOs and NGOs, which are gathering and helping to preserve evidence of human rights abuses and humanitarian law violations;

55. Regrets that since the 2015 ENP revision, only one report, of 18 May 2017 on the Implementation of the European Neighbourhood Policy Review (JOIN(2017)0018), has assessed developments in the neighbourhood at a regional level, despite the commitment contained in the 2015 communication on the ENP review to produce regular reports at

neighbourhood level, in addition to country-specific reporting, including information on fundamental freedoms, the rule of law, gender equality and human rights issues; calls for country-level and regional reports to include adequate outcome analyses and human rights impact assessments of EU and Member State policies;

56. Instructs its President to forward this resolution to the Council, the Commission and the VP/HR.

Thursday 28 March 2019

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Emergency situation in Venezuela

European Parliament resolution of 28 March 2019 on the emergency situation in Venezuela (2019/2628(RSP))

(2021/C 108/09)

The European Parliament,

— having regard to its previous resolutions on Venezuela, in particular those of 3 May 2018 on the presidential elections in Venezuela ([1]), of 5 July 2018 on the migration crisis and humanitarian situation in Venezuela and at its terrestrial borders with Colombia and Brazil ([2]), and of 25 October 2018 ([3]) and 31 January 2019 on the situation in Venezuela ([4]), the latter of which recognises Juan Guaidó as the legitimate interim president of Venezuela,

— having regard to the declarations by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on Venezuela of 10 January 2019, 26 January 2019 and 24 February 2019, and to the latest Council conclusions,

— having regard to the declaration of 20 April 2018 by the Organisation of American States (OAS) on the worsening humanitarian situation in Venezuela, and to the OAS member states' joint statement on Venezuela of 24 January 2019,

— having regard to the statement of the Lima Group of 25 February 2019,

— having regard to the statements of the UN High Commissioner for Human Rights on Venezuela of 25 January 2019 and 20 March 2019,

— having regard to the Venezuelan Constitution, and in particular Article 233 thereof,

— having regard to the Rome Statute of the International Criminal Court (ICC),

— having regard to Rule 123(2) and (4) of its Rules of Procedure,

A. whereas Venezuela is facing a profound and unprecedented political, economic, institutional, social and multidimensional humanitarian crisis, shortages of medicines and food, a situation of massive human rights violations, hyperinflation, political oppression, corruption and violence; whereas living conditions have seriously deteriorated and 87 % of the population are now living in poverty; whereas 78 % of children in Venezuela are at risk of malnutrition; whereas 31 of every 1 000 children die before the age of 5; whereas more than 1 million children no longer attend school;

B. whereas the EU remains convinced that a peaceful and democratic political solution is the only sustainable way out of the crisis; whereas any speculation about or strategy to initiate a military intervention in Venezuela would generate and escalate violence in the country and would have a disastrous effect on the region as a whole;

C. whereas the already limited food supplies in Venezuela are at risk of spoiling; whereas people are struggling to obtain water, food and medicine; whereas, according to the UN High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM), more than 2,7 million Venezuelans have left the country since 2015 and that number could rise to 5 million by the end of the year if the crisis continues to worsen;

D. whereas on 23 February 2019 the humanitarian aid stored in Colombia and Brazil was fiercely rejected and in some cases destroyed by Maduro's illegal regime using military and paramilitary forces; whereas the repression resulted in several people being killed, dozens injured and hundreds arrested; whereas Venezuelan military operations, organised crime and terrorists represent a risk for the stability of the region, and in particular for the territory of neighbouring Colombia;

([1]) Texts adopted, P8_TA(2018)0199.
([2]) Texts adopted, P8_TA(2018)0313.
([3]) Texts adopted, P8_TA(2018)0436.
([4]) Texts adopted, P8_TA(2019)0061.

Thursday 28 March 2019

E. whereas in early March Venezuela suffered from a massive electricity outage for more than 100 hours, aggravating the already dramatic healthcare crisis, which saw hospitals run out of drinking water and their services collapse, and looting; whereas, according to the organisation Doctors for Health, at least 26 people died in hospitals due to the lack of electricity; whereas on 25 March 2019 another long-lasting blackout occurred, leaving Caracas and 20 other regions in the country in full darkness;

F. whereas the outages have been happening for many years and are a direct consequence of mismanagement, lack of maintenance and corruption by the illegal Maduro regime;

G. whereas in February 2019 a delegation of four Members of the European People's Party (EPP) group officially invited by the National Assembly and interim president Juan Guaidó was expelled from the country;

H. whereas on 6 March 2019 the illegal Maduro regime ordered the German Ambassador to leave the country, accusing him of 'recurrent acts of interference in internal affairs'; whereas some foreign and local journalists were also arrested, with their media equipment being confiscated, and expelled after their release;

I. whereas Juan Guaidó appointed Ricardo Hausmann as the country's representative to the Inter-American Development Bank (IDB) and the Inter-American Investment Corporation (IIC);

J. whereas on 21 March 2019, Venezuela's intelligence police detained Juan Guaidó's chief of staff, Roberto Marrero, and forcefully entered the home of Sergio Vergara, member of the National Assembly for the State of Táchira, disregarding his parliamentary immunity;

K. whereas on 23 March 2019, two aeroplanes belonging to the Russian Air Force arrived at Simón Bolívar International Airport, in Maiquetía, with military equipment and at least one hundred soldiers on board, and whereas this type of action has been repeated in recent months;

L. whereas on 21 March 2019, a five-year jail sentence was handed down against the Venezuelan Judge Afiuni Mora on charges of 'spiritual corruption'; whereas this judge had already served a long jail sentence in the past and was still under unfair house arrest;

M. whereas it was reported on 15 March 2019 that Tomasz Surdel, the Venezuela correspondent for Polish newspaper Gazeta Wyborcza, had been violently assaulted, allegedly by the Special Action Forces of the Venezuelan National Police, while driving his car in Caracas;

N. whereas the Cuban police force and military intelligence service are the strategic element that allows Maduro's illegal regime to persist;

1. Confirms its recognition of Juan Guaidó as the legitimate interim president of the Bolivarian Republic of Venezuela, in accordance with Article 233 of the Venezuelan Constitution, and reiterates its full support for the National Assembly, the only legitimate democratic body of Venezuela; expresses its full support for Guaidó's roadmap, namely on putting an end to usurpation, on the establishment of a national transitional government and on the holding of snap presidential elections; welcomes the fact that a significant share of the international community and the overwhelming majority of EU Member States have recognised Guaidó's legitimacy, and calls for the remaining Member States to do so urgently;

2. Condemns the fierce repression and violence, which have resulted in killings and casualties; expresses its solidarity with the people of Venezuela and conveys its sincere condolences to their families and friends;

3. Reiterates its deep concerns at the severe emergency humanitarian situation, which is profoundly damaging the lives of Venezuelans;

4. Reiterates its call for the full recognition as ambassadors of the diplomatic representatives appointed by the legitimate interim president of the Bolivarian Republic of Venezuela, Juan Guaidó, to the EU and its Member States; welcomes the acknowledgment by the Board of Governors of the Inter-American Development Bank (IDB) and the Inter-American Investment Corporation (IIC) of Ricardo Hausmann as Governor of Venezuela in those entities; regrets the suspension of the 2019 IDB Annual Meeting of the Board of Governors by its Chinese hosts;

5. Denounces the abuse of law enforcement and the brutal repression by security bodies, which have restrained the entry of humanitarian aid; condemns the use of irregular armed groups to attack and intimidate civilians and lawmakers who have mobilised to distribute assistance; supports the members of the Venezuelan military who have refused to repress the civilian population during this crisis and have deserted; recognises the work of the Colombian authorities in the protection and care of these soldiers loyal to the Venezuelan Constitution and people;

6. Strongly condemns the harassment, detention and expulsion of several journalists covering the situation in Venezuela; reiterates its previous calls to the illegal Maduro regime to immediately put an end to its repression of political leaders, journalists and members of the opposition, including Sakharov prize laureate Leopoldo López; calls for the immediate and unconditional release of all persons detained on the grounds that they are relatives of interim president Juan Guaidó or members of his team:

7. Condemns the raids by Maduro's security services and the detention of interim president Juan Guaidó's chief of staff, Roberto Marrero, as well as the recent forced entry into the house of National Assembly member Sergio Vergara; calls for Marrero's immediate release; condemns the kidnapping of the National Assembly member Juan Requesens and calls for his immediate release;

8. Reiterates its position in favour of a peaceful solution for the country through free, transparent and credible presidential elections based on a fixed calendar, fair conditions for all actors, including a neutral National Electoral Council, transparency and the presence of credible international observers;

9. Praises the efforts undertaken by the Lima Group countries as a leading regional mechanism seeking a democratic solution to the crisis under the leadership of Juan Guaidó as legitimate interim president of Venezuela;

10. Draws attention to the increased migratory crisis across the entire region and recognises the efforts and solidarity shown by neighbouring countries, and asks the Commission to continue cooperating with these countries, not only by providing humanitarian assistance but also by providing more resources and through development policy;

11. Expresses deep concern at the presence of terrorist gangs and organised crime in Venezuela, its expansion and cross-border operation, especially towards Colombia, which puts at risk the stability of the whole region;

12. Calls for additional sanctions targeting illegitimate state authorities' assets abroad and those individuals responsible for human rights breaches and repression; considers that the EU authorities must consequently restrict the movements of these individuals, as well as of their closest relatives, and freeze their assets and visas;

13. Takes note of the establishment of the International Contact Group, which must be prevented from being used by Maduro's illegal regime as a strategy to delay the resolution of the crisis with the aim of staying in power; notes the lack of any tangible results delivered so far by the contact group, whose main purpose should be the creation of conditions that can lead to snap presidential elections and facilitate the delivery of humanitarian assistance to address the pressing needs of the Venezuelan population; asks the International Contact Group to collaborate with the Lima Group, as a leading regional actor; asks, in this framework, the EEAS, in collaboration with the European Parliament, to offer its expertise in the field of electoral assistance;

14. Calls on the Member States, the VP/HR and the countries of the region to explore the possibility of establishing an international donors' conference with the aim of providing broad financial support for reconstruction and the transition to democracy;

15. Strongly supports the call by the UN Secretary-General for an independent and full investigation to be carried out into the reported casualties; recalls the EU's commitment to effective multilateralism in the framework of the UN in order to avoid a humanitarian catastrophe with greater consequences; reiterates its full support for the ICC's role in the fight against impunity and in bringing the perpetrators of violence and human rights violations to justice, and for the opening of an investigation following the preliminary examinations into crimes committed by the illegal Maduro regime, including some that amount to serious crimes against humanity;

16. Decries the influence of the Cuban regime in Venezuela, which, by using its agents, has contributed to destabilising democracy and increasing political repression against the Venezuelan democratic forces; points out that such intervention could have consequences for EU-Cuba relations, including for the Political Dialogue and Cooperation Agreement between the EU and Cuba;

17. Instructs its President to forward this resolution to the Council, the Commission, the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the legitimate interim President of the Republic and National Assembly of the Bolivarian Republic of Venezuela, the governments and parliaments of the Lima Group countries, the Euro-Latin American Parliamentary Assembly and the Secretary-General of the Organisation of American States.

Thursday 28 March 2019

P8_TA(2019)0328

Situation of rule of law and fight against corruption in the EU, specifically in Malta and Slovakia

European Parliament resolution of 28 March 2019 on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (2018/2965(RSP))

(2021/C 108/10)

The European Parliament,

— having regard to Articles 2, 4, 5, 6, 7, 9 and 10 of the Treaty on European Union (TEU),

— having regard to Article 20 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Articles 6, 7, 8, 10, 11, 12 and 47 of the Charter of Fundamental Rights of the European Union,

— having regard to the opinion on questions relating to the appointment of judges of the constitutional court of the Slovak Republic, adopted by the Venice Commission at its 110th Plenary Session (Venice, 10-11 March 2017),

— having regard to the opinion on constitutional arrangements and separation of powers and the independence of the judiciary and law enforcement in Malta, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018),

— having regard to the report of 23 January 2019 from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled 'Investor Citizenship and Residence Schemes in the European Union' (COM(2019)0012),

— having regard to its resolution of 16 January 2014 on EU citizenship for sale ([1]) and to the joint press statement of 29 January 2014 by the Commission and the Maltese authorities on Malta's Individual Investor Programme (IIP),

— having regard to its resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights ([2]) and to its resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights ([3]),

— having regard to its resolution of 15 November 2017 on the rule of law in Malta ([4]),

— having regard to its resolution of 1 March 2018 on the Commission's decision to activate Article 7(1) TEU as regards the situation in Poland ([5]), as well as its preceding resolutions of 13 April 2016 on the situation in Poland ([6]), of 14 September 2016 on the recent developments in Poland and their impact on fundamental rights as laid down in the Charter of Fundamental Rights of the European Union ([7]), and of 15 November 2017 on the situation of the rule of law and democracy in Poland ([8]),

([1]) OJ C 482, 23.12.2016, p. 117.
([2]) OJ C 215, 19.6.2018, p. 162.
([3]) Texts adopted, P8_TA(2018)0456.
([4]) Texts adopted, P8_TA(2017)0438.
([5]) Texts adopted, P8_TA(2018)0055.
([6]) OJ C 58, 15.2.2018, p. 148.
([7]) OJ C 204, 13.6.2018, p. 95.
([8]) Texts adopted, P8_TA(2017)0442.

Thursday 28 March 2019

— having regard to its resolution of 19 April 2018 on protection of investigative journalists in Europe: the case of Slovak journalist Ján Kuciak and Martina Kušnírová ([1]),

— having regard to its resolution of 3 May 2018 on media pluralism and media freedom in the European Union ([2]),

— having regard to its resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded ([3]), as well as its preceding resolutions of 10 June 2015 ([4]), 16 December 2015 ([5]) and of 17 May 2017 ([6]) on the situation in Hungary,

— having regard to its resolution of 13 November 2018 on the rule of law in Romania ([7]),

— having regard to the report of 22 March 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Budgetary Control to Slovakia of 7 to 9 March 2018,

— having regard to the report of 30 January 2019 on the fact-finding mission of the Committee on Budgetary Control to Slovakia of 17 to 19 December 2018,

— having regard to the report of 11 January 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs and the Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion (PANA) to Malta of 30 November to 1 December 2017,

— having regard to the report of 16 November 2018 on the visit of the ad hoc delegation of the Committee on Civil Liberties, Justice and Home Affairs to Malta and Slovakia of 17 to 20 September 2018,

— considering the hearings and exchanges of views carried out by the Working Group with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia (Rule of Law Monitoring Group), set up on 4 June 2018 by the Committee on Civil Liberties, Justice and Home Affairs, notably with the Council of Europe Parliamentary Assembly and its Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), the Group of States against Corruption (GRECO), national institutions and authorities, European Commission representatives, EU agencies such as Europol, and various stakeholders including civil society representatives and whistleblowers in Malta and Slovakia,

— having regard to the letter of the Prime Minister of Malta dated 13 March 2019;

— having regard to the question to the Commission on the situation of the rule of law and the fight against corruption in the EU, specifically in Malta and Slovakia (O-000015/2019 — B8-0017/2019),

— having regard to the motion for a resolution of the Committee on Civil Liberties, Justice and Home Affairs,

— having regard to Rules 128(5) and 123(2) of its Rules of Procedure,

A. whereas the Rule of Law Monitoring Group (ROLMG) was set up on 4 June 2018 with a general mandate to monitor the situation as regards rule of law and fight against corruption within the EU and addressing specific situations, in particular Malta and Slovakia;

([1]) Texts adopted, P8_TA(2018)0183.
([2]) Texts adopted, P8_TA(2018)0204.
([3]) Texts adopted, P8_TA(2018)0340.
([4]) OJ C 407, 4.11.2016, p. 46.
([5]) OJ C 399, 24.11.2017, p. 127.
([6]) Texts adopted, P8_TA(2017)0216.
([7]) Texts adopted, P8_TA(2018)0446.

B. whereas the rule of law and respect for democracy, human rights and fundamental freedoms and the values and principles enshrined in the EU Treaties and international human rights instruments are obligations incumbent on the Union and its Member States and must be complied with;

C. whereas Article 6(3) TEU confirms that fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and as arising from the constitutional traditions common to the Member States, constitute general principles of Union law;

D. whereas the EU operates on the basis of the presumption of mutual trust that Member States act in conformity with democracy, the rule of law and fundamental rights, as enshrined in the ECHR, the Charter of Fundamental Rights of the European Union and the International Covenant on Civil and Political Rights (ICCPR);

E. whereas neither national sovereignty nor subsidiarity can justify the systematic refusal by a Member State to comply with the fundamental values of the European Union and the Treaties to which it has freely acceded;

F. whereas the ROLMG has held a number of meetings with different stakeholders with the main focus on the situation in Malta and Slovakia; whereas it also held one exchange of views on the safety of journalists in Bulgaria following the murder of Viktoria Marinova; whereas the temporary detention of the journalists Attila Biro and Dimitar Stoyanov, who were investigating allegations of fraud involving EU funds in Romania and Bulgaria, was also discussed at that meeting;

G. whereas the assassinations of Daphne Caruana Galizia in Malta and of Ján Kuciak and his fiancée Martina Kušnírová in Slovakia, and the murder of Viktoria Marinova in Bulgaria, have shocked European public opinion and have had a chilling effect on journalists in the EU;

H. whereas the investigations into these murders have so far led to the identification of several suspects, without, however, coming to conclusions as to the possible masterminds behind the murders, although this is the most important element needing clarification; whereas in Malta three persons have been arraigned and police and magisterial investigations into the murder remain active;

I. whereas the ROLMG was not able to verify the state of the investigations in all their aspects, as the authorities invoked a legitimate need to ensure confidentiality to safeguard progress in such murder cases;

J. whereas the ROLMG has been able to look into numerous areas of concern in relation to the rule of law in Malta and Slovakia, in particular those areas covered in the work of Daphne Caruana Galizia and Ján Kuciak;

K. whereas the ROLMG was regularly informed, including by the relatives of Daphne Caruana Galizia, with regard to the request for a full and independent public inquiry into her murder, in particular concerning the circumstances that allowed it to happen, the response of the public authorities, and the measures that can be put in place to ensure that such a murder will not happen again;

L. whereas the level of cooperation with Europol in these investigations varies among the investigations conducted;

M. whereas, in particular in the case of Malta, the previous Director of Europol had indicated a suboptimal level of cooperation between the Maltese authorities and Europol — a situation which his successor subsequently assessed as having improved to be satisfactory; whereas Europol representatives told the ROLMG members that the investigation did not stop with the arrest of the three suspected perpetrators; whereas Europol experts were appointed to carry out specific tasks in the magisterial inquiry;

N. whereas, regarding the seizing of the phone of the journalist Pavla Holcová in Slovakia, a lack of clarity remains over the way in which it had been obtained and the access of Europol to the data extracted from it, even though Europol indicated it would support analysis of the phone;

Thursday 28 March 2019

O. whereas there are serious concerns about the fight against corruption and organised crime in the EU, including in Malta and Slovakia, and whereas this threatens to undermine the trust of citizens in public institutions, potentially resulting in a dangerous interconnection between criminal groups and public authorities;

P. whereas a large European consortium of investigative journalists has researched and published widely on the investigations that had been published by Daphne Caruana Galizia;

Q. whereas in particular, the fight against money laundering in the EU is inadequate, inter alia because of the gaps existing in the implementation of the EU anti-money laundering legislation, as highlighted by recent cases of insufficient anti-laundering enforcement involving large banking institutions in different Member States;

R. whereas the European Banking Authority (EBA) concluded in its recommendation of July 2018 addressed to Malta's Financial Intelligence Analysis Unit (FIAU) that there are 'general and systematic shortcomings in the fight against money laundering' in Malta, in particular regarding the Pilatus Bank case, while acknowledging that the FIAU's Action Plan was 'a move in the right direction'; whereas the Commission has subsequently found that 'the Maltese FIAU breached its obligations' under the EU anti- money laundering legislation and that it did not fully implement the EBA recommendation; whereas, accordingly, the Commission adopted its opinion on this case in November 2018;

S. whereas Malta is home to a large banking sector, including some particular banking institutions that do not comply with all regulatory standards and requirements, as is illustrated by the case of the Pilatus Bank and the withdrawal of its licence by the European Central Bank (ECB);

T. whereas the 'Egrant' inquiry report is not publicly available; whereas the available conclusions do not confirm the claims linking the ownership of Egrant Inc. to the Maltese Prime Minister and his wife; whereas only the Prime Minister, the Minister of Justice, the Prime Minister's Chief of Staff and the Prime Minister's communications officer have access to the full unredacted inquiry report;

U. whereas subsequently no inquiry was launched to uncover the beneficial ownership of Egrant, which still remains to be clarified;

V. whereas the revelations concerning the beneficial owner of the '17 Black' company — now claimed to be the CEO of Tumas Group, who was awarded a contract by the Maltese Government to construct the Electrogas power station on Malta — further underline the need for more transparency regarding financial interests and links to members of government, such as the Prime Minister's Chief of Staff and the current Minister of Tourism and former Minister of Energy;

W. whereas the Prime Minister's Chief of Staff and the current Minister of Tourism and former Minister of Energy are the only acting high-ranking government officials in any EU Member State who were found to be beneficial owners of a legal entity exposed in the Panama Papers; whereas the latter testified to a delegation of the European Parliament about the use of his entities, making declarations that contradicted documents published in the Panama Papers;

X. whereas lack of safety for journalists and narrowing space for civil society because of harassment and intimidation are undermining oversight over executive power and eroding the civic engagement of citizens;

Y. whereas journalists, and in particular but not exclusively investigative journalists, are increasingly faced with so-called 'Strategic Lawsuits Against Public Participation' (SLAPP) against them, intended purely to frustrate their work;

Z. whereas the family of Daphne Caruana Galizia has to deal with hate campaigns and libel suits even after her death, including from Members of the Maltese Government, and the Deputy Prime Minister has indicated that he does not believe withdrawing these libel suits is necessary;

AA. whereas the family and friends of Daphne Caruana Galizia, as well as civil society activists, also have to deal with an ongoing situation at her makeshift memorial involving removal and destruction of remembrance items;

AB. whereas the Venice Commission, in its opinion on Malta adopted at its 117th Plenary Session of 14-15 December 2018 ([1]), highlighted the positive obligation of States to protect journalists as an issue directly related to the rule of law, and insisted that 'it is an international obligation of the Government [of Malta] to ensure that the media and civil society can play an active role in holding authorities accountable' ([2]);

AC. whereas the Venice Commission has stressed that the establishment of the Judicial Appointments Committee (JAC) in 2016 was a positive step taken by the Maltese authorities, and has also highlighted that there nonetheless remain several points of concern in light of the principle of judicial independence, notably around the organisation of prosecutorial powers and the judicial structure, and relating to the overall separation and balance of powers in the country, which is clearly leaning to the executive, and particularly to the Prime Minister who enjoys a far-reaching set of powers, including in various appointment procedures such as for members of the judiciary, and that this is not coupled with solid checks and balances ([3]);

AD. whereas the Venice Commission has stated that the current division of prosecutorial powers between the Police and the Attorney General in Malta constitutes an 'ambiguous system' that 'is problematic from the viewpoint of the separation of powers'; whereas it also noted that the Attorney General, who has prosecutorial powers while also being the government's legal advisor and chairing the FIAU, is the occupant of a very powerful office that is 'problematic from the viewpoint of the principle of democratic checks and balances and the separation of powers' ([4]);

AE. whereas the Venice Commission's delegation noted that a future separation of the roles of the Attorney General 'is now widely accepted in Malta following the 2013 Report of the Commission for a Holistic Reform of the Justice System' ([5]); whereas the Maltese Government has now announced the initiation of the legislative process to bring about that separation;

AF. whereas the Venice Commission has stated that, in addition to the prosecutorial tasks of the Attorney General and the police, magistrates also have the possibility to start inquests, and that 'there seems to be no coordination between inquests and police investigation' ([6]);

AG. whereas the Venice Commission has also stressed that the Permanent Commission Against Corruption (PCAC) suffers from flaws concerning its composition, as members' appointments depend on the Prime Minister, even if he has to consult with the opposition, and also concerning the addressees of its reports, namely the Minister of Justice who has no investigatory powers, the result being that the reports lead to actual investigations and prosecutions in only a very limited number of cases ([7]);

AH. whereas the Venice Commission has found that the appointment procedure for Police Commissioner should be based on a public competition; the Police Commissioner should be perceived as politically neutral by the general public ([8]);

AI. whereas Malta has started a process of exploring constitutional reforms, under the supervision of its President, in which different political forces and civil society are involved, and most of which will require a two-thirds majority in Parliament to be implemented;

([1]) Malta — Opinion on Constitutional arrangements and separation of powers, adopted by the Venice Commission at its 117th Plenary Session (Venice, 14-15 December 2018).
([2]) Venice Commission opinion, paragraph 142.
([3]) Ibid., paragraphs 107-112.
([4]) Ibid., paragraph 54.
([5]) Ibid., paragraph 59.
([6]) Ibid., paragraph 71.
([7]) Ibid., paragraph 72.
([8]) Ibid., paragraph 132.

Thursday 28 March 2019

AJ. whereas monitoring of worsening rule of law situations in Member States by the European Parliament is a vital part of European democracy, and the format of the Rule of Law Monitoring Group enables Parliament to follow up closely and liaise with Member State authorities and civil society;

AK. whereas, despite broadly supported resolutions of the European Parliament [1], the Commission has still not come forward with a proposal for a comprehensive and independent mechanism to monitor the situation as regards Democracy, Rule of Law and Fundamental Rights (DRF) annually in all Member States;

AL. whereas the use of 'investor citizenship and residence schemes' by EU Member States poses serious risks to the fight against money laundering, undermines mutual trust and the integrity of the Schengen area, allows for the admission of third-country nationals merely on the basis of accumulated wealth rather than on the basis of useful knowledge, skills or humanitarian considerations, and results in the actual sale of EU citizenship; whereas the Commission has explicitly stated that it no longer endorses the Maltese investor citizenship and residence schemes;

AM. whereas the Commission published a report on investor citizenship and residence schemes that maps the existing practices and identifies certain risks that such schemes entail for the EU, in particular as regards security, money laundering, tax evasion and corruption;

AN. whereas the Maltese government has concluded a confidential agreement with the private firm Henley & Partners to implement the Maltese 'investor citizenship and residence scheme', making it impossible to verify whether the agreed procedures, sales volume, and further terms are in line with Maltese, EU and international law and with security considerations;

AO. whereas the implementation of the residency requirements for applicants for the Maltese investor citizenship and residence scheme is not in line with the conditions for such schemes agreed with the Commission in 2014; whereas the Commission has taken no effective action to tackle this lack of respect for the residency requirements;

AP. whereas the allegations regarding the sale of medical and Schengen visas in Libya and Algeria by Maltese officials have not been fully investigated [2];

AQ. whereas journalists in Slovakia indicated during the ROLMG delegation visit that they are operating in an environment where full independence and safety cannot always be guaranteed; whereas in the case of RTVS (Radio and Television of Slovakia), there have been instances of perceived political interference with journalistic work, such as by the issuing of short news guidelines;

AR. whereas the National Press Act is under a process of revision in Slovakia and this provides an opportunity to strengthen media freedom and the safety of journalists; whereas the current legislative proposal risks limiting media freedom;

AS. whereas there are reports of corruption and fraud in Slovakia, including with EU agricultural funds involving the Agricultural Paying Agency, that merit in-depth and independent investigations, of which some are indeed being investigated by OLAF and regarding which Parliament's Committee on Budgetary Control conducted a fact-finding mission to Slovakia in December 2018; whereas Slovakia has the highest irregularity and fraud detection rates of all EU Member States [3];

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[1] Resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights — OJ C 215, 19.6.2018, p. 162; resolution of 14 November 2018 on the need for a comprehensive EU mechanism for the protection of democracy, the rule of law and fundamental rights — Texts adopted, P8_TA(2018)0456.

[2] http://nao.gov.mt//loadfile/77c82f0e-89b3-44b4-85d4-e48ecfd251b0

[3] https://www.eca.europa.eu/Lists/ECADocuments/SR19_01/SR_FRAUD_RISKS _EN.pdf

AT. whereas the members of the ROLMG have concerns over the impartiality of law enforcement and the independence of the judiciary in Slovakia, especially with regard to the politicisation and lack of transparency in selection and appointment processes, such for the position of Chief of Police;

AU. whereas Slovakia's Prime Minister and other high-ranking government members, as well as the Deputy General Prosecutor and the Chief of Police, resigned after Ján Kuciak's murder;

AV. whereas the legislative process in Slovakia regarding the reform of the selection of Constitutional Court judges has not been completed, and the upcoming selection process to replace the court's nine retiring judges will take place under the existing procedures; whereas this selection process is currently blocked in the Slovak Parliament;

AW. whereas in the course of their mission the members of the ROLMG delegation took note of the commitment to upholding rule of law standards manifested by various staff of the Slovak public authorities and civil society actors;

AX. whereas Reporters Without Borders' World Press Freedom Index 2018 ranks Slovakia in 27th place, as opposed to 17th in 2017, with Malta in 65th position, dropping from 47th, and Bulgaria as the lowest-classified EU Member State at 111th, down from 109th in 2017;

AY. whereas Transparency International ranked Malta 51st (down from 46th in 2017), Slovakia 57th (down from 54th in 2017) and Bulgaria 77th (down from 71st place in in 2017) in its annual Corruption Perceptions Index; whereas all three countries score significantly below the EU average [1];

GENERAL OBSERVATIONS

1. Strongly condemns the continuous efforts of a growing number of Member State governments to weaken the rule of law, the separation of powers and the independence of the judiciary; expresses concern that, despite the fact that most Member States have adopted legislation to ensure judicial independence and impartiality in compliance with Council of Europe standards, problems remain in the way these standards are applied;

2. Recalls that the rule of law is part of and a prerequisite for the protection of all values listed in Article 2 TEU; calls on all relevant actors at EU and national level, including governments, parliaments and the judiciary, to step up efforts to uphold and reinforce the rule of law;

3. Notes with great concern the rising threats bearing down on journalists and media freedom, growing public denigration and a general weakening of the profession, increasing economic concentration of the sector and growing disinformation; recalls that a strong democracy based on the rule of law cannot function without a strong and independent fourth estate;

4. Urges the Council to examine and follow up any proposals from the Commission and Parliament as regards infringement procedures and Article 7 TEU procedure, in particular by taking swift action based on the Commission's reasoned proposal of 20 December 2017 on Poland, as well as by putting the situation in Hungary on the Council agenda as a matter of priority, by informing Parliament immediately and fully at all stages of the procedure, and by inviting Parliament to present its reasoned proposal on Hungary to the Council;

INVESTIGATIONS AND LAW ENFORCEMENT

5. Calls on the Government of Malta to launch without delay a full and independent public enquiry into the murder of Daphne Caruana Galizia, with particular stress on the circumstances that allowed it to happen, the response of the public authorities, and the measures that can be put in place to ensure that such a murder will not happen again;

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[1] https://www.transparency.org/cpi2018
https://www.transparency.org/news/feature/corruption_perceptions_index_2017

Thursday 28 March 2019

6. Strongly urges the Maltese Government to publicly and unambiguously condemn all hate speech against and disparagement of the memory of the deceased Daphne Caruana Galizia; urges that strong action be taken against any public officials fuelling hate;

7. Considers it of utmost importance to find a solution for the memorial site of Daphne Caruana Galizia in Valletta, in cooperation with civil society and her family, so that remembrance can take place unhindered;

8. Calls on the relevant Maltese authorities to publish the full unredacted report of the magisterial 'Egrant' inquiry;

9. Urges the Governments of Malta and Slovakia to ensure that all indications of criminal acts are promptly and fully investigated by law enforcement authorities, including where these indications are revealed by whistleblowers and journalists, especially the alleged cases of e.g. corruption, financial crimes, money laundering, fraud and tax evasion as reported by Daphne Caruana Galizia and Ján Kuciak;

10. Calls on the EU institutions and the Member States to initiate an independent international public inquiry into the murder of Daphne Caruana Galizia and the alleged cases of corruption, financial crimes, money laundering, fraud and tax evasion reported by her, which involve high-ranking current and former public officials of Malta;

11. Regrets that not all members of the Government of Malta, such as the Minister for Tourism and former Minister of Energy, were available to meet the ROLMG delegation, and that it was also not possible for it to meet representatives of Nexia BT such as the company's Managing Partner;

12. Notes with concern that the Maltese authorities never issued an official legal assistance request to the German Federal Criminal Police Office ('Bundeskriminalamt') to be given access to the data stored on Daphne Caruana Galizia's laptops and hard disks after they were handed over to the German authorities by her family;

13. Welcomes the charges brought by the Slovak authorities against the alleged instigator of the murders of Ján Kuciak and Martina Kušnírová and the alleged perpetrators of the murders; calls on the law enforcement authorities to continue the investigation at both national and international level by all means available, including by prolonging the Agreement of the Joint Investigation Team beyond April 2019, and to ensure that all aspects of the case are fully investigated, including any possible political links to the crimes;

14. Notes that the investigation into the murder of Ján Kuciak and Martina Kušnírová has uncovered other criminal activities, including an alleged plot to murder the prosecutors Peter Šufliarsky and Maroš Žilinka and the lawyer Daniel Lipšic; notes that the later investigation is, by a joint decision of the Prosecutor General and the Special Prosecutor, to be conducted by the Police Inspectorate of the Interior Ministry, due to a possible involvement of police officers in screening of police databases of those targeted; and will further monitor this development;

15. Welcomes the creation of the Ján Kuciak Investigative Centre, of the Daphne Project founded by several journalists in late 2018, and of the Forbidden Stories Daphne Project, founded by 18 consortia of investigative journalists in March 2018, with the aim of picking up Daphne's work where she left it; notes that six months after its creation, the Daphne Project made new revelations in its first publication;

16. Calls on the Commission and the European Anti-fraud Office to carry out in-depth investigations into all the cases that were brought to the attention of Parliament's ad hoc delegations in 2018, namely allegations of corruption and fraud, also relating to EU agricultural funds, and possible wrong incentives for land grabbing;

17. Calls on the Maltese Government to launch an investigation into the Panama Papers revelations and the links between the Dubai-based company '17 Black' and the Minister for Tourism and former Minister for Energy and the Prime Minister's Chief of Staff;

18. Calls on the Maltese and Slovak Governments, and on all EU Member States and their law enforcement authorities, to step up the fight against organised crime and corruption, in order to restore public faith in their institutions;

19. Notes the adoption on 22 March 2019 of the Addendum to the Second Compliance Report on Slovakia by GRECO regarding corruption prevention in respect of members of parliament, judges and prosecutors; calls on the Government of Slovakia to fully implement all the recommendations;

20. Notes the adoption on 23 March 2019 of the Fifth Round Evaluation Report on Malta by GRECO; calls on the Government of Malta to authorise the publication of this report as soon as possible and to fully implement all the recommendations;

21. Is deeply concerned about the Slovak Government's possible role in the abduction of a Vietnamese citizen from Germany, and calls for a comprehensive investigation report, in continued cooperation with the German authorities, including on the alleged involvement of the former Interior Minister;

22. Is concerned about allegations of corruption, conflicts of interest, impunity and revolving doors in Slovakia's circles of power; is astounded by the fact that following their resignation, a former senior police official from the National Criminal Agency (NAKA) and the former Chief of Police were appointed as advisers to the Minister of the Interior, including in the Czech Republic; notes that the former Chief of Police has now stepped down as adviser to the Minister of the Interior after press reports surfaced about a search for Ján Kuciak in a police database prior to his murder, allegedly ordered by the former Chief of Police;

23. Welcomes the engagement of Slovak and Maltese citizens and civil society organisations in the fight for democracy, the rule of law and fundamental rights; urges the Governments of Slovakia and Malta to fully support this civic engagement, and to refrain from discouraging it;

24. Calls on the Governments of Malta, Slovakia and Bulgaria to continue facilitating all cooperation with Europol, including by fully involving the agency and proactively giving it full access to the files related to the investigations;

25. Calls on the Commission to provide clear guidance on the modalities and legal framework regarding the exchange of data and evidence between Member States' law enforcement authorities and between them and the EU agencies, including through the application of the European Investigation Order;

26. Observes that the current budgetary and human resources and mandates of Europol and Eurojust are not sufficient for those agencies to provide full and proactive EU added value in carrying out investigations such as in the cases of the murders of Daphne Caruana Galizia and of Ján Kuciak and Martina Kušnírová; calls for further resources to be allocated to Europol and Eurojust for investigations of this kind in the near future;

27. Underlines that Member States' law enforcement and judicial authorities form part of an EU system of cooperation; considers that EU institutions, bodies and agencies should therefore proactively step in to address shortcomings on the part of national authorities, and finds it worrying that such actions by EU institutions, bodies and agencies are regularly initiated only after information has been revealed by journalists and whistleblowers;

28. Calls on the Commission and the Council to increase Europol's budget in line with the operational and strategic needs identified during the negotiations for the Multiannual Financial Framework (MFF) 2021-2027, and to strengthen the mandate of Europol so as to enable it to participate more proactively in investigations into leading organised crime groups in Member States where there are serious doubts about the independence and quality of such investigations, e.g. by being able to proactively initiate setting up Joint Investigation Teams in such cases;

29. Calls on Eurojust and the future European Public Prosecutor's Office (EPPO) to cooperate optimally in investigations concerning the financial interests of the EU, especially regarding Member States that have not joined the EPPO; calls, to that end, for the Member States and the EU institutions to facilitate the rapid establishment of the EPPO, and considers that all Member States which have not yet announced their intention to join the EPPO should do so;

Thursday 28 March 2019

30. Calls on the Commission to follow up on the resolutions of Parliament that have called for the mapping of best practices in investigative techniques across the EU in order to facilitate the development of common investigative practices in the EU ([1]);

CONSTITUTIONAL CHALLENGES IN MALTA AND SLOVAKIA

31. Welcomes the statements by the Government of Malta regarding implementation of the recommendations set out in the recent report of the Venice Commission;

32. Welcomes the creation of a group in which members of both government and opposition are involved in exploring constitutional reform;

33. Welcomes the recent announcement by the Government of Malta on initiation of the legislative processes to implement various Venice Commission recommendations; calls on the Government and Parliament of Malta to implement all the Venice Commission recommendations without exception, also in a retroactive manner where relevant, so as to ensure that past and current decisions, positions and structures are brought into line with these recommendations, and in particular,

— to strengthen the independence, powers of oversight and capabilities of the members of the Maltese House of Representatives, in particular by tightening rules on incompatibilities and by providing for an appropriate salary and for non-partisan support;

— to publicly announce vacancies for judicial positions (paragraph 44);

— to change the composition of the JAC, to allow at least half of its members to be judges elected by their peers, and to endow the JAC with the competence to rank candidates on the basis of merit and directly propose those candidates to the President for appointment, also in the case of appointment of the Chief Justice (paragraph 44);

— to give the power of removal of judges or magistrates to the Commission for the Administration of Justice and to provide for an appeal in court against disciplinary measures imposed by that Commission (paragraph 53);

— to set up an office of an independent Director of Public Prosecutions (DPP), to be responsible for all public prosecutions, taking over the current prosecutorial tasks of the Attorney General, as well as the prosecutorial tasks of the police and the magisterial inquests, as recommended by the Venice Commission (paragraphs 61-73); calls on the Government of Malta to subject this potentially newly established DPP to judicial review, in particular regarding decisions of non-prosecution (paragraph 68, 73);

— to reform the PCAC, both by ensuring an appointment process that is less dependent on the executive branch and on the Prime Minister in particular, and by ensuring that the PCAC reports lead to actual prosecutions; also to consider the option of having the PCAC report directly to a newly established DPP (paragraph 72);

— to initiate a constitutional reform to ensure that judgments of the Constitutional Court will lead, without parliament having to intervene, to the annulment of provisions found to be unconstitutional (paragraph 79);

— to abolish the practice of having part-time MPs, increase the salary of MPs, restrict the appointment of MPs to officially appointed bodies, put at the disposal of MPs sufficient support staff and independent knowledge and advice, and refrain from the extensive use of delegated legislation (paragraph 94);

— to ensure that requests for information by the Ombudsman are fully complied with by the authorities, that the Ombudsman's reports are debated in Parliament, that the office of the Ombudsman is regulated at the constitutional level, and that the Freedom of Information Act is updated (paragraphs 100-101);

([1]) https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1539189225045&uri=CELEX:52011IP0459
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016IP0403

— to reshape the process of appointing Permanent Secretaries, namely by merit-based selection by an Independent Civil Service Commission, rather than by the Prime Minister (paragraphs 119-120);

— to seriously limit the practice of 'positions or persons of trust' and to introduce clear legal rules and a constitutional amendment that form the basis and framework for regulating this practice (paragraph 129);

— to change the appointment procedure for the Police Commissioner, namely by making it merit-based by introducing a public competition (paragraph 134);

34. Notes that a selection and nomination procedure for Constitutional Court judges in Slovakia is under way, as the term of nine out of 13 judges ends in February; underlines that the regulations covering this selection and nomination process, as well as the qualifications and requirements, have to meet the highest possible standards in terms of transparency, scrutiny and accountability, in line with the conclusions on this matter of the Venice Commission ([1]); is concerned about the current lack of progress in this selection process in the Slovak Parliament;

35. Calls for the transparent, unambiguous and objective application of rules and procedures for the selection in 2019 of the new Slovak Chief of Police, which will ensure the independence and neutrality of the office; notes that the selection process is now under way and that the candidates will soon take part in hearings before the relevant committee of the Slovak Parliament; calls for these hearings to be public;

INVESTOR CITIZENSHIP, RESIDENCE SCHEMES AND VISAS

36. Calls on the Government of Malta to terminate its investor citizenship and residence schemes, and commission an independent and international investigation into the impact of this sale on the Maltese anti-money laundering enforcement capabilities, on further cross-border crime and on the integrity of the Schengen area;

37. Calls on the Government of Malta to publish annually a standalone list of all persons who have purchased Maltese and EU citizenship, and to ensure that the purchasers are not listed together with those who acquired their Maltese citizenship in other ways; calls on the Government of Malta to ensure that all these new citizens have actually resided one full year in Malta prior to the purchase, as agreed with the Commission before the launch of the programme; calls on the Commission to do all in its power to make sure that the original understanding on the matter is respected in future;

38. Welcomes the fact that in February 2019, when asked to clarify, the Commission clearly stated that it does not in any way endorse the Maltese investor citizenship and residence schemes;

39. Calls on the Government of Malta to fully disclose, and to terminate, its contract with Henley & Partners, the private firm that currently implements the Maltese investor citizenship and residence schemes, with no consequences for the public finances in the event of termination or suspension;

40. Calls on the Commission to examine whether the contracts in place between Member State authorities and private firms that govern and outsource the investor citizenship and residence schemes are compatible with EU and international law and with security considerations;

41. Welcomes the publication of the Commission report on 'Investor citizenship and residence schemes', but is concerned about the lack of data in it; calls on the Commission to continue monitoring the scale and impact of the various investor citizenship and residence schemes in the EU, with a particular focus on due diligence processes, the profiles and activities of beneficiaries, the potential impacts on cross-border crime, and the integrity of the Schengen area; calls on the Member States to phase out all existing citizenship by investment and residency schemes as soon as possible; calls on the Commission, in the meantime, to address investor citizenship and residence schemes expressly in the Schengen Evaluation Mechanism, and to come forward with a legislative proposal which sets clear limits to investor citizenship and residence schemes;

([1]) https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2017)001-e

Thursday 28 March 2019

42. Calls on the Commission, building on its report on investor citizenship and residence schemes in various EU Member States, to examine specifically the impacts of the Maltese government investor citizenship and residence schemes on the integrity of the Schengen area;

43. Calls on Europol and the European Border and Coast Guard Agency to conduct a joint threat assessment regarding the consequences of EU Member States' investor citizenship and residence schemes for the fight against organised crime and for the integrity of the Schengen area;

44. Calls on the Government of Malta to fully investigate the allegations concerning mass sale of Schengen and medical visas, including the alleged involvement of former or current high-ranking Maltese government officials, such as the Chief of Staff of the Prime Minister's Office and Neville Gafa;

SAFETY OF JOURNALISTS AND INDEPENDENCE OF THE MEDIA

45. Calls on the Government of Slovakia to ensure the safety of journalists; deplores the lack of transparency on media ownership; questions the independence and quality of the public media following the departure of several RTVS journalists; notes with concern that the current legislative proposal for the Press Act risks limiting media freedom;

46. Is concerned about the statements of Slovak politicians that call into question the value of independent journalism and public media, such as those made by the former Prime Minister in public, for example at a news conference held on 2 October 2018;

47. Reiterates its call on the respective members of the Government of Malta to ensure the withdrawal, with immediate effect, of the libel suits being faced by the mourning family of Daphne Caruana Galiza, to refrain from using the libel laws to freeze critical journalists' bank accounts, and to reform the libel laws that are being used to frustrate journalists' work;

48. Calls on the Commission to present proposals to prevent so-called 'Strategic Lawsuits Against Public Participation' (SLAPP);

EU RESPONSES

49. Reiterates its call on the Commission to enter into dialogue with the Maltese Government in the context of the Rule of Law Framework;

50. Notes the efforts of the Commission and the Council to ensure that all Member States fully uphold the rule of law, democracy and fundamental rights; is, however, concerned regarding the limited impact of the Commission Rule of Law Framework and of the procedures initiated under Article 7(1) TEU so far; emphasises that the persistent failure to address serious and persistent breaches of the values referred to in Article 2 TEU has encouraged other Member States to follow the same path; regrets the Commission's decision to postpone publication of its proposal to strengthen the Rule of Law Framework to July 2019;

51. Recalls the need for an impartial and regular assessment of the situation with regard to the rule of law, democracy and fundamental rights in all the Member States; stresses that such an assessment must be based on objective criteria; draws renewed attention to its resolutions of 10 October 2016 and of 14 November 2018 which call for a comprehensive, permanent and objective EU mechanism for the protection of democracy, the rule of law and fundamental rights; considers that this would be a fair, balanced, regular and preventive mechanism for dealing with possible breaches of the values listed in Article 2 TEU, and underlines that such a mechanism is more urgently needed now than ever before;

52. Deplores the fact that the Commission has still not presented such a proposal for a comprehensive EU mechanism on democracy, the rule of law and fundamental rights, and calls on it to do so in due time, in particular by proposing the adoption of the interinstitutional agreement on the EU Pact for DRF;

53. Welcomes the Commission proposal for a regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, draws renewed attention to the report on this adopted by Parliament in January 2019, and urges the Council to enter constructively into negotiations as soon as possible;

54. Underlines the importance of Parliament sending ad hoc delegations to Member States as an effective tool to monitor breaches of democracy, the rule of law and fundamental rights; recommends creating a permanent structure within its Committee on Civil Liberties, Justice and Home Affairs to monitor such breaches in the Member States;

55. Calls on the EU institutions and the Member States to resolutely fight systemic corruption and to devise effective instruments for preventing, combating and sanctioning corruption and fighting fraud, as well as regularly monitoring the use of public funds; reiterates its regret that the Commission decided not to publish the EU Anti-Corruption Report in recent years, and underlines that having anti-corruption fact sheets as part of the European Semester is not a sufficiently effective measure to ensure that corruption is unequivocally placed on the agenda; therefore calls on the Commission to immediately resume its annual anti-corruption monitoring and reporting, with reference to all Member States and to the EU institutions;

56. Welcomes the agreement between the ECB and the national supervisory authorities on a new cooperation mechanism for information exchange; encourages all participating authorities to make extensive use of that mechanism in order to ensure swift and effective cooperation in the fight against money laundering;

57. Reminds its President that implementation is long overdue of its call to create a 'European Daphne Caruana Galizia prize for investigative journalism', to be awarded annually for outstanding investigative journalism in Europe;

58. Welcomes Parliament's decision to name its traineeship programme for investigative journalists after Ján Kuciak;

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59. Instructs its President to forward this resolution to the Council, the Commission, the Parliaments and Governments of the Member States and the Parliamentary Assembly of the Council of Europe.

Thursday 28 March 2019

P8_TA(2019)0329

Recent developments on the Dieselgate scandal

European Parliament resolution of 28 March 2019 on recent developments in the 'Dieselgate' scandal (2019/2670(RSP))

(2021/C 108/11)

The European Parliament,

— having regard to Article 226 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Decision 95/167/EC, Euratom, ECSC of the European Parliament, the Council and the Commission of 19 April 1995 on the detailed provisions governing the exercise of the European Parliament's right of inquiry [1],

— having regard to its Decision (EU) 2016/34 of 17 December 2015 on setting up a Committee of Inquiry into emission measurements in the automotive sector, its powers, numerical strength and term of office [2],

— having regard to Regulation (EC) No 715/2007 of the European Parliament and of the Council of 20 June 2007 on type approval of motor vehicles with respect to emissions from light passenger and commercial vehicles (Euro 5 and Euro 6) and on access to vehicle repair and maintenance information [3],

— having regard to Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles [4],

— having regard to Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC [5],

— having regard to Commission Regulation (EU) 2016/646 of 20 April 2016 amending Regulation (EC) No 692/2008 as regards emissions from light passenger and commercial vehicles (Euro 6) [6],

— having regard to Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe [7],

— having regard to its resolution of 27 October 2015 on emission measurements in the automotive sector [8],

— having regard to its resolution of 13 September 2016 on the inquiry into emission measurements in the automotive sector [9] (based on the interim report of the Committee of Inquiry into Emission Measurements in the Automotive Sector),

— having regard to the final report of the Committee of Inquiry into Emission Measurements in the Automotive Sector of 2 March 2017,

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[1] OJ L 113, 19.5.1995, p. 1.
[2] OJ L 10, 15.1.2016, p. 13.
[3] OJ L 171, 29.6.2007, p. 1.
[4] OJ L 263, 9.10.2007, p. 1.
[5] OJ L 151, 14.6.2018, p. 1.
[6] OJ L 109, 26.4.2016, p. 1.
[7] OJ L 152, 11.6.2008, p. 1.
[8] OJ C 355, 20.10.2017, p. 11.
[9] OJ C 204, 13.6.2018, p. 21.

— having regard to its recommendation of 4 April 2017 to the Council and the Commission following the inquiry into emission measurements in the automotive sector ([1]),

— having regard to the European Court of Auditors' briefing paper of 7 February 2019 on the EU's response to the 'Dieselgate' scandal,

— having regard to the judgment of the Court of Justice of the European Union (CJEU) of 13 December 2018 in Joined Cases T-339/16, T-352/16 and T-391/16 ([2]),

— having regard to the Recommendation of the European Ombudsman in case 1275/2018/EWM,

— having regard to its resolution of 13 March 2019 on a Europe that protects: Clean air for all ([3]),

— having regard to Rule 123(2) of its Rules of Procedure,

A. whereas Parliament had requested a comprehensive report from the Commission on the actions taken by the Commission and the Member States on the conclusions and recommendations of the Committee of Inquiry on Emission Measurements in the Automotive Sector (hereafter referred to as the 'EMIS Committee');

B. whereas on 18 October 2018, the Commissioner for the Internal Market, Industry, Entrepreneurship and SMEs, Elżbieta Bieńkowska, sent a letter to the former Chair of the EMIS Committee containing a table of follow-up actions taken by the Commission as a response to the request for a 'comprehensive report on the actions taken by the Commission and the Member States on the conclusions and recommendations of the EMIS Committee';

C. whereas the table attached to this letter only sought to address issues raised in the recommendations and did not address the conclusions of the EMIS Committee, particularly as regards the cases of maladministration and contravention of EU law; whereas Commissioner Bieńkowska underlined several times in the table that certain issues addressed in the recommendations are outside her remit;

D. whereas on 12 October 2018 the European Ombudsman upheld the complaint made by a Member of the European Parliament (MEP) and found that the Commission's refusal to grant public access to all positions of the representatives of the Member States relating to environmental information constituted maladministration;

E. whereas this obstructive behaviour on the part of the Commission led to a significant slowdown in the work of the EMIS Committee and, among other negative impacts, reduced the amount of information available to MEPs when questioning the Commission's representatives in the hearings;

F. whereas on 13 December 2018, the General Court of the European Union decided to uphold the actions brought by the cities of Paris, Brussels and Madrid (judgment of the Court of Justice of the European Union in Joined Cases T-339/16, T-352/16 and T-391/16), and annulled in part Commission Regulation (EU) 2016/646, which had set excessively high nitrogen emission limits for the tests for new light passenger and commercial vehicles;

G. whereas on 22 February 2019 the Commission decided to appeal this judgment, which may push back the deadline established by the Court until which the so-called 'conformity factors' can stay in place;

([1]) OJ C 298, 23.8.2018, p. 140.

([2]) Judgment of the Court of Justice of 13 December 2018, *Ville de Paris, Ville de Bruxelles, Ayuntamiento de Madrid* v *Commission*, T-339/16, T-352/16 and T-391/16, ECLI:EU:T:2018:927.

([3]) Texts adopted, P8_TA(2019)0186.

Thursday 28 March 2019

H. whereas on 6 December 2016 the Commission decided to launch infringement procedures against seven Member States, namely the Czech Republic, Germany, Greece, Lithuania, Luxembourg, Spain and the United Kingdom, for their failure to set up penalty systems to deter car manufacturers from violating car emissions legislation or to impose such sanctions in the case of the Volkswagen group;

I. whereas on 17 May 2017 the Commission started another infringement procedure concerning the emission control strategies employed by the Fiat Chrysler Automobiles (FCA) Group and the failure of Italy to meet its obligations to adopt corrective measures and impose sanctions on this manufacturer;

J. whereas despite the fact that these procedures, which are still ongoing against Germany, Italy, Luxembourg and the United Kingdom, were launched more than two years ago, the Commission has still not pushed them beyond the stage of seeking further information from the Member States through additional letters of formal notice;

K. whereas some Member States appear not to be cooperating sincerely with the Commission in this regard;

L. whereas in a press statement issued on 16 October 2018 on the work programme of the European Court of Auditors (ECA) for 2019, the President of the ECA, Klaus-Heiner Lehne, announced that the ECA would examine the EU's approach to measuring vehicle emissions in order to 'establish whether the EU is delivering what it has promised';

M. whereas the ECA briefing paper of 7 February 2019 on the EU's response to the 'Dieselgate' scandal pointed out that there are still large numbers of highly polluting cars on the road and observed that ongoing vehicle recalls have had a limited impact on NOx emissions, as have the software updates initiated in that regard;

N. whereas Germany requires German car manufacturers to offer car owners an exchange programme or a hardware retrofit with a selective catalytic reduction (SCR) system;

O. whereas the legacy of highly polluting diesel vehicles remains largely untackled, as they will continue to have an adverse effect on air quality for many years to come if no effective coordinated action is taken by the Commission and the Member States to reduce the harmful emissions they produce, particularly in areas to which these vehicles are exported in large numbers;

P. whereas according to the information transmitted to the Commission by the Member States, recall campaigns in the Member States concern only a limited number of cars from the following brands: Volkswagen, Renault, Daimler, Opel and Suzuki;

Q. whereas several non-governmental organisations and the media have reported that models from several other brands have shown suspicious emissions behaviour or exceeded the pollution limits laid down in EU law;

R. whereas some Member States, namely Bulgaria, Hungary, Ireland, Slovenia and Sweden, have still not sent any information to the Commission on their recall programmes;

S. whereas the Commission's response to the 'Dieselgate' scandal included not only the revision of Directive 2007/46/EC but also a proposal for a directive on representative actions for the protection of the collective interests of consumers (COM(2018)0184); whereas such binding legislation is key to ensuring that consumers have clear rights and can take meaningful collective action, in particular since the 2013 recommendation on collective redress was scarcely implemented in the majority of Member States; whereas in the United States, where the system of class actions is well developed, Dieselgate victims have received between USD 5 000 and USD 10 000 in compensation payments, while European consumers are still waiting for proper compensation; whereas this file is among the many that are blocked in the Council;

T. whereas President Juncker has proposed a revision of Regulation (EU) No 182/2011 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 ([1]), in order to oblige Member States to be more transparent regarding the positions they adopt at committee level; whereas a more transparent procedure for the adoption of the real driving emissions (RDE) test would have prevented Member States from unduly delaying the procedure, as explained in the EMIS conclusions; whereas this file is also among the many that are blocked in the Council;

U. whereas following an investigation by the European Anti-Fraud Office (OLAF), the European Investment Bank and Volkswagen AG have come to an agreement regarding a sub-project part of a loan of EUR 400 million that was granted in 2009 and fully repaid on schedule in February 2014;

V. whereas according to this agreement, the European Investment Bank will conclude its investigation and Volkswagen AG will in turn voluntarily not participate in any European Investment Bank projects during an 18-month exclusion period;

Responsibilities of the Commission

1. Recalls that pursuant to Article 17(8) of the Treaty on European Union, 'the Commission, as a body, shall be responsible to the European Parliament'; regrets, therefore, that the Commission, as a body, has not submitted a comprehensive report to Parliament addressing both the conclusions and the recommendations of the EMIS Committee;

2. Deplores the fact that the letter from the Commissioner for the Internal Market, Industry, Entrepreneurship and SMEs, Elżbieta Bieńkowska, to the former Chair of the EMIS Committee, is insufficient, as not all issues are within the remit of the Commissioner, as stated in the letter, and the letter fails to address the conclusions of the EMIS Committee;

3. Calls on the Commission to immediately send a comprehensive report, approved by the whole College, to Parliament, as required by Parliament in its resolution, which will address not only the recommendations, but also the core of the investigative task of the parliamentary inquiry, i.e. the conclusions of the EMIS Committee, in particular as regards the cases of maladministration and contravention of EU law; considers that the Commission should draw clear political conclusions on the basis of the conclusions of the EMIS Committee;

4. Notes that the Ombudsman's recommendation confirms that the Commission has significantly obstructed the work of an official parliamentary committee of inquiry; considers that the Commission should draw clear political conclusions from this failure;

5. Calls on the Commission to grant access to the minutes of meetings of technical committees in general, and to those of its Motor Vehicles Technical Committee in particular;

6. Calls on the Commission to publish guidelines on the recall of vehicles, outlining in detail how recalled vehicles must comply with the relevant EU regulations, including by applying hardware retrofits where software updates do not ensure compliance with emissions limits;

7. Calls on the Commission to include in the guidelines measures to ensure that highly polluting vehicles do not remain in circulation on the second-hand market, including in other Member States and third countries;

8. Calls on the Commission to monitor the set-up and implementation of the market surveillance checks by the Member States in accordance with Regulation (EU) 2018/858;

([1]) OJ L 55, 28.2.2011, p. 13.

Thursday 28 March 2019

9. Calls on the Commission to proceed with the work in the first stage of the infringement procedures against Germany, Luxembourg, the United Kingdom and Italy, given that these procedures were launched more than two years ago, and to issue reasoned opinions;

10. Welcomes the CJEU ruling of 13 December 2018, which concluded that the Commission had no power to amend, as part of the second RDE package, the NOx emissions limits set by the Euro 6 standard; notes that the CJEU also concluded that the Commission failed to provide a sufficient technical explanation for the need to adjust the NOx emissions limits with the introduction of conformity factors; considers that the NOx emissions limits set by the Euro 6 standard are to be met under normal conditions of use and that the responsibility of the Commission is to design RDE tests so that they reflect real-world emissions;

11. Regrets the decision of the Commission to appeal the judgment of the CJEU in cases T-339/16, T-352/16 and T-391/16, and asks the Commission to reverse its decision in the light of the recent developments;

12. Asks the Commission to inform Parliament if the decision to appeal will push back the deadline established by the CJEU until which the conformity factors can remain in place;

13. Calls on the Commission to respect the emissions limits currently in force, established in Regulation (EC) 715/2007, which are to be complied with during real driving conditions according to this Regulation, and not to introduce any new correction coefficients (i.e. conformity factors) that would make these legal limits less stringent;

14. Regrets the fact that the OLAF report following its investigation in relation to the EIB loan 'Antrieb RDI' to Volkswagen AG was never made public, and regrets the weakness of the measures taken by the EIB;

Responsibilities of the Member States

15. Calls on the Member States to provide, without delay, all information required by the Commission to prepare a report on the actions taken by the Commission and the Member States on the conclusions and recommendations of the EMIS Committee;

16. Regrets the varying approaches and lack of coordination by Member States in recalling vehicles and offering exchange programmes; considers that these varying approaches undermine consumer interests, the protection of the environment, the health of citizens and the functioning of the internal market;

17. Calls on the Member States to implement as a matter of urgency the measures necessary to recall or withdraw from the market the large number of highly polluting cars, and to cooperate fully with the Commission on a common approach for recall actions on the basis of Commission guidelines;

18. Regrets the fact that the exchange programme and hardware retrofit requirements for German car manufacturers in Germany are not applied outside of Germany or to other car manufacturers in the Union;;

19. Calls on Member States and car manufacturers to coordinate mandatory hardware retrofits for non-compliant diesel vehicles, including SCR hardware retrofits, to cut nitrogen dioxide (NO_2) emissions and clean up the existing fleet; considers that the cost of these retrofits should be borne by the car manufacturer responsible;

20. Calls on those Member States that have not yet provided any information on their recall programmes to the Commission to provide such information without further delay;

21. Calls on the Member States to ensure the effectiveness of market surveillance checks and to test cars in circulation beyond RDE parameters to ensure that manufacturers do not optimise vehicles for these RDE tests using their own facilities, as suggested in the ECA briefing paper;

22. Calls on the Member States involved in the relevant infringement procedures to fully cooperate with the Commission and provide it with all the information needed;

23. Calls on the Member States to prevent car manufacturers from using new flexibilities in the worldwide harmonised light vehicle test procedure (WLTP) laboratory test as a means of lowering their CO_2 emissions;

24. Reminds the Member States to ensure that all cars in dealerships only use the WLTP CO_2 values, to avoid any confusion on the part of consumers, and stresses that Member States should adjust vehicle taxation and fiscal incentives to WLTP values, respecting the principle that WLTP should not have a negative impact on consumers;

25. Urges the Council of the European Union to take its responsibilities and adopt as a matter of urgency a general approach on the proposal for a Directive on representative actions for the protection of the collective interests of consumers and the proposal for a revision of Regulation (EU) 182/2011;

26. Stresses the importance of ensuring a high and uniform level of consumer protection in the single market vis-à-vis any future manipulation by car manufacturers resulting in higher-than-expected emissions, and calls on the Member States to support the development of fair, affordable and timely collective redress procedures;

27. Calls on the Member States and the Commission to take decisive steps to facilitate access to zero- and low-emission vehicles in all Member States, while avoiding an increased uptake of old, highly polluting vehicles in lower-income Member States;

28. Stresses, in this regard, that the availability and accessibility of charging infrastructure, including in private and public buildings in accordance with the Energy Performance of Buildings Directive (EPBD) ([1]), and the competitiveness of electric vehicles are essential for increasing consumer acceptance;

29. Urges the President of the European Council and the President of the Commission to attend the first plenary session of the European Parliament in April 2019 to answer any remaining questions regarding the EMIS conclusions and recommendations, the Ombudsman recommendation and other elements of this resolution;

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30. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

([1]) 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).

Tuesday 26 March 2019

RECOMMENDATIONS

EUROPEAN PARLIAMENT

P8_TA(2019)0224

EU-Uzbekistan comprehensive agreement

European Parliament recommendation of 26 March 2019 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy on the new comprehensive agreement between the EU and Uzbekistan (2018/2236(INI))

(2021/C 108/12)

The European Parliament,

— having regard to Article 218 of the Treaty on the Functioning of the European Union (TFEU),

— having regard to Council Decision (EU) 2018/… of 16 July 2018 authorising the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy to open negotiations on and to negotiate, on behalf of the Union, the provisions that fall within the competence of the Union of a Comprehensive Agreement between the European Union and its Member States, of the one part, and the Republic of Uzbekistan, of the other part (10336/18),

— having regard to the decision of the representatives of the governments of the Member States, meeting within the Council, of 16 July 2018 authorising the European Commission to open negotiations on and negotiate, on behalf of the Member States, the provisions that fall within the competences of the Member States of a Comprehensive Agreement between the European Union and its Member States, of the one part, and the Republic of Uzbekistan, of the other part (10337/18),

— having regard to the Council negotiating directives of 16 July 2018 (10601/18 EU Restricted), transmitted to Parliament on 6 August 2018,

— having regard to the existing Partnership and Cooperation Agreement (PCA) between the EU and the Republic of Uzbekistan, in force since 1999,

— having regard to the EU-Uzbekistan Memorandum of Understanding on energy signed in January 2011,

— having regard to the EU Guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, adopted by the Council in 2013,

— having regard to its legislative resolution of 14 December 2016 on the draft Council decision on the conclusion of a Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, amending the Agreement in order to extend the provisions of the Agreement to bilateral trade in textiles, taking account of the expiry of the bilateral textiles Agreement [1],

[1] OJ C 238, 6.7.2018, p. 394.

— having regard to its non-legislative resolution of 14 December 2016 on the draft Council decision on the conclusion of a Protocol to the Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States, of the one part, and the Republic of Uzbekistan, of the other part, amending the Agreement in order to extend the provisions of the Agreement to bilateral trade in textiles, taking account of the expiry of the bilateral textiles Agreement ([1]),

— having regard to its resolution of 23 October 2014 on human rights in Uzbekistan ([2]),

— having regard to its resolutions of 15 December 2011 on the state of implementation of the EU Strategy for Central Asia ([3]), and of 13 April 2016 on implementation and review of the EU-Central Asia Strategy ([4]),

— having regard to the Joint Communication by the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 19 September 2018 entitled 'Connecting Europe and Asia — Building blocks for an EU Strategy' (JOIN(2018)0031),

— having regard to the visits to Uzbekistan by its Committee on Foreign Affairs and its Subcommittee on Human Rights of September 2018 and May 2017 respectively, and to the regular visits to the country by its Delegation to the EU-Kazakhstan, EU-Kyrgyzstan, EU-Uzbekistan and EU-Tajikistan Parliamentary Cooperation Committees and for relations with Turkmenistan and Mongolia,

— having regard to the outcomes of the 13th EU-Central Asia Foreign Ministers' meeting, held on 10 November 2017 in Samarkand, which addressed the bilateral agenda (economy, connectivity, security and rule of law) and regional issues,

— having regard to the Joint Communiqué of the 14th EU-Central Asia Foreign Ministers' meeting, held on 23 November 2018 in Brussels, entitled 'EU-Central Asia — Working together to build a future of inclusive growth, sustainable connectivity and stronger partnerships' ([5]),

— having regard to the continued EU development assistance to Uzbekistan, amounting to EUR 168 million in the period 2014-2020, financial assistance from the European Investment Bank (EIB) and the European Bank for Reconstruction and Development (EBRD), and other EU measures in support of peace and security and reduction of nuclear waste in the country,

— having regard to the Declaration of the Tashkent Conference on Afghanistan of 26 and 27 March 2018, hosted by Uzbekistan and co-chaired by Afghanistan, entitled 'Peace process, security cooperation and regional connectivity',

— having regard to the Strategy of Actions in Five Priority Areas for the Development of Uzbekistan (Development Strategy) for 2017-2021,

— having regard to the steps Uzbekistan has made towards a more open society and towards more openness in relations with its neighbours since independence from the Soviet Union,

— having regard to the UN Sustainable Development Goals,

— having regard to Rule 113 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs (A8-0149/2019),

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([1]) OJ C 238, 6.7.2018, p. 51.
([2]) OJ C 274, 27.7.2016, p. 25.
([3]) OJ C 168 E, 14.6.2013, p. 91.
([4]) OJ C 58, 15.2.2018, p. 119.
([5]) https://eeas.europa.eu/headquarters/headquarters-homepage/54354/joint-communiqué-european-union-–-central-asia-foreign-ministers-meeting-brussels-23-november_en

Tuesday 26 March 2019

A. whereas on 23 November 2018 the EU and Uzbekistan launched negotiations on a comprehensive Enhanced Partnership and Cooperation Agreement (EPCA), with a view to replacing the current EU-Uzbekistan PCA, aiming for enhanced and deeper cooperation in areas of mutual interest and based on the shared values of democracy, the rule of law, respect for fundamental freedoms, and good governance, in order to promote sustainable development and international security and effectively tackle global challenges such as terrorism, climate change and organised crime;

B. whereas the EPCA will require Parliament's consent for it to enter into force;

1. Recommends the following to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR):

EU-Uzbekistan relations

(a) welcome the commitments and steps taken by Uzbekistan towards a more open society and the level of genuine engagement in the political dialogue between the EU and Uzbekistan, which led to the opening of negotiations on a comprehensive EPCA; stress the EU's interest in strengthening its relations with Uzbekistan on the basis of common values and acknowledge Uzbekistan's role as an important cultural and political bridge between Europe and Asia;

(b) provide for regular, in-depth dialogue and monitor full implementation of political and democratic reforms aimed at creating an independent judiciary — including the lifting of all restrictions on the independence of lawyers –, a genuinely independent parliament resulting from a genuinely competitive election, protecting human rights, gender equality and freedom of the media, depoliticising the security services and ensuring that they commit to respecting the rule of law, and strong involvement of civil society in the reform process; welcome the new powers given to the Oliy Majlis and the new mechanisms strengthening parliamentary oversight; encourage the authorities to implement the recommendations of the OSCE/ODIHR report following the 2014 parliamentary elections;

(c) stress the importance of, and provide significant support to, sustainable reforms and their implementation, on the basis of the current and future agreements, leading to tangible results and addressing political, societal and economic issues, with a view in particular to improving governance, opening up space for a genuinely diverse and independent civil society, strengthening respect for human rights, protecting all minorities and vulnerable people, including people with disabilities, ensuring accountability for human rights violations and other crimes and removing obstacles to entrepreneurship;

(d) recognise and support Uzbekistan's commitment to the ongoing structural, administrative and economic reforms to improve the business climate, the judicial system and security services, labour conditions, and administrative accountability and efficiency, and stress the importance of their full and verifiable implementation; welcome the liberalisation of foreign currency operations and of the foreign exchange market; highlight that Uzbekistan's comprehensive reform plan, the Development Strategy for 2017–2021, must be implemented and backed up by measures facilitating external trade and improving the business environment; take into account that labour migration and remittances are key mechanisms to address poverty in Uzbekistan;

(e) urge the Uzbek Government to ensure that human rights defenders, civil society, international monitors and human rights organisations can operate freely in a legally sound and politically safe environment, notably by facilitating the registration processes and enabling legal recourse in case of denial of registration; urge the government to allow regular, unfettered and independent monitoring of conditions in prison and detention sites; encourage the government to invite the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, implement the recommendation from his last visit in 2003 and bring national laws and practices in line with international law and standards, including an independent monitoring mechanism granting unhindered access to places of detention so that the treatment of prisoners can be monitored; call on the authorities to thoroughly investigate all allegations of torture or inhuman treatment;

(f) promote the emergence of a tolerant, inclusive, pluralist and democratic society under a credible government by supporting gradual liberalisation with full respect for the UN guiding principles on business and human rights and socio-economic progress to the benefit of the people;

(g) welcome the release of political prisoners but urge the authorities to guarantee them full rehabilitation and access to remedy and medical treatment; call for the release of all remaining political prisoners and all other individuals imprisoned or persecuted on politically motivated charges such as human rights activists, civil society and religious activists, journalists and opposition politicians; express concern at several closed-door trials and urge the government to put an end to such practices; urge the government to swiftly amend its criminal code provisions relating to extremism that are sometimes misused to criminalise dissent; welcome the commitments made to stop using the charge of 'violations of prison rules' to arbitrarily extend the sentences of political prisoners; ensure that all political prisoners who are convicted of criminal and other offences are given copies of the court sentences on their cases so as to enable them to access their right to appeal and apply for rehabilitation; welcome the relaxation of some restrictions on freedom of peaceful assembly and encourage furthermore the removal of restrictions on those rights, such as detention of peaceful demonstrators, thereby adhering to the Universal Declaration of Human Rights; welcome the recent visit by the UN Special Rapporteur on freedom of religion or belief;

(h) note that Uzbekistan's ranking in Reporters Without Borders' Press Freedom Index improved only slightly between 2016 and 2018 and remain concerned about the censorship, blocking of websites, self-censorship of journalists and bloggers, harassment, both online and offline, and politically motivated criminal charges; urge the authorities to put a stop to pressure on, and surveillance of, the media, to stop blocking independent websites and to allow international media to accredit correspondents and operate in the country; support and welcome the measures taken towards greater independence of the media and civil society organisations, for instance the lifting of some restrictions governing their activities, as well as the return of foreign and international media and NGOs, which were formerly excluded from the country; welcome the new law on registration of NGOs, which relaxes some registration procedures and some requirements to have advanced permission for holding activities or meetings; urge the authorities to fully implement this law, including by removing all barriers to the registration of international organisations, and encourage the authorities to address the remaining restrictions limiting the work of NGOs, such as burdensome registration requirements and intrusive monitoring;

(i) welcome the progress made towards the eradication of child labour and the phasing-out of forced labour, as well as the recent visits to Uzbekistan by UN Special Rapporteurs and the reopening of the country to international NGOs in this field; point out that state-sponsored forced labour in the cotton and silk industries and other areas remains a problem; expect steps by the Government of Uzbekistan to eradicate all forms of forced labour, to tackle the root causes of the phenomenon, in particular the system of mandatory quotas, and to hold accountable local authorities that mobilise public sector workers and students under duress; stress that more efforts and further legal measures are needed to consolidate progress in this area with a view to abolishing forced labour; encourage in this respect further cooperation with the International Labour Organisation (ILO); encourage access to the country for a visit by the UN Special Rapporteur on contemporary forms of slavery; underline the importance of efforts to develop a sustainable cotton supply chain and modern and environmentally sound cotton growing technologies and farming practices in the country; support domestic cotton farmers in improving their production efficiency, safeguarding the environment and improving labour practices with a view to abolishing forced labour;

(j) encourage the authorities to step up action to reduce unemployment in the country, including opening up the private sector and strengthening small and medium-sized enterprises; welcome, in this regard, the extension of the Management Training Programme and encourage further training programmes for entrepreneurs; recall the potential of its young population and its relatively high level of education in this regard; encourage the promotion of entrepreneurship education programmes; recall the importance of EU programmes such as Erasmus+ in promoting intercultural dialogue between the EU and Uzbekistan and in providing opportunities for empowerment for students taking part in these programmes as positive actors of change in their society;

(k) continue holding annual human rights dialogues organised by the European External Action Service (EEAS) and, in this context, press for individual cases of concern to be resolved, including those of political prisoners; agree on concrete areas ahead of each round of dialogues on an annual basis and assess progress on deliverables in line with EU standards, while mainstreaming human rights issues in all other meetings and policies; encourage and assess

compliance with international human rights instruments, as ratified by Uzbekistan, notably within the UN, the OSCE and the ILO; express continued concern at the outstanding problems and lack of implementation of some reforms; encourage the authorities to decriminalise consensual sexual relations between persons of the same sex and foster a culture of tolerance for LGBTI people; call on the Uzbek authorities to uphold and promote women's rights;

(l) ensure a review of the passport system; welcome the abolition of the system of 'exit visas', which were previously required by Uzbek citizens travelling outside the Commonwealth of Independent States (CIS); welcome Uzbekistan's announcement that it will no longer require visas from citizens of EU Member States as of January 2019;

(m) urge the authorities to improve the local healthcare system and increase state resources to facilitate improvements, since the situation has deteriorated significantly since the country gained independence;

(n) urge the authorities to provide the necessary support and seek the contribution and support of international partners to enable Uzbekistan, and in particular the autonomous Republic of Karakalpakstan, to further tackle the economic, social and health-related consequences of the Aral Sea environmental disaster by establishing sustainable water management and conversation policies and practices and a credible gradual clean-up plan for the region; welcome the positive developments in regional cooperation on water, in particular with Tajikistan and Kazakhstan, the establishment of the UN Multi-Partner Human Security Trust Fund for the Aral Sea Region and the commitment shown by the authorities; continue supporting the efforts to improve irrigation infrastructure;

(o) acknowledge Uzbekistan's new foreign policy, which has led to improvements in cooperation with neighbours and international partners, in particular on the promotion of stability and security in the region, border and water management, border demarcation, and energy; support Uzbekistan's positive engagement in the Afghanistan peace process;

(p) welcome Uzbekistan's continued commitment to upholding the Central Asian Nuclear Weapon Free Zone; recall the EU's commitment to support Uzbekistan in dealing with toxic and radioactive waste; encourage Uzbekistan to sign the Treaty on the Prohibition of Nuclear Weapons;

(q) take into account Uzbekistan's important role in the upcoming review of the EU-Central Asia Strategy, applying the principle of differentiation;

(r) recognise the legitimate security concerns of Uzbekistan, and increase cooperation in support of crisis management, conflict prevention, integrated border management and efforts to tackle violent radicalisation, terrorism, organised crime and the illicit trade in drugs, while upholding the rule of law, including the protection of human rights;

(s) ensure effective cooperation in the fight against corruption, money laundering and tax evasion;

(t) tie the delivery of assistance to Uzbekistan from the EU's external financing instruments and from EIB and EBRD loans to the continuation of the reform progress;

(u) support effective implementation of the key international conventions required for GSP+ status;

(v) support Uzbekistan's efforts to engage in the process of joining the World Trade Organisation (WTO), in order to better integrate the country into the world economy and improve its business climate, thereby attracting more foreign direct investment (FDI);

(w) take into account the development of relations with other third countries in the context of the implementation of China's 'One Belt, One Road' (OBOR) initiative; and insist on compliance with the human rights concerns linked to this initiative, including by developing guidelines in this regard;

New comprehensive agreement

(x) use the EPCA negotiations to support genuine and sustainable progress towards an accountable and democratic regime that guarantees and protects fundamental rights for all citizens and focuses in particular on ensuring an enabling environment for civil society, human rights defenders and the independence of lawyers; ensure that, before the end of the negotiations, Uzbekistan makes good progress towards ensuring freedom of expression and freedom of association and peaceful assembly in line with international standards, including by removing the obstacles that hinder all new groups from registering and legally starting activities in the country and from receiving foreign funding;

(y) negotiate a modern, all-encompassing and ambitious agreement between the EU and Uzbekistan that will replace the PCA of 1999, enhancing people-to-people contact, political cooperation, trade and investment relations, and cooperation on sustainable development, environmental protection, connectivity, human rights, and governance, and contributing to the sustainable economic and social development of Uzbekistan;

(z) renew their commitment to the advancement of democratic standards, the principles of good governance and the rule of law, and respect for human rights and fundamental freedoms, including freedom of religion or belief, and their defenders;

(aa) support Uzbekistan's renewed efforts towards multilateral and international cooperation on global and regional challenges, such as international security and countering violent extremism, organised crime, drug trafficking, water management, environmental degradation, climate change, and migration, among others;

(ab) ensure that the comprehensive agreement facilitates and strengthens regional cooperation and peaceful conflict resolution of the existing controversies, paving the way for genuine good-neighbourly relations;

(ac) enhance provisions related to trade and economic relations by better linking them to human rights provisions and a commitment to implementing the UN guiding principles on business and human rights, while providing mechanisms to assess and address negative human rights impacts, on the one hand, and by promoting market economy principles, including legal certainty, and independent and transparent institutions, social dialogue and implementation of ILO labour standards in order to guarantee sustainable foreign direct investment and contribute to the diversification of the economy on the other hand; improve cooperation in the fight against corruption, money laundering and tax evasion and ensure that the assets currently frozen in several EU and EEA Member States are repatriated responsibly for the benefit of all the Uzbek people;

(ad) reinforce aspects of interparliamentary cooperation within an empowered Parliamentary Cooperation Committee in the areas of democracy, the rule of law and human rights, including direct accountability of representatives of the Cooperation Council and the Parliamentary Cooperation Committee;

(ae) ensure the involvement of all relevant actors, including civil society, during both the negotiations and the implementation phase of the agreement;

(af) include terms on the potential suspension of cooperation in the event of the breach of essential elements by either party with regard, in particular, to respect for democracy, human rights, and the rule of law, including consultation of the European Parliament in such cases; set up an independent monitoring and complaint mechanism providing affected populations and their representatives with an effective tool for addressing impacts on human rights and monitoring implementation;

(ag) ensure that the European Parliament is closely involved in monitoring the implementation of all parts of the EPCA once it enters into force, hold consultations in this context, ensuring that Parliament and civil society are properly informed about the implementation of the EPCA by the EEAS, and react appropriately;

(ah) ensure the transmission of all negotiating documents to the European Parliament, subject to confidentiality rules, to enable proper scrutiny by Parliament of the negotiating process; fulfil the interinstitutional obligations stemming from Article 218(10) of the TFEU, and periodically debrief Parliament;

(ai) apply the EPCA provisionally only after Parliament has given its consent;

(aj) implement a public outreach campaign highlighting the expected positive outcomes of cooperation to the benefit of EU and Uzbek citizens, which would also enhance people-to-people relations;

2. Instructs its President to forward this recommendation to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, and to the President, Government and Parliament of the Republic of Uzbekistan.

Tuesday 26 March 2019

P8_TA(2019)0241

EU-Switzerland Institutional Framework Agreement

European Parliament recommendation of 26 March 2019 to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy concerning the Institutional Framework Agreement between the European Union and the Swiss Confederation (2018/2262(INI))

(2021/C 108/13)

The European Parliament,

— having regard to Article 218 of the Treaty on the Functioning of the European Union,

— having regard to the Council decision of 6 May 2014 authorising negotiations on an agreement between the EU and Switzerland on an institutional framework governing bilateral relations, and the start of negotiations on 22 May 2014,

— having regard to the Council conclusions of 28 February 2017 on EU relations with the Swiss Confederation,

— having regard to the Council conclusions of 14 December 2010 and 20 December 2012 on EU relations with EFTA countries,

— having regard to the Agreement on the European Economic Area (EEA) of 1 January 1994 ([1]),

— having regard to the Swiss people's rejection of the popular vote on participation in the EEA by 50,3 % in December 1992, the initiative 'EU membership negotiations: let the people decide' by 74 % in June 1997, and the initiative 'Yes to Europe!' by 77 % in March 2001,

— having regard to the EU-Swiss Confederation Agreement on Emissions Trading, signed on 23 November 2017 ([2]),

— having regard to the European Defence Agency (EDA) and Switzerland Framework for Cooperation, signed on 16 March 2012,

— having regard to the agreement between Switzerland and Eurojust on judicial cooperation, which was signed on 27 November 2008 and entered into force on 22 July 2011,

— having regard to the agreement between Switzerland and Europol on cooperation between police authorities in the prevention of and fight against serious and organised international crime and terrorism, which was signed on 24 September 2004 and entered into force on 1 March 2006, and to the enlargement of the area of application thereunder of 1 January 2008,

— having regard to the Agreement of 21 June 1999 between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ([3]), and in particular Annex I on the free movement of persons and Annex III on the mutual recognition of professional qualifications,

— having regard to the Protocol of 27 May 2008 to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons regarding the participation, as contracting parties, of the Republic of Bulgaria and Romania pursuant to their accession to the European Union ([4]),

— having regard to the Agreement of 25 June 2009 between the European Community and the Swiss Confederation on the simplification of inspections and formalities in respect of the carriage of goods and on customs security measures ([5]),

([1]) OJ L 1, 3.1.1994, p. 3.
([2]) OJ L 322, 7.12.2017, p. 3.
([3]) OJ L 114, 30.4.2002, p. 6.
([4]) OJ L 124, 20.5.2009, p. 53.
([5]) OJ L 199, 31.7.2009, p. 24.

Tuesday 26 March 2019

— having regard to the Swiss federal popular initiative of 9 February 2014, where 50,3 % of Swiss people supported proposals to reintroduce quotas on immigration with the European Union, to national preference when filling job vacancies, and to restrict immigrants' rights to social benefits,

— having regard to the 1972 EU-Switzerland Free Trade Agreement ([1]), which has been adapted and updated over the years,

— having regard to the European Community-Swiss Confederation Agreement on Air Transport, which entered into force on 1 June 2002 ([2]),

— having regard to the European Community-Swiss Confederation Agreement on the Carriage of Goods and Passengers by Rail and Road, which entered into force on 1 June 2002 ([3]),

— having regard to the negotiations on agreements between the EU and the Swiss Confederation on electricity, and on food safety, product safety and public health,

— having regard to Commission Implementing Decision (EU) 2018/2047 of 20 December 2018 on the equivalence of the legal and supervisory framework applicable to stock exchanges in Switzerland in accordance with Directive 2014/65/EU of the European Parliament and of the Council ([4]),

— having regard to the 37th EU-Switzerland inter-parliamentary meeting, held in Brussels on 4 and 5 July 2018,

— having regard to its resolutions on Switzerland, in particular of 9 September 2015 on EEA-Switzerland: Obstacles with regard to the full implementation of the internal market ([5]), and to the draft motion for a resolution of its Committee on the Internal Market and Consumer Protection on the same topic of 24 April 2018,

— having regard to its resolution of 15 February 2017 on the Annual Report on the Single Market Governance within the European Semester 2017 ([6]),

— having regard to Rules 108(4) and 52 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the opinions of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection (A8-0147/2019),

A. whereas Switzerland's current relationship with the EU is based on a complex set of some 20 main sectoral bilateral agreements and around 100 other agreements; whereas Switzerland only partially participates in all four freedoms; whereas while these agreements have deepened EU-Switzerland cooperation in the past in the fields of the internal market, internal security and asylum, transport and tax matters, in the future this complex set of agreements could become outdated, making their implementation less relevant, unless an overarching framework is agreed upon;

B. whereas according to Eurostat data, in 2017 Switzerland was the EU's third-biggest partner in terms of export of goods and its fourth biggest in terms of import of goods;

C. whereas the Council has stated that an overarching institutional agreement with Switzerland should aim to protect the homogeneity of the internal market and ensure legal certainty for authorities, citizens and economic operators;

([1]) OJ L 300, 31.12.1972, p. 189.
([2]) OJ L 114, 30.4.2002, p. 73.
([3]) OJ L 114, 30.4.2002, p. 91.
([4]) OJ L 327, 21.12.2018, p. 77.
([5]) OJ C 316, 22.09.2017, p. 192.
([6]) OJ C 252, 18.7.2018, p. 164.

D. whereas the Swiss Federal Council wishes to conclude an institutional agreement with the EU that ensures legal certainty in the area of market access and preserves Swiss prosperity, independence and legal system ([1]); whereas the Swiss Federal Council has announced a stakeholder consultation on the basis of the text agreed between the negotiators on 23 November 2018;

E. whereas a well-functioning and effective single market, based on a highly competitive social market economy, is needed to boost growth and competitiveness and create jobs to revitalise the European economy; whereas single market legislation must be properly transposed, implemented and enforced if the Member States and Switzerland are to reap the full benefits;

F. whereas Switzerland has expressed its wish to leave binding material provisions on State aid for a future market access agreement and have access to the single market for electricity;

G. whereas on 28 September 2018 the Federal Council approved the second Swiss contribution to a number of EU Member States of CHF 1,3 billion over ten years and is now awaiting a positive decision of the Federal Assembly;

H. whereas Switzerland is member of the European Environment Agency;

I. whereas Switzerland has ratified its participation in the European satellite navigation programmes Galileo and EGNOS;

J. whereas Switzerland's participation in the EU's Horizon 2020 research framework programme and its predecessor Framework Programme 7 (FP7) has been valuable to all parties involved owing to the high quality of proposals;

K. whereas Switzerland and the EU signed an additional protocol to the Taxation and Savings Income Agreement on 27 May 2015, which requires that both parties automatically exchange information (AEI) on the financial accounts of each other's residents from September 2018; whereas the EU listed Switzerland among 'non-cooperative jurisdictions for tax purposes' in Annex II to the Council conclusions of 5 December 2017 concerning countries that have committed to implementing tax good governance principles to address issues relating to transparency, fair taxation and anti-BEPS (base erosion and profit shifting) measures;

L. whereas Switzerland cooperates in select parts of the Common Foreign and Security Policy (CFSP) and has participated in the civil and military peace missions of the Common Security and Defence Policy (CSDP), notably in Ukraine and Mali; whereas the EDA-Switzerland Framework for Cooperation, which was signed on 16 March 2012, enables exchange of information and provides for joint activities in research and technology and armament projects and programmes;

M. whereas Switzerland has been part of the Schengen area since the start of its Swiss implementation in December 2008;

N. whereas Switzerland participates in the Schengen Information System (SIS), the Visa Information System (VIS) and the Eurodac EU asylum fingerprint database, and will participate in the future Entry/Exit System (EES), which will record crossings of the EU's external borders, and the European Travel Information and Authorisation System (ETIAS), which provides pre-travel security and irregular migration screening of visa-exempt non-EU nationals;

O. whereas based on the Dublin association agreement, Switzerland is associated to parts of the EU asylum acquis; whereas Switzerland has contributed financially and operationally to Frontex since 2010;

([1]) https://www.eda.admin.ch/dam/dea/en/documents/fs/11-FS-Institutionelle-Fragen_en.pdf

Tuesday 26 March 2019

P. whereas in 2017, the Swiss population of 8,48 million included 2,13 million foreign nationals, 1,4 million of whom came from Member States of the EU and European Free Trade Association (EFTA); whereas 320 000 EU citizens commute to Switzerland every day; whereas 750 000 Swiss nationals live abroad, of which 450 000 live in the EU;

Q. whereas in 2009, Switzerland agreed to continue the 1999 bilateral EU-Switzerland Agreement on the Free Movement of Persons (FMPA),which confers upon Swiss and EU citizens alike the right to freely choose their place of employment and residence within the national territories of the contracting parties;

R. whereas foreign companies are obliged to respect Swiss minimum working conditions when posting foreign workers to Switzerland; whereas the main contractor has the legal responsibility to ensure that that subcontractors observe Swiss labour market regulations;

S. whereas Switzerland introduced 'flanking measures' in 2002 with the stated aim of protecting Swiss wages, working conditions and social standards, which the EU considers to be not in compliance with the FMPA;

T. whereas the implementation of the Citizens' Rights Directive (2004/38/EC) and EU citizens' rights to social welfare benefits and rights of establishment have caused concerns in Switzerland;

U. whereas Switzerland has been a member of EFTA since 1960 and of the United Nations since 2002;

V. whereas the 'Swiss law, not foreign judges' vote (known as the Self-Determination Initiative) was rejected by popular vote by 66 % and by all cantons on 25 November 2018;

W. whereas Switzerland is committed to political neutrality and as such has played host to a number of international negotiations aiming to reach peaceful solutions to armed conflicts around the world;

X. whereas the Commission in late 2018 extended for six months its decision to recognise trading venues in Switzerland as eligible for compliance with the trading obligation for shares set out in the Markets in Financial Instruments Directive (2004/39/EC) and Regulation ((EU) No 600/2014);

Y. whereas the Inter-Parliamentary Union (IPU) is based in Geneva;

Z. whereas Switzerland hosts the worldwide headquarters of 25 major international organisations and conferences, most of which are based in Geneva;

AA. whereas hundreds of international non-governmental organisations are based in Switzerland, providing advice to the UN and other non-governmental organisations;

AB. whereas Switzerland plans to hold federal elections on 20 October 2019;

1. Recommends the following to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy:

(a) highlights that Switzerland and the EU enjoy a close, broad and comprehensive partnership, which is mutually beneficial and based on joint cultural history and shared values, and that economic, political, social, environmental, scientific and people-to-people ties and links are exemplary, recalling the unique cultural and geographical proximity between the two;

(b) stresses that Switzerland is highly integrated with the EU, is a similarly-minded partner and shares European regional and global challenges with the EU; welcomes the Swiss statement that it is in their interest to renew and consolidate the bilateral approach and to forge an ever-closer relationship;

(c) notes that the EU is Switzerland's main trading partner, accounting for 52 % of its exports and over 71 % of its imports, and that the trade in goods under the current bilateral trade agreements amounts to no less than CHF 1 billion per day ([1]); whereas Switzerland is the EU's third-largest trading partner, accounting for 7 % of its trade; considers that Switzerland's significant degree of integration with the EU internal market is a key factor for economic growth, making the EU Switzerland's most important economic and trading partner;

(d) highlights that the EU has shown great flexibility in the negotiations for the Institutional Framework Agreement (IFA) and that this must be recognised by all parties concerned;

(e) urges the conclusion of the bilateral IFA as soon as possible with the aim of bringing coherence to the existing complex set of bilateral agreements including establishing a dispute settlement mechanism; welcomes the agreement by the negotiators on the final text of the agreement; calls on the Swiss Federal Council to take a decision to conclude the agreement as soon as the consultation of stakeholders has been positively concluded in this respect;

(f) recalls that the establishment of a common institutional framework for existing and future agreements that enable Switzerland's participation in the EU single market, in order to ensure homogeneity and legal certainty for citizens and businesses, remains a precondition for the further development of a sectoral approach; stresses that after four years of negotiations, the time has come to conclude the IFA; considers that the agreement's conclusion will enable the EU-Swiss comprehensive partnership to develop to its full potential;

(g) acknowledges the need for an IFA, as the EU-Switzerland relationship is based on a complex system of 120 sector-specific agreements, and additional coherence and legal certainty would benefit all parties;

(h) calls on the parties to organise as soon as possible an interparliamentary meeting of legislators from both the EU and Switzerland in order to discuss all matters related to this agreement;

(i) expresses its regret at the fact that the Commission only transmitted the negotiated text of the EU-Switzerland IFA to the Committees on Foreign Affairs and International Trade on 6 February 2019, despite the fact that it was finalised in November 2018;

(j) acknowledges that the strong relations between the EU and Switzerland go beyond economic integration and the extension of the single market, contributing to stability and prosperity to the benefit of all citizens and businesses, including small and medium-sized businesses (SMEs); underlines the importance of ensuring the proper functioning of the single market in order to create a level playing field and create jobs;

(k) considers that securing an IFA with Switzerland is of great importance, since it would guarantee legal certainty for both Switzerland and the EU, dynamic incorporation of the EU acquis, enhanced access to the internal market for Switzerland to the benefit of both sides, and the jurisdiction of the Court of Justice of the European Union in the event of unresolved disputes relating to the application or interpretation of the IFA;

(l) Welcomes the Commission's decision of 20 December 2018 to recognise trading venues in Switzerland as eligible for compliance with the trading obligation for shares set out in the Markets in Financial Instruments Directive ([2]) and Regulation ([3]) (MiFID II/MiFIR); stresses that this equivalence is limited to 30 June 2019, but can be extended provided that *progress has been made towards the signature of an agreement establishing that common institutional framework;*

([1]) https://www.eda.admin.ch/dam/dea/en/documents/abkommen/InstA-Wichtigste-in-Kuerze_en.pdf
([2]) OJ L 173, 12.6.2014, p. 349.
([3]) OJ L 173, 12.6.2014, p. 84.

Tuesday 26 March 2019

(m) stresses, alongside the Council, that the free movement of persons is a fundamental and non-negotiable pillar of EU policy and the internal market, and that the four freedoms of the internal market are indivisible; expresses regret at the disproportionate one-sided 'flanking measures' of Switzerland, which have been in force since 2004; invites Switzerland, which considers that the flanking measures are important, to seek a solution which is fully compatible with the relevant EU instruments; calls on Switzerland also to consider shortening the period of application of the transitional measures concerning workers from Croatia, bearing in mind benefits of the free movement of persons between the EU and Switzerland;

(n) notes the implementation of the 'domestic preference light' initiative, and that the Council considers that the resultant text adopted on 16 December 2016 by the Swiss Federal Assembly can be implemented in a manner compatible with the rights of EU citizens under the FMPA if the necessary implementing ordinance clarifies outstanding open issues, such as the right to information as regards vacancies and respect for frontier workers' rights; recalls, however, that the question of migration of citizens from third countries should not be confused with the free movement of persons as enshrined in the Treaties; underlines the need to monitor the implementation of the ordinance closely with a view to assessing its compliance with the FMPA;

(o) underlines that Switzerland strongly benefits from democratic and competitive development throughout its European neighbours and that its financial contributions to programmes such as the Cohesion Fund are therefore in its own interest and should be continued, and welcomes the positive results of the contribution in the receiving Member States; recalls that Switzerland draws significant benefits from participating in the single market; stresses that the future Swiss contribution to EU cohesion is essential and should be stepped up considerably, in line with the example set by the EEA/Norway;

(p) welcomes the intense internal debate on cooperation with the EU that is taking place in Switzerland; suggests, however, that Switzerland try to even better communicate to its citizens the many tangible benefits of having access to the internal market and the need for closer cooperation with the EU;

(q) urges that once concluded, the IFA be submitted without delay to the European Parliament, the Member States, and the Swiss Parliament for approval, and to the Swiss electorate in a referendum, in accordance with the Swiss constitution;

(r) notes that 1,4 million EU citizens live in Switzerland, whereas over 450 000 Swiss nationals live in the EU;

(s) recalls that following the referendum of 9 February 2014, the Swiss Parliament passed an amendment to the Foreign Nationals Act in 2016 for the implementation of Article 121a of the Federal Constitution, with entry into force on 1 July 2018; stresses that it is essential that the Federal Council pay careful attention to implementing Article 121a so as to not jeopardise the right of EU citizens to free movement;

(t) regrets any cantonal or national initiative that could have the effect of restricting access to the Swiss labour market for EU workers, in particular cross-border workers, thereby undermining the rights of EU citizens under the FMPA and cooperation between the EU and Switzerland;

(u) strongly welcomes the political declaration of intent to modernise the Agreement on Government Procurement and the 1972 EU-Switzerland Free Trade Agreement, and supports the ambition of achieving a revised trade partnership that includes areas such as services that are beyond the scope of the IFA and only partially covered through the Agreement on the Free Movement of Persons (FMPA), including digital aspects, intellectual property rights, trade facilitation, mutual recognition of conformity assessments and public procurement, in addition to a chapter on trade and sustainable development; requests further cooperation in order to better protect geographical indications and expand the modern and reliable State-to-State dispute settlement mechanism included in the draft IFA to cover the future bilateral trade relationship and efficiently resolve trade irritants between the parties;

(v) is aware that there is no comprehensive services agreement in place between the EU and Switzerland and that services are only partially covered through the FMPA, showing that there is potential for further development;

(w) tales note of the revised law on public procurement adopted in 2017 in the canton of Ticino that is to be compliant with the World Trade Organisation Agreement on Government Procurement and the relevant EU-Switzerland sectoral agreement, which entered into force in 2002; strongly encourages contracting authorities to treat EU suppliers and service providers in a non-discriminatory way, even in cases of procurement contracts below the threshold;

(x) urges that the current practice whereby taxi firms from EU Member States can provide services in Switzerland without restriction be allowed to continue, as it has long contributed to economic development in Swiss border regions and is mutually beneficial;

(y) takes the view that reciprocity and fairness between the EEA and Switzerland are necessary to enable both sides to benefit from their participation in the single market;

(z) notes that in overall terms, cooperation under the EU-Switzerland agreement on mutual recognition in relation to conformity assessment (MRA) is satisfactory; welcomes the most recent update of the MRA in 2017 and hopes that forthcoming updates can be carried out swiftly when the future institutional framework agreement has been developed to its full potential;

(aa) welcomes the new tax legislation that will restrict preferential tax regimes and bring practices closer to international standards, and hopes for a positive outcome from the upcoming popular vote in Switzerland; underlines the need to continue improving cooperation in order to fight tax avoidance and enhance tax justice;

(ab) calls on Switzerland to continue its work on the Digital Switzerland strategy, aiming to have it align with the EU digital single market;

(ac) acknowledges the contribution to the close EU-Swiss partnership that the bilateral sectoral agreements on free movement of persons, pensions, environment, statistics, judicial and police cooperation, Schengen area, asylum (Dublin), the CFSP/CSDP, satellite navigation, research, civil aviation, overland transport, reciprocal market access for agreed goods and services, processed agricultural goods, legal harmonisation, mutual recognition, the fight against fraud, and taxation and savings bring; urges, however, that it is high time to elevate the partnership and take a much more comprehensive and substantial step in bilateral relations by concluding the framework agreement as soon as possible;

(ad) welcomes the fact that, for a very long time, the promotion of peace, mediation and peaceful conflict resolution have been an important part of Swiss foreign policy; welcomes Switzerland's strong role in peace building and its involvement in helping to find solutions to crises, dialogue-facilitation, the development of confidence-building measures and reconciliation; welcomes the Swiss role as a facilitator in implementing complex federal structures and peace-brokered, constitutional arrangements, in order to ease the coexistence of different ethnic backgrounds;

(ae) welcomes the participation of Switzerland in and its support for EU security and defence missions, such as in EUFOR ALTHEA, EULEX Kosovo, EUTM Mali and EUBAM Libya, and in the work of the European Defence Agency; welcomes the close cooperation with Switzerland on humanitarian aid, civil protection, counter-terrorism and climate change;

(af) acknowledges the Swiss contribution and cooperation in the context of mass migration to the Schengen area and in the implementation of the European Agenda on Migration; encourages Switzerland to become part of the Global Compact for Migration and expects this to happen following the debate in the Swiss Parliament;

(ag) calls on Switzerland to apply the relevant EU directives in order to maintain its current level of social protection and level of wages, when it comes to cross-border offering of services;

(ah) stresses the importance of ensuring that the IFA between the EU and Switzerland contains a tax good governance clause including specific rules on State aid in the form of tax advantages, transparency requirements regarding the automatic exchange of information on taxation and beneficial ownership, and anti-money laundering provisions;

(ai) welcomes Switzerland's decision to join the Europol Joint Cybercrime Action Taskforce (J-CAT) in April 2018, as a proactive step in its fight against international cybercrime threats;

(aj) welcomes Switzerland's association to the entire Horizon 2020 programme and hopes for further cooperation in future research programmes;

(ak) urges Switzerland to engage in negotiating its association to the Erasmus programmes;

(al) welcomes progress in the construction of the transalpine rail link known as the 'New Railway Link through the Alps' (NRLA/ NEAT), a Swiss funded investment which is also beneficial to the EU;

2. Instructs its President to forward this recommendation to the Council, the Commission and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, and to the Federal Assembly and Federal Council of the Swiss Confederation.

Thursday 28 March 2019

P8_TA(2019)0330

Decision establishing a European Peace Facility

European Parliament recommendation of 28 March 2019 to the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy concerning the Proposal of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility (2018/2237(INI))

(2021/C 108/14)

The European Parliament,

— having regard to the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU),

— having regard to the UN Sustainable Development Goals (SDGs), in particular SDGs 1, 16 and 17, aimed at the promotion of peaceful and inclusive societies for sustainable development ([1]),

— having regard to the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000,

— having regard to Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund ([2]),

— having regard to Council Decision (CFSP) 2015/528 of 27 March 2015 establishing a mechanism to administer the financing of the common costs of European Union operations having military or defence implications (Athena) and repealing Decision 2011/871/CFSP ([3]),

— having regard to Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace ([4]),

— having regard to Regulation (EU) 2017/2306 of the European Parliament and of the Council of 12 December 2017 amending Regulation (EU) No 230/2014 establishing an instrument contributing to stability and peace ([5]),

— having regard to the Interinstitutional Declaration, annexed to Regulation (EU) 2017/2306, concerning sources of funding of assistance measures under Article 3a of Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace ([6]),

— having regard to Council Regulation (EU) 2015/323 of 2 March 2015 on the financial regulation applicable to the 11th European Development Fund ([7]),

— having regard to Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment ([8]), and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items ([9]),

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([1]) https://sustainabledevelopment.un.org/
([2]) OJ L 58, 3.3.2015, p. 1.
([3]) OJ L 84, 28.3.2015, p. 39.
([4]) OJ L 77, 15.3.2014, p. 1.
([5]) OJ L 335, 15.12.2017, p. 6.
([6]) OJ L 335, 15.12.2017, p. 6.
([7]) OJ L 58, 3.3.2015, p. 17.
([8]) OJ L 335, 13.12.2008, p. 99.
([9]) OJ L 134, 29.5.2009, p. 1.

Thursday 28 March 2019

— having regard to the Internal Agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies ([1]),

— having regard to the Proposal of 13 June 2018 of the High Representative of the Union for Foreign Affairs and Security Policy, with the support of the Commission, to the Council for a Council Decision establishing a European Peace Facility (HR(2018) 94),

— having regard to the European Council conclusions of 20 December 2013, 26 June 2015, 15 December 2016, 9 March 2017, 22 June 2017, 20 November 2017, 14 December 2017 and 28 June 2018,

— having regard to the document entitled 'Shared Vision, Common Action: A Stronger Europe — A Global Strategy for the European Union's Foreign and Security Policy', presented by the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) on 28 June 2016,

— having regard to the Council conclusions of 13 November 2017, 25 June 2018 and 19 November 2018 on security and defence in the context of the EU Global Strategy,

— having regard to the Commission communication of 7 June 2017 entitled 'Reflection Paper on the Future of European Defence' (COM(2017)0315),

— having regard to the Joint Communication of the Commission and the EEAS of 5 July 2016 on 'Elements for an EU-wide strategic framework to support security sector reform',

— having regard to the European Court of Auditors' special report No 20 of 18 September 2018 on 'The African Peace and Security Architecture: need to refocus EU support',

— having regard to its resolution of 21 May 2015 on financing the Common Security and Defence Policy ([2]),

— having regard to its resolution of 22 November 2016 on the European Defence Union ([3]),

— having regard to its resolutions of 13 December 2017 ([4]) and 12 December 2018 ([5]) on the Annual Report on the implementation of the Common Security and Defence Policy (CSDP),

— having regard to Rule 113 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs (A8-0157/2019),

A. whereas the EU's ambition is to be a global actor for peace, striving for the maintenance of international peace and security and respect for international humanitarian and human rights law;

B. whereas the EU has a growing responsibility to safeguard its own security within a strategic environment that has significantly deteriorated over the last few years;

C. whereas the challenging security environment surrounding the EU requires it to have strategic autonomy, which was acknowledged in June 2016 by the 28 Heads of State and Government in the EU Global Strategy, and which necessitates the provision of instruments which enhance the EU's ability to preserve peace, prevent conflicts, promote peaceful, just and inclusive societies and strengthen international security; whereas it has been acknowledged that secure and peaceful societies are a prerequisite for lasting development;

([1]) OJ L 210, 6.8.2013, p. 1.
([2]) OJ C 353, 27.9.2016, p. 68.
([3]) OJ C 224, 27.6.2018, p. 18.
([4]) OJ C 369, 11.10.2018, p. 36.
([5]) Texts adopted, P8_TA(2018)0514.

D. whereas the purpose of the European Peace Facility (hereinafter 'EPF' or 'the Facility') is not to militarise the European Union's external action but to yield synergies and efficiency gains by providing a package approach to operational funding of external action that already exists today, and where funding from the EU budget is not possible;

E. whereas the Treaty requires the EU and its institutions to implement a common foreign and security policy (CFSP), including the progressive framing of a common defence policy, which might lead to a common defence in accordance with the provisions of Article 42, thereby reinforcing European identity and its independence in order to promote peace, security and progress in Europe and in the world; whereas the proposed Facility is to be welcomed as a progressive step in this direction, and the VP/HR is to be encouraged to pursue its further development and implementation;

F. whereas the EU is the world's biggest provider of development and humanitarian aid, strengthening its security and development nexus towards achieving sustainable peace;

G. whereas further use of Union funding and instruments should be encouraged for the purposes of improving cooperation, developing capabilities and deploying missions in the future, as well as to preserve peace, to prevent, manage and resolve conflicts, and to address threats to international security; underlines that the EPF should, in particular, finance the Union's military missions, strengthen the military and defence capacities of third states, regional and international organisations, and contribute to the financing of peace support operations led by a regional or international organisation or by third states;

H. whereas the EU has found it challenging in the past to finance operations with defence implications; whereas Parliament has repeatedly emphasised the need for funding that is more flexible and efficient and expresses solidarity and determination; whereas additional instruments and tools are necessary to ensure that the EU can play its role as a global actor in the field of security; whereas any such instruments need to be subject to proper parliamentary control and EU legislation;

I. whereas women's participation in peace processes remains one of the most unfulfilled aspects of the women, peace and security agenda, despite women being the primary victims of security and humanitarian crises and in spite of the fact that when women have an explicit role in peace processes, there is a 35 % increase in the probability of an agreement lasting at least 15 years;

J. whereas internal and external security are increasingly intertwined; whereas the EU has taken significant steps to increase cooperation between its Member States in the area of defence; whereas the EU has always prided itself on its soft power and will keep doing so; whereas an evolving reality that gives rise to concerns, however, requires the EU not to remain an exclusively 'civilian power', but to develop and strengthen its military capabilities, which should be used in a consistent and coherent manner with all other EU external action; whereas development in third countries is not possible without security and peace; whereas the military plays a key role in this, especially in countries where civilian authorities are unable to fulfil their tasks in the light of the security situation; whereas the Facility has the clear potential to lead to a stronger engagement of the EU towards partner countries and will increase the effectiveness of EU external action, allowing the EU to become a relevant stability and security provider in the future;

K. whereas the EU's external action must not be instrumentalised as 'migration management', and all efforts to work with third states must go hand in hand with improving the human rights situation within these countries;

L. whereas non-proliferation and disarmament will have a significant effect in reducing the fuelling of conflicts and contributing to more stability, in accordance with the obligations stemming from the Treaty on the Non-Proliferation of Nuclear Weapons and Parliament's related resolution on nuclear security and non-proliferation ([1]); whereas a world without weapons of mass destruction is a safer one; whereas the EU has been a leading actor in banning nuclear weapons and should expand its role in this sense;

([1]) OJ C 215, 19.6.2018, p. 202.

Thursday 28 March 2019

M. whereas the Treaties do not provide for any external military action of the Union outside the framework of the CSDP; whereas a genuine CFSP for all EU Member States increases the EU's scope for external policy action; whereas the only external military action possible under the CSDP takes the form of missions outside the Union for peace-keeping, conflict prevention and strengthening international security in accordance with the principles of the UN Charter as referred to in Article 42(1) of the TEU;

N. whereas support to partners' military peace support operations has up to now been provided outside of the EU budget through the African Peace Facility (APF), established under and funded by the European Development Fund (EDF); whereas the APF is currently limited to operations led by the African Union (AU) or by African regional organisations;

O. whereas the EPF is expected to give the Union the capacity to contribute directly to the financing of peace support operations led by third states, as well as to the relevant international organisations, on a global basis and not limited to Africa or to the AU;

P. whereas the proposed Facility will replace the Athena mechanism and the APF; whereas it will complement the Capacity Building for Security and Development initiative by financing the costs of EU defence activities such as AU peace-keeping missions, common costs of own military CSDP operations, and military capacity building of partners, which are excluded from the EU budget in accordance with Article 41(2) of the TEU;

Q. whereas operations carried out under the Facility must comply with the principles and values enshrined in the Charter of Fundamental Rights and respect international humanitarian and human rights law; whereas operations which are not defined as ethically acceptable from the point of view of human safety, health and security, freedom, privacy, integrity and dignity, must be thoroughly assessed and reconsidered;

R. whereas the current proportion of the common costs remains very low (estimated at approximately 5-10 % of all costs), and the high share of nation-borne costs and responsibilities in military operations based on the 'costs lie where they fall' principle runs counter to the principles of solidarity and burden-sharing, and further deters Member States from taking an active part in CSDP operations;

S. whereas the proposed average annual envelope for the EPF is EUR 1 500 000 000, while the combined spending under the Athena mechanism and the APF has fluctuated between EUR 250 000 000 and EUR 500 000 000 annually; whereas the potential purposes of the additional EUR 1 000 000 000 per year are not adequately specified or guaranteed in the proposal;

T. whereas as an off-budget mechanism financed through yearly contributions by Member States, based on a GNI distribution key, the EPF is expected to allow the EU to fund a higher proportion of the common costs (35-45 %) of military missions and operations, as is currently the case with the Athena mechanism; whereas the EPF is also expected to ensure that EU funding is available on a permanent basis, ensuring adequate programming for crisis preparedness and making rapid deployment easier, and improving flexibility in case of rapid response; whereas the ambitious inclusion and expansion of the Athena mechanism for the common funding of CSDP missions and operations has been a long-standing demand of Parliament; whereas, however, the proposed Council Decision does not have the same binding character as the internal agreement of the APF, which means that Member States may opt out from funding EPF actions;

U. whereas through the increase of the common costs, the proposed Facility will enhance solidarity and burden-sharing between Member States, and encourage Member States, especially those lacking financial or operational resources, to contribute to CSDP operations;

V. whereas in its conclusions of 19 November 2018, the Council is reserved in its support for the EPF proposal; whereas it is nonetheless important to work towards the adoption of an ambitious proposal containing all proposed components, including the Athena mechanism;

W. whereas all military tasks under the Facility, such as joint disarmament operations, humanitarian and rescue tasks, military advice and assistance tasks, conflict prevention and peacekeeping tasks, tasks of combat forces in crisis management, including peacemaking and post-conflict stabilisation, the fight against terrorism, including by supporting third countries in combating terrorism in their territories as listed in Article 43(1) of the TEU, with full respect for human rights, fall within the remit of the CSDP; whereas the exception of Article 41(2) of the TEU applies to the operating expenditure arising from those military missions only; whereas all other operating expenditure arising from the CSDP, including expenditure arising from any other action referred to in Article 42 of the TEU, should be charged to the Union budget; whereas the administrative expenditure of the EPF should be charged to the Union budget;

X. whereas under Article 41(2) of the TEU all operating expenditure to which the CFSP gives rise shall be charged to the Union budget except for expenditure arising from operations having military or defence implications; whereas Article 2 (a) and (d) of the proposal for a decision state respectively that the EPF should fund both 'operations having military or defence implications' and 'other Union operational actions having military or defence implications';

Y. whereas under Article 21(2) (d) of the TEU, the Union shall define and pursue common policies and actions and shall work for high degree of cooperation in all fields of international relations, in order to foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty;

Z. whereas according to Article 208(1), second paragraph of the TFEU: 'Union development cooperation policy shall have as its primary objective the reduction and, in the long term, the eradication of poverty'; whereas, according to the same paragraph, 'the Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries'; whereas the second sentence forms a Treaty provision, and as such, a constitutional duty for the EU, referred to as 'Policy Coherence for Development' (PCD);

AA. whereas military and civilian missions outside the Union need to be kept separate from each other in order to ensure that the civilian missions are funded from the Union budget only;

AB. whereas the EU should grant the personnel of CSDP missions a status similar to that of seconded national experts by providing them with a uniform status and the best possible protection under the Union's Staff Regulations; whereas all allowances arising from that status and all travel, subsistence and healthcare expenditure should be charged to the Union budget as administrative expenditure;

AC. whereas the European Court of Auditors (ECA) has published a special report on the African Peace and Security Architecture funded via the APF, which is proposed to be included and expanded in the EPF; whereas the ECA finds that this support was poorly prioritised and had limited effect; whereas the recommendations from the ECA must be duly taken into account in view of the ambitious increased funding for the new Facility;

AD. whereas no financial impact assessment regarding the administrative expenditure accompanied the proposal; whereas the administrative expenditure for the EPF has substantial implications for the EU budget; whereas no extra staff should be hired by or delegated to the EPF beyond the staff currently working on the instruments being replaced; whereas the synergies arising from bringing together the current distinct instruments in one administrative structure should facilitate managing the larger geographical scope of the EPF; whereas additional staff should only be recruited if and when the revenue for a mission or measure has been effectively collected from all participating Member States; whereas the time-limited character of the revenue calls for the contracts of staff recruited by the Facility or the secondments to the Facility for a particular mission or measure to have corresponding time limits; whereas no staff should be recruited by or seconded to the Facility from a Member State where it has made a formal declaration under Article 31(1) of the TEU for a particular mission or measure;

Thursday 28 March 2019

AE. whereas the VP/HR should regularly consult Parliament on all main aspects and basic choices of the CFSP and CSDP and their subsequent evolution; whereas Parliament should be consulted and informed in a timely manner to allow it to present its views and ask questions, including on PCD, to the VP/HR and the Council before decisions are made or decisive action is taken; whereas the VP/HR should consider Parliament's views, including on PCD, and incorporate them into his or her proposals, should reconsider decisions or parts of decisions that Parliament opposes, or withdraw such proposals, notwithstanding the possibility of a Member State advancing the initiative in such a case, and should propose Council decisions relating to the CSDP where invited by Parliament to do so; whereas Parliament should have a yearly debate with the VP/HR on operations funded by the Facility;

1. Recommends the following to the Council:

(a) not to decrease a Member State's contribution to the Facility if the Member State has recourse to Article 31(1) of the TEU, as this would undermine the GNI key underlying the financing mechanism and the overall financing of the Facility;

(b) to include in the decision a reference to Parliament's role as discharge authority, as is currently the case with the EDF and therefore for the APF, in accordance with the relevant provisions of the financial regulations applicable to the EDF, with a view to preserving the consistency of the EU's external action under the Fund and under its other relevant policies in line with Article 18 of the TEU and Article 21(2)(d) of the TEU read in combination with Article 208 of the TFEU;

(c) to work on putting in place a mechanism within the European Parliament providing timely access, within strictly defined parameters, to information, including original documents, regarding the EPF annual budget, amending budgets, transfers, action programmes (including during the preparatory phase), implementation of assistance measures (including ad hoc measures), agreements with implementing actors, and reports on the implementation of revenue and expenditure, as well as the annual accounts, the financial statement, the evaluation report and the annual report by the ECA;

(d) to agree to include access to all confidential documents in the negotiations for the updated Interinstitutional Agreement between the European Parliament and the Council concerning access of Parliament to sensitive information of the Council in the field of security and defence policy;

(e) to ensure that operations, action programmes, ad hoc assistance measures and other operational actions funded by the Facility will not in any way violate or be used to violate the fundamental principles laid down in Article 21 of the TEU or be used to violate international law, in particular international humanitarian and human rights law;

(f) to conclude the revision of the Athena mechanism before the end of this year if possible, and to incorporate it seamlessly into the EPF while preserving the mechanism's operational efficiency and flexibility;

(g) to ensure that the efficiency gains and the improved effectiveness offered by a single instrument are preserved when making the necessary adjustments to the proposal;

(h) to incorporate the following amendments:

— to replace 'Common Foreign and Security Policy' by 'Common Security and Defence Policy' in recital (4) and Article 1;

— to add a new recital (10a) as follows: '(10a) Military advice and assistance tasks referred to in Article 43(1) of the TEU may take the form of strengthening the military and defence capacities of third states, regional and international organisations to preserve peace, to prevent, manage and resolve conflicts and to address threats to international security while strictly complying with international humanitarian law and international human rights law, and the criteria of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items';

— to add a new recital (10b) as follows: '(10b) Conflict prevention and peace-keeping tasks referred to in Article 43 (1) of the TEU may take the form of contributing to the financing of peace support operations led by a regional or international organisation or by third states.';

— to add a new recital (10c) as follows: '(10c) Operations supported with EU funding must incorporate UN resolution 1325 on women, peace and security';

— to amend point a) of Article 2 as follows: 'a) contributing to the financing of missions under the Common Security and Defence Policy (CSDP) having military or defence implications';

— to amend point b) of Article 2 as follows: 'b) strengthening the military and defence capacities of third states, regional and international organisations to preserve peace, to prevent, manage and resolve conflicts and to address threats to international security and cybersecurity';

— to add a new point 2a to Article 3 as follows: '2a. The annual breakdown of the administrative expenditure for this facility that is charged to the Union budget shall be set out in Annex I a (new) for information.';

— to amend point c) of Article 5 as follows: 'c) "operation" means a military operation established under the Common Security and Defence Policy in accordance with Article 42 of the TEU to fulfil the tasks referred to in Article 43(1) of the TEU having military or defence implications, including a task entrusted to a group of Member States in accordance with Article 44 of the TEU';

— to add a new subparagraph at the end of Article 6 as follows: 'All civilian aspects, assets or missions under the CFSP and in particular under the CSDP, or parts thereof, shall be exclusively funded from the Union budget.';

— to amend Article 7 as follows: 'Any Member State, the High Representative or the High Representative with the support of the Commission may submit proposals for Union actions under Title V of the TEU to be financed by the Facility. The High Representative shall inform the European Parliament in a timely manner of any such proposal.';

— to amend paragraph 1 of Article 10 as follows: 'Consistency between the actions of the Union to be financed under the Facility and other Union actions under its other relevant policies shall be ensured in accordance with Articles 21 (3) and 26 (2) TEU. Actions of the Union to be financed under the Facility shall also be consistent with the objectives of those other Union policies towards third countries and international organisations;)';

— to add a new paragraph 3a to Article 10 as follows: '3a. Twice a year the High Representative shall report to the European Parliament on the consistency referred to in paragraph 1.';

— to add a new paragraph 2a to Article 11: '2a. The facility shall have a liaison officer to the European Parliament. In addition, the Deputy Secretary General for CSDP and Crisis Response shall have annual exchange of views with the relevant parliamentary body in order to provide regular briefings.';

— to amend paragraph 1 of Article 12 as follows: 'A Facility Committee (hereafter "the Committee") composed of one representative of each participating Member State is established. Representatives of the European External Action Service (EEAS) and of the Commission shall be invited to attend the meetings of the Committee without taking part in its votes. Representatives of the European Defence Agency (EDA) may be invited to attend Committee meetings for items under discussion that relate to the EDA's area of activity, without taking part in or being present at its votes. Representatives of the European Parliament may be invited to attend the Committee meetings without taking part in or being present at its votes.';

— to amend paragraph 8 of Article 13 as follows: '8. The administrator shall ensure continuity of his/her functions through the administrative structure of the competent military EEAS structures referred to in Article 9.';

— to add a new paragraph 8a. to Article 13 as follows: '8a. The administrator shall be involved in briefing the European Parliament.';

Thursday 28 March 2019

— to add a new paragraph 8a. to Article 16 as follows: '8a. The operation commanders shall be involved in briefing the European Parliament.';

— to amend paragraph 1 of Article 34 as follows: 'The administrator shall propose to the Committee the appointment of an internal auditor of the Facility, and at least one deputy internal auditor, for a period of four years, renewable up to a total period not exceeding 8 years. Internal auditors must have the necessary professional qualifications and offer sufficient guarantees of security, objectivity and independence. The internal auditor may not be either the authorising officer or the accounting officer; he or she may not take part in the preparation of financial statements.';

— to amend paragraph 4 of Article 47 as follows: '4. The final destination of equipment and infrastructure financed in common shall be approved by the Committee, taking into account operational needs, human rights, security and diversion risk assessment as regards certified end-use and end-users, and financial criteria. The final destination may be as follows:

(i) in the case of infrastructure, be sold or transferred through the Facility to the host country, a Member State or a third party;

(ii) in the case of equipment, be sold through the Facility to a Member State, the host country or a third party, or be stored and maintained by the Facility, a Member State or such a third party, for use in a subsequent operation.';

— to amend paragraph 6 of Article 47 as follows: '6. Sale or transfer to the host country or a third party should be in accordance with international law, including the relevant human rights provisions and the "do no harm" principles, and with the relevant security rules in force and strictly comply with the criteria of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items';

— to amend paragraph 1 of Article 48 as follows: 'The High Representative may submit to the Council a concept for a possible Action Programme or a possible ad hoc assistance measure. The High Representative shall inform the European Parliament about any such Concept.';

— to amend paragraph 1 of Article 49 as follows: 'Action Programmes shall be approved by the Council on a proposal from the High Representative. The European Parliament shall be informed of the approved Action Programmes once adopted by the Council.';

— to amend paragraph 3 of Article 50 as follows: 'Where a request falls outside the existing Action Programmes, the Council may approve an ad hoc assistance measure on a proposal from the High Representative. The European Parliament shall be informed of the approved ad hoc assistance measures once adopted by the Council;';

— to add a new point fa) to Article 52, paragraph 2 as follows: 'fa) A detailed list of equipment funded under the Facility shall be made available;';

— to amend point b) of Article 53, paragraph 1, as follows: 'b) delivered effectively to the armed forces of the third state concerned provided that compliance with the criteria of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items has been assessed;';

— to amend point d) of Article 53, paragraph 1, as follows: 'd) used in accordance with Union policies, with due regard for international law, notably concerning human rights, and end-user certificates, in particular clauses on retransfers;';

— to amend point e) of Article 53, paragraph 1 as follows: 'e) managed in compliance with any restriction or limitation on their use, sale or transfer decided by the Council or by the Committee, and in accordance with the relevant end-user certificates, the criteria of Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment, and Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items;';

— to amend paragraph 1 of Article 54 as follows: 'Any implementing actor entrusted with the implementation of expenditure financed through the Facility shall respect the principles of sound financial management and transparency, shall have undertaken the necessary risk assessments and end-use checks, and shall have due regard for EU fundamental values and international law, notably concerning human rights and the "do no harm" principles. Any such implementing actor shall be submitted to a prior risk assessment to gauge the possible human rights and governance risks.';

2. Recommends the following to the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy:

(a) to consult Parliament on the recommended amendments, and to ensure that Parliament's views are taken into consideration, in line with Article 36 of the TEU;

(b) in line with Article 36 of the TEU, to fully implement Parliament's views when preparing proposals for multi-year 'action programmes' or ad hoc assistance measures, including by withdrawing proposals that are opposed by Parliament;

(c) to provide a full financial impact assessment for the decision, given its implications for the EU budget, outlining in particular additional personnel needs;

(d) to submit draft Council decisions relating to the EPF to Parliament for consultation at the same time as they are submitted to the Council or to the Political and Security Committee, leaving Parliament time to present its views; invites the VP/HR to amend draft Council decisions where asked to do so by Parliament;

(e) to ensure, in line with Article 18 of the TEU, complementarity with existing EU funds, programmes and instruments, the consistency of the EPF with all other aspects of the EU's external action, notably as regards the Capacity Building for Security and Development initiative (CBSD) and the proposed Neighbourhood, Development and International Cooperation Instrument (NDICI), which should in all cases be implemented in the framework of the wider security sector reform programme, which must have strong components on good governance, provisions against gender-based violence, and, in particular, on civilian oversight over the security system and democratic control of the armed forces;

(f) to provide regular feedback to Parliament on the progress made in implementing Resolution 1325 on women and peace and security, and to consult Parliament on the recommended gender component focusing on the role of women in the prevention and resolution of conflicts, and in post-conflict reconstruction and peace negotiations, as well as regular assessments of the measures taken to protect vulnerable people, including women and girls, from violence in conflict situations;

(g) to ensure, in line with Article 18 of the TEU, the consistency of the EPF with all other aspects of the EU's external action, including its development and humanitarian policies, and with a view to fostering the development of the third countries concerned, and to reducing and eradicating poverty in them;

3. Instructs its President to forward this recommendation to the Council and the Vice-President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy and, for information, to the European External Action Service and the Commission.

Tuesday 26 March 2019

II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

P8_TA(2019)0221

Request for waiver of the immunity of Jørn Dohrmann

European Parliament decision of 26 March 2019 on the request for waiver of the immunity of Jørn Dohrmann (2018/2277(IMM))

(2021/C 108/15)

The European Parliament,

— having regard to the request for waiver of the immunity of Jørn Dohrmann from the Minister of Justice of the Kingdom of Denmark, forwarded on 6 November 2018 by the Permanent Representative of Denmark to the European Union and announced in plenary on 28 November 2018, in connection with prosecution under point (1) of Section 260(1), Section 291(1), and Section 293(1), in conjunction with Section 21 of Danish Criminal Code,

— having heard Jørn Dohrmann in accordance with Rule 9(6) of its Rules of Procedure,

— having regard to Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union and Article 6(2) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage,

— having regard to the judgments of the Court of Justice of the European Union of 12 May 1964, 10 July 1986, 15 and 21 October 2008, 19 March 2010, 6 September 2011 and 17 January 2013 [1],

— having regard to Section 57 of the Constitution of the Kingdom of Denmark,

— having regard to Rule 5(2), Rule 6(1) and Rule 9 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs (A8-0178/2019),

A. whereas the Viborg State Prosecutor has submitted a request for waiver of the immunity of Jørn Dohrmann, Member of the European Parliament elected for Denmark, in connection with offences within the meaning of Section 260(1)(1), Section 291(1), and Section 293(1), in conjunction with Section 21 of the Danish Criminal Code; whereas, in particular, the proceedings relate to alleged unlawful coercion, malicious damage and attempted unlawful use of an object belonging to another person;

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[1] Judgment of the Court of Justice of 12 May 1964, *Wagner* v *Fohrmann and Krier*, 101/63, ECLI:EU:C:1964:28; judgment of the Court of Justice of 10 July 1986, *Wybot* v *Faure and others*, 149/85, ECLI:EU:C:1986:310; judgment of the General Court of 15 October 2008, *Mote* v *Parliament*, T-345/05, ECLI:EU:T:2008:440; judgment of the Court of Justice of 21 October 2008, *Marra* v *De Gregorio and Clemente*, C-200/07 and C-201/07, ECLI:EU:C:2008:579; judgment of the General Court of 19 March 2010, *Gollnisch* v *Parliament*, T-42/06, ECLI:EU:T:2010:102; judgment of the Court of Justice of 6 September 2011, *Patriciello*, C-163/10, ECLI:EU:C:2011:543; judgment of the General Court of 17 January 2013, *Gollnisch* v *Parliament*, T-346/11 and T-347/11, ECLI:EU:T:2013:23.

B. whereas on 26 April 2017, outside his private residence in Vamdrup, Jørn Dohrmann snatched a camera from a cameraman who was filming his house from a distance of approximately 195 metres with the view to using the obtained footage in a TV documentary about certain Danish Members of the European Parliaments; whereas Jørn Dohrmann threatened to smash the camera; whereas he damaged the said camera, including its microphone, screen and cable; whereas he took possession of the camera and the memory card with the intention of making unauthorised use of it by inspecting the recorded footage, but he was ultimately prevented from doing so as the police called at the address and retrieved the camera and the memory card, which he had removed from the device;

C. whereas the cameraman had been first charged with an offence under Section 264a of the Danish Criminal Code for having unlawfully photographed persons who were on private property; whereas the State Prosecutor recommended that the charges be dropped considering the lack of the requisite element of intent needed to convict someone for a breach of Section 264a of the Danish Criminal Code;

D. whereas South East Jutland Police pointed out that the company employing the journalist and owner of the camera had made a claim for compensation amounting to DKK 14 724,71 in connection with the case and that cases involving malicious damage, theft, appropriation and similar, where the penalty sought is a fine, must be settled in court proceedings if the injured party concerned has a claim to damages;

E. whereas, initially, the State Prosecutor's Office recommended that a DKK 20 000 fine be set in the case against Jørn Dohrmann instead of a custodial sentence, with no formal charges being brought;

F. whereas Jørn Dohrmann denied the charges against him; whereas, according to the Director of Public Prosecutions, it would then be inconsistent to seek an out-of-court settlement via a fixed penalty notice;

G. whereas in order for a prosecution to be brought against Jørn Dohrmann, the competent authority made an application for his immunity to be waived;

H. whereas Article 9 of Protocol No 7 on the Privileges and Immunities of the European Union stipulates that Members of the European Parliament 'shall enjoy, in the territory of their own State, the immunities accorded to members of their parliament';

I. whereas Section 57(1) of the Danish Constitution provides that, without the consent of the Danish Parliament, no Member of the Danish Parliament can be charged or subjected to imprisonment of any kind unless he or she is caught in the act of committing an offence; whereas this provision provides protection from public criminal prosecutions, but not from private prosecutions in criminal matters; whereas, if the conditions are met to settle the matter out of court by means of a fixed penalty notice, the consent of the Danish Parliament is not required;

J. whereas the scope of immunity accorded to Members of the Danish Parliament corresponds in fact to the scope of immunity accorded to Members of the European Parliament under Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union; whereas the Court of Justice of the European Union has held that for a Member of the European Parliament to enjoy immunity, an opinion must be expressed by the Member in the performance of his or her duties, thus entailing the requirement of a link between the opinion expressed and the parliamentary duties; whereas such a link must be direct and obvious;

K. whereas the alleged actions do not relate to opinions expressed or votes cast by the Member of the European Parliament in the performance of his duties within the meaning of Article 8 of Protocol No 7 on the Privileges and Immunities of the European Union and therefore have no clear or direct bearing on the performance by Jørn Dohrmann of his duties as a Member of the European Parliament;

L. whereas there is no evidence nor any reason to suspect *fumus persecutionis;*

1. Decides to waive the immunity of Jørn Dohrmann;

2. Instructs its President to forward this decision and the report of its committee responsible immediately to the Minister of Justice of the Kingdom of Denmark and to Jørn Dohrmann.

Tuesday 26 March 2019

III

(Preparatory acts)

EUROPEAN PARLIAMENT

P8_TA(2019)0222

Representative actions for the protection of the collective interests of consumers ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC (COM(2018)0184 — C8-0149/2018 — 2018/0089(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/16)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0184),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0149/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 20 September 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 10 October 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and also the opinions of the Committee on the Internal Market and Consumer Protection and the Committee on Transport and Tourism (A8-0447/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 440, 6.12.2018, p. 66.
([2]) OJ C 461, 21.12.2018, p. 232.

Tuesday 26 March 2019

P8_TC1-COD(2018)0089

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC

(Text with EEA relevance)

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 114 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) The purpose of this Directive is to enable qualified ***representative*** entities, which represent the collective interest of consumers, to seek remedy through representative actions against infringements of provisions of Union law. The qualified ***representative*** entities should be able to ask for stopping or prohibiting an infringement, for confirming that an infringement took place and to seek redress, such as compensation, ***reimbursement of the price paid,*** repair***, replacement, removal,*** price reduction ***or contract termination*** as available under national laws. **[Am. 1]**

(2) Directive 2009/22/EC of the European Parliament and of the Council ([4]) enabled qualified ***representative*** entities to bring representative actions primarily aimed at stopping and prohibiting infringements of Union law harmful to the collective interests of consumers. However, that Directive did not sufficiently address the challenges for the enforcement of consumer law. To improve the deterrence of unlawful practices***, to encourage good and responsible business practices,*** and to reduce consumer detriment, it is necessary to strengthen the mechanism for protection of collective interests of consumers. Given the numerous changes, for the sake of clarity it is appropriate to replace Directive 2009/22/EC. ***There is a strong need for Union intervention, on the basis of Article 114 TFEU, in order to ensure both access to justice and sound administration of justice as it will reduce the costs and burden entailed by individual actions.*** **[Am. 2]**

(3) A representative action should offer an effective and efficient way of protecting the collective interests of consumers ***against both internal and cross-border infringements***. It should allow qualified ***representative*** entities to act with the aim of ensuring compliance with relevant provisions of Union law and to overcome the obstacles faced by consumers within individual actions, such as the uncertainty about their rights and available procedural mechanisms, ***previous experience of unsuccessful claims, excessively lengthy proceedings,*** psychological reluctance to take action and the negative balance of the expected costs and benefits of the individual action***, thereby increasing legal certainty for both claimants and defendants, as well as for the legal system.*** **[Am. 3]**.

([1]) OJ C 440, 6.12.2018, p. 66.
([2]) OJ C 461, 21.12.2018, p. 232.
([3]) Position of the European Parliament of 26 March 2019.
([4]) OJ L 110, 1.5.2009, p. 30.

(4) It is important to ensure the necessary balance between access to justice and procedural safeguards against abusive litigation which could unjustifiably hinder the ability of businesses to operate in the Single Market. To prevent the misuse of representative actions, elements such as punitive damages and the absence of limitations as regards the entitlement to bring an action on behalf of the harmed consumers should be avoided and clear rules on various procedural aspects, such as the designation of qualified ***representative*** entities, the origin of their funds and nature of the information required to support the representative action, should be laid down. ~~This Directive~~ ***The unsuccessful party should bear the costs of the proceedings. However, the court or tribunal*** should not ~~affect national rules concerning the allocation of procedural~~ ***award*** costs ***to the unsuccessful party to the extent that they were unnecessarily incurred or are disproportionate to the claim***. **[Am. 4]**

(5) Infringements that affect the collective interests of consumers often have cross-border implications. More effective and efficient representative actions available across the Union should boost consumer confidence in the internal market and empower consumers to exercise their rights.

(6) This Directive should cover a variety of areas such as data protection, financial services, travel and tourism, energy, telecommunications, ~~and~~ environment ***and health***. It should cover infringements of provisions of Union law which protect the ***collective*** interests of consumers, regardless of whether they are referred to as consumers or as travellers, users, customers, retail investors, retail clients or other in the relevant Union law***, as well as the collective interests of data subjects within the meaning of the GDP Regulation***. To ensure adequate response to infringement to Union law, the form and scale of which is quickly evolving, it should be considered, each time where a new Union act relevant for the protection of the collective interests of consumers is adopted, whether to amend the Annex to the present Directive in order to place it under its scope. **[Am. 5]**

(6a) This Directive applies to representative actions brought against infringements with a broad consumer impact related to the provisions covered by the Union law listed in Annex I. The broad impact starts when two consumers are affected. **[Am. 6]**

(7) The Commission has adopted legislative proposals for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 261/2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights and Regulation (EC) No 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air and for a Regulation of the European Parliament and of the Council on rail passengers' rights and obligations. It is therefore appropriate to provide that, one year after the entry into force of this Directive, the Commission assesses whether the Union rules in the area of air and rail passengers' rights offer an adequate level of protection for consumers, comparable to that provided for in this Directive, and draws any necessary conclusions as regards the scope of this Directive.

(8) Building on Directive 2009/22/EC, this Directive should cover both domestic and cross-border infringements, in particular when consumers concerned by an infringement live in one or several Member States other than the Member State where the infringing trader is established. It should also cover infringements which ceased before the representative action started or concluded, since it may still be necessary to prevent the repetition of the practice, establish that a given practice constituted an infringement and facilitate consumer redress.

(9) This Directive should not establish rules of private international law regarding jurisdiction, the recognition and enforcement of judgments or applicable law. The existing Union law instruments apply to the representative actions set out by this Directive ***preventing any increase in forum shopping***. **[Am. 7]**

(9a) This Directive should not affect the application of EU rules on private international law in cross-border cases. Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast — Brussels I), Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) and Regulation (EC) No 864/2007of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) apply to the representative actions set out by this Directive. **[Am. 8]**

(10) As only qualified ***representative*** entities can bring the representative actions, to ensure that the collective interests of consumers are adequately represented the qualified ***representative*** entities should comply with the criteria established by this Directive. In particular, they would need to be properly constituted according to the law of a Member State, which ~~could~~ ***should*** include for example ~~requirements regarding the number of members, the degree of permanence, or~~ transparency requirements on relevant aspects of their structure such as their constitutive statutes, management structure, objectives and working methods. They should also be not for profit and have a legitimate interest in ensuring compliance with the relevant Union law. ~~These criteria should apply to both~~ ***Furthermore, the*** qualified ***representative entities must be independent from market operators, including financially. The*** ~~qualified entities designated in advance and to ad hoc~~ qualified ~~entities that are constituted for the purpose of a specific action~~ ***representative entities must also have an established procedure to prevent conflict of interests. Member States shall not impose criteria that go beyond those established in this Directive.*** **[Am. 9]**

(11) Independent public bodies and consumer organisations in particular should play an active role in ensuring compliance with relevant provisions of Union law and are all well placed to act as qualified entities. Since these entities have access to different sources of information regarding traders' practices towards consumers and hold different priorities for their activities, Member States should be free to decide on the types of measures that may be sought by each of these qualified entities in representative actions.

(12) Since both judicial and administrative procedures may effectively and efficiently serve the protection of the collective interests of consumers it is left to the discretion of the Member States whether the representative action can be brought in judicial or administrative proceedings, or both, depending on the relevant area of law or relevant economic sector. This shall be without prejudice to the right to an effective remedy under Article 47 of the Charter of Fundamental Rights of the European Union, whereby Member States shall ensure that consumers and businesses have the right to an effective remedy before a court or tribunal, against any administrative decision taken pursuant to national provisions implementing this Directive. This shall include the possibility for the parties to obtain a decision granting suspension of enforcement of the disputed decision, in accordance with national law.

(13) To increase the procedural effectiveness of representative actions, qualified entities should have the possibility to seek different measures within a single representative action or within separate representative actions. These measures should include interim measures for stopping an ongoing practice or prohibiting a practice in case the practice has not been carried out but there is a risk that it would cause serious or irreversible harm to consumers, measures establishing that a given practice constitutes an infringement of law and, if necessary, stopping or prohibiting the practice for the future, as well as measures eliminating the continuing effects of the infringement, including redress. If sought within a single action, qualified entities should be able to seek all relevant measures at the moment of bringing the action or first seek relevant injunctions order and subsequently and if appropriate redress order.

(14) Injunction orders aim at the protection of the collective interests of consumers independently of any actual loss or damage suffered by individual consumers. Injunction orders may require traders to take specific action, such as providing consumers with the information previously omitted in violation of legal obligations. Decisions establishing that a practice constitutes an infringement should not depend on whether the practice was committed intentionally or by negligence.

(15) The qualified entity initiating the representative action under this Directive should be a party to the proceedings. Consumers concerned by the infringement should have adequate ~~opportunities to benefit from~~ ***information regarding*** the relevant outcomes of the representative action ***and how they can benefit from them***. Injunction orders issued under this Directive should be without prejudice to individual actions brought by consumers harmed by the practice subject to the injunction order. **[Am. 10]**

Tuesday 26 March 2019

(16) Qualified ***representative*** entities should be able to seek measures aimed at eliminating the continuing effects of the infringement. These measures should take the form of a redress order obligating the trader to provide for, inter alia, compensation, repair, replacement, ***removal,*** price reduction, contract termination or reimbursement of the price paid, as appropriate and as available under national laws. **[Am. 11]**

(17) The compensation awarded to consumers harmed in a mass harm situation should not exceed the amount owed by the trader in accordance with the applicable national or Union Law in order to cover the actual harm suffered by them. In particular, punitive damages, leading to overcompensation in favour of the claimant party of the damage suffered, should be avoided.

(18) Member States ~~may~~ ***should*** require qualified ***representative*** entities to provide sufficient information to support a representative action for redress, including a description of the group of consumers concerned by an infringement and the questions of fact and law to be resolved within the representative action. The qualified entity should not be required to individually identify all consumers concerned by an infringement in order to initiate the action. In representative actions for redress the court or administrative authority should verify at the earliest possible stage of the proceedings whether the case is suitable for being brought as a representative action, given the nature of the infringement and characteristics of the damages suffered by consumers concerned ***In particular, the claims should be ascertainable and uniform and there should be a commonality in the measures sought, third-party funding arrangement of the qualified entity should be transparent and without any conflict of interest. Member States should also ensure that the court or administrative authority has the authority to dismiss manifestly unfounded cases at the earliest possible stage of proceedings***. **[Am. 12]**

~~(19) Member States should be allowed to decide whether their court or national authority seized of a representative action for redress may exceptionally issue, instead of a redress order, a declaratory decision regarding the liability of the trader towards the consumers harmed by an infringement which could be directly relied upon in subsequent redress actions by individual consumers. This possibility should be reserved to duly justified cases where the quantification of the individual redress to be attributed to each of the consumer concerned by the representative action is complex and it would be inefficient to carry it out within the representative action. Declaratory decisions should not be issued in situations which are not complex and in particular where consumers concerned are identifiable and where the consumers have suffered a comparable harm in relation to a period of time or a purchase. Similarly, declaratory decisions should not be issued where the amount of loss suffered by each of the individual consumers is so small that individual consumers are unlikely to claim for individual redress. The court or the national authority should duly motivate its recourse to a declaratory decision instead of a redress order in a particular case.~~ **[Am. 13]**

~~(20) Where consumers concerned by the same practice are identifiable and they suffered comparable harm in relation to a period of time or a purchase, such as in the case of long-term consumer contracts, the court or administrative authority may clearly define the group of consumers concerned by the infringement in the course of the representative action. In particular, the court or administrative authority could ask the infringing trader to provide relevant information, such as the identity of the consumers concerned and the duration of the practice. For expediency and efficiency reasons, in these cases Member States in accordance with their national laws could consider to provide consumers with the possibility to directly benefit from a redress order after it was issued without being required to give their individual mandate before the redress order is issued.~~ **[Am. 14]**

~~(21) In low-value cases most consumers are unlikely to take action in order to enforce their rights because the efforts would outweigh the individual benefits. However, if the same practice concerns a number of consumers, the aggregated loss may be significant. In such cases, a court or authority may consider that it is disproportionate to distribute the funds back to the consumers concerned, for example because it is too onerous or impracticable. Therefore the funds received as redress through representative actions would better serve the purposes of the protection of collective interests of consumers and should be directed to a relevant public purpose, such as a consumer legal aid fund, awareness campaigns or consumer movements.~~ **[Am. 15]**

(22) Measures aimed at eliminating the continuing effects of the infringement may be sought only on the basis of a final decision, establishing an infringement of Union law covered by the scope of this Directive harming collective interest of consumers, including a final injunction order issued within the representative action. In particular, measures eliminating the continuing effects of the infringement may be sought on the basis of final decisions of a court or administrative authority in the context of enforcement activities regulated by Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No 2006/2004 ([5]).

(23) This Directive provides for a procedural mechanism, which does not affect the rules establishing substantive rights of consumers to contractual and non-contractual remedies in case their interests have been harmed by an infringement, such as the right to compensation for damages, contract termination, reimbursement, replacement, ***removal,*** repair or price reduction. A representative action seeking redress under this Directive can only be brought where Union or national law provides for such substantive rights. **[Am. 16]**

(24) This Directive ***aims at a minimum harmonisation and*** does not replace existing national collective redress mechanisms. Taking into account their legal traditions, it leaves it to the discretion of the Member States whether to design the representative action set out by this Directive as a part of an existing or future collective redress mechanism or as an alternative to these mechanisms, insofar as the national mechanism complies with the modalities set by this Directive. ***It does not prevent Member States from maintaining their existing framework, neither does it oblige Member States to amend it. Member States will have the possibility to implement the rules provided for this Directive into their own system of collective redress or to implement them in a separate procedure.*** **[Am. 17]**

(25) Qualified ***representative*** entities should be fully transparent about the source of funding of their activity in general and regarding the funds supporting a specific representative action for redress in order to enable courts or administrative authorities to assess whether there may be a conflict of interest between the third party funder and the qualified entity and to avoid risks of abusive litigation as well as to assess whether the ~~funding third party~~ ***qualified entity*** has sufficient resources in order to ~~meet its financial commitments to the qualified entity~~ ***represent the best interests of consumers concerned and to support all necessary legal costs should the action fail***. The information provided by the qualified entity ***at the earliest stage of proceedings*** to the court or administrative authority overseeing the representative action should enable it to assess whether the third party may influence procedural decisions of the qualified entity ***in general and*** in the context of the representative action, including on settlements and whether it provides financing for a representative action for redress against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependant. If any of these circumstances is confirmed, the court or administrative authority ~~should~~ ***must*** be empowered to require the qualified entity to refuse the relevant funding and, if necessary, reject standing of the qualified entity in a specific case. ***Member States should prevent law firms from establishing qualified representative entities. Indirect financing of the action through donations, including traders donations in the framework of a corporate social responsibility initiatives, shall be eligible for third party financing provided that it complies with the requirements on transparency, independence and absence of conflict of interest listed in Article 4 and Article 7.*** **[Am. 18]**

(26) Collective out-of-court settlements***, such as mediation,*** aimed at providing redress to harmed consumers should be encouraged both before the representative action is brought and at any stage of the representative action. **[Am. 19]**

(27) Member States may provide that a qualified entity and a trader who have reached a settlement regarding redress for consumers affected by an allegedly illegal practice of that trader can jointly request a court or administrative authority to approve it. Such request should be admitted by the court or administrative authority only if there is no other ongoing representative action regarding the same practice. A competent court or administrative authority approving such collective settlement must take into consideration the interests and rights of all parties concerned, including individual consumers. ~~Individual consumers concerned shall be given the possibility to accept or to refuse to be bound by such a settlement~~ ***Settlements should be final and binding upon all parties***. **[Am. 20]**

([5]) OJ L 345, 27.12.2017.

(28) The court and administrative authority should have the power to invite the infringing trader and the qualified entity which brought the representative action to enter into negotiations aimed at reaching a settlement on redress to be provided to consumers concerned. The decision of whether to invite the parties to settle a dispute out-of-court should take into account the type of the infringement to which the action relates, the characteristics of the consumers concerned, the possible type of redress to be offered, the willingness of the parties to settle and the expediency of the procedure.

~~(29) In order to facilitate redress for individual consumers sought on the basis of final declaratory decisions regarding the liability of the trader towards the consumers harmed by an infringement issued within representative actions, the court or administrative authority that issued the decision should be empowered to request the qualified entity and the trader to reach a collective settlement.~~ **[Am. 21]**

(30) Any out-of-court settlement reached within the context of a representative action ~~or based on a final declaratory decision~~ should be approved by the relevant court or the administrative authority to ensure its legality and fairness, taking into consideration the interests and rights of all parties concerned. ~~Individual~~ ***The settlements are binding upon all parties without prejudice to any additional rights to redress that the*** consumers concerned ~~shall be given the possibility to accept or to refuse to be bound by such a settlement~~ ***may have under Union or national law.*** **[Am. 22]**

(31) Ensuring that consumers are informed about a representative action is crucial for its success. Consumers should be informed of ongoing representative action, the fact that a trader's practice has been considered as a breach of law, their rights following the establishment of an infringement and any subsequent steps to be taken by consumers concerned, particularly for obtaining redress. The reputational risks associated with spreading information about the infringement are also important for deterring traders infringing consumer rights.

(32) To be effective, the information should be adequate and proportional to the circumstances of the case. ~~The infringing trader~~ ***Member States*** should ***ensure that the court or the administrative authority may require the defeated party to*** adequately inform all consumers concerned of a final ***decision concerning*** injunction and redress ~~orders~~ issued within the representative action, ~~as well as~~ ***and both parties in cases*** of a settlement approved by a court or administrative authority. Such information may be provided for instance on the ~~trader's~~ website, social media, online market places, or in popular newspapers, including those distributed exclusively by electronic means of communication. ~~If possible, consumers should be informed individually through electronic or paper letters.~~ This information should be provided in accessible formats for persons with disabilities upon request. ***The defeated party shall bear the costs of consumer information.*** **[Am. 23]**

(32a) Member States should be encouraged to set up a national register for representative actions free of charge, which could further enhance the transparency obligations. **[Am. 24]**

(33) To enhance legal certainty, avoid inconsistency in the application of Union law and to increase the effectiveness and procedural efficiency of representative actions and of possible follow-on actions for redress, the finding of an infringement ***or a non-infringement*** established in a final decision, including a final injunction order under this Directive, issued by an administrative authority or a court should ~~not be relitigated in subsequent legal actions related to~~ ***be binding upon all parties, which participated in the representative action. The final decision should be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law. The redress obtained through the settlement should also be binding upon cases involving*** the same ~~infringement by~~ ***practice,*** the same trader ~~as regards the nature of the infringement and its material, personal, temporal and territorial scope as determined by that final decision~~ ***and the same consumer***. Where an action seeking measures eliminating the continuing effects of the infringement, including for redress, is brought in a Member State other than the Member State where a final decision establishing this infringement ***or a non-infringement*** was issued, the decision should constitute ~~a rebuttable presumption~~ ***an evidence*** that the infringement has ***or has not*** occurred ***in related cases. Member States shall ensure that a final decision of a court of one Member State establishing the existence or non-existence of the infringement for the purposes of any other actions seeking redress before their national courts in another Member State against the same trader for the same infringement shall be considered as a rebuttable presumption.*** **[Am. 25]**

(34) Member States should ensure that individual actions for redress may be based on a final declaratory decision issued within a representative action. Such actions should be available through expedient and simplified procedures.

(35) Actions for redress based on the establishment of an infringement by a final injunction order ~~or by a final declaratory decision~~ regarding the liability of the trader towards the harmed consumers under this Directive should not be hindered by national rules on limitation periods. The submission of a representative action shall have the effect of suspending or interrupting the limitation periods for any redress actions for the consumers concerned by this action. **[Am. 26]**

(36) Representative actions for injunction orders should be treated with due procedural expediency. Injunction orders with interim effect should always be treated by way of an accelerated procedure in order to prevent any or further harm caused by the infringement.

(37) Evidence is an important element for establishing whether a given practice constitutes an infringement of law, whether there is a risk of its repetition, for determining the consumers concerned by an infringement, deciding on redress and adequately informing consumers concerned by a representative action about the ongoing proceedings and its final outcomes. However, business-to-consumer relationships are characterised by information asymmetry and the necessary information may be held exclusively by the trader, making it inaccessible to the qualified entity. Qualified entities should therefore be afforded the right to request to the competent court or administrative authority the disclosure by the trader of evidence relevant to their claim or needed for adequately informing consumers concerned about the representative action, without it being necessary for them to specify individual items of evidence. The need, scope and proportionality of such disclosure should be carefully assessed by the court or administrative authority overseeing the representative action having regard to the protection of legitimate interests of third parties and subject to the applicable Union and national rules on confidentiality.

(38) In order to ensure the effectiveness of the representative actions infringing traders should face effective, dissuasive and proportionate penalties for non-compliance with a final decision issued within the representative action.

(39) Having regard to the fact that representative actions pursue a public interest by protecting the collective interests of consumers, Member States should ensure that qualified ***representative*** entities are not prevented from bringing representative actions under this Directive because of the costs involved with the procedures. ***However, subject to the relevant conditions under national law, this should be without prejudice to the fact that the party that loses a representative action reimburses necessary legal costs borne by the winning party ('loser pays principle'). However, the court or administrative authority should not award costs to the unsuccessful party to the extent that they were unnecessarily incurred or are disproportionate to the claim.*** **[Am. 27]**

(39a) Member States should ensure that contingency fees are avoided and lawyers' remuneration and the method by which it is calculated do no create any incentive to litigation that is unnecessary from the point of view of the interest of consumers or any of the parties concerned and could prevent consumers from fully benefiting from the representative action. The Member States that allow for contingency fees should ensure that such fees do not prevent obtaining full compensation by consumers. **[Am. 28]**

(40) Cooperation and exchange of information***, good practices and experience*** between qualified ***representative*** entities from different Member States have proven to be useful in addressing cross-border infringements. There is a need for continuing and expanding the capacity-building and cooperation measures to a larger number of qualified ***representative*** entities across the Union in order to increase the use of representative actions with cross-border implications. **[Am. 29]**

(41) In order to effectively tackle infringements with cross-border implications the mutual recognition of the legal standing of qualified entities designated in advance in one Member State to seek representative action in another Member State should be ensured. Furthermore, qualified entities from different Member States should be able to join forces within a single representative action in front of a single forum, subject to relevant rules on competent jurisdiction. For reasons of efficiency and effectiveness, one qualified entity should be able to bring a representative action in the name of other qualified entities representing consumers from different Member States.

(41a) In order to explore the possibility of having a procedure at Union level for cross-border representative actions, the Commission should assess the possibility of establishing a European Ombudsman for collective redress. **[Am. 30]**

(42) This Directive respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. Accordingly, this Directive should be interpreted and applied in accordance with those rights and principles, including those related to the right to an effective remedy and to a fair trial, as well as the right of defence.

(43) With regard to environmental law, this Directive takes account of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ('the Aarhus Convention').

(44) The objectives of this Directive, namely establishing a representative action mechanism for the protection of the collective interests of consumers in order to ensure a high level of consumer protection across the Union and the proper functioning of the internal market, cannot be sufficiently achieved by actions taken exclusively by Member States, but can rather, due to cross-border implications of representative actions, be better achieved at Union level. The Union may therefore 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 Directive does not go beyond what is necessary in order to achieve that objective.

(45) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ([6]), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

(46) It is appropriate to provide rules for the temporal application of this Directive.

(47) Directive 2009/22/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Chapter 1

Subject matter, scope and definitions

Article 1

Subject matter

1. This Directive sets out rules enabling qualified ***representative*** entities to seek representative actions aimed at the protection of the collective interests of consumers ***and thereby, in particular, achieve and enforce a high level of protection and access to justice***, while ***at the same time*** ensuring appropriate safeguards to avoid abusive litigation. **[Am. 31]**

([6]) OJ C 369, 17.12.2011, p. 14.

2. This Directive shall not prevent Member States from adopting or maintaining in force provisions designed to grant qualified ***representative*** entities or ~~any other persons concerned~~ ***public body*** other procedural means to bring actions aimed at the protection of the collective interests of consumers at national level. ***The implementation of this Directive shall under no circumstances constitute grounds for the reduction of consumer protection in fields covered by the scope of Union law.*** **[Am. 32]**

Article 2

Scope

1. This Directive shall apply to representative actions brought against infringements ***with a broad consumer impact*** by traders of provisions of the Union law listed in Annex I that ~~harm or may harm~~ ***protect*** the collective interests of consumers. It shall apply to domestic and cross-border infringements, including where those infringements have ceased before the representative action has started or before the representative action has been concluded. **[Am. 33]**

2. This Directive shall not affect rules establishing contractual and non-contractual remedies available to consumers for such infringements under Union or national law.

3. This Directive is without prejudice to the Union rules on private international law, in particular rules related to court jurisdiction, ~~and~~ ***to the recognition and enforcement of judgements in civil and commercial matters and rules on the law*** applicable ~~law~~ ***to contractual and non-contractual obligations, which apply to the representative actions set out by this Directive***. **[Am. 34]**

3a. This Directive is without prejudice to other forms of redress mechanisms provided for in national law. **[Am. 35]**

3b. This Directive respects the fundamental rights, and observes the principles, recognised by the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights, and in particular the right to a fair and impartial trial and the right to an effective remedy. **[Am. 36]**

Article 3

Definitions

For the purposes of this Directive, the following definitions shall apply:

(1) 'consumer' means any natural person who is acting for purposes which are outside their trade, business, craft or profession;

(1a) 'consumer organisation' means any group that seeks to protect consumers' interests from illegal acts or omissions committed by traders. **[Am. 37]**

(2) 'trader' means any natural person or any legal person, irrespective of whether privately or publicly owned, who is acting ***in a civil capacity under the rules of civil law***, including through any other person acting in their name or on their behalf, for purposes relating to their trade, business, craft or profession; **[Am. 38]**

(3) 'collective interests of consumers' means the interests of a number of consumers ***or of data subjects as defined in Regulation (EU) 2016/679 (General Data Protection Regulation)***; **[Am. 39]**

(4) 'representative action' means an action for the protection of the collective interests of consumers to which the consumers concerned are not parties;

(5) 'practice' means any act or omission by a trader;

(6) 'final decision' means a decision by a Member State's court that cannot or can no longer be appealed or a decision by an administrative authority that can no longer be subject to judicial review;

(6a) 'consumer law' means Union and national law adopted to protect consumers. **[Am. 40]**

Chapter 2

Representative actions

Article 4

Qualified ***representative*** entities **[Am. 41]**

1. ~~Member States shall ensure that representative actions can be brought by qualified entities designated, at their request, by the Member States in advance for this purpose and placed in a publicly available list.~~ ***Member States or their courts shall designate within their respective territory at least one qualified representative entity for the purpose of bringing representative actions within the meaning of Article 3(4).***

Member States shall designate an entity as qualified ***representative*** entity if it complies with ***all of*** the following criteria: **[Am. 42]**

(a) it is properly constituted according to the law of a Member State;

(b) ~~it has~~ ***its statutes or another governance document and its continued activity involving the defence and protection of consumers interests demonstrate its*** a legitimate interest in ensuring that provisions of Union law covered by this Directive are complied with; **[Am. 43]**

(c) it has a non-profit making character.

(ca) it acts in a way that is independent from other entities and from persons other than consumers who might have an economic interest in the outcome of the representative actions, in particular from market operators; **[Am. 44]**

(cb) it does not have financial agreements with plaintiff law firms beyond a normal service contract; **[Am. 45]**

(cc) it has established internal procedures to prevent a conflict of interest between itself and its funders; **[Am. 46]**

Members States shall provide that the qualified representative entities disclose publicly, by appropriate means, such as on its website, in plain and intelligible language, how it is financed, its organisational and management structure, its objective and its working methods as well as its activities.

Member States shall assess on a regular basis whether a qualified ***representative*** entity continues to comply with these criteria. Member States shall ensure that the qualified ***representative*** entity loses its status under this Directive if it no longer complies with one or more of the criteria listed in the first subparagraph.

Member States shall establish a list of representative entities complying with the criteria listed in paragraph 1 and make it publicly available. They shall communicate the list to the Commission updated where necessary.

The Commission shall publish the list of representative entities received from the Member States on a publicly accessible online portal. **[Am. 47]**

1a. Member States may provide that public bodies already designated before the entry into force of this Directive in accordance with national law shall remain eligible for the status of representative entity within the meaning of this Article. **[Am. 48]**

~~2. Member States may designate a qualified entity on an ad hoc basis for a particular representative action, at its request, if it complies with the criteria referred to in paragraph 1.~~ **[Am. 49]**

3. Member States shall ensure that ~~in particular~~ consumer organisations ~~and independent~~ ***meeting the criteria listed in paragraph 1 and*** public bodies are eligible for the status of qualified ***representative*** entity. Member States may designate as qualified entities consumer organisations that represent members from more than one Member State. **[Am. 50]**

~~4. Member States may set out rules specifying which qualified entities may seek all of the measures referred to in Articles 5 and 6, and which qualified entities may seek only one or more of these measures.~~ **[Am. 51]**

5. The compliance by a qualified entity with the criteria referred to in paragraph 1 is without prejudice to the ~~right~~ ***duty*** of the court or administrative authority to examine whether the purpose of the qualified entity justifies its taking action in a specific case in accordance with ***Article 4 and*** Article 5(1). **[Am. 52]**

Article 5

Representative actions for the protection of the collective interests of consumers

1. Member States shall ensure that representative actions can be brought before national courts or administrative authorities ***only*** by qualified ***representative*** entities ***designated in accordance with Article 4(1) and*** provided that there is a direct relationship between the main objectives of the entity and the rights granted under Union law that are claimed to have been violated in respect of which the action is brought.

The qualified representative entities are free to choose any procedure available under national or Union law ensuring the higher level of protection of the collective consumer interest.

Member States shall ensure that no other ongoing action has been brought before a court or an administrative authority of a Member State regarding the same practice, the same trader and the same consumers. **[Am. 53]**

2. Member States shall ensure that qualified ***representative*** entities***, including public bodies that have been designated in advance,*** are entitled to bring representative actions seeking the following measures: **[Am. 54]**

(a) an injunction order as an interim measure for stopping the ***illegal*** practice or, if the practice has not yet been carried out but is imminent, prohibiting the ***illegal*** practice; **[Am. 56]**

(b) an injunction order establishing that the practice constitutes an infringement of law, and if necessary, stopping the practice or, if the practice has not yet been carried out but is imminent, prohibiting the practice.

In order to seek injunction orders, qualified ***representative*** entities shall not have to obtain the mandate of the individual consumers concerned ~~or~~ ***and*** provide proof of actual loss or damage on the part of the consumers concerned or of intention or negligence on the part of the trader. **[Am. 55]**

3. Member States shall ensure that qualified ***representative*** entities are entitled to bring representative actions seeking measures eliminating the continuing effects of the infringement. ~~These measures shall be sought on the basis of any final decision establishing that a practice constitutes an infringement of Union law listed in Annex I harming collective interests of consumers, including a final injunction order referred to in paragraph (2)(b).~~ **[Am. 57]**

~~4. Without prejudice to Article 4(4), Member States shall ensure that qualified entities are able to seek the measures eliminating the continuing effects of the infringement together with measures referred to in paragraph 2 within a single representative action.~~ **[Am. 58]**

Tuesday 26 March 2019

Article 5a

Registry of collective redress actions

1. Member States may set up a national register for representative actions, which shall be available free of charge to any interested person through electronic means and/or otherwise.

2. Websites publishing the registries shall provide access to comprehensive and objective information on the available methods of obtaining compensation, including out of court methods as well as the pending representative actions.

3. The national registries shall be interlinked. Article 35 of Regulation (EU) 2017/2394 shall apply. **[Am. 59]**

Article 6

Redress measures

1. For the purposes of Article 5(3), Member States shall ensure that qualified entities are entitled to bring representative actions seeking a redress order, which obligates the trader to provide for, inter alia, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate. A Member State may ***or may not*** require the mandate of the individual consumers concerned before ~~a declaratory decision is made or~~ a redress order is issued. **[Am. 60]**

If a Member State does not require a mandate of the individual consumer to join the representative action, this Member State shall nevertheless allow those individuals who are not habitually resident in the Member State where the action occurs, to participate in the representative action, in the event they gave their explicit mandate to join the representative action within the applicable time limit. **[Am. 61]**

The qualified ***representative*** entity shall provide ~~sufficient~~ ***all the necessary*** information as required under national law to support the action, including a description of the consumers concerned by the action and the questions of fact and law to be resolved. **[Am. 62]**

~~2. By derogation to paragraph 1, Member States may empower a court or administrative authority to issue, instead of a redress order, a declaratory decision regarding the liability of the trader towards the consumers harmed by an infringement of Union law listed in Annex I, in duly justified cases where, due to the characteristics of the individual harm to the consumers concerned the quantification of individual redress is complex.~~ **[Am. 63]**

~~3. Paragraph 2 shall not apply in the cases where:~~

~~(a) consumers concerned by the infringement are identifiable and suffered comparable harm caused by the same practice in relation to a period of time or a purchase. In such cases the requirement of the mandate of the individual consumers concerned shall not constitute a condition to initiate the action. The redress shall be directed to the consumers concerned;~~

~~(b) consumers have suffered a small amount of loss and it would be disproportionate to distribute the redress to them. In such cases, Member States shall ensure that the mandate of the individual consumers concerned is not required. The redress shall be directed to a public purpose serving the collective interests of consumers.~~ **[Am. 64]**

4. The redress obtained through a final decision in accordance with ~~paragraphs~~ ***paragraph*** 1 ~~, 2 and 3~~ shall be without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law. ***The res judicata principle shall be respected in the application of this provision.*** **[Am. 65]**

4a. The redress measures aim to grant consumers concerned full compensation for their loss. In case of unclaimed amount left from the compensation, a court shall decide on the beneficiary of the remaining unclaimed amount. This unclaimed amount shall not go to the qualified representative entity nor to the trader. **[Am. 66]**

4b. In particular, punitive damages, leading to overcompensation in favour of the claimant party of the damage suffered, shall be prohibited. For instance, the compensation awarded to consumers harmed collectively shall not exceed the amount owed by the trader in accordance with the applicable national or Union law in order to cover the actual harm suffered by them individually. **[Am. 67]**

Article 7

~~Funding~~ ***Admissibility of a representative action*** **[Am. 68]**

1. The qualified ***representative*** entity seeking a redress order as referred in Article 6(1) shall ~~declare at an early~~ ***submit to the court or administrative authority at the earliest*** stage of the action ~~the source of the~~ ***a complete financial overview, listing all sources of*** funds used for its activity in general and the funds that it uses to support the action ***in order to demonstrate the absence of conflict of interest***. It shall demonstrate that it has sufficient financial resources to represent the best interests of the consumers concerned and to meet any adverse costs should the action fail. **[Am. 69]**

2. ~~Member States shall ensure that in cases where a representative action for redress is funded by a third party, it is prohibited for the third party~~ ***The representative action may be declared inadmissible by the national court if it establishes that the funding by the third party would***: **[Am. 70]**

(a) ~~to~~ influence decisions of the qualified ***representative*** entity in the context of a representative action, including ***the initiation of representative actions and decisions*** on settlements; **[Am. 71]**

(b) ~~to~~ provide financing for a collective action against a defendant who is a competitor of the fund provider or against a defendant on whom the fund provider is dependant;

3. Member States shall ensure that courts and administrative authorities ~~are empowered to~~ assess ***the absence of conflict of interest referred to in paragraph 1 and*** the circumstances referred to in paragraph 2 ~~and accordingly require the qualified entity to refuse the relevant funding and, if necessary, reject the standing~~ ***at the stage of admissibility*** of the ~~qualified entity in a specific case~~ ***representative action and at a later stage during the court proceedings if the circumstances only yield then***. **[Am. 72]**

3a. Member States shall ensure that the court or administrative authority have the authority to dismiss manifestly unfounded cases at the earliest possible stage of proceedings. **[Am. 73]**

Article 7a

Loser pays principle

Member States shall ensure that the party that loses a collective redress action reimburses the legal costs borne by the winning party, subject to the conditions provided for in national law. However, the court or administrative authority shall not award costs to the unsuccessful party to the extent that they were unnecessarily incurred or are disproportionate to the claim. **[Am. 74]**

Article 8

Settlements

1. Member States may provide that a qualified ***representative*** entity and a trader who have reached a settlement regarding redress for consumers affected by an allegedly illegal practice of that trader can jointly request a court or administrative authority to approve it. ~~Such a request should be admitted by the court or administrative authority only if there is no other ongoing representative action in front of the court or administrative authority of the same Member State regarding the same trader and regarding the same practice.~~ **[Am. 75]**

2. Member States shall ensure that at any moment within the representative actions, the court or administrative authority may invite the qualified entity and the defendant, after having consulted them, to reach a settlement regarding redress within a reasonable set time-limit.

3. Member States shall ensure that the court or administrative authority that issued the final declaratory decision referred to in Article 6(2) is empowered to request the parties to the representative action to reach within a reasonable set time limit a settlement regarding the redress to be provided to consumers on the basis of this final decision.

4. The settlements referred to in paragraphs 1, 2 and 3 shall be subject to the scrutiny of the court or administrative authority. The court or administrative authority shall assess the legality and fairness of the settlement, taking into consideration the rights and interests of all parties, including the consumers concerned.

5. If the settlement referred to in paragraph 2 is not reached within the set time-limits or the settlement reached is not approved, the court or administrative authority shall continue the representative action.

6. ~~Individual consumers concerned shall be given the possibility to accept or to refuse to be bound by settlements referred to in paragraphs 1, 2 and 3.~~ The redress obtained through an approved settlement in accordance with paragraph 4 shall be ***binding upon all parties*** without prejudice to any additional rights to redress that the consumers concerned may have under Union or national law. **[Am. 76]**

Article 9

Information on representative actions

-1. Member States shall ensure that the representative entities:

(a) inform consumers about the claimed violation of rights granted under Union law and the intention to seek an injunction or to pursue an action for damages,

(b) explain to consumers concerned already beforehand the possibility of joining the action in order to ensure that the relevant documents and other information necessary for the action are kept.

(c) where relevant, inform about subsequent steps and the potential legal consequences. **[Am. 77]**

1. ***Where a settlement or final decision benefits consumers who may be unaware of it,*** Member States shall ensure that the court or administrative authority shall require the ~~infringing trader~~ ***defeated party or both parties*** to inform affected consumers at its expense about the final decisions providing for measures referred to in Articles 5 and 6, and the approved settlements referred to in Article 8, by means appropriate to the circumstance of the case and within specified time limits, ~~including, where appropriate,~~ ***Members States may provide that the information obligation can be complied with*** through ~~notifying all consumers concerned individually~~ ***a publicly available and easily accessible website***. **[Am. 78]**

1a. The defeated party shall bear the costs of consumer information in accordance with the principle laid down in Article 7. **[Am. 79]**

2. The information referred to in paragraph 1 shall include in intelligible language an explanation of the subject-matter of the representative action, its legal consequences and, if relevant, the subsequent steps to be taken by the consumers concerned. ***The modalities and timeframe of the information shall be designed in agreement with the court or administrative authority.*** **[Am. 80]**

2a. Member States shall ensure that information is made available to the public in an accessible way, on upcoming, ongoing and closed collective actions, including via media and online through a public website when a court has decided that the case is admissible. **[Am. 81]**

2b. Member States shall ensure that public communications by qualified entities about claims are factual and take into account both the right for consumers to receive information and defendants' reputational rights and rights to business secrecy. **[Am. 82]**

Article 10

Effects of final decisions

1. Member States shall ensure that ~~an infringement harming collective interests of consumers established in~~ a final decision of an administrative authority or a court, including a final injunction order referred to in Article 5(2)(b), is ~~deemed as irrefutably~~ ***considered as evidence*** establishing the existence ***or non-existence*** of that infringement for the purposes of any other actions seeking redress before their national courts against the same trader for the same ~~infringement~~ ***facts providing that the same damage cannot be compensated twice to the same consumers concerned***. **[Am. 83]**

2. Member States shall ensure that a final decision referred to in paragraph 1, taken in another Member State is considered by their national courts or administrative authorities ***at least*** as ~~a rebuttable presumption~~ ***evidence*** that an infringement has occurred. **[Am. 84]**

2a. Member States shall ensure that a final decision of a court of one Member State establishing the existence or non-existence of the infringement for the purposes of any other actions seeking redress before their national courts in another Member State against the same trader for the same infringement is considered a rebuttable presumption. **[Am. 85]**

3. Member States ~~shall ensure that a~~ ***are encouraged to create a database containing all*** final ~~declaratory decision referred to in Article 6(2) is deemed as irrefutably establishing the liability of the trader towards the harmed consumers by an infringement for the purposes of any~~ ***decisions on redress*** actions ~~seeking~~ ***that could facilitate other*** redress ~~before their national courts against the same trader for that infringement. Member States shall ensure that such actions for redress brought individually by consumers are available through expedient and simplified procedures~~ ***measures, and to share*** their ***best practices in this field***. **[Am. 86]**

Article 11

Suspension of limitation period

In accordance with national law, Member States shall ensure that the submission of a representative action as referred to in Articles 5 and 6 shall have the effect of suspending or interrupting limitation periods applicable to any redress actions for the ~~consumers~~ ***individuals*** concerned, if the relevant rights are subject to a limitation period under Union or national law. **[Am. 87]**

Article 12

Procedural expediency

1. Member States shall take the necessary measures to ensure representative actions referred to in Articles 5 and 6 are treated with due expediency.

2. Representative actions for an injunction order in the form of an interim measure referred to in Article 5(2)(a) shall be treated by way of an accelerated procedure.

Article 13

Evidence

Member States shall ensure that, at the request of ~~a qualified entity~~ ***one of the parties*** that has presented reasonably available facts and ~~evidence~~ sufficient ***evidence and a substantive explanation*** to support ~~the representative action~~ ***its views***, and has indicated further ***specific and clear defined*** evidence which lies in the control of the ~~defendant~~ ***other party***, the court or administrative authority may order, in accordance with national procedural rules, that such evidence be presented by ~~the defendant~~ ***this party, as narrowly as possible on the basis of reasonably available facts***, subject to the applicable Union and national rules on confidentiality. ***The order must be adequate and proportionate in the respective case and must not create an imbalance between the two parties involved.*** **[Am. 88]**

Member States shall ensure that the courts limit the disclosure of evidence to what is proportionate. To determine whether any disclosure requested by a representative entity is proportionate, the court shall consider the legitimate interest of all parties concerned, namely to which extent the request for disclosure of evidence is supported by available facts and evidence and whether the evidence the disclosure of which is requested contains confidential information. **[Am. 89]**

Member States shall ensure that national courts have the power to order the disclosure of evidence containing information where they consider it relevant to the action for damages. **[Am. 90]**

Article 14

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliance with the final decisions issued within the representative action and shall take all necessary measures to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.

2. Member States shall ensure that penalties may take***, inter alia,*** the form of fines. **[Am. 91]**

3. When deciding about the allocation of revenues from fines Member States shall take into account the collective interests ~~of consumers~~***. Member States may decide for such revenues to be allocated to a fund created for the purpose of financing representative actions***. **[Am. 92]**

4. Member States shall notify provisions referred to in paragraph 1 to the Commission by [date for transposition of the Directive] at the latest and shall notify it without delay of any subsequent amendment affecting them.

Article 15

Assistance for qualified ***representative*** entities **[Am. 93]**

1. Member States ***shall be encouraged, in line with Article 7, to ensure that qualified representative entities have sufficient funds available for representative actions. They*** shall take the necessary measures to ***facilitate access to justice and shall*** ensure that procedural costs related to representative actions do not constitute financial obstacles for qualified entities to effectively exercise the right to seek the measures referred to in Articles 5 and 6, such as limiting applicable court or administrative fees ***or*** granting them access to legal aid where necessary, or by providing them with public funding for this purpose. **[Am. 94]**

1a. Member States shall provide structural support to entities acting as qualified entities within the scope of this Directive. **[Am. 95]**

2. Member States shall take the necessary measures to ensure that in cases where the qualified entities are required to inform consumers concerned about the ongoing representative action the related cost may be recovered from the trader if the action is successful.

3. Member States and the Commission shall support and facilitate the cooperation of qualified entities and the exchange and dissemination of their best practices and experiences as regards the resolution of cross-border and domestic infringements.

Article 15a

Legal representation and fees

Member States shall ensure that the lawyers' remuneration and the method by which it is calculated do not create any incentive to litigation, unnecessary from the point of view of the interest of any of the parties. In particular, Member States shall prohibit contingency fees. **[Am. 96]**

Article 16

Cross-border representative actions

1. Member States shall take the measures necessary to ensure that any qualified ***representative*** entity designated in advance in one Member State in accordance with Article 4(1) may apply to the courts or administrative authorities of another Member State upon the presentation of the publicly available list referred to in that Article. The courts or administrative authorities ~~shall accept this list as proof of~~ ***may review*** the legal standing of the qualified ***representative*** entity without prejudice to their right to examine whether the purpose of the qualified ***representative*** entity justifies its taking action in a specific case. **[Am. 97]**

2. Member States shall ensure that where the infringement affects or is likely to affect consumers from different Member States the representative action may be brought to the competent court or administrative authority of a Member State by several qualified entities from different Member States, acting jointly or represented by a single qualified entity, for the protection of the collective interest of consumers from different Member States.

2a. Member State where a collective redress takes place may require a mandate from the consumers who are resident in this Member State and shall require a mandate from individual consumers based in another Member State when the action is cross-border. In such circumstances, a consolidated list of all consumers from other Member States who have given such a mandate will be provided to the court or administrative authority and the defendant at the beginning of an action. **[Am. 98]**

3. For the purposes of cross-border representative actions, and without prejudice to the rights granted to other entities under national legislation, the Member States shall communicate to the Commission the list of qualified entities designated in advance. Member States shall inform the Commission of the name and purpose of these qualified entities. The Commission shall make this information publicly available and keep it up to date.

4. If a Member State, ~~or~~ the Commission ***or the trader*** raises concerns regarding the compliance by a qualified ***representative*** entity with the criteria laid down in Article 4(1), the Member State that designated that entity shall investigate the concerns and, where appropriate, revoke the designation if one or more of the criteria are not complied with. **[Am. 99]**

Article 16a

Public Register

Member States shall ensure that the relevant national competent authorities set up a publicly accessible register of unlawful acts that have been subject to injunction orders in accordance with the provisions of this Directive. **[Am. 100]**

Chapter 3

Final provisions

Article 17

Repeal

Directive 2009/22/EU is repealed as of [date of application of this Directive] without prejudice to Article 20(2).

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table set out in Annex II.

Article 18

Monitoring and evaluation

1. No sooner than 5 years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall be conducted according to the Commission's better regulation guidelines. In the report, the Commission shall in particular assess the scope of application of this Directive defined in Article 2 and Annex I.

~~2. No later than one year after the entry into force of this Directive, the Commission shall assess whether the rules on air and rail passenger rights offer a level of protection of the rights of consumers comparable to that provided for under this Directive. Where that is the case, the Commission intends to make appropriate proposals, which may consist in particular in removing the acts referred to in points 10 and 15 of Annex I from the scope of application of this Directive as defined in Article 2.~~ **[Am. 101]**

3. Member States shall provide the Commission on annual basis, for the first time at the latest 4 years after the date of application of this Directive, with the following information necessary for the preparation of the report referred to in paragraph 1:

(a) the number of representative actions brought pursuant to this Directive before administrative and judicial authorities;

(b) the type of qualified entity bringing the actions;

(c) the type of the infringement tackled within the representative actions, the parties to the representative actions and the economic sector concerned by the representative actions;

(d) the length of the proceedings from initiating an action until the adoption of a final injunctions orders referred to in Article 5, redress orders or declaratory decisions referred to in Article 6 or final approval of the settlement referred to in Article 8;

(e) the outcomes of the representative actions;

(f) the number of qualified entities participating in cooperation and exchange of best practices mechanism referred to in Article 15(3).

Article 18a

Review clause

Without prejudice to Article 16, the Commission shall assess whether cross-border representative actions could be best addressed at Union level by establishing a European Ombudsman for collective redress. No later than three years after the entry into force of this Directive, the Commission shall draw up a report in this regard and submit it to the European Parliament and the Council, accompanied, if appropriate, by a relevant proposal. **[Am. 102]**

Article 19

Transposition

1. Member States shall adopt and publish, by [18 months from the date of entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall apply those provisions from [6 months after the transposition deadline].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive.

Article 20

Transitional provisions

1. Member States shall apply the laws, regulations and administrative provisions transposing this Directive to infringements that started after [date of application of this Directive].

2. Member States shall apply the laws, regulations and administrative provisions transposing Directive 2009/22/EC to infringements that started before [date of application of this Directive].

Article 21

Entry into force

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

Article 22

Addressees

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Tuesday 26 March 2019

ANNEX I

LIST OF PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 2(1)

(1) Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210, 07.08.1985, p. 29 –33) ([1]).

(2) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).

(3) Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ L 80, 18.3.1998, p. 27).

(4) Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12).

(5) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects on information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).

(6) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use: Articles 86 to 100 (OJ L 311, 28.11.2001, p. 67).

(7) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51–77).

(8) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37): Article 13.

(9) Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (OJ L 271, 9.10.2002, p. 16).

(10) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004, p. 1).

(11) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (OJ L 149, 11.6.2005, p. 22).

(12) Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1).

(13) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21): Article 1, point (c) of Article 2 and Articles 4 to 8.

([1]) The said Directive was amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999 amending Council Directive 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 141, 04.06.1999, p. 20— 21).

(14) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

(15) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

(16) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

(17) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3): Articles 22, 23 and 24.

(18) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1–1355).

(19) Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (OJ L 33, 3.2.2009, p. 10).

(20) 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 and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55–93).

(21) 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 and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94–136).

(22) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32–96).

(23) Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11–18).

(24) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7–17).

(25) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10–35).

(26) Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters (OJ L 342, 22.12.2009, p. 46–58).

(27) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1–155): Articles 183, 184, 185 and186.

(28) 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): Articles 9, 10, 11 and Articles 19 to 26.

(29) 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. 13–35).

(30) Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1–19).

(31) Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1).

(32) Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).

(33) Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45–65).

(34) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1–73).

(35) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).

(36) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18–63).

(37) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22–37).

(38) Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10–35).

(39) 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. 1–56).

(40) Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13.

(41) Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1): Article 14.

(42) Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1–17).

(43) Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18–38).

(44) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34): Articles 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, Chapter 10 and Annexes I and II.

(45) 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. 349–496).

(46) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214): Articles 3 to 18 and Article 20(2).

(47) Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).

(48) Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1–23).

(49) Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (OJ L 123, 19.5.2015, p. 98–121).

(50) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35–127).

(51) Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).

(52) Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19–59).

(53) 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. 1–88).

(54) Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37–85).

(55) Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1).

(56) Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12–82).

(57) Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8–45).

(58) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1–23).

(59) Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC (OJ L 60, 02.03.2018, p. 1).

(59a) Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety (OJ L 11, 15.1.2002, p. 4). **[Am. 103]**

(59b) Directive 2014/35/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of electrical equipment designed for use within certain voltage limits (OJ L 96, 29.3.2014, p. 357). **[Am. 104]**

(59c) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1). **[Am. 105]**

(59d) Directive 2014/31/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to the making available on the market of non-automatic weighing instruments (OJ L 96, 29.3.2014, p. 107). **[Am. 106]**

(59e) Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products (OJ L 212, 22.7.1989, p. 79). **[Am. 107]**

(59f) 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 and repealing Regulation (EC) No 1775/2005 (OJ L 211, 14.8.2009, p. 36). **[Am. 108]**

ANNEX II

CORRELATION TABLE

Directive 2009/22/EC	This Directive
Article 1(1)	Article 1(1)
Article 1(2)	Article 2(1)
—	Article 2(2)
—	Article 3
Article 2(1)	Article 5(1)
Article 2(1) point (a)	Article 5(2) points (a) and (b) Article 12
—	Article 5(2) second subparagraph
Article 2(1) point (b)	Article 5(3) Article 9
Article 2(1) point (c)	Article 14
Article 2(2)	Article 2(3)
Article 3	Article 4(1)-(3)
—	Article 4(4)
—	Article 4(5)
—	Article 5(4)
—	Article 6
—	Article 7
—	Article 8
—	Article 10
—	Article 11
—	Article 13
—	Article 15
Article 4	Article 16
Article 5	—

Directive 2009/22/EC	This Directive
Article 6	Article 18
Article 7	Article 1(2)
Article 8	Article 19
Article 9	Article 17
—	Article 20
Article 10	Article 21
Article 11	Article 22

Tuesday 26 March 2019

P8_TA(2019)0223

Protocol to the EU-Israel Euro-Mediterranean Agreement (accession of Croatia) ***

European Parliament legislative resolution of 26 March 2019 on the draft Council decision on the conclusion, on behalf of the European Union and its Member States, of a Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part, to take account of the accession of the Republic of Croatia to the European Union (09547/2018 — C8-0021/2019 — 2018/0080(NLE))

(Consent)

(2021/C 108/17)

The European Parliament,

— having regard to the draft Council decision (09547/2018),

— having regard to the draft Protocol to the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, of the other part, to take account of the accession of the Republic of Croatia to the European Union (09548/2018),

— having regard to the request for consent submitted by the Council in accordance with Article 217 and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C8-0021/2019),

— having regard to Rule 99(1) and (4) and Rule 108(7) of its Rules of Procedure,

— having regard to the recommendation of the Committee on Foreign Affairs (A8-0164/2019),

1. Gives its consent to conclusion of the Protocol;

2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the State of Israel.

Tuesday 26 March 2019

P8_TA(2019)0225

Discontinuing seasonal changes of time ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC (COM(2018)0639 — C8-0408/2018 — 2018/0332(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/18)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0639),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0408/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Danish Parliament, the United Kingdom House of Commons and the United Kingdom House of Lords, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the results of the online consultation conducted by the European Commission between 4 July 2018 — 16 August 2018,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on Industry, Research and Energy, the Committee on the Internal Market and Consumer Protection, the Committee on Agriculture and Rural Development, the Committee on Legal Affairs and the Committee on Petitions (A8-0169/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 62, 15.2.2019, p. 305.

Tuesday 26 March 2019

P8_TC1-COD(2018)0332

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) …/… of the European Parliament and of the Council discontinuing seasonal changes of time and repealing Directive 2000/84/EC

(Text with EEA relevance)

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 114 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]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(1) Member States chose in the past to introduce summer-time arrangements at national level. It was, therefore, important for the functioning of the internal market that a common date and time for the beginning and end of the summer-time period be fixed throughout the Union ***to coordinate the changing of clocks in Member States***. In accordance with Directive 2000/84/EC of the European Parliament and of the Council ([3]), all Member States currently apply ***biannual seasonal changes of time. Standard time is switched to*** summer-time ~~arrangements from~~ ***on*** the last Sunday in March until the last Sunday in October of the same year. **[Am. 1]**

(2) ***Against the background of several petitions, citizens' initiatives and parliamentary questions, the European Parliament,*** in its resolution of 8 February 2018, ~~the European Parliament~~ called on the Commission to conduct ~~an~~ ***a thorough*** assessment of the summer-time arrangements provided by Directive 2000/84/EC and, if necessary, to come up with a proposal for its revision. That resolution also ~~confirmed that it is essential to maintain~~ ***stressed the importance of maintaining*** a harmonised ***and coordinated*** approach to time arrangements throughout the Union ***and a unified EU time regime***. **[Am. 2]**

(3) The Commission has examined available evidence, which points to the importance of having harmonised Union rules in this area to ensure the proper functioning of the internal market***, create predictability and long-term certainty*** and avoid, inter alia, disruptions to the scheduling of transport operations and the functioning of information and communication systems, higher costs to cross-border trade, or lower productivity for goods and services. ~~Evidence is not conclusive as to whether the benefits of summer-time arrangements outweigh the inconveniences linked to a biannual change of time~~. **[Am. 3]**

(3a) The public debate on summer-time arrangements is not new and since the introduction of summer-time there have been several initiatives that aimed to discontinue the practice. Some Member States have held national consultations and a majority of businesses and stakeholders have supported the discontinuation of the practice. The consultation initiated by the European Commission has come to the same conclusion. **[Am. 4]**

([1]) OJ C 62, 15.2.2019, p. 305.
([2]) Position of the European Parliament of 26 March 2019.
([3]) Directive 2000/84/EC of the European Parliament and of the Council of 19 January 2001 on summer-time arrangements (OJ L 31, 2.2.2001, p. 21).

Tuesday 26 March 2019

(3b) ***In this context, the situation of livestock farmers can serve as an example of how the summer-time arrangements were initially deemed incompatible with agricultural working practices, in particular regarding the already very early start of the working day under standard time. Also, the bi-annual transition to summer-time was thought to make it harder to get the produce or animals out to the markets. And finally, due to cows following their natural milking rhythm, a reduction of milk yields was assumed. However, modern agricultural equipment and practices have revolutionised farming in a way that makes most of these concerns no longer relevant, while concerns regarding the biorhythm of animals as well as farmers' working conditions are still relevant.*** **[Am. 5]**

(4) A lively public debate is taking place on summer-time arrangements***. Around 4,6 million citizens participated in the public consultation held by the Commission, which is the largest number of responses ever received in any Commission consultation. Also a number of citizens' initiatives have highlighted public concern as regards the biannual clock change*** and some Member States have already expressed their preference to discontinue the application of such ***summer-time*** arrangements. In the light of these developments, it is necessary to continue safeguarding the proper functioning of the internal market and to avoid any significant disruptions thereto caused by divergences between Member States in this area. Therefore, it is appropriate to put an end in a coordinated ***and harmonised*** way to summer-time arrangements. **[Am. 6]**

(4a) ***Chronobiology shows that the biorhythm of the human body is affected by any changes of time, which might have an adverse impact on human health. Recent scientific evidence clearly suggests a link between changes of time and cardiovascular diseases, inflammatory immune diseases or hypertension, linked to the disturbance of the circadian cycle. Certain groups, such as children and older people, are particularly vulnerable. Therefore, in order to protect public health, it is appropriate to put an end to seasonal changes of time.*** **[Am. 7]**

(4b) ***Territories other than overseas territories of the Member States are grouped over three different time zones or standard times, i.e. GMT, GMT + 1 and GMT + 2. The large north-south extension of the European Union means that daylight effects of time vary across the Union. It is therefore important that Member States take into consideration the geographical aspects of time, i.e. natural time zones and geographical position, before changing their time zones. Member States should consult citizens and relevant stakeholders before deciding to change their time zones.*** **[Am. 8]**

(4c) ***A number of citizens' initiatives have highlighted citizens' concerns about the biannual clock change and Member States should be given the time and opportunity to carry out their own public consultations and impact assessments in order to better understand the implications of discontinuing season time changes in all regions.*** **[Am. 9]**

(4d) ***Summer time, or daylight saving, has enabled later apparent sunsets during the summer months. In the minds of many Union citizens summer is synonymous with sunlight being available late into the evening. A reversion to 'standard' time would result in summer sunsets being an hour earlier, with a much-reduced period of the year where late evening daylight is available.*** **[Am. 10]**

(4e) ***Numerous studies looked into the link between the switch to summer time and the risk of heart attacks, disrupted body rhythm, sleep deprivation, lack of concentration and attention, increased risk of accidents, lower life satisfaction and even suicide rates. However, longer daylight, outdoor activities after work or school and exposure to sunlight clearly have some positive long-term effects on general well-being.*** **[Am. 11]**

(4f) ***Seasonal changes of time also have an adverse impact on the welfare of animals, which is evident in agriculture, for example, where cows milk production suffers.*** **[Am. 12]**

Tuesday 26 March 2019

(4 g) It is widely assumed that seasonal changes of time bring about energy savings. Indeed, that was the main reason for their initial introduction in the last century. Research shows, however, that while the seasonal changes of time might be marginally beneficial to reducing energy consumption in the Union as a whole, it is not the case in every Member State. The energy for lighting saved by switching to summer time might be also outweighed by increased consumption of energy for heating. Moreover, results are difficult to interpret as they are strongly influenced by external factors, such as meteorology, behaviour of energy users or ongoing energy transition. **[Am. 13]**

(5) This Directive should not prejudice the right of each Member State to decide on the standard time or times for the territories under its jurisdiction and falling under the territorial scope of the Treaties, and on further changes thereto. However, in order to ensure that the application of summer-time arrangements by some Member States only does not disrupt the functioning of the internal market, Member States should refrain from changing the standard time in any given territory under their jurisdiction for reasons related to seasonal changes, be such change presented as a change of time zone. Moreover, in order to minimise disruptions, inter alia, to transport, communications and other concerned sectors, they should notify the Commission ~~in due time of their intention~~ ***by 1 April 2020 at the latest in the event that they intend*** to change their ~~standard time and subsequently apply the notified changes. The Commission should,~~ ***standard time*** on the ~~basis of that notification, inform all other Member States so that they can take all necessary measures. It should also inform the general public and stakeholders by publishing this information~~ ***last Sunday in October 2021***. **[Am. 14]**

(6) Therefore, it is necessary to put an end to the harmonisation of the period covered by summer-time arrangements as laid down in Directive 2000/84/EC and to introduce common rules preventing Member States from applying different seasonal time arrangements by changing their standard time more than once during the year ~~and establishing the obligation to notify envisaged changes of the standard time~~. This Directive aims at contributing in a determined manner to the smooth functioning of the internal market and should, consequently, be based on Article 114 of the Treaty on the Functioning of the European Union (TFEU), as interpreted in accordance with the consistent case-law of the Court of Justice of the European Union. **[Am. 15]**

(6a) The decision on which standard time to apply in each Member State needs to be preceded by consultations and studies which would take into account citizens' preferences, geographical variations, regional differences, standard working arrangements and other factors relevant for the particular Member State. Therefore, Member States should have sufficient time to analyse the impact of the proposal and to choose the solution best serving its populations, while taking into account the well-functioning of the internal market. **[Am. 16]**

(6b) A time change unrelated to seasonal shifts will lead to transition costs, especially with regard to IT systems in transport and other sectors. In order to reduce significantly the costs of transition, a reasonable preparation period is needed for the implementation of this Directive. **[Am. 17]**

(7) This Directive should apply from 1 April ~~2019~~ ***2021***, so that the last summer-time period subject to the rules of Directive 2000/84/EC should start, in every Member State, at 1.00 a.m., Coordinated Universal Time, on ~~31~~ ***the last Sunday in*** March ~~2019~~ ***2021***. Member States that, after that summer-time period, intend to adopt a standard time corresponding to the time applied during the winter season in accordance with Directive 2000/84/EC should change their standard time at 1.00 a.m., Coordinated Universal Time, on ~~27~~ ***on the last Sunday in*** October ~~2019~~ ***2021***, so that similar and lasting changes occurring in different Member States take place simultaneously. It is desirable that Member States take the decisions on the standard time that each of them will apply ~~as~~ from ~~2019~~ ***2021*** in a concerted manner. **[Am. 18]**

(7a) For the purpose of ensuring a harmonised implementation of this Directive, Member States should cooperate with one another and take decisions on their envisaged time arrangements in a concerted and coordinated manner. Therefore, a coordination mechanism should be established, consisting of a designated representative from each Member State and a representative of the Commission. The coordination mechanism should discuss and assess the potential impact of any envisaged decision on a Member State's standard times on the functioning of the internal market, in order to avoid significant disruptions. **[Am. 19]**

(7b) The Commission should assess whether the envisaged time arrangements in the different Member States have the potential to significantly and permanently hamper the proper functioning of the internal market. Where that assessment does not lead to Member States reconsidering their envisaged time arrangements, the Commission should be able to postpone the date of application of this Directive by no more than 12 months and submit a legislative proposal, if appropriate. Therefore, and in order to ensure the proper application of this Directive, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to postpone the date of application of this Directive by no more than 12 months. **[Am. 20]**

(8) Implementation of this Directive should be monitored. The results of this monitoring should be presented by the Commission in a report to the European Parliament and to the Council. That report should be based on the information that is made available to the Commission by the Member States in a timely fashion to allow for the report to be presented at the specified time.

(9) Since the objectives of this Directive as regards harmonised time arrangements cannot be sufficiently achieved by the Member States 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 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve those objectives.

(10) The harmonised time arrangements should be applied in accordance with the provisions on the territorial scope of the Treaties specified in Article 355 TFEU.

(11) Directive 2000/84/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

1. Member States shall not apply seasonal changes to their standard time or times.

2. ~~Notwithstanding~~ ***By way of derogation from*** paragraph 1, Member States may still apply a seasonal change of their standard time or times in ~~2019~~ ***2021***, provided that they do so at 1.00 a.m., Coordinated Universal Time, on ~~27~~ ***the last Sunday in*** October ~~2019~~ ***of that year***. The Member States shall notify this decision ~~in accordance with Article 2~~ ***to the Commission by 1 April 2020 at the latest***. **[Am. 21]**

Article 2

1. ~~Without prejudice to Article 1, if a Member State decides to change its standard time or times in any territory under its jurisdiction, it shall notify the Commission at least 6 months before the change takes effect. Where a Member State has made such a notification and has not withdrawn it at least 6 months before the date of the envisaged change, the Member State shall apply this change~~ ***A coordination mechanism is hereby established with the aim to ensure a harmonised and coordinated approach to time arrangements throughout the Union.*** **[Am. 22]**

2. ~~Within 1 month of the notification,~~ ***The coordination mechanism shall consist of one representative for each Member State and one representative of*** the Commission ~~shall inform the other Member States thereof and publish that information in the Official Journal of the European Union~~. **[Am. 23]**

2a. Where a Member State notifies the Commission of its decision pursuant to Article 1(2), the coordination mechanism shall convene to discuss and assess the potential impact of the envisaged change on the functioning of the internal market, in order to avoid significant disruptions. **[Am. 24]**

2b. Where on the basis of the assessment referred to in paragraph 2a, the Commission considers that the envisaged change will significantly affect the proper functioning of the internal market, it shall inform the notifying Member State thereof. **[Am. 25]**

2c. By 31 October 2020 at the latest, the notifying Member State shall decide whether to maintain its intention or not. Where the notifying Member State decides to maintain its intention, it shall provide a detailed explanation of how it will address the negative impact of the change on the functioning of the internal market. **[Am. 26]**

Article 3

1. ***By 31 December 2025 at the latest*** the Commission shall ~~report~~ ***submit*** to the European Parliament and to the Council ***an evaluation report*** on the ***application and*** implementation of this Directive, ~~by 31 December 2024 at the latest~~ ***accompanied, where necessary, by a legislative proposal for its review based on a thorough impact assessment, involving all relevant stakeholders***. **[Am. 27]**

2. Member States shall provide the Commission with the relevant information by 30 April ~~2024~~ ***2025*** at the latest **[Am. 28]**.

Article 4

1. Member States shall adopt and publish, by 1 April ~~2019~~ ***2021*** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from 1 April ~~2019~~ ***2021***.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made. **[Am. 29]**

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4a

1. The Commission, in close cooperation with the coordination mechanism referred to in Article 2, shall closely monitor the foreseen time arrangements throughout the Union.

2. Where the Commission determines that the envisaged time arrangements, notified by the Member States pursuant to Article 1(2), have the potential to significantly and permanently hamper the proper functioning of the internal market, it is empowered to adopt delegated acts to postpone the date of application of this Directive by no more than 12 months and submit a legislative proposal, if appropriate. **[Am. 30]**

Article 4b

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 4a shall be conferred on the Commission from [date of entry into force of this Directive] until [date of application of this Directive].

3. The delegation of power referred to in Article 4a may be revoked at anytime 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 4a 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. **[Am. 31]**

Article 5

Directive 2000/84/EC is repealed with effect from 1 April ~~2019~~ ***2021***. **[Am. 32]**

Article 6

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

Article 7

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

P8_TA(2019)0226

Common rules for the internal market for electricity ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast) (COM(2016)0864 — C8-0495/2016 — 2016/0380(COD))

(Ordinary legislative procedure — recast)

(2021/C 108/19)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0864),

— having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0495/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Hungarian Parliament, the Austrian Federal Council and the Polish Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 31 May 2017 ([1]);

— having regard to the opinion of the Committee of the Regions of 13 July 2017 ([2]);

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([3]),

— having regard to the letter of 7 September 2017 sent by the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rules 104 and 59 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0044/2018),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

([1]) OJ C 288, 31.8.2017, p. 91.
([2]) OJ C 342, 12.10.2017, p. 79.
([3]) OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Takes note of the Commission statements annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0380

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/944.)

Tuesday 26 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

COMMISSION STATEMENT ON THE INTERCONNECTOR DEFINITION

'The Commission notes the agreement of the co-legislators relating to the recast Electricity Directive and Recast Electricity Regulation, reverting back to the definition of "interconnector" used in Directive 2009/72/EC and Regulation (EC) No 714/2009. The Commission agrees that electricity markets differ from other markets such as natural gas, e.g. by trading products which can currently not be easily stored and are produced by a large variety of generating installations, including installations at distribution level. As a consequence, the role of connections to third countries differs significantly between the electricity and gas sectors and different regulatory approaches can be chosen.

The Commission will further examine the impact of this agreement and provide guidance on applying the legislation where needed.

For the sake of legal clarity, the Commission wishes to highlight the following:

The agreed definition of interconnector in the Electricity Directive refers to equipment linking electricity systems. This wording does not distinguish different regulatory frameworks or technical situations and thus, a priori, includes all electric connections to third countries in the scope of application. As regards the agreed definition of interconnector in the Electricity Regulation, the Commission underlines that the integration of electricity markets requires a high degree of cooperation between system operators, market participants and regulators. While the scope of applicable rules may vary depending on the degree of integration with the internal electricity market, close integration of third countries into the internal electricity market, such as participation in market coupling projects, should be based on agreements requiring the application of relevant Union law.'

COMMISSION STATEMENT ON ALTERNATIVE DISPUTE RESOLUTION

The Commission notes the agreement of the co-legislators relating to Article 26 to regulate at EU level that energy service providers' participation in Alternative Dispute Resolution shall be mandatory. The Commission regrets this decision since its proposal had left this choice to Member States in line with the approach adopted in Directive 2013/11/EU on Alternative Resolution for consumer Disputes (the ADR Directive) and bearing in mind the principles of subsidiarity and proportionality.

It is not the Commission's role to undertake comparative assessments of the individual alternative dispute resolution models put in place by the Member States. The Commission will therefore consider the overall effectiveness of the national alternative dispute resolution landscapes in the context of its general obligation to monitor the transposition and effective application of Union law.

Tuesday 26 March 2019

P8_TA(2019)0227

Internal market for electricity ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the internal market for electricity (recast) (COM(2016)0861 — C8-0492/2016 — 2016/0379(COD))

(Ordinary legislative procedure — recast)

(2021/C 108/20)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0861),

— having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0492/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality by the Czech Chamber of Deputies, the German Bundestag, the Spanish Parliament, the French Senate, the Hungarian Parliament, the Austrian Federal Council, the Polish Sejm, the Polish Senate, the Romanian Chamber of Deputies and the Romanian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 31 May 2017 ([1]),

— having regard to the opinion of the Committee of the Regions of 13 July 2017 ([2]),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([3]),

— having regard to the letter of 13 July 2017 sent by the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rules 104 and 59 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0042/2018),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

([1]) OJ C 288, 31.8.2017, p. 91.
([2]) OJ C 342, 12.10.2017, p. 79.
([3]) OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Takes note of the Commission statements annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0379

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council on the internal market for electricity (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/943.)

Tuesday 26 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

COMMISSION STATEMENT ON THE INTERCONNECTOR DEFINITION

'The Commission notes the agreement of the co-legislators relating to the recast Electricity Directive and Recast Electricity Regulation, reverting back to the definition of "interconnector" used in Directive 2009/72/EC and Regulation (EC) 714/2009. The Commission agrees that electricity markets differ from other markets such as natural gas, e.g. by trading products which can currently not be easily stored and are produced by a large variety of generating installations, including installations at distribution level. As a consequence, the role of connections to third countries differs significantly between the electricity and gas sectors and different regulatory approaches can be chosen.

The Commission will further examine the impact of this agreement and provide guidance on applying the legislation where needed.

For the sake of legal clarity, the Commission wishes to highlight the following:

The agreed definition of interconnector in the Electricity Directive refers to equipment linking electricity systems. This wording does not distinguish different regulatory frameworks or technical situations and thus, a priori, includes all electric connections to third countries in the scope of application. As regards the agreed definition of interconnector in the Electricity Regulation, the Commission underlines that the integration of electricity markets requires a high degree of cooperation between system operators, market participants and regulators. While the scope of applicable rules may vary depending on the degree of integration with the internal electricity market, close integration of third countries into the internal electricity market, such as participation in market coupling projects, should be based on agreements requiring the application of relevant Union law.'

COMMISSION STATEMENT ON MARKET REFORM IMPLEMENTATION PLANS

The Commission notes the agreement of the co-legislators relating to Article 20(3) which provides that Member States with identified adequacy concerns shall publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions and/or market failures as a part of the State Aid process.

Pursuant to Article 108 TFEU, the Commission has exclusive competence to assess the compatibility of State aid measures with the internal market. This Regulation cannot affect and is without prejudice to the Commission's exclusive competence pursuant to the TFEU. The Commission may therefore, where relevant, give its opinion on market reform plans in parallel to the process of approving capacity mechanisms under State aid rules, but the two processes are legally separate.

Tuesday 26 March 2019

P8_TA(2019)0228

European Union Agency for the Cooperation of Energy Regulators ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast) (COM(2016)0863 — C8-0494/2016 — 2016/0378(COD))

(Ordinary legislative procedure — recast)

(2021/C 108/21)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0863),

— having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0494/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the German Bundestag, the French Senate and the Romanian Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 31 May 2017 ([1]),

— having regard to the opinion of the Committee of Regions of 13 July 2017 ([2]),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([3]),

— having regard to the letter of 13 July 2017 from the Committee on Legal Affairs to the Committee on Industry, Research and Energy in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rules 104 and 59 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on Budgets (A8-0040/2018),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

([1]) OJ C 288, 31.8.2017, p. 91.
([2]) OJ C 342, 12.10.2017, p. 79.
([3]) OJ C 77, 28.3.2002, p. 1.

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0378

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/942.)

Tuesday 26 March 2019

P8_TA(2019)0229

Risk-preparedness in the electricity sector ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC (COM(2016)0862 — C8-0493/2016 — 2016/0377(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/22)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0862),

— having regard to Article 294(2) and Article 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0493/2016),

— having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 31 May 2017 ([1]),

— having regard to the opinion of the Committee of the Regions of 13 July 2017 ([2]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 5 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 and 39 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy (A8-0039/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0377

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/941.)

([1]) OJ C 288, 31.8.2017, p. 91.
([2]) OJ C 342, 12.10.2017, p. 79.

Tuesday 26 March 2019

P8_TA(2019)0230

Labelling of tyres with respect to fuel efficiency and other essential parameters ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the labelling of tyres with respect to fuel efficiency and other essential parameters and repealing Regulation (EC) No 1222/2009 (COM(2018)0296 — C8-0190/2018 — 2018/0148(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/23)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0296),

— having regard to Article 294(2) and Articles 114 and 194(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0190/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 [1],

— after consulting the Committee of the Regions,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Industry, Research and Energy and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0086/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0148

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council on the labelling of tyres with respect to fuel efficiency and other essential parameters and repealing Regulation (EC) No 1222/2009

(Text with EEA relevance)

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 114 and Article 194(2) thereof,

Having regard to the proposal from the European Commission,

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[1] OJ C 62, 15.2.2019, p. 280.

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) The Union is committed to building an Energy Union with a forward looking climate policy. Fuel efficiency is a crucial element of the Union's 2030 Climate and Energy Policy Framework and is key to moderating energy demand.

(2) The Commission has reviewed ([4]) the effectiveness of Regulation (EC) No 1222/2009 of the European Parliament and of the Council ([5]) and identified the need to update its provisions to improve its effectiveness.

(3) It is appropriate to replace Regulation (EC) No 1222/2009 by a new Regulation which incorporates amendments made in 2011, ~~and~~ modifies and enhances some of its provisions to clarify and update their content, taking into account the technological progress for tyres over recent years. ***However, as supply and demand have changed little in terms of fuel efficiency, there is no need at this stage to change the grade scale for fuel efficiency. Furthermore, the reasons for that lack of development and the purchase factors, such as price, performance, etc., should be examined.*** **[Am. 1]**

(4) The transport sector accounts for a third of Union energy consumption. Road transport was responsible for about 22 % of the Union's total greenhouse gas emissions in 2015. Tyres, mainly because of their rolling resistance, account for 5 % to 10 % of vehicles' fuel consumption. A reduction of the rolling resistance of tyres would therefore contribute significantly to the fuel efficiency of road transport and thus to the reduction of emissions ***and to the decarbonisation of the transport sector***. **[Am. 2]**

(4a) In order to meet the challenge of reducing the CO_2 emissions of road transport, it is appropriate for Member States, in cooperation with the Commission, to provide for incentives to innovate a new technological process for fuel-efficient and safe C1, C2 and C3 tyres. **[Am. 3]**

(5) Tyres are characterised by a number of ~~interrelated~~ parameters that are interrelated. Improving one parameter such as rolling resistance may have an adverse impact on others such as wet grip, while improving wet grip may have an adverse impact on external rolling noise. Tyre manufacturers should be encouraged to optimise all parameters beyond the standards already achieved. **[Am. 4]**

(6) Fuel-efficient tyres can be cost-effective since fuel savings more than compensate for the increased purchase price of the tyres resulting from their higher production costs.

(7) Regulation (EC) No 661/2009 of the European Parliament and of the Council ([6]) lays down minimum requirements for the rolling resistance of tyres. Technological developments make it possible to decrease energy losses due to tyre rolling resistance significantly beyond those minimum requirements. To reduce the environmental impact of road transport, it is therefore appropriate to update the provisions for tyre labelling to encourage end-users to purchase more fuel-efficient tyres by providing updated harmonised information on that parameter.

([1]) OJ C 62, 15.2.2019, p. 280
([2]) OJ C […], […], p. […].
([3]) Position of the European Parliament of 26 March 2019.
([4]) COM(2017)0658.
([5]) Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters (OJ L 342 of 22.12.2009, p. 46).
([6]) Regulation (EC) No 661/2009 of the European Parliament and of the Council of 13 July 2009 concerning type-approval requirements for the general safety of motor vehicles, their trailers and systems, components and separate technical units intended therefor (OJ L 200, 31.7.2009, p. 1).

Tuesday 26 March 2019

(*7a*) ***Improving the labelling of tyres will enable consumers to obtain more relevant and comparable information on fuel efficiency, safety and noise and to take cost-effective and environment-friendly purchasing decisions when purchasing new tyres.*** **[Am. 5]**

(8) Traffic noise is a significant nuisance and has a harmful effect on health. Regulation (EC) No 661/2009 lays down minimum requirements for the external rolling noise of tyres. Technological developments make it possible to reduce external rolling noise significantly beyond those minimum requirements. To reduce traffic noise, it is therefore appropriate to update the provisions for tyre labelling to encourage end-users to purchase tyres with lower external rolling noise by providing harmonised information on that parameter.

(9) The provision of harmonised information on external rolling noise also facilitates the implementation of measures to limit traffic noise and contributes to increased awareness of the effect of tyres on traffic noise within the framework of Directive 2002/49/EC of the European Parliament and of the Council ([7]).

(10) Regulation (EC) No 661/2009 lays down minimum requirements for the wet grip performance of tyres. Technological developments make it possible to improve wet grip significantly beyond those requirements, and thus to reduce wet braking distances. To improve road safety, it is therefore appropriate to update the provisions for tyre labelling to encourage end-users to purchase tyres with high wet grip performance by providing harmonised information on that parameter.

(11) In order to ensure alignment with the international framework, Regulation (EC) No 661/2009 refers to UNECE Regulation 117 ([8]), which includes the relevant measurement methods for rolling resistance, noise, and wet and snow grip performance of tyres.

(12) In order to ***improve road safety in colder climates in the Union and*** provide end-users with information on the performance of tyres specifically designed for snow and ice conditions, it is appropriate to require the inclusion on the label of information requirements on snow and ice tyres. ***Snow and ice tyres have specific parameters that are not fully comparable to other types of tyres. In order to ensure that end-users are able to make considered and informed decisions, information on snow grip and ice grip and the QR code should be included in the label. The Commission should develop both a snow grip and ice grip scale of performances. Those scales should be based on the UNECE Regulation No 117 and on the ISO 19447 for snow and ice respectively. In any case, the three-peak-mountain with snowflake ('3PMSF') logo should be embossed on a tyre that satisfies the minimum snow index values set out in UNECE Regulation No 117. Similarly, a tyre that satisfies the minimum ice index value set out in ISO 19447 should show the ice tyre logo agreed under this standard.*** **[Am. 6]**

(13) The abrasion of tyres during use is a significant source of microplastics, which are harmful to the environment~~, and~~ . The Commission's Communication 'A European Strategy for Plastics in a Circular Economy' ([9]) therefore mentions the need to address unintentional release of microplastics from tyres, inter alia through information measures such as labelling and minimum requirements for tyres. ~~However, a suitable testing method to measure tyre~~ ***Hence, applying labelling requirements with regard to the*** abrasion ~~is not currently available~~ ***rate of tyres would bring substantial benefits to human health and the environment***. Therefore, the Commission should mandate the development of such a method, taking into full consideration all state-of-the-art internationally developed or proposed standards or regulations ***as well as the result of industrial research***, with a view to establishing a suitable testing method as soon as possible. **[Am. 7]**

([7]) Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJ L 189, 18.7.2002, p. 12).

([8]) OJ L 307, 23.11.2011, p. 3.

([9]) COM(2018)0028.

(14) Re-treaded tyres are a substantial part of the market for heavy-duty vehicle tyres. Re-treading tyres extends their life and contributes to circular economy objectives such as waste reduction. Applying labelling requirements to such tyres would bring substantial energy savings. However, as suitable testing method to measure the performance of re-treaded tyres is not currently available, this Regulation should provide for their future inclusion.

(15) The energy label pursuant to Regulation (EU) 2017/1369 of the European Parliament and of the Council ([10]), which ranks the energy consumption of products on a scale from 'A' to 'G', is recognised by over 85 % of Union consumers ***as a clear and transparent information tool*** and has proven to be effective in promoting more efficient products. The tyre label should continue to use the same design to the extent possible, while recognising the specificities of the tyre parameters. **[Am. 8]**

(16) The provision of comparable information on tyre parameters in the form of a standard label is likely to influence purchasing decisions by end-users in favour of safer***, sustainable***, quieter and more fuel-efficient tyres. This, in turn, is likely to encourage tyre manufacturers to optimise those parameters, which would pave the way for more sustainable consumption and production. **[Am. 9]**

(17) The need for greater information on tyre fuel efficiency and other parameters is relevant for all end-users, including purchasers of replacement tyres, purchasers of tyres fitted on new vehicles, and fleet managers and transport undertakings, who cannot easily compare the parameters of different tyre brands in the absence of a labelling and harmonised testing regime. It is therefore appropriate to require the labelling of tyres delivered with vehicles at all times.

(18) Currently, labels are explicitly required for tyres for cars (C1 tyres) and vans (C2 tyres) but not for heavy duty vehicles (C3 tyres). C3 tyres consume more fuel and cover more kilometres per year than C1 and C2 tyres, and therefore the potential to reduce fuel consumption and emissions from heavy goods vehicles is significant.

(19) Including C3 tyres fully in the scope of this Regulation is also in line with the Commission's proposal for a Regulation on the monitoring and reporting of CO2 emissions from, and fuel consumption of, new heavy-duty vehicles ([11]) and of the Commission's proposal on CO2 standards for heavy-duty vehicles ([12]).

(20) Many end-users make tyre purchasing decisions without seeing the actual tyre and therefore do not see the label affixed to it. In all such situations, the end-user should be shown the label before finalising the purchasing decision. The display of a label on tyres at the point of sale, as well as in technical promotional material, should ensure that distributors as well as potential end-users receive harmonised information on the relevant tyre parameters at the time and place of the purchasing decision.

(21) Some end-users choose tyres before arriving at the point of sale, or purchase them by mail order or on the internet. To ensure that those end-users can also make an informed choice on the basis of harmonised information on tyre fuel efficiency, wet grip performance, external rolling noise and other parameters, labels should be displayed in all technical promotional material, including where such material is made available on the internet.

([10]) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1).

([11]) COM(2017)0279.

([12]) Reference to be added once the proposal is adopted

(22) Potential end-users should be provided with information explaining each component of the label and its relevance. This information should be provided in technical promotional material, for instance on suppliers' websites. ***Technical promotional material should not be understood to include advertisements via billboards, newspapers, magazines or radio or television broadcasts.*** **[Am. 10]**

(23) Fuel efficiency, wet grip, external noise and other parameters concerning tyres should be measured according to reliable, accurate and reproducible methods that take into account the generally recognised state-of-the-art measurements and calculation methods. As far as possible, such methods should reflect average consumer behaviour and be robust in order to deter intentional and unintentional circumvention. Tyre labels should reflect the comparative performance of tyres in actual use, within the constraints due to the need of reliable, accurate and reproducible laboratory testing, to enable end-users to compare different tyres and so as to limit testing costs for manufacturers.

(24) Compliance with the provisions on tyre labelling by suppliers and distributors is essential in order to ensure a level playing field in the Union. Member States should therefore monitor such compliance through market surveillance and regular ex-post controls, in line with Regulation (EC) No 765/2008 of the European Parliament and of the Council ([13]).

(25) In order to facilitate the monitoring of compliance, provide a useful tool to end-users and allow alternative ways for dealers to receive product information sheets, tyres should be included in the product database established under Regulation (EU) 2017/1369. Regulation (EU) 2017/1369 should therefore be amended accordingly.

(26) Without prejudice to Member States' market surveillance obligations and to suppliers' obligations to check product conformity, suppliers should make the required product compliance information available electronically in the product database.

(27) In order for end-users to have confidence in the tyre label, other labels that mimic it should not be allowed. Additional labels, marks, symbols or inscriptions that are likely to mislead or confuse end-users with respect to the parameters covered by the tyre label should not be allowed for the same reason.

(28) The penalties applicable to infringements of this Regulation and delegated acts adopted pursuant thereto should be effective, proportionate and dissuasive.

(29) In order to promote energy efficiency, climate change mitigation and environmental protection, Member States should be able to create incentives for the use of energy efficient products. Member States are free to decide on the nature of such incentives. Such incentives should comply with Union State aid rules and should not constitute unjustifiable market barriers. This Regulation does not prejudice the outcome of any future state aid procedure that may be undertaken in accordance with Articles 107 and 108 of the Treaty on the Functioning of the European Union (TFEU) in respect of such incentives.

(30) In order to amend the content and format of the label, to introduce requirements with respect to re-treaded tyres, ***snow or ice tyres,*** abrasion and mileage, and to adapt the Annexes to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. 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 on Better Law-Making of 13 April 2016 ([14]). In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. **[Am. 12]**

([13]) 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).

([14]) OJ L 123, 12.5.2016, p. 1.

(30a) Data on mileage and abrasion of tyres, once a suitable testing method is available, will be a beneficial tool informing consumers about the durability, lifetime and the unintended release of microplastics of their purchased tyre. Mileage information would also enable consumers to make an informed choice with regard to tyres with a longer lifetime, which would help protect the environment, and at the same time allow them to estimate the operating costs of the tyres over a longer period. Therefore, mileage and abrasion performance data should be added to the label when a relevant, meaningful and reproducible testing method becomes available for the application of this Regulation. Research and development of new technologies in that field should continue. **[Am. 13]**

(31) Tyres which were already placed on the market before the date of application of the requirements contained in this Regulation should not need to be re-labelled.

(32) In order to reinforce confidence in the label and to ensure its accuracy, the declaration that suppliers make on the label regarding the values for rolling resistance, wet grip***, snow grip*** and noise should be subject to the type approval process under Regulation (EC) No 661/2009. **[Am. 14]**

(32a) The size of the label should remain the same as that set out in Regulation (EC) No 1222/2009. Details on Snow Grip and Ice Grip and the QR code should be included in the label. **[Am. 15]**

(33) The Commission should carry out an evaluation of this Regulation. Pursuant to paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016, that evaluation should be based on the five criteria of efficiency, effectiveness, relevance, coherence and EU value added and should provide the basis for impact assessments of possible further measures.

(34) Since the objectives of this Regulation, namely to increase the safety and economic and environmental efficiency of road transport by providing information to end-users to allow them to choose more fuel efficient, safer and less noisy tyres, cannot be sufficiently achieved by the Member States because it requires harmonised information for end users but can rather, by reason of a harmonised regulatory framework and a level playing field for manufacturers, 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. A Regulation remains the appropriate legal instrument as it imposes clear and detailed rules which preclude divergent transposition by Member States and thus ensures a higher degree of harmonisation across the Union. A harmonised regulatory framework at Union rather than at Member State level reduces costs for suppliers, ensures a level playing field and ensures the free movement of goods across the internal market. 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.

(35) Regulation (EC) No 1222/2009 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

Article 1

Aim and subject matter

1. The aim of this Regulation is to ~~increase the safety,~~ ***promote fuel-efficient, safe and sustainable tyres with low noise levels that could help to minimise the impact on the environment and*** health ~~protection,~~ ***while improving safety*** and the economic ~~and environmental~~ efficiency of road transport ~~by promoting fuel-efficient and safe tyres with low noise levels~~. **[Am. 16]**

2. This Regulation establishes a framework for the provision of harmonised information on tyre parameters through labelling, allowing end-users to make an informed choice when purchasing tyres.

Article 2

Scope

1. This Regulation applies to C1, C2 and C3 tyres ***that are placed on the market***. **[Am. 17]**

2. This Regulation shall also apply to re-treaded tyres once a suitable testing method to measure the performance of such tyres is added to the Annexes by a delegated act pursuant to Article 12.

3. This Regulation does not apply to:

(a) off-road professional tyres;

(b) tyres designed to be fitted only to vehicles registered for the first time before 1 October 1990;

(c) T-type temporary-use spare tyres;

(d) tyres whose speed rating is less than 80 km/h;

(e) tyres whose nominal rim diameter does not exceed 254 mm or is 635 mm or more;

(f) tyres fitted with additional devices to improve traction properties, such as studded tyres;

(g) tyres designed only to be fitted on vehicles intended exclusively for racing.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) 'C1, C2 and C3 tyres' means the tyre classes defined in Article 8 of Regulation (EC) No 661/2009;

(2) 're-treaded tyre' means a used tyre reconditioned by replacing the worn tread with new material;

(3) 'T-type temporary-use spare tyre' means a temporary-use spare tyre designed for use at inflation pressures higher than those established for standard and reinforced tyres;

(4) 'label' means a graphic diagram, either in printed or electronic form, including in the form of a sticker, which includes symbols in order to inform end-users about the performance of a tyre or batch of tyres, in relation to the parameters set out in Annex I;

(5) 'point of sale' means a location where tyres are displayed or stored and offered for sale to end-users, including car show rooms in relation to tyres offered for sale to end-users which are not fitted on the vehicles;

(6) 'technical promotional material' means documentation, in printed or electronic form, produced by the supplier to supplement advertising material with at least the technical information in accordance with Annex V;

(7) 'product information sheet' means a standard document containing the information as set out in Annex IV, in printed or electronic form;

(8) 'technical documentation' means documentation sufficient to enable market surveillance authorities to assess the accuracy of the label and the product information sheet of a product, including the information as set out in Annex III;

(9) 'product database' means the database established under Regulation (EU) 1369/2017 and which consists of a consumer-oriented public part, where information concerning individual product parameters is accessible by electronic means, an online portal for accessibility and a compliance part, with clearly specified accessibility and security requirements;

(10) 'distance selling' means the offer for sale, hire or hire purchase by mail order, catalogue, internet, telemarketing or by any other method by which the potential end-user cannot be expected to see the product displayed;

(11) 'manufacturer' means any natural or legal person who manufactures a product, or has a product designed or manufactured and places that product on the market under his name or trademark;

(12) 'importer' means any natural or legal person established in the Union who places a product from a third country on the Union market;

(13) 'authorised representative' means any natural or legal person established in the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;

(14) 'supplier' means a manufacturer established in the Union, an authorised representative of a manufacturer who is not established in the Union, or an importer, who places a product on the Union market;

(15) 'distributor' means any natural or legal person in the supply chain, other than the supplier, who makes a product available on the market;

(16) 'making available on the market' means the supply of a product for distribution or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

(17) 'placing on the market' means the first making available of a product on the Union market;

(18) 'end-user' means a consumer, a fleet manager or a road transport undertaking, that buys or is expected to buy a tyre;

(19) 'parameter' means a tyre parameter as set out in Annex I, such as rolling resistance, wet grip, external rolling noise, snow, ***or*** ice, mileage or abrasion, that has a significant impact on the environment, road safety or health during use; **[Am. 18]**

(20) 'tyre type' means a version of a tyre of which all units share the same technical characteristics relevant for the label and the product information sheet and the same model identifier.

Article 4

Responsibilities of tyre suppliers

1. Suppliers shall ensure that C1, C2 and C3 tyres that are placed on the market are accompanied ***free of charge***: **[Am. 19]**

(a) for each individual tyre, with a label complying with Annex II in the form of a sticker, indicating the information and class for each of the parameters set out in Annex I, and with a product information sheet as set out in Annex IV; ***or*** **[Am. 20]**

(b) for each batch of one or more identical tyres, with a label complying with Annex II in printed format indicating the information and class for each of the parameters set out in Annex I, and with a product information sheet as set out in Annex IV.

2. In relation to tyres ***advertised or*** sold on the internet, suppliers shall ***make the label available and*** ensure ***in purchasing situation*** that the label is ***visibly*** displayed in proximity to the price and that the product information sheet can be accessed. ***The label may be displayed using a nested image, after a mouse click, mouse roll-over, tactile screen expansion or using similar techniques.*** **[Am. 21]**

~~3. Suppliers shall ensure that any visual advertisement for a specific type of tyre, including on the internet, shows the label.~~ **[Am. 22]**

4. Suppliers shall ensure that any technical promotional material concerning a specific type of tyre, including on the internet, ***displays the label and*** meets the requirements of Annex V. **[Am. 23]**

5. Suppliers shall ensure that the values, the related classes***, the model identifier*** and any additional performance information they declare on the label for the essential parameters set out in Annex I***, as well as the technical documentation parameters set out in Annex III*** have been ***provided*** subject to the ~~type approval process under Regulation (EC) No 661/2009~~ ***Type Approval authorities before placing a tyre on the market. The Type Approval Authority shall acknowledge the receipt of and verify the documentation from the supplier.*** **[Am. 24]**

6. Suppliers shall ensure the accuracy of the labels and product information sheets that they provide.

7. Suppliers shall make technical documentation in accordance with Annex III available to the authorities of Member States ***or to any accredited third party*** on request. **[Am. 25]**

8. Suppliers shall cooperate with market surveillance authorities and take immediate action to remedy any case of non-compliance with the requirements set out in this Regulation, which falls under their responsibility, at their own initiative or when required to do so by market surveillance authorities.

9. Suppliers shall not provide or display other labels, marks, symbols or inscriptions that do not comply with the requirements of this Regulation, if doing so would be likely to mislead or confuse end-users with respect to the essential parameters.

10. Suppliers shall not supply or display labels that mimic the label provided for under this Regulation.

Article 5

Responsibilities of tyre suppliers in relation to the product database

1. With effect from ~~1 January 2020~~ ***nine months after [please insert the date of entry into force of this Regulation]***, suppliers shall, before placing ~~a tyre~~ on the market ***a tyre produced after that date***, enter into the product database the information set out in Annex I of Regulation (EU) 2017/1369***, with the exception of the measured technical parameters of the model***.

2. Where tyres are ~~placed on the market~~ ***produced*** between [please insert the date of entry into force of this Regulation] and ~~31 December 2019~~ ***nine months minus one day after [please insert the date of entry into force of this Regulation]***, the supplier shall, by ~~30 June 2020~~***12 months after [please insert the date of entry into force of this Regulation]***, enter in the product database the information set out in Annex I of Regulation (EU) 2017/1369, ~~in relation to those tyres~~ ***with the exception of the measured technical parameters of the model***.

2a. Where tyres are placed on the market before [please insert the date of entry into force of this Regulation], the supplier may enter in the product database the information set out in Annex I of Regulation (EU) 2017/1369 in relation to those tyres.

3. Until the information referred to in paragraphs 1 and 2 has been entered in the product database, the supplier shall make an electronic version of the technical documentation available for inspection within 10 days of a request received from market surveillance authorities.

4. A tyre for which changes are made that are relevant for the label or the product information sheet shall be considered to be a new tyre type. The supplier shall indicate in the database when it no longer places on the market units of a tyre type.

5. After the final unit of a type of tyre has been placed on the market, the supplier shall keep the information concerning that type of tyre in the compliance part of the product database for a period of five years. **[Am. 58]**

Article 6

Responsibilities of tyre distributors

1. Distributors shall ensure that:

(a) tyres, at the point of sale, bear the label in accordance with Annex II in the form of a sticker provided by suppliers in accordance with point (a) of Article 4(1) in a clearly visible position; ***or*** **[Am. 26]**

(b) before the sale of a tyre, belonging to a batch of one or more identical tyres, the label referred to in point (b) of Article 4(1) is ~~shown~~ ***presented*** to the end-user and is clearly displayed in the immediate proximity of the tyre at the point of sale; **[Am. 27]**

(ba) the label is affixed directly to the tyre and is legible in its entirety with nothing obstructing its visibility. **[Am. 28]**

~~2. Distributors shall ensure that any visual advertisement for a specific type of tyre, including on the internet, shows the label.~~ **[Am. 29]**

3. Distributors shall ensure that any technical promotional material concerning a specific type of tyre, including on the internet, ***displays the label and*** meets the requirements of Annex V. **[Am. 30]**

4. Distributors shall ensure that where tyres offered for sale are not visible to the end-user, they provide end-users with a copy of the label before the sale.

5. Distributors shall ensure that any paper-based distance selling must show the label and that the end-user can access the product information sheet through a free access website, or request a printed copy of that sheet.

6. Distributors using telemarketing-based distance selling shall specifically inform end-users of the classes of the essential parameters on the label, and that they can access the full label and the product information sheet through a free access website, or by requesting a printed copy.

7. In relation to tyres ***advertised or*** sold directly on the internet, distributors shall ***make the label available and*** ensure ***in purchasing situation*** that the label is displayed in proximity to the price and that the product information sheet can be accessed. ***The label may be displayed using a nested image, after a mouse click, mouse roll-over, tactile screen expansion or using similar techniques.*** **[Am. 31]**

Article 7

Responsibilities of vehicle suppliers and vehicle distributors

Where end-users intend to acquire a new vehicle, vehicle suppliers and distributors shall, before the sale, provide them with the label for the tyres offered with the vehicle, as well as the relevant technical promotional material.

Article 8

Testing and measurement methods

The information to be provided under Articles 4, 6 and 7 on the parameters indicated on the label shall be obtained ~~by applying~~ ***in accordance with*** the testing ~~and measurement~~ methods referred to in Annex I, and the laboratory alignment procedure referred to in Annex VI. **[Am. 32]**

Article 9

Verification procedure

Member States shall assess the conformity of the declared classes for each of the essential parameters indicated in Annex I in accordance with the procedure set out in Annex VII.

Article 10

Obligations of Member States

1. Member States shall not impede the placing on the market or putting into service, within their territories, of tyres which comply with this Regulation.

2. Member States shall not provide incentives with regard to tyres below class B with respect to either fuel efficiency or wet grip within the meaning of Annex I, Parts A and B respectively. Taxation and fiscal measures do not constitute incentives for the purposes of this Regulation.

2a. Member States shall ensure that the national market surveillance authorities establish a system of routine and ad-hoc inspections of points of sale for the purposes of ensuring compliance with this Regulation. **[Am. 33]**

3. Member States shall lay down the rules on penalties and enforcement mechanisms applicable to infringements of this Regulation and the delegated acts adopted pursuant thereto, and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

4. Member States shall, by 1 June 2020, notify the Commission of the rules referred to in paragraph 3 that have not previously been notified to the Commission, and shall notify the Commission, without delay, of any subsequent amendment affecting them.

Article 11

Union market surveillance and control of products entering the Union market

1. [Articles 16 to 29 of Regulation (EC) No 765/2008/Regulation on compliance and enforcement proposed under COM(2017)0795] shall apply to products covered by this Regulation and by the relevant delegated acts adopted pursuant thereto.

2. The Commission shall encourage and support cooperation and the exchange of information on market surveillance relating to the labelling of products between national authorities of the Member States that are responsible for market surveillance or in charge of the control of products entering the Union market, and between them and the Commission, in particular by involving more closely the 'Administrative Cooperation for Market Surveillance' Expert group on Tyre Labelling.

3. Member States' general market surveillance programmes established pursuant to [Article 13 of Regulation (EC) No 765/2008/Regulation on compliance and enforcement proposed under COM(2017)0795] shall include actions to ensure the effective enforcement of this Regulation ***and shall be strengthened.*** **[Am. 34]**.

Article 11a

Re-treaded tyres

By … [two years after the entry into force of this Regulation], the Commission shall adopt delegated acts in accordance with Article 13 in order to supplement this Regulation by introducing new information requirements to the Annexes for re-treaded tyres, provided that a suitable and feasible method is available. **[Am. 35]**

Article 12

Delegated acts

The Commission is empowered to adopt delegated acts in accordance with Article 13 in order to:

(a) introduce changes to the content and format of the label;

(aa) introduce parameters and information requirements for snow and ice-grip tyres; **[Am. 37]**

(ab) introduce a suitable testing method to measure tyre snow and ice-grip tyre performances; **[Am. 38]**

~~(b) introduce parameters or information requirements to the Annexes in particular for mileage and abrasion, provided suitable testing methods are available;~~ **[Am. 39]**

(c) adapt to technical progress the values, calculation methods and requirements of the Annexes.

~~Where appropriate,~~ When preparing delegated acts, the Commission shall test the design and content of the labels for ~~specific product groups~~ ***tyres*** with representative groups of Union customers to ensure their clear understanding of the labels. **[Am. 40]**

Article 13

Exercise of 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 12 shall be conferred on the Commission for a period of five years from [please insert the date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Article 12 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 12 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 14

Evaluation and report

By 1 June ~~2026~~ ***2022***, the Commission shall carry out an evaluation of this Regulation ~~and present~~ ***complemented by an impact assessment and a consumer survey, and submit*** a report to the European Parliament, the Council and the European Economic and Social Committee. ***The report shall be accompanied, if appropriate, by a legislative proposal to amend this Regulation.*** **[Am. 41]**

That report shall assess how effectively this Regulation and the delegated acts adopted pursuant thereto have allowed end-users to choose higher performing tyres, taking into account its impacts on business, fuel consumption, safety, greenhouse gas emissions ~~and~~ market surveillance activities ***and consumer awareness***. It shall also assess the costs and benefits of independent and mandatory third party verification of the information provided in the label, taking also into account the experience with the broader framework provided by Regulation (EC) No 661/2009. **[Am. 42]**

Article 15

Amendment to Regulation (EU) 2017/1369

In Article 12(2) of Regulation (EU) 2017/1369, point (a) is replaced by the following:

'(a) to support market surveillance authorities in carrying out their tasks under this Regulation and the relevant delegated acts, including enforcement thereof, and under Regulation (EU) [insert reference to the present regulation]'.

Article 16

Repeal of Regulation (EC) No 2009/1222

Regulation (EC) No 2009/1222 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and read in accordance with the correlation table in Annex VIII.

Article 17

Entry into force

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

It shall apply from ~~1 June 2020~~ ***… [12 months after the date of entry into force of this Regulation]***. **[Am. 43]**

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Tuesday 26 March 2019

ANNEX I

Testing, grading and measurement of tyre parameters

Part A: Fuel efficiency classes

The fuel efficiency class shall be determined and illustrated on the label on the basis of the rolling resistance coefficient (RRC) according to the 'A' to 'G' scale specified below and ~~measured~~ in accordance with Annex 6 to UNECE Regulation No 117 and its subsequent amendments and aligned according to the procedure laid down in Annex VI.

If a tyre type is approved for more than one tyre class (e.g. C1 and C2), the grading scale used to determine the fuel efficiency class of this tyre type shall be that which is applicable to the highest tyre class (e.g. C2, not C1). **[Am. 44]**

F class for C1, C2, C3 tyres shall no longer be placed on the market after the full implementation of the provision of type-approval requirements of Regulation (EC) No 661/2009 and shall be shown on the label in grey. **[Am. 45]**

C1 tyres		C2 tyres		C3 tyres	
RRC *in kg/t*	*Energy efficiency class*	RRC *in kg/t*	*Energy efficiency class*	RRC *in kg/t*	*Energy efficiency class*
RRC ≤ ~~*5,4*~~ ***6,5***	*A*	RRC ≤ ~~*4,4*~~ ***5,5***	*A*	RRC ≤ ~~*3,1*~~ ***4,0***	*A*
~~*5,5*~~ ***6,6*** ≤ RRC ≤ ~~*6,5*~~ ***7,7***	*B*	~~*4,5*~~ ***5,6*** ≤ RRC ≤ ~~*5,5*~~ ***6,7***	*B*	~~*3,2*~~ ***4,1*** ≤ RRC ≤ ~~*4,0*~~ ***5,0***	*B*
~~*6,6*~~ ***7,8*** ≤ RRC ≤ ~~*7,7*~~ ***9,0***	*C*	~~*5,6*~~ ***6,8*** ≤ RRC ≤ ~~*6,7*~~ ***8,0***	*C*	~~*4,1*~~ ***5,1*** ≤ RRC ≤ ~~*5,0*~~ ***6,0***	*C*
~~*7,8 ≤ RRC ≤ 9,0*~~ ***Empty***	*D*	~~*6,8 ≤ RRC ≤ 8,0*~~ ***Empty***	*D*	~~*5,1*~~ ***6,1*** ≤ RRC ≤ ~~*6,0*~~ ***7,0***	*D*
9,1 ≤ RRC ≤ 10,5	*E*	*8,1 ≤ RRC ≤ 9,2*	*E*	~~*6,1*~~ ***7,1*** ≤ RRC ≤ ~~*7,0*~~ ***8,0***	*E*
10,6 ≤ RRC ≥ ~~*10,6*~~ ≤ ***12,0***	*F*	***9,3*** ≤ RRC ≥ ~~*9,3*~~ ≤ ***10,5***	*F*	RRC ≥ ~~*7,1*~~ ***8,1***	*F*

[Am. 46]

Part B: Wet grip classes

1. The wet grip class shall be determined and illustrated on the label on the basis of the wet grip index (G) according to the 'A' to 'G' scale specified in the table below, calculated in accordance with point 2 and ~~measured~~ in accordance with Annex 5 to UNECE Regulation 117. **[Am. 47]**

1a. F class for C1, C2, C3 tyres shall no longer be placed on the market after the full implementation of the provision of type-approval requirements of Regulation (EC) No 661/2009 and shall be shown on the label in grey. **[Am. 48]**

2. Calculation of wet grip index (G)

$$G = G(T) - 0{,}03$$

where:

G(T) = wet grip index of the candidate tyre as measured in one test cycle

C1 tyres		C2 tyres		C3 tyres	
G	*Wet grip class*	G	*Wet grip class*	G	*Wet grip class*
~~*1,68*~~ ***1,55*** ≤ G	*A*	~~*1,53*~~ ***1,40*** ≤ G	*A*	~~*1,38*~~ ***1,25*** ≤ G	*A*
~~*1,55*~~ ***1,40*** ≤ G ≤ ~~*1,67*~~ ***1,54***	*B*	~~*1,40*~~ ***1,25*** ≤ G ≤ ~~*1,52*~~ ***1,39***	*B*	~~*1,25*~~ ***1,10*** ≤ G ≤ ~~*1,37*~~ ***1,24***	*B*
~~*1,40*~~ ***1,25*** ≤ G ≤ ~~*1,54*~~ ***1,39***	*C*	~~*1,25*~~ ***1,10*** ≤ G ≤ ~~*1,39*~~ ***1,24***	*C*	~~*1,10*~~ ***0,95*** ≤ G ≤ ~~*1,24*~~ ***1,09***	*C*
~~*1,25 ≤ G ≤ 1,39*~~ ***Empty***	*D*	~~*1,10 ≤ G ≤ 1,24*~~ ***Empty***	*D*	~~*0,95*~~ ***0,80*** ≤ G ≤ ~~*1,09*~~ ***0,94***	*D*
1,10 ≤ G ≤ 1,24	*E*	*0,95 ≤ G ≤ 1,09*	*E*	~~*0,80*~~ ***0,65*** ≤ G ≤ ~~*0,94*~~ ***0,79***	*E*
G ≤ 1,09	*F*	*G ≤ 0,94*	*F*	~~*0,65 ≤*~~ *G ≤* ~~*0,79*~~ ***0,64***	*F*
~~*Empty*~~	~~*G*~~	~~*Empty*~~	~~*G*~~	~~*G ≤ 0,64*~~	~~*G*~~

[Am. 49]

Part C: External rolling noise classes and ~~measured~~ value **[Am. 50]**

The external rolling noise ~~measured~~ value (N) shall be declared in decibels and ~~calculated~~ in accordance with Annex 3 to UNECE Regulation No 117. **[Am. 51]**

The external rolling noise class shall be determined and illustrated on the label ~~on the basis of~~ ***in accordance with*** the limit values (LV) ***Stage 2*** set out in ~~Part C of Annex II of~~ ***UNECE*** Regulation ~~(EC) No 661/2009 as follows~~ ***No 117***. **[Am. 52]**

Tuesday 26 March 2019

N in dB

External rolling noise class

N ≤ *LV* — ~~*6*~~ ***3***

LV — ~~*6*~~ ***3*** < *N* ≤ *LV* —~~*3*~~

N > *LV* —~~*3*~~

[Am. 53]

Part D: Snow grip

The snow performance shall be ~~tested~~ ***labelled*** in accordance with Annex 7 to UNECE Regulation No 117. **[Am. 54]**

A tyre which satisfies the minimum snow index values set out in UNECE Regulation No 117 shall be classified as a snow tyre and the following icon ~~shall~~ ***may*** be included on the label. **[Am. 55]**

Part E: Ice grip:

The ice performance shall be ~~tested~~ ***labelled*** in accordance with ISO 19447. **[Am. 56]**

A tyre which satisfies the minimum ice index value set out in ISO 19447 ***and type approved according to the snow performance in UNECE Regulation No 117*** shall be classified as an ice tyre and the following icon ~~shall~~ ***may*** be included on the label. **[Am. 57]**

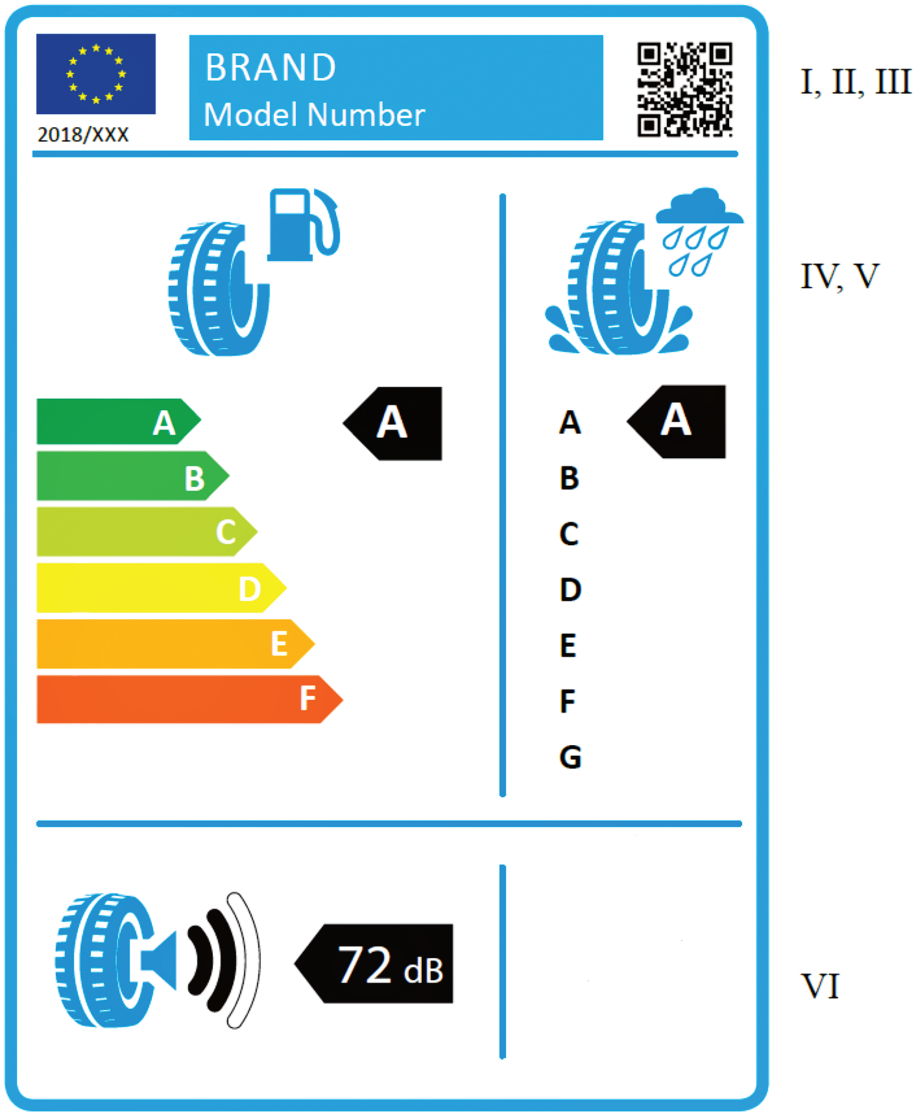
Tuesday 26 March 2019

ANNEX II

Format of the label

1. Labels

1.1. The following information shall be included in the labels in accordance with the illustrations below.

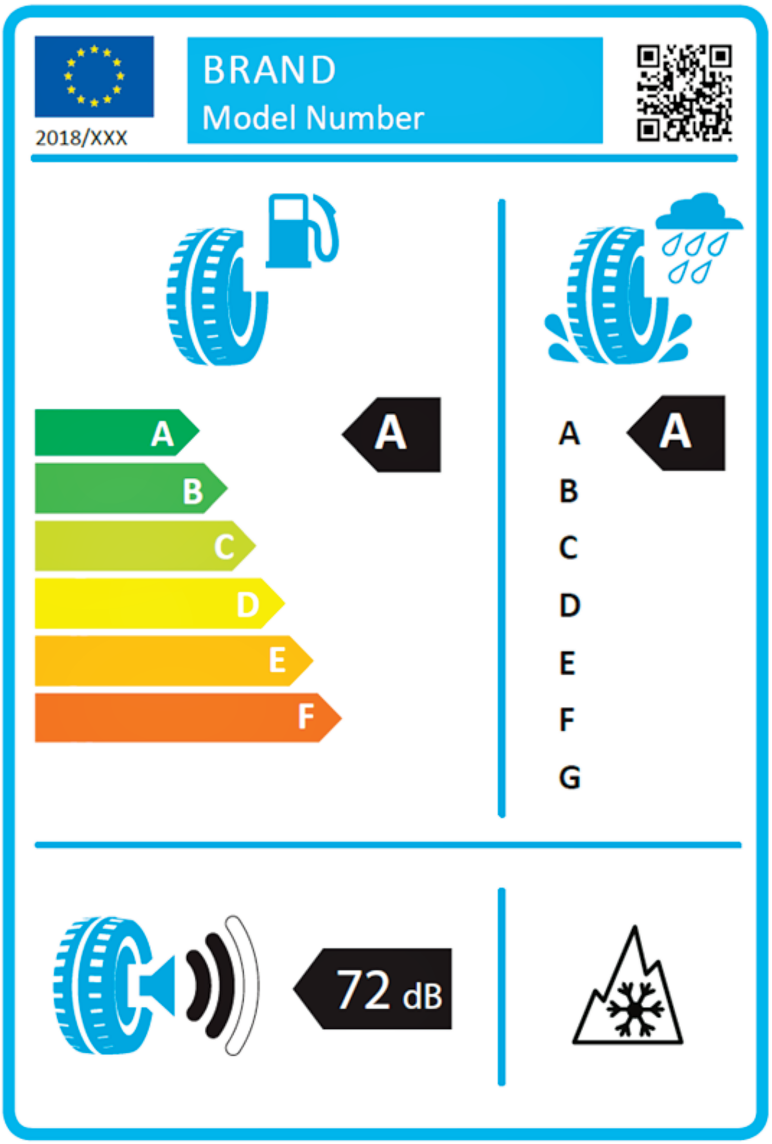


I, II, III

IV, V

VI

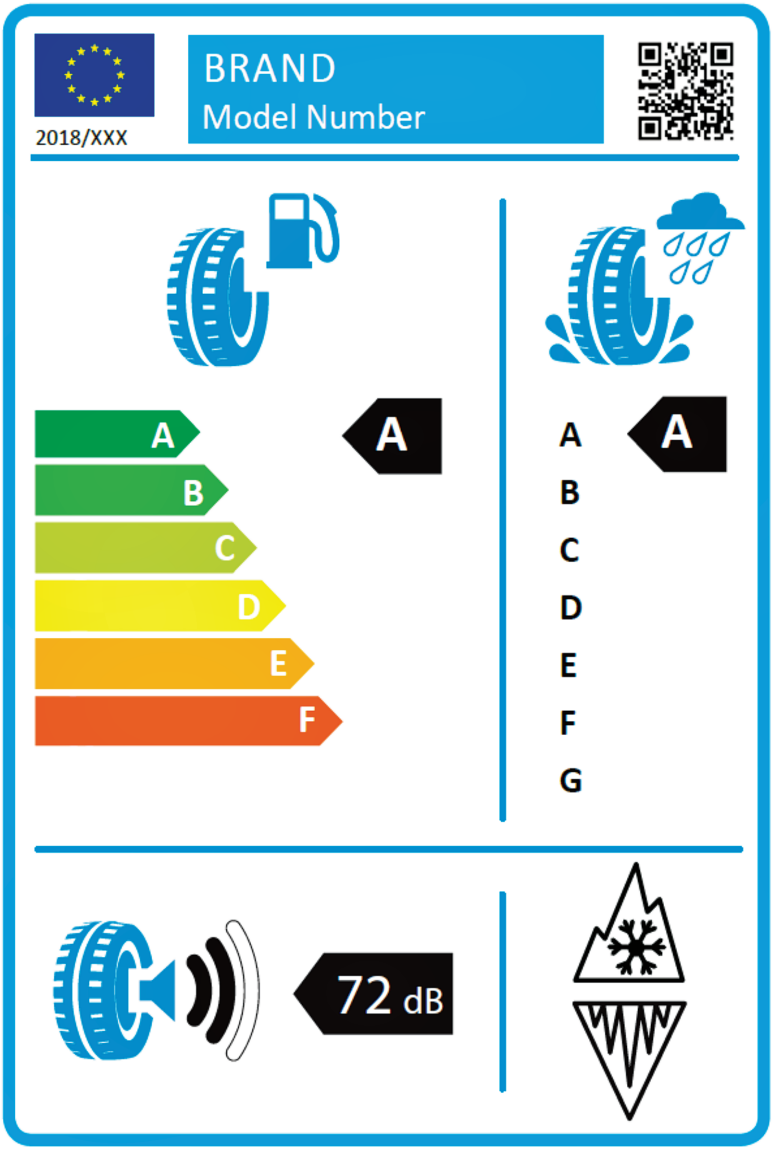
Tuesday 26 March 2019



I, II, III

IV, V

VI, VII



I, II, III

IV, V

VI, VII, VIII

I. Supplier's name or trademark;

II. Supplier's model identifier, where 'model identifier' means the code, usually alphanumeric, which distinguishes a specific tyre type from other type with the same trade mark or supplier's name;

III. QR code;

IV. Fuel efficiency;

V. Wet grip;

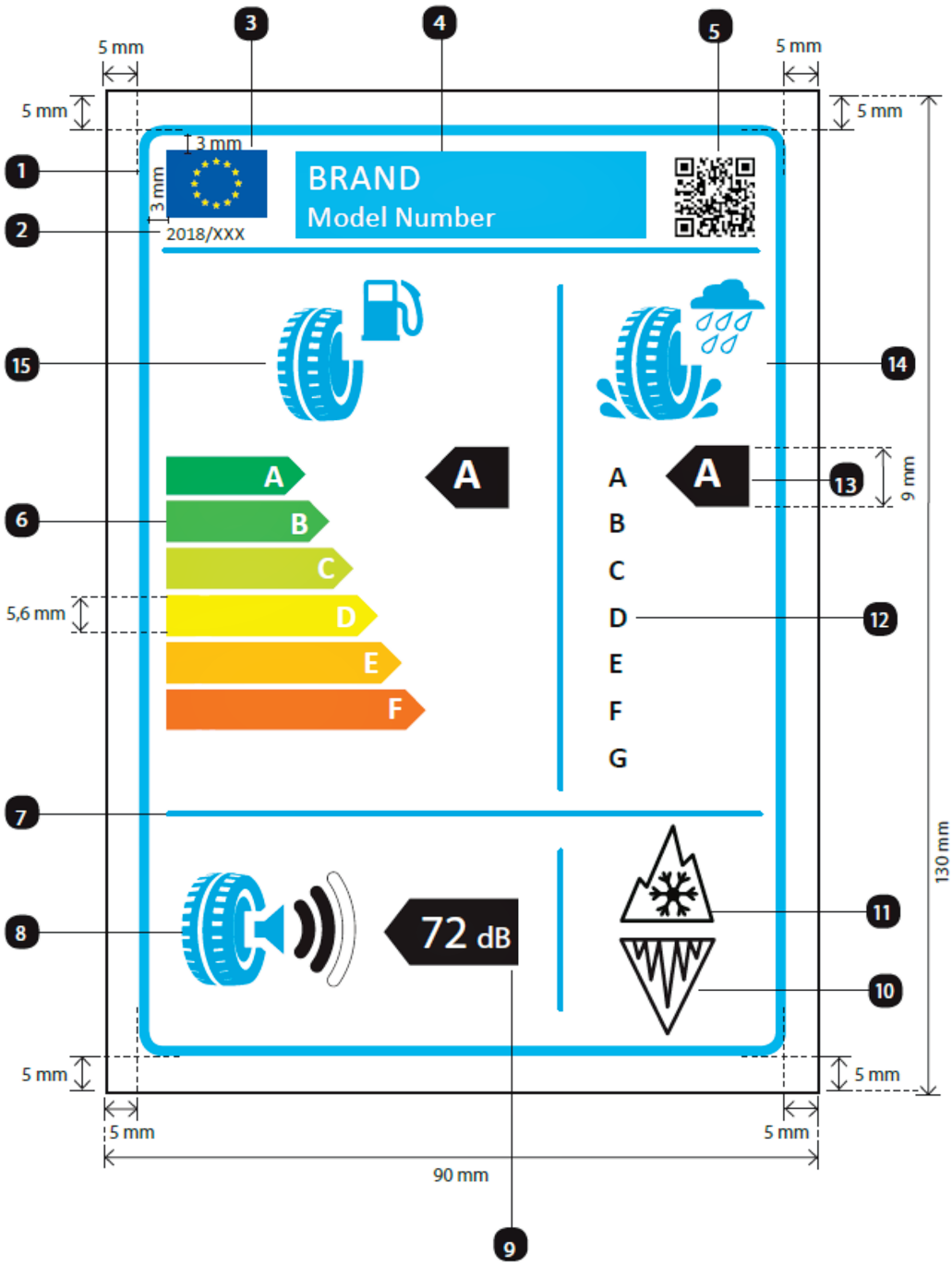
VI. External rolling noise;

VII. Snow grip;

VIII. Ice grip.

2. Label design

2.1. The design of the label shall be as in the figure below:



2.2. The label shall be at least 90 mm wide and 130 mm high. Where the label is printed in a larger format, its content shall nevertheless remain proportionate to the specifications above.

2.3. The label shall conform to the following requirements:

(a) Colours are CMYK — cyan, magenta, yellow and black — and are given following this example: 00-70-X-00: 0 % cyan, 70 % magenta, 100 % yellow, 0 % black;

(b) The numbers listed below refer to the legends indicated in point 2.1.:

(1) Label border: stroke: 1,5 pts — colour: X-10-00-05;

(2) Calibri regular 8 pts;

(3) European flag: width: 15 mm, height: 10 mm;

(4) Banner: width: 51,5 mm, height: 13 mm;

Text 'BRAND': Calibri regular 15 pts, 100 % white;

Text 'Model Number': Calibri regular 13 pts, 100 % white;

(5) QR code: width: 13 mm, height: 13 mm;

(6) 'A' to 'F' scale:

Arrows: height: 5,6 mm, gap: 0,78 mm, black stroke: 0,5 pt — colours:

— A: X-00-X-00;

— B: 70-00-X-00;

— C: 30-00-X-00;

— D: 00-00-X-00;

— E: 00-30-X-00;

— F: 00-70-X-00.

(7) Line: width: 88 mm, height: 2 pts — Colour: X-00-00-00;

(8) Pictogram external rolling noise:

Pictogram as supplied: width: 25,5 mm, height: 17 mm — colour: X-10-00-05;

(9) Arrow:

Arrow: width: 20 mm, height: 10 mm, 100 % black;

Text: Helvetica Bold 20 pts, 100 % white;

Unit text: Helvetica Bold 13 pts, 100 % white;

(10) Pictogram ice:

Pictogram as supplied: width: 15 mm, height: 15 mm — stroke: 1,5 pts — colour: 100 % black;

(11) Pictogram snow:

Pictogram as supplied: width: 15 mm, height: 15 mm — stroke: 1,5 pts — colour: 100 % black;

(12) 'A' to 'G': Calibri regular 13 pts — 100 % black;

(13) Arrows:

Arrows: width: 11,4 mm, height: 9 mm, 100 % black;

Text*: Calibri Bold 17 pts, 100 % white;*

(14) Pictogram fuel efficiency:

Pictogram as supplied: width: 19,5 mm, height: 18,5 mm — colour: X-10-00-05;

(15) Pictogram wet grip:

Pictogram as supplied: width: 19 mm, height: 19 mm — colour: X-10-00-05.

(c) The background shall be white.

2.4. The tyre class shall be indicated on the label in the format prescribed in the illustration in point 2.1.

ANNEX III

Technical documentation

The technical documentation referred to in Article 4(7) shall include the following:

(a) the name and address of the supplier;

(b) identification and signature of the person empowered to bind the supplier;

(c) trade name or trade mark of the supplier;

(d) the tyre model,

(e) the tyre dimension, load index and speed rating;

(f) the references of the measurement methods applied.

ANNEX IV

Product information sheet

The information in the product information sheet of tyres shall be included in the product brochure or other literature provided with the product and shall include the following:

(a) supplier's name or trade mark;

(b) supplier's model identifier;

(c) fuel efficiency class of the tyre in accordance with Annex I;

(d) wet grip class of the tyre in accordance with Annex I;

(e) external rolling noise class and decibels in accordance with Annex I;

(f) whether the tyre is a snow tyre;

(g) whether the tyre is an ice tyre.

Tuesday 26 March 2019

ANNEX V

Information provided in technical promotional material

1. Information on tyres included in technical promotional material shall be provided in the order specified as follows:
   (a) the fuel efficiency class (letter 'A' to 'F');
   (b) the wet grip class (letter 'A' to 'G');
   (c) the external rolling noise class and measured value (dB);
   (d) whether the tyre is a snow tyre;
   (e) whether the tyre is an ice tyre.
2. The information provided in point 1 shall meet the following requirements:
   (a) be easy to read;
   (b) be easy to understand;
   (c) if different grading is available for a given tyre type depending on dimension or other parameters, the range between the least and best performing tyre is stated.
3. Suppliers shall also make the following available on their websites:
   (a) a link to the relevant Commission webpage dedicated to this Regulation;
   (b) an explanation of the pictograms printed on the label;
   (c) a statement highlighting the fact that actual fuel savings and road safety depend heavily on the behaviour of drivers, and in particular the following:
      — eco-driving can significantly reduce fuel consumption;
      — tyre pressure needs to be regularly checked to optimise wet grip and fuel efficiency performance;
      — stopping distances must always be strictly respected.

Tuesday 26 March 2019

ANNEX VI

Laboratory alignment procedure for the measurement of rolling resistance

1. Definitions

For the purposes of the laboratory alignment procedure, the following definitions shall apply:

1. 'reference laboratory' means a laboratory that is part of the network of laboratories the name of which have been published for the purpose of the alignment procedure in the Official Journal of the European Union, and is able to achieve the accuracy of test results determined in Section 3 with its reference machine;

2. 'candidate laboratory' means a laboratory participating in the alignment procedure that is not a reference laboratory;

3. 'alignment tyre' means a tyre that is tested for the purpose of performing the alignment procedure;

4. 'alignment tyres set' means a set of five or more alignment tyres for the alignment of one single machine;

5. 'assigned value' means a theoretical value of the Rolling Resistance Coefficient (RRC) of one alignment tyre as measured by a theoretical laboratory which is representative of the network of reference laboratories that is used for the alignment procedure;

6. 'machine' means every tyre testing spindle in one specific measurement method. For example, two spindles acting on the same drum shall not be considered as one machine.

2. General provisions

2.1. Principle

The measured (*m*) Rolling Resistance Coefficient in a reference laboratory (l), ($RRC_{m,l}$), shall be aligned to the assigned values of the network of reference laboratories.

The *measured (m) Rolling Resistance Coefficient obtained by a machine in a candidate laboratory (c),* $RRC_{m,c}$, shall be aligned through one reference laboratory of the network of its choice.

2.2. Tyre selection requirements

A set of five or more alignment tyres shall be selected for the alignment procedure in compliance with the criteria below. One set shall be selected for C1 and C2 tyres together, and one set for C3 tyres.

(a) The set of alignment tyres shall be selected so as to cover the range of different RRCs of C1 and C2 tyres together, or of C3 tyres. In any event, the difference between the highest RRC_m of the tyre set, and the lowest RRC_m of the tyre set shall be, before and after alignment, at least equal to:

   (i) 3 kg/t for C1 and C2 tyres; and

   (ii) 2 kg/t for C3 tyres.

(b) The RRC_m in the candidate or reference laboratories ($RRC_{m,c}$ or $RRC_{m,l}$) based on declared RRC values of each alignment tyre of the set shall be distributed evenly.

(c) Load index values shall adequately cover the range of the tyres to be tested, ensuring that the rolling resistance force values also cover the range of the tyres to be tested.

Tuesday 26 March 2019

Each alignment tyre shall be checked prior to use and replaced when:

(a) it shows a condition which makes it unusable for further tests; and/or

(b) there are deviations of $RRC_{m,c}$ or $RRC_{m,l}$ greater than 1,5 per cent relative to earlier measurements after correction for any machine drift.

2.3. Measurement method

The reference laboratory shall measure each alignment tyre four times and retain the three last results for further analysis, in accordance with paragraph 4 of Annex 6 of UNECE Regulation No 117 and its subsequent amendments and applying the conditions set out in paragraph 3 of Annex 6 of UNECE Regulation No 117 and its subsequent amendments.

The candidate laboratory shall measure each alignment tyre (n + 1) times with n being specified in Section 5 and retain the n last results for further analysis, in accordance with paragraph 4 of Annex 6 of UNECE Regulation No 117 and its subsequent amendments and applying the conditions set out in paragraph 3 of Annex 6 of UNECE Regulation No 117 and its subsequent amendments.

Each time an alignment tyre is measured, the tyre/wheel assembly shall be removed from the machine and the entire test procedure specified in paragraph 4 of Annex 6 of UNECE Regulation No 117 and its subsequent amendments shall be followed again from the start.

The candidate or reference laboratory shall calculate:

(a) the measured value of each alignment tyre for each measurement as specified in Annex 6, paragraphs 6.2 and 6.3, of UNECE Regulation No 117 and its subsequent amendments (i.e. corrected for a temperature of 25 °C and a drum diameter of 2 m);

(b) the mean value of the three (in the case of reference laboratories) or n (in the case of candidate laboratories) last measured values of each alignment tyre; and

(c) the standard deviation (σ_m) as follows:

$$\sigma_m = \sqrt{\frac{1}{p} \cdot \sum_{i=1}^{p} \sigma^2_{m,i}}$$

$$\sigma_{m,i} = \sqrt{\frac{1}{n-1} \cdot \sum_{j=2}^{n+1} \left(Cr_{i,j} - \frac{1}{n} \cdot \sum_{j=2}^{n+1} Cr_{i,j} \right)^2}$$

where:

i is the counter from 1 to p for the alignment tyres;

j is the counter from 2 to n+1 for the n last repetitions of each measurement of a given alignment tyre

n+1 is the number of repetitions of tyre measurements (n+1=4 for reference laboratories and n+1 ≥4 for candidate laboratories);

p is the number of alignment tyres (p ≥ 5).

2.4. Data formats to be used for the computations and results

— The measured RRC values corrected from drum diameter and temperature shall be rounded to 2 decimal places.

— Then the computations shall be made with all digits: there shall be no further rounding except on the final alignment equations.

— All standard deviation values shall be displayed to 3 decimal places.

— All RRC values will be displayed to 2 decimal places.

— All alignment coefficients ($A1_l$, $B1_l$, $A2_c$ and $B2_c$) shall be rounded and displayed to 4 decimal places.

3. Requirements applicable to the reference laboratories and determination of the assigned values

The assigned values of each alignment tyre shall be determined by a network of reference laboratories. Every second year the network shall assess the stability and validity of the assigned values.

Each reference laboratory participating in the network shall comply with the specifications of Annex 6 of UNECE Regulation No 117 and its subsequent amendments and have a standard deviation (σ_m) as follows:

(a) not greater than 0,05 kg/t for class C1 and C2 tyres; and

(b) not greater than 0,05 kg/t for class C3 tyres.

The sets of alignment tyres, conforming to the specification of Section 2.2 shall be measured in accordance with Section 2.3 by each reference laboratory of the network.

The assigned value of each alignment tyre is the average of the measured values given by the reference laboratories of the network for this alignment tyre.

4. Procedure for the alignment of a reference laboratory to the assigned values

Each reference laboratory (l) shall align itself to each new set of assigned values and always after any significant machine change or any drift in machine control tyre monitoring data.

The alignment shall use a linear regression technique on all individual data. The regression coefficients, $A1_l$ and $B1_l$, shall be calculated as follows:

$$RRC = A1_l * RRC_{m,l} + B1_l$$

where:

RRC is the assigned value of the rolling resistance coefficient;

$RRC_{m,\ l}$ is the individual measured value of the rolling resistance coefficient by the reference laboratory 'l' (including temperature and drum diameter corrections).

5. Requirements applicable to candidate laboratories

Candidate laboratories shall repeat the alignment procedure at least once every second year for every machine and always after any significant machine change or any drift in machine control tyre monitoring data.

A common set of five different tyres, conforming to the specification of Section 2.2 shall be measured in accordance with Section 2.3 firstly by the candidate laboratory and later on by one reference laboratory. More than five alignment tyres may be tested at the request of the candidate laboratory.

The alignment tyre set shall be provided by the candidate laboratory to the selected reference laboratory.

The candidate laboratory (c) shall comply with the specifications of Annex 6 of UNECE Regulation No 117 and its subsequent amendments and preferably have standard deviations (a_m) as follows:

(a) not greater than 0,075 kg/t for C1 and C2 tyres; and

(b) not greater than 0,06 kg/t for C3 tyres.

If the standard deviation (σ_m) of the candidate laboratory is higher than the above values with four measurements, the last three ones being used for the computations, then the number n+1 of measurement repetitions shall be increased as follows for the entire batch:

$n+1 = 1+(\sigma_m/\gamma)^2$, rounded up to the nearest higher integer value

where:

γ = 0,043 kg/t for Class C1 and C2 tyres

γ = 0,035 kg/t for Class C3 tyres

6. Procedure for the alignment of a candidate laboratory

One reference laboratory (i) of the network shall calculate the linear regression function on all individual data of the candidate laboratory (c). The regression coefficients, $A2_c$ and $B2_c$, shall be calculated as follows:

$$RRC_{m,l} = A2_c \times RRC_{m,c} + B2_c$$

where:

$RRC_{m,l}$ is the individual measured value of the rolling resistance coefficient by the reference laboratory (i) (including temperature and drum diameter corrections)

$RRC_{m,c}$ is the individual measured value of the rolling resistance coefficient by the candidate laboratory (c) (including temperature and drum diameter corrections)

If the coefficient of determination R^2 is lower than 0,97, the candidate laboratory shall not be aligned.

The aligned RRC of tyres tested by the candidate laboratory is calculated as follows:

$$RRC = (A1_l \times A2_c) \times RRC_{m,c} + (A1_l \times B2_c + B1_l)$$

Tuesday 26 March 2019

ANNEX VII

Verification procedure

The conformity with this Regulation of the declared fuel efficiency, wet grip and external rolling noise classes, as well as the declared values, and any additional performance information on the label, shall be assessed for each tyre type or each grouping of tyres as determined by the supplier, according to one of the following procedures:

(a) a single tyre or tyre set is tested first:

1. if the measured values meet the declared classes or external rolling noise declared value within the tolerance defined in Table 1, the test is successfully passed;

2. if the measured values do not meet the declared classes or external rolling noise declared value within the range defined in Table 1, three more tyres or tyre sets are tested. The average measurement value stemming from the three tyres or tyre sets tested is used to assess conformity with the declared information within the range defined in Table 1;

(b) where the labelled classes or values are derived from type approval test results obtained in accordance with Regulation (EC) No 661/2009, or UNECE Regulation No 117 and its subsequent amendments, Member States may make use of measurement data obtained from conformity of production tests on tyres.

Assessment of the measurement data obtained from the conformity of production tests shall take into account the allowances defined in Table 1.

Table 1

Measured parameter	Verification tolerances
Rolling resistance coefficient (fuel efficiency)	The aligned measured value shall not be greater than the upper limit (the highest RRC) of the declared class by more than 0,3 kg/1 000kg.
External rolling noise	The measured value shall not be greater than the declared value of N by more than 1 dB(A).
Wet grip	The measured value G(T) shall not be lower than the lower limit (the lowest value of G) of the declared class.
Snow grip	The measured value shall not be lower than the minimum snow performance index.
Ice grip	The measured value shall not be lower than the minimum ice performance index.

ANNEX VIII

Correlation table

Regulation (EC) No 1222/2009	This Regulation
Article 1(1)	Article 1(1)
Article 1(2)	Article 1(2)
Article 2(1)	Article 2(1)
Article 2(2)	Article 2(2)
Article 3(1)	Article 3(1)
Article 3(2)	Article 3(2)
—	Article 3(3)
Article 3(3)	Article 3(4)
Article 3(4)	Article 3(5)
—	Article 3(6)
Article 3(5)	Article 3(7)
—	Article 3(8)
—	Article 3(9)
Article 3(6)	Article 3(10)
Article 3(7)	Article 3(11)
Article 3(8)	Article 3(12)
Article 3(9)	Article 3(13)
Article 3(10)	Article 3(14)
Article 3(11)	Article 3(15)
—	Article 3(16)
Article 3(12)	Article 3(17)
Article 3(13)	Article 3(18)
—	Article 3(19)
Article 4	Article 4

Regulation (EC) No 1222/2009	This Regulation
Article 4(1)	Article 4(1)
Article 4(1)(a)	Article 4(1)(b)
Article 4(1)(b)	Article 4(1)(b)
Article 4(2)	—
—	Article 4(2)
—	Article 4(3)
Article 4(3)	Article 4(4)
Article 4(4)	Article 4(6)
—	Article 4(5)
—	Article 4(6)
—	Article 4(7)
—	Article 4(8)
—	Article 4(9)
—	Article 5
Article 5	Article 6
Article 5(1)	Article 6(1)
Article 5(1)(a)	Article 6(1)(a)
Article 5(1)(b)	Article 6(1)(b)
—	Article 6(2)
—	Article 6(3)
Article 5(2)	Article 6(4)
Article 5(3)	—
—	Article 6(5)
—	Article 6(6)
—	Article 6(7)
Article 6	Article 7
Article 7	Article 8

Regulation (EC) No 1222/2009	This Regulation
Article 8	Article 9
Article 9(1)	Article 10(1)
Article 9(2)	—
Article 10	Article 10(2)
Article 11	Article 12
—	Article 12(a)
—	Article 12(b)
—	Article 12(c)
Article 11(a)	—
Article 11(b)	—
Article 11(c)	Article 12(d)
Article 12	Article 11
—	Article 11(1)
—	Article 11(2)
—	Article 11(3)
—	Article 13
Article 13	—
Article 14	—
—	Article 14
Article 15	—
—	Article 15
—	Article 16
Article 16	Article 17

Tuesday 26 March 2019

P8_TA(2019)0231

Copyright in the Digital Single Market ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council on copyright in the Digital Single Market (COM(2016)0593 — C8-0383/2016 — 2016/0280(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/24)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0593),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0383/2016),

— having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

— having regard to Article 294(3) and to Articles 53(1), 62 and 114 of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 25 January 2017 ([1]),

— having regard to the opinion of the Committee of the Regions of 8 February 2017 ([2]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 20 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 and 39 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on the Internal Market and Consumer Protection, the Committee on Industry, Research and Energy, the Committee on Culture and Education and the Committee on Civil Liberties, Justice and Home Affairs (A8-0245/2018),

1. Adopts its position at first reading hereinafter set out;

2. Takes note of the statement by the Commission annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 125, 21.4.2017, p. 27.
([2]) OJ C 207, 30.6.2017, p. 80.

Tuesday 26 March 2019

P8_TC1-COD(2016)0280

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/790.)

Tuesday 26 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

COMMISSION'S STATEMENT ON SPORT EVENT ORGANISERS

'The Commission acknowledges the importance of sports events organisations and their role in financing of sport activities in the Union. In view of the societal and economic dimension of sport in the Union, the Commission will assess the challenges of sport event organisers in the digital environment, in particular issues related to the illegal online transmissions of sport broadcasts'.

Tuesday 26 March 2019

P8_TA(2019)0232

Contracts for the supply of digital content and digital services ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content (COM(2015)0634 — C8-0394/2015 — 2015/0287(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/25)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2015)0634),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0394/2015),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 27 April 2016 [1],

— having regard to the provisional agreement approved by the committees responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 6 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the joint deliberations of the Committee on the Internal Market and Consumer Protection and the Committee on Legal Affairs under Rule 55 of the Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the Committee on Legal Affairs and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A8-0375/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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[1] OJ C 264, 20.7.2016, p. 57.

Tuesday 26 March 2019

P8_TC1-COD(2015)0287

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content and digital services

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/770.)

Tuesday 26 March 2019

P8_TA(2019)0233

Contracts for the sale of goods ***I

European Parliament legislative resolution of 26 March 2019 on the amended proposal for a directive of the European Parliament and of the Council on certain aspects concerning contracts for the sales of goods, amending Regulation (EC) No 2006/2004 of the European Parliament and of the Council and Directive 2009/22/EC of the European Parliament and of the Council and repealing Directive 1999/44/EC of the European Parliament and of the Council (COM(2017)0637 — C8-0379/2017 — 2015/0288(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/26)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2015)0635) and the amended proposal (COM(2017)0637),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0379/2017),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinions of the European Economic and Social Committee of 27 April 2016 ([1]) and of 15 February 2018 ([2]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 6 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection (A8-0043/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 264, 20.7.2016, p. 57.
([2]) OJ C 227, 28.6.2018, p. 58

Tuesday 26 March 2019

P8_TC1-COD(2015)0288

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on certain aspects concerning contracts for the sale of goods, amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/771.)

Tuesday 26 March 2019

P8_TA(2019)0234

Fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area (COM(2018)0143 — C8-0123/2018 — 2018/0069(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/27)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0143),

— having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0123/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 23 May 2018 ([1]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 6 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Fisheries (A8-0381/2018),

1. Adopts its position at first reading hereinafter set out;

2. Takes note of the Commission statements annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 283, 10.8.2018, p. 95.

Tuesday 26 March 2019

P8_TC1-COD(2018)0069

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/982.)

Tuesday 26 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

Commission statement on recreational fisheries

The Commission recalls that one of the objectives set up in the MedFish4Ever Ministerial Declaration adopted in March 2017 is to establish, as soon as possible and at the latest by 2020, a set of baseline rules to ensure an effective management of recreational fisheries across the Mediterranean.

In line with this objective, the General Fisheries Commission for the Mediterranean (GFCM) mid-term Strategy 2017-2020 includes amongst the actions to be implemented in the GFCM area, the assessment of the impacts of recreational fisheries and the consideration of best management measures to regulate these activities. In this context, a working group for recreational fisheries has been established within the GFCM with a view to developing a harmonized regional methodology towards assessing recreational fisheries.

The Commission will continue its efforts within the GFCM in order to attain the objective set up in the MedFish4Ever Declaration.

Commission statement on red coral

The Commission recalls that the conservation measures adopted within the framework of the regional adaptive management plan for the exploitation of red coral in the Mediterranean Sea [Recommendation GFCM/41/2017/5] are temporary. These measures, which include the possibility to introduce catch limitations, will be assessed by the Scientific Advisory Committee (SAC) of the GFCM in 2019 with a view to their revision by the GFCM at its 43rd annual session (November 2019).

Tuesday 26 March 2019

P8_TA(2019)0235

Alignment of reporting obligations in the field of environment policy ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the alignment of reporting obligations in the field of environment policy and thereby amending Directives 86/278/EEC, 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU, Regulations (EC) No 166/2006 and (EU) No 995/2010, and Council Regulations (EC) No 338/97 and (EC) No 2173/2005 (COM(2018)0381 — C8-0244/2018 — 2018/0205(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/28)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0381),

— having regard to Article 294(2) and Articles 114, 192(1) and 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0244/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 12 December 2018 [1],

— after consulting the Committee of the Regions,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Agriculture and Rural Development and the Committee on Legal Affairs (A8-0324/2018),

1. Adopts its position at first reading hereinafter set out [2];

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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[1] OJ C 110, 22.3.2019, p. 99.

[2] This position replaces the amendments adopted on 23 October 2018 (Texts adopted, P8_TA(2018)0399).

Tuesday 26 March 2019

P8_TC1-COD(2018)0205

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council on the alignment of reporting obligations in the field of legislation related to the environment, and amending Regulations (EC) No 166/2006 and (EU) No 995/2010 of the European Parliament and of the Council, Directives 2002/49/EC, 2004/35/EC, 2007/2/EC, 2009/147/EC and 2010/63/EU of the European Parliament and of the Council, Council Regulations (EC) No 338/97 and (EC) No 2173/2005, and Council Directive 86/278/EEC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/1010.)

Tuesday 26 March 2019

P8_TA(2019)0236

Special rules regarding maximum length in case of cabs ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a decision of the European Parliament and of the Council amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length in case of cabs delivering improved aerodynamic performance, energy efficiency and safety performance (COM(2018)0275 — C8-0195/2018 — 2018/0130(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/29)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0275),

— having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0195/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— after consulting the Committee of the Regions,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 15 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism (A8-0042/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 62, 15.2.2019, p. 286.

Tuesday 26 March 2019

P8_TC1-COD(2018)0130

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Decision (EU) 2019/… of the European Parliament and of the Council amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length for cabs delivering improved aerodynamic performance, energy efficiency and safety performance

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Decision (EU) 2019/984.)

Tuesday 26 March 2019

P8_TA(2019)0237

Low carbon benchmarks and positive carbon impact benchmarks ***I

European Parliament legislative resolution of 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/1011 on low carbon benchmarks and positive carbon impact benchmarks (COM(2018)0355 — C8-0209/2018 — 2018/0180(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/30)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0355),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0209/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 December 2018 ([2]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 13 March 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0483/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 62, 15.2.2019, p. 103.
([2]) OJ C 86, 7.3.2019, p. 24.

Tuesday 26 March 2019

P8_TC1-COD(2018)0180

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council amending Regulation (EU) 2016/1011 as regards EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks and sustainability-related disclosures for benchmarks

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/2089.)

Tuesday 26 March 2019

P8_TA(2019)0238

Specific provisions for the European territorial cooperation goal (Interreg) ***I

European Parliament legislative resolution on 26 March 2019 on the proposal for a regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (COM(2018)0374 — C8-0229/2018 — 2018/0199(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/31)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0374),

— having regard to Article 294(2) and Articles 178, 209(1), 212(2) and 349 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0229/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 19 September 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 December 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development and also the opinions of the Committee on Foreign Affairs, the Committee on Development, the Committee on Budgetary Control and the Committee on Culture and Education (A8-0470/2018),

1. Adopts its position at first reading hereinafter set out ([3]);

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 440, 6.12.2018, p. 116.
([2]) OJ C 86, 7.3.2019, p. 137.
([3]) This position corresponds to the amendments adopted on 16 January 2019 (Texts adopted, P8_TA(2019)0021).

Tuesday 26 March 2019

P8_TC1-COD(2018)0199

Position of the European Parliament adopted at first reading on 26 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council 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, Article 209(1), Article 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. Under that Article and the second and third paragraphs of Article 174 of the TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and to reducing the backwardness of the least favoured regions, ~~among which particular attention is to be paid to certain categories of regions, among which cross-border~~ ***rural areas, areas affected by an industrial transition, areas with a low population density, islands and mountain*** regions ~~are explicitly listed~~. **[Am. 1]**

(2) Regulation (EU) [new CPR] of the European Parliament and of the Council ([4]) sets out provisions common to the ERDF and certain other funds and Regulation (EU) [new ERDF] 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 now necessary to adopt specific provisions in relation to the European territorial cooperation goal (Interreg) where one or more Member States ***and their regions*** cooperate across borders with regard to effective programming including provisions on technical assistance, monitoring, evaluation, communication, eligibility, management and control, as well as financial management. **[Am. 2]**

(3) In order to support ~~the~~ ***a cooperative and*** harmonious development of the Union's territory at different levels ***and to reduce existing disparities***, the ERDF should support cross-border cooperation, transnational cooperation, maritime cooperation, outermost regions' cooperation and interregional cooperation under the European territorial cooperation goal (Interreg). ***In the process, the principles of multi-level governance and partnership should be taken into account, and place-based approaches should be strengthened.*** **[Am. 3]**

([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.
([4]) [Reference]
([5]) [Reference]

(3a) The different components of Interreg should contribute to the achievement of the Sustainable Development Goals (SDGs) as described in the 2030 Agenda for Sustainable Development adopted in September 2015. **[Am. 4]**

(4) The cross-border cooperation component 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 Communication of the Commission 'Boosting Growth and Cohesion in EU Border Regions' ([6]) ('Border Regions Communication'). ~~Consequently~~ ***Therefore***, the cross-border component should ~~be limited to~~ ***include*** cooperation on ~~land borders and cross-border cooperation on~~ ***both land or*** maritime borders ~~should be integrated into the transnational~~***, without prejudice to the new*** component ***for outermost regions cooperation***. **[Am. 5]**

(5) The cross-border cooperation component 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 the Member States and for the partner authorities and beneficiaries outside the Union compared to the programming period 2014-2020. **[Am. 6]**

(6) The transnational cooperation and maritime cooperation component should aim to strengthen cooperation by means of actions conducive to integrated territorial development linked to the Union's cohesion policy priorities, ~~and should also include maritime cross-border cooperation~~ ***in full respect of subsidiarity***. Transnational cooperation should cover larger ***transnational*** territories ~~on the mainland of the Union, whereas maritime cooperation should cover~~ ***and, where appropriate,*** territories around sea-basins ~~and integrate~~ ***that extend geographically beyond those covered by*** cross-border ~~cooperation on maritime borders during the programming period 2014-2020. Maximum flexibility should be given to continue implementing previous 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 setting-up of sub-programmes and specific steering committees~~ ***programmes***. **[Am. 7]**

(7) Based on the experience with cross-border and transnational cooperation during the programming period 2014-2020 in outermost regions, where the combination of both components within a single programme per cooperation area has not brought about sufficient simplification for programme authorities and beneficiaries, a specific ***additional*** outermost regions' component should be established in order to enable outermost regions to cooperate with ~~their neighbouring~~ ***third countries, overseas*** countries and territories ***(OCTs), or regional integration and cooperation organisations*** in the most effective and simple way ***that takes into account their individual characteristics***. **[Am. 8]**

(8) Based on the ***positive*** experience with the interregional cooperation programmes under Interreg***, on the one hand,*** and the lack of such cooperation within programmes under the Investment for jobs and growth goal during the programming period 2014-2020, ~~the~~ ***on the other,*** interregional cooperation ~~component should focus more specifically on boosting the effectiveness of cohesion policy. That component should therefore be limited to two programmes, one to enable all kind~~***, through the exchange*** of experience, ~~innovative approaches and capacity building~~ ***the development of capacities*** for programmes under both goals ~~and to promote~~ ***(European territorial cooperation and Investment for growth and jobs) among cities and regions is an important component with a view to finding common solutions in the cohesion policy field and building lasting partnerships. Existing programmes and, in particular, promotion of project-based cooperation, including promoting*** European groupings of territorial cooperation ('EGTCs') ~~set up or to be set up pursuant to Regulation (EC) No 1082/2006 of the European Parliament and of the Council ([7]) and one to improve the analysis of development trends. Project-based cooperation throughout the Union~~)***, as well as macro-regional strategies*** should ~~be integrated into the new component on interregional innovation investments and closely linked to the implementation of the~~

([6]) Communication from the Commission to the Council and the European Parliament 'Boosting growth and cohesion in EU border regions' — COM(2017)0534, 20.9.2017.

([7]) ~~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).~~

~~Communication from the Commission 'Strengthening Innovation in Europe's Regions: Strategies for resilient, inclusive and sustainable growth' ([8]), in particular to support thematic smart specialisation platforms on fields such as energy, industrial modernisation or agrifood. Finally, integrated territorial development focusing on functional urban areas or urban areas should be concentrated within programmes under the Investment for jobs and growth goal and in one accompanying instrument, the 'European Urban Initiative'. The two programmes under the interregional cooperation component should cover the whole Union and should also be open for the participation of third countries.~~ ***therefore be continued.*** **[Am. 9]**

(8a) The new initiative on interregional innovation investments should be based on smart specialisation, and used to support thematic smart specialisation platforms on fields such as energy, industrial modernisation, circular economy, social innovation, the environment or agrifood, and to help those involved in smart specialisation strategies to cluster together, in order to scale up innovation and bring innovative products, processes and ecosystems to the European market. The evidence suggests that a persistent systemic failure remains at the testing and validation stage of demonstration of new technologies (e.g. Key Enabling Techologies), especially when innovation is the result of the integration of complementary regional specialisations creating innovative value chains. That failure is particularly critical in the phase between piloting and full market uptake. In some strategic technology and industrial areas, SMEs cannot currently count on excellent and open, connected pan-European demonstration infrastructure. The programmes under the interregional cooperation initiative should cover the whole European Union and should also be open for the participation of OCTs, third countries, their regions, and regional integration and cooperation organisations, including the outermost neighbouring regions. Synergies between interregional innovation investments and other relevant EU programmes such as those under the European Structural and Investment Funds, Horizon 2020, Digital Market Europe and the single market programme should be encouraged, as they will amplify the impact of investments and provide better value for citizens. **[Am. 10]**

(9) ***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 ([9]). **[Am. 11]**

(10) 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, IPA ([10]), NDICI ([11]) and OCTP ([12]), should support programmes under cross-border cooperation, transnational cooperation ~~and maritime cooperation~~, outermost regions' cooperation and interregional 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 CBC and 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~~, that is to say, up to 3 % of the financial envelope under IPA III and up to 4 % of the financial envelope of the Neighbourhood geographic programme under Article 4(2)(a) of the NDICI~~. **[Am. 12]**

(10a) Particular attention should be paid to regions which become new external borders of the Union to ensure the adequate continuity of ongoing cooperation programmes. **[Am. 13]**

~~([8]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Strengthening Innovation in Europe's Regions: Strategies for resilient, inclusive and sustainable growth' – COM(2017) 376 final, 18.7.2017.~~

([9]) 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).

([10]) Regulation (EU) XXX establishing the Instrument for Pre-accession Assistance (OJ L xx, p. y).

([11]) Regulation (EU) XXX establishing the Neighbourhood, Development and International Cooperation Instrument (OJ L xx, p. y).

([12]) Council Decision (EU) XXX on the association of the Overseas Countries and Territories with the European Inion including relations between the European Union on the one hand and Greenland and the Kingdom of Denmark on the other (OJ L xx, p. y).

(11) IPA III assistance should mainly focus on assisting the IPA 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 assistance should continue to support the efforts of the IPA 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 assistance should 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. **[Am. 14]**

(12) 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 and the NDICI should therefore support the 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.

(12a) Developing synergies with Union external action and development programmes should also help to ensure maximum impact whilst fulfilling the principle of policy coherence for development as provided for by Article 208 of the Treaty on the Functioning of the European Union (TFEU). Achieving coherence across all Union policies is crucial for achieving the SDGs. **[Am. 15]**

(13) It is important to continue observing the role of the EEAS and the Commission in the preparation of the strategic programming and of Interreg programmes supported by the ERDF and the NDICI as established in Council decision 2010/427/EU ([13]).

(14) In view of the specific situation of outmost regions of the Union, it is necessary to adopt measures concerning the ***improvement of*** conditions under which those regions may have access to structural funds. Consequently, certain provisions of this Regulation should be adapted to the specificities of the outermost regions in order to simplify and foster ***their*** cooperation with ~~their neighbors~~ ***third countries and OCTs***, while taking into account the Communication from the Commission 'A stronger and renewed strategic partnership with the EU's outermost regions' ([14]). **[Am. 16]**

(14a) This Regulation lays 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. **[Am. 17]**

(15) It is necessary to set out the resources allocated to each of the different components of Interreg, including each Member State's share of the global amounts for the cross-border cooperation, the transnational cooperation ~~and maritime cooperation~~, the outermost regions' cooperation and the interregional cooperation, the potential available to Member States concerning flexibility between those components. ~~Compared to the programming period 2014-2020, the share for cross-border~~ ***Given globalisation***, cooperation ~~should be reduced, while the share for transnational cooperation and maritime cooperation~~ ***aimed to boost investments in more jobs and growth and joint investments with other regions*** should ~~be increased because of the integration of maritime cooperation, and a new outermost~~***, however, also be determined by the*** regions'~~cooperation component~~ ***common characteristics and ambitions and not necessarily by borders, therefore sufficient additional funds for the new initiative on interregional innovation investments*** should be ~~created~~ ***made available to respond to the global market condition***. **[Am. 18]**

([13]) 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).

([14]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank 'A stronger and renewed strategic partnership with the EU's outermost regions', — COM(2017)0623, 24.10.2017.

(16) 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.

(17) 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 thematic objectives should be adapted to the specific needs of Interreg, by providing for additional specific objectives under the policy objective 'a more social Europe by implementing the European Pillar of Social Rights' in order to allow for ESF-type interventions.

(18) 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 new 'PEACE PLUS' cross-border programme ~~should continue~~ ***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 the 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 to promote cohesion between communities. Given the specificities of the programme it should be managed in an integrated manner with the United Kingdom contribution being integrated into the 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. **[Am. 19]**

(19) This Regulation should add two Interreg-specific objectives, one to support an Interreg-specific objective 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, and one to address specific external cooperation issues such as safety, security, border crossing management and migration.

(20) 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 components of INTERREG should be strengthened..*** **[Am. 20]**

(21) 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) [new CPR]. ***These specific provisions should be kept simple and clear in order to avoid gold-plating and additional administrative burdens for Member States and beneficiaries.*** **[Am. 21]**

(22) 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 programme period 2014-2020 should ~~on~~ be continued. ~~However,~~ Interreg partners should cooperate in ~~all four dimensions~~ (development, ***and*** implementation, ***as well as*** staffing ~~and~~ ***or*** financing)***, or both,*** and, under outermost regions' cooperation, in three out of four, 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. **[Am. 22]**

(22a) Under cross-border cooperation programmes, people-to-people (P2P) and small-scale projects are an important and successful instrument for eliminating border and cross border obstacles, fostering contacts between people locally and, in so doing, bringing border regions and their citizens closer together. P2P projects and small-scale projects are carried out in many areas such as, inter alia, culture, sport, tourism, general education and vocational training, the economy, science, environmental protection and ecology, healthcare, transport and small-scale infrastructure projects, administrative cooperation and public-relations work. As also set forth in the opinion of

the Committee of the Regions 'People-to-people and small-scale projects in cross-border cooperation programmes' ([15]), P2P projects and small-scale projects have high European added value and make a considerable contribution towards realising the overall objective of cross-border cooperation programmes. **[Am. 23]**

(23) ~~It is necessary to clarify the rules governing small project funds which have been implemented~~ Since Interreg has existed, ~~but~~ ***P2P projects and small-scale projects have been supported via small-project funds or similar instruments that*** 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 P2P.*** ~~As also set out in the Opinion of the Committee of the Regions 'People-to-people~~ and small-scale projects ~~in cross-border cooperation programmes' ([16]), such small project funds play an important role in building up trust between citizens and institutions, offer great European added value and contribute considerably to the overall objective of cross-border cooperation programmes by overcoming border obstacles and integrating border areas and their citizens. In order to~~***, 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. **[Am. 24]**

(24) Due to the involvement of more than one Member State, and the resulting higher administrative costs, ***including for regional points of contact (or '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 cooperation programmes should receive a certain minimum amount for technical assistance to ensure sufficient funding for effective technical assistance activities. **[Am. 25]**

(25) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate the Funds on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Funds on the ground.

(25a) In connection with reducing administrative burden, the Commission, Member States and regions should cooperate closely in order to be able to make use of the enhanced proportionate arrangements for the management and control system for an Interreg programme that are referred to in Article 77 of Regulation (EU) …/… [new CPR]. **[Am. 26]**

(26) Based on experience during the programming period 2014-2020, 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 or for Interreg programme as a whole to avoid any possible contradictions or inconsistencies between different Regulations and between Regulations and national rules. 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, provisions of the Commission Delegated Regulation (EU) No 481/2014 ([17]) adopted for the programming period 2014-2020 should be integrated into this Regulation.

([15]) Opinion of the European Committee of the Regions 'People-to-people and small-scale projects in cross-border cooperation programmes' of 12 July 2017 (OJ C 342, 12.10.2017, p. 38).

~~([16]) Opinion of the European Committee of the Regions 'People-to-people and small-scale projects in cross-border cooperation programmes' of 12 July 2017 (OJ C 342, 12.10.2017, p. 38).~~

([17]) 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).

Tuesday 26 March 2019

(27) Member States should ~~be encouraged to assign~~***, where appropriate, delegate*** the functions of the managing authority to ~~an~~ ***a new or, where applicable, an existing*** 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. ***Member States should enable regional and local authorities and other public bodies from different Member States to set up such cooperation groupings with a legal personality and should involve local and regional authorities in their functioning.*** **[Am. 27]**

(28) In order to continue the payment chain established for the programming period 2014-2020, i.e. 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.*** **[Am. 28]**

(29) Pursuant to Article [63(9)] of Regulation (EU, Euratom) [FR-Omnibus] sector-specific rules are to take account of the needs of European Territorial Cooperation (Interreg) programmes as regards, in particular 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 ~~States~~ ***State***. **[Am. 29]**

(30) 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 Overseas Countries and Territories (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 on the level of beneficiaries. It is ***necessary***, 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. ~~In particular~~ ***Moreover, the procedures related to recoveries should be established and agreed by the monitoring committee. However***, the managing authority should not be allowed to oblige the lead partner to launch a judicial procedure in a different country. **[Am. 30]**

(30a) It is appropriate to encourage financial discipline. At the same time, arrangements for decommitment of budgetary commitments should take into account the complexity of Interreg programmes and their implementation. **[Am. 31]**

(31) 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 under Regulation (EU, Euratom) [new FR-Omnibus] of the European Parliament and the Council [18]. 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.

(32) Although Interreg programmes with the participation of third countries, partner countries or OCTs should be implemented under shared management, outermost regions' cooperation may 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. **[Am. 32]**

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[18] [Reference]

(33) Based on the experience during the programming period 2014-2020 with large infrastructure projects within cross-border cooperation programmes under the European Neighbourhood Instrument, the procedures should be simplified. However, the Commission should retain certain rights concerning the selection of such projects.

(34) Implementing powers should be conferred on the Commission to adopt and amend the lists of Interreg programmes, the list of the global amount from Union support for each Interreg programme and to adopt decisions approving Interreg programmes and amendments thereof. These implementing powers should be exercised in accordance with 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 ([19]). Although these acts are of a general nature, the advisory procedure should be used given that they only implement the provisions in a technical way.

(35) In order to ensure uniform conditions for the adoption or amendment of Interreg programmes, implementing powers should be conferred on the Commission. However, ***where applicable,*** external cross-border cooperation programmes should respect~~, where applicable,~~ Committee procedures established under Regulations (EU) [IPA III] and [NDICI] with regard to the first approval decision of those programmes. **[Am. 33]**

(36) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission to amend the Annex on the template for Interreg 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.

(36a) The promotion of European Territorial Cooperation (ETC) is a major priority of Union cohesion policy. Support for SMEs for costs incurred in ETC projects is already block-exempted under the Commission Regulation (EU) No 651/2014 ([20]) (General block exemption Regulation (GBER)). Special provisions in relation to regional aid for investments by undertakings of all sizes are also included in the Guidelines on regional State aid for 2014-2020 ([21]) and in the regional aid section of the GBER. In the light of experience gained, aid for European Territorial Cooperation projects should only have limited effects on competition and trade between Member States, and thus the Commission should be able to declare that such aid is compatible with the internal market and that financing provided in support of ETC projects is able to be block-exempted. **[Am. 34]**

(37) 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, 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,

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([19]) 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).

([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).

([21]) Guidelines on regional State aid for 2014-2020 (OJ C 209, 23.07.2013, p. 1).

Tuesday 26 March 2019

HAVE ADOPTED THIS REGULATION:

CHAPTER I

General provisions

SECTION I

SUBJECT MATTER, SCOPE AND INTERREG COMPONENTS

Article 1

Subject matter and scope

1. 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 ~~adjacent~~ third countries, partner countries, other territories or overseas countries and territories ('OCTs')***, or regional integration and cooperation organisations, or group of third countries forming part of a regional organisation,*** respectively. **[Am. 35]**

2. 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 the European territorial cooperation goal ('Interreg programmes') supported by the European Regional Development Fund ('ERDF').

3. 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 period 2021 to 2027 established as a Programme by Council Decision (EU) XXX ('OCTP') to Interreg programmes (the three instruments together: 'the external financing instruments of the Union'), this Regulation defines 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.

4. 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 defines the Interreg-specific objectives as well as the organisation, the criteria for Member States, third countries, partner countries and OCTs and their regions to be eligible, the financial resources, and the criteria for their allocation.

5. Regulation (EU) [new CPR] and Regulation (EU) [new ERDF] shall apply to Interreg programmes, except where specifically provided for otherwise under those Regulations and this Regulation or where provisions of Regulation (EU) [new CPR] can only apply to the Investment for jobs and growth goal.

Article 2

Definitions

1. For the purpose of this Regulation, the definitions in Article [2] of Regulation (EU) [new CPR] shall apply. The following definitions shall also apply:

(1) 'IPA beneficiary' means a country or territory listed in Annex I to Regulation (EU) [IPA III];

(2) 'third country' means a country which is not a Member State of the Union and does not receive support from the Interreg funds;

(3) 'partner country' means an IPA beneficiary or a country or territory covered by the 'Neighbourhood geographic area' listed in Annex I to Regulation (EU) [NDICI] and the Russian Federation, and which receives support from the external financing instruments of the Union;

(4) 'cross-border legal body' means a legal body ***including a euroregion,*** established under the laws 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. **[Am. 36]**

(4a) 'regional integration and cooperation organisation' means a group of Member States or regions in the same geographical area that aim to cooperate closely on issues of common interest. **[Am. 37]**

2. For the purpose of this Regulation, where provisions of Regulation (EU) [new CPR] refer to a 'Member State', this shall be construed as meaning 'the Member State hosting the managing authority' and where provisions refer 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 provisions of Regulation (EU) [new CPR] refer to 'the Funds' as listed in [point (a) of Article 1(1)] of that Regulation or to the 'ERDF', this shall be construed as also covering the respective external financing instrument of the Union.

Article 3

Components of the European territorial cooperation goal (Interreg)

Under the European territorial cooperation goal (Interreg), the ERDF and, where applicable, external financing instruments of the Union shall support the following components:

(1) cross-border cooperation between adjacent regions to promote integrated ***and harmonious*** regional development (component 1): **[Am. 38]**

(a) internal cross-border cooperation between adjacent land ***or maritime*** border regions of two or more Member States or between adjacent land ***or maritime*** border regions of at least one Member State and one or more third countries listed in Article 4(3); or **[Am. 39]**

(b) external cross-border cooperation, between adjacent land ***or maritime*** border regions of at least one Member State and of one or more of the following: **[Am. 40]**

(i) IPA beneficiaries; or

(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 and maritime~~ 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 ~~in Greenland~~ ***OCTs***, with a view to achieving a higher degree of territorial integration ('component 2'~~; where referring only to transnational cooperation: 'component 2A'; where referring only to maritime cooperation: 'component 2B'~~); **[Am. 41]**

(3) 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 ('component 3'); **[Am. 42]**

(4) interregional cooperation to reinforce the effectiveness of cohesion policy ('component 4') by promoting:

(a) exchange of experiences, innovative approaches and capacity building in relation to:

(i) the implementation of Interreg programmes;

(ia) the implementation of common interregional development projects; **[Am. 43]**

(ib) the development of capacities between partners throughout the Union in connection with: **[Am. 44]**

(ii) the implementation of Investment for jobs and growth goal programmes, in particular with regard to interregional and transnational actions with beneficiaries located in at least one other Member State;

(iia) the identification and dissemination of good practices with a view to their transfer principally to operational programmes under the Investment for growth and jobs goal; **[Am. 45]**

(iib) the exchange of experiences concerning the identification, transfer and dissemination of best practice on sustainable urban development, including linkages between urban and rural areas; **[Am. 46]**

(iii) the setting-up, functioning and use of European groupings of territorial cooperation (EGTCs);

(iiia) the setting-up, functioning and use of the European Cross-Border Mechanism as referred to in Regulation (EU) …/… [new European Cross-Border Mechanism]; **[Am. 47]**

(b) analysis of development trends in relation to the aims of territorial cohesion;

~~(5) interregional innovation investments through the commercialisation and scaling up of interregional innovation projects having the potential to encourage the development of European value chains ('component 5').~~ **[Am. 48]**

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 ***or maritime*** borders with third countries or partner countries***, without prejudice to potential adjustments to ensure the coherence and continuity of cooperation programme areas established for the 2014-2020 programming planning period.*** **[Am. 49]**

~~2. Regions on maritime borders which are connected over the sea by a fixed link shall also be supported under cross-border cooperation.~~ **[Am. 50]**

3. 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 Liechtenstein, Andorra, ~~and~~ Monaco ***and San Marino***. **[Am. 51]**

4. 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 NUTS classification, equivalent areas along all land ***or maritime*** borders between Member States and partner countries eligible under IPA III or NDICI. **[Am. 52]**

Article 5

Geographical coverage for transnational cooperation ~~and maritime cooperation~~ **[Am. 53]**

1. For transnational ~~cooperation and maritime~~ cooperation, the regions to be supported by the ERDF shall be the NUTS level 2 regions of the Union covering contiguous functional areas, ***without prejudice to potential adjustments to ensure the coherence and continuity of such cooperation in larger coherent areas based on the 2014-2020 programming planning period and*** taking into account, where applicable, macro-regional strategies or sea basin strategies. **[Am. 54]**

2. Transnational ~~cooperation and maritime~~ cooperation Interreg programmes may cover: **[Am. 55]**

(a) regions in Iceland, Norway, Switzerland, the United Kingdom as well as Liechtenstein, Andorra, Monaco and San Marino;

(b) ~~Greenland~~ ***OCTs benefit from the support provided by the OCT programme***; **[Am. 56]**

(c) the Faroe Islands;

(d) regions of partner countries under IPA III or NDICI;

whether or not they are supported from the EU budget.

3. The regions, third countries ~~or~~ partner countries***, or OCTs*** listed in paragraph 2 shall be NUTS level 2 regions or, in the absence of NUTS classification, equivalent areas. **[Am. 57]**

Article 6

Geographical coverage for outermost regions' cooperation

1. For the outermost regions' cooperation, all regions listed in the first paragraph of Article 349 of the TFEU shall be supported by the ERDF.

2. The outermost regions' Interreg programmes may cover ~~neighbouring~~ partner countries supported by the NDICI ~~or~~ OCTs supported by the OCTP, ***regional cooperation organisations,*** or ***a combination of two or all three of these*** ~~both~~. **[Am. 58]**

Article 7

Geographical coverage for interregional cooperation ~~and interregional innovation investments~~ **[Am. 59]**

1. For any component 4 Interreg programme ~~or for interregional innovation investments under component 5,~~ the entire territory of the Union shall be supported by the ERDF ***including the outermost regions***. **[Am. 60]**

2. Component 4 Interreg programmes may cover the whole or part of the third countries, partner countries, other territories or OCTs referred to in Articles 4, 5 and 6, whether or not they are supported by the external financing instruments of the Union. ***Third countries may participate in those programmes, provided that they make a funding contribution in the form of externally allocated revenue.*** **[Am. 61]**

Article 8

List of Interreg programme areas to receive support

1. For the purposes of Articles 4, 5 and 6, the Commission shall adopt an implementing act setting out the list of Interreg programme areas to receive support, broken down for each component and each Interreg programme. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 63(2).

External cross-border Interreg programmes shall be listed as 'Interreg IPA III CBC programmes' or 'Interreg Neighbourhood CBC programmes' respectively.

2. The implementing act referred to in 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 ~~as well as a list specifying those NUTS level 3 regions taken into account for allocation purposes under component 2B referred to in point (a) of Article 9(3)~~. **[Am. 62]**

3. Regions of third or partner countries or territories outside the Union which do not receive ~~supported~~ ***support*** from the ERDF or an external financing instrument of the Union shall also be mentioned in the list referred to in paragraph 1. **[Am. 63]**

SECTION III

RESOURCES AND CO-FINANCING RATES

Article 9

ERDF resources for the European territorial cooperation goal (Interreg)

1. ~~The ERDF~~ resources for the European territorial cooperation goal (Interreg) shall amount to EUR ~~8 430 000 000 of~~ ***11 165 910 000 (2018 prices) of out*** the global resources available for budgetary commitment from the ERDF, ESF+ and the Cohesion Fund for ~~the 2021~~ ***the 2021***-2027 programming period and set out in Article [~~102(1)~~***103(1)***] of Regulation (EU) [new CPR]. **[Am. 64]**

2. ***EUR 10 195 910 000 (91,31 %) of*** the resources referred to in paragraph 1 shall be allocated as follows: **[Am. 65]**

(a) ~~52,7 % (i.e., a total of EUR 4 440 000 000~~ ***EUR 7 500 000 000 (67,16 %***) for cross-border cooperation (component 1); **[Am. 66]**

(b) ~~31,4 % (i.e., a total of EUR 2 649 900 000~~ ***EUR 1 973 600 880 (17,68 %***) for transnational cooperation ~~and maritime cooperation~~ (component 2); **[Am. 67]**

(c) ~~3,2 % (i.e., a total of EUR 270 100 000~~ ***EUR 357 309 120 (3,2 %***) for outermost regions' cooperation (component 3); **[Am. 68]**

(d) ~~1,2 % (i.e., a total of EUR 100 000 000~~ ***EUyR 365 000 000 (3,27 %***) for interregional cooperation (component 4); **[Am. 69]**

~~(e) 11,5 % (i.e., a total of EUR 970 000 000) for interregional innovation investments (component 5).~~ **[Am. 70]**

3. The Commission shall communicate to each Member State its share of the global amounts for components 1, 2 and 3, broken down by year.

Population size in the following regions shall be used as the criterion for the breakdown by Member State:

(a) NUTS level 3 regions for component 1 ~~and those NUTS level 3 regions for component 2B~~ listed in the implementing act under Article 8(2); **[Am. 71]**

(b) NUTS level 2 regions ~~for components 2A and 3~~ ***component 2***. **[Am. 72]**

(ba) NUTS level 2 and 3 regions for component 3. **[Am. 73]**

4. Each Member State may transfer up to 15 % of its financial allocation for each of components 1, 2 and 3 from one of those components 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.

5a. EUR 970 000 000 (8,69 %) of the resources referred to in paragraph 1 shall be allocated to the new initiative on interregional innovation investments as referred to in Article 15 a (new).

If by 31 December 2026, the Commission has not committed all of the available resources referred to in paragraph 1 on projects selected under that initiative, the remaining uncommitted balances shall be re-allocated prorata among components 1 to 4. **[Am. 74]**

Article 10

Cross-fund provisions

1. The Commission shall adopt an implementing act setting out the multi-annual strategy document with regard to external cross-border Interreg programmes supported by the ERDF and the NDICI or IPA III. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 63(2).

With regard to Interreg programmes supported by the ERDF and the NDICI, that implementing act shall set out the elements referred to in Article 12(2) of Regulation (EU) [NDICI].

2. The contribution from the ERDF to external cross-border Interreg programmes to be also supported from the financial envelope under IPA III allocated to cross-border cooperation ('IPA III CBC') or from the financial envelope under NDICI allocated to cross-border cooperation for the Neighbourhood geographic area ('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.

3. Support from the ERDF shall be granted to individual external cross-border Interreg programmes provided that ***at least*** equivalent amounts are provided by IPA III CBC and NDICI CBC under the relevant strategic programming document. That ~~equivalence~~ ***contribution*** shall be subject to a maximum amount set out in the IPA III or NDICI legislative act. **[Am. 75]**

However, where the review of the relevant strategic programming document 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 under 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 options (a) and (b).

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) [NDICI] and OCTs under Council Decision [OCT Decision] or both in strengthening their cooperation with neighbouring Union outermost regions in accordance with Article [33(2)] of Regulation (EU) [NDICI] or Article[87] of the [OCTP Decision] 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) [NDICI], by a country, territory or any other entity under the [OCT Decision] or by a Union outermost region under, in particular, one or more joint component 2, 3 or 4 Interreg programmes or under cooperation measures referred to in Article 60 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 an implementing act setting out a list of all Interreg programmes and indicating per programme the global amount of the total support from the ERDF and, where applicable, the total support from external financing instruments of the Union. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 63(2).

2. That implementing act shall also contain a list of the amounts transferred pursuant to Article 9(5) broken down by Member State and by external financing instrument of the Union.

Article 12

Return of resources and discontinuation

1. In 2022 and 2023, the annual contribution from the ERDF to external cross-border Interreg programmes, for which no programme has been submitted to the Commission by 31 March of the respective years, and which 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 or Member States concerned participates or participate.

2. If by 31 March 2024, there are still external cross-border Interreg programmes which have not been submitted to the Commission, the entire 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 external cross-border 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 or Member States concerned participates or participate.

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 respective Interreg programme has signed the relevant financing agreement by the deadlines set out in accordance with Article 57;

(b) ***In duly justified cases, where*** the Interreg programme cannot be implemented as planned due to problems in relations between the participating countries. **[Am. 76]**

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 de-committed totally or partially during the same budgetary year, which have not been re-allocated to another external cross-border 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 or Member States concerned participates or participate.

4. With regard to a component 2 Interreg programme already approved by the Commission, the participation of a partner country or of ~~Greenland~~ ***an OCT*** shall be discontinued, if one of the situations set out in points (a) and (b) of the first subparagraph of paragraph 3 is fulfilled. **[Am. 77]**

The participating Member States and, where applicable, the remaining participating partner countries, shall request one of the following:

(a) that the Interreg programme be discontinued in total, in particular where the main joint development challenges thereof cannot be achieved without the participation of that partner country or ~~of Greenland~~ ***OCT***; **[Am. 78]**

(b) that the allocation to that Interreg programme be reduced, in accordance with the applicable rules and procedures;

(c) that the Interreg programme continue without the participation of that partner country or of ~~Greenland~~***an OCT***. **[Am. 79]**

Where the allocation to the Interreg programme is reduced pursuant to point (b) of the second subparagraph of this paragraph, the contribution from the ERDF corresponding to annual instalments not yet committed, shall be allocated to another component 2 Interreg programme in which one or more of the Member States concerned participate or, where a Member State only participates in one component 2 Interreg 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 Regulations (EU) [IPA III], [NDICI] or Council Decision [OCT] respectively.

6. Where a third country, ~~or~~ partner country ***or OCTs*** contributing to an Interreg programme with national resources, which do not constitute the national cofinancing 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***. **[Am. 80]**

Article 13

Co-financing rates

The co-financing rate at the level of each Interreg programme shall be not higher than ~~70~~ ***80*** %, unless, with regard to external cross-border or component 3 Interreg programmes, a higher percentage is fixed in Regulations (EU) [IPA III], [NDICI] or Council Decision (EU) [OCTP] respectively or in any act adopted thereunder. **[Am. 81]**

CHAPTER II

Interreg-specific objectives and thematic concentration

Article 14

Interreg-specific objectives

1. The ERDF, within its scope as set out in Article [4] of Regulation (EU) [new ERDF], and, where applicable, the external financing instruments of the Union shall contribute to the policy objectives set out in Article [4(1)] of Regulation (EU) [new CPR] through joint actions under Interreg programmes.

2. In the case of the PEACE PLUS 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 [2] of Regulation (EU) [new ERDF], the ERDF and, where applicable, the external financing instruments of the Union ~~may~~ ***shall*** also contribute to the specific objectives under PO 4 as follows: **[Am. 82]**

(a) enhancing the effectiveness of labour markets and improving access to quality employment across borders;

(b) improving access to and the quality of education, training and lifelong learning across borders with a view to increasing the educational attainment and skills levels thereof as to be recognised across borders;

(c) enhancing the equal and timely access to quality, sustainable and affordable healthcare services across borders;

(d) improving accessibility, effectiveness and resilience of healthcare systems and long-term care services across borders;

(e) promoting social inclusion and tackling poverty, including by enhancing equal opportunities and combating discrimination across borders.

4. Under components 1, 2, and 3, the ERDF and, where applicable, the external financing instruments of the Union may also support the Interreg-specific objective 'a better Interreg governance', in particular by the following actions:

(a) under component 1 and ~~2~~ ***2*** Interreg programmes: **[Am. 83]**

(i) enhance the institutional capacity of public authorities, in particular those mandated to manage a specific territory, and of stakeholders;

(ii) enhance efficient public administration by promoting legal and administrative cooperation and cooperation between citizens***, including people-to-people projects, civil society actors*** and institutions, in particular, with a view to resolving legal and other obstacles in border regions; **[Am. 84]**

(b) under component 1, 2 and 3 Interreg programmes: enhance institutional capacity of public authorities and stakeholders to implement macro-regional strategies and sea-basin strategies;

(c) under external cross-border and component 2 and 3 Interreg programmes supported by the Interreg funds, in addition to points (a) and (b): building up mutual trust, in particular by encouraging people-to-people actions, by enhancing sustainable democracy and by supporting civil society actors and their role in reforming processes and democratic transitions;

5. Under ~~external cross-border and~~ component ***1,*** 2 and 3 Interreg programmes the ERDF and, where applicable, the external financing instruments of the Union ~~shall~~ ***may*** also contribute to the ~~external~~ Interreg-specific objective '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***, economic and social integration*** of migrants ***and refugees under international protection***. **[Am. 85]**

Article 15

Thematic concentration

1. At least 60 % of the ERDF and, where applicable, of the external financing instruments of the Union allocated under priorities other than for technical assistance to each Interreg programme under components 1, 2 and 3, shall be allocated on a maximum of three of the policy objectives set out in Article [4(1)] of Regulation (EU) [new CPR].

2. ~~An additional 15 %~~ of the ERDF and, where applicable, of the external financing instruments of the Union allocations under priorities other than for technical assistance to each Interreg programme under components 1, 2 and 3, ***up to15 %*** shall be allocated on the Interreg-specific objective of 'a better Interreg governance' ~~or~~ ***and up to 10 % may be allocated*** on the ~~external~~ Interreg-specific objective of 'a safer and more secure Europe'. **[Am. 86]**

3. Where a component ~~2A~~ ***1 or 2*** Interreg programme supports a macro-regional strategy, ***or a sea-basin strategy, at least 80 %*** the ~~total~~ ERDF and, where applicable, ***part of*** the ~~total~~ external financing instruments of the Union allocations under priorities other than for technical assistance shall ~~be programmed on~~ ***contribute to*** the objectives of that strategy. **[Am. 87]**

~~4. Where a component 2B Interreg programme supports a macro-regional strategy or sea-basin strategy, at least 70 % of the total ERDF and, where applicable, of the external financing instruments of the Union allocations under priorities other than for technical assistance shall be allocated on the objectives of that strategy.~~ **[Am. 88]**

5. For component 4 Interreg programmes, the total ERDF and, where applicable, of the external financing instruments of the Union allocations under priorities other than for technical assistance shall be allocated on the Interreg-specific objective 'a better Interreg governance'.

Article 15 a

Interregional innovation investments

1. The resources referred to in Article 9 (5 a) (new) shall be allocated to a new initiative on interregional innovation investments that is earmarked for:

(a) the commercialisation and scaling up of common innovation projects that are likely to encourage the development of European value chains;

(b) the bringing together of researchers, businesses, civil society organisations, and public administrations involved in smart specialisation and social innovation strategies at national or regional level;

(c) pilot projects aimed at identifying or testing new development solutions at regional and local level which are based on smart specialisation strategies; or

(d) sharing innovation experiences with the aim of benefiting from the experience gained in regional or local development.

2. To maintain the European territorial cohesion principle, with an approximate equal share of financial resources, those investments shall focus on creating linkages between less developed regions with those in lead regions by increasing the capacity of regional innovation eco-systems in less developed regions to integrate in and move up the existing or emerging EU value as well as the capacity to participate in partnerships with other regions.

3. The Commission shall implement those investments under direct or indirect management. It shall be supported by an expert group in defining a long-term work programme and related calls.

4. The entire territory of the Union shall be supported by the ERDF for interregional innovation investments. Third countries may participate in those investments, provided that they make a funding contribution in the form of externally allocated revenue. **[Am. 89]**

Tuesday 26 March 2019

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 component 3, which may be implemented as a whole or partially under indirect management~~, and of component 5 which shall be implemented under direct or indirect management~~ ***after consulting stakeholders***. **[Am. 90]**

2. The participating Member States and, where applicable, third countries, partner countries, ~~or~~ 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. **[Am. 91]**

3. The participating Member States shall prepare an Interreg programme in cooperation with the programme partners referred to in Article [6] of Regulation (EU) [the new CPR]. ***In the preparation of the Interreg programmes, covering macro-regional or sea basin strategies, the Member States and the programme partners should take into account the thematic priorities of the relevant macro-regional and sea basins strategies and consult the relevant actors. An ex ante mechanism shall be set up by the Member States and the programme partners to ensure that all actors at macro-region and sea basin level, ETC programme authorities, regions and countries are brought together at the start of the programming period to decide jointly on the priorities for each programme. Those priorities shall be aligned with macro-regional or sea basin strategies' Action Plans wherever relevant.*** **[Am. 92]**

The participating third countries or partner countries or OCTs, where applicable, shall also involve the programme partners equivalent to those referred to in that Article.

4. The Member State hosting the prospective managing authority, shall submit ~~an~~ ***one or more*** Interreg ~~programme~~ ***programmes*** to the Commission by [*date of entry into force plus ~~nine months~~* ***twelve months***;] on behalf of all participating Member States and, where applicable, third countries, partner countries ~~or OCTs~~***, OCTs, or regional integration and cooperation organisations***. **[Am. 93]**

However, an Interreg programme covering support from an external financing instrument of the Union shall be submitted by the Member State hosting the prospective managing authority no later than ~~six~~ ***twelve*** months after the adoption by the Commission of the relevant strategic programming document under Article 10(1) or where required under the respective basic act of one or more of an external financing instrument of the Union. **[Am. 94]**

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 contribution of the third countries, partner countries or OCTs may, instead, be expressed in the formally approved minutes of the consultation meetings with the third countries, partner countries or OCTs or of the deliberations of the regional 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 [4(1)] of Regulation (EU) [new CPR] and 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 or to technical assistance. A priority corresponding to a policy objective or, where applicable, to one or both Interreg-specific objectives respectively shall consist of one or more specific objectives. More than one priority may correspond to the same policy or Interreg-specific objective.

3. ~~In duly justified cases and in agreement with the Commission,~~ in order to increase the efficiency of programme implementation and to achieve larger-scale operations, the Member State concerned may decide to transfer to Interreg programmes up to ~~[x]~~ ***20*** % of the amount of the ERDF allocated to the corresponding programme under the Investment for jobs and growth goal for the same region. ***Each Member State shall inform the Commission in advance that it intends to make use of the transfer option, and shall give the Commission reasons for its decision.*** The amount transferred shall constitute a separate priority or separate priorities. **[Am. 95]**

4. Each Interreg programme shall set out:

(a) the programme area (including a map thereof as a separate document);

(b) a summary of the main joint challenges, ***particularly*** taking into account: **[Am. 96]**

(i) economic, social and territorial disparities;

(ii) joint investment needs and complementarity with other forms of support ***and potential synergies to be achieved***; **[Am. 97]**

(iii) lessons learnt from past experience ***and how they have been taken into account into the programme***; **[Am. 98]**

(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 and the forms of support,~~ ***and*** addressing, where appropriate, missing links in cross-border infrastructure; **[Am. 99]**

(d) for each priority, except for technical assistance, specific objectives;

(e) for each specific objective:

(i) the related types of actions, including a list of planned operations of strategic importance, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basin strategies, where appropriate***, respectively the set of criteria and the corresponding transparent selection criteria for such operation***; **[Am. 100]**

(ii) output indicators and result indicators with the corresponding milestones and targets;

~~(iii) the main target groups;~~ **[Am. 101]**

(iv) specific territories targeted, including the planned use of integrated territorial investments, community-led local development or other territorial tools;

~~(v) the planned use of financial instruments;~~ **[Am. 102]**

(vi) an indicative breakdown of the programmed resources by type of intervention.

(f) for the technical assistance priority, the planned use in accordance with Articles [30], [31] and [32] of Regulation (EU) [new CPR] and relevant types of intervention;

(g) 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 the total financial allocation for the ERDF and, where relevant, for each external financing instrument of the Union for the whole programming period and by year;

(ii) a table specifying the total financial allocation for each priority 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;

(h) the actions taken to involve the relevant programme partners referred to in Article [6] of Regulation (EU) [new CPR] in the preparation of the Interreg programme, and the role of those programme partners in the implementation, monitoring and evaluation of that programme;

(i) the envisaged approach to communication and visibility for the Interreg programme through defining its objectives, target audiences, communication channels, social media outreach, planned budget and relevant indicators for monitoring and evaluation.

5. The information referred to in paragraph 4 shall be given as follows:

(a) with regard to the tables referred to in point (g) and as concerns the support from external financing instruments of the Union, those funds shall be set out as follows:

(i) for external cross-border Interreg programmes supported by IPA III and NDICI as a single amount ('IPA III CBC' or 'Neighbourhood CBC' combining the contribution from [Heading 2 Cohesion and Values, sub-ceiling Economic, social and territorial cohesion] and [Heading 6 Neighbourhood and the World];

(ii) for component 2 and 4 Interreg 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;

(iii) for component 2 Interreg programmes supported by OCTP concerning split per financing instrument ('ERDF' and 'OCTP ~~Greenland~~'); **[Am. 103]**

(iv) for component 3 Interreg programmes supported by the NDICI and by the OCTP split per financing instrument ('ERDF', 'NDICI' and 'OCTP', as appropriate).

~~(b) with regard to the table referred to in point (g)(ii) of paragraph 4, it shall include the amounts for the years 2021 to 2025 only.~~ **[Am. 104]**

6. With regard to point (e)(vi) and (f) of paragraph 4, the types of intervention shall be based on a nomenclature set out in Annex [I] to Regulation (EU) [new CPR].

7. The Interreg programme shall:

(a) identify the managing authority, the audit authority and the body to which payments are to be made by the Commission;

(b) lay down the procedure for setting up the joint secretariat ***and, where applicable, supporting management structures in the Member States or third countries***; **[Am. 105]**

(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.

8. The managing authority shall communicate to the Commission any changes in the information referred to in point (a) of paragraph 7 without requiring a programme amendment.

9. By way of derogation from paragraph 4, the content of component 4 Interreg programmes shall be adapted to the specific character of those Interreg programmes, in particular as follows:

(a) the information referred to in point (a) is not required;

(b) the information required under points (b) and (h) shall be given as a short outline;

(c) for each specific objective under any priority other than technical assistance, the following information shall be given:

(i) 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;

(v) an indicative breakdown of the programmed resources by type of intervention.

Article 18

Approval of Interreg programmes

1. The Commission shall assess ***with full transparency*** each Interreg programme and its compliance with Regulation (EU) [new CPR], Regulation (EU) [new ERDF] 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 document under Article 10(1) ***of this Regulation*** or the relevant strategic programming framework under the respective basic act of one or more of those instruments. **[Am. 106]**

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~~ ***, OCTs, or regional integration and cooperation organisations*** shall review the Interreg programme taking into account the observations made by the Commission. **[Am. 107]**

4. The Commission shall adopt a decision by means of an implementing act approving each Interreg programme no later than ~~six~~ ***three*** months after the date of submission ***of the revised version*** of that programme by the Member State hosting the prospective managing authority. **[Am. 108]**

5. With regard to external cross-border Interreg programmes, the Commission shall adopt its decisions in accordance with paragraph 4 after consultation of the 'IPA III Committee' in accordance with Article [16] of Regulation (EU) [IPA III] and of the 'Neighbourhood, Development and International Cooperation Committee' in accordance with Article [36] of Regulation (EU) [NDICI].

Article 19

Amendment of Interreg programmes

1. ***Following consultation with the local and regional authorities and in compliance with Article 6 of Regulation (EU)…/… [new CPR],*** the Member State hosting the managing authority may submit a motivated 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. **[Am. 109]**

2. The Commission shall assess the compliance of the amendment with Regulation (EU) [new CPR], Regulation (EU) [new ERDF] and this Regulation and may make observations within ~~three months~~ ***one month*** of the submission of the amended programme. **[Am. 110]**

3. The participating Member States and, where applicable, third countries, partner countries ~~or OCTs~~***, OCTs, or regional integration and cooperation organisations*** shall review the amended programme and take into account the observations made by the Commission. **[Am. 111]**

4. The Commission shall approve the amendment of a Interreg programme no later than ~~six~~ ***three*** months after its submission by the Member State. **[Am. 112]**

5. ***Following consultation with the local and regional authorities and in compliance with Article 6 of Regulation (EU)…/… [new CPR],*** the Member State may transfer during the programming period an amount of up to ~~5 %~~ ***10 %*** of the initial allocation of ~~a priority~~ ***a priority*** and no more than ~~3 %~~ ***5 %*** of the programme budget to another priority of the same Interreg programme. **[Am. 113]**

Such transfers shall not affect previous years.

They shall be considered to be not 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 (g)(ii) of Article 17(4).

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 urban, local or other territorial authorities or bodies responsible for drawing up territorial or local development strategies as listed in Article [22] of Regulation (EU) [new CPR] or responsible for the selection of operations to be supported under those strategies as referred to in Article [23(4)] of that Regulation or for both shall be either cross-border legal bodies or EGTCs.

A cross-border legal body or an EGTC implementing an integrated territorial investment under Article [24] of Regulation (EU) [new CPR] or another territorial tool under point (c) of Article [22] of that Regulation may also be the sole beneficiary pursuant to Article 23(5) of this Regulation, provided that there is a separation of function inside the cross-border legal body or the EGTC.

Article 21

Community-led local development

Community-led local development ('CLLD') under point (b) of Article [22] of Regulation (EU) [new CPR] 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 27.

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 6 of Regulation (EU)…/… [new CPR] and shall involve partners from all participating Member States.*** **[Am. 114]**

Where 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.

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 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) of the TFEU.

The criteria and procedures shall ensure the prioritisation of operations to be selected with a view to maximise 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).

3. The managing authority shall ~~consult~~ ***notify*** the Commission ~~and take its comments into account~~ prior to the initial submission of the selection criteria to the monitoring committee or, where applicable, the steering committee. The same shall apply for any subsequent changes to those criteria. **[Am. 115]**

4. ~~In selecting operations,~~ ***Before*** the monitoring committee or, where applicable, the steering committee ***selects operations, the managing authority*** shall: **[Am. 116]**

(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 under 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;

(e) ensure that selected operations which fall under the scope of Directive 2011/92/EU of the European Parliament and of the Council ([22]) are subject to an environmental impact assessment or a screening procedure, on the basis of the requirements of that Directive as amended by Directive 2014/52/EU of the European Parliament and of the Council ([23]).

([22]) 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).

([23]) Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU (OJ L 124, 25.4.2014, p. 1).

(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;

(h) ensure that operations do not include activities which were part of an operation subject to relocation in accordance with Article [60] of Regulation (EU) [new CPR] or which would constitute a transfer of a productive activity in accordance with [point (a) of Article 59(1)] of that Regulation.

(i) ensure that selected operations are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the 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 with an expected lifespan of at least five years.

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 27(3)] of Regulation (EU) [new CPR] 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, 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 grant.

That document shall also set out the lead partner's obligations with regard to recoveries pursuant to Article 50. ~~Those obligations~~ ***Procedures related to recoveries*** shall be defined ***and agreed*** by the monitoring committee. However, a lead partner located in a different Member State, third country, partner country or OCT from the partner shall not be obliged to recover through a judicial procedure. **[Am. 117]**

Article 23

Partnership within Interreg operations

1. Operations selected under components 1, 2 and 3 shall involve actors from at least two participating countries ***or OCTs***, at least one of which shall be a beneficiary from a Member State. **[Am. 118]**

Beneficiaries receiving support from an Interreg fund and partners which do not receive any financial support under those funds (beneficiaries and partners together: '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. **[Am. 119]**

3. Paragraph 1 shall not apply to operations under the PEACE PLUS programme in where the programme is acting in support of peace and reconciliation.

4. Partners shall cooperate in the development, ***and*** implementation~~, staffing and financing~~ of Interreg operations***, as well as in the staffing and/or financing thereof. An effort shall be made to limit the number of partners for each Interreg operation to no more than ten.*** **[Am. 120]**

For Interreg operations under component 3 Interreg programmes, the partners from outermost regions and third countries, partner countries or OCTs shall be required to cooperate only in ~~three~~ ***two*** of the four dimensions listed in the first subparagraph. **[Am. 121]**

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 component 1, 2 and 3 Interreg programmes, provided that the members thereof involve partners from at least two participating countries ***or OCTs***. **[Am. 122]**

The cross-border legal body or EGTC shall have members from at least three participating countries under component 4 Interreg programmes.

A legal body that implements a financial instrument or a fund of funds, as applicable, may be the sole partner of an Interreg operation without the application of the requirements for its composition set out in paragraph 1.

7. A sole partner shall be registered in a Member State participating in the Interreg programme.

~~However, a sole partner may be registered in a Member State not participating in that programme, provided the conditions set out in Article 23 are satisfied.~~ **[Am. 123]**

Article 24

Small project funds

1. The ***total*** contribution from the ERDF or, where applicable, an external financing instrument of the Union, to ~~a~~ ***one or more*** small project ~~fund~~ ***funds*** within an Interreg programme shall not exceed ~~EUR 20 000 000 or 15 %~~ ***20 %*** of the total allocation of the Interreg programme~~, whichever is lower~~ ***and shall, in the case of an Interreg programme for cross-border cooperation, be at least 3 % of the total allocation***. **[Am. 124]**

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 beneficiary of a small project fund shall be a ~~cross-border~~ legal ~~body or an EGTC~~ ***public or private law body, an entity with or without*** legal ***personality or a natural person, that is responsible for initiating or both initiating and implementing operations***. **[Am. 125]**

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 [XI] of Regulation (EU) [new CPR];

(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 35.

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 [65(3)] of Regulation (EU) [new CPR].

5. Staff and ***other direct costs corresponding to the cost categories in Articles 39 to 42, as well as*** indirect costs 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 respective small project fund ***or funds***. **[Am. 126]**

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 include flat rates~~, except for projects for which the support constitutes State aid~~. **[Am. 127]**

Where the total costs of each operation 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 body selecting the operation. **[Am. 128]**

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 48(1)] of Regulation (EU) [new CPR].

Article 25

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 fund allocated to the Interreg operation, including the arrangements for recovering amounts unduly paid;

(b) assume responsibility for ensuring implementation of the entire Interreg operation;

(c) ensure that expenditure presented by all partners has been incurred 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 ~~as quickly as possible and~~ in full ***and within 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. **[Am. 129]**

3. Any beneficiary in a Member State~~, third country, partner country or OCT~~ participating in an Interreg programme may be designated as the lead partner. **[Am. 130]**

~~However, Member States, third countries, partner countries or OCTs participating in an Interreg programme may agree that a partner not receiving support from the ERDF or an external financing instrument of the Union may be designated as the lead partner.~~ **[Am. 131]**

SECTION IV

TECHNICAL ASSISTANCE

Article 26

Technical assistance

1. Technical assistance to each Interreg programme shall be reimbursed as a flat rate by applying the percentages set out in paragraph 2 ***for 2021 and 2022 to the yearly instalments of the pre-financing pursuant to points (a) and (b) of Article 49(2) of this Regulation and then*** to the eligible expenditure included in each payment application pursuant to [points (a) or (c) of Article 85(3)] of Regulation (EU) [new CPR] as appropriate ***for subsequent years***. **[Am. 132]**

2. The percentage of the ERDF and the external financing instruments of the Union to be reimbursed for technical assistance shall be as follows:

(a) for internal cross-border cooperation Interreg programmes supported by the ERDF: ~~6 %~~ **7 %**; **[Am. 133]**

(b) for external cross-border Interreg programmes supported by IPA III CBC or NDICI CBC: 10 %;

(c) for component 2, 3 and 4 Interreg programmes, both for the ERDF and, where applicable, for the external financing instruments of the Union: ~~7 %~~ **8 %**. **[Am. 134]**

3. For Interreg programmes with a total 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.

4. For Interreg programmes with a total 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.

CHAPTER IV

Monitoring, evaluation and communication

SECTION I

MONITORING

Article 27

Monitoring committee

1. The Member States and, where applicable, the third countries, partner countries ~~and OCTs~~***, OCTs or regional integration cooperation organisations*** 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 adopting an Interreg programme, **[Am. 135]**

~~2. The monitoring committee shall be chaired by a representative of the Member State hosting the managing authority or of the managing authority.~~

~~Where the rules of procedure of the monitoring committee establish a rotating chair, the monitoring committee may be chaired by a representative of a third country, partner country or OCT, and co-chaired by a representative of the Member State or of the managing authority, and *vice versa*.~~ **[Am. 136]**

3. Each member of the monitoring committee shall have the right to vote.

4. Each monitoring committee shall adopt its rules of procedure during its first meeting.

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.

5. 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.

6. The managing authority shall publish the rules of procedures of the monitoring committee ~~and all the~~***, the summary of*** data and information ***as well as all the decisions*** shared with the monitoring committee on the website referred to in Article 35(2). **[Am. 137]**

Article 28

Composition of the monitoring committee

1. The composition of the monitoring committee of each Interreg programme ~~shall~~ ***may*** be agreed by the Member States and, where applicable, by the third countries, partner countries and OCTs participating in that programme and shall ~~ensure~~ ***aim for*** a balanced representation of the relevant authorities, intermediate bodies and representatives of the programme partners referred to in Article [6] of Regulation (EU) [new CPR] from Member States, third countries, partner countries and OCTs. **[Am. 138]**

~~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.~~ **[Am. 139]**

The monitoring committee shall also include representatives of ***regions and local governments as well as other*** bodies jointly set up in the whole programme area or covering a part thereof, including EGTCs. **[Am. 140]**

2. The managing authority shall publish a list of ~~the~~ ***authorities or bodies appointed as*** members of the monitoring committee on the website referred to in Article 35(2). **[Am. 141]**

3. Representatives of the Commission ~~shall~~ ***may*** participate in the work of the monitoring committee in an advisory capacity. **[Am. 142]**

3a. Representatives of bodies established throughout the area of the programme or which cover a part of it, including EGTCs, may participate in the work of the monitoring committee in an advisory capacity. **[Am. 143]**

Article 29

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 those issues;

(c) with regard to financial instruments, the elements of the *ex ante* assessment listed in Article [52(3)] of Regulation (EU) [new CPR] and the strategy document referred to in Article [53(2)] 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;

(g) the progress in administrative capacity building for public institutions and beneficiaries, where relevant ***and propose any further support measures if necessary***. **[Am. 144]**

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 ~~consultation with~~ ***notifying*** the Commission pursuant to Article 22(2), without prejudice to [points (b), (c) and (d) of Article 27(3)] of Regulation (EU) [new CPR]; **[Am. 145]**

(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);

(d) the final performance report.

Article 30

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~~ ***three months***, provide the Commission with the information on the elements listed in Article 29(1): **[Am. 146]**

(a) progress in programme implementation and in achieving the milestones and targets, any issues affecting the performance of the respective Interreg programme and the actions taken to address them;

(b) progress made in carrying out evaluations, syntheses of evaluations and any follow-up given to findings

(c) the progress in the administrative capacity building of public authorities and beneficiaries.

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 measures taken.

Article 31

Transmission of data

1. Each managing authority shall electronically transmit to the Commission ~~cumulative~~ data for the respective Interreg programme ***pursuant to point (a) of Article 31(2) of this Regulation*** by 31 January, 31 ~~March, 31 May, 31 July,~~ ***May and*** 30 September ~~and 30 November~~ of each ***year as well as data pursuant to point (b) of Article 31(2) of this Regulation once a*** year in accordance with the template in Annex [VII] to Regulation (EU) [new CPR]. **[Am. 147]**

The transmission of data shall be carried out using existing data-reporting systems insofar as those systems have proven to be reliable during the previous programming period. **[Am. 148]**

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 partners to the managing authority, all broken down by types of intervention;

(b) the values of output and result indicators for selected Interreg operations and values achieved by ***finalised*** Interreg operations. **[Am. 149]**

Tuesday 26 March 2019

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 54 of Regulation (EU) [new CPR] and resources returned attributable to support from the Interreg funds as referred to in Article 56 of that Regulation.

4. The data submitted in accordance with this Article shall be up-to-date as of the end of the month preceding the month of submission.

5. The managing authority shall publish all the data transmitted to the Commission on the website referred to in Article 35(2).

Article 32

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 [38(5)] of Regulation (EU) [new CPR].

2. The final performance report shall assess the achievement of programme objectives based on the elements listed in Article 29 with the exception of point (c) of paragraph 1 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 thatreport. Where such observations are made, the managing authority shall provide all necessary information with regard to those observations and, where appropriate, inform the Commission, within three months, of measures taken. The Commission shall inform the Member State of the acceptance of the report.

4. The managing authority shall publish the final performance report on the website referred to in Article 35(2).

Article 33

Indicators for the European territorial cooperation goal (Interreg)

1. Common output and common result indicators, as set out in Annex [I] to Regulation (EU) [new ERDF], ~~and, where necessary, programme-specific output and result indicators~~ ***which are found to be most suited to measure progress towards the goals of the European territorial cooperation goal (Interreg) programme,*** shall be used in accordance with Article [12(1)] of Regulation (EU) [new CPR], and point ~~(d)~~***(e)***(ii) of Article ~~17(3)~~ ***17(4)*** and point (b) of Article 31(2) of this Regulation. **[Am. 150]**

1a. Where necessary and in cases duly justified by the managing authority, programme-specific output and result indicators shall be used in addition to the indicators which were selected in accordance with the paragraph 1. **[Am. 151]**

2. 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 34

Evaluation during the programming period

1. The managing authority shall carry out evaluations of each Interreg programme***, no more than once a year***. Each evaluation shall assess the programme's effectiveness, efficiency, relevance, coherence and EU added value with the aim to improve the quality of the design and implementation of the respective Interreg programme. **[Am. 152]**

2. In addition, the managing authority shall carry out an evaluation for each Interreg programme to assess its impact by 30 June 2029.

3. The managing authority shall entrust evaluations to functionally independent experts.

4. The managing authority ~~shall~~ ***aims to*** ensure the necessary procedures to produce and collect the data necessary for evaluations. **[Am. 153]**

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 no 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 35(2).

Article 35

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 under its responsibility.

2. The managing authority shall ensure that, within six months of the Interreg programme's approval, 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 [44(2) to ~~(7)~~ ***(6)***] of Regulation (EU) [new CPR] on the responsibilities of the managing authority shall apply. **[Am. 154]**

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 [56] of Regulation (EU) [new CPR], to the Interreg operation by:

(a) providing on the partner's professional website, where such a website exists, 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 Union;

(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, used for the public or for participants;

(c) publicly displaying public plaques or billboards as soon as the physical implementation of an Interreg operation involving physical investment or the purchase of equipment starts, the total cost of which exceeds EUR ~~100 000~~ ***50 000***; **[Am. 155]**

(d) for Interreg operations not falling under point (c), publicly displaying at least one printed ~~or~~ ***and, where applicable,*** electronic display of a minimum size ~~A3~~ **A2** with information about the Interreg operation highlighting the support from an Interreg fund; **[Am. 156]**

(e) for operations of strategic importance and operations whose total cost exceed EUR ~~10 000 000~~ ***5 000 000*** organising a communication event and involving the Commission and the responsible managing authority in a timely manner. **[Am. 157]**

The term 'Interreg' shall be used next to the emblem of the Union in accordance with Article [42] of Regulation (EU) [new CPR].

5. For small project funds and financial instruments, the beneficiary shall ensure that final recipients comply with the requirements set out in point (c) of paragraph 4.

6. Where the beneficiary does not comply with its obligations under Article [42] of Regulation (EU) [new CPR] or paragraphs 1 and 2 of this Article, ~~the Member State~~ ***or does not remedy its omission in good time, the managing authority*** shall apply a financial correction by cancelling up to 5 % of the support from the Funds to the operation concerned. **[Am. 158]**

CHAPTER V

Eligibility

Article 36

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 [57 to 62] of Regulation (EU) [new CPR], Articles [4 and 6] of Regulation (EU) [new ERDF] 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 programme area as a whole.

However, where an Interreg programme selects operations based on calls for proposals, those additional rules shall be adopted before the first call for proposals is published. In all other cases, those additional rules shall be adopted before the first operations are selected.

3. For matters not covered by the eligibility rules laid down in Articles [57 to 62] of Regulation (EU) [new CPR], Articles [4 and 6] of Regulation (EU) [new ERDF] and this Chapter, including in acts adopted thereunder or in rules established in accordance with paragraph 4, 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 the respective 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 37

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 38 to 43 shall not be eligible under one or more priorities of an Interreg programme.

2. Any expenditure eligible in accordance with this Regulation, paid by or on behalf of an Interreg partner, 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, except those not exceeding EUR 50 per gift where related to promotion, communication, publicity or information;

(c) costs related to fluctuation of foreign exchange rate.

Article 38

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, fixed in an employment or work contract, an appointment decision (both hereinafter referred to as 'employment document') or by law, 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 ([24]), provided that they are:

(i) fixed 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), 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 considered as an employment document.

([24]) 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).

3. Staff costs may be reimbursed either:

(a) in accordance with [point (a) of the first subparagraph of Article 48(1)] of Regulation (EU) [new CPR] (proven by the employment document and payslips); or

(b) under simplified cost options as set out in [points (b) to (e) of the first subparagraph of Article 48(1)] of Regulation (EU) [new CPR]; or

(c) ~~as~~ ***direct staff costs of an operation may be calculated at*** a flat rate ~~in accordance with Article [50(1)] of Regulation (EU) [new CPR]~~ ***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***. **[Am. 159]**

4. Staff costs related to individuals who work on part-time assignment on the operation, shall be calculated as either:

(a) a fixed percentage of the gross employment cost in accordance with Article [50(2)] of Regulation (EU) [new CPR]; or

(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 part-time assignments under point (b) of paragraph 4, the reimbursement of staff costs shall be calculated on an hourly rate basis determined either by:

(a) dividing the ***latest documented*** monthly gross employment ~~cost~~ ***costs*** by the monthly working time ~~fixed~~ ***of the person concerned in accordance with applicable law as referred to*** in the employment ~~document expressed in hours~~***contract and paragraph 2 (b) of Article 50 of Regulation (EU) …/…[New CPR]***; or **[Am. 160]**

(b) dividing the latest documented annual gross employment cost by 1 720 hours in accordance with [paragraphs 2, 3 and 4 of Article [50] of Regulation (EU) [new CPR].

6. As regards staff costs related to individuals who, according to the employment document, work on an hourly basis, such costs shall be eligible applying the number of hours actually worked on the operation to the hourly rate agreed in the employment document based on a working time registration system. ***If not yet included in the agreed hourly rate, salary costs as referred to under point (b) of Article 38 (2) may be added to that hourly rate, in line with applicable national law.*** **[Am. 161]**

Article 39

Office and administrative costs

Office and administrative costs shall be limited to ***15 % of total direct costs of an operation and to*** the following elements: **[Am. 162]**

(a) office rent;

(b) insurance and taxes related to the buildings where the staff is located and to the equipment of the office (e.g. fire, theft insurances);

(c) utilities (e.g. electricity, heating, water);

(d) office supplies;

(e) general accounting provided inside the beneficiary organisation;

(f) archives;

(g) maintenance, cleaning and repairs;

(h) security;

(i) IT systems;

(j) communication (e.g. 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;

(l) charges for transnational financial transactions.

Article 40

Travel and accommodation costs

1. Travel and accommodation costs shall be limited to the following elements:

(a) travel costs (e.g. tickets, travel and car insurance, fuel, car mileage, toll, and parking fees);

(b) the costs of meals;

(c) accommodation costs;

(d) visa costs;

(e) daily allowances,

regardless whether such costs are incurred and paid in or outside the programme area.

2. Any 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 41.

4. Direct payment of expenditure for costs under this Article by an employee of the beneficiary shall be supported by a proof of reimbursement by the beneficiary to that employee. ***That cost category may be used for the travel expenses of operation staff and other stakeholders for the purpose of implementation and promotion of the Interreg operation and Programme.*** **[Am. 163]**

5. Travel and accommodation costs of an operation may be calculated at a flat rate of up to 15 % of the direct costs ~~other than the direct staff costs~~ of that operation. **[Am. 164]**

Articles 41

External expertise and services costs

External expertise and service costs shall be ***composed but not*** limited to the following services and expertise provided by a public or private law body or a natural person other than the beneficiary***, including all partners,*** of the operation: **[Am. 165]**

(a) studies or surveys (e.g. evaluations, strategies, concept notes, design plans, handbooks);

(b) training;

(c) translations;

(d) IT systems and website development, modifications and updates;

(e) promotion, communication, publicity or information linked to an operation or to a cooperation 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 (e.g. registration fees);

(i) legal consultancy and notarial services, technical and financial expertise, other consultancy and accountancy services;

(j) intellectual property rights;

(k) verifications under [point (a) of Article 68(1)] of Regulation (EU) [new CPR] and Article 45(1) of this Regulation;

(l) costs for the accounting function on programme level under Article [70] of Regulation (EU) [new CPR] and Article 46 of this Regulation;

(m) audit costs on programme level under Articles [72] and [75] of Regulation (EU) [new CPR] under Articles 47 and 48 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~~; **[Am. 166]**

(p) other specific expertise and services needed for operations.

Article 42

Equipment costs

1. Costs for equipment purchased, rented or leased by the beneficiary of the operation other than those covered by Article 39 shall be ***composed but not*** limited to the following: **[Am. 167]**

(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;

(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 the Funds listed in [point (a) of Article 1(1)] of Regulation (EU) [new CPR];

(b) this price does not exceed the generally accepted price on the market in question;

(c) it has the technical characteristics necessary for the operation and complies with applicable norms and standards.

Article 43

Costs for infrastructure and works

Costs for infrastructure and works shall be limited to the following:

(a) purchase of land in accordance with [point ~~(c)~~ ***(b)*** of Article 58(1)] of Regulation (EU) [new CPR]; **[Am. 168]**

(b) building permits;

(c) building material;

(d) labour;

(e) specialised interventions (e.g. soil remediation, mine-clearing).

CHAPTER VI

Interreg programme authorities, management, control and audit

Article 44

Interreg programme authorities

1. Member States and, where applicable, third countries, partner countries ~~and OCTs~~***, OCTs, and regional integration cooperation organisations*** participating in an Interreg programme shall identify, for the purposes of Article [65] of Regulation (EU) [new CPR], a single managing authority and a single audit authority. **[Am. 169]**

2. The managing authority and the audit authority ~~shall~~ ***may*** be located in the same Member State. **[Am. 170]**

3. Concerning the PEACE PLUS programme, the Special EU Programmes Body, when identified as the managing authority, shall be considered as 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. With regard to an Interreg programme under component ~~2B or under component~~ 1 where the latter covers long borders with heterogenous 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. **[Am. 171]**

6. Where the managing authority identifies ~~an~~ ***one or more*** intermediate ~~body~~ ***bodies*** under an Interreg programme in accordance with Article [65(3)] of Regulation (EU) [new CPR], the intermediate body ***or bodies concerned*** shall carry out those tasks in more than one participating Member State***, or in their respective Member States,*** or, where applicable, ***in more than one*** third country, partner country or OCT. **[Am. 172]**

Article 45

Functions of the managing authority

1. The managing authority of an Interreg programme shall carry out the functions laid down in Articles [66], [68] and [69] of Regulation (EU) [new CPR] with the exception of the task of selecting operations referred to in point (a) of Article 66(1) and Article 67 and of payments to beneficiaries referred to in point (b) of Article 68(1). Those functions shall be carried out in the whole of the territory covered by that programme, subject to derogations set out under Chapter VIII of this Regulation.

1a. By way of derogation from Article 87(2) of Regulation (EU) …/… [new CPR], the Commission shall reimburse as interim payments 100 % of the amounts included in the payment application which result from applying the cofinancing rate of the programme to the total eligible expenditure or to the public contribution, as appropriate. **[Am. 173]**

1b. Where the managing authority does not carry out verification under point (a) of Article 68(1) of Regulation (EU) …/… [new CPR] throughout the whole programme area, each Member State shall designate the body or person responsible for carrying out such verification in relation to beneficiaries on its territory. **[Am. 174]**

1c. By way of derogation from Article 92 of Regulation (EU) …/… [new CPR], Interreg programmes are not subject to the annual clearance of accounts. Accounts are cleared at the end of a programme, on the basis of the final performance report. **[Am. 175]**

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.

3. By way of derogation from [point (c) of Article 70(1)] of Regulation (EU) [new CPR], expenditure paid in another currency shall be converted into euro by each partner using the monthly accounting exchange rate of the Commission in the month during which that expenditure was submitted for verification to the managing authority in accordance with [point (a) of Article 68(1)] of that Regulation.

Article 46

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 70(1)] of Regulation [new CPR] 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 68(1)] of Regulation (EU) [new CPR].

Article 47

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 48 in the whole of the territory covered by that Interreg programme, subject to the derogations set out in Chapter VIII.

However, a participating Member State may specify when the audit authority is to be accompanied by an auditor from that participating Member State.

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 under Article 48(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 Regulation [FR-Omnibus] using the template set out in Annex [XVI] to Regulation (EU) [new CPR] 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;

(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 sample pursuant to Article 48(1), the annual audit opinion shall only cover the components referred to in points (a) and (c) of the first subparagraph.

The deadline of 15 February may exceptionally be extended by the Commission to 1 March, upon communication by the Member State hosting the managing authority concerned.

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 Regulation [FR-Omnibus] using the template set out in Annex [XVII] of Regulation (EU) [new CPR] 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 sample under Article 48(1), the audit authority shall draw up the annual control report referred to in paragraph 6 of this Article and fulfilling the requirements of [point (b) of Article 63(5)] of Regulation (EU, Euratom) [FR-Omnibus] using the template set out in Annex [XVII] to Regulation (EU) [new CPR] and supporting 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 48(1) and the financial corrections applied by the Interreg programme authorities for 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 48

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 for 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 September following the end of each accounting year at the latest.

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 referred to in Article 47(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 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 time to allow those authorities to carry out the audits of operations, in general, by 1 October following the end of each accounting year, at the latest.

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 47(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 %~~ ***3,5 %*** 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. **[Am. 176]**

8. Where the global residual error rate referred to in paragraph 7 is above ~~2 %~~ ***3,5 %*** 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. **[Am. 177]**

9. Based on the assessment of the results of the additional audit work requested pursuant to paragraph 8, 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 [97] of Regulation (EU) [new CPR].

10. Each audit authority of an Interreg programme for which the information referred to in paragraph 2 is missing or incomplete or has not been submitted by the deadline laid down in the first subparagraph of paragraph 2 shall carry out a separate sampling exercise for the respective Interreg programme in accordance with Article [73] of Regulation (EU) [new CPR]).

CHAPTER VII

Financial management

Article 49

Payments and pre-financing

1. The ERDF support and, where applicable, the support from external financing instruments of the Union to each Interreg programme shall be paid, in accordance with Article 46(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 under 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, no later than 60 days after that decision is adopted:

(a) 2021: ~~1 %~~ ***3 %***; **[Am. 178]**

(b) 2022: ~~1 %~~ ***2,25 %***; **[Am. 179]**

(c) 2023: ~~1 %~~ ***2,25 %***; **[Am. 180]**

(d) 2024: ~~1 %~~ ***2,25 %***; **[Am. 181]**

(e) 2025: ~~1 %~~ ***2,25 %***; **[Am. 182]**

(f) 2026: ~~1 %~~ ***2,25 %***. **[Am. 183]**

3. Where external ~~cross-border~~ Interreg programmes are supported by the ERDF and IPA III CBC or NDICI CBC, the pre-financing for all funds supporting such an Interreg programme shall be made in accordance with Regulation (EU) [IPA III] or [NDICI] or of any act adopted thereunder. **[Am. 184]**

The pre-financing amount may be paid in two instalments, where necessary, according to budgetary needs.

The total amount paid as pre-financing shall be reimbursed to the Commission if no payment application under the cross-border Interreg programme is sent within ~~24~~ **36** months of the date on which the Commission pays the first instalment of the pre-financing amount. Such reimbursement shall constitute internal assigned revenue and shall not reduce the support from the ERDF, IPA III CBC or NDICI CBC to the programme. **[Am. 185]**

Article 50

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. 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 laid down in the Interreg programme.

3. 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 under 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.

4. 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 3, those amounts shall be subject to a recovery order issued by the AOD which shall be executed, where possible, by offsetting against amounts due to the Member State, third country, partner country or OCT under subsequent payments to the same Interreg programme or, in the case of a third country, partner country or an OCT, under subsequent payments to programmes under the respective external financing instruments of the Union. 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 [177(3)] of Regulation (EU, Euratom) [FR-Omnibus].

CHAPTER VIII

Participation of third countries or partner countries, ~~or~~ OCTs***, or regional integration or cooperation organisations*** in Interreg programmes under shared management **[Am. 186]**

Article 51

Applicable provisions

Chapters I to VII and Chapter X shall apply to the participation of third countries, partner countries ~~and~~, OCTs***, or regional integration or cooperation organisations*** OCTs in Interreg programmes subject to the specific provisions set out in this Chapter. **[Am. 187]**

Article 52

Interreg programme authorities and their functions

1. Third countries, partner countries and OCTs participating in an Interreg programme shall either allow the managing authority of that programme to carry out its functions in its respective territory or shall identify a national authority as contact point for the managing authority or a national controller to carry out management verifications as provided for in [point (a) of Article 68(1)] of Regulation (EU) [new CPR] in its respective territory.

2. Third countries, partner countries and OCTs participating in an Interreg programme shall either allow the audit authority of that programme to carry out its functions in its respective territory or shall identify a national audit authority or body, functionally independent from the national authority.

3. Third countries, partner countries and OCTs participating in an Interreg programme ~~shall~~ ***may*** delegate staff to the joint secretariat ~~of that~~ programme or***, in agreement with the managing authority,*** shall set up a branch office ***of the Joint Secretariat*** in its respective territory, or shall do both. **[Am. 188]**

4. The national authority or a body equivalent to the Interreg programme communication officer as provided for in Article 35(1), ~~shall~~ ***may*** support the managing authority and partners in the respective third country, partner country or OCT with regard to the tasks provided for in Article 35(2) to (7). **[Am. 189]**

Article 53

Management methods

1. External cross-border Interreg programmes supported both by 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 programme shall be implemented under shared management both in Ireland and in the United Kingdom.

2. Component 2 and 4 Interreg 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, ~~or~~ partner country***, participating OCT*** or, with regard to component 3, in any OCT, whether or not that OCT receives support under one or more external financing instruments of the Union. **[Am. 190]**

3. Component 3 Interreg 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 ***or group of third countries forming part of a regional organisation***; **[Am. 191]**

(b) under shared management only in the Member States and in any participating third country or OCT***, or group of third countries forming part of a regional organisation,*** 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; **[Am. 192]**

(c) under indirect management both in the Member States and in any participating third country or OCT ***or group of third countries forming part of a regional organisation***. **[Am. 193]**

Where all or part of a component 3 Interreg programme is implemented under indirect management, ***a prior agreement between Member States and regions concerned is required and*** Article 60 shall apply. **[Am. 194]**

3a. Joint calls for proposals mobilising funding from bilateral or multi-country NDICI programmes and ETC programmes may be launched if the respective managing authorities agree to do so. The content of the call shall specify its geographical scope, and its expected contribution to the objectives of the respective programmes. Managing authorities shall decide whether NDICI or ETC rules are applicable to the call. They may decide to appoint a lead managing authority responsible for the tasks of management and control related to the call. **[Am. 195]**

Article 54

Eligibility

1. By way of derogation from Article [57(2)] of Regulation (EU) [new CPR] expenditure shall be eligible for a contribution from external financing instruments of the Union if it has been incurred by a partner or the private partner of PPP operations in the preparation and implementation of Interreg operations from 1 January 2021 and paid 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 shall be eligible as of 1 January 2021, even when paid for actions implemented in favour of third countries, partner countries or OCTs.

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 when launched before the relevant financing agreement was signed, and operations may already be selected before such dates.

However, the managing authority may not provide the document provided for in Article 22(6) before such dates.

Article 55

Large infrastructure projects

1. Interreg programmes under this section 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 at least EUR 2 500 000 is allocated to the acquisition of infrastructure.

2. Each beneficiary implementing a large infrastructure project or a part thereof shall apply the applicable public procurement rules.

3. 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 at the latest two months before the date of the meeting. The concept note shall be a maximum of ~~three~~ ***five*** 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***, as well as including a credible business plan which demonstrates that the project or projects' continuation is secure even without the provision of Interreg funds***. 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. **[Am. 196]**

Article 56

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 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 adopted in connection with Union laws;

(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, the procurement procedures under Articles [178] and [179] of Regulation (EU, Euratom) [FR-Omnibus] and Chapter 3 of Annex 1 (Points 36 to 41) to that Regulation shall apply.

Article 57

Financial management

The Commission decisions approving Interreg programmes also supported by an external financing instrument of the Union shall meet the requirements necessary to constitute financing decisions in terms of Article [110(2)] of Regulation (EU, Euratom) [FR-Omnibus].

Article 58

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 Regulation (EU, Euratom) [FR-Omnibus], 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 at the latest on 31 December of the year following the year when the first budget commitment was made and shall be considered 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 under its national legal framework and informed the Commission .

3. Where an Interreg programme involves more than one third country, partner country or OCT, at least one financing agreement shall be signed by both parties before that date. 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, on the same date, 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.

When transmitting the signed copy of the financing agreement or a copy of the implementing agreement to the Commission, the Member State hosting the managing authority shall also send, as a separate document, a list of the planned large infrastructure projects as defined in Article 55, indicating the prospective name, location, budget and lead partner thereof.

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;

(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, that financing agreement shall be considered 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 of the TFEU.

Article 59

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 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 signs the financing agreement pursuant to point (a) of Article 58(4), 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;

(b) where the Member State signs an implementing agreement pursuant to point (b) of Article 58(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 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 under paragraph 1 shall at least contain the elements concerning the third country's, partner country's or OCT's co-financing listed in Article 58(5).

In addition, it shall set out both of the following:

(a) the amount of the additional financial contribution;

(b) the intended use and conditions for its use, including conditions for applications for that additional contribution.

3. With regard to the PEACE PLUS 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 Regulation (EU, Euratom) [FR-Omnibus] shall make 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 58. The Commission and the United Kingdom as well as Ireland shall be parties to this specific financing agreement.

It shall be signed before the beginning of the implementation of the programme thus allowing the Special EU Programmes Body to apply all the Union legislation for the implementation of the programme.

CHAPTER IX

Specific provisions for direct or indirect management

Article 60

Outermost regions' cooperation

1. Where***, after consulting stakeholders,*** part or all of a component 3 Interreg programme is implemented under indirect management pursuant to point (b) or (c) respectively of Article 53(3), implementation tasks shall be entrusted to one of the bodies listed in point [(c) of the first subparagraph of Article 62(1)] of Regulation (EU, Euratom) [FR-Omnibus], in particular to such a body located in the participating Member State, including the managing authority of the Interreg programme concerned. **[Am. 197]**

2. In accordance with [point (c) of Article 154(6)] of Regulation (EU, Euratom) [FR-Omnibus], 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 Regulation (EU, Euratom) [FR-Omnibus] are entrusted to a managing authority of an outermost regions' Interreg programme identified pursuant to Article 37(1) of this Regulation and in accordance with Article [65] of Regulation (EU) [new CPR].

3. Where the budget implementation tasks referred to in [point (c) of the first subparagraph of Article 62(1)] of Regulation [FR-Omnibus] are entrusted to a Member State organisation, Article [157] of Regulation (EU, Euratom) [FR-Omnibus] 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 Regulation (EU, Euratom) [FR-Omnibus] or referred to in Regulation (EU) [NDICI] or Council Decision [OCT Decision] or both, the relevant rules of these instruments shall apply, in particular Chapters I, III and V of Title II of Regulation (EU) [NDICI].

~~Article 61~~

~~Interregional innovation investments~~

~~At the initiative of the Commission, the ERDF may support interregional innovation investments, as set out in point 5 of Article 3, bringing together researchers, businesses, civil society and public administrations involved in smart specialisation strategies established at national or regional levels.~~ **[Am. 198]**

Article 61a

Exemption from reporting requirements under Article 108(3) TFEU

***The Commission may declare that aid in favour of projects supported by EU European territorial cooperation are compatible with the internal market and are not subject to the notification requirements of Article 108(3) TFEU.* [Am. 199]**

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 from [*as of one day after its publication = date of entry into force*] until 31 December 2027.

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 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 [108(1)] of Regulation (EU) [new CPR]. 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 182/2011shall apply.

Article 64

Transitional provisions

Regulation (EU) No 1299/2013 or any act adopted thereunder 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 …,

For the European Parliament	*For the Council*
The President	*The President*

Tuesday 26 March 2019

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	
Component of Interreg	

1. Programme strategy: main development challenges and policy responses

1.1 Programme area (not required for component 4 Interreg programmes)

Reference: Article 17(4)(a), Article 17(9)(a)

Text field [2 000]

1.2 Summary of main joint challenges, taking into acccount economic, social and territorial disparities, joint investment needs and complimentary with other forms of support, lessons-learnt 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: Article 17(4)(b), Article 17(9)(b)

Text field [50 000]

Tuesday 26 March 2019

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: Article 17(4)(c)

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: Article 17(4)(d) and (e)

2.1 Title of the priority (repeated for each priority)

Reference: Article 17(4)(d)

Text field: [300]

☐ This is a priority pursuant to a transfer under Article 17(3)

2.1.1. Specific objective (repeated for each selected specific objective, for priorities other than technical assistance)

Reference: Article 17(4)(e)

2.1.2 Related types of action, including a list of planned operations of strategic importance, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basis strategies, where appropriate

Reference: Article 17(4)(e)(i), Article 17(9)(c)(ii)

Text field [7 000]

List of planned operations of strategic importance

Text field [2 000]

For component 4 Interreg programmes:

Reference Article 17(9)(c)(i)

Definition of a single beneficiary or a limited list of beneficiaries and the granting procedure

Text field [7 000]

2.1.3 Indicators

Reference: Article 17(4)(e)(ii), Article 17(9)(c)(iii)

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	Measure-ment unit	Baseline	Reference year	Final target (2029)	Source of data	Comments

2.1.4 The main target groups

Reference: Article 17(4)(e)(iii), Article 17(9)(c)(iv)

Text field [7 000]

2.1.5 Specific territories targeted, including the planned use of ITI, CLLD or other territorial tools

Reference: Article 17(4)(e)(iv)

Text field [7 000]

2.1.6 Planned use of financial instruments

Reference: Article 17(4)(e)(v)

Text field [7 000]

2.1.7 Indicative breakdown of the EU programme resources by type of intervention

Reference: Article 17(4)(e)(vi), Article 17(9)(c)(v)

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)

Tuesday 26 March 2019

Table 6: Dimension 3 — territorial delivery mechanism and territorial focus

Priority No	Fund	Specific objective	Code	Amount (EUR)

2.T. Technical assistance priority

Reference: Article 17(4)(f) ETC

Text field [8 000]

Priority No	Fund	Code	Amount (EUR)

3. Financing plan

Reference: Article 17(4)(g)

3.1 Financial appropriations by year

Reference: Article 17(4)(g)(i), Article 17(5)(a)(i)-(iv)

Table 7

Fund	*2021*	*2022*	*2023*	*2024*	*2025*	*2026*	*2027*	*Total*
ERDF								
IPA III CBC ([1])								
Neighbourhood CBC ([2])								
IPA III ([3])								
NDICI ([4])								
OCTP Greenland ([5])								
OCTP ([6])								
Interreg Funds ([7])								
Total								

([1]) Component 1, external cross-border cooperation
([2]) Component 1, external cross-border cooperation
([3]) Components 2 and 4
([4]) Components 2 and 4
([5]) Components 2 and 4
([6]) Components 3 and 4
([7]) ERDF, IPA III, NDICI or OCTP, where as single amount under Components 2 and 4

3.2 Total financial appropriations by fund and national co-financing

Reference: Article 17(4)(g)(ii), Article 17(5)(a)(i)-(iv), Article 17(5)(b)

Table 8 (*)

PO No or TA	*Priority*	*Fund (as applicable)*	*Basis for calculation EU support (total or public)*	*EU contribution (a)*	*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)*
						National public (c)	*National private (d)*			
	Priority 1	*ERDF*								
		IPA III CBC ([1])								
		Neighbourhood CBC ([2])								
		IPA III ([3])								
		NDICI ([4])								
		OCTP Greenland ([5])								
		OCTP ([6])								
		Interreg Funds ([7])								
	Priority 2	*(funds as above)*								
	Total	*All funds*								
		ERDF								
		IPA III CBC								
		Neighbourhood CBC								
		IPA III								
		NDICI								

PO No or TA	*Priority*	*Fund (as applicable)*	*Basis for calculation EU support (total or public)*	*EU contribution (a)*	*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)*
						National public (c)	*National private (d)*			
		OCTP Greenland								
		OCTP								
		Interreg Funds								
	Total	*All funds*								

([1]) Component 1, external cross-border cooperation
([2]) Component 1, external cross-border cooperation
([3]) Components 2 and 4
([4]) Components 2 and 4
([5]) Components 2 and 4
([6]) Components 3 and 4
([7]) ERDF, IPA III, NDICI or OCTP, whereas single amount under Components 2 and 4
(*) Prior to the mid-term review, this table includes the amounts for the years 2021-2025 only.

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: Article 17(4)(h)

Text field [10 000]

5. Approach to communication and visibility for the Interreg programme, including the planned budget

Reference: Article 17(4)(i)

Text field [10 000]

6. Implementing provisions

6.1. Programme authorities

Reference: Article 17(7)(a)

Table 10

Programme authorities	Name of the institution [255]	Contact name [200]	E-mail [200]
Managing authority			
National authority (for programmes with participating third countries, if appropriate)			
Audit authority			
Group of auditors representatives (for programmes with participating third countries, if appropriate)			
Body to which the payments are to be made by the Commission			

6.2. Procedure for setting up the joint secretariat

Reference: Article 17(7)(b)

Text field [3 500]

6.3 Apportionment of liabilities among participating Member States and where applicable, the third countries and OCTs, in the event of financial corrections imposed by the managing authority or the Commission

Reference: Article 17(7)(c)

Text field [10 500]

Tuesday 26 March 2019

APPENDICES

— Map of the programme area

— Reimbursement of eligible expenditure from the Commission to the Member State based on unit costs, lump sums and flat rates

— Financing not linked to cost

Appendix 1: Map of the programme area

Appendix 2: Reimbursement of eligible expenditure from the Commission to the Member State based on unit costs, lump sums and flat rates

Reimbursement of eligible expenditure from the Commission to the Member State based on unit costs, lump sums and flat rates

Template for submitting data for the consideration of the Commission

(Article 88 CPR)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	Fund	Estimated proportion of the total financial allocation within the priority to which the SCO will be applied in % (estimate)	Type(s) of operation		Corresponding indicator name(s)		Unit of measurement for the indicator	Type of SCO (standard scale of unit costs, lump sums or flat rates)	Corresponding standard scales of unit costs, lump sums or flat rates
			Code	Description	Code	Description			

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

Types of operation:

1.1. Description of the operation type	
1.2 Priority /specific objective(s) concerned	

1.3 Indicator name ([1])	
1.4 Unit of measurement for indicator	
1.5 Standard scale of unit cost, lump sum or flat rate	
1.6 Amount	
1.7 Categories of costs covered by 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	
1.10 Verification of the achievement of the unit of measurement — describe what document(s) will be used to verify the achievement of the unit of measurement — describe what will be checked during management verifications (including on-the-spot), and by whom — describe what the arrangements are to collect and store the data/documents	
1.11 Possible perverse incentives or problems caused by this indicator, how they could be mitigated, and the estimated level of risk	
1.12 Total amount (national and EU) expected to be reimbursed	

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.):

([1]) Several complementary indicators (for instance one output indicator and one result indicator) are possible for one type of operation. In these cases, fields 1.3 to 1.11 should be filled in for each indicator.

2. Please specify why the proposed method and calculation 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 attached to this annex 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(ies) of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data:

Tuesday 26 March 2019

Appendix 3: Financing not linked to costs

Template for submitting data for the consideration of the Commission

(Article 89 CPR)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	Fund	*The amount covered by the financing not linked to costs*	Type(s) of operation	Conditions to be fulfilled/ results to be achieved	Corresponding indicator name (s)		Unit of measurement for the indicator
					Code	Description	
The overall amount covered							

B. Details by type of operation (to be completed for every type of operation)

Types of operation:

1.1. Description of the operation type			
1.2 Priority /specific objective(s) concerned			
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 Indicator definition for deliverables			
1.6 Unit of measurement for indicator for deliverables			
1.7 Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Date	Amounts

1.8 Total amount (including EU and national funding)	
1.9 Adjustment(s) method	
1.10 Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables) — describe what document(s) will be used to verify the achievement of the result or condition — describe what will be checked during management verifications (including on-the-spot), and by whom — describe what arrangements there are to collect and store the data/documents	
1.11 Arrangements to ensure the audit trail Please list the body(ies) responsible for these arrangements.	

Wednesday 27 March 2019

P8_TA(2019)0295

Resources for the specific allocation for the Youth Employment Initiative ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards the resources for the specific allocation for the Youth Employment Initiative (COM(2019)0055 — C8-0041/2019 — 2019/0027(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/32)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2019)0055),

— having regard to Article 294(2) and Article 177 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0041/2019),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 22 March 2019 [1],

— after consulting the Committee of the Regions,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development and also the opinion of the Committee on Budgets (A8-0085/2019),

A. Whereas for reasons of urgency it is justified to proceed to the vote before the expiry of the deadline of eight weeks laid down in Article 6 of Protocol No 2 on the application of the principles of subsidiarity and proportionality;

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2019)0027

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 as regards the resources for the specific allocation for the Youth Employment Initiative

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/711.)

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[1] Not yet published in the Official Journal.

Wednesday 27 March 2019

P8_TA(2019)0296

General arrangements for excise duty (recast) *

European Parliament legislative resolution of 27 March 2019 on the proposal for a Council directive laying down the general arrangements for excise duty (recast) (COM(2018)0346 — C8-0381/2018 — 2018/0176(CNS))

(Special legislative procedure — consultation — recast)

(2021/C 108/33)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2018)0346),

— having regard to Article 113 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0381/2018),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts [1],

— having regard to the letter of 22 February 2019 from the Committee on Legal Affairs to the Committee on Economic and Monetary Affairs in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to Rules 104 and 78c of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A8-0117/2019),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Approves the Commission proposal as adapted to the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[1] OJ C 77, 28.3.2002, p. 1.

Wednesday 27 March 2019

P8_TA(2019)0297

Products eligible for exemption from or a reduction in dock dues *

European Parliament legislative resolution of 27 March 2019 on the proposal for a Council decision amending Decision No 940/2014/EU as regards products eligible for exemption from or a reduction in dock dues (COM(2018)0825 — C8-0034/2019 — 2018/0417(CNS))

(Special legislative procedure — consultation)

(2021/C 108/34)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2018)0825),

— having regard to Article 349 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0034/2019),

— having regard to Rule 78c of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development (A8-0112/2019),

1. Approves the Commission proposal;

2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;

3. Asks the Council to consult Parliament again if it intends to substantially amend the text approved by Parliament;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Wednesday 27 March 2019

P8_TA(2019)0298

Neighbourhood, Development and International Cooperation Instrument ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument (COM(2018)0460 — C8-0275/2018 — 2018/0243(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/35)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0460),

— having regard to Article 294(2) and Articles 209, 212 and 322(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0275/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the Court of Auditors of 13 December 2018 ([1]),

— having regard to the opinion of the European Economic and Social Committee of 12 December 2018 ([2]),

— having regard to the opinion of the Committee of the Regions of 6 December 2018 ([3]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the joint deliberations of the Committee on Foreign Affairs and the Committee on Development under Rule 55 of the Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and the Committee on Development and also the opinions of the Committee on Budgets, the Committee on International Trade, the Committee on the Environment, Public Health and Food Safety, the Committee on Culture and Education, the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality (A8-0173/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 45, 4.2.2019, p. 1
([2]) OJ C 110, 22.3.2019, p. 163.
([3]) OJ C 86, 7.3.2019, p. 295.

Wednesday 27 March 2019

P8_TC1-COD(2018)0243

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council establishing the Neighbourhood, Development and International Cooperation Instrument

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 Articles 209, 212 and 322(1) 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 Court of Auditors ([1]),

Having regard to the opinion of the European Economic and Social Committee ([2]),

Having regard to the opinion of the Committee of the Regions ([3]),

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

Whereas:

(1) The general objective of the Programme 'Neighbourhood, Development and International Cooperation Instrument' (the 'Instrument') should be to ~~uphold and promote~~ ***provide the financial framework to support the upholding and promotion of*** the Union's values, ~~and~~ ***principles and fundamental*** interests worldwide in ~~order to pursue~~ ***accordance with*** the objectives and principles of the Union's external action, as laid down in Article 3(5), Articles 8 and 21 of the Treaty on European Union (TEU). **[Am. 1]**

(2) In accordance with Article 21 TEU, the Union shall pursue consistency between the different areas of its external action and between these and its other policies, as well as it shall work for a high degree of cooperation in all fields of international relations. The wide array of actions enabled by this Regulation should contribute to the objectives set out in that Article of the TEU.

(2a) In accordance with Article 21 TEU, the application of this Regulation is to be guided by the principles of the Union's external action, namely democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, equality and solidarity, and respect for the principles of the United Nations Charter and international law. This Regulation is intended to contribute to achieving the objectives of the Union's external action, including the Union's policies relating to human rights and the objectives outlined in the EU Strategic Framework and Action Plan on Human Rights and Democracy. Union action should favour adherence to the Universal Declaration on Human Rights. **[Am. 2]**

(3) In accordance with Article 8 TEU, the Union shall 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 contribute to such objective.

([1]) OJ C 45, 4.2.2019, p. 1.
([2]) OJ C 110, 22.3.2019, p. 163.
([3]) OJ C 86, 7.3.2019, p. 295.
([4]) Position of the European Parliament of 27 March 2019

Wednesday 27 March 2019

(3a) In accordance with Article 167 of the Treaty on the Functioning of the European Union (TFEU), The Union and the Member States should foster cooperation with third countries and the competent international organisations in the sphere of culture. This Regulation should contribute to the objectives set out in that Article. **[Am. 3]**

(4) The primary objective of Union's development cooperation policy, as laid down in Article 208 ***TFEU*** is the reduction and, in the long term, the eradication of poverty. The Union's development cooperation policy also contributes to the objectives of the Union's external action, in particular to foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty, as set out in Article 21(2)(d) ~~of the Treaty on European Union~~ ***TEU, and to preserve lasting peace, prevent conflicts and strengthen international security, as set out in point (c) of Article 21(2) TEU***. **[Am. 4]**

(5) The Union shall ensure policy coherence for development as required by Article 208 TFEU. The Union should take account of the objectives of development cooperation in the policies that are likely to affect developing countries, which will be a crucial element of the strategy to achieve the Sustainable Development Goals defined in the 2030 Agenda for Sustainable Development ('2030 Agenda') adopted by the United Nations in September 2015 ([5]). Ensuring policy coherence for sustainable development, as embedded in the 2030 Agenda, requires taking into account the impact of all policies on sustainable development at all levels — nationally, within the Union, in other countries and at global level. ***Union and Member States development cooperation policies should complement and reinforce each other.*** **[Am. 5]**

(6) This Instrument provides for actions in support of those objectives and of the external action policies and builds on the actions previously supported under Regulation (EU) No 233/2014 ([6]); the 11th European Development Fund (EDF)'s Internal Agreement ([7]) and Implementing Regulation ([8]); Regulation (EU) No 232/2014 ([9]); Regulation (EU) No 230/2014 ([10]); Regulation (EU) No 235/2014 ([11]); Regulation (EU) No 234/2014 ([12]); Regulation (Euratom) No 237/2014 ([13]); Regulation (EU) No 236/2014 ([14]); Decision No 466/2014/EU; Regulation (EC, Euratom) No 480/2009 ([15]) and Regulation (EU) 2017/1601 ([16]).

([5]) 'Transforming our world: the 2030 Agenda for Sustainable Development', adopted at the United Nations Sustainable Development Summit on 25 September 2015 (A/RES/70/1).

([6]) Regulation (EU) No 233/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for development cooperation for the period 2014-2020 (OJ L 77, 15.3.2014, p. 44.)

([7]) Internal agreement between the Representatives of the Governments of the Member States of the European Union, meeting within the Council, on the financing of European Union aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the Treaty on the Functioning of the European Union applies (OJ L 210/1, 6.8.2013).

([8]) Council Regulation (EU) 2015/322 of 2 March 2015 on the implementation of the 11th European Development Fund (OJ L 58/1, 3.3.2015).

([9]) 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.)

([10]) Regulation (EU) No 230/2014 of the European Parliament and of the Council of 11 March 2014 establishing an instrument contributing to stability and peace (OJ L 77, 15.3.2014, p. 1.)

([11]) Regulation (EU) No 235/2014 of the European Parliament and of the Council of 11 March 2014 establishing a financing instrument for democracy and human rights worldwide (OJ L 77, 15.3.2014, p. 85.)

([12]) Regulation (EU) No 234/2014 of the European Parliament and of the Council of 11 March 2014 establishing a Partnership Instrument for cooperation with third countries (OJ L 77, 15.3.2014, p. 77.)

([13]) Council Regulation (Euratom) No 237/2014 of 13 December 2013 establishing an Instrument for Nuclear Safety Cooperation (OJ L 77, 15.3.2014, p. 109)

([14]) Regulation (EU) 236/2014 of the European Parliament and of the Council 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)

([15]) Council Regulation (EC, Euratom) No 480/2009 of 25 May 2009 establishing a Guarantee Fund for external actions (OJ L 145, 10.6.2009, p. 10)

([16]) Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund.

(7) The global context for action is the pursuit of a ~~rules-based~~ ***rules-and values-based*** global order, with multilateralism as its key principle and the United Nations at its core. The 2030 Agenda, together with the Paris Agreement on Climate Change ([17]) ***('the Paris Agreement')*** and the Addis Ababa Action Agenda ([18]) is the international community's response to global challenges and trends in relation to sustainable development. With the Sustainable Development Goals at its core, the 2030 Agenda is a transformative framework to eradicate poverty, ~~and~~ achieve sustainable development globally ***and promote peaceful, just and inclusive societies, while tackling climate change and working to preserve oceans and forests***. It is universal in scope, providing a comprehensive shared framework for action that applies to the Union, to its Member States and to its partners. It balances the economic, social***, cultural, educational*** and environmental dimensions of sustainable development, recognising the essential interlinkages between its goals and targets. The 2030 Agenda aims to leave no one behind ***and seeks to reach the furthest behind first***. The implementation of the 2030 Agenda will be closely coordinated with the Union's other relevant international commitments. Actions undertaken by this Regulation should pay ***be guided by the principles and objectives set out in the 2030 Agenda, the Paris Agreement and the Addis Ababa Action Agenda and should contribute to achieving the Sustainable Development Goals, paying*** particular attention to interlinkages between ~~Sustainable Development Goals~~ ***them*** and to integrated actions that can create co-benefits and meet multiple objectives in a coherent way ***without undermining other objectives***. **[Am. 6]**

(8) The ~~implementation~~ ***application*** of this Regulation should be ~~guided by~~ ***based on*** the five priorities established in the Global Strategy for the European Union's Foreign and Security Policy (the 'Global Strategy') ([19]), presented on 19 June 2016, which represents the Union's vision and the framework for united and responsible external engagement in partnership with others, to advance its values and interests. The Union should enhance partnerships, promote policy dialogue and collective responses to challenges of global concern. Its action should support the Union's ***fundamental*** interests***, principles*** and values in all its aspects, including ***promoting democracy and human rights, contributing to the eradication of poverty,*** preserving peace, ~~preventing conflicts~~ ***conflict prevention, mediation and post-conflict reconstruction including women at all stages, ensuring nuclear safety***, strengthening international security, ~~fighting~~ ***addressing*** root causes of irregular migration ***and forced displacement*** and assisting populations, countries and regions ~~confronting~~ ***confronted with*** natural or man-made disasters, ***bringing about the conditions to create an international legal framework for the protection of persons displaced due to climate change, fostering inclusive quality education,*** supporting ***a fair, sustainable and rules- and value-based*** trade policy ***as a tool for development and to bring improvements to the rule of law and human rights***, economic ***and cultural*** diplomacy and economic cooperation, promoting ***innovation,*** digital solutions and technologies, ***protecting cultural heritage especially in conflict areas, addressing global public health threats*** and fostering the international dimension of Union's policies. In promoting its ***fundamental*** interests***, principles and values***, the Union should comply with, and promote, the principles of respect for high social***, labour*** and environmental standards ***including with regard to climate change***, for the rule of law, for international law, ~~and for~~ ***including in respect of humanitarian and international*** human rights ***law***. **[Am. 7]**

(9) The ~~new~~ ***application of this Regulation should also be based on the*** European Consensus on Development ('the Consensus') ([20]), signed on 7 June 2017, ***which*** provides the framework for a common approach to development cooperation by the Union and its Member States to implement the 2030 Agenda and the Addis Ababa Action Agenda. Eradicating poverty, tackling discrimination and inequalities, leaving no one behind***, protecting the environment and fighting climate change,*** and strengthening resilience ~~are at the heart of development cooperation policy~~ ***should underpin the application of this Regulation***. **[Am. 8]**

([17]) Signed in New York on 22 April 2016.

([18]) 'Addis Ababa Action Agenda of the Third International Conference on Financing for Development', adopted on 16 June 2015 and endorsed by the United Nations General Assembly on 27 July 2015 (A/RES/69/313).

([19]) 'Shared Vision, Common Action: A Stronger Europe. A global Strategy for the European Union's Foreign and Security Policy', June 2016.

([20]) 'The New European Consensus on Development "Our World, our Dignity, Our Future"', Joint statement by the Council and the Representatives of the governments of the Member States meeting within the Council, the European Parliament and the European Commission, 8 June 2017.

(9a) In addition to the UN 2030 Agenda, the Paris Agreement on Climate Change the Addis Ababa Action Agenda, the EU Global Strategy, ~~and~~ the European Consensus on Development and the European Neighbourhood Policy, which constitute the primary policy framework, the following documents and their future revisions should also guide the application of this Regulation:

— *the EU Strategic Framework and Action Plan on Human Rights and Democracy;*

— *the EU Human Rights guidelines;*

— *the EU Integrated Approach to External Conflicts and Crises and the EU's comprehensive approach to external conflicts and crises of 2013;*

— *the Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security;*

— *the Union Programme for the Prevention of Violent Conflicts;*

— *the Council conclusions of 20 June 2011 on conflict prevention;*

— *the Concept on Strengthening EU Mediation and Dialogue Capacities;*

— *the EU-wide Strategic Framework to support Security Sector Reform (SSR);*

— *the EU strategy against illicit firearms, small arms and light weapons (SALW) and their ammunition;*

— *the EU Concept for Support to Disarmament, Demobilisation and Reintegration (DDR);*

— *the Council conclusions of 19 November 2007 on a EU response to situations of fragility and the conclusions of the Council and the Representatives of the Governments of the Member States meeting within the Council, also dated 19 November 2007, on security and development;*

— *the European Council Declaration of 25 March 2004 on Combating Terrorism, the European Union Counter-Terrorism Strategy, of 30 November 2005 and the Council conclusions of 23 May 2011 on enhancing the links between internal and external aspects of counter-terrorism;*

— *the OECD guidelines for multinational enterprises;*

— *the UN guiding principles on business and human rights;*

— *the UN New Urban Agenda;*

— *the UN Convention on the Rights of Persons with Disabilities;*

— *the Refugee Convention;*

— *the Convention on the Elimination of All Forms of Discrimination against Women,*

— *the outcomes of the Beijing Platform for Action and the Programme of Action of the International Conference on Population and Development (ICPD);*

— *the UNCTAD Roadmap towards Sustainable Sovereign Debt Workouts (April 2015);*

— *the Guiding Principles on Foreign Debt and Human Rights drawn up by the Office of the UN High Commissioner for Human Rights;*

— ***the Global Compact on Refugees;***

— ***the Global Compact on Safe, Orderly and Regular Migration, adopted in Marrakech on December 10th 2018;***

— ***the United Nations Convention on the Rights of the Child.*** **[Am. 9]**

(10) In order to implement the new international framework established by the 2030 Agenda, the Global Strategy and the Consensus, this Regulation should aim at increasing the coherence and ensuring the effectiveness of the Union's external action by concentrating its efforts through a streamlined instrument to improve the implementation of the different external action policies.

(11) In accordance with the Global Strategy and the Sendai Framework for Disaster Risk Reduction (2015-2030) as adopted on 18 March 2015 ([21]), recognition should be given to the need to move away from crisis response and containment to a more structural, ***preventive*** long-term approach that more effectively addresses situations of fragility, natural and man-made disasters, and protracted crises. Greater emphasis and collective approaches are required on risk reduction, prevention, mitigation and preparedness; and further efforts are required to enhance swift response and a durable recovery. This Regulation should therefore contribute to strengthening resilience and linking humanitarian aid and development action ***particularly*** through rapid response actions ***as well as relevant geographic and thematic programmes, while ensuring the appropriate predictability, transparency and accountability, as well as coherence, consistency and complementarity with humanitarian aid and full compliance with international humanitarian law and without hindering the delivery of humanitarian aid according to the principles of humanity, neutrality, impartiality and independence in emergency and post-emergency contexts***. **[Am. 10]**

(12) In line with the international commitments of the Union on development effectiveness as adopted in Busan in 2011 and renewed at the Nairobi High Level Forum in 2016 and recalled in the Consensus, the ~~Union's~~ ***Union, in the context of its official*** development ~~cooperation~~ ***assistance and across all aid modalities,*** should apply the development effectiveness principles, namely ownership of development priorities by developing countries, a focus on results, inclusive development partnerships as well as ***mutual*** transparency and accountability***, in addition to the principles of alignment and harmonisation***. **[Am. 11]**

(13) Pursuant to the Sustainable Development Goals, this Regulation should contribute to reinforced monitoring and reporting with a focus on results, covering outputs, outcomes and impacts in partner countries benefiting from the Union's external financial assistance. In particular, as agreed in the Consensus, actions under this Regulation ~~are expected to~~ ***should*** contribute ***at least*** 20 % of the Official Development Assistance funded under this Regulation to social inclusion and human development, ~~including~~ ***with a focus on basic social services, such as health, education, nutrition, water, sanitation and hygiene, and social protection, particularly to the most marginalised, taking into account*** gender equality, ~~and~~ women's empowerment ***and children's rights as horizontal issues***. **[Am. 12]**

(14) ~~Whenever possible and appropriate,~~ ***In order to improve effective accountability and transparency of the Union budget, the Commission should set up clear monitoring and evaluation mechanisms to ensure effective assessment of progress towards the achievement of this Regulation's objectives.*** The results of the Union's external action should be monitored and assessed on the basis of pre-defined, transparent, country-specific and measurable indicators, adapted to the specificities and objectives of the Instrument and ~~preferably~~ based on the results framework of the partner country. ***The Commission should regularly monitor its actions and review progress, making the results publicly available, in particular in the form of an annual report to the European Parliament and the Council.*** **[Am. 13]**

([21]) 'Sendai Framework for Disaster Risk Reduction', adopted on 18 March 2015 and endorsed by the United Nations General Assembly on 3 June 2015 (A/RES/69/283).

Wednesday 27 March 2019

(15) This Regulation should contribute to the collective Union objective of providing 0,7 % of Gross National Income as Official Development Assistance within the timeframe of the 2030 Agenda. ***That commitment should be based on a clear roadmap for the Union and its Member States to set out deadlines and modalities for its achievement.*** In that regard, at least ~~92 %~~ ***95 %*** of the funding under this Regulation should contribute to actions designed in such a way that they fulfil the criteria for Official Development Assistance as established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development. **[Am. 14]**

(16) In order to ensure resources are provided to where the need is greatest, especially to the Least Developed Countries and the countries in situation of fragility and conflict, this Regulation should contribute to the collective target of reaching 0,20 % of the Union Gross National Income towards Least Developed Countries within the timeframe of the 2030 Agenda. ***This commitment should be based on a clear roadmap for the EU and its Member States to set out deadlines and modalities for its achievement.*** **[Am. 15]**

(16a) In line with existing commitments in the EU Gender Action Plan II, at least 85 % of Official Development Assistance funded programmes, geographic and thematic, should have gender equality as a principal or a significant objective, as defined by the OECD DAC. A mandatory review of the spending should ensure that a significant part of these programmes have gender equality and women's and girls' rights and empowerment as a principal objective. **[Am. 16]**

(16b) This regulation should give particular attention to children and youth as contributors to the realisation of Agenda 2030. The Union's external action under this Regulation should give particular attention to their needs and empowerment and will contribute to the realisation of their potential as key agents of change by investing in human development and social inclusion. **[Am. 17]**

(16c) The inhabitants of the countries of Sub-Saharan Africa are mainly adolescents and young people. Each country should decide on its demographic policy. However, the demographic dynamic should be tackled in a global way in order to ensure that current and future generations will be able to achieve their full potential in a sustainable way. **[Am. 18]**

(17) This Regulation should reflect the need to focus on strategic priorities, both geographically — the European Neighbourhood and Africa, as well as countries that are fragile and most in need, ***particularly Least Developed Countries,*** but also thematically — ***sustainable development, poverty eradication, democracy and human rights, the rule of law, good governance,*** security, ***safe, orderly and regular*** migration, ***the reduction of inequalities, gender equality, addressing environmental degradation and*** climate change and ~~human rights~~ ***global public health threats***. **[Am. 19]**

(17a) This Regulation should contribute to creating State and societal resilience in the area of global public health by addressing global public health threats, strengthening health systems, achieving universal health coverage, preventing and combatting communicable diseases and helping to secure affordable medicines and vaccines for all. **[Am. 20]**

(18) ***The special relationship developed with the Union's neighbouring countries, in accordance with Article 8 TEU, should be preserved and enhanced through the application of*** this Regulation***. This Regulation should contribute to reinforcing States' and societies' resilience in the Union's neighbourhood, following the engagement taken in the Global Strategy. It*** should support the implementation of the European Neighbourhood Policy, as reviewed in 2015, and the implementation of regional cooperation frameworks, such as cross-border cooperation and the external aspects of relevant macro-regional and sea basin strategies and policies ***in the eastern and southern neighbourhood, including the Northern Dimension and the Black Sea regional cooperation***. Those initiatives offer ***supplementary*** political frameworks for deepening relations with and among partner countries, based on the principles of mutual accountability, shared ownership and responsibility. **[Am. 21]**

(19) The European Neighbourhood Policy~~, as reviewed in 2015 ([22])~~, aims at ***the deepening of democracy, promotion of human rights and upholding of the rule of law,*** the stabilisation of neighbouring countries and strengthening resilience, particularly by ~~boosting~~ ***promoting political,*** economic ~~development~~ ***and social reforms***, as the Union's main political priorities. In order to attain its objective, the ***implementation of the*** reviewed European Neighbourhood Policy ~~has been focusing on four~~ ***through this Regulation should focus on the following*** priority areas: good governance, democracy, the rule of law and human rights, with a particular focus in engaging further with civil society; ~~economic~~ ***socio-economic*** development***, including the fight against youth unemployment, as well as education and environmental sustainability***; security; migration and mobility, including tackling the root causes of irregular migration and forced displacement ***and supporting populations, countries and regions confronted with enhanced migratory pressure. This Regulation should support the implementation of the Union's association agreements and deep and comprehensive free trade agreements with countries in the neighbourhood***. Differentiation and enhanced mutual ownership are the hallmark of the European Neighbourhood Policy, recognising different levels of engagement, and reflecting the interests of each country concerning the nature and focus of its partnership with the Union. ***The performance-based approach is one of the key tenets of the European Neighbourhood Policy. In the case of a serious or persistent degradation of democracy in one of the partner countries, support should be suspended. Neighbourhood funding is a key lever in addressing common challenges, such as irregular migration and climate change, as well as in spreading prosperity, security and stability through economic development and better governance. The visibility of Union assistance in the neighbourhood area should be enhanced.*** **[Am. 22]**

(20) This Regulation should support the implementation of a modernised association agreement with countries of the Africa, Caribbean and Pacific (ACP) Group of States and allow the EU and its ACP partners to develop further strong alliances on key ***and shared*** global challenges. In particular, this Regulation should support the continuation of the established cooperation between the Union and the African Union in line with the Joint Africa-EU Strategy***, including the engagement from Africa and the Union to promote children's rights as well as the empowerment of Europe's and Africa's youth,*** and build on the future EU-ACP agreement after 2020, including through a continental approach towards Africa***, and a mutually beneficial partnership of equals between the EU and Africa***. **[Am. 23]**

(20a) This Regulation should also contribute to the trade-related aspects of the Union's external relations, such as cooperation with third countries on supply chain due diligence for tin, tantalum and gold, the Kimberley Process, the Sustainability Compact, the implementation of commitments under Regulation (EU) No 978/2012 of the European Parliament and the Council ([23]) (GSP Regulation), cooperation under the Forest Law Enforcement, Governance and Trade (FLEGT) and Aid for Trade initiatives in order to ensure consistency and mutual support between Union trade policy and development goals and actions. **[Am. 24]**

(21) 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 among the Union's external financing instruments, notably the Instrument for Pre-Accession III ([24]), the Humanitarian Aid Instrument ([25]), the Decision on Overseas Countries and Territories ([26]), the European Instrument for Nuclear Safety to complement the

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~~([22]) Joint communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'Review of the European Neighbourhood policy', 18 November 2015.~~

([23]) Regulation (EU) No 978/2012 of the European Parliament and of the Council of 25 October 2012 applying a scheme of generalised tariff preferences and repealing Council Regulation (EC) No 732/2008 (OJ L 303, 31.10.2012, p. 1).

([24]) COM(2018)0465 Proposal for a Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III)

([25]) Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid (OJ L 163, 2.7.1996, p. 1).

([26]) COM(2018)0461 Proposal for a Council Decision on the Association of the Overseas Countries and Territories with the European Union including relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other ('Overseas Association Decision').

Wednesday 27 March 2019

Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty ([27]), the common foreign and security policy and the newly proposed European Peace Facility ([28]) which is financed outside the Union budget, as well as the creation of synergies with other Union policies and Programmes***, including Trust Funds as well as policies and programmes of the EU Member States***. This includes coherence and complementarity with macro-financial assistance, where relevant. In order to maximise the impact of combined interventions to achieve a common objective, this Regulation should allow for the combination of funding with other Union Programmes, as long as the contributions do not cover the same costs. **[Am. 25]**

(22) Funding from this Regulation should be used to finance actions under the international dimension of Erasmus ***and Creative Europe***, the implementation of which should be done according to ***Regulation (EU) …/… of the European Parliament and of the Council*** ('the Erasmus Regulation') ([29]) ***and Regulation (EU) …/… of the European Parliament and of the Council ('the Creative Europe Regulation') ([30])***. **[Am. 26]**

(22a) The international dimension of the Erasmus Plus Programme should be boosted aiming at increasing opportunities for mobility and cooperation for individuals and organisations from less developed countries of the world — supporting capacity-building in third countries, skills' development, people-to-people exchanges, while offering a greater number of opportunities for cooperation and mobility with developed and emerging countries. **[Am. 27]**

(22b) Considering the relevance of addressing education and culture in line with the 2030 Agenda for Sustainable Development and the EU strategy for international cultural relations, this Regulation should contribute to ensure inclusive and equitable quality education, promote life-long learning opportunities for all, foster international cultural relations, and recognise the role of culture in promoting European values through dedicated and targeted actions designed to have a clear impact on the Union's role on the global scene. **[Am. 28]**

(23) The main approach for actions financed under this Regulation should be through geographic programmes, in order to maximise the impact of the Union's assistance and bring Union's action closer to partner countries and populations, ~~.This general approach~~ ***while supporting thematic priorities such as human rights, civil society and sustainability. The objectives under the geographic and thematic programmes should be consistent and coherent with each other and*** should be complemented by thematic programmes and by rapid response actions, where relevant. ***Effective complementarity between the geographic, thematic and rapid response programmes and actions should be ensured. In order to take account of the specificities of each programme, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission to supplement the provisions of this Regulation by setting out the Union's strategy, the priority areas, detailed objectives, the expected results, specific performance indicators and the specific financial allocation for each programme. 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 ([31]). 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.*** **[Am. 29]**

([27]) COM(2018)0462 Proposal for a Council Regulation establishing a European Instrument for Nuclear Safety complementing the Neighbourhood, Development and International Cooperation Instrument on the basis of the Euratom Treaty.

([28]) C(2018)3800 Proposal of the High Representative of the Union for Foreign Affairs and Security Policy to the Council for a Council Decision establishing a European Peace Facility.

([29]) COM(2018)0367 Proposal for a Regulation of the European Parliament and of the Council establishing 'Erasmus': the Union programme for education, training, youth and sport and repealing Regulation (EU) 1288/2013

([30]) COM(2018)0366 Proposal for a Regulation of the European Parliament and of the Council establishing the Creative Europe programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013.

([31]) OJ L 123, 12.5.2016, p. 1.

(24) In line with the Consensus, the Union and its Member States should enhance joint programming to increase their collective impact by bringing together their resources and capacities. Joint programming should build on the partner countries' engagement, appropriation and ownership. The Union and its Member States should seek to support partner countries through joint ~~implementation~~ ***application***, whenever appropriate. ***Joint application should be inclusive and open to all Union partners who agree and can contribute to a common vision, including Member States' agencies and their development financial institutions, local authorities, the private sector, civil society and academia.*** **[Am. 30]**

(24a) In the case of a serious or persistent degradation of democracy, human rights and rule of law in one of the partner countries, support may, by means of a delegated act, be partially or fully suspended. The Commission should take due account of relevant European Parliament resolutions in its decision-making. **[Am. 31]**

(24b) This Regulation should reconfirm nuclear safety as an important part of the Union external action and facilitate the objectives of cooperation specified in Regulation (EU) …/… of the European Parliament and of the Council [32] ('Regulation EINS'). Therefore, in the event where a partner country persistently fails to respect the basic nuclear safety standards, such as provisions of the relevant international Conventions within the Framework of the IAEA, the Espoo and Aarhus Conventions and their subsequent amendments, the Treaty on the Non-Proliferation of Nuclear Weapons and the additional Protocols thereto, the commitments to implementation of stress tests and related measures, and the objectives of cooperation specified in Regulation EINS, assistance under this Regulation for the country concerned should be reconsidered and may be suspended or partly suspended. **[Am. 32]**

(25) Whilst democracy ~~and~~ human rights ***and fundamental freedoms***, including ***the protection of children, minorities, persons with disabilities and LGBTI persons, as well as*** gender equality, ~~and women's~~ ***women and girls'*** empowerment should be ***consistently*** reflected ***and mainstreamed*** throughout the ~~implementation~~ ***application*** of this Regulation, Union assistance under the thematic programmes for human rights and democracy and civil society organisations - ***local authorities*** should have a specific complementary and additional role by virtue of its global nature and its independence of action from the consent of the governments and public authorities of the third countries concerned. ***In doing so, the Union should pay particular attention to countries and urgency situations where human rights and fundamental freedoms are most at risk and where disrespect for those rights and freedoms is particularly pronounced and systematic, as well as to situations where space for civil society is at stake. The Union's assistance under this Regulation should be designed in such a way as to allow for support to, and cooperation and partnership with civil society on sensitive and human rights and democracy issues, providing the flexibility and requisite reactivity to respond to changing circumstances, needs of beneficiaries, or periods of crisis, and when necessary, contributing to capacity building of civil society. In such cases, the political priorities should be to promote respect for international law and to provide means of action to local civil society and other relevant human rights stakeholders in order to contribute to work that is carried out in very difficult circumstances. This Regulation should offer also the possibility for civil society organisations to receive small grants in a fast and efficient manner when necessary, in particular in the most difficult situations, such as those of fragility, crisis, and inter-community tensions.*** **[Am. 33]**

(25a) In accordance with Articles 2, 3 and 21 TEU and Article 8 TFEU, the implementation of this Regulation should be guided by the principles of gender equality, women and girls' empowerment, and should seek to protect and promote women's rights in line with the Gender Action Plan II, the Council Conclusions on Women Peace and Security of 10 December 2018, the Council of Europe Istanbul Convention and Goal 5 of the 2030 Agenda for Sustainable Development. **[Am. 34]**

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[32] Regulation (EU) …/… of the European Parliament and of the Council of… on… (OJ…)

Wednesday 27 March 2019

(25b) This Regulation should address and mainstream the promotion of women's rights and gender equality globally, including by supporting organisations which are working on promoting sexual and reproductive health and rights (access to quality and accessible information, education and services) and combating gender-based violence and discrimination, as well as recognising and addressing the close links between the issues of peace, security, development and gender equality. This work should be coherent with, and promote the implementation of relevant international and European principles and conventions. **[Am. 35]**

(26) Civil society organisations should embrace a wide range of actors with ~~different~~ ***multiple*** roles and mandates which includes all non-State, not-for-profit ~~structures, non-partisan~~ and non-violent ***structures***, through which people organise to pursue shared objectives and ideals, whether political, cultural, social, ~~or~~ ***religious, environmental,*** economic ***or holding authorities to account***. Operating from the local to the national, regional and international levels, they comprise urban and rural, formal and informal organisations. ***Other bodies or actors not specifically excluded by this Regulation should be able to be financed when it is necessary to achieve the objectives of this Regulation.*** **[Am. 36]**

(26a) In line with the Consensus for Development, the Union and its Member States should foster the participation of civil society organisations (CSOs) and local authorities (LAs) in contributing to sustainable development and to the implementation of the SDGs, inter alia in the sectors of democracy, the rule of law, fundamental freedoms and human rights, social justice and as providers of basic social services to populations most in need. They should recognise the multiple roles played by CSOs and LAs, the latter as promoters of a territorial approach to development, including decentralisation processes, participation, oversight and accountability. The Union and its Member States should promote an operating space and enabling environment for CSOs, and further enhance their support for CSOs' and LAs' capacity building in order to strengthen their voice in the sustainable development process and advance political, social and economic dialogue, including through civil society facilities programmes. **[Am. 37]**

(26b) The Union should support civil society organisations and promote their greater strategic involvement in all external instruments and programmes, including geographical programmes and the rapid response actions under this Regulation, in keeping with the Council conclusions of 15 October 2012 on 'The roots of democracy and sustainable development: Europe's engagement with civil society in external relations'. **[Am. 38]**

(27) This Regulation lays down a financial envelope for this Instrument, which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ([33]), for the European Parliament and the Council during the annual budgetary procedure.

(28) Reflecting the importance of tackling climate change***, protecting the environment and fight biodiversity loss,*** in line with the Union commitments to implement the Paris Agreement***, the Convention on Biological Diversity*** and the United Nations Sustainable Development Goals, this Regulation should contribute to mainstream climate ***and environmental*** action in the Union policies and to the achievement of ~~an~~ ***the*** overall target ~~of 25 %~~ of the Union budget expenditures supporting climate objectives ***and support actions with clean and identifiable co-benefits across sectors***. Actions under this Regulation are expected to contribute ~~25 %~~ ***45 %*** of its overall financial envelope to climate objectives***, environmental management and protection, biodiversity and combatting desertification, of which 30 % of the overall financial envelope should be dedicated to climate change mitigation and adaptation***.

([33]) OJ C 373, 20.12.2013, p. 1.

Relevant actions will be identified during the ~~implementation~~ ***application*** of this Regulation, and the overall contribution from this Regulation should be part of relevant evaluations and review processes. ***Union action in this area should favour the adherence to the Paris Agreement and to the Rio Conventions, and not contribute to environmental degradation or cause harm to the environment or climate. Actions and measures contributing to meeting the target on climate shall put special emphasis on support for adaptation to climate change in poor, highly vulnerable countries, and should take into consideration the relation between climate, peace and security, women's empowerment and the fight against poverty. This Regulation should contribute to the sustainable management of natural resources and promote sustainable and secure mining, forest management and agriculture.*** **[Am. 39]**

(29) ~~It is essential to further step up~~ Cooperation on migration with partner countries~~, reaping the benefits of well-managed and regular~~ ***can lead to mutually benefiting from orderly, safe and responsible*** migration and ***to*** effectively addressing irregular migration ***and forced displacement***. Such cooperation should contribute to ***facilitating safe and legal pathways for migration and asylum,*** ensuring access to international protection, addressing the root causes of irregular migration ***and forced displacement, engaging with diasporas***, enhancing border management and pursuing efforts in ~~the fight against~~ ***addressing*** irregular migration, trafficking in human beings and migrant smuggling, and working on ***safe, dignified and sustainable*** returns, readmission and reintegration where relevant, ***in a conflict-sensitive manner,*** on the basis of mutual accountability***, and in*** full respect of humanitarian and human rights obligations~~. Therefore, third countries' effective cooperation with the~~ ***under international and*** Union ~~in this area should be an integral element in the general principles of this Regulation. An increased~~ ***law.*** Coherence between migration and development cooperation policies is important to ensure that development assistance supports partner countries to ~~manage~~ ***fight poverty and inequality, promote rights and freedoms, as well as contribute to an orderly, safe and responsible*** migration ~~more effectively~~ ***management***. This Regulation should contribute to a coordinated, holistic and structured approach to migration, maximising the synergies and ~~applying the necessary leverage~~ ***the positive impact of migration and mobility on development***. **[Am. 40]**

(30) This Regulation should enable the Union to respond to challenges, needs and opportunities related to migration, in complementarity with Union migration ~~policy~~ ***and development policies***. To contribute to that end, ***in order to maximise the contribution of migration to development,*** and without prejudice to ~~unforeseen circumstances~~ ***new emerging challenges or new needs***, ***a maximum of*** 10 % of its financial envelope is expected to be dedicated to addressing the root causes of irregular migration and forced displacement and to supporting ***strengthened engagement to facilitate safe, orderly, regular and responsible*** migration ~~management~~ ***and the implementation of planned and well-managed migration policies*** and governance, including the protection of refugees and migrants' rights ***based on international and Union law*** within the objectives of this Regulation. ***This Regulation should also contribute to addressing the brain-drain phenomenon and to help support the needs of displaced people and host communities, in particular through the provision of access to basic services and livelihoods opportunities.*** **[Am. 41]**

(30a) Information and communication technologies (ICT) and services are proven enablers of sustainable development and inclusive growth. They can be key to improving citizens' lives even in the poorest countries, in particular by empowering women and girls, enhancing democratic governance and transparency, and boosting productivity and job creation. Nevertheless, connectivity and affordability remain a problem both across and within regions, since there are large variations between high and lower income countries and between cities and rural areas. This regulation should therefore help the Union to further mainstream digitalisation into the Union development policies. **[Am. 42]**

(30b) The 2030 Agenda for Sustainable Development, adopted by a Resolution of the United Nations General Assembly on 25 September 2015, underlined the importance of promoting peaceful and inclusive societies both as a Sustainable Development Goal (SDG) 16 and in order to achieve other development policy outcomes. SDG 16.a specifically requests to 'Strengthen relevant national institutions, including through international cooperation, for building capacities at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime'. **[Am. 43]**

(30c) In the High Level Meeting Communiqué of 19 February 2016, the Development Assistance Committee of the Organisation for Economic Cooperation and Development updated the reporting directives on Official Development Assistance in the field of peace and security. The financing of the actions undertaken in accordance

with this Regulation constitutes Official Development Assistance when it fulfils the criteria set out in those reporting directives or any subsequent reporting directives, upon which the Development Assistance Committee is able to agree. **[Am. 44]**

(30d) The capacity building in support of development and security for development should be used in exceptional cases only, where the objectives of the Regulation cannot be met by other development cooperation activities. Giving support to security sector actors in third countries, including, under exceptional circumstances, the military, in a conflict prevention, crisis management or stabilisation context is essential to ensure appropriate conditions for poverty eradication and development. Good governance, effective democratic control and civilian oversight of the security system, including of the military, as well as compliance with human rights and the rule of law principles are essential attributes of a well-functioning State in any context, and should be promoted through a wider security sector reform support to third countries. **[Am. 45]**

(30e) This Regulation should build on the conclusions of the evaluation by the Commission requested for June 2020, including a wide-ranging, multi-stakeholder public consultation, assessing the coherence of capacity building in support of development and security for development within the security-development nexus funded by the Union and its Member States with the Global Strategy and the UN Sustainable Development Goals. **[Am. 46]**

(30f) The Union should also promote a conflict-sensitive and gender-sensitive approach in all actions and programmes under this Regulation, with the aim of avoiding negative impacts and maximising positive ones. **[Am. 47]**

(31) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU should apply to this Regulation. These rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([34]) ('the Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, financial assistance, budget support, trust funds, financial instruments and budgetary guarantees, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in Member States and third countries, as the respect for the rule of law is essential for sound financial management and effective EU funding.

(32) The types of financing and the methods of ~~implementation~~ ***application*** under this Regulation should be chosen on the basis of ***partner's needs, preferences and specific context,*** their ***relevance, sustainability and*** ability to ***comply with the development effectiveness principles,*** achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. This 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. ***The role of the European Endowment for Democracy (EED) as a foundation mandated through the European institutions for the support of democracy, civil society and human rights worldwide should be strengthened and increased under this Regulation. The EED should be given the administrative flexibility and the financial opportunities to disburse targeted grants to civil society actors in the European Neighbourhood standing for the implementation of the European Neighbourhood Policy, in particular where it concerns the development of democracy, human rights, free elections and the rule of law.*** **[Am. 48]**

(33) The new European Fund for Sustainable Development Plus ('EFSD+'), building on its ~~successful~~ predecessor, the EFSD ([35]), should constitute an integrated financial package supplying financing capacity in the form of grants, budgetary guarantees and financial instruments worldwide. The EFSD+ should support the External Investment Plan

([34]) 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).

([35]) Regulation (EU) 2017/1601 of the European Parliament and of the Council of 26 September 2017 establishing the European Fund for Sustainable Development (EFSD), the EFSD Guarantee and the EFSD Guarantee Fund.

and combine blending and budgetary guarantee operations covered by the External Action Guarantee, including those covering sovereign risks associated with lending operations, previously carried out under the external lending mandate to the European Investment Bank. Given its role under the Treaties and its experience over the last decades in supporting Union policies, the European Investment Bank should remain a natural partner for the Commission for the ~~implementation~~ ***application*** of operations under the External Action Guarantee. ***Other Multilateral Development Banks (MDBs) or EU National Development Banks (NDBs) also have skills and capital which can add significant value to the impact of Union development policy and their participation under the EFSD+ should therefore also be strongly promoted through this Regulation.*** **[Am. 49]**

(34) The EFSD+ should aim at supporting investments as a means of contributing to the achievement of the Sustainable Development Goals by fostering sustainable and inclusive economic***, cultural*** and social development and promoting the socio-economic resilience in partner countries with a particular focus on the eradication of poverty, ***preventing conflict and the promotion of peaceful, just and inclusive societies,*** sustainable and inclusive ~~growth~~ ***economic progress, tackling climate change through mitigation and adaptation, environmental degradation***, the creation of decent jobs ***in compliance with relevant ILO standards and*** economic opportunities, ***in particular for women, young and vulnerable people. Emphasis should be placed on providing inclusive and equitable quality education, and the development of*** skills and entrepreneurship ***by strengthening educational and cultural structures, including for children in humanitarian emergencies and situations of forced displacement. It should also aim at supporting a stable investment environment, industrialisation***, socioeconomic sectors***, cooperatives, social enterprises***, micro, small and medium-sized enterprises as well as ~~addressing~~ ***strengthening democracy the rule of law and human rights, the lack of which often constitute the*** specific socioeconomic root causes of irregular migration ***and forced displacement***, in accordance with the relevant indicative programming documents. Special attention should be given to countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries. ***A special focus should be placed also to improve the delivery of essential public basic services, food security, and to improve the quality of life of rapidly growing urban populations, including through adequate, safe and affordable housing. The EFSD+ should encourage for-profit/non-profit partnerships as a means of guiding private sector investments towards sustainable development and poverty eradication. The strategic involvement of civil society organisations and of Union Delegations in partner countries should also be promoted at all stages of the project cycle, to help finding tailor-made solutions for promoting the socioeconomic development of communities, job creation, and new business opportunities. Investments should be based on conflict analysis, focus on the root causes of conflict, fragility and instability, maximising the potential for fostering peace and minimising the risks of exacerbating conflicts.*** **[Am. 50]**

(35) The EFSD+ should maximise additionality of funding, address market failures and sub-optimal investment situations, deliver innovative products and 'crowd-in' private sector funds ***to optimise the contribution of private finance to local sustainable development***. Involvement of the private sector in the Union's cooperation with partner countries through the EFSD+ should yield measurable and additional development impact ***in full respect of the environment and local communities' rights and livelihoods and*** without distorting the ***local*** market and ***unfairly competing with local economic actors. It*** should be cost-effective based on mutual accountability and risk and cost sharing. The EFSD+***, while based on adequate accountability and transparency criteria,*** should operate as a 'one-stop-shop', receiving financing proposals from financial institutions and public or private investors and delivering a wide range of financial support to eligible investments. **[Am. 51]**

(35a) An EU guarantee for the sovereign investments operations in the public sector shall form part of the EFSD+. That EU guarantee shall not be extended to sovereign investment operations that involve on-lending to the private sector or lending to, or for the benefit of, sub-sovereign entities that can access sub-sovereign financing without sovereign guarantees. In order to assist capacity planning by the EIB, a minimum guaranteed volume of such sovereign investments operations shall be allocated to the EIB. **[Am. 52]**

Wednesday 27 March 2019

(36) An External Action Guarantee should be established building on the existing EFSD Guarantee and the Guarantee Fund for external actions. The External Action Guarantee should support the EFSD+ operations covered by budgetary guarantees, macro-financial assistance and loans to third countries on the basis of Council Decision 77/270/Euratom ([36]). These operations should be supported by appropriations under this Regulation, together with those under Regulation (EU) No …/… of the European Parliament and of the Council ([37]) ('IPA III Regulation') and Regulation EINS, which should also cover the provisioning and liabilities arising from macro-financial assistance loans and loans to third countries referred to in Article 10(2) of Regulation EINS, respectively. When funding EFSD+ operations, priority should be given to those which have a high impact on ***decent*** job creation ***and livelihoods*** and whose cost-benefit ratio enhances the sustainability of investment ***and which provide the highest guarantees of sustainability and long-term development impact throughout local ownership***. The operations supported with the External Action Guarantee should be accompanied by an in-depth ex ante assessment of environmental, financial and social aspects, ~~as appropriate and~~ ***including the impact on human rights and livelihoods of affected communities and the impact on inequalities and the identification of ways to address those inequalities*** in line with the better regulation requirements ***and taking due account of the principle of free and prior informed consent (FPIC) of affected communities in land-related investments***. The External Action Guarantee should not be used to provide essential public services, which remains a government responsibility. ***Ex-post impact assessments should also happen to measure the development impact of the EFSD+ operations.*** **[Am. 53]**

(37) In order to provide for flexibility, increase the attractiveness for the private sector***, promote fair competition*** and maximise the impact of the investments a derogation from the rules related to the methods of implementation of the Union budget, as laid down in the Financial Regulation, should be provided as regards the eligible counterparts. Those eligible counterparts could also be bodies which are not entrusted with the implementation of a public-private partnership and could also be bodies governed by the private law of a partner country. **[Am. 54]**

(38) In order to increase the impact of the External Action Guarantee, Member States and contracting parties to the Agreement on the European Economic Area should have the possibility of providing contributions in the form of cash or a guarantee. Contribution in the form of a guarantee should not exceed 50 % of the amount of operations guaranteed by the Union. The financial liabilities arising from this guarantee should not be provisioned and the liquidity cushion should be provided by the common provisioning fund.

(39) External actions are often ~~implemented~~ ***applied*** in a highly volatile environment requiring continuous and rapid adaptation to the evolving needs of Union partners and to global challenges to human rights ***and fundamental freedoms***, democracy and good governance, security and stability, climate change and environment, oceans, and ~~the~~ migration, ~~crisis and~~ ***including*** its root causes ***such as poverty and inequality, and the impact of the increasing number of displaced persons, especially on developing countries***. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial ~~implementation~~ ***application*** of the programmes. To increase the ability of the EU to respond to ~~unforeseen~~ needs ***not covered by programmes and programming documents***, building on the successful experience of the European Development Fund (EDF), ~~an~~ ***a pre-defined*** amount should be left unallocated as an emerging challenges and priorities cushion. It should be mobilised in ***duly justified cases in*** accordance with the procedures established in this Regulation. **[Am. 55]**

(40) Therefore, while respecting the principle that the Union budget is set annually, this Regulation should preserve the possibility to apply the flexibilities already allowed by the Financial Regulation for other policies, namely carryovers and re-commitments of funds, to ensure efficient use of the Union funds both for Union citizens and the partner countries, thus maximising the Union funds available for the Union's external action interventions.

([36]) Council decision 77/270/EURATOM of 29 March 1977 empowering the Commission to issue Euratom loans for the purpose of contributing to the financing of nuclear power stations (OJ L 88, 6.4.1977, p. 9).

([37]) Regulation (EU) …/… of the European Parliament and of the Council of … on … (OJ…).

(41) Pursuant to Article 83 of Council Decision …/… (OCTs), persons and entities established in overseas countries and territories should be eligible for funding under this Regulation, subject to its rules and objectives and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked. Moreover, cooperation between the partner countries and the overseas countries and territories as well as the Union outermost regions under Article 349 TFEU should be encouraged in areas of common interest.

(42) In order to enhance partner countries' ***democratic*** ownership of their development processes and the sustainability of external aid, the Union should, where relevant, favour the use of partner countries' own institutions***, resources, expertise*** and of partner countries' systems and procedures for all aspects of the project cycle for cooperation ***while ensuring local resources and expertise and the full involvement of local governments and civil society. The Union should also provide training programmes on how to apply for Union funding to local authorities' civil servants and civil society organisations with the aim of helping them to enhance the eligibility and efficiency of their projects. These programmes should be carried out in the countries concerned, be available in the language of the country and complement any distance learning programmes also established, in order to ensure a targeted training responding to the needs of that country.*** **[Am. 56]**

(43) Annual or multi-annual action plans and measures referred to in Article 19 constitute work programmes under the Financial Regulation. Annual or multi-annual action plans consist of a set of measures grouped into one document.

(44) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([38]), Council Regulation (EC, Euratom) No 2988/95 ([39]), Council Regulation (Euratom, EC) No 2185/96 ([40]) and Council Regulation (EU) 2017/1939 ([41]), the financial interests of the Union are to be protected through effective and proportionate measures, including the prevention, detection, correction and investigation of irregularities, including fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may 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. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 ([42]) of the European Parliament and of the Council. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests and grant the necessary rights and access to the Commission, OLAF and the European Court of Auditors, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights; for this reason, agreements with third countries and territories and with international organisations, and any contract or agreement resulting from the implementation of this Regulation should contain provisions expressly empowering the Commission, the Court of Auditors and OLAF to conduct such audits, on-the-spot checks and inspections, according to their respective competences and ensuring that any third parties involved in the implementation of Union funding grant equivalent rights.

(44a) In order to contribute to the international fight against tax fraud, tax evasion, fraud, corruption and money laundering all financing through this Regulation should be provided in a completely transparent manner. Furthermore, the eligible counterparts should not support any activities carried out for illegal purposes nor

([38]) 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)

([39]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.95, p. 1).

([40]) 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)

([41]) OJ L 283, 31.10.2017, p. 1.

([42]) 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)

participate in any financing or investment operation through a vehicle located in a non-cooperative jurisdiction or in a tax haven. Counterparts should also refrain from making any use of tax avoidance or aggressive tax planning schemes. **[Am. 57]**

~~(45) In order to ensure uniform conditions for the implementation of the relevant provisions of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 ([43]) of the European Parliament and of the Council.~~ **[Am. 58]**

(46) In order to supplement ~~or~~ ***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 setting out the Union's strategy, the priority areas, detailed objectives, the expected results, specific performance indicators and the specific financial allocation and cooperation modalities for each geographic and thematic programme, as well as for action plans and measures not based on programming documents establishing a human rights operational framework, establishing a risk management framework, deciding on the needs not covered by programmes or programming documents, deciding on the suspension of assistance, establishing the performance-based approach framework, establishing the provisioning rates, establishing a monitoring and evaluation framework and extending the scope of actions to countries and territories not covered by this Regulation. In order to*** amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 ~~of the Treaty on the Functioning of the European Union~~ ***TFEU*** should be delegated to the Commission in respect ~~of the provisioning rates laid down in Article 26(3),~~ ***to*** the areas of cooperation and intervention listed in Annexes II, III and IV, the priority areas of the EFSD+ operations ***and the investment windows*** listed in Annex V, ~~the governance of the EFSD+ in Annex VI, to review or complement~~ ***as well as*** the indicators ***listed*** in Annex VII ~~where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework~~. **[Am. 59]**

(47) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016 ([44]), there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements~~, where appropriate, can~~ ***should*** include measurable indicators, as a basis for evaluating the effects of the Programme on the ground. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including ~~at expert level~~ ***with relevant stakeholders such as civil society and experts***, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. 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. **[Am. 60]**

(48) ~~The references to Union instruments in Article 9 of Council Decision 2010/427/EU ([45]), which are replaced by~~ ***Due to the broad nature and scope of*** this Regulation~~, should be read as references to~~ ***and to ensure coherence between the principles, objectives and spending under both*** this Regulation and the ***other external financing instruments, such as Regulation EINS, or Instruments which are intrinsically linked to external policies, such as the IPA III Regulation, a horizontal steering group composed of all relevant*** Commission ***and EEAS services and chaired by the Vice-President of the Commission/High Representative of the Union for Foreign Affairs and Security Policy (VP/HR) or a representative of that office*** should ~~ensure that~~ ***be responsible for the steering, coordinating and managing of the policies, programmes, objectives and actions under*** this Regulation ~~is implemented in accordance with the role of~~ ***in order to ensure consistency, efficiency, transparency and accountability of Union external financing. The VP/HR should ensure overall political coordination of the Union's external action. For all actions, including rapid response actions and exceptional assistance measures, and throughout the whole cycle of***

~~([43]) 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)~~

([44]) Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

~~([45]) 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).~~

programming, planning and application of the instrument, the High Representative and the EEAS ~~as provided in that Decision~~ ***should work with the relevant members and services of the Commission, identified on the basis of the nature and objectives of the action foreseen, building upon their expertise. All proposals for decisions should be prepared by following the Commission's procedures and should be submitted to the Commission for adoption.*** **[Am. 61]**

(48a) The application of this Regulation should, where relevant, be complementary to, and should be consistent with, measures adopted by the Union in pursuit of the Common Foreign and Security Policy objectives within the framework of Chapter Two of Title V TEU and measures adopted within the framework of Part Five TFEU. **[Am. 62]**

~~(49) The envisaged actions as provided for hereunder should strictly follow the conditions and procedures set out by the restrictive measures of the Union,~~ **[Am. 63]**

(49a) The European Parliament should be fully involved in the design, programming, monitoring and evaluation phases of the instruments in order to guarantee political control and democratic scrutiny and accountability of Union funding in the field of external action. An enhanced dialogue between the institutions should be established in order to ensure that the European Parliament is in a position to exercise political control during the application of this Regulation in a systematic and smooth manner thereby enhancing both efficiency and legitimacy, **[Am. 64]**

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the Programme 'Neighbourhood, Development and International Cooperation Instrument' (the 'Instrument').

It lays down the objectives of the Instrument, the budget for the period 2021 — 2027, the forms of Union funding and the rules for providing such funding.

It also establishes the European Fund for Sustainable Development Plus (the 'EFSD+') and an External Action Guarantee.

Article 2

Definitions

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

(1) 'country programme' shall mean an indicative programme covering one country;

(2) 'multi-country programme' shall mean an indicative programme covering more than one country;

(3) 'cross-border cooperation' shall mean cooperation between one or more Member States, and one or more third countries and territories along the external borders of the Union.

(4) 'regional programme' shall mean an indicative multi-country programme covering more than one third country within the same geographic area as established in Article 4 (2);

(5) 'trans-regional programme' shall mean an indicative multi-country programme covering more than one third country from different areas as established in Article 4 (2) of this Regulation;

(6) 'legal entity' shall mean any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;

Wednesday 27 March 2019

(6a) 'civil society organisations' means all non-State, not-for-profit, and non-violent structures through which people organise to pursue shared objectives and ideals, whether political, cultural, social, economic, religious, environmental, or holding authorities to account, which operate at local, national, regional or international level, and which may include urban and rural as well as formal and informal organisations; in the context of the thematic programme on human rights and democracy, 'civil society' includes individuals or groups that are independent from the State and whose activities help to promote human rights and democracy, including human rights defenders as defined by the UN Declaration on the Right and Responsibility of Individuals; **[Am. 65]**

(6b) 'local authorities' means branches of government or public authorities, which operate at sub-national level (e.g. municipal, community, district, county, provincial or regional level); **[Am. 66]**

(7) 'investment window' shall mean a targeted area for support by the EFSD+ Guarantee to portfolios of investments in specific regions, countries or sectors;

(8) 'contributor' ~~shall mean~~ ***means*** a Member State, an international finance institution, or a public institution of a Member State, a public agency or other ***public or private*** entities contributing in cash or in guarantees to the common provisioning fund; **[Am. 67]**

(8a) 'additionality' means the principle which ensures that the External Action Guarantee contributes to sustainable development by operations which could not have been carried out without it, or which achieve positive results above and beyond what could have been achieved without it, as well as crowding in private sector funding and addressing market failures or sub-optimal investment situations as well as improving the quality, sustainability, impact or scale of an investment. The principle also ensures that investment and financing operations covered by the External Action Guarantee do not replace the support of a Member State, private funding or another Union or international financial intervention, and avoid crowding out other public or private investments. Projects supported by the External Action Guarantee typically have a higher risk profile than the portfolio of investments supported by the eligible counterparts under their normal investment policies without the External Action Guarantee; **[Am. 68]**

(8b) 'industrialised countries' means third countries other than developing countries included in the OECD-Development Assistance Committee's ('OECD-DAC') list of Official Development Assistance ('ODA') recipients; **[Am. 69]**

(8c) 'poverty' means all the conditions in which people are deprived and perceived as incapacitated in different societies and local contexts; the core dimensions of poverty include economic, human, political, socio-cultural and protective capabilities; **[Am. 70]**

(8d) 'gender sensitivity' means acting with the aim of understanding and taking account of the societal and cultural factors involved in gender-based exclusion and discrimination in all spheres of public and private life; **[Am. 71]**

(8e) 'conflict sensitivity' means acting with the aim of understanding that any initiative conducted in a conflict-affected environment will interact with that conflict and that such interaction will have consequences that may have positive or negative effects; conflict sensitivity also means ensuring that, to the best of its abilities, Union actions (political, policy, external assistance) avoid having a negative impact and maximise the positive impact on conflict dynamics, thereby contributing to conflict prevention, structural stability and peace building. **[Am. 72]**

Where reference is made to human rights, it shall be understood as to include fundamental freedoms; **[Am. 73]**

In the context of Article 15, 'countries most in need' may also include the countries listed in Annex I. **[Am. 74]**

Article 3

Objectives

1. The general objective of this Regulation is to ***lay down the financial framework enabling the Union to*** uphold and promote ~~the Union's~~ ***its*** values, ~~and~~ ***principles and fundamental*** interests worldwide, ~~in order to pursue~~ ***in accordance with*** the objectives and principles of the Union's external action, as laid down in Article 3(5), Articles 8 and 21 TEU***, as well as Articles 11 and 208 TFEU***. **[Am. 75]**

2. In accordance with paragraph 1, the specific objectives of this Regulation are the following:

(a) to support and foster dialogue and cooperation with third countries and regions in the Neighbourhood, in Sub-Saharan Africa, in Asia and the Pacific, and in the Americas and the Caribbean;

(aa) to contribute to the achievement of the international commitments and objectives that the Union has agreed to, in particular the 2030 Agenda, the SDGs and the Paris Agreement; **[Am. 76]**

(ab) to develop a special strengthened relationship with the countries in the eastern and southern neighbourhood of the Union, founded on cooperation, peace and security, mutual accountability and shared commitment to the universal values of democracy, rule of law and respect for human rights, socio-economic integration and environmental protection and climate action; **[Am. 77]**

(ac) to pursue the reduction and, in the long term, the eradication of poverty, particularly in least developed countries (LDCs); to enable sustainable social and economic development; **[Am. 78]**

(b) at global level, to ~~consolidate and support democracy, rule of law and human rights,~~ support civil society organisations ***and local authorities***, further stability and peace***, prevent conflict and promote just and inclusive societies, advance multilateralism, international justice and accountability,*** and address other global ***and regional*** challenges including ~~migration and mobility~~ ***climate change and environmental degradation as well as foreign policy needs and priorities, as set out in Annex III, including the promotion of confidence building and good neighbourly relations***; **[Am. 79]**

(ba) to protect, promote and advance human rights, democracy, the rule of law as well as gender and social equality, including in the most difficult circumstances and urgent situations, in partnership with civil society including human rights defenders worldwide; **[Am. 80]**

(c) to respond rapidly to: situations of crisis, instability and conflict; resilience challenges and linking of humanitarian aid and development action~~; and foreign policy needs and priorities.~~ **[Am. 81]**

The achievement of these objectives shall be measured using relevant indicators as referred to in Article 31.

3. At least ~~92 %~~ ***95 %*** of the expenditure under this Regulation shall fulfil the criteria for Official Development Assistance, established by the Development Assistance Committee of the Organisation for Economic Cooperation and Development. ***This Regulation shall contribute to reaching the collective target of achieving 0,2 % of the Union's Gross National Income to Least Developed Countries and 0,7 % of the Union Gross National Income as Official Development Assistance within the timeframe of the 2030 Agenda.*** **[Am. 82]**

3a. At least 20 % of the Official Development Assistance funded under this Regulation, across all programmes, geographic and thematic, annually and over the duration of its actions, shall be ring-fenced for social inclusion and human development, in order to support and strengthen the provision of basic social services, such as health, education, nutrition and social protection, particularly to the most marginalised, and with an emphasis on women and children. **[Am. 83]**

3b. At least 85 % of the Official Development Assistance funded programmes, geographic and thematic, under this Regulation shall have gender equality and women's and girls' rights and empowerment as a principal or a significant objective, as defined by the OECD DAC. A significant part of these programmes shall have gender equality and women's and girls' rights and empowerment as a principal objective. **[Am. 84]**

Wednesday 27 March 2019

Article 4

Scope and structure

1. Union funding under this Regulation shall be ~~implemented~~ ***applied*** through: **[Am. 85]**

(a) geographic programmes;

(b) thematic programmes;

(c) rapid response actions.

2. The geographic programmes shall encompass country and multi-country cooperation in the following areas:

(a) Neighbourhood;

(b) Sub-Saharan Africa;

(c) Asia and the Pacific;

(d) Americas and the Caribbean.

Geographic programmes may cover all third countries, except for candidates and potential candidates as defined in Regulation (EU) No …/….[46] (IPA) and overseas countries and territories as defined in Council Decision …/… (EU). ***Geographic programmes of a continental or trans-regional scope may also be established, in particular a pan-African programme covering African countries under points (a) and (b) and a programme covering African, Caribbean and Pacific countries under points (b), (c) and (d).*** **[Am. 86]**

Geographic programmes in the Neighbourhood area may cover any country referred to in Annex I.

In order to attain the objectives laid down in Article 3, geographic programmes shall be based on the areas of cooperation listed in Annex II.

3. The thematic programmes shall encompass actions linked to the pursuit of the Sustainable Development Goals at global level, in the following areas:

(a) Human Rights and Democracy;

(b) Civil Society Organisations ***and Local Authorities***; **[Am. 87]**

(c) Stability and Peace;

(d) Global Challenges;

(da) Foreign Policy Needs and Priorities. **[Am. 88]**

Thematic programmes may cover all third countries. ~~as well as~~ Overseas countries and territories ~~as defined~~ ***shall have full access to thematic programmes, as laid down*** in Council Decision …/… (EU). ***Their effective participation shall be ensured, with account taken of their specific characteristics and the particular challenges they must address.*** **[Am. 89]**

In order to attain the objectives laid down in Article 3, thematic programmes shall be based on the areas of intervention listed in Annex III.

4. The rapid response actions shall enable early action to:

(a) contribute to ***peace,*** stability and conflict prevention in situations of urgency, emerging crisis, crisis and post-crisis; **[Am. 90]**

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[46] Regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (OJ L).

(b) contribute to strengthening ***the*** resilience of states***, including local authorities***, societies, communities and individuals and to linking humanitarian aid and development action. **[Am. 91]**

~~(c) address foreign policy needs and priorities.~~ **[Am. 92]**

Rapid response actions may cover all third countries as well as overseas countries and territories as defined in Council Decision …/… (EU).

In order to attain the objectives laid down in Article 3, rapid response actions shall be based on the areas of intervention listed in Annex IV.

5. Actions under this Regulation shall be primarily ~~implemented~~ ***applied*** through geographic programmes. **[Am. 93]**

Actions ~~implemented~~ ***applied*** through thematic programmes shall be complementary to actions funded under geographic programmes and shall support global and trans-regional initiatives ~~for~~ ***aimed at*** achieving internationally agreed goals~~, in particular the Sustainable Development Goals, protecting~~ ***as referred in point (aa) of Article 3(2), as well as*** global public goods or addressing global challenges. Actions through thematic programmes may also be undertaken ***independently, including*** where there is no geographic programme, or where it has been suspended, or where there is no agreement on the action with the partner country concerned, or where the action cannot be adequately addressed by geographic programmes. **[Am. 94]**

Rapid response actions shall be complementary to geographic and thematic programmes~~. These~~ ***as well as to actions funded through the Council Regulation (EC) No 1257/96 of 20 June 1996 (the 'Humanitarian Aid Regulation'). Those*** actions shall be designed and ~~implemented~~ ***applied*** to enable, where relevant, their continuity under geographic or thematic programmes. **[Am. 95]**

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend Annexes II, III and IV.

Article 5

Coherence, consistency and complementarity

1. In ~~implementing~~ ***applying*** this Regulation, consistency, ***coherence*** synergies and complementarity with ~~other~~ ***all*** areas of Union external action***, including other external financing instruments, the IPA III Regulation in particular, as well as measures adopted under Chapter Two of Title V TEU and Part Five TFEU***, with other relevant Union policies and Programmes, as well as policy coherence for development shall be ensured. ***The Union shall take account of the objectives of development cooperation in the policies that it applies which are likely to affect developing countries.*** **[Am. 96]**

1a. The Union and Member States shall coordinate their respective support programmes with the aim of increasing effectiveness and efficiency of their delivery and preventing overlapping of funding. **[Am. 97]**

1b. In applying this Regulation, the Commission and the EEAS shall duly take into consideration the positions of the European Parliament. **[Am. 98]**

2. Actions falling within the scope of Council Regulation (EC) No 1257/96 shall not be funded under this Regulation.

3. Where appropriate, other Union Programmes may contribute to actions established under this Regulation, 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.

Article 6

Budget

1. The financial envelope for the ~~implementation~~ ***application*** of this Regulation for the period 2021 — 2027 shall be EUR ~~89 200~~***82 451 million in 2018 prices (EUR 93 154*** million in current prices***) [100 %]***. **[Am. 99]**

2. The financial envelope referred to in paragraph 1 shall be composed of:

(a) EUR ~~68 000~~***63 687*** million ***in 2018 prices (EUR 71 954 million in current prices) [77,24 %]*** for geographic programmes: **[Am. 100]**

— Neighbourhood at least EUR ~~22 000~~***20 572*** million ***in 2018 prices (EUR 23 243 million in current prices) [24,95 %]***, **[Am. 101]**

— Sub-Saharan Africa at least EUR ~~32 000~~***30 723*** million ***in 2018 prices (EUR 34 711 million in current prices) [37,26 %]***, **[Am. 102]**

— Asia and the Pacific EUR ***8 851 million in 2018 prices (EUR*** 10 000 million ***in current prices) [10,73 %], including at least EUR 620 million in 2018 prices (EUR 700 million in current prices) for the Pacific***, **[Am. 103]**

— Americas and the Caribbean EUR ***3 540 million in 2018 prices (EUR*** 4 000 million ***in current prices) [4,29 %]***, ***including EUR 1 062 million in 2018 prices (EUR 1 200 million in current prices) for the Caribbean***, **[Am. 104]**

(b) EUR ~~7 000~~***9 471*** million ***in 2018 prices (EUR 10 700 million in current prices) [11,49 %]*** for thematic programmes: **[Am. 105]**

— Human Rights and Democracy ~~EUR 1 500~~ ***at least EUR 1 770*** million ***in 2018 prices (EUR 2 000 million in current prices) [2,15 %]***, ***with up to 25 % of the programme to be devoted to the funding of EU Election Observation Missions***, **[Am. 106]**

— Civil Society Organisations ~~EUR 1 500~~***(CSOs) and Local Authorities (LAs) EUR 2 390*** million ***in 2018 prices (EUR 2 700 million in current prices) [2,90 %], of which EUR 1 947 million in 2018 prices (EUR 2 200 million in current prices) [2,36 %] for CSOs and EUR 443 million in 2018 prices (EUR 500 million in current prices) [0,54 %] for LAs***, **[Am. 107]**

— Stability and Peace EUR ***885 million in 2018 prices (EUR*** 1 000 million ***in current prices) [1,07 %]***, **[Am. 108]**

— Global Challenges EUR ~~3 000~~ ***3 983*** million ***in 2018 prices (EUR 4 500 million in current prices) [4,83 %]***, **[Am. 109]**

— ***Foreign Policy Needs and Priorities EUR 443 million in 2018 prices (EUR 500 million in current prices) [0,54 %],*** **[Am. 110]**

(c) EUR ~~4 000~~***3 098*** million ***in 2018 prices (EUR 3 500 million in current prices) [3,76 %]*** for rapid response actions:

— ***Stability and conflict prevention in situations of urgency, emerging crisis, crisis and post-crisis EUR 1 770 million in 2018 prices (EUR 2 000 million in current prices) [2,15 %],***

— ***Strengthening resilience of states, societies, communities and individuals and linking humanitarian aid and development action EUR 1 328 million in 2018 prices (EUR 1 500 million in current prices) [1,61 %],*** **[Am. 111]**

3. The emerging challenges and priorities cushion of an amount of EUR ~~10 200~~***6 196*** million ***in 2018 prices (EUR 7 000 million in current prices) [7,51 %],*** shall increase the amounts referred to in paragraph 2 in accordance with Article 15. **[Am. 112]**

4. The financial envelope referred to in paragraph 2 (a) shall correspond to at least 75 % of the financial envelope referred to in paragraph 1.

4a. The actions under Article 9 shall be financed to up to the amount of EUR 270 million. **[Am. 113]**

4b. The annual appropriations shall be authorised by the European Parliament and by the Council within the limits of the multiannual financial framework during the budgetary procedure, after the priorities have been agreed by the Institutions. **[Am. 114]**

Article 7

Policy framework

The association agreements, partnership and cooperation agreements, ~~multilateral~~ ***trade*** agreements, and other agreements that establish a legally binding relationship with partner countries, ***recommendations and acts adopted in the bodies set up by those agreements,*** as well as ***relevant multilateral agreements, Union legislative acts***, European Council conclusions, ~~and~~ Council conclusions, summit declarations ~~or~~ ***and other international declarations and*** conclusions of high-level meetings with partner countries, ~~relevant~~ European Parliament resolutions~~, communications of the Commission or Joint~~ ***and positions,*** communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy ***and United Nations Conventions and resolutions***, shall constitute the overall policy framework for the ~~implementation~~ ***application*** of this Regulation. **[Am. 115]**

Article 8

General principles

1. The Union shall seek to promote, develop and consolidate ~~the principles of democracy, the rule of law and respect for human rights and fundamental freedoms on which it is founded,~~ through dialogue and cooperation with partner countries and regions***, through action in the United Nations and other international fora and through its cooperation with civil society organisations, local authorities and private actors, the principles on which it is founded, namely democracy, the rule of law, good governance, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity, and respect for the principles of the United Nations Charter and international law. Funding under this Regulation shall comply with these principles, as well as with the Union's commitments under international law.*** **[Am. 116]**

1a. Consistent with Articles 2 and 21 TEU, the Union's contribution to democracy and the rule of law and to the promotion and protection of human rights and fundamental freedoms shall be rooted in the Universal Declaration Human Rights, international human rights law and international humanitarian law. **[Am. 117]**

2. A rights-based approach encompassing all human rights, whether civil and political or economic, social and cultural shall be applied in order to integrate human rights principles, to support the right holders in claiming their rights with a focus on ~~poorer and more~~ ***marginalised and*** vulnerable groups***, including minorities, women, children and youth, older people, indigenous people, LGBTI persons, and persons with disabilities, on essential labour rights and social inclusion,*** and to assist partner countries in implementing their international human rights obligations. This Regulation shall promote gender equality and ~~women's~~ ***the*** empowerment ***of women, youth and children, including with regard to sexual and reproductive health and rights***. **[Am. 118]**

3. The Union shall support, as appropriate, the implementation of bilateral, regional and multilateral cooperation and dialogue, partnership agreements and triangular cooperation.

The Union shall promote a multilateral and ~~rules-based~~ ***rules- and values-based*** approach to global ***public*** goods and challenges and shall cooperate with Member States, partner countries, international organisations***, including international financial institutions and UN agencies, funds and programmes,*** and other donors in that respect. **[Am. 119]**

The Union shall foster cooperation with international ***and regional*** organisations and other donors. **[Am. 120]**

In relations with partner countries, their track record in implementing commitments, international agreements, ***in particular the Paris Agreement,*** and contractual relations with the Union***, in particular association agreements, partnership and cooperation agreements and trade agreements,*** shall be taken into account. **[Am. 121]**

4. Cooperation between the Union and the Member States, on the one hand, and partner countries, on the other hand, shall be based on and shall promote the development effectiveness principles~~, where applicable,~~ ***across all modalities*** namely: ownership of development priorities by partner countries, a focus on results, inclusive development partnerships, transparency and mutual accountability***, and alignment to the priorities of partner countries***. The Union shall promote effective and efficient resource mobilisation and use. **[Am. 122]**

In line with the principle of inclusive partnership~~, where appropriate,~~ the Commission shall ensure that relevant stakeholders of partner countries, including civil society organisations and local authorities, are duly consulted and have timely access to relevant information allowing them to play a meaningful role during the design, ~~implementation~~ ***application*** and associated monitoring processes of programmes. **[Am. 123]**

In line with the principle of ownership the Commission, where appropriate, shall favour the use of partner countries' systems for the ~~implementation~~ ***application*** of programmes. **[Am. 124]**

5. In order to promote the complementarity and efficiency of their action, the Union and the Member States shall coordinate their policies and shall consult each other on their assistance programmes, including in international organisations and during international conferences.

6. Programmes and actions under this Regulation shall mainstream climate change, environmental protection ~~and~~ ***in accordance with Art. 11 TFEU, disaster risk reduction and preparedness, human development, conflict prevention and peace building,*** gender equality ***and the empowerment of women, children and youth, non-discrimination, education and culture, and digitalisation*** and shall address interlinkages between Sustainable Development Goals, to promote integrated actions that can create co-benefits and meet multiple objectives in a coherent way. These programmes and actions shall be based on an analysis of ***capacities,*** risks and vulnerabilities, integrate a ***people and community centred*** resilience approach and be conflict sensitive. They shall be guided by the ~~principle~~ ***principles*** of leaving no one behind ***and 'do no harm'***. **[Am. 125]**

7. ***Without prejudice to the other objectives of Union external action,*** a more coordinated, holistic and structured approach to migration shall be pursued, with partners and its effectiveness be regularly assessed***, without conditioning the allocation of development aid to third countries to cooperation on migration management and in full respect of human rights, including the right of every individual to leave his or her country of origin***. **[Am. 126]**

7a. The Commission shall ensure that actions adopted under this Regulation in relation to security, stability and peace, in particular with regard to capacity building of military actors in support of development and security for development, fight against terrorism and organised crime, and cyber-security, are carried out in accordance with international law, including international human rights and humanitarian law. The Commission may develop roadmaps jointly with the beneficiary partners to improve the institutional and operational compliance of military actors with transparency and human rights standards. The Commission shall carefully monitor, evaluate and report on the application of such actions for each relevant objective pursuant to Article 31 in order to ensure compliance with human rights obligations. For such actions, the Commission shall pursue a conflict sensitive approach, including a rigorous and

systematic ex ante conflict analysis which fully integrates gender analysis, in addition to the provisions on risk management under Article 8(8)b. The Commission shall adopt a delegated act in accordance with Article 34 supplementing this Regulation by establishing an operational framework, based on the existing guidance to ensure that human rights are taken into consideration in the design and application of the measures referred to in this Article, in particular as regards the prevention of torture and other cruel, inhuman or degrading treatment and respect for due process, including the presumption of innocence, the right to a fair trial and rights of defence. **[Am. 127]**

8. The Commission shall ***regularly*** inform and have ~~regular exchanges of views~~ ***meaningful policy dialogues*** with the European Parliament***, at its own initiative and when requested by the European Parliament***.* **[Am. 128]**

8a. The Commission shall have regular exchanges of information with civil society and local authorities. **[Am. 129]**

8b. The Commission shall adopt a delegated act in accordance with Article 34 supplementing this Regulation by establishing an appropriate risk management framework, including an assessment and mitigations measures for each relevant objective of the Regulation. **[Am. 130]**

8c. Transparency and accountability, with a strong focus on reporting and scrutiny shall underpin the entire instrument. That shall comprise a transparent control system, including the reporting of information on the recipients of funds and whether payments have been made on time. **[Am. 131]**

Article 9

Capacity building of military actors in support of development and security for development

1. ~~In accordance with Article 41(2) of the Treaty on European Union,~~ Union funding under this Regulation shall not be used to finance the procurement of arms or ammunition, or operations having military or defence implications. ***Any equipment, service or technology supplied under this Regulation shall be subject to strict transfer controls as set out in the Common Position 944/2008/CFSP, the Dual-Use Regulation and any other Union restrictive measures in force. In accordance with Regulation (EU) …/… [EU Regulation on Products used for Capital Punishment and Torture], this Regulation shall not be used to finance the provision of any type of equipment that may be used for torture, mistreatment or other human rights violations.*** **[Am. 132]**

2. In order to contribute to sustainable development, which requires the achievement of stable, peaceful and inclusive societies, Union assistance under this Regulation may be used in the context of a wider security sector reform or to build the capacity of military actors in partner countries, under the exceptional circumstances set out in paragraph 4, to deliver development activities and security for development activities***, in line with the overarching objective of achieving sustainable development***.* **[Am. 133]**

3. Assistance pursuant to this Article may cover in particular the provision of capacity building programmes in support of development and security for development, including training, mentoring and advice, as well as the provision of equipment, infrastructure improvements and services directly related to that assistance.

4. Assistance pursuant to this Article shall be provided only:

(a) where requirements cannot be met by recourse to non-military actors to adequately reach Union objectives under this Regulation and there is a threat to the existence of functioning State institutions or to the protection of human rights and fundamental freedoms and State institutions cannot cope with that threat; and

(b) where a consensus exists between the partner country concerned and the Union that military actors are key for preserving, establishing or re-establishing the conditions essential for sustainable development ***and that those military actors are not implicated in human rights violations or pose a threat to the functioning of State institutions***, including in crises and fragile or destabilised contexts and situations. **[Am. 134]**

5. Union assistance pursuant to this Article shall not be used to finance capacity building of military actors for purposes other than the delivery of development activities and security for development activities. In particular, it shall not be used to finance:

(a) recurrent military expenditure;

(b) the procurement of arms and ammunition, or any other equipment designed to deliver lethal force;

(c) training which is designed to contribute specifically to the fighting capacity of the armed forces.

6. When designing and ~~implementing~~ ***applying*** measures pursuant to this Article, the Commission shall promote ownership by the partner country. It shall also develop the necessary elements and the good practices required to ensure sustainability ***and accountability*** in the medium and long term and shall promote the rule of law and established international law principles. ***The Commission shall ensure that those measures generate direct human security benefits for the population, are integrated into a broader security sector reform policy comprising strong democratic and parliamentary oversight and accountability elements, including in terms of improved security service provision, and fit into long-term peace and development strategies designed to address the root causes of conflict. The Commission shall also ensure that actions aimed at reforming military forces contribute to making them more transparent, accountable and compliant with the human rights of those coming under their jurisdiction. For measures aimed at providing partner military forces with equipment, the Commission shall specify the type of equipment to be provided in the context of each measure. The Commission shall apply the provisions specified under Article 8 — paragraph 8 b (new) in order to ensure that this equipment will be used only by its intended beneficiaries.*** **[Am. 135]**

7. The Commission shall ~~establish appropriate risk assessment, monitoring and~~ ***undertake, within the*** evaluation ~~procedures for measures~~ pursuant to ~~this~~ Article ***32, and in particular with regard to a mid-term evaluation, joint evaluations with Member States. The results shall inform programme design and resource allocation, and further enhance the consistency and complementarity of the Union's external action.*** **[Am. 136]**

TITLE II

~~IMPLEMENTATION~~ ***APPLICATION*** OF THIS REGULATION **[Am. 137]**

Chapter I

Programming

Article 9a

Scope of the Geographic programmes

1. Union cooperation activities under this Article shall be applied for activities of a local, national, regional, trans-regional and continental nature.

2. In order to attain the objectives laid down in Article 3, geographic programmes shall be drawn up from the following areas of cooperation:

(a) good governance, democracy, rule of law, human rights, fundamental freedoms and civil society;

(b) poverty eradication, fight against inequalities and human development;

(c) migration and mobility;

(d) environment and climate change;

(e) inclusive and sustainable economic growth and decent employment;

(f) security, stability and peace;

(g) partnership;

3. Further details of the areas of cooperation referred to in paragraph 2 are set out in Annex II. **[Am. 138]**

Article9b

Scope of the thematic programmes

1. Thematic programmes shall cover the following areas of intervention:

(a) Human Rights, Fundamental Freedoms and Democracy:

— *protecting and promoting human rights and human rights defenders in countries and urgency situations where human rights and fundamental freedoms are most at risk, including through addressing urgent protection needs of human rights defenders in a flexible and comprehensive manner.*

— *upholding human rights and fundamental freedoms for all, contributing to forging societies in which participation, non-discrimination, equality, social justice and accountability prevails.*

— *consolidating and supporting democracy, addressing all aspects of democratic governance, including reinforcing democratic pluralism, enhancing citizen participation, including through supporting citizen election observation organisations and their regional networks worldwide, creating an enabling environment for civil society and supporting credible, inclusive and transparent electoral processes throughout the entire electoral cycle, in particular by means of EU Election Observation Missions (EU EOMs).*

— *promoting effective multilateralism and strategic partnerships contributing to reinforcing capacities of international, regional and national frameworks and empowering local actors in promoting and protecting human rights, democracy and the rule of law.*

— *fostering new cross-regional synergies and networking among local civil societies and between civil society and other relevant human rights bodies and mechanisms so as to maximise the sharing of best practices on human rights and democracy, and create positive dynamics.*

(b) Civil Society Organisations and Local Authorities:

— *supporting inclusive, participatory, empowered and independent civil society in partner countries;*

— *promoting dialogue with and between civil society organisations;*

— *supporting capacity building of local authorities and mobilising their expertise to promote a territorial approach to development;*

— *increasing awareness, knowledge and engagement of Union citizens about objectives specified in Article 3 of this Regulation;*

— *supporting civil society to participate in public policy advocacy and dialogue with governments and international institutions;*

— *supporting civil society to sensitise consumers and citizens and raise their awareness about environmental friendly and fair trade production and consumption, to encourage them to adopt more sustainable behaviour;*

(c) Stability and Peace

— *assistance for conflict prevention, peace-building and crisis preparedness;*

— *assistance in addressing global and trans-regional threats and emerging threats;*

(d) Global challenges

— *health,*

— *education,*

— *gender equality,*

— ***children and youth,***

— ***migration and forced displacement,***

— ***decent work, social protection and inequality,***

— ***culture,***

— ***ensuring a healthy environment and tackling climate change,***

— ***sustainable energy,***

— ***sustainable and inclusive growth, decent jobs and private sector engagement,***

— ***food and nutrition,***

— ***promoting inclusive societies, good economic governance, and transparent public finance management,***

— ***access to safe water, sanitation and hygiene,***

(e) Foreign Policy Needs and Priorities

— ***providing support for the Union's bilateral, regional and inter-regional cooperation strategies, promoting policy dialogue and developing collective approaches and responses to challenges of global concern;***

— ***providing support for Union trade policy;***

— ***contributing to the implementation of the international dimension of internal Union policies and promoting the widespread understanding and visibility of the Union and of its role on the world scene;***

2. Further details of the areas of cooperation referred to in paragraph 1 are set out in Annex III. **[Am. 139]**

Article 10

General programming approach

1. Cooperation and interventions under this Regulation shall be programmed, except for rapid response actions referred to in Article 4 (4).

2. On the basis or Article 7, programming under this Regulation shall be based on the following:

(a) programming documents shall provide a coherent framework for cooperation between the Union and partner countries or regions, consistent with the overall purpose and scope, objectives and principles set out in this Regulation***, and based on Union strategy towards a partner country or region or based on Union thematic strategies***; **[Am. 140]**

(b) the Union and the Member States shall consult each other at an early stage of and throughout the programming process in order to promote coherence, complementarity and consistency among their cooperation activities. Joint programming shall be the preferred approach for country programming. Joint programming shall be open to other donors where relevant;

(c) the Union shall ~~also consult~~ ***at an early stage and throughout the programming process encourage a regular multi-stakeholder and inclusive dialogue with*** other ***Union and non-Union*** donors and actors, including representatives of civil society and local authorities, ~~where relevant;~~ ***and private and political foundations. The European Parliament shall be informed about the outcome of those consultations.*** **[Am. 141]**

(d) the Human Rights and Democracy, ~~and~~ Civil Society ***Organisations and Local Authorities, and Stability and Peace*** thematic programmes referred to in Article 4(3)(a) ~~and~~ (b) ***and (c)*** shall provide assistance independently of the consent of governments and other public authorities of the third countries concerned. ~~These~~ ***The Human Rights and Democracy, and the Civil Society Organisations and Local Authorities*** thematic programmes shall mainly support civil society, ~~organisations~~ ***including human rights defenders and journalists under pressure***. **[Am. 142]**

Wednesday 27 March 2019

Article 11

Programming principles ~~for geographic programmes~~ **[Am. 143]**

-1. Programming under this Regulation shall have due regard to human rights, fundamental freedoms, good governance and democracy in partner countries. **[Am. 144]**

-1a. The preparation, application and review of all programming documents under this Article shall comply with the principles of policy coherence for development and those of aid effectiveness. **[Am. 145]**

-1b. Geographic and thematic programmes shall be complementary and coherent with each other, and create added value. **[Am. 146]**

1. Programming of geographic programmes shall be based on the following principles:

(a) without prejudice to paragraph 4, actions shall be based~~, to the extent possible, on a~~ ***on an inclusive*** dialogue between ***the institutions of*** the Union, the Member States and the partner countries concerned, including national and local ***and regional*** authorities, involving civil society ***organisations, regional***, national and local parliaments***, communities*** and other stakeholders, in order to enhance ***democratic*** ownership of the process and to encourage support for national and regional strategies; **[Am. 147]**

(b) ~~where appropriate~~ ***whenever possible***, the programming period shall be synchronised with the strategy cycles of partner countries; **[Am. 148]**

(c) programming may envisage cooperation activities funded from different allocations listed in Article 6(2) and from other Union Programmes according to their basic acts.

2. ***Without prejudice to paragraph 1,*** programming of geographic programmes shall provide a specific, tailor-made framework for cooperation based on: **[Am. 149]**

(a) the partners' needs, established on the basis of specific criteria ***and in-depth analysis***, taking into account the population, poverty, inequality, human development, ***the state of human rights, fundamental freedoms, democracy and gender equality, civic space,*** economic and environmental vulnerability, and state and societal resilience; **[Am. 150]**

(b) the partners' capacities ~~to generate and access financial~~ ***of mobilisation and effective use of domestic*** resources ***to support national development priorities*** and on their absorption capacities; **[Am. 151]**

(c) the partners' commitments, ~~and performance~~ ***including those jointly agreed with the Union, and efforts***, established on the basis of criteria such as political reform, ~~and~~ ***progress in the rule of law, good governance, human rights and the fight against corruption,*** economic and social development***, environmental sustainability, and the effective use of aid***; **[Am. 152]**

(d) the potential impact of Union funding in partner countries and regions;

(e) the partner's capacity and commitment to promote shared ***values, principles and fundamental*** interests ~~and values~~, and to support common goals and multilateral alliances, as well as the advancement of Union priorities. **[Am. 153]**

3. The countries most in need, in particular the Least Developed Countries, low income countries, countries in crisis, post-crisis, fragile and vulnerable situations, including small islands developing states, shall be given priority in the resource allocation process.

4. Cooperation with industrialised countries shall focus on the promotion of Union and mutual interests***, as well as shared fundamental interests and values, commonly agreed objectives and multilateralism. Such cooperation shall be, where relevant, based on a dialogue between the Union, including the European Parliament, and the Member States, involving civil society.*** **[Am. 154]**

5. Programming documents ~~for geographic programmes~~ shall be ~~results-based and shall take into account~~ ***results oriented and include, wherever possible***, ***clear targets and indicators to measure progress and impact of Union assistance. Indicators may be based,*** where appropriate, ***on*** internationally agreed ~~targets and indicators,~~ ***standards*** in particular those set out for the Sustainable Development Goals, as well as country-level result frameworks~~, to assess and communicate the Union contribution to results, at the level of outputs, outcomes and impact~~. **[Am. 155]**

6. When drawing up the programming documents for countries and regions in crisis, or post-crisis, fragile and vulnerable situations, due account shall be taken of the special needs and circumstances of the countries or regions concerned***, as well as vulnerabilities, risks and capacities in order to increase resilience***. ***Attention shall also be paid to conflict prevention, State and peace-building, post-conflict reconciliation and reconstruction, disaster preparedness as well as to the role of women and the rights of children in those processes. A human-rights based and people-centred approach shall be applied.***

Where partner countries or regions are directly involved in, or affected by, a crisis, post-crisis or situation of fragility, special emphasis shall be placed on stepping up coordination amongst all relevant actors to help ***the prevention of violence and*** the transition from an emergency situation to the development phase. **[Am. 156]**

7. This Regulation shall contribute ***from the programmes established under Article 4(2) of this Regulation*** to actions established under the Erasmus Regulation***. An indicative amount of EUR 2 000 000 000 from the geographical programmes should be allocated to actions dedicated to mobility, cooperation and political dialogue with the authorities, institutions and organisations of the partner countries***. A single programming document shall be drawn up from this Regulation for seven years, including funds from the IPA III Regulation. The Erasmus Regulation shall apply to the use of these funds***, while ensuring conformity with the IPA III Regulation***. **[Am. 157]**

7a. This Regulation shall contribute to actions established under the Creative Europe Regulation. A single programming document shall be drawn up from this Regulation for seven years, including funds from the IPA III Regulation. The Creative Europe Regulation shall apply to the use of these funds. **[Am. 158]**

Article 12

Programming documents for geographic programmes

-1. The Commission is empowered to adopt delegated acts in accordance with Article 34 in order to supplement non-essential elements of this Regulation by establishing frameworks for each specific country and multi-country multiannual programme. Those framework provisions shall:

(a) specify the priority areas among the ones defined in Articles 9a and 15b;

(b) lay down the specific detailed and measurable objectives of each programme;

(c) set expected results with measurable targets, and clear and specific performance indicators linked to the objectives;

(d) set out the indicative financial allocation both overall and per priority area;

(e) establish cooperation modalities, including contributions to the External Action Guarantee. **[Am. 159]**

~~1. The implementation of this Regulation shall be carried out for geographic programmes through multiannual country and multi-country indicative programmes.~~ **[Am. 160]**

~~2. Multiannual indicative programmes shall set out the priority areas selected for Union financing, the specific objectives, the expected results, clear and specific performance indicators, and the indicative financial allocations, both overall and per priority area.~~ **[Am. 161]**

3. The multiannual ~~indicative~~ programmes shall be built on: **[Am. 162]**

(-a) a report containing an analysis in accordance with Article 11(2) of the needs, capacities, commitments and performance of partner country or countries concerned and the potential impact of Union funding, as well as one or more of the following: **[Am. 163]**

(a) a national or regional strategy in the form of a development plan or a similar document ***based on a meaningful consultation with the local population and civil society and*** accepted by the Commission as a basis for the corresponding multiannual ~~indicative~~ programme, at the time of adoption of the latter document; **[Am. 164]**

(b) a ~~framework~~ document laying down the Union policy towards the concerned partner or partners, including a joint document between the Union and Member States; **[Am. 165]**

(c) a joint document between the Union and the concerned partner or partners setting out common priorities.

4. To increase the impact of collective cooperation of the Union, where possible, a joint programming document shall replace the Union's and Member States programming documents. A joint programming document may replace the Union's multiannual ~~indicative~~ programme, provided it ***is approved in an act adopted in accordance with Article 14 and*** complies with Articles 10 and 11, contains the elements listed in paragraph 2 of this Article and sets out the division of labour between the Union and Member States. **[Am. 166]**

4a. Multiannual programmes may provide for an amount of funds, not exceeding 5 % of the total amount, that is not allocated to a priority area or partner country or group of countries. Those funds shall be committed in accordance with Article 21. **[Am. 167]**

Article 13

Programming documents for thematic programmes

-1. The Commission is empowered to adopt delegated acts in accordance with Article 34 in order to supplement non-essential elements of this Regulation by establishing frameworks for each specific thematic multiannual programme. Those framework provisions shall:

(a) specify the priority areas among the ones defined in Article 9b;

(b) lay down the specific detailed and measurable objectives of each programme;

(c) set expected results with measurable targets, and clear and specific performance indicators linked to the objectives;

(d) set out the indicative financial allocation both overall and per priority area;

(e) establish cooperation modalities. **[Am. 168]**

~~1. The implementation of this Regulation shall be carried out for thematic programmes through multiannual indicative programmes.~~ **[Am. 169]**

2. ~~Multiannual indicative programmes for thematic programmes shall set out the Union's strategy, the priorities selected for financing by the Union, the specific objectives, the expected results, clear and specific performance indicators, and the international situation and the activities of the main partners for the theme concerned.~~ **[Am. 170]**

Where applicable, resources and intervention priorities shall be laid down for participation in global initiatives.

~~Multiannual indicative programmes for thematic programmes shall set out the indicative financial allocation, overall, by area of cooperation and by priority. The indicative financial allocation may be given in the form of a range.~~ **[Am. 171]**

The framework provisions referred to in Articles 12 and 13 shall be built on a report containing an analysis of the international situation and of the activities of the main partners for the theme concerned and indicating the results expected from the programme. **[Am. 172]**

2a. Multiannual programmes may provide for an amount of funds, not exceeding 5 % of the total amount, that is not allocated to a priority area or partner country or group of countries. Those funds shall be committed in accordance with Article 21. **[Am. 173]**

Article 14

Adoption and amendment of multiannual ~~indicative~~ programmes **[Am. 174]**

1. The Commission ~~shall adopt~~ ***is empowered to adopt delegated acts in accordance with Article 34 in order to supplement non-essential elements of this Regulation by establishing frameworks for*** multiannual ~~indicative~~ programmes referred to in Articles 12 and 13 by means of ~~implementing~~ ***delegated*** acts. Those ~~implementing~~ ***delegated*** acts shall be adopted in accordance with the ~~examination~~ procedure referred to in Article ~~35(2)~~ **34**. This procedure shall also apply to reviews referred to in paragraphs 3, 4 and 5 of this Article~~, which have the effect of significantly modifying the content of the multiannual indicative programme~~. **[Am. 175]**

2. When adopting joint multi-annual programming documents referred to in Article 12, the ~~Commission decision~~ ***delegated act*** shall only apply to the Union's contribution to the joint multiannual programming document. **[Am. 176]**

3. Multiannual ~~indicative programmes for~~ geographic ***and thematic*** programmes ~~may be reviewed where necessary for effective implementation, in particular where there are substantive changes in the policy framework~~ ***shall expire on 30 June 2025 at the latest. The Commission shall adopt new multiannual programmes by 30 June 2025, based on the results, findings and conclusions of the mid-term evaluation*** referred to in Article ~~7 or following a crisis or post-crisis situation~~ **32**. **[Am. 177]**

4. Multiannual ~~indicative programmes for thematic~~ programmes may be ~~reviewed~~ ***modified*** where necessary for effective ~~implementation~~ ***application***, in particular where there are substantive changes in the policy framework referred to in Article 7. ***Multiannual programmes shall be modified in cases where the mobilisation of the emerging challenges and priorities cushion requires a change of the framework provisions of the relevant programme.*** **[Am. 178]**

5. On duly justified imperative grounds of urgency, such as crises or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may amend multiannual ~~indicative~~ programmes referred to in Articles 12 and 13 ~~of this Regulation~~ by ~~implementing~~ ***delegated*** acts adopted in accordance with the urgency procedure referred to in Article 35(4) **34*a***. **[Am. 179]**

Article 15

Emerging challenges and priorities cushion

1. The amount referred to in Article 6(3) shall be used ~~inter alia~~ ***in duly justified cases, with priority given to the countries most in need, and in full complementarity and consistency with acts adopted under this Regulation***: **[Am. 180]**

(a) to ensure an appropriate response of the Union in the event of unforeseen ~~circumstances~~ ***needs not covered by programmes and programming documents***; **[Am. 181]**

(b) to address new needs or emerging challenges, such as those at the Union's or its neighbours' borders ***or those in third countries*** linked to crisis***, either natural or man-made,*** and post-crisis situations or ~~migratory pressure~~ ***to migration phenomena, in particular forced displacement***; **[Am. 182]**

(c) to promote ***or respond to*** new ~~Union led or~~ international initiatives or priorities. **[Am. 183]**

2. The use of these funds shall be decided in accordance with the procedures established in Articles 14 and 21.

Article 15a

Suspension of assistance

1. Without prejudice to the provisions on the suspension of aid in agreements with partner countries and regions, where a partner country persistently fails to observe the principles of democracy, the rule of law, good governance, respect for human rights and fundamental freedoms, or nuclear safety standards, the Commission shall be empowered, in accordance with Article 34, to adopt delegated acts amending Annex VII-a, by adding a partner country to the list of partner countries for which Union assistance is suspended or partly suspended. In the case of a partial suspension, the programmes for which the suspension applies shall be indicated.

2. Where the Commission finds that the reasons justifying the suspension of assistance no longer apply, it shall be empowered to adopt delegated acts, in accordance with Article 34 to amend Annex VII-a in order to reinstate Union assistance.

3. In cases of partial suspension, Union assistance shall primarily be used to support civil society organisations and non-state actors for measures aimed at promoting human rights and fundamental freedoms and supporting democratisation and dialogue processes in partner countries.

4. The Commission shall take due account of relevant European Parliament resolutions in its decision-making. **[Am. 184]**

Chapter II

Specific provisions for the Neighbourhood

Article 15b

Specific objectives for the neighbourhood area

1. In accordance with Articles 3 and 4, Union support under this Regulation in the Neighbourhood area shall have as objectives:

(a) enhancing political cooperation and ownership of the European Neighbourhood Policy by the Union and its partner countries;

(b) supporting the implementation of association agreements, or other existing and future agreements, and jointly agreed association agendas and partnership priorities or equivalent documents;

(c) strengthening and consolidating democracy, state-building, good governance, rule of law and human rights as well as promoting a more effective way of implementing reforms agreed in mutual formats;

(d) stabilising the neighbourhood in political, economic and security terms;

(e) enhancing regional cooperation, in particular in the framework of the Eastern Partnership, the Union for the Mediterranean, and European Neighbourhood-wide collaboration as well as cross-border cooperation;

(f) promoting confidence-building, good neighbourly relations and other measures contributing to security in all its forms and the prevention and settlement of conflicts, including protracted conflicts, support to affected populations and reconstruction, and respect for multilateralism and international law;

(g) promoting a strengthened partnership with societies between the Union and the partner countries, including through enhanced mobility and people-to-people contacts, in particular in relation to cultural, educational, professional and sporting activities;

(h) intensifying cooperation on both regular and irregular migration;

(i) achieving progressive integration into the Union internal market and enhanced sectoral and cross-sectoral cooperation, including through legislative approximation and regulatory convergence towards Union and other relevant international standards, and improved market access including through deep and comprehensive free trade areas, related institution building and investment;

(j) supporting sustainable, inclusive and socially beneficial economic and social development for all by promoting job creation and employability, in particular for young people;

(k) contributing to the implementation of the Paris Agreement by strengthening cooperation on energy security and promoting renewable energy, sustainable energy and energy efficiency objectives;

(l) encouraging the establishment of thematic frameworks with the neighbouring countries of neighbourhood partner countries to address common challenges such as migration, energy, security and health. **[Am. 185]**

Article 16

Programming documents and allocation criteria

1. For partner countries listed in Annex I, priority areas for Union financing shall be mainly selected from those included in documents referred to in Article 12(3)(c), in accordance with the areas of cooperation of the Neighbourhood area set out in Annex II.

2. By way of derogation from Article 11(2), Union support under geographic programmes in the Neighbourhood area shall be differentiated in form and amounts, taking into account the following elements, reflecting the partner country's:

(a) needs, using indicators such as population and level of development;

(b) commitment to and progress in implementing jointly agreed political, economic***, environmental*** and social reform objectives; **[Am. 186]**

(c) commitment to and progress in building deep and sustainable democracy***, including the promotion of human rights, good governance, the upholding of the rule of law and the fight against corruption***; **[Am. 187]**

(ca) commitment to multilateralism; **[Am. 188]**

(d) partnership with the Union, including the level of ambition for that partnership;

(e) absorption capacity and potential impact of Union support under this Regulation.

3. The support referred to in paragraph 2 shall be reflected in the programming documents referred to in Article 12.

3a. Union support to partner countries listed in Annex I shall be applied in compliance with the co-financing principle set out in Article 190 of the Financial Regulation. **[Am. 189]**

Article 17

Performance-based approach

1. ~~Indicatively~~ ***At least*** 10 % of the financial envelope set out in Article ~~4(2)(a)~~ ***6(2)(a) first indent,*** to supplement the country financial allocations referred to in Article 12 shall be allocated to partner countries listed in Annex I in order to ~~implement~~ ***apply*** the performance-based approach. The performance-based allocations shall be decided on the basis of their progress towards democracy, human rights, rule of law, ***good governance,*** cooperation on ***safe, orderly and regular*** migration, economic governance and ***implementing agreed*** reforms. The progress of partner countries shall be assessed annually ***with the active involvement of civil society, in particular by means of country progress reports which include trends as compared to previous years***. **[Am. 190]**

1a. The application of the performance-based approach under this Regulation shall be the subject of a regular exchange of views in the European Parliament and in the Council. **[Am. 191]**

2. The performance-based approach shall not apply to support to civil society, people-to-people contacts, including cooperation between local authorities, support for the improvement of human rights, or crisis-related support measures. In the event of serious or persistent degradation of democracy, human rights or rule of law, support to these actions ~~may~~ ***shall*** be increased***, where appropriate***. **[Am. 192]**

2a. The Commission and EEAS shall review the performance-based support in the event of serious or persistent degradation of democracy, human rights or rule of law. **[Am. 193]**

2b. The Commission shall adopt a delegated act in accordance with Article 34 to supplement this Regulation establishing the methodological framework of the performance-based approach. **[Am. 194]**

Article 18

Cross-Border Cooperation

1. Cross-border cooperation, as defined in Article 2(3), shall cover cooperation on adjacent land ***and maritime*** borders, transnational cooperation over larger transnational territories, maritime cooperation around sea-basins, as well as interregional cooperation. ***Cross-border cooperation shall aim to be coherent with the objectives of existing and future macro-regional strategies and regional integration processes.*** **[Am. 195]**

2. The Neighbourhood area shall contribute to cross-border cooperation programmes referred to in paragraph 1 co-financed by the European Regional Development Fund in the framework of Regulation (EU) …/… of the European Parliament and of the Council ([47]) ('ETC Regulation'). Up to 4 % of the financial envelope for the Neighbourhood area shall be indicatively allocated to support those programmes.

3. Contributions to cross-border cooperation programmes shall be determined and used pursuant to Article 10(3) of the ETC Regulation.

4. The Union co-financing rate shall not be higher than 90 % of the eligible expenditure of a cross-border cooperation programme. For technical assistance the co-financing rate shall be 100 %.

5. Pre-financing for cross-border cooperation programmes shall be determined in the work programme in accordance with needs of the participating third countries and territories and may exceed the percentage referred to in Article 49 of the ETC Regulation.

([47]) COM(2018)0374 Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments.

6. A multiannual indicative strategy document for cross border cooperation, setting out the elements referred to in Article 12(2) of this Regulation, shall be adopted in accordance with Article 10(1) of the ETC Regulation.

7. Where cross-border cooperation programmes are discontinued in accordance with Article 12 of the ETC Regulation, support from the Neighbourhood area to the discontinued programme that remains available may be used to finance any other activity under the Neighbourhood area.

Chapter III

~~Action plans, measures and implementing methods~~ ***Execution*** **[Am. 196]**

Article 19

Action plans and measures

1. The Commission shall adopt annual or multiannual action plans or measures. The measures may take the form of individual measures, special measures, support measures or exceptional assistance measures. Action plans and measures shall specify for each action the objectives pursued, the expected results and main activities, the methods of ~~implementation~~ ***application***, the budget and any associated support expenditures. **[Am. 197]**

2. Action plans shall be based on programming documents, except for cases referred to in paragraphs 3 and 4.

When necessary, an action may be adopted as an individual measure before or after the adoption of action plans. Individual measures shall be based on programming documents, except for cases referred to in paragraph 3 and in other duly justified cases.

In the event of unforeseen needs or circumstances, and when funding is not possible from more appropriate sources, the Commission may adopt special measures not ~~provided for in~~ ***based on*** the programming documents. **[Am. 198]**

3. Annual or multiannual action plans and individual measures may be used to ~~implement~~ ***execute*** rapid response actions referred to in Article 4(4)(b) ~~and (c)~~. **[Am. 199]**

4. The Commission may adopt exceptional assistance measures for rapid response actions as referred to in Article 4(4)(a).

~~An exceptional assistance measure may have a duration of up to 18 months, which may be extended twice by a further period of up to six months, up to a total maximum duration of 30 months, in the event of objective and unforeseen obstacles to its implementation, provided that there is no increase in the financial amount of the measure.~~ **[Am. 200]**

~~In cases of protracted crisis and conflict, the Commission may adopt a second exceptional assistance measure of a duration of up to 18 months. In duly justified cases further measures may be adopted where the continuity of the Union's action is essential and cannot be ensured by other means.~~ **[Am. 201]**

4a. Measures taken under Article 19 (3) and (4) may have a duration of up to 18 months, which may be extended twice by a further period of up to six months, up to a total maximum duration of 30 months, in the event of objective and unforeseen obstacles to execution, provided that there is no increase in the financial amount of the measure.

In cases of protracted crisis and conflict, the Commission may adopt a second exceptional assistance measure of a duration of up to 18 months. In duly justified cases, further measures may be adopted where the continuity of the Union's action under this paragraph is essential and cannot be ensured by other means. **[Am. 202]**

Article 20

Support measures

1. Union financing may cover support expenditure for the ~~implementation~~ ***execution*** of the Instrument and for the achievement of its objectives, including administrative support associated with the preparation, follow-up, monitoring, control, audit and evaluation activities necessary for such ~~implementation~~ ***execution***, as well as expenditure at headquarters and Union delegations for the administrative support needed for the programme, and to manage operations financed under this Regulation, including information and communication actions, and corporate information technology systems. **[Am. 203]**

2. When support expenditure is not included in the action plans or measures referred to in Article 21, the Commission shall adopt, where applicable, support measures. Union financing under support measures may cover:

(a) studies, meetings, information, awareness-raising, training, preparation and exchange of lessons learnt and best practices, publication activities and any other administrative or technical assistance expenditure necessary for the programming and management of actions, including remunerated external experts;

(b) research and innovation activities and studies on relevant issues and the dissemination thereof;

(c) expenditures related to the provision of information and communication actions, including the development of communication strategies and corporate communication and visibility of the political priorities of the Union.

Article 21

Adoption of action plans and measures

1. Action plans and measures shall be adopted by ~~means of implementing acts adopted~~ ***a Commission decision*** in accordance with the ~~examination procedure referred to in Article 35(2)~~ ***Financial Regulation***. **[Am. 204]**

~~2. The procedure referred to in paragraph 1 shall not be required for:~~

~~(a) action plans, individual measures and support measures, for which the Union's funding does not exceed EUR 10 million;~~

~~(b) special measures as well as action plans and measures adopted in order to implement rapid response actions for which the Union's funding does not exceed EUR 20 million;~~

~~(c) technical amendments, provided such amendments do not substantially affect the objectives of the action plan or measure concerned, such as:~~

~~(i) change of method of implementation;~~

~~(ii) reassignments of funds between actions contained in an action plan;~~

~~(iii) increases or reductions of the budget of action plans and measures by not more than 20 % of the initial budget and not exceeding EUR 10 million;~~

~~In case of multiannual action plans and measures, the thresholds referred to in paragraph (2)(a), (b) and (c) (iii) shall be applicable on a yearly basis.~~

~~When adopted in accordance with this paragraph, action plans and measures, except exceptional assistance measures, and technical amendments shall be communicated to the European Parliament and to the Member States through the relevant committee referred to in Article 35 within one month of their adoption.~~ **[Am. 205]**

Wednesday 27 March 2019

3. ~~Before the adoption or extension of exceptional assistance measures not exceeding EUR 20 million, the Commission shall inform the Council of their nature and objectives and of the financial amounts envisaged. The Commission shall inform the Council before making significant substantive changes to exceptional assistance measures already adopted.~~ The Commission shall take account of the relevant policy approach of the Council ***and the European Parliament*** for the planning and subsequent ~~implementation~~ ***application*** of such measures, in the interests of consistency of the Union's external action. **[Am. 206]**

The Commission shall ~~keep~~ ***immediately inform*** the European Parliament ~~duly informed, in a timely manner,~~ about the planning ~~and the implementation of exceptional assistance~~ ***of*** measures pursuant to this Article, including the financial amounts envisaged, and shall also inform the European Parliament when making substantial changes or extensions to that assistance. ***As soon as possible following the adoption or substantial modification of a measure, and in any case within one month thereof, the Commission shall report to the European Parliament and to the Council and give an overview of the nature and the rationale of the measure adopted, its duration, budget and its context, including the complementarity of that measure with other ongoing and planned Union assistance. For exceptional assistance measures, the Commission shall also indicate whether, to what extent and how it will ensure the continuity of the policy executed through the exceptional assistance by medium- and long-term assistance under this Regulation.*** **[Am. 207]**

3a. Before adopting action plans and measures not based on programming documents pursuant to Article 19(2), except for cases referred to in Article 19 (3) and (4), the Commission shall adopt a delegated act in accordance with Article 34 in order to supplement this Regulation by setting out the specific objectives to be pursued, the results expected, the instruments to be used, the main activities and the indicative financial allocations of these action plans and measures. **[Am. 208]**

~~4. In the event of duly justified imperative grounds of urgency, such as crises including natural or man-made disasters, immediate threats to democracy, the rule of law, human rights or fundamental freedoms, the Commission may adopt action plans and measures or amendments to existing action plans and measures, as immediately applicable implementing acts, in accordance with the procedure referred to in Article 35(4).~~ **[Am. 209]**

5. Appropriate ***human rights, social and*** environmental screening, including for climate change and biodiversity impacts, shall be undertaken at the level of actions, in accordance with the applicable legislative acts of the Union, including Directive 2011/92/EU [48] of the European Parliament and of the Council and Council Directive 85/337/EEC [49], comprising, where applicable, an environmental impact assessment for environmentally sensitive actions, in particular for major new infrastructure. **[Am. 210]**

Additionally, ex-ante human rights, gender, social and labour impact assessments, as well as conflict analysis and risk assessment shall be conducted. **[Am. 211]**

Where relevant, ***human rights, social and*** strategic environmental assessments shall be used in the ~~implementation~~ ***execution*** of sectoral programmes. The involvement of interested stakeholders in ~~environmental~~ ***these*** assessments and public access to the results of such assessments shall be ensured. **[Am. 212]**

Article 21a

European Parliament's assistance programmes

The Commission shall hold a dialogue with the European Parliament, and take into account the European Parliament's views on areas in which the latter is running its own assistance programmes, such as capacity-building and election observation. **[Am. 213]**

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[48] 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 (codification) (OJ L 26 28.1.2012. p. 1).

[49] Council Directive of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 05.07.1985. p. 0040 — 0048).

Article 22

Methods of cooperation

1. Financing under this Instrument shall be implemented by the Commission, as provided for by the Financial Regulation, either directly by the Commission itself, by Union delegations and by executive agencies, or indirectly through any of the entities listed in Article 62 (1) c) of the Financial Regulation.

2. Financing under this Instrument may also be provided through contributions to international, regional or national funds, such as those established or managed by the EIB, by Member States, by partner countries and regions or by international organisations, or other donors.

3. The entities listed in Article 62(1)(c) of the Financial Regulation and in Article 29(1) of this Regulation shall annually fulfil their reporting obligations under Article 155 of the Financial Regulation. The reporting requirements for any of these entities are laid down in the framework partnership agreement, the contribution agreement, the agreement on budgetary guarantees or the financing agreement.

4. Actions financed under the Instrument may be implemented by means of parallel or joint co-financing.

5. In the case of parallel co-financing, an action is split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.

6. In the case of joint co-financing, the total cost of an action is shared between the partners providing the co-financing and the resources are pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action.

7. Cooperation between the Union and its partners may take the form, inter alia, of:

(a) triangular arrangements whereby the Union coordinates with third countries its assistance funding to a partner country or region;

(b) administrative cooperation measures such as twinning between public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State and those of a partner country or region, as well as cooperation measures involving public sector experts dispatched from the Member States and their regional and local authorities;

(c) contributions to the necessary costs of setting up and administering a public-private partnership ***including support of broad participation by setting up independent third party CSO body to assess and monitor public-private partnership set-ups***; **[Am. 214]**

(d) sector policy support programmes whereby the Union provides support to a partner country's sector programme

(e) contributions to the cost of the countries' participation in Union programmes and actions implemented by Union agencies and bodies, as well as bodies or persons entrusted with implementation of specific actions in the Common Foreign and Security Policy pursuant to Title V of the TEU;

(f) interest rate subsidies.

Article 23

Forms of ~~EU~~ ***Union*** funding and methods of ~~implementation~~ ***application*** **[Am. 215]**

1. The Union funding may be provided through the types of financing envisaged by the Financial Regulation and in particular:

(a) grants;

(b) procurement contracts for services, supplies or works;

Wednesday 27 March 2019

(c) budget support;

(d) contributions to trust funds set up by the Commission, in accordance with Article 234 of the Financial Regulation;

(e) financial instruments;

(f) budgetary guarantees;

(g) blending;

(h) debt relief in the context of internationally agreed debt relief programme;

(i) financial assistance;

(j) remunerated external experts.

2. When working with stakeholders of partner countries, the Commission shall take into account their specificities, including their needs and the relevant context, when defining the financing modalities, the type of contribution, the award modalities and the administrative provisions for the management of grants, with a view to reaching and best responding to the widest possible range of such stakeholders. ***That assessment shall take into account the conditions for a meaningful participation and involvement of all stakeholders, in particular local civil society.*** Specific modalities shall be encouraged in accordance with the Financial Regulation, such as partnership agreements, authorisations of financial support to third parties, direct award or eligibility-restricted calls for proposals, or lump sums, unit costs and flat-rate financing as well as financing not linked to costs as envisaged in Article 125(1) of the Financial Regulation. ***Those different modalities shall ensure transparency, traceability and innovation. Cooperation between local and international NGOs shall be encouraged in order to bolster local civil society's capacities with a view to achieving its full participation in development programmes.*** **[Am. 216]**

3. In addition of the cases referred to in Article 195 of the Financial Regulation, the direct award procedure may be used for;

(a) low-value grants to human rights defenders ***and to mechanisms for the protection of human rights defenders at risk,*** to finance urgent protection actions, where appropriate without the need for co-financing***, as well as to mediators and other civil society actors involved in crisis and armed conflict related dialogue, conflict resolution, reconciliation and peace-building***; **[Am. 217]**

(b) grants, where appropriate without the need for co-financing, to finance actions in the most difficult conditions where the publication of a call for proposals would be inappropriate including situations where there is a serious lack of fundamental freedoms, ***threats to democratic institutions, escalation of crisis, armed conflict*** where human security is most at risk or where human rights organisations and defenders***, mediators and other civil society actors involved in crisis and armed conflict related dialogue, reconciliation and peace-building*** operate under the most difficult conditions. Such grants shall not exceed EUR 1 000 000 and shall have a duration of up to 18 months, which may be extended by a further 12 months in the event of objective and unforeseen obstacles to their ~~implementation~~ ***application***; **[Am. 218]**

(c) grants to the Office of the UN High Commissioner for Human Rights as well as to Global Campus, the European Inter-University Centre for Human Rights and Democratisation, providing a European Master's Degree in Human Rights and Democratisation, and its associated network of universities delivering human rights postgraduate diplomas, including scholarships to students***, researchers, teachers,*** and human rights defenders from third countries. **[Am. 219]**

(c a) Small projects as described in article 23a **[Am. 220]**

Budget support as referred to in point (c) of paragraph 1, including through sector reform performance contracts, shall be based on country ownership, mutual accountability and shared commitments to universal values, democracy, human rights, ***gender equality, social inclusion and human development and*** the rule of law, and aims at strengthening partnerships between the Union and partner countries. It shall include reinforced policy dialogue, capacity development, and improved governance, complementing partners' efforts to collect more and spend better in order to support sustainable and inclusive ~~economic growth and jobs~~ ***socio-economic development which benefits all, decent job creation, with particular attention to young people, the reduction of inequalities*** and poverty eradication ***with due regard to local economies, environmental and social rights***. **[Am. 221]**

Any decision to provide budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits. ***One of the key determinants of that decision shall be an assessment of the commitment, record and progress of partner countries with regard to democracy, human rights and the rule of law.*** **[Am. 222]**

4. Budget support shall be differentiated in such a way as to respond better to the political, economic and social context of the partner country, taking into account situations of fragility.

When providing budget support in accordance with Article 236 of the Financial Regulation, the Commission shall clearly define and monitor criteria for budget support conditionality, including progress in reforms and transparency, and shall support the development of parliamentary control, national audit capacities***, CSO participation in monitoring*** and increased transparency and public access to information ***and development of strong public procurement systems that support local economic development and local businesses***. **[Am. 223]**

5. Disbursement of the budget support shall be based on indicators demonstrating satisfactory progress being made towards achieving the objectives agreed with the partner country.

6. Financial instruments under this Regulation may take forms such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments, whenever possible and in accordance with the principles laid down in Article 209(1) of the Financial Regulation under the lead of the EIB, a multilateral European finance institution, such as the European Bank for Reconstruction and Development, or a bilateral European finance institution, such as bilateral development banks, possibly pooled with additional other forms of financial support, both from Member States and third parties.

Contributions to Union financial instruments under this Regulation may be made by Member States as well as any entity referred to in Article 62(1)(c) of the Financial Regulation.

7. Those financial instruments may be grouped into facilities for ~~implementation~~ ***application*** and reporting purposes. **[Am. 224]**

7a. The Commission and the EEAS shall not enter into new or renewed operations with entities incorporated or established in jurisdictions defined under the relevant Union policy as non-cooperative, or that are identified as high risk third countries pursuant to Article 9(2) of Directive(EU) 2015/849 of the European Parliament and of the Council, or that do not effectively comply with Union or internationally agreed tax standards on transparency and exchange of information. **[Am. 225]**

8. The Union's funding shall not generate or activate the collection of specific taxes, duties or charges.

9. Taxes, duties and charges imposed by partner countries may be eligible for financing under this Regulation.

Wednesday 27 March 2019

Article 23a

Small projects funds

1. Financing under this Regulation may be provided to small projects funds, aimed at the selection and implementation of projects of limited financial volume.

2. The beneficiaries of a small project fund shall be civil society organisations.

3. The final recipients within a small project fund shall receive support under this Regulation, through the beneficiary, and implement the small projects within that small project fund ('small project').

4. Where the public contribution to a small project does not exceed EUR 50 000, it shall take the form of unit costs or lump sums or include flat rates. **[Am. 226]**

Article 24

Eligible persons and entities

1. Participation in procurement, grant and prize award procedures for actions financed under geographic programmes and under the Civil Society Organisations and Global Challenges programmes shall be open to international organisations and to all other legal entities who are nationals of and, in the case of legal persons, who are also effectively established in, the following countries or territories:

(a) Member States, beneficiaries of the IPA III Regulation, and contracting parties to the Agreement on the European Economic Area;

(b) Neighbourhood partner countries and the Russian Federation when the relevant procedure takes place in the context of the programmes referred to in Annex I in which it participates;

(c) developing countries and territories, as included in the list of Official Development Assistance recipients published by the Development Assistance Committee of the Organisation for Economic Cooperation and Development, which are not members of the G-20 group, and overseas countries and territories as defined in Council Decision …/… (EU);

(d) developing countries, as included in the list of Official Development Assistance recipients, which are members of the G-20 group, and other countries and territories, when the relevant procedure takes place in the context of an action financed by the Union under this Regulation in which they participate;

(e) countries for which reciprocal access to external funding is established by the Commission; that access may be granted, for a limited period of at least one year, whenever 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 and on its duration after consultation of the recipient country or countries concerned;

(f) member countries of the Organisation for Economic Cooperation and Development, in the case of contracts ~~implemented~~ ***applied*** in a Least Developed Country or a Highly Indebted Poor Country, as included in the list of Official Development Assistance recipients. **[Am. 227]**

2. Without prejudice to the limitations inherent to the nature and objectives of the action, participation in procurement, grant and prize award procedures for actions financed under the Human Rights and Democracy and Stability and Peace programmes as well as rapid response actions, shall be open without limitations.

3. All supplies and materials financed under this Regulation may originate from any country.

4. The rules laid down in this Article shall not apply to, and shall not create, nationality restrictions for natural persons employed or otherwise legally contracted by an eligible contractor or, where applicable, subcontractor.

5. For actions jointly co-financed by an entity, or ~~implemented~~ ***applied*** in direct or indirect management with entities as referred to point (c) (ii) to (viii) of Article 62(1) of the Financial Regulation, the eligibility rules of those entities shall also apply. **[Am. 228]**

6. Where donors provide financing to a trust fund established by the Commission or through external assigned revenues, the eligibility rules in the constitutive act of the trust fund or in the agreement with the donor in case of external assigned revenues shall apply.

7. In the case of actions financed under this Regulation and by another Union Programme, eligible entities under any of those Programmes shall be considered eligible.

8. In the case of multi-country actions legal entities who are nationals of and, in the case of legal entities who are also effectively established in, the countries and territories covered by the action may be considered eligible.

9. The eligibility rules of this Article may be restricted with regard to the nationality, geographical location or nature of applicants, where such restrictions are required on account of the specific nature and the objectives of the action and where they are necessary for its effective ~~implementation~~ ***application***. ***Nationality restrictions shall not apply to international organisations.*** **[Am. 229]**

10. Tenderers, applicants and candidates from non-eligible countries may be accepted as eligible in the case of urgency or the unavailability of services in the markets of the countries or territories concerned, or in other duly substantiated cases where application of the eligibility rules would make the realisation of an action impossible or exceedingly difficult.

11. In order to promote local capacities, markets and purchases, priority shall be given to local and regional contractors***, while paying attention to their track record in environmental sustainability or fair trade*** when the Financial Regulation provides for an award on the basis of a single tender. In all other cases, participation of local and regional contractors shall be promoted in accordance with the relevant provisions of that Regulation. ***In all cases sustainability and due diligence criteria shall be applied.*** **[Am. 230]**

12. Under the Democracy and Human Rights programme, any entity not covered under the definition of legal entity in Article 2(6) shall be eligible when this is necessary to pursue the areas of intervention of this programme.

12a. The Neighbourhood, Development and International Cooperation Instrument shall not support actions that, according to the environmental screening referred to in Article 21, cause harm to the environment or climate. Allocations shall be fully compatible with the Paris Agreement and overall, European financing dedicated to external action shall contribute to the Paris agreement's long term objectives. In particular, the instrument shall not support:

(a) Actions incompatible with recipient countries' Nationally Determined Contributions under the Paris Agreement;

(b) investment in upstream, midstream and downstream fossil fuels. **[Am. 231]**

Article 25

Carry-overs, annual instalments, commitment appropriations, re-payments and revenue generated by financial instruments

1. In addition to Article 12(2) of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be committed up to 31 December of the following financial year. The carried-over amount shall be used first in the following financial year.

The Commission shall ~~inform~~ ***submit to*** the European Parliament and ***to*** the Council ~~of carried over commitment~~ ***information on*** appropriations ***which were automatically carried over, including the amounts involved,*** in line with Article 12(6) of the Financial Regulation. **[Am. 232]**

2. In addition to the rules laid down in Article 15 of the Financial Regulation on making appropriations available again, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non implementation of an action under this Regulation shall be made available again to the benefit of the budget line of origin.

References to Article 15 of the Financial Regulation in Article 12(1)(b) of Regulation laying down the multi annual financial framework shall be understood as including a reference to this paragraph for the purpose of this Regulation.

3. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments, in line with Article 112(2) of the Financial Regulation.

The third subparagraph of Article 114(2) of the Financial Regulation shall not apply to these multiannual actions. The Commission shall automatically de-commit any portion of a budgetary commitment for an action that by 31 December of the fifth year following that of the budgetary commitment has not been used for the purpose of pre-financing or making interim payments or for which no certified statement of expenditure or any payment request has been submitted.

Paragraph 2 of this Article shall also apply to annual instalments.

4. By way of derogation from Article 209(3) of the Financial Regulation repayments and revenues generated by a financial instrument shall be assigned to the budget line of origin as internal assigned revenue after deduction of management costs and fees. Every five years, the Commission shall examine the contribution made to the achievement of Union objectives, and the effectiveness, of existing financial instruments.

Chapter IV

EFSD+, budgetary guarantees and financial assistance to third countries

Article 26

Scope and financing

1. ~~The financial envelope referred to in Article (6)(2)(a) shall finance~~ The European Fund for Sustainable Development Plus (EFSD+) and the External Action Guarantee ***shall be financed through the financial envelopes for geographic programmes referred to in point (a) of Article 6(2), whilst ensuring that this financing is not to the detriment of other actions supported by geographic programmes***. **[Am. 233]**

The purpose of the EFSD+ as an integrated financial package supplying financial capacity ~~drawing on the methods of implementation set up~~ ***in the form of grants, guarantees and other financial instruments as set out*** in Article 23(1)~~(a), (c), (f) and (g)~~, shall be to support investments and increase access to financing, ***while maximising additionality, delivering innovative products and crowding in private sector,*** in order to foster sustainable and inclusive economic***, environmental*** and social development, ~~and~~ ***industrialisation and a stable investment environment, in order to*** promote ~~the~~ socio-economic ***and environmental*** resilience in partner countries with a particular focus on the, eradication of poverty, sustainable and inclusive growth, ***climate change adaptation and mitigation, environmental protection and management,*** the creation of decent jobs ***in compliance with relevant ILO standards***, ***in particular for vulnerable groups, including women and young people,*** economic opportunities, skills and entrepreneurship, socioeconomic sectors, ***with a focus on social enterprises and cooperatives in view of their potential to reduce poverty, inequalities, and promote human rights and livelihoods, supporting*** micro, small and medium-sized enterprises as well as addressing specific socioeconomic root causes of irregular migration ***and forced displacement, and contributing to the sustainable reintegration of returned migrants in their countries of origin***, in accordance with the relevant indicative programming documents. ***45 % of the***

financing shall be allocated to investments that contribute to climate objectives, environmental management and protection, biodiversity and combatting desertification, of which 30 % of the overall financial envelope shall be dedicated to climate change mitigation and adaptation. Special attention***, and additional support for institutional capacity building, economic governance, and technical assistance,*** shall be given to countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries. ***The External Action Guarantee shall be used in addition to the government's investment in essential public services, which remain a governmental responsibility.*** **[Am. 234]**

2. The External Action Guarantee shall support the EFSD+ operations covered by budgetary guarantees in accordance with Articles 27, 28 and 29 of this Regulation, macro-financial assistance and loans to third countries referred to in Article 10(2) of Regulation EINS.

3. Under the External Action Guarantee, the Union may guarantee operations, signed between 1 January 2021 and 31 December 2027, up to EUR 60 000 000 000. ***That ceiling shall be reviewed in the context of the mid-term evaluation report pursuant to Article 32.*** **[Am. 235]**

4. The provisioning rate shall range between 9 % and 50 % depending on the type of operations. ***A maximum amount of EUR 10 billion shall be provisioned from the Union budget through a specific budget line in the framework of the annual budgetary procedure or through a budget transfer. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to amend this maximum amount if the need arises.*** **[Am. 236]**

The provisioning rate for the External Action Guarantee shall be 9 % for the Union's macro-financial assistance and for budgetary guarantees covering sovereign risks associated with lending operations.

The provisioning rates shall be reviewed every ~~three~~ ***two*** years ***starting*** from the date of application of this Regulation laid down in Article 40. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend these rates***, and the financial amounts involved***. **[Am. 237]**

5. The External Action Guarantee shall be considered as a single guarantee in the common provisioning fund established by Article 212 of the Financial Regulation.

6. The EFSD+ and the External Action Guarantee may support financing and investment operations in partner countries in the geographical areas referred to in Article 4(2). The provisioning of the External Action Guarantee shall be financed from the budget of the relevant geographic programmes established by Article 6(2)(a) and shall be transferred into the common provisioning fund***. The geographic distribution of EFSD+ operations shall, to the maximum extent possible, also reflect the relative weight of the financial allocations for the different regions as outlined in point (a) of Article 6 (2)***. The EFSD+ and the External Action Guarantee may also support operations in beneficiaries listed in Annex I of the IPA III Regulation. The funding for these operations under the EFSD+ and for the provisioning of the External Action Guarantee shall be financed from the Regulation IPA. The provisioning of the External Action Guarantee for loans to third countries referred to in Article 10 (2) of Regulation EINS shall be financed from Regulation EINS. **[Am. 238]**

7. The provisioning referred to in Article 211(2) of the Financial Regulation shall be constituted on the basis of the Union's total outstanding liabilities arising from each operation, including operations signed before 2021 and guaranteed by the Union. The annual amount of provisioning required may be constituted during a period of up to seven years.

8. The balance of assets by 31 December 2020 in the EFSD Guarantee Fund and in the Guarantee fund for external actions established respectively by Regulation EU 2017/1601 of the European Parliament and the Council and Council Regulation (EC, Euratom) No 480/2009 shall be transferred into the common provisioning fund for the purpose of provisioning its respective operations under the same single guarantee provided for in paragraph 4 of this Article.

Article 26a

Objectives for the EFSD+

1. The EFSD+ operations eligible for support through the External Action Guarantee shall contribute to the following priority areas:

(a) providing finance and support to private, cooperative and social enterprise sector development to contribute to sustainable development in its economic, social and environmental dimensions with a particular focus on the eradication of poverty and, where appropriate, the European Neighbourhood Policy and the objectives set out in Article 3 of the IPA III Regulation;

(b) addressing bottlenecks to private investments, in particular by ensuring the legal security of investments;

(c) leveraging private sector financing, with a particular focus on micro, small and medium-sized enterprises;

(d) strengthening socio-economic sectors and areas and related public and private infrastructure and sustainable connectivity and sustainable production, with the objective of promoting an inclusive and sustainable socio-economic development that respects human rights and the environment;

(e) contributing to climate action and environmental protection and management; **[Am. 239]**

(f) contributing, by promoting sustainable development, to addressing specific root causes of migration, including irregular migration and forced displacement, and contribute to safe, orderly and regular migration and mobility.

Article 27

Eligibility and selection of operations and counterparts

1. The financing and investment operations eligible for support through the External Action Guarantee shall be consistent and aligned with Union policies, ***in particular its development policy and the European Neighbourhood Policy,*** as well as with the partner countries' strategies and policies ***and address local market failures or sub-optimal investment operations and without unfairly competing with local economic actors***. They shall in particular support the objectives, general principles and policy framework of this Regulation and the relevant indicative programming documents, with due regard to the priority areas laid down in ***Article 26 a and further described in*** Annex V. **[Am. 240]**

1a. The granting of the External Action Guarantee shall be subject to the conclusion of the respective EFSD guarantee agreements between the Commission on behalf of the Union and the eligible counterpart. **[Am. 241]**

2. The External Action Guarantee shall support financing and investment operations ***which address market failures or sub-optimal investment situations. Operations shall also be*** compliant with the conditions set out in points (a) to ~~(c)~~ ***(d)*** of Article 209(2) of the Financial Regulation and that: **[Am. 242]**

(-aa) provide financial and development additionality; **[Am. 243]**

(-ab) undergo a publicly available participatory ex ante human rights, social, labour and environmental impact assessment identifying and addressing risks in those fields and taking due account of the principle of free and prior informed consent (FPIC) of affected communities in land related investments; **[Am. 244]**

(a) ensure complementarity with other initiatives;

(b) are economically and financially viable, with due regard to the possible support from, and co-financing by, private and public partners to the project, while taking into account the specific operating environment and capacities of countries identified as experiencing fragility or conflict, Least Developed Countries and heavily indebted poor countries which may benefit from concessional terms;

(c) are technically viable and are sustainable from an environmental and ~~social~~ ***socio-economic*** point of view; **[Am. 245]**

(ca) target sectors and issues where there are clear market or institutional failures inhibiting private sector financing; **[Am. 246]**

(cb) are structured in a manner which contributes to catalysing market development and to mobilising private sector resources towards investment gaps; **[Am. 247]**

(cc) focus on projects involving greater risks than private lenders are prepared to undertake on a commercial basis alone; **[Am. 248]**

(cd) do not distort markets in partner countries and regions. **[Am. 249]**

(ce) maximise, where possible, the mobilisation of local private sector capital; **[Am. 250]**

(cf) respect the development effectiveness principles as set out in the Busan Partnership for Effective Development Cooperation and reaffirmed in Nairobi in 2016, including ownership, alignment, focus on results, transparency and mutual accountability, as well as the objective of untying aid; **[Am. 251]**

(cg) are designed to fulfil the criteria for ODA established by the OECD-DAC, taking into account the specificities of private sector development, except for operations in industrialised countries non eligible for ODA; **[Am. 252]**

(ch) are applied with full respect for international human rights law as well as internationally agreed guidelines, principles and conventions, including the Principles for Responsible Investment, UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises, the UN Food and Agriculture Organization's (FAO) Principles for Responsible Investment in Agriculture and Food Systems and International Labour Organization conventions and standards, the UN Convention on the Elimination of All Forms of Discrimination Against Women, the Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. **[Am. 253]**

3. The External Action Guarantee shall be used to cover the risks for the following instruments:

(a) loans, including local currency loans and macro-financial assistance loans;

(b) guarantees;

(c) counter-guarantees;

(d) capital market instruments;

(e) any other form of funding or credit enhancement, insurance, and equity or quasi-equity participations.

4. The eligible counterparts for the purposes of the External Action Guarantee shall be the ones identified in Article 208 (4) of the Financial Regulation, including those from third countries contributing to the External Action Guarantee, subject to approval by the Commission in accordance with Article 28 of this Regulation***, and the opinion of the strategic board***. In addition, and by derogation to Article 62(2)(c) of the Financial Regulation, bodies governed by the private law of a Member State or a third country which has contributed to the External Action Guarantee in accordance with Article 28, and which provide adequate assurance of their financial capacity shall be eligible for the purpose of the Guarantee. **[Am. 254]**

4a. The European Investment Bank group, shall, inter alia:

(a) participate, together with other European financial institutions, in the risk management of the EFSD+, having due regard to the need to avoid possible conflict of interest;

(b) exclusively implement part of an investment window covering sovereign lending to be provisioned with at least EUR 1 000 000 000 from the financial envelopes of the geographic programmes, in accordance with the procedures laid down in chapters 1 and 3 of this title;

(c) be an eligible counterpart of implementing activities under other investment windows. **[Am. 255]**

5. Eligible counterparts shall comply with the rules and conditions provided for in Article 62(2)(c) of the Financial Regulation. In the case of bodies governed by the private law of a Member State or a third country which have contributed to the External Action Guarantee in accordance with Article 28 of this Regulation, preference shall be given to those bodies that disclose information related to environment, social***, tax*** and corporate governance criteria. **[Am. 256]**

The Commission shall ensure an effective, efficient and fair use of available resources among eligible counterparts, while promoting cooperation between them.

The Commission shall ensure fair treatment ***and equal access to funding*** for all eligible counterparts and shall ensure that conflicts of interest are avoided throughout the ~~implementation~~ ***application*** period of the EFSD+. In order to ensure complementarity, the Commission may request any relevant information from eligible counterparts about their non-EFSD+ operations. **[Am. 257]**

5a. The European Parliament or the Council may invite eligible counterparts, CSOs and local communities to an exchange of views concerning the financing and investment operations covered by this Regulation. **[Am. 258]**

6. The Commission shall select the eligible counterparts in accordance with Article 154 of the Financial Regulation, taking due account of:

(a) the advice of the strategic and regional operation boards, in accordance with Annex VI;

(b) the objectives of the investment window;

(c) the experience and risk management capacity of the eligible counterpart;

(d) the amount of own resources, as well as private sector co-financing, that the eligible counterpart is ready to mobilise for the investment window.

(da) the principles of fair and open tender procedures. **[Am. 259]**

~~7. The Commission shall set up investment windows for regions, specific partner countries or both, for specific sectors, or for specific projects, specific categories of final beneficiaries or both, which are to be funded by this Regulation, to be covered by the External action Guarantee up to a fixed amount. The Commission shall inform the European Parliament and the Council on how the investment windows comply with this Article and their detailed funding priorities. All requests for financial support within investment windows shall be made to the Commission.~~

~~The choice of investment windows shall be duly justified by an analysis of the market failure or sub-optimal investment situations. That analysis shall be carried out by the Commission in cooperation with potentially eligible counterparts and stakeholders.~~

~~Eligible counterparts may provide the instruments referred to in paragraph 3 under an investment window or individual project administered by an eligible counterpart. The instruments may be provided for the benefit of partner countries, including countries experiencing fragility or conflict or countries facing challenges in reconstruction and post-conflict recovery, for the benefit of those partner countries' institutions, including their public national and private local banks and finance institutions, as well as for the benefit of private sector entities of those partner countries.~~ **[Am. 260]**

8. The Commission shall assess the operations supported by the External Action Guarantee against the eligibility criteria set out in paragraphs 2 and 3.~~, where possible drawing~~ ***The Commission shall establish a scoreboard of indicators to guide project selection. Implementing partners shall fill in the scoreboard for all operations under EFSD+. The Commission shall assess all operations supported by the Guarantee against eligibility criteria listed in Article 27 and shall use the scoreboard to perform an independent quality check*** on the ~~existing result measurement systems of eligible counterparts.~~ ***due diligence and assessment made by implementing partners at project level. If necessary, the Commission shall ask for clarification and modifications to the implementing partners***. The Commission shall publish the ***scoreboard for all projects after approval for the use of the guarantee by the Commission and implementing partners, and the*** result of ***all guarantee tools and individual projects under*** its assessment for each investment window on an annual basis. **[Am. 261]**

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 34 to supplement or amend the priority areas ***and investment windows indicated*** in Annex V ~~and the governance of the EFSD+ in Annex VI~~. ***When supplementing or amending investment windows for specific regions, specific partner countries or both, for specific sectors, or for specific projects, specific categories of final beneficiaries or both, which are to be funded by this Regulation, to be covered by the External action Guarantee up to a fixed amount, the Commission shall take due account of the advice provided by the strategic board, and consult the operational boards.***

The Commission shall inform the European Parliament and the Council on how the investment windows comply with the requirements set out in Article 26a and this Article and their detailed funding priorities. All requests for financial support within investment windows shall be made to the Commission.

The choice of investment windows shall be duly justified by an analysis of the market failure or sub-optimal investment situations. That analysis shall be carried out by the Commission in cooperation with potentially eligible counterparts and stakeholders.

Eligible counterparts may provide the instruments referred to in paragraph 3 under an investment window or individual project administered by an eligible counterpart. The instruments may be provided for the benefit of partner countries, including countries experiencing fragility or conflict or countries facing challenges in reconstruction and post-conflict recovery, for the benefit of those partner countries' institutions, including their public national and private local banks and finance institutions, as well as for the benefit of private sector entities of those partner countries. In countries experiencing fragility or conflict, and other countries, where justified, support may be provided to public sector investments that have relevant effects on private sector development. **[Am. 262]**

Article 27a

Governance and structure of the EFSD +

1. The EFSD+ shall be composed of regional investment platforms established on the basis of the working methods, procedures and structures of the existing external blending facilities of the Union, which may combine their blending operations and External Action Guarantee operations under the EFSD+.

2. The Commission shall be responsible for the overall management of the EFSD+ and the External Action Guarantee. Beyond that, the Commission shall not seek to carry out general banking operations. The Commission shall inform the European Parliament regularly to ensure the highest standards of transparency and financial accountability.

3. In the management of the EFSD+ the Commission shall be advised by a strategic board, except in the case of the operations covering the Union's Enlargement policy and financed by IPA III, where the Commission shall be advised by a strategic board of the Western Balkans Investment Framework (WBIF). The Commission shall also work in close cooperation with all eligible counterparts as regards the operational management of the External Action Guarantee. To that end, a technical working group, composed of experts from the Commission and eligible counterparts, shall be established in order to assess the risk and the related pricing.

4. The strategic board shall advise the Commission on the strategic orientation and priorities of External Action Guarantee investments under the EFSD+ and contribute to their alignment with the guiding principles and objectives of the Union's external action, development policy, European Neighbourhood policy, as well as with the objectives set out in Article 3 and the purpose of the EFSD+ as set out in Article 26. It shall also support the Commission in setting overall investment goals as regards the use of the External Action Guarantee to support EFSD+ operations and monitor an appropriate and diversified geographical and thematic coverage for investment windows, while giving special attention to countries identified as experiencing fragility or conflict, Least Developed Countries ('LDCs') and heavily indebted poor countries.

5. The strategic board shall also support overall coordination, complementarity and coherence between the regional investment platforms, between the three pillars of the European Investment Plan, between the European Investment Plan and the Union's other efforts on migration and on the implementation of the 2030 Agenda, as well as with other programmes set out in this Regulation, other Union funding instruments and Trust Funds.

6. The strategic board shall be composed of representatives of the Commission and of the High Representative, of all Member States and of the European Investment Bank. The European Parliament shall have observer status. Contributors, eligible counterparts, partner countries, relevant regional organisations and other stakeholders may be given observer status, where appropriate. The strategic board shall be consulted prior to the inclusion of any new observer. The strategic board shall be co-chaired by the Commission and the High Representative.

7. The strategic board shall meet at least twice a year and, when possible, adopt opinions by consensus. Additional meetings may be organised at any time by the chair or at the request of one third of its members. Where consensus cannot be reached, the voting rights as agreed during the first meeting of the strategic board and laid down in its rules of procedure shall apply. Those voting rights shall take due account of the source of financing. The rules of procedure shall set out the framework regarding the role of observers. The minutes and agendas of the meetings of the strategic board shall, following their adoption, be made public.

8. The Commission shall report annually to the strategic board about the progress made in respect of the application of the EFSD+. The strategic board of the WBIF shall provide progress made on the application of the guarantee instrument for the Enlargement region to complement that reporting. The strategic board shall regularly organise a consultation of relevant stakeholders on the strategic orientation and application of the EFSD+.

9. The existence of the two strategic boards does not bear influence on the need to have a single, unified EFSD+ risk management framework.

10. During the application period of the EFSD+, the strategic board shall, as soon as possible, adopt and publish guidelines setting out how conformity of EFSD+ operations with the objectives and eligibility criteria set out in Articles 26 a and 27 is to be ensured.

11. In its strategic guidance, the strategic board shall take due account of relevant European Parliament resolutions and Council decisions and conclusions.

12. The operational boards of regional investment platforms shall support the Commission at the application level in defining regional and sectoral investment goals and regional, sectoral and thematic investment windows and shall formulate opinions on blending operations and on the use of the External Action Guarantee covering EFSD+ operations. **[Am. 263]**

Article 28

Contribution from other donors to the External Action Guarantee

1. Member States, third countries and other third parties may contribute to the External Action Guarantee.

By derogation from the second sub-paragraph of Article 218(2) of the Financial Regulation, the contracting parties to the Agreement on the European Economic Area may contribute in the form of guarantees or cash.

Contribution from third countries other than the contracting parties to the Agreement on the European Economic Area and from other third parties shall be in the form of cash and subject ***to the opinion of the Strategic Board and*** ~~to~~ approval by the Commission. **[Am. 264]**

The Commission shall inform the European Parliament and the Council without delay of the contributions confirmed.

~~At the request of the Member States, their contributions may be earmarked for the initiation of actions in specific regions, countries, sectors or existing investment windows.~~ **[Am. 265]**

2. Contributions in the form of a guarantee shall not exceed 50 % of the amount referred to in Article 26(2) of this Regulation.

The contributions made by the Member States and the contracting parties to the Agreement on the European Economic Area in the form of a guarantee may only be called for payments of guarantee calls after the funding from the general budget of the Union increased by any other cash contributions has been used on payments of guarantee calls.

Any contribution may be used to cover guarantee calls ~~regardless of earmarking~~. **[Am. 266]**

A contribution agreement shall be concluded between the Commission, on behalf of the Union, and the contributor, and shall contain, in particular, provisions concerning the payment conditions.

Article 29

~~Implementation~~ ***Application*** of External Action Guarantee agreements **[Am. 267]**

1. The Commission, on behalf of the Union, shall conclude External Action Guarantee agreements with the eligible counterparts selected pursuant to Article 27***. Those agreements shall be unconditional, irrevocable, at first demand, and in favour of selected counterparts***. Agreements may be concluded with a consortium of two or more eligible counterparts. **[Am. 268]**

2. One or more External Action Guarantee agreements shall be concluded for each investment window between the Commission and the eligible counterpart or eligible counterparts selected. In addition, in order to address specific needs, the External Action Guarantee may be granted for individual financing or investment operations.

All External Action Guarantee agreements shall~~, upon request,~~ be made available to the European Parliament and to the Council, taking into account the protection of confidential and commercially sensitive information. **[Am. 269]**

3. External Action Guarantee agreements shall contain, in particular:

(a) detailed rules on the coverage, requirements, eligibility, eligible counterparts, and procedures;

(b) detailed rules on the provision of the External Action Guarantee, including its arrangements on the coverage and its defined coverage of portfolios and of projects of specific types of instruments, as well as a risk analysis of projects and project portfolios, including at sectoral, regional and national levels;

(c) a mention of the objectives and purpose of this Regulation, a needs assessment and an indication of the expected results, taking into account the promotion of corporate social responsibility and ***the need to ensure a*** responsible business conduct***, including, in particular, by respect for the internationally agreed guidelines, principles and legal instruments referred to in point (c h) of Article 27(2)***; **[Am. 270]**

(d) the remuneration of the guarantee, which is to reflect the risk level, and the possibility for the remuneration to be partly subsidised in order to give concessional terms in duly justified cases***, and in particular countries experiencing fragility or conflict, LDCs and heavily indebted countries***; **[Am. 271]**

(e) requirements for the use of the External Action Guarantee, including payment conditions, such as specific time frames, interest to be paid on due amounts, expenses and recovery costs and possibly necessary liquidity arrangements;

(f) claims procedures, including, but not limited to, triggering events and waiting periods, and procedures regarding the recovery of claims;

(g) ***transparent*** monitoring, reporting and evaluation obligations; **[Am. 272]**

(h) clear and accessible complaints procedures for third parties that could be affected by the ~~implementation~~ ***application*** of projects supported by the External Action Guarantee. **[Am. 273]**

4. The eligible counterpart shall approve financing and investment operations following its own rules and procedures and in compliance with the terms of the External Action Guarantee agreement.

5. The External Action Guarantee may cover:

(a) for debt instruments, the principal and all interests and amounts due to the selected eligible counterpart, but not received by it in accordance with the terms of the financing operations after an event of default has occurred;

(a) for equity investments, the amounts invested and their associated financing costs;

(b) for other financing and investment operations referred to in Article 27(2), the amounts used and their associated funding costs;

(c) all relevant expenses and recovery costs related to an event of default, unless deducted from recovery proceeds.

5a. The Commission, when concluding External Action Guarantee agreements with eligible counterparts, shall take due account of:

(a) the advice and guidance of the strategic and regional operational boards;

(b) the objectives of the investment window;

(c) the experience and operational, financial and risk management capacity of the eligible counterpart;

(d) the amount of own resources, as well as private sector co-financing, that the eligible counterpart is ready to mobilise for the investment window. **[Am. 274]**

6. For the purposes of the Commission's accounting, its reporting of the risks covered by the External Action Guarantee and in line with Article 209(4) of the Financial Regulation, eligible counterparts with which a guarantee agreement has been concluded shall provide the Commission and the Court of Auditors annually with the financial reports on financing and investment operations covered by this Regulation, audited by an independent external auditor, containing, inter alia, information on:

(a) the risk assessment of financing and investment operations of the eligible counterparts, including information on Union liabilities measured in compliance with the accounting rules referred to in Article 80 of the Financial Regulation and IPSAS;

(b) the outstanding financial obligation for the Union arising from the EFSD+ operations provided to the eligible counterparts and their financing and investment operations, broken down by individual operations.

7. The eligible counterparts shall, upon request, provide the Commission with any additional information necessary to fulfil the Commission's obligations in relation to this Regulation***, in particular with regard to the implementation of recommendations from the ex-ante human rights, social, labour and environment impact assessment and other selection criteria listed in Article 27***. [**Am. 275**]

8. The Commission shall report on financial instruments, budgetary guarantees, financial assistance in accordance with Article 241 and 250 of the Financial Regulation. To this purpose, the eligible counterparts shall provide annually the information necessary to allow the Commission to comply with the reporting obligations. ***In addition, the Commission shall submit an annual report to the European Parliament and to the Council as set out in Article 31(6a).*** [**Am.276**]

8a. The Commission or the eligible counterparts shall immediately notify OLAF when, at any stage of the preparation, implementation or closure of financing and investment operations covered by this Regulation, there are grounds for suspecting fraud, corruption, money laundering or any other illegal activity that may affect the financial interests of the Union. The Commission or the eligible counterparts shall provide OLAF with all necessary information to enable it to carry out a full and thorough investigation. [**Am. 277**]

Article 29a

Grievance and redress mechanism

In view of possible grievances of third parties in partner countries, including communities and individuals affected by projects supported by the EFSD+ and the External Action Guarantee, the Commission and European Union Delegations shall publish on their websites direct references to the complaints mechanisms of the relevant counterparts that have concluded agreements with the Commission. The Commission shall also establish an EU centralised grievance mechanism for all projects pursuant to Chapter IV of this Regulation to provide the possibility of directly receiving complaints related to the treatment of grievances by eligible counterparts. The Commission shall take that information into account in view of future cooperation with those counterparts. [**Am. 278**]

Article 29b

Excluded activities and non-cooperative jurisdictions

1. ***The External Action Guarantee shall not support financing and investment operations which:***

(a) are linked to the military or state security sector.

(b) support the development of nuclear energy, except for loans provided in accordance with Regulation EINS, and fossil fuels and promote further carbon lock-in of economies and societies.

(c) have significant environmental external costs, such as those that involve degradation of protected areas, Critical Habitats and Heritage sites for which no sustainable development and management plan is carried out.

(d) result in violation of human rights in partner countries, such as depriving communities from their right to access and control natural resources such as land, contribute to forced displacement of populations, or involve forced labour or child labour.

2. In their financing and investment operations, the eligible counterparts shall comply with applicable Union law and agreed international and Union standards and, therefore, shall not support projects under this Regulation that contribute to money laundering, terrorism financing, tax avoidance, tax fraud and tax evasion. In addition, the eligible counterparts shall not enter into new or renewed operations with entities incorporated or established in jurisdictions listed under the relevant Union policy on non-cooperative jurisdictions, or that are identified as high risk third countries pursuant to Article 9(2) of Directive (EU) 2015/849 of the European Parliament and of the Council, or that do not effectively comply with Union or internationally agreed tax standards on transparency and exchange of information. The eligible counterparts may derogate from this principle only if the project is physically implemented in one of those

jurisdictions, and does not present any indication that the relevant operation falls under any of the categories listed in the first subparagraph of this paragraph. When concluding agreements with financial intermediaries, the eligible counterparts shall transpose the requirements referred to in this Article into the relevant agreements and shall request the financial intermediaries to report on their observance.

3. In its financing and investment operations, the eligible counterpart shall apply the principles and standards set out in Union law on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and in particular Regulation (EU) 2015/847 of the European Parliament and of the Council (2) and Directive (EU) 2015/849. The eligible counterparts shall make both direct funding and funding via intermediaries under this Regulation contingent upon the disclosure of beneficial ownership information in accordance with Directive (EU) 2015/849 and publish country-by-country reporting data in accordance with Article 89(1) of Directive 2013/36/EU of the European Parliament and of the Council. **[Am. 279]**

Article 30

Capital participation in a development bank

The envelope for geographic programmes, referred to in Article 6(2)(a), may be used to contribute to the capital endowment of European and other development finance institutions.

Chapter V

Monitoring, reporting and evaluation

Article 31

Monitoring and reporting

-1. The achievement of the objectives of this Regulation shall be measured through an adequate, transparent and accountable monitoring, reporting and evaluation system, ensuring the proper involvement of the European Parliament and the Council, as well as enhancing the participation of all Union partners, including civil society, in the application of the programmes. **[Am. 280]**

1. Indicators to report on progress under this Regulation towards the achievement of the specific objectives set out in Article 3 ***(2)*** are set in Annex VII, in line with the Sustainable Development Goals indicators. The values of the indicators on 1 January 2021 shall be used as a basis for assessing the extent to which the objectives have been achieved. **[Am. 281]**

2. The Commission shall regularly monitor its actions and review progress made towards delivering ***the targets established in Article 3, as well as*** expected results, covering outputs and outcomes. **[Am. 282]**

Progress with respect to expected results ~~should~~ ***shall*** be monitored on the basis of clear, transparent and~~, where appropriate,~~ measurable indicators ***set in Annex VII and in the monitoring and evaluation framework adopted pursuant to paragraph 9, as well as in accordance with the provisions on Union budgetary execution***. Indicators shall be kept at a limited number to facilitate timely reporting ***and, as a minimum, shall be disaggregated by sex and age***. **[Am. 283]**

3. Joint results frameworks included within joint programming documents that fulfil the criteria set out in Article 12(4) shall provide the basis for the joint monitoring by the Union and the Member States of the ~~implementation~~ ***application*** of their collective support to a partner country. **[Am. 284]**

The performance reporting system shall ensure that data for monitoring programme ~~implementation~~ ***application*** and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds. **[Am. 285]**

4. The Commission shall examine the progress made in ~~implementing~~ ***applying*** this Regulation. From 2022 onwards, the Commission shall submit to the European Parliament and to the Council an annual report on the achievement of the objectives of this Regulation by means of indicators, ***including, but not limited to, those set in Annex VII as well as Union budgetary execution,*** measuring the results delivered and the efficiency of the Regulation. That report shall also be submitted to the European Economic and Social Committee and to the Committee of the Regions. **[Am. 286]**

5. The annual report shall contain information relating to the previous year on the measures financed, the results of monitoring and evaluation exercises, the involvement ***and level of cooperation*** of the relevant partners, and the ~~implementation~~ ***application*** of budgetary commitments and of payment appropriations broken down by country, region and cooperation sector. It shall ***include an assessment of progress made towards expected results and regarding the incorporation of cross-cutting issues as mentioned in Article 8(6). It shall*** assess the results of the Union funding using~~, as far as possible,~~ specific and measurable indicators of its role in meeting the objectives of this Regulation. In the case of development cooperation, the report shall also assess~~, where possible and relevant,~~ the adherence to development effectiveness principles, including for innovative financial instruments. **[Am. 287]**

6. The annual report prepared in 2021 shall contain consolidated information from annual reports concerning the period from 2014 to 2020 on all funding from the Regulations referred to in Article ~~40(2)~~ ***39(2)***, including external assigned revenues and contributions to trust funds, and offering a breakdown of spending by country, use of financial instruments, commitments and payments. The report shall reflect the main lessons learnt and the follow-up to the recommendations of the external evaluative exercises carried out in previous years. ***It shall include an assessment of the level of staff capacity at headquarters and Union delegations level for the delivery of all objectives covered in this Regulation.*** **[Am. 288]**

6a. The Commission shall submit as part of the annual report detailed reporting on the financing and investment operations covered by the External Action Guarantee, and the functioning of the EFSD+, its management and its effective contribution to its objectives. That part of the annual report shall be accompanied by an opinion of the Court of Auditors. It shall include the following elements:

(a) an assessment of the results contributing to the purpose and objectives of the EFSD+ as set out in this Regulation;

(b) an assessment of current financing and investment operations and covered by the External Action Guarantee at sector, country and regional levels and their compliance with this Regulation, including the risk measures and their impact on the financial and economic stability of the partners;

(c) an assessment of the additionality and added value, the mobilisation of private sector resources, the estimated and actual outputs and the outcomes and impact of the financing and investment operations covered by the External Action Guarantee on an aggregated basis, including the impact on decent job creation and the ability to provide a living wage, the eradication of poverty and the reduction of inequality; that assessment shall include a gender analysis of the operations covered based on evidence and data broken down by gender, where possible, and an analysis of the type of private sector supported, including cooperatives and social enterprises;

(d) an assessment of the compliance with the requirements concerning the use of the External Action Guarantee and of the achievement of key performance indicators established for each proposal submitted;

(e) an assessment of the leverage effect achieved by the operations covered by the External Action Guarantee and the EFSD+;

(f) the financial amount transferred to beneficiaries and an assessment of financing and investment operations by each eligible counterpart on an aggregated basis;

(g) an assessment of the additionality and added value of financing and investment operations of the eligible counterparts, and of the aggregate risk associated with those operations;

(h) detailed information on calls on the External Action Guarantee, losses, returns, amounts recovered and any other payments received, as well as overall risk exposure;

(i) the financial reports on financing and investment operations of the eligible counterparts covered by this Regulation, audited by an independent external auditor;

(j) an assessment of the synergies and complementarity between operations covered by the External Action Guarantee and the second and third pillars of the EIP based on relevant existing reports, with particular regard to progress made on good governance, including in the fight against corruption and illicit financial flows, respect for human rights, the rule of law and gender-responsive policies, as well as the boosting of entrepreneurship, the local business environment and local financial markets;

(k) an assessment of the compliance of the External Action Guarantee operations with the internationally agreed development effectiveness principles;

(l) an assessment of the remuneration of the guarantees;

(m) an assessment of the implementation of provisions related to excluded activities and non-cooperative jurisdictions. **[Am. 289]**

7. An annual estimate of the overall spending related to ~~climate action and biodiversity~~ ***the targets set by this Regulation*** shall be made on the basis of the indicative programming documents adopted. The funding allocated under this Regulation shall be subject to an annual tracking system based on the methodology of the Organisation for Economic Cooperation and Development ***including*** ('Rio markers'), without excluding the use of more precise methodologies where these are available, integrated into the existing methodology for performance management of Union programmes, to quantify the expenditure related to climate action, ~~and~~ biodiversity ***and environment, human development and social inclusion, gender equality, and Official Development Assistance,*** at the level of the action plans and measures referred to in Article 19 and recorded within evaluations and the annual report. ***The Commission shall transmit the estimate to the European Parliament as part of the annual report.*** **[Am. 290]**

8. The Commission shall make available information on development ~~co-operation~~ ***cooperation*** through recognised international standards***, including those of the International Labour Organisation, and using the framework for a common standard developed by the International Aid Transparency Initiative***. **[Am. 291]**

9. To ensure effective assessment of progress of this Regulation towards the achievement of its objectives, the Commission shall ~~be empowered~~ to adopt delegated acts in accordance with Article 34 to amend Annex VII to review or complement the indicators where considered necessary***, including in the context of the mid-term review pursuant to Article 32,*** and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework***, which may include additional performance indicators applicable for each of the specific objectives of this Regulation***. **[Am. 292]**

Article 32

Mid-term review and evaluation **[Am. 293]**

1. ~~An interim~~ ***No later than 30 June 2024, the Commission shall submit a mid-term*** evaluation ***report on the application*** of this Regulation***. The mid-term evaluation report*** shall ~~be performed once there is sufficient information available about its implementation, but no later than four years after the start of the implementation~~ ***cover the period from 1 January 2021 to 31 December 2023 and shall examine the Union contribution to the achievement*** of the ~~instrument~~ ***objectives of this Regulation, by means of indicators measuring the results delivered, and any findings and conclusions concerning the impact of this Regulation, including of the European Fund for Sustainable Development Plus and the External Action Guarantee***. **[Am. 294]**

The European Parliament may provide input to this evaluation. The Commission and the EEAS shall organise a consultation with key stakeholders and beneficiaries, including civil society organisations. The Commission and EEAS shall give particular attention to ensure that the most marginalised are represented. **[Am. 295]**

The Commission shall also evaluate the impact and effectiveness of its actions per area of intervention, and the effectiveness of programming, by means of external evaluations. The Commission and the EEAS shall take into account proposals and views of the European Parliament and the Council on independent external evaluations. Where ~~appropriate~~ ***applicable*** evaluations shall make use of the good ~~practise~~ ***practice*** principles of the Development Assistance Committee of the Organisation for Economic Cooperation and Development, seeking to ascertain whether the objectives have been met and to formulate recommendations with a view to improving future actions. ***The interim evaluation shall assess how the Union performed on targets established by this Regulation.*** **[Am. 296]**

2. ~~At the end of the implementation of the Regulation, but no later than four years after the end of the period specified in Article 1, a final~~ ***The mid-term*** evaluation ***report*** ~~of the Regulation~~ shall ***also address efficiency, the added value, the functioning of the simplified and streamlined external financing architecture, internal and external coherence, and the continued relevance*** ~~be carried out by the Commission. This evaluation shall look at the Union contribution to the achievement~~ of the objectives of this Regulation, ~~taking into account indicators measuring the results delivered and any~~ ***the complementarity and synergies between the actions funded, the contribution of the measures to consistent Union external action, and the degree to which the public in recipient countries are aware of Union financial support, where appropriate, and include the*** findings ~~and conclusions concerning the impact of this Regulation.~~ ***of the reports referred to in article 31(4).*** **[Am. 297]**

~~The final evaluation report shall also address efficiency, the added value, the scope for simplification, internal and external coherence, and the continued relevance of the objectives of this Regulation.~~ **[Am. 298]**

The ~~final~~ ***mid-term*** evaluation report shall be undertaken for the specific purpose of improving the ~~implementation~~ ***application*** of the Union funding. It shall inform decisions on the renewal, modification or suspension of the types of actions implemented under this Regulation. **[Am. 299]**

The ~~final~~ ***mid-term*** evaluation report shall also contain consolidated information from relevant annual reports on all funding governed by this Regulation, including external assigned revenues and contributions to trust funds offering a breakdown of spending by, beneficiary country, use of financial instruments, commitments and payments***, as well as by geographic and thematic programme and rapid response action, including funds mobilised from the emerging challenges and priorities cushion.*** **[Am. 300]**

The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, to the Council and to the Member States ~~through the relevant committee referred to in Article 35. Specific evaluations may be discussed in that committee at the request of Member States~~. The results shall feed into programme design and resource allocation. **[Am. 301]**

The Commission shall~~, to an appropriate extent,~~ associate all relevant stakeholders ***and beneficiaries, including CSOs*** in the evaluation process of the Union's funding provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States and development partners with close involvement of the partner countries. **[Am. 302]**

2a. The Commission shall submit the mid-term evaluation report referred to in paragraph 2 to the European Parliament and to the Council. The report shall be accompanied, if appropriate, by legislative proposals setting out necessary amendments to this Regulation. **[Am. 303]**

2b. At the end of the period of application of this Regulation, but no later than three years after the end of the period specified in Article 1, the Commission shall carry out a final evaluation of the Regulation on the same terms as the mid-term evaluation referred to in paragraph 2 of this Article. **[Am. 304]**

3. In line with the specific reporting provisions in the Financial Regulation, by 31 December 2025 and every three years thereafter, the Commission shall evaluate the use and the functioning of the External Action Guarantee. The Commission shall submit its evaluation report to the European Parliament and to the Council. That evaluation report shall be accompanied by an opinion of the Court of Auditors.

TITLE III

FINAL PROVISIONS

Article 33

Participation by a country or territory not covered by this Regulation

1. In duly justified cases and where the action to be ~~implemented~~ ***applied*** is of a global, trans-regional or regional nature, the Commission ~~may decide, within the relevant multiannual indicative programmes or within the relevant action plans or measures to extend the scope of actions to~~ ***shall be empowered to adopt a delegated act in accordance with Article 34 in order to supplement this Regulation by adding*** countries and territories ~~not~~ ***to those*** covered by this Regulation pursuant to Article 4 ~~in order to ensure the coherence and effectiveness of Union financing or to foster regional or trans-regional cooperation~~ ***for the purpose of those actions***. **[Am. 305]**

Wednesday 27 March 2019

~~2. The Commission may include a specific financial allocation to assist partner countries and regions in strengthening their cooperation with neighbouring Union outermost regions and with overseas countries and territories covered by Council Decision OCT Decision. To this end, this Regulation, may contribute, where appropriate and on the basis of reciprocity and proportionality as regards the level of funding from the OCT Decision and/or the ETC Regulation, to actions implemented by a partner country or region or any other entity under this Regulation, by a country, territory or any other entity under the OCT Decision or by a Union outermost region in the frame of joint operational programmes or to interregional cooperation programmes or measures established and implemented under the ETC Regulation.~~ **[Am. 306]**

Article 33a

Cooperation between partner countries and regions with neighbouring Union outermost regions and with overseas countries and territories

1. The Commission may include a specific financial allocation to assist partner countries and regions in strengthening their cooperation with neighbouring Union outermost regions and with overseas countries and territories covered by Council Decision OCT Decision. To this end, this Regulation, may contribute, where appropriate and on the basis of reciprocity and proportionality as regards the level of funding from the OCT Decision and/or the ETC Regulation, to actions applied by a partner country or region or any other entity under this Regulation, by a country, territory or any other entity under the OCT Decision or by a Union outermost region in the frame of joint operational programmes or to interregional cooperation programmes or measures established and applied under the ETC Regulation.

2. The Union co-financing rate shall not be higher than 90 % of the eligible expenditure of a programme or measure. For technical assistance, the co-financing rate shall be 100 %. **[Am. 307]**

Article 34

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 4(6), Article ~~26(3)~~ ***8(7a), Article 8(8b), Article 14(1), Article 15(a), Article 17(4), Article 21(3a), Article 26(4)***, Article 27(9), ~~and~~ Article 31(9) ***and Article 33(1)*** shall be conferred on the Commission for the period of validity of this Regulation. ***The Commission shall adopt those delegated acts as soon as possible. However, the delegated acts referred to in Article 8(7a), Article 8(8b), Article 17(4), and Article 31(9) shall be adopted by …[6 months after the date of entry into force of this Regulation].*** **[Am. 308]**

3. The delegation of power referred to in Article 4(6), ~~Article 26(3),~~ ***8(7a), Article 8(8b), Article 14(1), Article 15a, Article 17(4), Article 21(3a), Article 26(4)***, Article 27(9), Article 31(9) and ***Article 33(1)*** 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 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. **[Am. 309]**

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 on Better Law-Making of 13 April 2016.

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 4(6), ~~Article 26(3),~~ ***8(7a), Article 8(8b), Article 14(1), Article 15a, Article 17(4), Article 21(3a), Article 26(4)***, Article 27(9), Article 31(9) and ***Article 33(1)*** 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. **[Am. 310]**

Article 34a

Urgency procedure

1. Where, in the case of natural or man-made disasters, or immediate threats to democracy, the rule of law, human rights or fundamental freedoms, imperative grounds of urgency so require, the Commission is empowered to adopt delegated acts and the procedure provided for in paragraphs 2 and 3 of this Article shall apply.

2. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 3. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

3. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 34(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council. **[Am. 311]**

Article 34b

Democratic accountability

1. In order to enhance dialogue between the institutions of the Union, in particular the European Parliament, Commission and the EEAS, and to ensure greater transparency and accountability, as well as the expediency in the adoption of acts and measures by the Commission, the European Parliament may invite the Commission and the EEAS to appear before it to discuss the strategic orientations and guidelines for the programming under this Regulation. That dialogue shall also foster the overall coherence of all External Financing Instruments in line with Article 5. That dialogue may take place prior to the adoption of delegated acts and of the draft annual budget by the Commission. That dialogue may also take place on an ad hoc basis in view of major political developments, at the request of the European Parliament or the European Commission or the EEAS.

2. The Commission and the EEAS shall present to the European Parliament all relevant documents in that regard at least one month prior to the dialogue. For the dialogue related to the annual budget, consolidated information on all action plans and measures adopted or planned in accordance with Article 21, information on cooperation per country, region and thematic area, and the use of rapid response actions, the emerging challenges and priorities cushion, and the External Action Guarantee shall be provided by the Commission and the EEAS.

3. The Commission and the EEAS shall take utmost account of the position expressed by the European Parliament. In the event that the Commission or the EEAS do not take European Parliament's positions into account, it shall provide due justification.

4. The Commission and the EEAS, in particular through the steering group pursuant to Article 38, shall be responsible for keeping the European Parliament informed about the state of this Regulation's application, in particular about ongoing measures, actions and results. **[Am. 312]**

~~Article 35~~

~~Committee~~

~~1. The Commission shall be assisted by the Neighbourhood, Development and International Cooperation committee. This committee shall be a committee within the meaning of Regulation (EU) No 182/2011.~~

~~2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.~~

~~3. Where the opinion of the committee is to be obtained by a written procedure, the 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.~~

~~4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.~~

~~5. The adopted decision shall remain in force for the duration of the adopted or modified document, action programme or measure.~~

~~6. An observer from the European Investment Bank shall take part in the Committee's proceedings with regard to questions concerning the European Investment Bank.~~ **[Am. 313]**

Article 36

~~Information~~ ***Transparency***, communication and ~~publicity~~ ***public disclosure of information*** **[Am. 314]**

1. The recipients of Union funding 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 proportionate targeted information to multiple audiences, including the media and the public. ***The Commission shall be responsible for monitoring recipients' compliance with those requirements.*** **[Am. 315]**

2. The Commission shall ~~implement~~ ***apply*** information and communication actions relating to this Regulation, and its actions and results. Financial resources allocated to this Regulation shall also contribute to the corporate communication of the political priorities of the Union, as far as those priorities are directly related to the objectives referred to in Article 3. **[Am. 316]**

2a. The Commission shall take measures to strengthen strategic communication and public diplomacy for communicating the values of the Union and the Union's added value. **[Am. 317]**

2b. The Commission shall establish a single comprehensive public central electronic repository of all actions financed under this Regulation, including the criteria used to establish partners' needs in the resource allocation process, and ensure its regular update, with the exception of those actions deemed to give rise to security issues or local political sensitivities pursuant to Article 37. **[Am. 318]**

2c. The repository shall also include information on all financing and investment operations, including at individual and project level and the essential elements of all EFSD + guarantee agreements, including information on the legal identity of eligible counterparts, expected development benefits and complaints procedures, taking into account the protection of confidential and commercially sensitive information. **[Am. 319]**

2d. In accordance with their transparency policies and Union rules on data protection and on access to documents and information, eligible EFSD + counterparts shall proactively and systematically make publicly available on their websites information relating to all financing and investment operations covered by the External Action Guarantee, relating in particular to the manner in which those operations contribute to the achievement of the objectives and requirements of this Regulation. Such information shall be broken down at project level. Such information shall always take into account the protection of confidential and commercially sensitive information. Eligible counterparts shall also publicise Union support in all information which they publish on financing and investment operations covered by the External Action Guarantee in accordance with this Regulation. **[Am. 320]**

Article 37

Derogation from visibility requirements

Security issues or local political sensitivities may make it preferable or necessary to limit communication and visibility activities in certain countries or areas or during certain periods. In such cases, 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 and agreement with the Union. Where rapid intervention is required in response to a sudden crisis, it is not 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 38~~

~~EEAS clause~~

~~This Regulation shall apply in accordance with Decision 2010/427/EU.~~ **[Am. 321]**

Article 38a

Governance

A horizontal steering group composed of all relevant Commission and EEAS services and chaired by the VP/HR or a representative of that office shall be responsible for the steering, coordination and management of this instrument throughout the management cycle in order to ensure consistency, efficiency, transparency and accountability of all Union external financing. The VP/HR shall ensure overall political coordination of the Union's external action. For all actions, including rapid response actions and exceptional assistance measures, and throughout the whole cycle of programming, planning and application of the instrument, the High Representative and the EEAS shall work with the relevant members and services of the Commission, identified on the basis of the nature and objectives of the action foreseen, building upon their expertise. All proposals for decisions shall be prepared by following the Commission's procedures and shall be submitted to the Commission for adoption.

The European Parliament shall be fully involved in the design, programming, monitoring and evaluation phases of the instruments in order to guarantee political control and democratic scrutiny and accountability of Union funding in the field of external action. **[Am. 322]**

Article 39

Repeal and transitional provisions

1. Decision No 466/2014/EU, Regulation (EC, Euratom) No 480/2009 and Regulation (EU) 2017/1601 are repealed with effect from 1 January 2021.

2. The financial envelope for this Regulation may also cover technical and administrative assistance expenditures necessary to ensure the transition between this Regulation and the measures adopted under its predecessors: Regulation (EU) No 233/2014; Regulation (EU) No 232/2014; Regulation (EU) No 230/2014; Regulation (EU) No 235/2014; Regulation (EU) No 234/2014, Regulation (Euratom) No 237/2014, Regulation (EU) No 236/2014, Decision No 466/2014/EU, Regulation (EC, Euratom) No 480/2009 and Regulation (EU) 2017/1601.

3. The financial envelope for this regulation may cover expenditures related to the preparation of any successor to this Regulation.

4. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenditures provided for in Article 20(1), to enable the management of actions not completed by 31 December 2027.

Article 40

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*.

It shall apply from 1 January 2021 ***until 31 December 2027***. **[Am. 323]**

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Wednesday 27 March 2019

ANNEX I

LIST OF COUNTRIES AND TERRITORIES IN THE NEIGHBOURHOOD AREA

Algeria

Armenia

Azerbaijan

Belarus

Egypt

Georgia

Israel

Jordan

Lebanon

Libya

The Republic of Moldova

Morocco

occupied Palestinian territory

Syria

Tunisia

Ukraine

Union support under this area may also be used for the purpose of enabling the Russian Federation to participate in cross-border cooperation programmes and in other relevant multi-country programmes***, including cooperation on education, in particular student exchanges***. **[Am. 324]**

Wednesday 27 March 2019

ANNEX II

AREAS OF COOPERATION FOR THE GEOGRAPHIC PROGRAMMES

A. For all geographic regions

PEOPLE

1. Good governance, democracy, rule of law and human rights

(a) Strengthening democracy and ***inclusive*** democratic processes, governance and oversight, including ***an independent judiciary, the rule of law and*** transparent***, peaceful*** and credible electoral processes; **[Am. 325]**

(b) Strengthening ***the promotion and*** the protection of human rights ~~and fundamental freedoms~~ ***as proclaimed in the Universal Declaration of Human Rights and the fulfilment of related international instruments, supporting and protecting human rights defenders, contributing to the implementation of global and regional pacts and frameworks, increasing the capacities of civil society in their implementation and monitoring, and laying the foundations for the creation of a legal framework for the protection of persons displaced due to climate change***; **[Am. 326]**

(c) Promoting the fight against discrimination in all its forms, and the principle of equality***, in particular gender equality, women's and girls' rights and empowerment,*** and the rights of ***children and young people, people with disabilities,*** persons belonging to minorities***, LGBTI persons and indigenous populations***; **[Am. 327]**

(d) Supporting a thriving civil society, ~~and~~ ***strengthening*** its role in ***political transitions,*** reform processes and democratic transformations, and promoting an enabling space for civil society and citizens' engagement in political ***life and in scrutiny of*** decision-making; **[Am. 328]**

(e) Improving the pluralism, independence and professionalism of a free and independent media;

(f) Building resilience of states, societies, communities and individuals to ~~political, economic,~~ ***prepare them to resist, adapt and recover quickly from*** environmental~~, food, demographic and societal pressures and~~ ***and economic*** shocks***, natural and man-made disasters and, conflicts, health crises and food security***; **[Am. 329]**

(g) Strengthening the development of democratic public institutions at ***international,*** national and sub-national levels, including an independent, effective, efficient and accountable judicial system, the promotion of rule of law, ***international justice, accountability*** and access to justice for all; **[Am. 330]**

(h) Supporting public administration reform processes, including through using citizen centred eGovernment approaches, strengthening legal frameworks and institutional set up, national statistical systems, capacities, sound public finance management, and contributing to the fight against corruption***, tax avoidance, tax evasion and aggressive tax planning***; **[Am. 331]**

(i) Promoting inclusive, balanced and integrated territorial and urban policies through strengthening public institutions and bodies at the national and sub-national levels and supporting efficient decentralisation and state restructuring processes;

(j) Increasing transparency and accountability of public institutions, strengthening public procurement ***including encouraging the development of sustainability criteria (environmental, social and economic) and targets*** and public finance management, developing eGovernment and strengthening service delivery; **[Am. 332]**

(k) Supporting the sustainable, accountable and transparent management of natural resource sectors and related revenues, and reforms to ensure fair, just and sustainable tax policies;

(ka) promoting parliamentary democracy. **[Am. 333]**

2. Poverty eradication, fight against inequalities and human development

(a) Eradicating poverty in all its dimensions, tackling discrimination and inequalities, ~~and~~ leaving no-one behind; ***and reaching the furthest behind first, by prioritising investments in public services on health, nutrition, education and social protection;*** **[Am. 334]**

(b) Enhancing efforts for the adoption of policies and appropriate investment to promote***, protect and fulfil*** women, ~~and~~ young ~~people's~~ ***people and children's and persons with disabilities'*** rights, to facilitate their engagement ***and meaningful participation*** in social, civic and economic life, and to ensure their full contribution to inclusive growth and sustainable development; **[Am. 335]**

(c) Promoting the protection and fulfilment of women's and girls' rights ***and empowerment***, including economic, labour and social rights, ***land rights*** and sexual and reproductive health and rights, and preventing ***and protecting them from*** sexual and gender-based violence in all forms; ***this includes promoting access for all to comprehensive sexual and reproductive health information and comprehensive sexuality education; promoting cooperation in research and innovation for new and improved tools for sexual and reproductive healthcare including family planning, particularly in low resource settings;*** **[Am. 336]**

(d) Giving special attention to those who are disadvantaged, vulnerable and marginalised, *inter alia* children, older persons, persons with disabilities, LGBTI persons and indigenous peoples. This includes promoting the transition from institutional to community-based care for children ***with and without disabilities***; **[Am. 337]**

(e) Promoting an integrated approach to supporting communities, particularly the poorest~~, in~~ ***and hardest to reach, by*** improving ***universal*** access to basic needs and services***, in particular health, including sexual and reproductive health services, information and supplies, education, nutrition and social protection***; **[Am. 338]**

(f) ***Giving children, particularly the most marginalised, the best start in life by investing in early childhood development and ensuring that children experiencing poverty or inequality have access to basic services such as health, nutrition, education and social protection;*** supporting the provision of a safe, nurturing environment for children as an important element for fostering a healthy young population able to reach its full potential***, and paying special attention to the needs of girls***; **[Am. 339]**

(g) Supporting universal access to sufficient, affordable, safe and nutritious food, particularly for those in the most vulnerable situations, ***inter alia children under the age of five, adolescents, both girls and boys, and women, especially during pregnancy and breastfeeding,*** and strengthening food security and nutrition, particularly in countries facing protracted or recurrent crises***; fostering multi-sectoral nutrition-sensitive approaches to agriculture;*** **[Am. 340]**

(h) Supporting universal access to safe and sufficient drinking water sanitation~~, and~~ hygiene, and sustainable and integrated water management ***as key determinants of health, education, nutrition, climate change resilience and gender equality***; **[Am. 341]**

(i) Achieving universal health coverage, with equitable access to quality and affordable health services, including ***sexual and reproductive health services, and*** through supporting the building of ***inclusive*** strong, quality and resilient health systems ***that are accessible to all***, and enhancing capacity for early warning, risk reduction, management and recovery; ***complementing action through the Union's framework programme for research and innovation to tackle global health threats, develop safe, efficient and affordable vaccines and treatments against poverty-related and neglected diseases, and to improve responses to health challenges including communicable diseases, antimicrobial resistance and emerging diseases and epidemics;*** **[Am. 342]**

(j) Supporting universal and equitable social protection and strengthening social safety nets to guarantee basic income, prevent lapses into extreme poverty and build resilience;

(ja) Strengthening resilience of people and communities, including through increased investment in community-led disaster risk reduction (DRR) and preparedness projects; **[Am. 343]**

(jb) Supporting national, regional and local governments and administrations to create the required infrastructure, inter alia physical, technological and human resources, and using the latest technological and administrative developments to enable all civil registrations (from birth through to death) to be accurately registered, and officially recognised duplicated documents to be published when necessary in order to ensure that all citizens officially exist and are able to access their fundamental rights; **[Am. 344]**

(k) Promoting inclusive sustainable urban development to address urban inequality, focusing on those most in need. ***and adopting a gender-sensitive approach;*** **[Am. 345]**

~~(l) Supporting local authorities to improve at city level the delivery of basic services and equitable access to food security, accessible, decent and affordable housing and the quality of life, in particular for those living in informal settlements and slums.~~ **[Am. 346]**

(m) Promoting ***the achievement of internationally agreed goals in education with particular focus on free public education systems, through*** inclusive and equitable quality formal, informal and non-formal education***, and promoting life-long learning opportunities*** for all, at all levels and including ***early childhood development*** technical and vocational training, including in emergency and crisis situations, and including through the use of digital technologies to improve education teaching and learning; **[Am. 347]**

(ma) Supporting education corridors to ensure that students from countries at war can study at Union universities; **[Am. 348]**

(n) Supporting actions of ~~capacity building,~~ learning mobility***, capacity building and cultural cooperation*** to, from or between partner countries, as well as of cooperation and policy dialogue with institutions, organisations, local implementing bodies and authorities, from those countries; **[Am. 349]**

(na) Promoting capacity building and cooperation in the areas of science, technology and research, in particular addressing poverty-related, societal challenges disproportionately affecting partner countries and neglected areas of research and innovation with limited private sector investments, and open data and fostering social innovation; **[Am. 350]**

(o) Promoting ***capacity building and*** cooperation in the areas of science, technology and research~~, and~~ open data***, big data, artificial intelligence,*** and innovation***, in coordination with the Union's framework programme for research and innovation, to combat the phenomenon of the brain drain***; **[Am. 351]**

(p) Stepping up coordination amongst all relevant actors to help the transition from an emergency situation to the development phase;

(q) Promoting intercultural dialogue and cultural diversity in all its forms, and preserve and promote cultural heritage, and unlocking the potential of ***cultural and*** creative ~~industries~~ ***sectors*** for sustainable, social and economic development; **[Am. 352]**

(qa) Supporting actions, and promoting cooperation, in the area of sport to contribute to the empowerment of women, young people, individuals and communities as well as to the health, education and social inclusion objectives of the 2030 Agenda; **[Am. 353]**

(r) Promoting the dignity and resilience of long-term forcibly displaced persons and their inclusion in the economic and social life of host countries and host communities.

3. Migration, ~~and~~ mobility ***and forced displacement*** **[Am. 354]**

(-a) Supporting effective and human rights-based migration policies, at all levels, including protection programmes, to facilitate safe, orderly and regular migration; **[Am. 355]**

(a) ***Contributing to*** strengthening ***bilateral, regional, including South-South, and international*** partnerships on migration and mobility based on an integrated and balanced approach, covering all aspects of migration, ~~including assistance in implementing~~ ***and in compliance with international and*** Union ~~bilateral or regional agreements and arrangements, including, mobility partnerships~~ ***law and human rights obligations***; **[Am. 356]**

(aa) Providing assistance in implementing Union bilateral or regional agreements and arrangements with third countries, including mobility partnerships, and the creation of safe and legal pathways, including by developing visa facilitation and resettlement agreements and on the basis of mutual accountability and full respect of humanitarian and human rights obligations; **[Am. 357]**

(b) Supporting sustainable ***and successful socio-economic*** reintegration of returning migrants; **[Am. 358]**

(c) Addressing and mitigating root causes of irregular migration and forced displacement;

(d) ~~Tackling~~ ***Reducing the vulnerabilities in migration, including through addressing*** irregular migration, ***and strengthening the transnational response to*** trafficking in human beings, ***and*** smuggling of migrants~~, stepping up cooperation on integrated border management~~ ***in accordance with international and Union law***; **[Am. 359]**

(e) Strengthening scientific, technical, human and institutional capacity for the management of migration***, including the collection and use of accurate and disaggregated data as a basis for evidence-based policies in order to facilitate safe, orderly and responsible migration***; **[Am. 360]**

~~(f) Supporting effective and human rights-based migration policies including protection programmes;~~ **[Am. 361]**

(g) Promoting conditions for facilitating legal migration and well-managed mobility, ***and*** people-to-people contacts, ~~maximising the development impact~~ ***including by providing accurate and timely information at all stages*** of migration; **[Am. 362]**

(ga) Maximising the development impact of migration and improving a common understanding of the migration-development nexus; **[Am. 363]**

(h) Ensuring protection of migrants and forcibly displaced persons***, paying special attention to vulnerable groups and applying a rights-based approach and ensuring the recognition and status determination of persons in need of international protection among mixed migratory flows***; **[Am. 364]**

(i) Supporting development-based solutions for forcibly displaced persons and their host communities***, including through access to education and decent jobs, to promote the dignity, resilience and self-reliance of displaced persons, and their inclusion in the economic and social life of host countries***; **[Am. 365]**

(j) Supporting diaspora engagement in countries of origin***, to contribute fully to sustainable development***; **[Am. 366]**

(k) Promoting faster, cheaper and safer remittance transfers in both source and recipient countries, thus harnessing their potential for development.

(ka) Contributing to empowering migrants and societies to realise their full inclusion and social cohesion. **[Am. 367]**

Cooperation in this area will be managed in coherence with the [Asylum and Migration Fund], in full respect of the principle of policy coherence for development. **[Am. 368]**

PLANET

4. Environment and climate change

(a) Strengthening scientific, technical, human and institutional capacity for climate and environmental management, mainstreaming and monitoring; Strengthening regional and national climate governance.

(b) ***Supporting adaptation to climate change, with special emphasis on particularly vulnerable States and populations lacking resources for taking necessary measures;*** contributing to partners' efforts to pursue their commitments on climate change in line with the Paris Agreement on Climate Change, including the implementation of Nationally Determined Contribution (NDCs) and mitigation and adaptation plans of action including synergies between adaptation and mitigation***, as well as their commitments under other multilateral environmental agreements, such as the Convention on Biological Diversity and the United Nations Convention to Combat Desertification***; **[Am. 369]**

(c) Developing and/or strengthening sustainable green and blue growth in all economic sectors;

(d) ***Promoting access to sustainable energy in developing countries, with a view to honouring the Union's 2012 pledge to provide such access for an additional 500 million people by 2030, giving priority to small-scale, mini-grid and off-grid solutions of high environmental and development value.*** Strengthening sustainable energy cooperation. Promoting and increasing cooperation on energy efficiency and the use of renewable energy sources; ***promoting access to reliable, secure, affordable, clean and sustainable energy services, in particular local and decentralized solutions that ensure energy access for people living in poverty and in remote regions;*** **[Am. 370]**

(da) Building capacity to mainstream environmental sustainability and climate change objectives, and pursuing green growth into national and local development strategies including supporting sustainability criteria in public procurement; **[Am. 371]**

(db) Promoting corporate social responsibility, due diligence in supply chains, and the consistent application of the 'precautionary approach' and the 'polluter pays' principle; **[Am. 372]**

(dc) Promoting environmentally sustainable agriculture practices, including agroecology, which are proven to contribute to protection of ecosystems and biodiversity and enhance environmental and social resilience to climate change in the long term; **[Am. 373]**

(e) Improving local, national regional and continental multi-modal transport networks and services to strengthen further opportunities for sustainable climate-resilient economic development and job creation, in view of low-carbon, climate resilient development. Strengthening transport facilitation and liberalisation, improve sustainability, road safety and resilience of transport domains;

(f) Strengthening the involvement of local communities ***and indigenous peoples*** in climate change responses***, the fight against biodiversity loss and wildlife crime***, conservation of ecosystems and the governance of natural resources***, including through the improvement of land tenure and water resources management***. Promoting sustainable urban development and resilience in urban areas; **[Am. 374]**

(fa) Putting an end to the trade in conflict minerals as well as the abuse of miners, and supporting the development of local communities in accordance with Regulation (EU) 2017/821 on supply chain due diligence obligations and accompanying measures, as well as elaborating such approach to minerals currently not yet covered; **[Am. 375]**

(fb) Promoting Education for Sustainable Development (ESD) to empower people to transform society and build a sustainable future; **[Am. 376]**

(g) Promoting the conservation, sustainable management and use, and restoration of natural resources, healthy ecosystems and halting biodiversity loss, and protecting wildlife ***including combatting poaching, and wildlife trafficking***; **[Am. 377]**

(ga) Addressing biodiversity loss, implementing international and Union initiatives to address it, in particular through the promotion of the conservation, sustainable use and management of terrestrial and marine ecosystems and associated biodiversity; **[Am. 378]**

(h) Promoting integrated and sustainable management of water resources and transboundary water cooperation ***in accordance with international law***; **[Am. 379]**

(i) Promoting conservation and enhancement of carbon stocks through sustainable management of land use, land-use change, and forestry and combatting environmental degradation, desertification and land ***and forest*** degradation***, and drought***; **[Am. 380]**

(j) Limiting deforestation and promoting forest law enforcement, governance and trade (FLEGT), and combating illegal logging, trade of illegal timber and wood products***. Supporting better governance and capacity building for the sustainable management of natural resources***; ***supporting the negotiation and the implementation of Voluntary Partnership Agreements;*** **[Am. 381]**

(k) Supporting ocean governance, including the protection and restoration preservation of coastal and marine areas in all its forms, including ecosystems, the fight against marine litter, the fight against illegal, unreported and unregulated (IUU) fishing and the protection of maritime biodiversity ***in accordance with the United Nations Convention on the Law of the Sea (UNCLOS)***; **[Am. 382]**

(l) Strengthening regional disaster risk reduction (DRR)***, preparedness*** and resilience ***by means of a community-based and people-centred approach***, in synergy with climate change adaption policies and actions; **[Am. 383]**

(m) Promoting resource efficiency and sustainable consumption and production ***(including throughout the entire supply chain)***, including ***by curbing the use of natural resources financing conflicts, and by supporting compliance by stakeholders with initiatives such as the Kimberley process Certification Scheme;*** tackling pollution and a sound management of chemicals and waste; **[Am. 384]**

(n) Supporting efforts to improve sustainable economic diversification, competitiveness, ~~and~~ ***value-sharing supply chains and fair*** trade, private sector development with a particular focus on low-carbon climate-resilient green growth, microenterprises***, social enterprises*** and SMEs and cooperatives, taking advantage of ***the development benefits of*** existing trade agreements with the EU**; [Am. 385]**

(na) Achieving the international commitments regarding biodiversity conservation in treaties such as the Convention on Biological Diversity (CBD), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Convention on the Conservation of Migratory Species of Wild Animals (CMS) and other biodiversity-related treaties; **[Am. 386]**

(nb) Increasing the integration and mainstreaming of climate change and environmental objectives in Union development cooperation through support for methodological and research work on, in and by developing countries, including monitoring, reporting and verification mechanisms, ecosystem mapping, assessment and valuation, enhancing environmental expertise and promoting innovative actions and policy coherence; **[Am. 387]**

(nc) Addressing global and trans-regional effects of climate change having a potentially destabilising impact on development, peace and security. **[Am. 388]**

PROSPERITY

5. Inclusive and sustainable economic growth and decent employment

(a) Supporting entrepreneurship***, including through microfinance***, decent employment and employability through the development of skills and competences, including education, the improvement of ***the full application of ILO*** labour standards and ***including social dialogue and the fight against child labour,*** working conditions ***in a healthy environment***, ***living wages*** and the creation of opportunities particularly for the youth; **[Am. 389]**

(b) Supporting national development paths that maximise positive social outcomes and impacts, ~~and~~ promoting ~~progressive~~ ***effective and sustainable*** taxation and redistributive public policies***, and the setting-up and strengthening of sustainable social protection systems and social insurance schemes***; ***supporting efforts at national and international levels to combat tax evasion and tax havens;*** **[Am. 390]**

(c) Improving the ***responsible*** business and investment climate, creating an enabling regulatory environment for economic development and supporting companies, in particular MSMEs, ***cooperatives and social enterprises*** in expanding their business and creating jobs***, supporting the development of a solidarity economy and boosting private sector accountability***; **[Am. 391]**

(ca) Promoting corporate accountability and redress mechanisms for violations of human rights related to private sector activities; supporting efforts at local, regional and global level to ensure corporate compliance with human rights standards and regulatory developments, including on mandatory due diligence and an international binding instrument on business and human rights at a global level; **[Am. 392]**

(d) Strengthening social and environmental sustainability, corporate social responsibility and responsible business conduct throughout the entire value chains***, ensuring value sharing, fair prices and fair trading conditions***; **[Am. 393]**

(e) Increasing effectiveness ***and sustainability*** of public spending***, including through promoting sustainable public procurement;*** and promoting more strategic use of public finance, including through blending instruments to crowd in additional public and private investment; **[Am. 394]**

(f) Boosting the potential of cities as hubs for sustainable and inclusive growth and innovation;

(g) Promoting internal economic, social and territorial cohesion, forging stronger links between urban and rural areas and facilitating the development of ~~the~~ ***both creative industries and the cultural*** tourism sector as a leverage for sustainable development; **[Am. 395]**

(h) Boosting and diversifying ***sustainable and inclusive*** agricultural and food value chains, promoting ***food security and*** economic diversification, value addition, regional integration, competiveness and ***fair*** trade, and strengthening sustainable, low-carbon and climate-change-resilient, innovations; **[Am. 396]**

(ha) Focusing on ecologically efficient agricultural intensification for smallholder farmers, and in particular women, by providing support for effective and sustainable national policies, strategies and legal frameworks, and for equitable and sustainable access to resources, including land, water, (micro) credit and other agricultural inputs; **[Am. 397]**

(hb) Actively support greater participation of civil society and farmer organisations in policy making and research programmes and increase their involvement in the implementation and evaluation of government programmes; **[Am. 398]**

(i) Supporting sustainable fisheries management and sustainable aquaculture;

(j) Fostering universal access to ***safe, affordable and*** sustainable energy, promoting a low-carbon, climate resilient resource efficient and circular economy in line with the Paris Agreement on Climate Change; **[Am. 399]**

(k) Promoting smart, sustainable, inclusive, safe mobility, as well as improving transport connectivity with the Union;

(l) Promoting affordable, inclusive ~~and~~ reliable ***and secure*** digital connectivity and strengthening the digital economy; ***promoting digital literacy and skills; fostering digital entrepreneurship and job creation; promoting the use of digital technologies as an enabler for sustainable development; addressing cybersecurity, data privacy and other regulatory issues linked to digitalisation;*** **[Am. 400]**

(m) Developing and strengthening markets and sectors in a way that would bolster inclusive and sustainable growth***, and fair trade***; **[Am. 401]**

(n) Supporting the regional integration agenda and optimal trade policies ***in support of inclusive and sustainable development***, and supporting the consolidation and implementation of ***fair*** trade agreements between the ~~EU~~ ***Union*** and its partners***, including holistic and asymmetrical agreements with developing country partners***; ***promoting and strengthening multilateralism, sustainable economic cooperation, as well as the rules of the World Trade Organisation;*** **[Am. 402]**

(o) Promoting cooperation in the areas of science, technology and research, ~~and~~ ***digitalisation,*** open data***, big data and artificial intelligence*** and innovation***, including the development of science diplomacy***; **[Am. 403]**

(p) Promoting intercultural dialogue and cultural diversity in all its forms, ***developing local crafts as well as contemporary arts and cultural expressions,*** and preserve and promote cultural heritage; **[Am. 404]**

(q) Empowering women to take up a greater economic role and in decision-making;

(r) Improving access to decent work ***for all within a healthy environment,*** and creating more inclusive and well-functioning labour markets and employment policies directed towards decent work***, respect for human rights and labour rights, including living wages*** for all, especially ~~the~~ ***women and*** youth; **[Am. 405]**

(ra) Ensuring that access to extractive sectors is fair and sustainable while not contributing to conflicts or corruption; **[Am. 406]**

(s) Promoting fair, sustainable and undistorted access to extractive sectors***; ensuring increased transparency, due diligence and investor responsibility while promoting private sector accountability; applying measures to accompany the Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas***. **[Am. 407]**

PEACE

6. ***Peace,*** security, ***and*** stability ~~and peace~~ **[Am. 408]**

(a) Contributing to peace, ~~and~~ ***the prevention of conflict and therefore to*** stability through building resilience of states, societies, communities and individuals to political, economic, environmental, demographic and societal pressures and shocks***, including by supporting resilience assessments designed to identify the indigenous capacities within societies that allow them to withstand, adapt to and quickly recover from these pressures and shocks***; **[Am. 409]**

(aa) Promoting a culture of non-violence, including by supporting formal and informal peace education; **[Am. 410]**

(b) Supporting conflict prevention, early warning and peacebuilding through mediation, crisis management, and stabilisation ***and post-conflict reconstruction, including an enhanced role for women at all of these stages***; ***promoting, facilitating and building capacity in confidence building, mediation, dialogue and reconciliation, good neighbourly relations and other measures contributing to the prevention and settlement of conflicts, with particular regard to emerging inter-community tensions as well as conciliation measures between segments of societies and protracted conflicts and crises;*** **[Am. 411]**

(ba) Supporting rehabilitation and reintegration of victims of armed conflicts as well as disarmament, demobilisation and reintegration of former combatants and their families into civil society, including the specific needs of women; **[Am. 412]**

(bb) Enhancing the role of women and youth in peacebuilding and conflict prevention, and their inclusion, meaningful civil and political participation and social recognition; supporting the implementation of UNSCR 1325, in particular in fragile, conflict and post-conflict situations and countries; **[Am. 413]**

(c) Supporting ***conflict sensitive*** security sector reform that gradually provides individuals and the state with more effective***, democratic*** and accountable security for sustainable development ***and peace***; **[Am. 414]**

(d) Supporting capacity-building of military actors in support of development and security for development ~~(CBSD)~~; **[Am. 415]**

(da) supporting regional and international disarmament initiatives and arms export control regimes and mechanisms; **[Am. 416]**

(e) Supporting ***local,*** regional and international initiatives, contributing to security, stability and peace ***as well as linking those different initiatives***; **[Am. 417]**

(f) Preventing and countering radicalisation leading to violent extremism and terrorism ***by means of context-specific, conflict- and gender- sensitive and people-centred programmes and actions***; **[Am. 418]**

(fa) Addressing the socio-economic impact on the civilian population of antipersonnel landmines, unexploded ordnance or explosive remnants of war, including the needs of women; **[Am. 419]**

(fb) Addressing the social effects or restructuring the armed forces, including the needs of women; **[Am. 420]**

(fc) Supporting ad hoc local, national, regional and international tribunals, truth and reconciliation commissions and mechanisms; **[Am. 421]**

(g) Fighting against any form of violence, corruption and organised crime and money laundering;

(h) Promoting transboundary cooperation regarding the sustainable management of shared natural resources ***in accordance with international and Union law***; **[Am. 422]**

(i) Cooperating with third countries in the peaceful use of nuclear energy, notably through capacity building and infrastructure development in third countries in the areas of health, agriculture and food safety; as well as supporting social actions addressing the consequences on the most vulnerable population exposed to any radiological accident and aiming at improving their living conditions; promoting knowledge-management, training and education in nuclear-related fields***. Such activities shall be developed in conjunction with those under the European Instrument for Nuclear Safety established by Regulation EINS***; **[Am. 423]**

(j) Enhancing maritime security ***and safety*** to allow for safe, secure, clean and sustainably managed oceans; **[Am. 424]**

(k) Supporting capacity-building in cyber security, resilient digital networks, data protection and privacy.

PARTNERSHIP

7. Partnership

(a) Enhancing country ownership, partnership and dialogue, in order to contribute to greater effectiveness of development cooperation in all its dimensions (giving special consideration for the specific challenges of Least Developed Countries and countries affected by conflict, as well as specific transitional challenges of more advanced developing countries);

(b) Deepening political, economic, social, environmental and cultural dialogue between the Union and third countries and regional organisations, and supporting implementation of bilateral and international commitments;

(c) Encouraging good neighbourly relations, regional integration, enhanced connectivity, cooperation and dialogue;

(ca) Supporting and increasing cooperation by partner countries and regions with neighbouring Union outermost regions and with overseas countries and territories covered by the Council Decision [1] […]on the association of the overseas countries and territories with the European Union; **[Am. 425]**

(d) Promoting an enabling environment for civil society organisations, including foundations, enhancing their ~~meaningful and structured~~ participation in domestic policies and their capacity to perform their roles as independent development and governance actors; and strengthening new ways of partnering with civil society organisations, promoting a substantive and structured dialogue with the Union and the effective use ***and implementation*** of country roadmaps for ~~EU~~ ***the Union's*** engagement with civil society; **[Am. 426]**

(e) Engaging with local authorities and support their role as policy and decision-makers to boost local development and improved governance;

[1] Council Decision …/… of … on the association of the overseas countries and territories with the European Union…(OJ …)

(f) Engaging more effectively with citizens ***and human rights defenders*** in third countries, including by making full use of economic, cultural***, sport*** and public diplomacy; **[Am. 427]**

(g) Engaging industrialised and more advanced developing countries on the implementation of the 2030 Agenda, global public goods and challenges, including in the area of South-South and triangular cooperation;

(h) Encouraging regional integration and cooperation, in a result-oriented way through support for regional integration and dialogue.

~~B. Specific for the Neighbourhood area~~

~~(a) Promoting enhanced political cooperation;~~

~~(b) Supporting the implementation of association agreements, or other existing and future agreements, and jointly agreed association agendas and partnership priorities or equivalent documents;~~

~~(c) Promoting a strengthened partnership with societies between the Union and the partner countries, including through people-to-people contacts;~~

~~(d) Enhancing regional cooperation, in particular in the framework of the Eastern Partnership, the Union for the Mediterranean, and European Neighbourhood-wide collaboration as well as cross-border cooperation;~~

~~(e) Achieving progressive integration into the Union internal market and enhanced sectoral and cross-sectoral cooperation, including through legislative approximation and regulatory convergence towards Union and other relevant international standards, and improved market access including through deep and comprehensive free trade areas, related institution building and investment.~~ **[Am. 428]**

Wednesday 27 March 2019

ANNEX III

AREAS OF INTERVENTION FOR THEMATIC PROGRAMMES

1. AREAS OF INTERVENTION FOR HUMAN RIGHTS AND DEMOCRACY

— ~~Contributing to advancing the fundamental values of democracy, the rule of law, the universality and indivisibility of human rights, respect for human dignity, the principles of non-discrimination, equality and solidarity, and respect for the principles of the United Nations Charter and international law.~~ **[Am. 429]**

— ~~Allowing for cooperation and partnership with civil society on human rights and democracy issues, including in sensitive and pressing situations. A coherent and holistic strategy at all levels shall be developed to achieve the below objectives.~~ **[Am. 430]**

— ~~Upholding human rights and fundamental freedoms for all, contributing to forging societies in which participation, non-discrimination, tolerance, justice and accountability, solidarity and equality prevail. Respect for and observance of human rights and fundamental freedoms for all shall be monitored, promoted and strengthened in accordance with the principles of universality, indivisibility and interdependence of human rights. The scope of the programme includes civil, political, economic, social and cultural rights. Human rights challenges shall be addressed while invigorating civil society and protecting and empowering human rights defenders, also in relation to shrinking space for their actions.~~ **[Am. 431]**

— ~~Developing, enhancing and protecting democracy, comprehensively addressing all aspects of democratic governance, including reinforcing democratic pluralism, enhancing citizen participation, and supporting credible, inclusive and transparent electoral processes. Democracy shall be strengthened by upholding the main pillars of democratic systems, including the rule of law, democratic norms and values, independent media, accountable and inclusive institutions including political parties and parliaments, and the fight against corruption. Election observation plays a full part in the wider support for the democratic processes. Within this context, EU election observation shall continue to be a major component of the programme as well as the follow-up to recommendations of EU election observation missions.~~ **[Am. 432]**

— ~~Promoting effective multilateralism and strategic partnership, contributing to reinforcing capacities of international, regional and national frameworks~~ ~~in promoting and protecting human rights, democracy and the rule of law. Strategic Partnerships shall be boosted, with a particular attention to the Office of the High Commissioner for Human Rights (OHCHR), the International Criminal Court (ICC) and relevant regional and national human rights mechanisms. Furthermore, the programme shall promote education and research on human rights and democracy, including through the Global Campus for Human Rights and Democracy.~~ **[Am. 433]**

Under this programme, the Union shall provide assistance to address global, regional, national and local human rights and democratisation issues in partnership with civil society within the following strategic areas of intervention:

1a. Protecting and promoting human rights and human rights defenders in countries and urgency situations where human rights and fundamental freedoms are most at risk, including by addressing urgent protection needs of human rights defenders in a flexible and comprehensive manner.

The focus is on human rights and democracy issues which cannot be addressed by geographic or other thematic programmes due to their sensitive character or emergency nature. In such cases, the priority shall be to promote respect for the relevant international law and to provide tangible support and means of action to local civil society carried out in very difficult circumstances. Special attention shall also be paid to strengthening a specific human rights defenders protection mechanism.

1b. Upholding human rights and fundamental freedoms for all, contributing to forging societies in which participation, non-discrimination, equality, social justice, international justice and accountability prevail.

The Union's assistance shall have the ability to address the most sensitive political issues such as the death penalty, torture, freedom of expression in restrictive contexts, discrimination against vulnerable groups, as well as the protection and promotion of the rights of the child (e.g. child labour, child trafficking, child prostitution and child soldiers) and shall respond to emerging and complex challenges such as the protection of persons displaced due to climate change, due to its independence of action and its high flexibility in terms of cooperation modalities.

1c. Consolidating and supporting democracy, addressing all aspects of democratic governance, including reinforcing democratic pluralism, enhancing citizen participation, creating an enabling environment for civil society, and supporting credible, inclusive and transparent electoral processes, in particular by means of EU EOMs.

Democracy shall be strengthened by upholding the main pillars of democratic systems, including the rule of law, democratic norms and values, independent media, accountable and inclusive institutions including political parties and parliaments, as well as an accountable security sector, and the fight against corruption. The priority shall be to provide tangible support and means of action to political actors carrying out their activities in very difficult circumstances. Election observation plays a full part in the wider support of the democratic processes. Within that context, EU election observation shall continue to be a major component of the programme as well as the follow-up to recommendations of EU EOMs. Another focus will be through supporting citizen election observation organisations and their regional networks worldwide.

The capacity and visibility of citizen election observation organisations in the European Neighbourhood East and South and of the respective regional platform organisations shall be strengthened, in particular by promoting sustainable peer-learning programme for independent, non-partisan, citizen election observation organisations. The Union shall seek to improve the capacities of domestic citizen election observation organisations, provide voter education, media literacy, programmes for the monitoring of the implementation of domestic and international election observation missions' recommendations, and shall defend credibility and trust in the institutes of election and of election observation.

1d. Promoting effective multilateralism and strategic partnerships contributing to reinforcing capacities of international, regional and national frameworks and empowering local actors in promoting and protecting human rights, democracy and the rule of law.

Partnerships for human rights, which shall focus on strengthening the national and international human rights architecture, including support to multilateralism, as the independence and effectiveness of the Office of the High Commissioner for Human Rights (OHCHR), the International Criminal Court (ICC) and relevant regional human rights mechanisms, are essential. Support to education and research on human rights and democracy, as well as the promotion of academic freedom shall continue, including through support to the Global Campus for Human Rights and Democracy.

1e. Fostering new cross-regional synergies and networking among local civil society and between civil society and other relevant human rights bodies and mechanisms so as to maximise the sharing of best practises on human rights and democracy, and create positive dynamics.

The focus shall be placed on the protection and promotion of the principle of universality, identifying and sharing best practices on all human rights, whether civil and political, or economic, social and cultural, and fundamental freedoms, i.e. when addressing major challenges, including sustainable security, the fight against terrorism,

irregular migration and shrinking space for NGOs. That will require an enhanced effort to bring together a broad range of human rights related stakeholders (e.g. local civil society and human rights activists, lawyers, academia, national human rights and women rights institutions, syndicates) from different countries and continents who together can create a positive narrative on human rights with a multiplying effect.

1f. The Union shall further promote, in its relations with third countries under the instrument, international efforts towards a multilateral agreement to ban trade in goods used for torture and capital punishment. **[Am. 434]**

2. AREAS OF INTERVENTION FOR CIVIL SOCIETY ~~ORGANISATIONS~~ ***AND LOCAL AUTHORITIES*** **[Am. 435]**

1. Inclusive, participatory, empowered and independent civil society ~~civic space~~ ***and local authorities*** in partner countries **[Am. 436]**

   (a) Creating an enabling environment for citizen participation and civil society action, including ***by supporting active civil society participation in policy dialogue*** through foundations; **[Am. 437]**

   (b) ***Supporting and*** building the capacity of civil society organisations, including foundations, to act as both actors of development and governance; **[Am. 438]**

   (c) Increasing the capacity of partner countries' civil society networks, platforms and alliances.

   (ca) Capacity building, coordination and institutional strengthening for CSOs and local authorities — including Southern networks of CSOs and local authorities and umbrella organisations to engage within their organisations and between different types of stakeholders active in the public debate on development, and to dialogue with governments on public policy and participate effectively in the development process. **[Am. 439]**

2. Dialogue with and between civil society organisations ~~on development policy~~ **[Am. 440]**

   (a) Promoting ~~other~~ inclusive multi-stakeholder dialogue fora ***and institutional strengthening of civil society and local authority networks***, including interaction ***and coordination*** between citizens, civil society organisations, local authorities, member states, partner countries and other key development stakeholders; **[Am. 441]**

   (b) Enabling cooperation and exchange of experience between civil society actors;

   (c) Ensuring a substantive and continued structured dialogue and partnerships with the EU.

3. Awareness, knowledge and engagement of European citizens about development issues

   (a) Empowering people to increase their engagement;

   (b) Mobilising public support in the Union, candidate countries and potential candidates for ***poverty reduction and*** sustainable and inclusive development strategies in partner countries. **[Am. 442]**

   (ba) Raising awareness of sustainable consumption and production, awareness of supply chains and the effects of Union's citizens' purchasing power in enabling sustainable development. **[Am. 443]**

3a. Provision of basic social services delivered to populations in need

Interventions in partner countries which support vulnerable and marginalised groups by providing basic social services such as health — including nutrition, education, social protection, and access to safe water, sanitation and hygiene delivered through civil society organisations and local authorities. **[Am. 444]**

3b. Strengthen the role of local authorities as actors of development by:

(a) increasing the capacity of Union and developing countries' local authority networks, platforms and alliances to ensure a substantive and continued policy dialogue and effective participation in the field of development and to promote democratic governance, in particular through the Territorial Approach to Local Development;

(b) increasing interactions with Union citizens on development issues (awareness raising, knowledge sharing, engagement, including through adopting sustainability criteria in public procurement), in particular concerning those related to the Sustainable Development Goals, including in the Union and candidate countries and potential candidate countries;

(c) increasing aid ownership and absorption via in-country training programmes for local authorities' civil servants on how to apply for Union funding. **[Am. 445]**

3. AREAS OF INTERVENTION FOR ***PEACEBUILDING, CONFLICT PREVENTION AND*** *STABILITY* ~~AND PEACE~~ **[Am. 446]**

1. Assistance for conflict prevention, peace-building and crisis preparedness

The Union shall provide technical and financial assistance covering support for measures aimed at building and strengthening the capacity of the ***Union and its*** partners to prevent conflict, build peace and address pre- and post-crisis needs in close coordination with the United Nations and other international, regional and sub-regional organisations, and State and civil society actors, in relation to their efforts mainly in the following areas, including specific attention to ~~women~~ ***gender equality, women's empowerment and youth*** participation: **[Am. 447]**

(a) early warning and conflict-sensitive risk analysis~~; confidence-building, mediation, dialogue and reconciliation measures~~ ***in the policy-making and the implementation of policy***; **[Am. 448]**

(aa) facilitation and building capacity in confidence-building, mediation, dialogue and reconciliation measures, with particular regard to emerging inter-community tensions, especially prevention of genocide and crimes against humanity; **[Am. 449]**

(ab) strengthening capacities for participation and deployment in civilian stabilisation missions; strengthening the Union, civil society and Union partners' capacities for the participation and the deployment of civilian peacekeeping and peacebuilding missions; the exchange of information and best practices on peacebuilding, conflict analysis, early warning or training and service delivery; **[Am. 450]**

(b) ***supporting*** post-conflict recovery***, including addressing the issue of missing persons in post-conflict situations, and including supporting implementation of relevant multilateral agreements addressing landmines and explosive remnants of war*** as well as post-disaster recovery ***with relevance to the political and security situation***; **[Am. 451]**

(c) ***supporting*** peace-building and state-building ~~support~~ actions***, including local and international civil society organisations, states and international organisations***; ***and development of structural dialogues amongst them at various levels, between local civil society and partner countries, and with the Union;*** **[Am. 452]**

(d) conflict prevention and crisis response;

Wednesday 27 March 2019

(da) curbing the use of natural resources to finance conflicts, and supporting compliance by stakeholders with initiatives such as the Kimberley Process Certification Scheme, and including those related to Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas ([1]), especially as regards the implementation of efficient domestic controls over the production of, and trade in, natural resources; **[Am. 453]**

(e) Capacity Building ~~for Security and~~ ***of military actors in support of*** development ~~(CBSD)~~ ***and security for development***. **[Am. 454]**

(ea) Supporting actions promoting gender equality and women's empowerment, in particular through implementation of UNSCR 1325 and 2250 as well as participation and representation of women and youth in formal and informal peace processes; **[Am. 455]**

(eb) Supporting actions promoting a culture of non-violence, including formal, informal and non-formal peace education; **[Am. 456]**

(ec) Supporting actions strengthening the resilience of states, societies, communities and individuals, including resilience assessments designed to identify the endogenous capacities within societies that allow them to withstand, adapt to and quickly recover from pressures and shocks; **[Am. 457]**

(ed) support for international criminal tribunals and ad hoc national tribunals, truth and reconciliation commissions, transitional justice and other mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights, established in accordance with international standards in the fields of human rights and the rule of law; **[Am. 458]**

(ee) support for measures to combat the illicit use of, and access to, firearms, small arms and light weapons; **[Am. 459]**

Measures in this area:

(a) shall include know-how transfer, the exchange of information and best practices, risk or threat assessment, research and analysis, early warning systems, training and service delivery;

(b) shall contribute to the further development of a structural dialogue on peace-building issues;

(c) may include technical and financial assistance for the application of peace-building and state-building support actions. **[Am. 460]**

2. Assistance in addressing global and trans-regional threats and emerging threats

The Union shall provide technical and financial assistance to support partners' efforts and Union actions addressing global and trans-regional threats and emerging threats ~~mainly~~ in the following areas: **[Am. 461]**

(a) threats to law and order, and to the security and safety of individuals including terrorism, violent extremism, organised crime, cyber-crime, hybrid threats, illicit trafficking, trade and transit,; ***in particular strengthening the capacity of law enforcement and judicial and civil authorities involved in the fight against terrorism, organised crime, including cyber-crime, and all forms of illicit trafficking and in the effective control of illegal trade and transit.***

([1]) OJ L 130, 19.5.2017, p. 1

Priority shall be given to trans-regional cooperation involving two or more third countries which have demonstrated a clear political will to address the arising problems.

The measures shall place particular emphasis on good governance and shall be in accordance with international law. Cooperation in the fight against terrorism may also be conducted with individual countries, regions or international, regional and sub-regional organisations.

With regard to assistance to authorities involved in the fight against terrorism, priority shall be given to supporting measures concerning the development and strengthening of counter-terrorism laws, the implementation and practice of financial law, of customs law and of immigration law, the development of law-enforcement procedures which are aligned with the highest international standards and which comply with international law, the strengthening of democratic control and institutional oversight mechanisms, and the prevention of violent radicalism.

With regard to assistance relating to the problem of drugs, due attention shall be given to international cooperation aimed at promoting best practices relating to the reduction of demand, production and harm. **[Am. 462]**

(b) threats to public spaces, critical infrastructure, ***including international transport, including passenger and freight traffic, energy operations and energy distribution,*** cybersecurity, to public health***, including sudden epidemics with a potential trans-national impact,*** or to environmental stability, maritime security threats, ***global and trans-regional*** threats deriving from climate change impacts ***having a potentially destabilising impact on peace and security***; **[Am. 463]**

(c) mitigation against risks, whether of an intentional, accidental or natural origin, related to chemical, biological, radiological and nuclear materials or agents and risks to related installations or sites***, in particular in the following areas:***

(1) supporting and promoting civilian research activities as an alternative to defence-related research;

(2) enhancing safety practices related to civilian facilities where sensitive chemical, biological, radiological and nuclear materials or agents are stored or are handled in the context of civilian research programmes;

(3) supporting, within the framework of Union cooperation policies and their objectives, the establishment of civil infrastructure and relevant civilian studies necessary for the dismantlement, remediation or conversion of weapons-related facilities and sites where these are declared to be no longer part of a defence programme;

(4) strengthening the capacity of the competent civilian authorities involved in the development and enforcement of effective control of illicit trafficking in chemical, biological, radiological and nuclear materials or agents (including the equipment for their production or delivery);

(5) developing the legal framework and institutional capacities for the establishment and enforcement of effective export controls, in particular on dual-use goods, including regional cooperation measures and as regards the implementation of the provisions of the Arms Trade Treaty and the promotion of adherence to it;

(6) developing effective civilian disaster-preparedness, emergency planning, crisis response, and capabilities for clean-up measures.

Such activities shall be developed in conjunction with those under the European Instrument for Nuclear Safety established by Regulation EINS. **[Am. 464]**

(d) Capacity Building ~~for Security and~~ ***of military actors in support of*** Development ~~(CBSD)~~ ***and security for development***. **[Am. 465]**

4. AREAS OF INTERVENTION FOR GLOBAL CHALLENGES

A. PEOPLE

1. Health

(a) Developing crucial elements of an effective and comprehensive health system that are best addressed at a supra-national level to secure equitable***, affordable, inclusive and universal*** access to ***public*** health services and sexual and reproductive health and rights; **[Am. 466]**

(aa) Promoting, providing and expanding essential services and psychological support services for victims of violence, in particular women and children rape victims; **[Am. 467]**

(b) Reinforcing global initiatives that are key enablers of universal health coverage through global leadership on a 'health in all policies' approach with a continuum of care, including health promotion, from prevention to post-treatment;

(c) Addressing global health security through communicable diseases research***, including on poverty-related and neglected diseases*** - and control***, by combating such diseases and fake medicines***, translate knowledge into ***safe, accessible and affordable*** products and policies that tackle ~~the changing disease~~ ***immunisation, the wide spectrum of the persistent*** burden ***of infections, emerging and re-emerging diseases and epidemics and antimicrobial resistance*** (non-communicable diseases, all forms of malnutrition and environmental risk factors), and shape global markets to improve access to essential health commodities and healthcare services, especially for sexual and reproductive health. **[Am. 468]**

(ca) Supporting initiatives to scale up access to safe, efficient and affordable medicines (including generic medicines), diagnostics and related health technologies and utilising all available tools to reduce the price of life-saving drugs and diagnostics. **[Am. 469]**

(cb) Fostering good health and combatting communicable diseases by strengthening health systems and attaining the Sustainable Developments Goals, including by enhancing focus on prevention and tackling vaccine-preventable diseases; **[Am. 470]**

2. Education

(a) Promoting ***the achievement of internationally agreed goals in education and combat educational poverty through*** joint global efforts for inclusive and equitable quality education and training at all levels, ***for all ages,*** including ***early childhood development,*** in emergency and crisis situations ***and with a particular priority on strengthening free public education systems***; **[Am. 471]**

(b) Strengthening knowledge***, research and innovation***, skills and values through partnerships and alliances, for active citizenship and productive, ***educated, democratic,*** inclusive and resilient societies; **[Am. 472]**

(c) Supporting global action on reducing all dimensions of ***discrimination and*** inequalities, such as the gaps between girls/women and boys/men, to ensure that everyone has equal opportunity to take part in economic, ~~and~~ ***political,*** social ***and cultural*** life. **[Am. 473]**

(ca) Supporting efforts and improving good practices adopted by civil-society actors to ensure inclusive and quality education in fragile environments where governance structures are weak. **[Am. 474]**

(cb) Supporting actions, and promoting cooperation, in the area of sport to contribute to the empowerment of women and of young people, individuals and communities as well as to health, education and social inclusion objectives of the 2030 Agenda; **[Am. 475]**

3. Women ~~and children~~ **[Am. 476]**

(a) Leading and supporting ***local, national, regional initiatives and*** global efforts, partnerships and alliances ~~to~~ ***for the rights of women as set out in the UN Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto to*** eliminate all forms of violence***, harmful practices and all forms of discrimination*** against women and girls; this includes physical, psychological, sexual, economic***, political*** and other types of violence and discrimination, including exclusion that women suffer in the different areas of their private and public lives; **[Am. 477]**

(aa) Addressing root causes of gender inequalities as a means of supporting conflict prevention and peacebuilding; promoting the empowerment of women, including in their roles as development actors and peace-builders; empowering women's and girls' agency, voice and participation in social, economic, political and civic life; **[Am. 478]**

(ab) Promoting the protection and fulfilment of women's and girls' rights, including economic, labour, social and political rights, and sexual and reproductive health and rights, including sexual and reproductive health services, education and supplies. **[Am. 479]**

~~(b) Promoting new initiatives to build stronger child protection systems in third countries, ensuring that children are protected in all areas from violence, abuses and neglect, including by promoting the transition from institutional to community based care for children.~~ **[Am. 480]**

3a. Children and youth

(a) Promoting new initiatives to build stronger child protection systems in third countries, ensuring that children get the best start in life and are protected in all areas from violence, abuses and neglect, including by promoting the transition from institutional to community-based care for children.

(b) Promoting access to basic social services for children and youth, including the most marginalised, with a focus on health, nutrition, education, early childhood development and social protection, and including sexual and reproductive health services, information and supplies, dedicated youth-friendly services and comprehensive sexuality education, nutrition, education and social protection;

(c) Promoting youth access to skills, decent and quality jobs through education, vocational and technical training, and access to digital technologies; supporting youth entrepreneurship and promoting the creation of sustainable jobs with decent working conditions;

(d) Promoting initiatives that empower young people and children, and support policies and actions that guarantee their inclusion, meaningful civil and political participation and social recognition, recognizing their true potential as positive agents of change in areas such as peace, security, sustainable development, climate change, environmental protection and the reduction of poverty. **[Am. 481]**

4. Migration***, mobility*** and forced displacement **[Am. 482]**

(a) Ensure continued EU leadership in shaping the global agenda on migration and forced displacement governance in all its dimensions***, to facilitate safe, orderly and regular migration***; **[Am. 483]**

(b) Steering and supporting global and cross-regional policy dialogues, including ***on South-South migration and*** exchange and cooperation on migration and forced displacement; **[Am. 484]**

(c) Supporting the implementation of international and EU commitments on migration and forced displacement, including as a follow-up to the Global Compact on Migration and the Global Compact on Refugees;

(d) Improving the global evidence base, including on the migration/development nexus, and initiate actions of pilot character aiming at developing innovative operational approaches in the area of migration and forced displacement.

(da) Cooperation in this area shall adopt a human rights based approach and be managed in coherence with the [Asylum and Migration Fund], in full respect of human dignity and the principle of policy coherence for development. **[Am. 485]**

5. Decent work, social protection and inequality

(a) Shaping the global agenda and support initiatives on the integration of a strong pillar on equity and social justice in accordance to European values;

(b) Contributing to the global agenda on decent work ***for all within a healthy environment, on the basis of the basic ILO labour standards, including social dialogue, living wages and the fight against child labour***, in particular in ***making*** global value chains ***sustainable and responsible, based on horizontal due diligence obligations***, and enhancing knowledge on effective employment policies that respond to labour market needs, including VET and life-long learning; **[Am. 486]**

(ba) supporting global initiatives on business and human rights, including corporate accountability for rights violations and access to remedies; **[Am. 487]**

(c) Supporting global initiatives on universal social protection that follow the principles of efficiency, sustainability and equity; , including support to address inequality and ensure social cohesion***, in particular with the setting-up and strengthening of sustainable social protection systems, social insurance schemes, and with fiscal reform, reinforcing the capacity of tax systems and the fight against fraud, tax evasion, and aggressive tax planning***; **[Am. 488]**

(d) Continuing global research and development through social innovation that enhances social inclusion and addresses the needs of the most vulnerable sections of society.

6. Culture

(a) Promoting initiatives for cultural diversity, ~~and~~ intercultural ***and interreligious*** dialogue for peaceful inter-community relations; **[Am. 489]**

(b) Supporting culture ***and creative and artistic expression*** as an engine for sustainable social and economic development and reinforcing cooperation on***, and preservation of*** cultural heritage. ***and contemporary arts and other cultural expressions;*** **[Am. 490]**

(ba) Developing local crafts, as a means to preserve local cultural heritage; **[Am. 491]**

(bb) Reinforcing cooperation on safeguarding, conservation and enhancement of cultural heritage, including the preservation of particularly vulnerable cultural heritage, in particular from minority and isolated communities and indigenous peoples; **[Am. 492]**

(bc) Supporting initiatives for the return of cultural property to their countries of origin or their restitution in case of illicit appropriation; **[Am. 493]**

(bd) Supporting cultural cooperation with the Union, including through exchanges, partnerships and other initiatives and the recognition of the professionalism of authors, artists and cultural and creative operators; **[Am. 494]**

(be) Supporting cooperation and partnerships among sport organisations. **[Am. 495]**

B. PLANET

1. Ensuring a healthy environment and tackling climate change

(a) Strengthening global climate and environmental governance, the implementation of the Paris Agreement on Climate Change, the Rio Conventions and other multilateral environmental agreements;

(b) Contributing to the external projection of the Union's environment and climate change policies ***with full respect for the principle of policy coherence for development***; **[Am. 496]**

(c) Integrating environment, climate change and disaster risk reduction objectives in policies, plans and investments including through improved knowledge and information***, including in interregional cooperation programmes or measures between partner countries and regions on the one hand, and neighbouring outermost regions and overseas countries and territories covered by the OCT Decision on the other***; **[Am. 497]**

(d) Implementing international and EU initiatives to promote climate change adaptation and mitigation and climate resilient low-emission development, including through the implementation of the Nationally Determined Contributions (NDCs) and low emission climate resilient strategies, promoting disaster risk reduction, address environmental degradation and halting biodiversity loss, ~~promoting~~ the conservation and sustainable use and management of terrestrial and marine ecosystems and renewable natural resources -including land, water, oceans, fisheries and forests, addressing deforestation***, desertification***, land degradation, illegal logging and wildlife trafficking, tackling pollution and ensuring a healthy environment, addressing emerging climate and environmental issues, promoting resource efficiency, sustainable consumption and production***, integrated water resource management*** and the sound management of chemicals and waste and supporting the transition to low emission, climate resilient green and circular economies. **; [Am. 498]**

(da) Promoting environmentally sustainable agricultural practices, including agro-ecology, in order to protect ecosystems and biodiversity and enhance environmental and social resilience to climate change, with a particular focus on supporting smallholder farmers, workers and artisans; **[Am. 499]**

(db) Implementing international and Union initiatives to address biodiversity loss, promoting the conservation, sustainable use and management of terrestrial and marine ecosystems and associated biodiversity. **[Am. 500]**

2. Sustainable Energy

(a) Supporting global efforts, commitments, partnerships and alliances, including ***most notably the*** sustainable energy transition; **[Am. 501]**

(aa) Promoting energy security for partner countries and local communities through, for instance, diversification of sources and routes, considering price volatility issues, emission reduction potential, improving markets and fostering energy and, in particular, electricity interconnections and trade; **[Am. 502]**

(b) Encouraging partner governments to embrace energy sector policy and market reforms so to establish a conducive environment for ***inclusive growth and*** investments increasing access to energy services that are ***climate-friendly,*** affordable, modern, reliable and sustainable, with ~~a strong focus on~~ ***priority to*** renewable energy and energy efficiency; **[Am. 503]**

(c) Exploring, identifying, mainstreaming globally and supporting financially sustainable business models with scalability and replicability potential providing innovative and digital technologies through innovative research ensuring increased efficiency in particular for decentralised approaches providing energy access through renewable energy including in areas where the local market capacity is limited.

C. PROSPERITY

1. Sustainable and inclusive growth, decent jobs and private sector engagement

(a) Promoting sustainable private investment through innovative financing mechanisms ~~and risk sharing~~ ***including for LDCs and fragile states that would otherwise not attract such investment and where additionality can be proven***; **[Am. 504]**

(b) ***Developing a socially and ecologically responsible local private sector,*** improving business environment and investment climate, supporting enhanced public-private dialogue, and building capacities of***, competitiveness and resilience of local*** Micro, Small and Medium Enterprises ***as well as cooperatives and social enterprises***, ***and their integration into the local, regional and global economy;*** **[Am. 505]**

(ba) Promoting financial inclusion by fostering access to and effective use of financial services, such as micro-credit and savings, micro-insurance and payment transfer, by microenterprises and SMEs and households, in particular disadvantaged and vulnerable groups; **[Am. 506]**

(c) Supporting ***the implementation of*** the Union trade policy and trade agreements ***aiming at sustainable development***; and improving access to partner country markets and boosting ***fair*** trade, ***responsible and accountable*** investment and business opportunities for companies from the Union while eliminating barriers to market access and investment***, as well as aiming at easing access to climate-friendly technologies and intellectual property, while ensuring as much value sharing and human rights due diligence in supply chains, and with full respect to policy coherence for development, where developing countries are concerned;*** **[Am. 507]**

(d) Promoting an effective policy mix supportive of economic diversification, value addition, and regional integration and sustainable green and blue economy;

(e) Fostering access to digital technologies, including promoting access to finance and financial inclusion;

(f) Promoting sustainable consumption and production and innovative technologies and practices for low-carbon, resource efficient and circular economy.

2. Food and nutrition security

(a) Supporting and influencing international strategies, organisations, mechanisms and actors that roll-out major global policy issues and frameworks around ***sustainable*** food and nutrition security***, and contributing to accountability on international commitments on food security, nutrition and sustainable agriculture including the Sustainable Development Goals and the Paris Agreement***; **[Am. 508]**

(b) ***Ensuring equitable access to food including by helping to address the financing gap for nutrition;*** improving global public goods pursuing an end to hunger and malnutrition; tools like the Global Network on Food Crises enhance the capacity to adequately respond to food crises and nutrition in the context of the humanitarian-development-peace nexus (hence assist in mobilising pillar 3 resources); **[Am. 509]**

(ba) Improving in a coordinated and accelerated manner cross-sectoral efforts to increase capacity for diversified local and regional food production, ensure nutritional and food security and access to drinking water, and enhance the resilience of the most vulnerable, particularly in countries facing protracted or recurrent crises; **[Am. 510]**

(c) Reaffirming at global level the central role of sustainable agriculture and fisheries and aquaculture***, including smallholder agriculture, livestock-keeping and pastoralism*** for increased food security, poverty eradication, job creation***, equitable and sustainable access to, and management of resources, including land and land rights, water, (micro) credit, open source seeds and other agricultural inputs***, mitigating and adapting to climate change, resilience and healthy ecosystems; **[Am. 511]**

(d) Providing innovations through international research and reinforce global knowledge and expertise***, promotion and reinforcement of local and autonomous adaptation strategies***, in particular related to climate change adaptation and mitigation, agrobiodiversity, global and inclusive value chains, ***fair trade,*** food safety, responsible investments, governance of land and natural resource tenure; **[Am. 512]**

(da) Actively supporting greater participation of civil society and farmer organisations in policy-making and research programmes and increase their involvement in the implementation and evaluation of government programmes. **[Am. 513]**

D. PARTNERSHIPS

1. Strengthen the role of Local Authorities as actors of development through:

(a) Increasing the capacity of European and Southern local authority networks, platforms and alliances to ensure a substantive and continued policy dialogue in the field of development and to promote democratic governance, notably through the Territorial Approach to Local Development;

(b) Increasing interactions with European citizens on development issues (awareness raising, knowledge sharing, engagement), notably in relation to the related to the Sustainable Development Goals, including in the Union and candidate countries and potential candidate countries.

2. Promote inclusive societies, good economic governance, including fair and inclusive domestic revenue mobilisation ***and fight tax avoidance***, transparent public finance management and effective and inclusive public spending. **[Am. 514]**

4a. AREAS OF INTERVENTION FOR FOREIGN POLICY NEEDS AND PRIORITIES

Actions to support the objectives set out in point (da) of Article 4(3) shall support Union foreign policy across political, development, economic and security issues. Those actions shall enable the Union to act where there is a foreign policy interest, or a window of opportunity to achieve its objectives, and which are difficult to address by other means. They may cover the following:

(a) support for the Union's bilateral, regional and inter-regional cooperation strategies, promoting policy dialogue and developing collective approaches and responses to challenges of global concern, including migration, development, climate change and security issues, in particular in the following areas:

— supporting the implementation of Partnership and Cooperation Agreements, action plans and similar bilateral instruments;

— deepening the political and economic dialogue with third countries of particular relevance in world affairs, including in foreign policy;

— supporting engagement with relevant third countries on bilateral and global issues of common concern;

— promoting an adequate follow-up or coordinated implementation of the conclusions reached and commitments made in relevant international fora;

(b) support for Union trade policy:

— support for Union trade policy and the negotiation, implementation and enforcement of trade agreements, under full respect of policy coherence for development, where developing countries are concerned, and full alignment with the pursuit of the Sustainable Development Goals;

— support for improving access to partner country markets and boosting trade, investment and business opportunities for companies from the Union, in particular SMEs, while eliminating barriers to market access and investment and protecting intellectual property rights, by means of economic diplomacy, business and regulatory cooperation, with necessary adaptations in relation to developing country partners;

(c) contributions to the implementation of the international dimension of internal Union policies:

— contributions to the implementation of the international dimension of internal Union policies such as, inter alia, environment, climate change, energy, science and education and cooperation on management and governance of the oceans;

— promoting the Union's internal policies with key partner countries and supporting regulatory convergence in this regard;

(d) promotion of widespread understanding and visibility of the Union and of its role on the world scene:

— promotion of widespread understanding and visibility of the Union and of its role on the world scene, by means of strategic communication, public diplomacy, people-to-people contacts, cultural diplomacy, cooperation in educational and academic matters, and outreach activities to promote the Union's values and interests;

— enhancing student and academic staff mobility, leading to the creation of partnerships aimed at improving the quality of higher education and of joint degrees leading to academic recognition ('Erasmus+ Programme').

Those actions shall apply innovative policies or initiatives, corresponding to current or evolving short- to medium-term needs, opportunities and priorities, including with the potential of informing future actions under geographic or thematic programmes. They shall focus on deepening the Union's relations and dialogue and building partnerships and alliances with key countries of strategic interest, especially those emerging economies and middle-income countries who play an increasingly important role in world affairs, global governance, foreign policy, the international economy, and multilateral fora. **[Am. 515]**

Wednesday 27 March 2019

ANNEX IV

AREAS OF INTERVENTION FOR RAPID RESPONSE ACTIONS

1. Actions contributing to ***peace*** stability and conflict prevention in situations of urgency, emerging crisis, crisis and postcrisis **[Am. 516]**

Rapid response actions referred to in point a) of Article 4 (4) shall be designed for an effective Union response to the following exceptional and unforeseen situations:

(a) a situation of urgency, crisis, emerging crisis or natural disasters***, where relevant for stability, peace and security***; **[Am. 517]**

(b) a situation posing a threat to ***peace,*** democracy, law and order, the protection of human rights and fundamental freedoms, or the security and safety of individuals, in particular those exposed to gender-based violence in situations of instability; **[Am. 518]**

(c) a situation threatening to escalate into armed conflict or to severely destabilise the third country or countries concerned.

1a. The technical and financial assistance referred to in paragraph 1 may cover the following:

(a) support, through the provision of technical and logistical assistance, for the efforts undertaken by international, regional and local organisations and by State and civil society actors in promoting confidence-building, mediation, dialogue and reconciliation, transitional justice, women's and youth empowerment, in particular with regards to community tensions and protracted conflicts;

(b) support for the implementation of United Nations Security Council resolutions, with particular regard to those on women, peace and security and youth, peace and security, in particular in fragile, conflict and post-conflict countries;

(c) support for the establishment and functioning of interim administrations mandated in accordance with international law;

(d) support for the development of democratic, pluralistic state institutions, including measures to enhance the role of women in such institutions, effective civilian administration and civilian oversight over the security system, as well as measures to strengthen the capacity of law-enforcement and judicial authorities involved in the fight against terrorism, organised crime and all forms of illicit trafficking;

(e) support for international criminal tribunals and ad hoc national tribunals, truth and reconciliation commissions, transitional justice and other mechanisms for the legal settlement of human rights claims and the assertion and adjudication of property rights, established in accordance with international standards in the fields of human rights and the rule of law;

(f) support for reinforcement of State capacity — in the face of significant pressures to rapidly build, maintain or restore its core functions, and basic social and political cohesion;

(g) support for measures necessary to start the rehabilitation and reconstruction of key infrastructure, housing, public buildings and economic assets, and essential productive capacity, as well as other measures for the re-starting of economic activity, the generation of employment and the establishment of the minimum conditions necessary for sustainable social development;

(h) support for civilian measures related to the demobilisation and reintegration of former combatants and their families into civil society, and where appropriate their repatriation, as well as measures to address the situation of child soldiers and female combatants;

(i) support for measures to mitigate the social effects of restructuring the armed forces;

(j) support for measures to address, within the framework of Union cooperation policies and their objectives, the socio-economic impact on the civilian population of anti-personnel landmines, unexploded ordnance or explosive remnants of war. Activities financed under this Regulation may cover, inter alia, risk education, mine detection and clearance and, in conjunction therewith, stockpile destruction;

(k) support for measures to combat, within the framework of Union cooperation policies and their objectives, the illicit use of and access to firearms, small arms and light weapons;

(l) support for measures to ensure that the specific needs of women and children in crisis and conflict situations, including preventing their exposure to gender-based violence, are adequately met;

(m) support for the rehabilitation and reintegration of the victims of armed conflict, including measures to address the specific needs of women and children;

(n) support for measures to promote and defend respect for human rights and fundamental freedoms, democracy and the rule of law, and the related international instruments;

(o) support for socio-economic measures to promote equitable access to, and transparent management of, natural resources in a situation of crisis or emerging crisis, including peace-building;

(p) support for measures to address the potential impact of sudden population movements with relevance to the political and security situation, including measures addressing the needs of host communities in a situation of crisis or emerging crisis, including peace-building;

(q) support for measures to promote the development and organisation of civil society and its participation in the political process, including measures to enhance the role of women in such processes and measures to promote independent, pluralist and professional media;

(r) capacity building of military actors in support of development and security for development. **[Am. 519]**

2. Actions contributing to strengthening resilience and linking humanitarian aid and development action

Rapid response actions referred to in point b) of Article 4(4) shall be designed to effectively strengthen resilience and to link humanitarian aid and development actions, which cannot be swiftly addressed through geographic and thematic programmes ***and ensuring coherence, consistency and complementarity with humanitarian aid as specified in Article 5***. **[Am. 520]**

These actions may cover the following:

(a) strengthen resilience by supporting individuals, communities, institutions, and countries to better prepare for, withstand, adapt to and quickly recover from political, economic, and societal pressures and shocks, natural or man-made disasters, conflicts and global threats; including by ~~reinforce~~ ***reinforcing*** the capacity of ~~a state — in the face of significant pressures to rapidly build, maintain or restore its core functions, and basic social and political cohesion and of~~ societies, communities and individuals to manage opportunities and risks in a peaceful and ***conflict sensitive*** stable manner and to build, maintain or restore livelihoods in the face of major pressures***, and by supporting individuals, communities and societies to identify and strengthen their existing indigenous capacities to withstand, adapt to and quickly recover from these pressures and shocks, including those that could lead to an escalation of violence***; **[Am. 521]**

(b) mitigate the short-term adverse effects resulting from exogenous shocks creating macroeconomic instability and aims at safeguarding socioeconomic reforms and priority public expenditure for socio-economic development and poverty reduction;

(c) carry out short-term rehabilitation and reconstruction to enable the victims from natural or man-made disasters, conflicts and global threats to benefit from a minimum of socio-economic integration and, as soon as possible, create the conditions for a resumption of development on the basis of long-term objectives set by the countries and regions concerned; this includes addressing the urgent and immediate needs arising from the ***forced*** displacement of people ~~(refugees, displaced persons and returnees)~~ following natural or man-made disasters; and **[Am. 522]**

(d) assist the State, region***, local authorities or relevant non-governmental organisations*** in setting up short term disaster prevention and preparedness mechanisms, including for prediction and early warning, with a view to reducing the consequences of disasters. **[Am. 523]**

~~3.~~ ~~Actions addressing foreign policy needs and priorities~~

~~Rapid response actions to support the objectives set out in point c) of Article 4 (4) shall support Union foreign policy across political, economic and security issues. They shall enable the Union to act where there is an urgent or imperative foreign policy interest, or a window of opportunity to achieve its objectives, requiring a rapid reaction and which are difficult to address by other means.~~

~~These actions may cover the following:~~

~~(a) support for the Union's bilateral, regional and inter-regional cooperation strategies, promoting policy dialogue and developing collective approaches and responses to challenges of global concern including migration and security issues, and exploiting windows of opportunity in this regard;~~

~~(b) support for Union trade policy and trade agreements and the implementation thereof; and for improving access to partner country markets and boosting trade, investment and business opportunities for companies from the Union, in particular SMEs, while eliminating barriers to market access and investment, by means of economic diplomacy, business and regulatory cooperation;~~

~~(c) contributions to the implementation of the international dimension of internal Union policies such as inter alia environment, climate change, energy, and cooperation on management and governance of the oceans;~~

~~(d) promotion of widespread understanding and visibility of the Union and of its role on the world scene, by means of strategic communication, public diplomacy, people-to-people contacts, cultural diplomacy, cooperation in educational and academic matters, and outreach activities to promote the Union's values and interests.~~

~~These actions shall implement innovative policies or initiatives, corresponding to current or evolving short- to medium-term needs, opportunities and priorities, including with the potential of informing future actions under geographic or thematic programmes. They shall focus on deepening the Union's relations and dialogue and building partnerships and alliances with key countries of strategic interest, especially those emerging economies and middle-income countries who play an increasingly important role in world affairs, global governance, foreign policy, the international economy, and multilateral fora.~~ **[Am. 524]**

Wednesday 27 March 2019

ANNEX V

PRIORITY AREAS OF THE EFSD+ OPERATIONS COVERED BY THE EXTERNAL ACTION GUARANTEE

The EFSD+ operations eligible for support through the External Action Guarantee shall ~~in particular aim at~~ ***contribute to*** the following priority areas: **[Am. 525]**

(a) provide finance and support to private***, social enterprise*** and cooperative sector development compliant with the conditions set out in Article 209(2) of the Financing Regulation, ***to contribute to sustainable development in its economic, social and environmental dimensions, and to the implementation of the 2030 Agenda, the Paris Agreement and, where appropriate, the European Neighbourhood Policy and the objectives set out in Article 3 of the of IPA III Regulation, the eradication of poverty, promoting skills and entrepreneurship, gender equality and the empowerment of women and young people, while pursuing and strengthening the rule of law, good governance and human rights,*** with a particular focus on local companies***, social enterprises*** and micro, small and medium-sized enterprises, on promoting decent job creation ***in compliance with relevant ILO standards, living wages, economic opportunities,*** and encouraging the contribution of European companies to the EFSD+ purpose; **[Am. 526]**

(b) address bottlenecks to private investments by providing financial instruments, which may be denominated in the local currency of the partner country concerned, including first loss guarantees to portfolios, guarantees to private sector projects such as loan guarantees for small and medium-sized enterprises, and guarantees for specific risks for infrastructure projects and other risk capital;

(c) leverage private sector financing, with a particular focus on micro, small and medium-sized enterprises, by addressing bottlenecks and obstacles to investment;

(d) strengthen socioeconomic sectors and areas and related public and private infrastructure and sustainable connectivity, including renewable and sustainable energy, water and waste management, transport, information and communications technologies, as well as environment, sustainable use of natural resources, sustainable agriculture and blue economy, social infrastructure, health, and human capital, in order to improve the socioeconomic environment;

(e) contribute to climate action and environmental protection and management***, thus producing climate and environment co-benefits, allocating 45 % of the financing to investments that contribute climate objectives, environmental management and protection, biodiversity and combatting desertification, of which 30 % of the overall financial envelope shall be dedicated to climate change mitigation and adaptation***; **[Am. 527]**

(f) contribute by promoting sustainable development, to addressing ~~specific root causes of~~ ***poverty and inequality as drivers of migration, including*** irregular migration~~, as well as~~ ***and forced displacement, and contribute to safe, orderly and regular migration, by*** fostering the resilience of transit and host communities, and contributing to the sustainable reintegration of migrants returning to their countries of origin, with due regard to the strengthening of the rule of law, good governance***, gender equality, social justice*** and human rights. **[Am. 528]**

The following investment windows shall be created:

— ***Sustainable Energy and Sustainable Connectivity***

— ***Micro, Small and Medium Enterprises (MSMEs) Financing***

— ***Sustainable agriculture, rural entrepreneurs, including subsistence and smallholder farming, pastoralists and environmentally friendly agroindustry***

— ***Sustainable cities***

Wednesday 27 March 2019

— ***Digitalisation for Sustainable Development***

— ***Human Development*** **[Am. 529]**

Wednesday 27 March 2019

~~ANNEX VI~~

~~GOVERNANCE OF THE EFSD+~~

~~1. Structure of the EFSD+~~

~~1. The EFSD+ shall be composed of regional investment platforms established on the basis of the working methods, procedures and structures of the existing external blending facilities of the Union, which may combine their blending operations and External Action Guarantee operations under the EFSD+.~~

~~2. The management of the EFSD+ shall be ensured by the Commission.~~

~~2. Strategic board of the EFSD +~~

~~1. In the management of the EFSD+ the Commission shall be advised by a strategic board, except in the case of the operations covering the EU Enlargement policy and financed by [IPA III], which shall have its strategic board ensured under the Western Balkans Investment Framework (WBIF).~~

~~2. The strategic board shall advise the Commission on the strategic orientation and priorities of External Action Guarantee investments under the EFSD+ and contribute to their alignment with the guiding principles and objectives of the Union's external action, development policy, European Neighbourhood policy, as well as with the objectives set out in Articles 3 of this Regulation and the purpose of the EFSD+ as set out in Article 26. It shall also support the Commission in setting overall investment goals as regards the use of the External Action Guarantee to support EFSD+ operations and monitor an appropriate and diversified geographical and thematic coverage for investment windows.~~

~~3. The strategic board shall also support overall coordination, complementarity and coherence between the regional investment platforms, between the three pillars of the European Investment Plan, between the European Investment Plan and the Union's other efforts on migration and on the implementation of the 2030 Agenda, as well as with other programmes set out in this Regulation.~~

~~4. The strategic board shall be composed of representatives of the Commission and of the High Representative, of all Member States and of the European Investment Bank. The European Parliament shall have observer status. Contributors, eligible counterparts, partner countries, relevant regional organisations and other stakeholders may be given observer status, where appropriate. The strategic board shall be consulted prior to the inclusion of any new observer. The strategic board shall be co-chaired by the Commission and the High Representative.~~

~~5. The strategic board shall meet at least twice a year and, when possible, adopt opinions by consensus. Additional meetings may be organised at any time by the chair or at the request of one third of its members. Where consensus cannot be reached, the voting rights as agreed during the first meeting of the strategic board and laid down in its rules of procedure shall apply. Those voting rights shall take due account of the source of financing. The rules of procedure shall set out the framework regarding the role of observers. The minutes and agendas of the meetings of the strategic board shall, following their adoption, be made public.~~

~~6. The Commission shall report annually to the strategic board about the progress made in respect of the implementation of the EFSD+. The strategic board of the WBIF shall provide progress made on the implementation of the guarantee instrument for the Enlargement region to complement the above mentioned reporting. The strategic board shall regularly organise a consultation of relevant stakeholders on the strategic orientation and implementation of the EFSD+.~~

~~7. The existence of the two strategic boards does not bear influence on the need to have a single, unified EFSD+ risk management framework.~~

~~3. Regional operational boards~~

~~The operational boards of regional investment platforms shall support the Commission at the implementation level in defining regional and sectoral investment goals and regional, sectoral and thematic investment windows and shall formulate opinions on blending operations and on the use of the External Action Guarantee covering EFSD+ operations.~~ **[Am. 530]**

ANNEX VII

LIST OF KEY PERFORMANCE INDICATORS

In coherence with the Sustainable Development Goals, the following list of key performance indicators shall be used to help measure the Union's contribution to the achievement of its specific objectives.

(1) Rule of Law score

(2) Proportion of population below the international poverty line

(3) Number of women of reproductive age, adolescent girls, and children under 5 reached by nutrition programmes with EU support

(4) Number of 1-year olds fully immunised with EU support

(5) Number of students ~~enrolled in~~ ***having completed*** primary and/or secondary education and ***acquired minimal skills in reading and mathematics, and*** training with ~~EU~~ ***the Union's*** support **[Am. 531]**

(6) Greenhouse gas emissions reduced or avoided (Ktons CO2eq) with EU support

(7) Area of marine, terrestrial and freshwater ecosystems protected and/or sustainably managed with EU support

(8) Leverage of investments and multiplier effect achieved

(9) Political stability and absence of violence indicator ***built on a baseline assessment*** **[Am. 532]**

(10) Number of processes related to partner country practices on trade, investment and business, or promoting the external dimension of EU internal policies, which have been influenced

~~All indicators~~ ***Indicator (4)*** shall be sex disaggregated, ~~whenever relevant~~ ***and indicators (2), (3) and (5) shall be sex and age disaggregated***. **[Am. 533]**

Wednesday 27 March 2019

Annex VIIa

Partner countries in relation to which Union assistance is suspended.

[To be established by the Commission pursuant to Article 15a.] **[Am. 534]**

Wednesday 27 March 2019

P8_TA(2019)0299

Instrument for Pre-accession Assistance (IPA III) ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Instrument for Pre-accession Assistance (IPA III) (COM(2018)0465 — C8-0274/2018 — 2018/0247(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/36)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0465),

— having regard to Article 294(2) and Article 212(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0274/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 12 December 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 6 December 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Foreign Affairs and also the opinions of the Committee on International Trade, the Committee on Budgets, the Committee on the Environment, Public Health and Food Safety, the Committee on Regional Development and the Committee on Civil Liberties, Justice and Home Affairs (A8-0174/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0247

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council 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,

([1]) OJ C 110, 22.3.2019, p. 156.
([2]) OJ C 86, 7.3.2019, p. 8.

Wednesday 27 March 2019

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]) expires on 31 December 2020. In order to maintain the Union's effectiveness in external actions, a framework for planning and delivering external assistance should be maintained.

(2) The ~~objectives~~ ***objective*** of an instrument for pre-accession ~~are substantially distinct from the general objectives of Union external action as this instrument aims~~ ***is*** to prepare the beneficiaries listed in Annex I ***('beneficiaries')*** for future membership of the Union and support their accession process~~. It is therefore essential to have~~***, in line with the general objectives of the Union's external action, including respect for fundamental rights and principles as well as the protection and promotion of human rights, democracy and the rule of law as laid down in Article 21 of the Treaty on European Union (TEU)***. ***While the distinct nature of the accession process warrants*** a dedicated instrument in support of enlargement, ~~while ensuring its complementarity with~~ ***the objectives and functioning of this instrument should be consistent with and complementary to*** the general objectives of Union external action and in particular with the Neighbourhood, Development and International Cooperation Instrument (NDICI). **[Am. 1]**

(3) Article 49 ~~of the Treaty on European Union (~~ TEU) provides that any European ~~state~~ ***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 commits to promote these values, may apply to become a member of the Union. ~~A European State which has applied to join the Union can become a member only when it has been confirmed that it meets the membership 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 guaranteeing 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 adherence to the aims of political, economic and monetary 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***. **[Am. 2]**

(4) The enlargement process is built on established criteria and fair and rigorous conditionality. Each beneficiary is assessed on the basis of 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 the principle of the 'fundamentals first' ([5]) remains essential. ~~Progression~~ ***Good neighbourly relations and regional cooperation based on a definitive, inclusive and binding resolution of bilateral disputes are essential elements of the enlargement process and critical for security and stability of the Union as a whole. Progress*** towards accession depends on each

([1]) OJ C 110, 22.3.2019, p. 156.
([2]) OJ C 86, 7.3.2019, p. 8.
([3]) Position of the European Parliament of 27 March 2019.
([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]) The 'fundamentals first' approach links 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 candidate countries and potential candidates and addresses key concerns of the citizens.

applicant's respect for the Union's values and its capacity to undertake ***and implement*** the necessary reforms to align its political, institutional, legal, ***social,*** administrative and economic systems with the rules, standards, policies and practices in the Union. ***The Negotiating Framework sets out requirements against which progress in the accession negotiations with each candidate country is assessed.*** **[Am. 3]**

(4a) ***Any 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.*** **[Am. 4]**

(5) ~~The~~ Enlargement policy ~~of the Union~~ is an ~~investment in~~ ***integral part of the Union's external action***, ***contributing to*** peace, security***, prosperity*** and stability ~~in Europe~~ ***both within and outside the Union's borders***. It provides increased economic and trade opportunities to the mutual benefit of the Union and the aspiring Member States***, while respecting the principle of progressive integration to ensure a smooth transformation of the beneficiaries***. The prospect of Union membership has a powerful transformative effect, embedding positive democratic, political, economic and societal change. **[Am. 5]**

(6) The European Commission reaffirmed the firm, merit-based prospect of EU membership for the Western Balkans in its Communication 'A credible enlargement perspective for and enhanced EU engagement with the Western Balkans' ([6]). This is a strong message of encouragement for the whole Western Balkans and a sign of the EU's commitment to their European future.

(7) Assistance should also be provided in compliance with the ***international*** agreements concluded by the Union***, including*** with the beneficiaries ~~listed in Annex I~~. Assistance 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 minorities*** and promote gender equality, tolerance, social inclusion ***respect for international labour standards on workers' rights*** and non-discrimination ***of vulnerable groups***, ***including children and people with disabilities***. Assistance should also support ***adherence by the beneficiaries to*** the key principles and rights as defined in the European Pillar of Social Rights ([7]). ***as well as to the social market economy and convergence towards the social acquis.*** Assistance should continue to support their efforts to advance regional, macro-regional and cross-border cooperation as well as territorial development, including through implementation of Union macro-regional strategies***, with the aim to develop good neighbourly relations and enhance reconciliation***. It should also ***promote sectoral regional co-operation structures and*** enhance their economic and social development and economic governance, ***foster economic integration with the Union single market, including customs cooperation, and promote an open and fair trade,*** underpinning a smart, sustainable and inclusive growth agenda, including through implementation of regional development, ***cohesion and inclusion,*** agriculture and rural development, social and employment policies and the development of the digital economy and society, also in line with the flagship initiative Digital Agenda for the Western Balkans. **[Am. 6]**

(7a) ***Taking into consideration the transformatory nature of the reform process during the enlargement process in the candidate countries, the Union should enhance its efforts in prioritising key areas for Union funding, such as institution and security building, and enhance its support to candidate countries when implementing projects with a view of protecting those candidate countries from non-EU influences.*** **[Am. 7]**

([6]) COM(2018)0065

([7]) European Pillar of Social Rights solemnly proclaimed by the European Parliament, the Council and the Commission at the Gothenburg Social Summit for Fair Jobs and Growth, Gothenburg 17 November 2017.

Wednesday 27 March 2019

(7b) ***The Union's efforts to support reform progress in candidate countries through IPA funding should be well communicated in candidate countries, as well as in the Member States. The Union, in that regard, should enhance communication and campaign efforts in order to ensure visibility of the IPA funding, as the main EU instrument of peace and stability in enlargement area.*** **[Am. 8]**

(7c) ***The importance of the facilitation and implementation of the budget is recognised as regards institution building, which will in return help in anticipation of possible security issues, and prevent possible future illegal migratory flows towards the Member States.*** **[Am. 9]**

(8) The Union should provide support to the transition towards accession for the benefit of the beneficiaries listed in Annex I, based on the experience of its Member States. This cooperation should focus in particular on the sharing of experience acquired by the Member States in the reform process.

(9) Enhanced strategic and operational cooperation between the Union and the beneficiaries listed in Annex I on security ***and defence sector reform*** is pivotal to addressing effectively and efficiently security***, organised crime*** and terrorism threats. **[Am. 10]**

(9a) ***Actions under the instrument established by this Regulation should also contribute to assisting the beneficiaries in the progressive alignment with the Common Foreign and Security Policy (CFSP), and the implementation of restrictive measures as well as the Union's broader external policies in international institutions and multilateral fora. The Commission should encourage the beneficiaries to uphold a rules- and values-based global order and cooperate on the promotion of multilateralism and the further strengthening of the international trading system, including WTO reforms.*** **[Am. 11]**

(10) ~~It is essential to further step up~~ Cooperation on migration including border management ***and control***, ensuring access to international protection, sharing relevant information, strengthening the development benefits of migration, facilitating legal and labour migration, enhancing border control and ~~pursuing our effort in the fight against~~ ***efforts to prevent and discourage*** irregular migration, ***and forced displacement, and to fight against*** trafficking in human beings and ~~migrant~~ ***people*** smuggling ***are an important aspect of cooperation between the Union and the beneficiaries***. **[Am. 12]**

(11) Strengthening the rule of law, including the ***independence of the judiciary,*** fight against corruption***, money laundering*** and organised crime, and good governance, including public administration reform, ***providing support for human rights defenders, continued alignment on transparency***, ***public procurement, competition, state aid, intellectual property and foreign investment*** remain key challenges ~~in most of the beneficiaries listed in Annex I~~ and are essential in order for beneficiaries to come closer to the Union and ~~later~~ ***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 ***be programmed to*** address ~~the requirements placed on the beneficiaries listed in Annex I~~ ***these issues*** as early as possible. **[Am. 13]**

(12) ***The parliamentary dimension remains fundamental in the accession process. Therefore,*** in accordance with the principle of participatory democracy, ***the strengthening of parliamentary capacities,*** parliamentary oversight***, democratic procedures and fair representation*** in each ~~beneficiary listed in Annex I~~ ***of the beneficiaries*** should be ~~encouraged~~ ***promoted*** by the Commission. **[Am. 14]**

(13) The beneficiaries ~~listed in Annex I~~ need to be better prepared to address global challenges, such as sustainable development and climate change, and 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 and the Sustainable Development Goals (SDGs), this Programme should contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 25 % of the EU budget expenditures supporting climate objectives. Actions under this Programme ~~are expected~~ ***should aim*** to contribute ***at least*** 16 % of the overall financial envelope of the Programme to climate objectives***, striving to achieve the goal that climate-related***

spending reaches 30 % of MFF expenditure by 2027. Priority should be given to environmental projects addressing cross-border pollution. Relevant actions will be identified during the Programme's preparation and ~~implementation~~ ***execution***, and the overall contribution from this Programme should be part of relevant evaluations and review processes. **[Am. 15]**

(14) Actions under this Instrument should support implementation of the United Nations 2030 Agenda for Sustainable Development, as a universal agenda, to which the EU and its Member States are fully committed and which all beneficiaries listed in Annex I have endorsed.

(15) This Regulation lays down a financial envelope for its period of application which is to constitute the prime reference amount, within the meaning of [reference to be updated as appropriate according to the new inter-institutional agreement: point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ([8])], for the European Parliament and the Council during the annual budgetary procedure.

(16) The Commission and the Member States should ensure compliance, coherence, ***consistency*** and complementarity of ~~their~~ ***external financing*** assistance, in particular through regular consultations and frequent exchanges of information during the different phases of the assistance cycle. The necessary steps should also be taken to ensure better coordination and complementarity, including through regular consultations, with other donors. ~~The role of~~ ***Diverse independent*** civil society ***organisations and different types and levels of local authorities should play a meaningful role in the process. In line with the principle of inclusive partnership, civil society organisations*** should be ~~enhanced both in~~ ***part of both the design, implementation, monitoring and evaluation of the*** programmes ~~implemented~~ ***executed*** through government bodies and ~~as a~~ ***be*** direct ~~beneficiary~~ ***beneficiaries*** of Union assistance. **[Am. 16]**

(17) ~~The priorities for action towards meeting~~ ***Specific and measurable*** objectives in the relevant policy areas ~~which will be supported under this Regulation~~ should be defined ***for each beneficiary, followed up by priorities for action towards meeting these objectives*** in a programming framework established by the Commission ~~for the duration of the Union multiannual financial~~ ***by means of delegated acts. The programming*** framework ~~for the period from 2021 to 2027~~ ***should be established*** in partnership with the beneficiaries ~~listed in Annex I~~, based on the enlargement agenda and their specific needs, in line with the general and specific objectives defined by this Regulation and ***the principles of Union external action,*** taking relevant national strategies ***and pertaining European Parliament resolutions*** into due account. ***That partnership should include, as appropriate, competent authorities, as well as civil society organisations. The Commission should encourage cooperation among the relevant stakeholders and donor co-ordination. The programming framework should be reviewed following the mid-term evaluation.*** The programming framework should identify the areas to be supported through assistance with an indicative allocation per area of support, including an estimate of climate-related expenditure. **[Am. 17]**

(18) It is in the ~~Union's~~ ***common*** interest ***of the Union and the beneficiaries*** to assist the beneficiaries' ~~listed in Annex I in their~~ efforts to reform ***their political, legal and economic systems*** with a view to Union membership. Assistance should be managed ~~with a strong focus on results~~ ***in accordance with a performance-based approach*** and with ***significant*** incentives for ***more effective and efficient use of funds for*** those who demonstrate their commitment to reform through efficient implementation of pre-accession assistance and progress towards meeting the membership criteria. ***Assistance should be allocated in line with the 'fair share' principle and clear consequences in cases of serious deterioration or lack of progress in the respect for human dignity, freedom, democracy, equality, the rule of law and human rights.*** **[Am. 18]**

(18a) The Commission should set up clear monitoring and evaluation mechanisms to ensure that the objectives and actions concerning different beneficiaries remain relevant and feasible and to regularly measure progress. To that effect, every objective should be accompanied by one or more performance indicators, assessing the beneficiaries' adoption of reforms and their concrete implementation. **[Am. 19]**

([8]) OJ C 373, 20.12.2013, p. 1.

Wednesday 27 March 2019

(19) The transition from direct management of pre-accession funds by the Commission to indirect management by the beneficiaries ~~listed in Annex I~~ should be progressive and in line with the respective capacities of those beneficiaries. ***That transition should be reversed or suspended in specific policy or programme areas in the event that the beneficiaries fail to fulfil relevant obligations or to administer the Union funds in accordance with the established rules, principles and objectives. Such a decision should give due consideration to any possible negative economic and social consequences.*** Assistance should continue to make use of the structures and instruments that have proved their worth in the pre-accession process. **[Am. 20]**

(20) 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***, in order to avoid the overlapping with other existing external financing instruments,*** through coherence***, consistency*** and complementarity among the Union's external financing instruments, as well as the creation of synergies with other Union policies and programmes. This includes, where relevant, coherence and complementarity with macro-financial assistance. **[Am. 21]**

(21) In order to maximise the impact of combined interventions to achieve a common objective, this Regulation should be able to contribute to actions under other programmes, as long as the contributions do not cover the same costs.

(21a) Without prejudice to the budgetary procedure and the provisions on the suspension of aid established in international agreements with beneficiaries, the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of amending Annex I to this Regulation in order to suspend or partially suspend Union assistance. That power should be used in cases where there is consistent backsliding on one or more of the Copenhagen criteria or where a beneficiary fails to respect the principles of democracy, the rule of law, human rights and fundamental freedoms or violates the commitments taken in the relevant agreements concluded with the Union. Where the Commission finds that the reasons justifying the suspension of assistance no longer apply, it should be empowered to adopt delegated acts to amend Annex I in order to reinstate Union assistance. **[Am. 22]**

(22) Funding from this Regulation should be used to finance actions under the international dimension of Erasmus, the implementation of which should be done according to Regulation (EU) …/… ('Erasmus Regulation') ([9]).

(23) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 ***TFEU*** should apply to this Regulation. These rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([10]) ('the Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, financial assistance, budget support, trust funds, financial instruments and budgetary guarantees, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in Member States and third countries, as the respect for the rule of law is essential for sound financial management and effective EU funding.

(24) The types of financing and the methods of ~~implementation~~ ***execution*** 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, the administrative burden, and the expected risk of non-compliance. This 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. **[Am. 23]**

(25) The Union should continue to apply common rules for the implementation of the external actions. Rules and procedures for the ~~implementation~~ ***application*** of the Union's instruments for financing external action are laid down in Regulation (EU) …/… ('NDICI Regulation') of the European Parliament and of the Council. Additional detailed provisions should be laid down for addressing the specific situations in particular for cross-border cooperation, agriculture and rural development policy area. **[Am. 24]**

([9]) Regulation (EU) …/… of the European Parliament and of the Council of… (OJ …).

([10]) 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).

(26) External actions are often implemented in a highly volatile environment requiring a continuous and rapid adaptation to the evolving needs of Union partners and to global challenges such as human rights, democracy and good governance, security***, defence*** and stability, climate change and environment ~~and~~***, economic protectionism,*** irregular migration ***and forced displacement*** and its root causes. Reconciling the principle of predictability with the need to react rapidly to new needs consequently means adapting the financial ~~implementation~~ ***execution*** 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 possibility to apply the flexibilities already allowed by the Financial Regulation for other policies, namely carry-overs and re-commitments of committed funds ***while adhering to the goals and objectives laid down in this Regulation***, to ensure an efficient use of the EU funds both for the EU citizens and the beneficiaries listed in Annex I, thus maximising the EU funds available for the EU external action interventions. ***Additional forms of flexibility should be allowed, such as reallocation among priorities, phasing projects and over-contracting.*** **[Am. 25]**

(27) The new European Fund for Sustainable Development Plus (EFSD+), building on its predecessor should constitute an integrated financial package supplying financing capacity in forms of grants, budgetary guarantees and other financial instruments worldwide, including to the beneficiaries listed in Annex I. The governance for the operations carried out under this Regulation, should continue to be ensured by the Western Balkans Investment Framework.

(28) The External Action Guarantee should support 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.

(29) It is important to ensure that cross border cooperation programmes are implemented coherently with the framework established in the external actions programmes and the territorial cooperation regulation. Specific co-financing provisions should be established in this Regulation.

(29a) Cross border cooperation programmes are the most visible programmes of the Instrument of Pre-Accession Assistance, as well as being well-known by citizens. Cross border cooperation programmes could therefore significantly improve the visibility of Union-funded projects in the candidate states; **[Am. 26]**

(30) Annual or multi-annual action plans and measures referred to in Article 8 constitute work programmes under the Financial Regulation. Annual or multi-annual action plans consist of a set of measures grouped into one document.

(31) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([11]), Council Regulation (Euratom, EC) No 2988/95 ([12]), Council Regulation (Euratom, EC) No 2185/96 ([13]) and Council Regulation (EU) 2017/1939 ([14]), the financial interests of the Union are to be protected through effective and proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may 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. In accordance with

([11]) 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.

([12]) 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).

([13]) 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, 15.11.96 , p. 2).

([14]) 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).

Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may 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 ([15]). In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, where applicable the EPPO and the European Court of Auditors (ECA) and to 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.

(31a) All funding allocations under this Regulation should be carried out in a transparent, effective, accountable, depoliticised and non-discriminatory manner, including by means of an equitable distribution reflecting the needs of the regions and local municipalities. The Commission, the Vice-President/High Representative of the Union for Foreign Affairs and Security Policy ('VP/HR'), and in particular Union delegations should monitor closely that those criteria are met and the principles of transparency, accountability and non-discrimination are respected in the allocation of funds. **[Am. 27]**

(31b) The Commission, the VP/HR, and in particular Union delegations and the beneficiaries should enhance the visibility of the Union's pre-accession assistance in order to communicate the added value of the Union's support. The recipients of Union funding should acknowledge the origin of the Union's funding and ensure its proper visibility. IPA should contribute to financing communication actions for promotion of the results of the Union's assistance to multiple audiences in the beneficiaries. **[Am. 28]**

(32) In order to take account of 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 in respect of adapting and updating the thematic priorities for assistance listed in Annexes II and III. 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 on Better Law-Making of 13 April 2016 ([16]). 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.

~~(33) 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 ([17]) of the European Parliament and of the Council]. 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.~~ **[Am. 29]**

~~(34) The committee established under this Regulation should be competent also for legal acts and commitments under Regulation (EC) No 1085/2006 ([18]), under Regulation (EU) No 231/2014 as well as for the implementation of Article 3 of Council regulation (EC) No 389/2006 ([19]).~~ **[Am. 30]**

([15]) 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).

([16]) 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).

~~([17]) 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).~~

~~([18]) 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).~~

~~([19]) 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 Regulation (EC) No 2667/2000 on the European Agency for Reconstruction (OJ L 65, 7.3.2006, p. 5).~~

(34a) The European Parliament should be fully involved in the design, programming, monitoring and evaluation phases of the instruments in order to guarantee political control and democratic scrutiny and accountability of Union funding in the field of external action. An enhanced dialogue between the institutions should be established in order to ensure that the European Parliament is in a position to exercise political control during the application of this Regulation in a systematic and smooth manner, thereby enhancing both efficiency and legitimacy. **[Am. 31]**

(35) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the [less than twentieth] day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes the Programme 'Instrument for Pre-accession Assistance' ('IPA III').

It lays down its objectives, the budget for the period 2021-2027, the forms of Union assistance and the rules for providing such assistance.

Article 2

Definitions

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

(a) 'cross-border cooperation' means cooperation between member states of the EU and beneficiaries listed in Annex I, between two or more beneficiaries listed in Annex I ***to this Regulation*** or between beneficiaries listed in ***that*** Annex and countries and territories listed in Annex I to the NDICI Regulation as referred to in point (b) of Article 3 (1) of Regulation (EU) …/… ('ETC Regulation') ([20]).

(b) 'Fair share principle of assistance' means complementing the performance-based approach with a corrective allocation mechanism, in cases where assistance provided to the beneficiary would otherwise be disproportionately low or high as compared to the other beneficiaries, taking into account the needs of the population affected and the relative progress on reforms related to the opening of accession negotiations or progress therein. **[Am. 32]**

Article 3

Objectives of IPA III

1. The general objective of IPA III shall be 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 ***acquis and*** to progressively align to Union rules, standards, policies and practices with a view to Union membership, thereby contributing to ~~their~~ ***peace,*** stability, security and prosperity ***as well as to the strategic interests of the Union***. **[Am. 33]**

([20]) COM(2018)0374 — Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments

2. IPA III shall have following specific objectives:

(a) to strengthen the rule of law, democracy, the respect of human rights, ***including those of minorities and children, gender equality,*** fundamental rights and international law, civil society***, academic freedom, peace*** and security ~~as well as improve migration management including border management~~***, the respect for cultural diversity, non-discrimination and tolerance***; **[Am. 34]**

(aa) to address forced displacement and irregular migration, ensuring that migration takes place in a safe, orderly and regular manner, and safeguarding access to international protection; **[Am. 35]**

(b) to reinforce the effectiveness of public administration and support ***transparency,*** structural reforms***, judicial independence, fight against corruption*** and good governance at all levels***, including in the field of public procurement, state-aid, competition, foreign investments and intellectual property***; **[Am. 36]**

(c) to shape the rules, standards, policies and practices of the beneficiaries ~~listed in Annex I~~ in alignment to those of the Union ***including on CFSP***, ***strengthen the rules-based multilateral international order*** and to reinforce ***internal and external*** reconciliation and good neighbourly relations, as well as ***peace-building and conflict prevention, including through confidence-building and mediation, inclusive and integrated education*** people to people contacts***, freedom of the media*** and communication; **[Am. 37]**

(d) to strengthen economic, ~~and~~ social ***and territorial*** development ***and cohesion*** including through increased connectivity and regional development, agriculture and rural development and social and employment policies, ~~to reinforce environmental protection, increase resilience to climate change, accelerate the shift towards a low carbon economy and develop the digital economy and society.~~ ***reducing poverty and regional imbalances, promoting social protection and inclusion by strengthening state-level regional cooperation structures, small and medium-sized enterprises (SMEs), the capacities of community-based initiatives, supporting investment in rural areas and improving business and investment climate;*** **[Am. 38]**

(da) to reinforce environmental protection, increase resilience to climate change, accelerate the shift towards a low-carbon economy and develop the digital economy and society, thereby creating job opportunities, in particular for the youth; **[Am. 39]**

(e) to support territorial and cross-border cooperation ***including across maritime borders***, ***and enhance trade and economic relations*** by ***fully implementing existing agreements with the Union***, ***reducing regional imbalances***. **[Am. 40]**

3. In accordance with the specific objectives, thematic priorities for providing assistance according to the needs and capacities of the beneficiaries listed in Annex I are set out in Annex II. Thematic priorities for cross-border cooperation between beneficiaries listed in Annex I are set out in Annex III. Each of those thematic priorities may contribute to the attainment of more than one specific objective.

Article 4

Budget

1. The financial envelope for the implementation of IPA III for the period 2021-2027 shall be EUR ~~14 500 000 000~~ ***13 009 976 000 in 2018 prices*** (***EUR 14 663 401 000*** in current prices). **[Am. 41]**

2. ***A set percentage of*** the amount referred to in paragraph 1 ~~may~~ ***shall*** be used for technical and administrative assistance for the ~~implementation~~ ***execution*** of the Programme, ~~such as~~ ***which shall include*** preparatory, monitoring, control, audit and evaluation activities ***support for institutional strengthening and administrative capacity-building*** including corporate information technology systems and any activities related to the preparation of the successor programme for pre-accession assistance~~, in accordance with Article 20 of [NDICI Regulation]~~. **[Am. 42]**

Article 5

Cross-programme provisions

1. In ~~implementing~~ ***applying*** this Regulation, consistency, synergies and complementarities with other areas of Union external action, with other relevant Union policies and programmes, as well as policy coherence for development shall be ensured. **[Am. 43]**

2. The NDICI Regulation shall apply to activities ~~implemented~~ ***executed*** under this Regulation where referred to in this Regulation. **[Am. 44]**

3. IPA III shall contribute to actions established under the Erasmus Regulation . The Erasmus Regulation shall apply to the use of those funds. To that end, the contribution of IPA III shall be included in the single indicative programming document referred to in paragraph 7 of Article 11 of the NDICI Regulation and adopted in accordance with the procedures laid down in that Regulation.

4. Assistance under IPA III may be provided to the type of actions provided for under the European Regional Development Fund (ERDF) and the Cohesion Fund ([21]), the European Social Fund Plus ([22]) ~~and~~, the European Agricultural Fund for Rural Development ([23]) ***and the Justice, Rights and Values Fund, at national level as well as in a cross-border, transnational, interregional or macro-regional context***. **[Am. 45]**

4a. The Commission shall allocate a percentage of IPA III resources to prepare the beneficiaries listed in Annex I for the participation in the European Structural and Investment Funds (ESIF), in particular in the European Social Fund (ESF). **[Am. 46]**

5. The ERDF shall contribute to programmes or measures established for cross–border cooperation between the beneficiaries ~~listed in Annex I~~ and ***one or more*** Member States. These programmes and measures shall be adopted by the Commission in accordance with Article 16. The amount of the contribution from IPA-CBC shall be determined pursuant to Article 10 (3) of the ETC Regulation***, with a maximum threshold for an IPA III contribution set at 85 %***. IPA-Cross Border Cooperation programmes shall be managed in accordance with the ETC Regulation. **[Am. 47]**

6. IPA III may contribute to transnational and interregional cooperation programmes or measures that are established and implemented under the ETC Regulation and in which the beneficiaries listed in Annex I to this Regulation participate.

7. Where appropriate, other Union programmes may contribute to actions established under this Regulation in accordance with Article 8, 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. In duly justified circumstances and in order to ensure the coherence and effectiveness of Union financing or to foster regional cooperation, the Commission may decide to extend the eligibility of action programmes and measures referred to in Article 8(1) to countries, territories and regions other than those referred in Annex I, where the programme or measure to be ~~implemented~~ ***applied*** is of a global, regional or cross-border nature. **[Am. 48]**

([21]) COM(2018)0372 Proposal for a Regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund.

([22]) COM(2018)0382 Proposal of the European Parliament and of the Council on the European Social Fund Plus (ESF+)

([23]) COM(2018)0392 Proposal for 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.

Wednesday 27 March 2019

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 relevant resolutions of the European Parliament, communications of the Commission or joint Communications of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy, shall constitute the ~~overall~~ ***comprehensive*** policy framework for the ~~implementation~~ ***application*** of this regulation. The Commission shall ensure coherence between the assistance and the ***overall*** enlargement policy framework.

The VP/HR and the Commission shall ensure coordination between the Union's external action and the enlargement policy within the framework of the policy objectives set out in Article 3.

The Commission shall coordinate programming under this Regulation with appropriate involvement of the EEAS.

The enlargement policy framework shall be the basis on which assistance is provided. **[Am. 49]**

2. Programmes and actions under this Regulation shall mainstream climate change, environmental protection***, human rights conflict prevention and resolution, migration and forced displacement, security, social and regional cohesion, poverty reduction*** and gender equality and shall, where applicable, address interlinkages between Sustainable Development Goals ([24]), to promote integrated actions that can create co-benefits and meet multiple objectives in a coherent way. ***They shall aim to contribute at least 16 % of the overall financial envelope to climate objectives.*** **[Am. 50]**

3. The Commission and the Member States shall cooperate in ensuring coherence and shall ~~strive to~~ avoid duplication between assistance provided under IPA III and other assistance provided by the Union, the Member States and the European Investment Bank, in line with the established principles for strengthening operational coordination in the field of external assistance, and for the harmonisation of policies and procedures, in particular the international principles on development effectiveness ([25]) Coordination shall involve regular consultations, frequent exchanges of information during the different phases of the assistance cycle and inclusive meetings aimed at coordinating the assistance and shall constitute a key step in the programming processes of the Union and the Member States. ***The assistance shall aim at ensuring alignment with the Union strategy for smart, sustainable and inclusive growth, effective and efficient implementation of the funds, arrangements for the partnership principle and an integrated approach to territorial development.*** **[Am. 51]**

3a. The Commission shall act in partnership with the beneficiaries. The partnership shall include, as appropriate, competent national and local authorities, as well as civil society organisations, enabling them to play a meaningful role during the design, implementation and monitoring phases.

The Commission shall encourage coordination among the relevant stakeholders. IPA III assistance shall strengthen the capacities of civil society organisations, including, as appropriate, as direct beneficiaries of assistance. **[Am. 52]**

4. The Commission, in liaison with the Member States, shall also take the necessary steps to ensure coordination and complementarity with multilateral and regional organisations and entities, such as international organisations and financial institutions, agencies and non-Union donors.

([24]) https://ec.europa.eu/europeaid/policies/sustainable-development-goals_en
([25]) https://ec.europa.eu/europeaid/policies/eu-approach-aid-effectiveness_en

CHAPTER III

~~IMPLEMENTATION~~ ***PROGRAMMING FRAMEWORK AND EXECUTION*** **[Am. 53]**

Article 7

IPA programming framework

1. ~~Assistance under IPA III shall be based on~~ ***This Regulation shall be supplemented by*** an IPA programming framework ~~for the delivery~~ ***establishing further provisions on how*** ~~of~~ the specific objectives referred to in Article 3 ***shall be pursued***. The IPA programming framework shall be established by the Commission ~~for the duration of the Union's multiannual financial framework~~ ***by means of delegated acts, in accordance with paragraph 3 of this Article***.

The Commission shall submit to the European Parliament the relevant programming documents in due time prior to the start of the programming period. Those documents shall lay down the indicative allocations per thematic window and, where available, per country/region, covering expected results and the choice of assistance arrangements. **[Am. 54]**

1a. The European Parliament and the Council shall authorise the annual appropriations within the limits of the multiannual financial framework for the period from 2021 to 2027. **[Am. 55]**

2. The IPA programming framework shall take relevant ***resolutions and positions of the European Parliament and*** national strategies and sector policies into due account. **[Am. 56]**

Assistance shall be targeted and adjusted to the specific situation of the beneficiaries listed in Annex I, taking into account further efforts needed to meet the membership criteria as well as the capacities of those beneficiaries. Assistance shall be differentiated in scope and intensity according to needs, commitment to reforms and progress in implementing those reforms.

3. Without prejudice to paragraph 4, ***of this Article, the Commission shall adopt*** the IPA programming framework ~~shall be adopted by the Commission~~ ***, including the arrangements to enact the 'fair share' principle,*** by means of ~~an implementing act. That implementing act shall be adopted in accordance with the examination procedure of the Committee referred to in Article 16.~~ ***delegated acts in accordance with Article 14. The IPA programming framework shall expire by 30 June 2025 at the latest. The Commission shall adopt a new IPA programming framework by 30 June 2025, based on the mid-term evaluation being consistent with the other external financing instruments and taking into account relevant resolutions of the European Parliament. The Commission may also review, where necessary, the effective implementation of the IPA programming framework, in particular where there are substantive changes in the policy framework referred to in Article 6 and taking into account relevant resolutions of the European Parliament.*** **[Am. 57]**

4. The programming framework for cross border cooperation with Member States shall be adopted by the Commission in accordance with Article 10 (1) of the ETC Regulation.

5. The IPA programming framework shall ~~include~~ ***be based on clear and verifiable performance*** indicators ***set out in Annex IV*** for assessing progress with regard to attainment of the targets set therein***., inter alia, progress and results in the areas of:***

(a) democracy, the rule of law and an independent and efficient justice system;

(b) human rights and fundamental freedoms, including the rights of persons belonging to minorities and vulnerable groups;

(c) gender equality and women's rights;

(d) the fight against corruption and organised crime;

(e) reconciliation, peace-building good neighbourly relations;

(f) freedom of the media;

(g) tackling climate change in compliance with the obligations set out in the Paris Agreement.

The Commission shall include progress against those indicators in its annual reports.

The performance-based approach under this Regulation shall be subject to a regular exchange of views in the European Parliament and in the Council. **[Am. 123]**

Article 7a

Mid-term review and evaluation

1. The Commission shall adopt a new IPA programming framework based on the mid-term evaluation. No later than 30 June 2024, the Commission shall submit a mid-term evaluation report on the application of this Regulation. The mid-term evaluation report shall cover the period from 1 January 2021 to 31 December 2023 and shall examine the Union contribution to the achievement of the objectives of this Regulation, by means of indicators measuring the results delivered and any findings and conclusions concerning the impact of this Regulation.

The European Parliament may provide input to that evaluation. The Commission and the EEAS shall organise a consultation with key stakeholders and beneficiaries, including civil society organisations. The Commission and EEAS shall give particular attention to ensure that the most marginalised are represented.

The Commission shall also evaluate the impact and effectiveness of its actions per area of intervention, and the effectiveness of programming, by means of external evaluations. The Commission and the EEAS shall take into account proposals and views of the European Parliament and the Council on independent external evaluations. The interim evaluation shall assess how the Union performed on targets established by this Regulation.

2. The mid-term evaluation report shall also address efficiency, the added value, the functioning of the simplified and streamlined external financing architecture, internal and external coherence, and the continued relevance of the objectives of this Regulation, the complementarity and synergies between the actions funded, the contribution of the measures to consistent Union external action, and the degree to which the public in recipient countries are aware of Union financial support, where appropriate.

3. The mid-term evaluation report shall be undertaken for the specific purpose of improving the application of Union funding. It shall inform decisions on the renewal, modification or suspension of the types of actions implemented under this Regulation.

4. The mid-term evaluation report shall also contain consolidated information from relevant annual reports on all funding governed by this Regulation, including external assigned revenues and contributions to trust funds offering a breakdown of spending by beneficiary country, use of financial instruments, commitments and payments.

5. The Commission shall communicate the conclusions of the evaluations, accompanied by its observations, to the European Parliament, to the Council and to Member States. The results shall feed into programme design and resource allocation.

6. The Commission shall associate all relevant stakeholders, including civil society organisations, in the evaluation process of the Union's funding provided under this Regulation, and may, where appropriate, seek to undertake joint evaluations with the Member States with close involvement of the beneficiaries.

7. The Commission shall submit the mid-term evaluation report referred to in this Article to the European Parliament and to the Council, accompanied, if appropriate, by legislative proposals setting out necessary amendments to this Regulation.

8. At the end of the period of application of this Regulation, but no later than three years after the end of the period specified in Article 1, the Commission shall carry out a final evaluation of the Regulation on the same terms as the mid-term evaluation referred to in this Article. **[Am. 124]**

Article 7b

Suspension of assistance

1. Where a beneficiary fails to respect the principle of democracy, the rule of law, good governance, respect for human rights and fundamental freedoms, or nuclear safety standards, or violates the commitments taken in the relevant agreements concluded with the Union or consistently backslides on one or more of the Copenhagen criteria, the Commission shall be empowered, in accordance with Article 14, to adopt delegated acts to amend Annex I to this Regulation in order to suspend or partially suspend Union assistance. In the event of a partial suspension, the programmes for which the suspension applies shall be indicated.

2. Where the Commission finds that the reasons justifying the suspension of assistance no longer apply, it shall be empowered to adopt delegated acts, in accordance with Article 14, to amend Annex I in order to reinstate Union assistance.

3. In cases of partial suspension, Union assistance shall primarily be used to support civil society organisations and non-state actors for measures aimed at promoting human rights and fundamental freedoms and supporting democratisation and dialogue processes in partner countries.

4. The Commission shall take due account of relevant European Parliament resolutions in its decision-making. **[Am. 125]**

Article 7c

Governance

A horizontal steering group composed of all relevant Commission and EEAS services and chaired by the VP/HR or a representative of that office shall be responsible for the steering, coordination and management of this instrument throughout the management cycle in order to ensure consistency, efficiency, transparency and accountability of all Union external financing. The VP/HR shall ensure overall political coordination of the Union's external action. Throughout the whole cycle of programming, planning and application of the instrument, the VP/HR and the EEAS shall work with the relevant members and services of the Commission, identified on the basis of the nature and objectives of the action foreseen, building upon their expertise. The VP/HR, the EEAS and the Commission shall prepare all proposals for decisions in accordance with the Commission's procedures and shall submit them for adoption.

The European Parliament shall be fully involved in the design, programming, monitoring and evaluation phases of the external financing instruments in order to guarantee political control and democratic scrutiny and accountability of Union funding in the field of external action. **[Am. 126]**

Article 8

~~Implementing~~ ***Executing*** measures and methods **[Am. 62]**

1. Assistance under IPA III shall be ~~implemented~~ ***executed*** in direct management or in indirect management in accordance with the Financial Regulation through annual or multi-annual action plans and measures as referred to in ~~Chapter III of Title II of [NDICI Regulation]. Chapter III of Title II of [NDICI Regulation] shall apply to this Regulation with the exception of paragraph 1 of Article 24 [eligible persons and entities]~~ ***Chapter III a.*** **[Am. 63]**

1a. Indirect management may be reversed if the beneficiary is unable or unwilling to administer the awarded funds in accordance with the established rules, principles and objectives under this Regulation. In the event of a beneficiary's failure to observe the principles of democracy, the rule of law and respect for human rights and fundamental freedoms or in the event of violation of the commitments taken in the relevant agreements concluded with the Union, the Commission may, in specific policy areas or programmes, revert from indirect management with that beneficiary to indirect management by one or more entrusted entities other than a beneficiary or to direct management. **[Am. 64]**

1b. The Commission shall hold a dialogue with the European Parliament, and take into account the European Parliament's views on areas in which the latter is running its own assistance programmes, such as capacity-building and election observation. **[Am. 65]**

2. Under this Regulation, action plans may be adopted for a period of up to seven years.

2a. The Commission shall keep the European Parliament fully involved on issues related to the planning and implementation of measures pursuant to this Article, including any envisaged substantial changes or allocations. **[Am. 66]**

2b. Disbursement of the general or sector budget support shall be conditional upon satisfactory progress being made towards achieving the objectives agreed with a beneficiary.

The Commission shall apply the budget support conditionality criteria set out in the Article 23(4) of the NDICI Regulation. It shall take steps to reduce or suspend Union funding through budget support in cases of systemic irregularities in the management and control systems or unsatisfactory progress being made in achieving the objectives agreed with the beneficiary.

The reintroduction of assistance by the Commission following the suspension referred to in this Article shall be accompanied by a targeted assistance to national audit authorities. **[Am. 67]**

Chapter IIIa

Execution **[Am. 68]**

Article 8a

Action plans and measures

1. The Commission shall adopt annual or multiannual action plans or measures. The measures may take the form of individual measures, special measures, support measures or exceptional assistance measures. Action plans and measures shall specify for each action the objectives pursued, the expected results and main activities, the methods of application, the budget and any associated support expenditures.

2. Action plans shall be based on programming documents, except for cases referred to in paragraphs 3 and 4.

When necessary, an action may be adopted as an individual measure before or after the adoption of action plans. Individual measures shall be based on programming documents, except for cases referred to in paragraph 3 and in other duly justified cases.

In the event of unforeseen needs or circumstances, and when funding is not possible from more appropriate sources, the Commission is empowered to adopt delegated acts in accordance with Article 34 of the NDICI Regulation laying down special measures not based on the programming documents.

3. Annual or multiannual action plans and individual measures may be used to execute rapid response actions referred to in Article 4(4)(b) of the NDICI Regulation.

4. The Commission may adopt exceptional assistance measures for rapid response actions as referred to in Article 4 (4)(a) of the NDICI Regulation.

5. Measures taken under Article 19 (3) and (4) may have a duration of up to 18 months, which may be extended twice by a further period of up to six months, up to a total maximum duration of 30 months, in the event of objective and unforeseen obstacles to execution, provided that there is no increase in the financial amount of the measure.

In cases of protracted crisis and conflict, the Commission may adopt a second exceptional assistance measure of a duration of up to 18 months. In duly justified cases, further measures may be adopted where the continuity of the Union's action under this paragraph is essential and cannot be ensured by other means. **[Am. 69]**

Article 8b

Support measures

1. Union financing may cover expenditure to support the execution of the Instrument and the achievement of its objectives, including administrative support associated with the preparation, follow-up, monitoring, control, audit and evaluation activities necessary for such execution, as well as expenditure at headquarters and Union delegations for the administrative support needed for the programme, and to manage operations financed under this Regulation, including information and communication actions, and corporate information technology systems.

2. When support expenditure is not included in the action plans or measures referred to in Article 8c, the Commission shall adopt, where applicable, support measures. Union financing under support measures may cover:

(a) studies, meetings, information, awareness-raising, training, preparation and exchange of lessons learnt and best practices, publication activities and any other administrative or technical assistance expenditure necessary for the programming and management of actions, including remunerated external experts;

(b) research and innovation activities and studies on relevant issues and the dissemination thereof;

(c) expenditure related to the provision of information and communication actions, including the development of communication strategies and corporate communication and visibility of the political priorities of the Union. **[Am. 70]**

Article 8c

Adoption of action plans and measures

1. The Commission shall adopt action plans and measures by means of a Commission decision in accordance with the Financial Regulation.

2. The Commission shall take account of the relevant policy approach of the Council and the European Parliament for the planning and subsequent application of such action plans and measures, in the interests of consistency of the Union's external action.

The Commission shall immediately inform the European Parliament about the planning of action plans and measures pursuant to this Article, including the financial amounts envisaged, and shall also inform the European Parliament when making substantial changes or extensions to that assistance. As soon as possible following the adoption or substantial modification of a measure, and in any case within one month thereof, the Commission shall report to the European Parliament and to the Council and give an overview of the nature and the rationale of the measure adopted, its duration, budget and its context, including the complementarity of that measure with other ongoing and planned Union assistance. For exceptional assistance measures, the Commission shall also indicate whether to what extent and how it will ensure the continuity of the policy executed through the exceptional assistance by medium- and long-term assistance under this Regulation.

3. Before adopting action plans and measures not based on programming documents pursuant to Article 8a(2), other than for cases referred to in Article 8a (3) and (4), the Commission shall adopt a delegated act in accordance with Article 14 in order to supplement this Regulation by setting out the specific objectives to be pursued, the results expected, the instruments to be used, the main activities and the indicative financial allocations of these action plans and measures.

Wednesday 27 March 2019

4. Appropriate human rights, social and environmental screening, including for climate change and biodiversity impacts, shall be undertaken at the level of actions, in accordance with the applicable legislative acts of the Union, including Directive 2011/92/EU ([26]) of the European Parliament and of the Council and Council Directive 85/337/EEC ([27]), comprising, where applicable, an environmental impact assessment for environmentally sensitive actions, in particular for major new infrastructure.

Additionally, ex-ante human rights, gender, social and labour impact assessments, as well as conflict analysis and risk assessment shall be conducted.

Where relevant, human rights, social and strategic environmental assessments shall be used in the execution of sectoral programmes. The Commission shall ensure the involvement of interested stakeholders in these assessments and public access to the results of such assessments. **[Am. 127]**

Article 8d

Methods of cooperation

1. Financing under this Instrument shall be implemented by the Commission, as provided for by the Financial Regulation, either directly by the Commission itself, by Union delegations and by executive agencies, or indirectly through any of the entities listed in Article 62 (1) c) of the Financial Regulation.

2. Financing under this Instrument may also be provided through contributions to international, regional or national funds, such as those established or managed by the EIB, by Member States, by partner countries and regions or by international organisations, or other donors.

3. The entities listed in Article 62(1)(c) of the Financial Regulation and in Article 29(1) of the NDICI Regulation shall annually fulfil their reporting obligations under Article 155 of the Financial Regulation. The reporting requirements for any of these entities are laid down in the framework partnership agreement, the contribution agreement, the agreement on budgetary guarantees or the financing agreement.

4. Actions financed under this Instrument may be implemented by means of parallel or joint co-financing.

5. In the case of parallel co-financing, an action is split into a number of clearly identifiable components which are each financed by the different partners providing co-financing in such a way that the end-use of the financing can always be identified.

6. In the case of joint co-financing, the total cost of an action is shared between the partners providing the co-financing and the resources are pooled in such a way that it is no longer possible to identify the source of financing for any given activity undertaken as part of the action.

7. Cooperation between the Union and its partners may take the form, inter alia, of:

(a) triangular arrangements whereby the Union coordinates with third countries its assistance funding to a partner country or region;

(b) administrative cooperation measures such as twinning between public institutions, local authorities, national public bodies or private law entities entrusted with public service tasks of a Member State and those of a partner country or region, as well as cooperation measures involving public sector experts dispatched from the Member States and their regional and local authorities;

([26]) 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 (codification) (OJ L 26, 28.1.2012, p. 1).

([27]) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, 5.07.1985, p. 40).

(c) contributions to the necessary costs of setting up and administering a public-private partnership including support of broad participation by setting up independent third party CSO body to assess and monitor public-private partnership set-ups;

(d) sector policy support programmes whereby the Union provides support to a partner country's sector programme;

(e) contributions to the cost of the countries' participation in Union programmes and actions implemented by Union agencies and bodies, as well as bodies or persons entrusted with implementation of specific actions in the Common Foreign and Security Policy pursuant to Title V TEU;

(f) interest rate subsidies. **[Am. 72]**

Article 8e

Forms of Union funding and methods of application

1. The Union funding may be provided through the types of financing envisaged by the Financial Regulation and in particular:

(a) grants;

(b) procurement contracts for services, supplies or works;

(c) budget support;

(d) contributions to trust funds set up by the Commission, in accordance with Article 234 of the Financial Regulation;

(e) financial instruments;

(f) budgetary guarantees;

(g) blending;

(h) debt relief in the context of internationally agreed debt relief programme;

(i) financial assistance;

(j) remunerated external experts.

2. When working with stakeholders of partner countries, the Commission shall take into account their specificities, including their needs and the relevant context, when defining the financing modalities, the type of contribution, the award modalities and the administrative provisions for the management of grants, with a view to reaching and best responding to the widest possible range of such stakeholders. That assessment shall take into account the conditions for a meaningful participation and involvement of all stakeholders, in particular local civil society. Specific modalities shall be encouraged in accordance with the Financial Regulation, such as partnership agreements, authorisations of financial support to third parties, direct award or eligibility-restricted calls for proposals, or lump sums, unit costs and flat-rate financing as well as financing not linked to costs as envisaged in Article 125(1) of the Financial Regulation. Those different modalities shall ensure transparency, traceability and innovation. Cooperation between local and international NGOs shall be encouraged in order to bolster local civil society's capacities with a view to achieving its full participation in development programmes.

3. In addition of the cases referred to in Article 195 of the Financial Regulation, the direct award procedure may be used for;

(a) low-value grants to human rights defenders and to mechanisms for the protection of human rights defenders at risk, to finance urgent protection actions, where appropriate without the need for co-financing, as well as to mediators and other civil society actors involved in crisis and armed conflict related dialogue, conflict resolution, reconciliation and peace-building;

(b) grants, where appropriate without the need for co-financing, to finance actions in the most difficult conditions where the publication of a call for proposals would be inappropriate including situations where there is a serious lack of fundamental freedoms, threats to democratic institutions, escalation of crisis, armed conflict where human security is most at risk or where human rights organisations and defenders, mediators and other civil society actors involved in crisis and armed conflict related dialogue, reconciliation and peace-building operate under the most difficult conditions. Such grants shall not exceed EUR 1 000 000 and shall have a duration of up to 18 months, which may be extended by a further 12 months in the event of objective and unforeseen obstacles to their application;

(c) grants to the Office of the UN High Commissioner for Human Rights as well as to Global Campus, the European Inter-University Centre for Human Rights and Democratisation, providing a European Master's Degree in Human Rights and Democratisation, and its associated network of universities delivering human rights postgraduate diplomas, including scholarships to students, researchers, teachers, and human rights defenders from third countries.

(d) Small projects as described in Article 23a of the NDICI Regulation.

Budget support as referred to in point (c) of paragraph 1, including through sector reform performance contracts, shall be based on country ownership, mutual accountability and shared commitments to universal values, democracy, human rights, gender equality, social inclusion and human development and the rule of law, and aims at strengthening partnerships between the Union and partner countries. It shall include reinforced policy dialogue, capacity development, and improved governance, complementing partners' efforts to collect more and spend better in order to support sustainable and inclusive socio-economic development which benefits all, decent job creation, with particular attention to young people, the reduction of inequalities and poverty eradication with due regard to local economies, environmental and social rights.

Any decision to provide budget support shall be based on budget support policies agreed by the Union, a clear set of eligibility criteria and a careful assessment of the risks and benefits. One of the key determinants of that decision shall be an assessment of the commitment, record and progress of partner countries with regard to democracy, human rights and the rule of law.

4. Budget support shall be differentiated in such a way as to respond better to the political, economic and social context of the partner country, taking into account situations of fragility.

When providing budget support in accordance with Article 236 of the Financial Regulation, the Commission shall clearly define and monitor criteria for budget support conditionality, including progress in reforms and transparency, and shall support the development of parliamentary control, national audit capacities, CSO participation in monitoring and increased transparency and public access to information and development of strong public procurement systems that support local economic development and local businesses.

5. Disbursement of the budget support shall be based on indicators demonstrating satisfactory progress being made towards achieving the objectives agreed with the partner country.

6. Financial instruments under this Regulation may take forms such as loans, guarantees, equity or quasi-equity, investments or participations, and risk-sharing instruments, whenever possible and in accordance with the principles laid down in Article 209(1) of the Financial Regulation under the lead of the EIB, a multilateral European finance institution, such as the European Bank for Reconstruction and Development, or a bilateral European finance institution, such as bilateral development banks, possibly pooled with additional other forms of financial support, both from Member States and third parties.

Contributions to Union financial instruments under this Regulation may be made by Member States as well as any entity referred to in Article 62(1)(c) of the Financial Regulation.

7. Those financial instruments may be grouped into facilities for application and reporting purposes

8. The Commission and the EEAS shall not enter into new or renewed operations with entities incorporated or established in jurisdictions defined under the relevant Union policy as non-cooperative, or that are identified as high risk third countries pursuant to Article 9(2) of Directive(EU) 2015/849 of the European Parliament and of the Council [28], or that do not effectively comply with Union or internationally agreed tax standards on transparency and exchange of information.

9. The Union's funding shall not generate or activate the collection of specific taxes, duties or charges.

10. Taxes, duties and charges imposed by partner countries may be eligible for financing under this Regulation. **[Am. 73]**

Article 8f

Carry-overs, annual instalments, commitment appropriations, re-payments and revenue generated by financial instruments

1. In addition to Article 12(2) of the Financial Regulation, unused commitment and payment appropriations under this Regulation shall be automatically carried over and may be committed up to 31 December of the following financial year. The carried-over amount shall be used first in the following financial year.

The Commission shall submit to the European Parliament and to the Council information on appropriations which were automatically carried over, including the amounts involved, in line with Article 12(6) of the Financial Regulation.

2. In addition to the rules laid down in Article 15 of the Financial Regulation on making appropriations available again, commitment appropriations corresponding to the amount of decommitments made as a result of total or partial non implementation of an action under this Regulation shall be made available again to the benefit of the budget line of origin.

References to Article 15 of the Financial Regulation in Article 12(1)(b) of the Regulation laying down the multi annual financial framework shall be understood as including a reference to this paragraph for the purpose of this Regulation.

3. Budgetary commitments for actions extending over more than one financial year may be broken down over several years into annual instalments, in line with Article 112(2) of the Financial Regulation.

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[28] 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. 73–117).

The third subparagraph of Article 114(2) of the Financial Regulation shall not apply to these multiannual actions. The Commission shall automatically de-commit any portion of a budgetary commitment for an action that by 31 December of the fifth year following that of the budgetary commitment has not been used for the purpose of pre-financing or making interim payments or for which no certified statement of expenditure or any payment request has been submitted.

Paragraph 2 of this Article shall also apply to annual instalments.

4. By way of derogation from Article 209(3) of the Financial Regulation repayments and revenues generated by a financial instrument shall be assigned to the budget line of origin as internal assigned revenue after deduction of management costs and fees. Every five years, the Commission shall examine the contribution made to the achievement of Union objectives, and the effectiveness, of existing financial instruments. **[Am. 74]**

Article 9

Cross border cooperation

1. Up to 3 % of the financial envelope shall be indicatively allocated to cross-border cooperation programmes 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. For technical assistance the Union co-financing rate shall be 100 %.

3. The level of pre-financing for cross-border cooperation with member states shall be determined in the work programme, in accordance with needs of the beneficiaries listed in Annex I and may exceed the percentage referred to in Article 49 of ETC Regulation.

4. Where cross border cooperation programmes are discontinued in accordance with Article 12 of the ETC Regulation, support from this Regulation to the discontinued programme that remains available may be used to finance any other actions eligible under this Regulation. ***In such a case, if there are no eligible actions to be financed in the current year, appropriations may be carried over to the following year.*** **[Am. 75]**

CHAPTER IV

ELIGIBILITY AND OTHER SPECIFIC PROVISIONS

Article 10

Eligibility for funding under IPA III

1. Tenderers, applicants and candidates from the following countries shall be eligible for funding under IPA III:

(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 the NDICI Regulation, and

(b) countries for which reciprocal access to external assistance is established by the Commission. Reciprocal access may be granted, for a limited period of at least one year, whenever 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 consultation of the recipient country or countries concerned.

CHAPTER V

EFSD+ AND BUDGETARY GUARANTEES

Article 11

Financial instruments and guarantee for external actions

1. The beneficiaries listed in Annex I shall be eligible to the European Fund for Sustainable Development Plus (EFSD+) and to External Action Guarantee as provided for in Chapter IV of Title II of the NDICI Regulation. To this end IPA III shall contribute to provisioning related to the guarantee for external actions referred to in Article 26 of the NDICI Regulation proportionally to the investments carried out to the benefit of the beneficiaries listed in Annex I to this Regulation.

CHAPTER VI

MONITORING ~~AND~~ ***, REPORTING,*** EVALUATION ***AND COMMUNICATION*** **[Am. 76]**

Article 12

Monitoring, audit, evaluation and protection of the Union's financial interests

1. Chapter V of Title II of the NDICI Regulation in relation to monitoring, reporting and evaluation shall apply to this Regulation.

2. Indicators to monitor ~~implementation~~ ***execution*** and progress of the IPA III towards the achievement of the specific objectives set out in Article 3 are set in Annex IV to this Regulation. **[Am. 77]**

3. For cross-border cooperation with Member States, the indicators shall be those referred in Article 33 of the ETC Regulation.

4. In addition to the indicators referred to in Annex IV, the enlargement reports ***and the Commission's assessments of the Economic Reform Programmes*** shall be taken into account in the results framework of IPA III assistance. **[Am. 78]**

4a. The Commission shall submit and present the interim and final evaluation reports referred to in Article 32 of the NDICI Regulation to the European Parliament and the Council. Those reports shall be made public by the Commission. **[Am. 79]**

5. 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~~ shall 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. Reporting shall be done by electronic means, using the Irregularity Management System, established by the Commission. ***The Commission shall support the development in the beneficiaries of parliamentary control and audit capacities and increased transparency and public access to information. The Commission, the VP/HR and in particular Union delegations in the beneficiaries shall ensure that all funding allocations under indirect management are carried out in a transparent, depoliticised and non-partial manner, including by equitable distribution, reflecting the needs of the regions and local municipalities.*** **[Am. 80]**

Wednesday 27 March 2019

CHAPTER VII

FINAL PROVISIONS

Article 13

Delegation of power

The Commission shall be empowered to adopt delegated acts in accordance with Article 14 to amend Annexes II, III and IV to this Regulation.

Article 14

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 ~~13~~ ***7(3), Article 7a, Articles 7b (1) and (2), Article 8c (3), and Articles 13 and 15*** shall be conferred on the Commission. **[Am. 128]**

3. The delegation of power referred to in Article 13 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 13 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 14a

Democratic Accountability

1. In order to enhance dialogue between the institutions and services of the Union, in particular the European Parliament, the Commission and the EEAS, foster the overall coherence of all External Financing Instruments, and to ensure greater transparency and accountability, as well as the expediency in the adoption of acts and measures by the Commission, the European Parliament may invite the Commission and the EEAS to appear before it to discuss the strategic orientations and guidelines for the programming under this Regulation. That dialogue may take place prior to the adoption of delegated acts and of the draft annual budget by the Commission or, at the request of the European Parliament, the Commission or the EEAS, on an ad hoc basis in view of major political developments.

2. Where a dialogue referred to in paragraph 1 is due to take place, the Commission and the EEAS shall present to the European Parliament all relevant documents in relation to that dialogue. Where the dialogue is related to the annual budget, consolidated information on all action plans and measures adopted or planned in accordance with Article 8 c, information on cooperation per country, region and thematic area, and the use of rapid response actions and the External Action Guarantee shall be provided.

3. The Commission and the EEAS shall take the utmost account of the position expressed by the European Parliament. In the event that the Commission or the EEAS do not take the European Parliament's positions into account, they shall provide due justification.

4. The Commission and the EEAS, in particular through the steering group pursuant to Article 7 c, shall be responsible for keeping the European Parliament informed about the state of this Regulation's application, in particular about ongoing measures, actions and results. **[Am. 82]**

Article 15

Adoption of further ~~implementing~~ rules **[Am. 83]**

1. 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 ~~in accordance with the examination procedure referred to in Article 16~~ ***by means of delegated acts***. **[Am. 84]**

2. ~~Where reference is made to this paragraph, Article 5 of~~ ***The Commission shall adopt action plans and measures by decision in accordance with the Financial*** Regulation ~~(EU) No. 182/2011 shall apply~~. **[Am. 85]**

~~Article 16~~

~~Committee~~

~~1. The Commission shall be assisted by a committee (the 'Instrument for Pre-accession Assistance Committee'). That committee shall be a committee within the meaning of [Regulation (EU) No 182/2011].~~

~~2. Where the opinion of the committee is to be obtained by a written procedure, the 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.~~

~~3. An observer from the EIB shall take part in the Committee's proceedings with regard to questions concerning the EIB.~~

~~4. The IPA III Committee shall assist the Commission and shall be competent also for legal acts and commitments under Regulation (EC) No 1085/2006, Regulation 231/2014 and the implementation of Article 3 of Regulation (EC) No 389/2006.~~

~~5. The IPA III Committee shall not be competent for the contribution to Erasmus+ as specified in Article 5(3).~~ **[Am. 86]**

Article 17

Information, communication***, visibility*** and publicity **[Am. 87]**

1. ~~Articles 36 and 37 of [Regulation NDICI] shall apply~~ ***When providing financial assistance under this Regulation, the Commission, the VP/HR and in particular the Union delegations in the beneficiaries shall take all necessary measures to ensure the visibility of the Union's financial support, including monitoring recipients' compliance with those requirements. IPA-financed actions shall be subject to the requirements set out in the Communication and Visibility Manual for EU External Actions. The Commission shall adopt guidance for Union-funded projects on visibility and communication actions for each beneficiary.*** **[Am. 88]**

1a. The Commission shall take measures to strengthen strategic communication and public diplomacy for communicating the values of the Union and highlighting the added value of the Union's support. **[Am. 89]**

1b. The recipients of Union funding shall acknowledge the origin of the Union funding and ensure its proper visibility by:

(a) providing a statement highlighting the support received from the Union in a visible manner on documents and communication material relating to the implementation of the funds, including on an official website, where such a website exists; and

(b) promoting the actions and their results by providing coherent, effective and proportionate targeted information to multiple audiences, including the media and the public.

Wednesday 27 March 2019

The Commission shall implement information and communication actions relating to this Regulation, as well as the actions set out by it and the results achieved. Financial resources allocated to this Regulation shall also contribute to the corporate communication of the political priorities of the Union, insofar as those priorities are directly related to the objectives referred to in Article 3 and in Annexes II and III. **[Am. 90]**

Article 18

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation 231/2014 (IPA II) and Regulation (EC) No 1085/2006 (IPA) which shall continue to apply to the actions concerned until their closure. Chapter III of Title II of the NDICI Regulation, formerly under Regulation 236/2014, shall apply to these actions with the exception of paragraph 1 of Article 24.

2. The financial envelope for IPA III may also cover technical and administrative assistance expenses necessary to ensure the transition between IPA III and the measures adopted under its predecessor, IPA II.

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 4(2), to enable the management of actions not completed.

Article 19

Entry into force

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

It shall apply from 1 January 2021 ***until 31 December 2027***. **[Am. 91]**

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

Done at …,

For the European Parliament
The President

For the Council
The President

ANNEX I

Albania

Bosnia and Herzegovina

Iceland

Kosovo (*)

Montenegro

Serbia

Turkey

The ~~former Yugoslav~~ Republic of ***North*** Macedonia **[Am. 129]**

(*) 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.

Wednesday 27 March 2019

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 in order to secure the rule of law. Interventions in this area shall aim at: ***separation of powers,*** establishing independent, accountable and efficient judicial systems, including transparent and merit-based recruitment and promoting judicial cooperation, evaluation and promotion systems and effective disciplinary procedures in cases of wrongdoing; ensuring the establishment of ~~robust~~ ***adequate*** systems to protect the borders, manage migration flows and provide asylum to those in need; developing effective tools to prevent and fight organised crime, trafficking in human beings, migrants smuggling, ***drug trafficking,*** money laundering/financing of terrorism and corruption; promoting and protecting human rights, ***including rights of the child, gender equality,*** rights of persons belonging to minorities including Roma as well as lesbian, gay, bisexual, transgender and intersex persons fundamental freedoms, including freedom of the media and data protection; **[Am. 92]**

(b) Reforming public administrations in line with the Principles of Public Administration. Interventions shall aim at: strengthening public administration reform frameworks; 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 quality and delivery of services, including adequate administrative procedures and the use of citizen centred eGovernment; strengthening public financial management and the production of reliable statistics;

(c) Strengthening economic governance: Interventions shall aim at supporting participation in the economic reform programme (ERP) process and systematic cooperation with international financial institutions on fundamentals of economic policy ***and strengthening of multilateral economic institutions***. Enhancing the capacity to strengthen macroeconomic stability***, social cohesion*** and supporting progress towards ***sustainable development and*** becoming a functioning market economy with the capacity to cope with competitive pressures and market forces within the Union; **[Am. 93]**

(d) Strengthening the Union and its partners' capacity to prevent conflict, build peace ***good neighbourly relations*** and address pre-and post-crisis including through early warning and conflict-sensitive risk analysis; promoting people to people networking, reconciliation, ***accountability, international justice*** peace-building and confidence-building measures, ***including setting up the Regional commission for the establishment of facts about war crimes and other serious violations of human rights committed in the former Yugoslavia (RECOM), as well as*** supporting capacity building in support of security and development (CBSD) actions***, strengthening the capabilities of cyber defence and strategic communication to foster systematic uncovering of disinformation***; **[Am. 94]**

(e) 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. ***Assistance shall endeavour to be accessible to a variety of organisations in beneficiaries that is as wide as possible;*****[Am. 95]**

(f) Promoting the alignment of partner countries' rules, standards, policies and practices to those of the Union, including ***CFSP, public procurement and*** state aid rules; **[Am. 96]**

(g) Strengthening access to and 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 ***inclusive and community-based*** early childhood education and care, primary and secondary education, improving the provision of basic skills; increasing educational attainment levels, reducing early school-leaving and reinforcing teachers' training***; empowering children and youth and enabling them to reach their full potential***. Developing vocational education and training (VET) systems and promoting work-based learning systems to facilitate the transition to the labour market; improving the quality and relevance of higher education; encouraging alumni related activities; enhancing access to lifelong learning ***and physical activity*** and supporting investment in education and training ***and sport*** infrastructure particularly with a view to reducing territorial disparities and fostering non-segregated education and including through the use of digital technologies; **[Am. 97]**

(h) 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 (NEET)), women, long-term unemployed and all under-represented groups. Measures shall stimulate quality job creation and support the effective enforcement of labour rules and ***internationally agreed*** standards across the entire territory ***including by fostering adherence to the key principles and rights as referred to in the European Pillar of Social Rights***. Other key areas of intervention shall be to support gender equality, 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; **[Am. 98]**

(i) 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, fostering social inclusion, promoting equal opportunities and addressing inequalities and poverty***, and promoting the transition from institutional to family and community based care***. Interventions in this area shall also focus on: integrating marginalised communities such as the Roma; combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation; enhancing access to affordable, sustainable and high quality ***family and community based*** services, such as ***inclusive and non-segregated*** early childhood education and care, housing, healthcare and essential social services and long term care, including through the modernisation of social protection systems. ***Actions that contribute to any form of segregation or social exclusion shall not be supported;*** **[Am. 99]**

(j) Promoting smart, sustainable, inclusive, safe transport and removing bottlenecks in key network infrastructures, by investing in projects with high EU value-added. The investments should be prioritised according to their relevance to TEN-T connections with the EU, ***cross-border links, job creation,*** contribution to sustainable mobility, reduced emissions, environmental impact, safe mobility, in synergy with the reforms promoted by the Transport Community Treaty; **[Am. 100]**

(k) Improving the private-sector environment and competitiveness of enterprises, ***in particular 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; **[Am. 101]**

(l) 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 as well as research infrastructure and enabling environment and promoting networking and collaboration;

(m) Contributing to the security and safety of food ***and water*** supply and the maintenance of diversified and viable farming systems in vibrant rural communities and the countryside; **[Am. 102]**

(n) Protecting 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, 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. It shall also promote a high level of nuclear safety, radiation protection, and the application of efficient and effective safeguards of nuclear material in third countries as well as the establishment of frameworks and methodologies for the application of efficient and effective safeguards for nuclear material;

(o) Promoting the highest nuclear safety standards, including nuclear safety culture, emergency preparedness, responsible and safe management of spent fuel and radioactive waste, decommissioning and remediation of former nuclear sites and installations; radiation protection and the accountancy and control of nuclear materials;

(p) 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, ***with a view to raising the capacity to exports to the Union market,*** while pursuing economic, social and environmental goals in balanced territorial development of rural and coastal areas; **[Am. 103]**

(pa) Promoting activities and improving long-term strategies and policies aimed at preventing and countering radicalisation and violent extremism. **[Am. 104]**

Wednesday 27 March 2019

ANNEX III

Thematic priorities for assistance for cross-border cooperation

Assistance for cross-border cooperation may, as appropriate, address the following thematic priorities:

(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~~ ***as well as the transition to family- and community-based*** social services; **[Am. 105]**

(b) protecting the environment and promoting climate change adaptation and mitigation, 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; promoting investment to address specific risks, ensuring disaster resilience and disaster prevention, preparedness and response;

(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, the development of eGovernment services, digital trust and security as well as digital skills and entrepreneurship;

(da) promoting the removal of unnecessary barriers to trade, including bureaucratic hurdles, tariffs and non-tariffs barriers; **[Am. 106]**

(e) encouraging tourism***, sport*** and cultural and natural heritage; **[Am. 107]**

(f) investing in youth, ***sport,*** education and skills through, inter alia***, ensuring skills and qualifications recognition***, developing and implementing joint education, vocational training, training schemes and infrastructure supporting joint youth activities; **[Am. 108]**

(g) promoting local and regional governance ~~and~~***, including cross-border cooperation between administrations with a view to fostering reconciliation and peace-building,*** enhancing the planning and administrative capacity of local and regional authorities; **[Am. 109]**

(ga) investing in the capacity-building of civil society organisations; **[Am. 110]**

(gb) promoting cross-border cooperation between administrations with a view to fostering reconciliation and peace-building, including setting up the Regional commission for the establishment of facts about war crimes and other serious violations of human rights committed in the former Yugoslavia (RECOM); **[Am. 111]**

(h) enhancing competitiveness, the business environment and the development of small and medium-sized enterprises, trade and investment through, inter alia, promotion and support to entrepreneurship, in particular small and medium-sized enterprises, and development of local cross-border markets and internationalisation;

(i) strengthening research, technological development, innovation and digital technologies through, inter alia, promoting the sharing of human resources and facilities for research and technology development;

(ia) improving cross-border police and judicial cooperation and information exchange to facilitate the investigation and prosecution of cross-border organised crime and linked cases of economic and financial crime and corruption, trafficking and smuggling. **[Am. 112]**

Wednesday 27 March 2019

ANNEX IV

List of Key Performance Indicators

The following list of key performance indicators ***and their annual evolution*** shall be used to help measure the Union's contribution to the achievement of its specific objectives ***and the progress made by the beneficiaries***: **[Am. 113]**

1. Composite indicator ([1]) on the readiness of enlargement countries on fundamental areas of the political accession criteria (including Democracy, Rule of Law (Judiciary, Fight against corruption and Fight against organised crime) and Human Rights) (source European Commission);

1a. Composite indicator on partners' efforts related to reconciliation, peace-building, good neighbourly relations and international obligations, gender equality and women's rights; **[Am. 114]**

1b. Absence of violence indicator in conjunction with reductions in drivers of conflict (e.g. political or economic exclusion) against a baseline assessment; **[Am. 115]**

1c. The share of the beneficiaries' citizens that think they are well informed about the Union's assistance under this Regulation (source: European Commission); **[Am. 116]**

2. Readiness of enlargement countries on public administration reform (source European Commission);

3. Composite indicator on the readiness of candidate countries and potential candidates to the EU acquis (source European Commission);

3a. The rate and annual evolution of the alignment with the CFSP decisions and measures (source EEAS); **[Am. 117]**

4. Composite indicator on the readiness of candidate countries and potential candidates on fundamental areas of the economic criteria (functioning market economy and competitiveness) (source European Commission);

5. Public social security expenditure (percentage of GDP) ~~(source~~***, as indicated by*** ILO ~~) or~~***, health expenditure, income inequality, poverty rate, E****employment* ***R****rate* ~~(source:~~ ***and unemployment rate, as indicated by official*** national statistics)**; [Am. 118]**

5a. Changes in the GINI coefficient of a beneficiary over time; **[Am. 119]**

6. Digital gap between the beneficiaries and the EU average (source: European Commission DESI index);

7. Distance to frontier (Doing Business) score (source WB);

8. Energy intensity measured in terms of primary energy and GDP (source EUROSTAT);

9. Greenhouse gas emissions reduced or avoided (Ktons CO_2eq) with EU support;

10. Number of cross-border cooperation programmes concluded ***and implemented*** among IPA beneficiaries and IPA/EU MS ~~(source~~***, as indicated by the*** European Commission)**;[Am. 120]**

10a. The number of new organisations participating in actions and programmes over time;**[Am. 121]**

Indicators will, where relevant, be sex disaggregated ***at minimum age and gender level.*** **[Am. 122]**

([1]) The three composite indicators are elaborated by the European Commission on the basis of the reports on Enlargement, which also draw from multiple, independent sources.

Wednesday 27 March 2019

P8_TA(2019)0300

Framework for the recovery and resolution of central counterparties ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365 (COM(2016)0856 — C8-0484/2016 — 2016/0365(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/37)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0856),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0484/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Italian Senate, the Spanish Parliament and the Romanian Senate asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Central Bank of 20 September 2017 ([1]),

— having regard to the opinion of the European Economic and Social committee of 29 March 2017 ([2])

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A8-0015/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2016)0365

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council on a framework for the recovery and resolution of central counterparties and amending Regulations (EU) No 1095/2010, (EU) No 648/2012, and (EU) 2015/2365

(Text with EEA relevance)

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 114 thereof,

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([1]) OJ C 372, 1.11.2017, p. 6.
([2]) OJ C 209, 30.6.2017, p. 28.

Having regard to the proposal from the European Commission ([1]),

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

Having regard to the opinion of the European Economic and Social Committee ([2]),

Having regard to the opinion of the European Central Bank ([3]),

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Financial markets are pivotal for the functioning of modern economies. The more integrated they are, the ***greater the potential for*** efficient allocation of economic resources will be, ***potentially*** benefitting economic performance. However, in order to improve the functioning of the single market in financial services, it is important to have procedures in place ***to deal with market failures and*** to ensure that if a financial institution or a financial market infrastructure that is active in this market faces financial distress or is at the point of failure, such an event does not de-stabilise the entire financial market and damage growth across the wider economy. Central counterparties (CCPs) are key components of financial markets, stepping in between participants to act as the buyer to every seller and the seller to every buyer, and playing a central role in processing financial transactions and managing exposures to diverse risks inherent in those transactions. CCPs centralise the handling of counterparties' transactions and positions, and honour the obligations created by the transactions and receive adequate collateral from their members as margin and as contributions to default funds.

(2) Central counterparties (CCPs) are key components of ***global*** financial markets, stepping in between participants to act as the buyer to every seller and the seller to every buyer, and playing a central role in processing financial transactions and managing exposures to diverse risks inherent in those transactions. CCPs centralise the handling of counterparties' transactions and positions, and honour the obligations created by the transactions and ***require*** adequate collateral from their members as margin and as contributions to default funds.

(3) The integration of Union financial markets has meant that CCPs have evolved from primarily serving domestic needs and markets to constituting critical nodes in Union financial markets more widely. CCPs authorised in the Union today clear several product classes, from listed and over-the-counter (OTC) financial and commodity derivatives to cash equities, bonds and other products such as repos. They provide their services across national borders to a broad range of financial and other institutions across the Union. While some CCPs authorised in the Union remain focussed on domestic markets, they are all systemically important in at least their home markets.

(4) As a significant amount of the financial risk of the Union financial system is processed by and concentrated in CCPs on behalf of clearing members and their clients, effective regulation and robust supervision of CCPs is essential. In force since August 2012, Regulation (EU) No 648/2012 of the European Parliament and of the Council ([4]) requires CCPs to observe high prudential, organisational and conduct of business standards. Competent authorities are tasked with the full oversight of their activities, working together within ***supervisory*** colleges which group together relevant authorities for the specific tasks allocated to them. In accordance with commitments entered into by G20 leaders since the financial crisis, Regulation (EU) No 648/2012 also requires standardised OTC derivatives to be centrally cleared by a CCP. As the obligation to centrally clear OTC derivatives comes into effect, the volume and range of business done by CCPs is likely to increase which may, in turn, provide additional challenges for the CCPs' risk management strategies.

([1]) OJ C , , p. .
([2]) OJ C 209, 30.6.2017, p. 28.
([3]) OJ C 372, 1.11.2017, p. 6.
([4]) Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

Wednesday 27 March 2019

(5) Regulation (EU) No 648/2012 has contributed to the increased resilience of CCPs and of wider financial markets against the broad range of risks processed and concentrated in CCPs. However, no system of rules and practices can prevent existing resources from being inadequate in managing the risks incurred by the CCP, including one or more defaults by clearing members. Faced with a scenario of severe distress or impending failure, financial institutions should in principle remain subject to normal insolvency proceedings. However, as the financial crisis has shown, in particular during a period of prolonged economic instability and uncertainty, such proceedings can disrupt functions critical to the economy, jeopardising financial stability. Normal corporate insolvency procedures may not always ensure sufficient speed of intervention or adequately prioritise the continuation of the critical functions of financial institutions for the sake of preserving financial stability. In order to prevent these negative consequences of normal insolvency proceedings, it is necessary to create a special resolution framework for CCPs.

(6) The crisis also highlighted the lack of adequate tools to preserve the critical functions provided by failing financial institutions. It further demonstrated the lack of frameworks to enable cooperation and coordination amongst authorities, in particular those located in different Member States or jurisdictions, to ensure the implementation of swift and decisive action. Without such tools and lack of cooperation and coordination frameworks, Member States were compelled to save financial institutions using taxpayers' money in order to stem contagion and reduce panic. While CCPs were not direct recipients of public financial support in the crisis, they were indirect beneficiaries of the rescue measures undertaken in relation to banks and were protected from the effects which banks failing on their obligations would otherwise have had on them. A recovery and resolution framework for CCPs is therefore necessary to prevent reliance on taxpayers' money in the event of their disorderly failure. ***Such a framework should also address the possibility of CCPs entering into resolution for reasons other than the default of one or several of their clearing members.***

(7) The objective of a credible recovery and resolution framework is to ensure, to the greatest extent possible, that CCPs set out measures to recover from financial distress, to maintain the critical functions of a CCP which is failing or likely to fail while winding down the remaining activities through normal insolvency proceedings, and to preserve financial stability while minimising the cost of a CCP failure on ***end clients and*** taxpayers. The recovery and resolution framework further bolsters CCPs' and authorities' preparedness to mitigate financial stress and provide authorities with further insight into CCPs' preparations for stress scenarios. It also provides authorities with powers to prepare for the potential resolution of a CCP and deal with the declining health of a CCP in a coordinated manner, thus contributing to the smooth functioning of financial markets.

(8) Currently, there are no harmonised provisions for the recovery and resolution of CCPs across the Union. Some Member States have already enacted legislative changes that require CCPs to draw up recovery plans and that introduce mechanisms to resolve failing CCPs. Furthermore, there are considerable substantive and procedural differences between Member States on the laws, regulations and administrative provisions which govern the insolvency of CCPs. The absence of common conditions, powers and processes for recovery and resolution of CCPs is likely to constitute a barrier to the smooth operation of the internal market and hinder cooperation between national authorities when dealing with the failure of a CCP and applying appropriate loss allocation mechanisms on its members, both in the Union and globally. This is particularly true where different approaches mean that national authorities do not have the same level of control or the same ability to resolve CCPs. Those differences in recovery and resolution regimes may affect CCPs and their members differently across Member States, potentially creating competitive distortions across the internal market. The absence of common rules and tools for how distress or failure in a CCP would be handled can affect participants' choice to clear and CCPs' choice of their place of establishment, thereby preventing CCPs from fully benefiting from their fundamental freedoms within the single market. In turn, this could discourage participants from accessing CCPs across borders in the internal market and hinder further integration in Europe's capital markets. Common recovery and resolution rules in all Member States are therefore necessary to ensure that CCPs are not limited in exercising their internal market freedoms by the financial capacity of Member States and their authorities to manage their failure.

(9) The review of the regulatory framework applicable to banks and other financial institutions which has taken place in the wake of the crisis, and in particular the strengthening of banks' capital and liquidity buffers, better tools for macro-prudential policies and comprehensive rules on the recovery and resolution of banks, have reduced the likelihood of future crises and enhanced the resilience of all financial institutions and market infrastructures, including CCPs, to economic stress, whether caused by systemic disturbances or by events specific to individual institutions. Since 1 January 2015, a recovery and resolution regime for banks has applied in all Member States pursuant to Directive 2014/59/EU of the European Parliament and of the Council ([1]).

(10) Building on the approach for bank recovery and resolution, ***competent authorities and resolution*** authorities should be prepared and have adequate recovery and resolution tools at their disposal to handle situations involving CCP failures. However, due to their different functions and business models, the risks inherent in banks and CCPs are different. Specific tools and powers are therefore needed for CCP failure scenarios caused both by the failure of the CCP's clearing members or as a result of non-default events.

(11) The use of a Regulation is necessary in order to complement and build on the approach established by Regulation (EU) No 648/2012, which provides for uniform prudential requirements applicable to CCPs. Setting recovery and resolution requirements in a Directive could create inconsistencies by the adoption of potentially different national laws in respect of an area otherwise governed by directly applicable Union law and increasingly characterised by the cross-border provision of CCPs' services. It is therefore appropriate to also adopt uniform and directly applicable rules on recovery and resolution of CCPs.

(12) In order to ensure consistency with existing Union legislation in the area of financial services, as well as the greatest possible level of financial stability across the Union, the recovery and resolution regime should apply to all CCPs subject to the prudential requirements laid down in Regulation (EU) No 648/2012, regardless of whether they have a bank licence. ***While there may be differences in the risk profile associated with alternative corporate structures, this Regulation treats CCPs as independent entities under any*** group ***or market structure and ensures that a CCP's*** recovery and resolution ***plan is free-standing, irrespective*** of the ***structure of the CCP's*** group***. This relates in particular to the requirements to hold sufficient financial resources at an entity level to manage a default or non-default situation***.

(13) In order to ensure that resolution actions are taken efficiently and effectively, and in line with resolution objectives, Member States should appoint public administrative authorities or authorities entrusted with public administrative powers to perform functions and tasks in relation to resolution. Member States should also ensure that appropriate resources are allocated to those resolution authorities. Where a Member State designates the authority responsible for the prudential supervision of CCPs as a resolution authority, ***the independence of the decision-making process should be ensured and all necessary*** arrangements should be put in place to separate the supervisory and resolution functions to avoid any conflicts of interest and risk of regulatory forbearance.

(14) In light of the consequences that the failure of a CCP and the subsequent actions may have on the financial system and the economy of a Member State, as well as the possible ultimate need to use public funds ***as a last resort*** to resolve a crisis, the Ministries of Finance or other relevant ministries in the Member States should be closely involved, at an early stage, in the process of recovery and resolution.

(15) As CCPs often provide services across the Union, effective recovery and resolution requires cooperation among competent authorities and resolution authorities within supervisory and resolution colleges, notably at the preparatory stages of recovery and resolution. That includes the assessment of recovery plans developed by the CCP, the ***assessment*** of resolution plans ***prepared by the resolution authority of the CCP,*** and addressing any impediments to resolvability.

([1]) Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.6.2014, p. 190).

Wednesday 27 March 2019

(16) Resolution of CCPs should strike the balance between the need, on the one hand, for procedures that take into account the urgency of the situation and allow for efficient, fair and timely solutions and, on the other, the necessity to protect financial stability in all the Member States where the CCP provides services. The authorities whose areas of competence would be affected by the failure of a CCP should share their views in the resolution college to achieve these objectives. Similarly, in order to ensure a regular exchange of views and coordination with relevant third countries authorities, these should be invited to participate in resolution colleges as observers where necessary. Authorities should always take into account the impact of their decisions on the financial stability in the Member States where the CCP's operations are critical or important for local financial markets, including where clearing members are located and where linked trading venues and financial market infrastructures are established.

(16a) In light of the cross-border global nature of certain CCP operations, decisions of resolution authorities can have economic and fiscal effects in other jurisdictions. To the extent reasonably possible, such cross-border implications should be borne in mind in recovery and resolution situations, whilst also taking into account the sovereignty of fiscal authorities in other jurisdictions.

(17) In order to prepare the decisions of ESMA in relation to the tasks allocated to it and to ensure the comprehensive involvement of EBA and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee and should invite relevant EBA competent authorities to participate as observers.

(18) In order to address the potential failure of a CCP in an effective and proportionate manner, authorities should take into account a number of factors when exercising their recovery and resolution powers such as the nature of the CCP's business, ***legal and organisational*** structure, risk profile, size, legal status and interconnectedness to the financial system. The authorities should also take account of whether its failure and subsequent winding up under normal insolvency proceedings would be likely to have a significant negative effect on financial markets, on other financial institutions, or on the wider economy.

(19) In order to deal in an efficient manner with failing CCPs, authorities should have the power to impose preparatory measures on CCPs. A minimum standard should be established as regards the contents and information to be included in recovery plans to ensure that all CCPs in the Union have sufficiently detailed plans for recovery should they face financial distress. Such plans should ***contemplate an appropriate range of scenarios envisaging both systemic stress and stress specific to the CCP. The scenarios should contemplate situations of stress that would be more extreme than those used for the purposes of regular stress testing under Chapter XII of Commission Delegated Regulation (EU) No 153/2013, while remaining plausible, such as the failure of more than two clearing members to which the CCP has the largest exposures and one or several other CCPs.*** The recovery plan should form part of the operating rules of the CCP agreed contractually with clearing members. Those operating rules should further contain provisions to ensure the enforceability of recovery measures outlined in the plan in all scenarios. Recovery plans should not assume access to public financial support or expose taxpayers to the risk of loss.

(19a) Recovery plans should ensure proper incentives for CCPs, clearing members and clients not to let the situation deteriorate further and to incentivise cooperative behaviour. In order for that incentive structure to be credible, deviations from the recovery plan should be subject to approval by the competent authority.

(20) CCPs should prepare and regularly update their recovery plans. ▌ The recovery phase in this context should start when there is a significant deterioration of the CCP's financial situation or risk of breach of its prudential requirements under Regulation (EU) 648/2012. This should be indicated with relation to a framework of qualitative or quantitative indicators included in the recovery plan.

(20a) Recovery plans should ensure that the sequencing of the use of recovery tools properly balances the allocation of losses between CCPs, clearing members and their clients. As a general principle, losses should be distributed between CCPs, clearing members, and their clients as a function of their ability to control the risks. This is in order to create sound incentives ex-ante and to ensure a fair allocation of losses and on that basis loss allocation also for non-default losses should be proportional to the level of responsibility of each stakeholder involved. Recovery plans should ensure that the CCP's capital is relied upon to bear first losses in default cases and even more so in non-default cases. Substantial loss absorption by clearing members should be foreseen before any tools are used that allocate losses to clients.

(21) The CCP should submit its recovery plan to competent authorities and the supervisory college, established under Regulation (EU) No 648/2012, for a complete assessment, to be reached by joint decision of the college. The assessment should include whether the plan is comprehensive and whether it could feasibly restore the viability of the CCP, in a timely manner, including in periods of severe financial stress.

(22) Recovery plans should comprehensively set out the actions that the CCP would take to address any unmatched outstanding obligations, uncovered loss, liquidity shortfall, or capital inadequacy, as well as the actions to replenish any depleted pre-funded financial resources and liquidity arrangements in order to restore the CCP's viability and its continuing ability to meet its requirements for authorisation ***and must include sufficient loss absorption capacity to this end. The tools envisaged should be comprehensive. Each tool should be reliable, timely, and underpinned by a sound legal basis. They should create appropriate incentives for the CCP's shareholders, members and their clients to control the risk they bring to or incur in the system, monitor the risk-taking and risk-management activities of the CCP, and participate in the default management process.***

(22a) Recovery plans should explicitly set out actions to be taken by the CCP in case of cyber-attacks where there is a potential effect of leading to a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

(23) CCPs should ensure that the plans are non-discriminatory and balanced in terms of their impacts and the incentives they create. They should not disadvantage clearing members or clients in a disproportionate way. In particular, in accordance with Regulation (EU) No 648/2012 CCPs should ensure that their clearing members have limited exposures toward the CCP. CCPs should ensure that all relevant stakeholders are ***involved in the drawing-up of*** the recovery plan through their involvement in the CCP's risk committee, ***as the case may be,*** and by being ***appropriately consulted. Since opinions may be expected to differ among stakeholders, CCPs should establish clear processes to manage the diversity of stakeholders' views as well as any conflict of interest between those stakeholders and the CCP***.

(23a) CCPs should ensure that clients of non-defaulting clearing members are appropriately recompensed should their assets be used during the recovery process.

(24) ***In view of the global nature of the markets served by CCPs, it is necessary*** to ensure the ability of a CCP to apply the recovery options, where necessary, to contracts or assets governed by the law of a third country or to entities based in third countries. The CCP's operating rules should ***therefore*** include contractual provisions ***ensuring this ability***.

(25) Where a CCP does not present an adequate recovery plan, competent authorities should be able to require the CCP to take measures necessary to redress the material deficiencies of the plan in order to strengthen the business of the CCP and ensure that the CCP can restore its capital or match its book in case of failure. That power should allow competent authorities to take preventive action to the extent that it is necessary to address any deficiencies and therefore to meet the objectives of financial stability.

(25a) Where a CCP in recovery has applied position and loss allocation tools, which go beyond the waterfall in Regulation (EU) No 648/2012, on non-defaulting clearing members and their clients and has not entered into resolution as a result, the competent authority should be able, once a matched book has been restored, either to require the CCP to recompense the participants for their loss through cash payments or, where appropriate, to require the CCP to issue instruments of ownership in future profits of the CCP.

(26) Resolution planning is an essential component of effective resolution. The plans should be drawn up by the resolution authority of the CCP and jointly agreed by the relevant authorities of the resolution college. Authorities should have all the information necessary to identify and ensure the continuance of critical functions. The ***operating rules of the CCP that are agreed contractually with clearing members should contain provisions to ensure the enforceability of resolution measures by resolution authorities, including*** a resolution ***cash call***.

(27) Resolution authorities, on the basis of the assessment of resolvability, should have the power to require changes to the ***legal*** structure and organisation of CCPs directly or indirectly through the competent authority, to take measures which are necessary and proportionate to reduce or remove material impediments to the use of resolution tools and ensure the resolvability of the entities concerned.

(28) Resolution plans and resolvability assessments constitute areas where day-to-day supervisory considerations are ***outweighed*** by the need to expedite and ensure swift restructuring actions in order to secure a CCP's critical functions and safeguard financial stability. In the event of disagreement between the different members of the resolution college on decisions to be taken with regard to the CCP's resolution plan, the assessment of the CCP's resolvability and the decision to remove any impediments thereto, ESMA should play a mediation role in accordance with Article 19 of Regulation (EU) No 1095/2010. Such binding mediation by ESMA should nonetheless be prepared for its consideration by an ESMA internal committee, in view of the competences of ESMA members to ensure financial stability and to oversee clearing members in several Member States. Certain competent authorities under the EBA Regulation should be invited to participate as observers to that ESMA internal committee in view of the fact that such authorities carry out similar tasks under Directive 2014/59/EU. Such binding mediation should not prevent non-binding mediation in accordance with Article 31 of Regulation (EU) No 1095/2010 in other cases.

(29) Depending on the structure of the group to which the CCP belongs, it can be necessary that the recovery plan of the CCP sets out the conditions under which the provision of ***voluntarily agreed contractual or other binding relations such as parental*** guarantees ***or control and profit and loss transfer agreements*** or other forms of operational support from a parent undertaking or another group-entity to a CCP within the same group would be triggered. Transparency on such arrangements would mitigate risks to the liquidity and solvency of the group entity providing support to a CCP facing financial distress. Any change to such arrangements should be considered to be a material change for the purpose of reviewing the recovery plan.

(30) Given the sensitivity of the information contained in the recovery and resolution plans, those plans should be subject to appropriate confidentiality provisions.

(31) Competent authorities should transmit the recovery plans and any changes thereto to the relevant resolution authorities, and the latter should transmit the resolution plans and any changes thereto to competent authorities, thus permanently keeping every relevant authority fully informed.

(32) In order to preserve financial stability, it is necessary that competent authorities are able to remedy the deterioration of a CCP's financial and economic situation before that CCP reaches a point at which authorities have no other alternative but to resolve it or to direct the CCP to change course where its actions could be detrimental for overall financial stability. Therefore, competent authorities should be granted early intervention powers to avoid or minimise adverse effects on financial stability or in the interests of clients that could result from the CCP's

implementation of certain measures. The early intervention powers should be conferred on competent authorities in addition to their powers provided for in the national law of Member States or under Regulation (EU) No 648/2012 for circumstances other than those considered to be early intervention. ***Early intervention rights shall include the power to restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP and it may restrict, prohibit or freeze any payments of variable remuneration as per Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, discretionary pension benefits or severance packages to management.***

(33) During the recovery and early intervention phases, shareholders should retain their rights in full. They ***lose*** such rights once the CCP has been put under resolution. ***Any remuneration of equity and instruments treated as equity, including dividend payments and buybacks by the CCP, should be restricted or prohibited, to the extent possible, in recovery.***

(34) The resolution framework should provide for timely entry into resolution before a CCP is insolvent. A CCP should be considered to be failing or likely to fail when it infringes or is likely in the near future to infringe the requirements for continuing authorisation, when its recovery has failed to restore its viability, when the assets of the CCP are or are likely in the near future to be less than its liabilities, when the CCP is or is likely in the near future to be unable to pay its debts as they fall due, or when the CCP requires public financial support. However, the fact that a CCP does not comply with all the requirements for authorisation should not justify by itself the entry into resolution. ***In order to allow for timely entry into resolution, a decision taken by a resolution authority to accelerate transition from recovery to resolution may only be challenged on substantive grounds on the basis that this decision was arbitrary and unreasonable at the time of the decision, based on the information then readily available.***

(35) The provision for emergency liquidity assistance from a central bank — where such a facility is available — should not be a condition that demonstrates that a CCP is or will be, in the near future, unable to pay its liabilities as they fall due. In order to preserve financial stability, in particular in the case of a systemic liquidity shortage, State guarantees on liquidity facilities provided by central banks or State guarantees of newly issued liabilities to remedy a serious disturbance in the economy of a Member State should not trigger the resolution framework provided that a number of conditions are met.

(36) Where a CCP meets the conditions for resolution, the resolution authority of the CCP should have at its disposal a harmonised set of resolution tools and powers. Their exercise should be subject to common conditions, objectives, and general principles. The use of additional tools and powers by resolution authorities should be consistent with the resolution principles and objectives. In particular, the use of such tools or powers should not impinge on the effective resolution of cross-border groups. ***In view of the objective to prevent as far as possible the use of public funds and considering the difficulty in predicting the exact nature of a severe crisis in which the resolution authority would have to take action, no resolution tools should be excluded ex-ante. To address moral hazard and protect taxpayers more effectively, competent authorities should lay down clear and comprehensive measures in advance for recovering those funds from clearing participants to the extent possible.***

(37) The prime objectives of resolution should be to ensure the continuity of critical functions, to avoid adverse effects on financial stability, and to protect public funds ▌.

(38) The critical functions of a failing CCP should be maintained, albeit re-structured with changes to the management where appropriate, through the use of resolution tools as a going concern with the use, to the ***largest*** extent possible, of private funds. ***This objective*** could be achieved either through ***the sale of the CCP*** to or ***its*** merger with a solvent third party, or ***by restructuring or writing*** down the contracts and liabilities of the CCP via the allocation of losses and ***the transfer of*** positions ***from the defaulting member to non-defaulting members, or by effecting*** a recapitalisation ***of the CCP through writing down its shares or writing down and converting its debt to equity***. In line with ***the*** objective ***of maintaining the critical functions of the CCP and*** prior to ***taking the*** actions ***described above***, the resolution authority should consider enforcing any existing and outstanding contractual obligations of the

CCP***, including in particular any contractual obligations by clearing members to meet cash calls or to take on positions of defaulting clearing members, whether through an auction or other agreed means in the CCP's operating rules, as well as any existing and outstanding contractual obligation committing parties other than clearing members to any forms of financial support. Contractual obligations should be enforced by the resolution authority*** in line with ***the way in which*** they would be called in under normal insolvency proceedings.

(39) Rapid and decisive action is necessary to sustain market confidence and minimise contagion. Once the conditions for resolution have been met, the resolution authority of the CCP should not delay in taking appropriate and coordinated resolution action in the public interest. The failure of a CCP can occur under circumstances requiring an immediate reaction by the relevant resolution authority. That authority should therefore be allowed to take resolution action notwithstanding the exercise of recovery measures by the CCP or without imposing an obligation to first use the early intervention powers.

(40) When taking resolution actions, the resolution authority of the CCP should take into account and follow the measures provided for in the resolution plans developed within the resolution college, unless the resolution authority considers, taking into account circumstances of the case, that resolution objectives will be achieved more effectively by taking actions which are not provided for in the resolution plans. The resolution authority should promptly inform the resolution college of the resolution actions they plan to undertake, in particular where such action deviates from the plan.

(41) Interference with property rights should be proportionate to the financial stability risk. Resolution tools should therefore be applied only to those CCPs that meet the conditions for resolution, specifically where it is necessary to pursue the objective of financial stability in the public interest. Given that resolution tools and powers may disrupt the rights of shareholders, clearing ***members, their clients and wider*** creditors, resolution action should be taken only where necessary in the public interest and any interference with those rights should be compatible with the Charter. In particular, where creditors within the same class are treated differently in the context of resolution action, such distinctions should be justified in the public interest and proportionate to the risks being addressed and should be neither directly nor indirectly discriminatory on the grounds of nationality.

(42) Affected shareholders, clearing ***members*** and creditors should not incur losses greater than those which they would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up in normal insolvency proceedings. In the event of a partial transfer of assets of a CCP under resolution to a private purchaser or to a bridge CCP, the residual part of the CCP under resolution should be wound up under normal insolvency proceedings.

(43) For the purpose of protecting the right of shareholders, creditors, ***clearing members and their clients,*** clear obligations should be laid down concerning the valuation of the assets and liabilities of the CCP and the valuation of the treatment that ***those parties*** would have received if the resolution authority would not have taken resolution action. It should be possible to commence a valuation already during the recovery phase. Before any resolution action is taken, a fair and realistic valuation of the assets and liabilities of the CCP should be carried out ***including the price at which any termination of contracts in the CCP would be undertaken which should take into account market volatility and liquidity at the time of the resolution.*** Such a valuation should be subject to a right of appeal only together with the resolution decision. In addition, in certain cases, an ex-post comparison between the treatment that shareholders creditors, ***clearing members and their clients,*** have actually been afforded and the treatment they would have received if the resolution authority had not taken resolution action in relation to the CCP and if they had instead been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency proceedings, ***properly taking into account any plausible adverse effects of systemic instability and market turmoil***, should be carried out after resolution tools have been used. Where shareholders creditors, ***clearing members and their clients,*** have received, in payment of, or compensation for, their claims, less than the amount that they would have received if the resolution authority had not taken resolution action in relation to the CCP and if they had instead been possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or under normal insolvency

proceedings, ***properly taking into account any plausible adverse effects of systemic instability and market turmoil***, they should in certain cases be entitled to the payment of the difference. ***The calculation of the amount that they would have received should not assume provision of public financial support***. As opposed to the valuation prior to the resolution action, it should be possible to challenge that comparison separately from the resolution decision. Member States should be free to decide on the procedure as to how to pay any difference of treatment that has been determined to shareholders, creditors, ***clearing members and their clients.***

(44) To ensure an effective resolution, the valuation process should determine as accurately as possible any losses that need to be allocated for the CCP to re-establish a matched book of outstanding positions and to meet ongoing payment obligations. The valuation of assets and liabilities of failing CCP should be based on fair, prudent and realistic assumptions at the moment when the resolution tools are used. The value of liabilities should not, however, be affected in the valuation by the financial state of the CCP. It should be possible, for reasons of urgency, that resolution authorities make a rapid valuation of the assets or the liabilities of a failing CCP. That valuation should be provisional and should apply until an independent valuation is carried out.

(45) Upon entry into resolution, ***the resolution authority should ensure that*** any outstanding contractual obligations ***of the CCP, of clearing members and of other counterparties*** set out in the operating rules of the CCP, including outstanding recovery measures, ***are*** honoured except where the exercise of another resolution power or tool is more appropriate to ***mitigate*** adverse effects for financial stability or to secure the critical functions of the CCP in a timely manner. Losses should be absorbed by regulatory capital instruments and should be allocated to shareholders up to their capacity either through the cancellation or transfer of instruments of ownership or through severe dilution***, taking into account any losses that are to be absorbed by the enforcement of any outstanding obligation towards the CCP***. Where those instruments are not sufficient, resolution authorities should have the power to write down unsecured debt and unsecured liabilities, to the extent necessary, without jeopardising broader financial stability, in accordance with their ranking under applicable national insolvency law.

(46) In case the exercise by the CCP of its recovery measures has not succeeded in stemming losses, restoring it to a balanced position in terms of having a matched book of outstanding positions or replenishing pre-funded resources comprehensively, or where the resolution authority has determined that the exercise of these actions by the CCP would be detrimental for financial stability, the exercise of loss and position allocation powers by the authority should be aimed at allocating the outstanding losses, ensuring the return of the CCP to a balanced position and replenishing the required pre-funded resources either through the continued exercise of the tools in the CCP's operating rules or through other actions.

(47) Resolution authorities should also ensure that the costs of the resolution of the CCP are minimised and that creditors of the same class are treated in an equitable manner. Where creditors within the same class are treated differently in the context of resolution action, those distinctions should be justified in the public interest and should be neither directly nor indirectly discriminatory on the basis of nationality or any other ground.

(48) The ***recovery and*** resolution tools should be used to the fullest extent possible before any public sector injection of capital or equivalent public financial support to a CCP. The use of public financial support to assist in the resolution of failing institutions should comply with the relevant State aid provisions ***and should be treated as a tool of absolute last resort***.

(49) An effective resolution regime should minimise the costs of the resolution of a failing CCP borne by the taxpayers. It should ensure that CCPs can be resolved without jeopardising financial stability. The loss and position allocation tools ***should*** achieve that objective by ensuring that shareholders and counterparties who are among the creditors of the failing CCP suffer appropriate losses and bear an appropriate part of the costs arising from the failure of the CCP. The loss and position allocation tools ***should*** therefore give shareholders and counterparties of CCPs a stronger incentive to monitor the health of a CCP during normal circumstances in accordance with the recommendations of the Financial Stability Board[21] .

Wednesday 27 March 2019

(50) In order to ensure that resolution authorities have the necessary flexibility to allocate losses and positions to counterparties in a range of circumstances, it is appropriate that those authorities are able to ***firstly*** apply the loss and position allocation tools both where the objective is to maintain the ***critical clearing services within CCP under resolution and subsequently, should this be necessary, transfer such*** critical services to a bridge CCP or a third party ***leaving*** the residual part of the CCP ***to cease operation and be*** wound up.

(51) Where the loss and position allocation tools are applied with the objective of restoring the viability of the failing CCP to enable it to continue to operate as a going concern, the resolution should be accompanied by replacement of management, ▌ and a subsequent restructuring of the CCP and its activities in a way that addresses the reasons for its failure. That restructuring should be achieved through the implementation of a business reorganisation plan ▌.

(52) The loss and position allocation tools should be exercised with a view to re-matching the CCP's book, stemming any further losses and obtaining additional resources to help recapitalise the CCP and replenish its prefunded resources. In order to ensure that they are effective and achieve their objective, they should be able to apply to as wide a range ***as possible*** of contracts giving rise to unsecured liabilities or creating an unmatched book for the failing CCP. They should provide for the possibility to auction defaulters' positions among remaining clearing members, haircut outgoing variation margin payments ***to such members and their clients***, exercise any outstanding cash calls set out in recovery plans, exercise additional ***resolution*** cash calls specifically earmarked for the resolution authority ***in the CCP operating rules*** and write-down of capital and debt instruments issued by the CCP or other unsecured liabilities and a conversion of any debt instruments into shares. ***If deemed necessary to achieve the resolution objectives in a timely manner, whilst minimising risks to financial stability and avoiding the use of public funds, the resolution authorities should be able to partially or fully tear up the contracts of defaulted clearing members, of product lines and of the CCP.***

(53) ***With due respect for the impact on financial stability and as a last resort,*** resolution authorities should ***consider only*** partially ***including*** some contracts from loss allocation in a number of circumstances. Where those ***tools are exercised only partially***, the level of loss or exposure applied to other contracts may be ***modified*** subject to the 'no creditor worse off principle' being respected.

(54) Where the resolution tools have been used to transfer the critical functions or viable business of a CCP to a sound entity such as a private sector purchaser or bridge CCP, the residual part of the CCP should be liquidated within an appropriate time frame having regard to any need for the failing CCP to provide services or support to enable the purchaser or bridge CCP to carry out the activities or provide the services acquired by virtue of that transfer.

(55) The sale of business tool should enable authorities to sell the CCP or parts of its business to one or more purchasers without the consent of shareholders. When applying the sale of business tool, authorities should make arrangements for the marketing of that CCP or part of its business in an open, transparent and non-discriminatory process, while aiming to maximise, as far as possible, the sale price.

(56) Any net proceeds from the transfer of assets or liabilities of the CCP under resolution when applying the sale of business tool should benefit the entity left in the winding up proceedings. Any net proceeds from the transfer of instruments of ownership issued by the CCP under resolution when applying the sale of business tool should benefit the shareholders. Proceeds should be calculated net of the costs arisen from the failure of the CCP and from the resolution process.

(57) In order to perform the sale of business in a timely manner and protect financial stability, the assessment of the buyer of a qualifying holding should be carried out in a timely manner that does not delay the application of the sale of business tool

(58) Information concerning the marketing of a failing CCP and the negotiations with potential acquirers prior to the application of the sale-of-business tool is likely to be of systemic importance. In order to ensure financial stability, it is important that the disclosure to the public of such information required by Regulation (EU) No 596/2014 of the European Parliament and of the Council [1] may be delayed for the time necessary to plan and structure the resolution of the CCP in accordance with delays permitted under the market abuse regime.

(59) As a CCP which is wholly or partially owned by one or more public authorities or controlled by the resolution authority, a bridge CCP should have as its main purpose ensuring that essential financial services continue to be provided to the clearing members and clients of the CCP that had been placed under resolution and that essential financial activities continue to be performed. The bridge CCP should be operated as a viable going concern entity and be put back on the market when conditions are appropriate or wound up if not longer viable.

(60) Should all other options be practically unavailable or be demonstrably insufficient to safeguard financial stability, government participation in the shape of equity support or temporary public ownership should be possible, in accordance with applicable rules on State aid, including a restructuring of the operations of the CCP, and enable the deployed funds to be recouped ***over time*** from the ***clearing participants, which benefit from the financial support***. The use of government stabilisation tools is notwithstanding the role of ***any*** central banks in providing liquidity to the financial system even in times of stress, ***that is subject to their discretion, and should not be assumed likely to occur***. ***It should be temporary in nature. Therefore, comprehensive and credible arrangements enabling the recoupment over an appropriate period of time of the public funds provided should be established.***

(61) To ensure the ability of a ***resolution*** authority to apply the loss and position allocation tools to contracts with entities based in third countries, recognition of that possibility should be included in the operating rules of the CCP.

(62) Resolution authorities should have all the necessary legal powers that, in different combinations, could be exercised when using the resolution tools. They should include the power to transfer instruments of ownership, assets, rights, obligations or liabilities of a failing CCP to another entity such as another CCP or a bridge CCP, the power to write down or cancel instruments of ownership, or write down or convert liabilities of a failing CCP, the power to write down variation margin, the power to enforce any outstanding obligations of third parties in relation to the CCP including ***recovery and resolution*** cash calls ***including those set out in the CCP's operating rules*** and position allocations, the power to tear up contracts of the CCP partially and fully, the power to replace the management and the power to impose a temporary moratorium on the payment of claims. The CCP and the members of its board and senior management should remain liable, subject to Member State law, under civil or criminal law for their responsibility for the failure of the CCP.

(63) The resolution framework should include procedural requirements to ensure that resolution actions are properly notified and made public. However, as information obtained by resolution authorities and their professional advisers during the resolution process is likely to be sensitive, before the resolution decision is made public, it should be subject to an effective confidentiality regime. The fact that information on the contents and details of recovery and resolution plans and the result of any assessment of those plans may have far-reaching effects, in particular on the undertakings concerned, must be taken into account. Any information provided in respect of a decision before it is taken, be it on whether the conditions for resolution are satisfied, on the use of a specific tool or of any action during the proceedings, must be presumed to have effects on the public and private interests concerned by the action.

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[1] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

However, information that the resolution authority is examining a specific CCP could be enough for there to be negative effects on that CCP. It is therefore necessary to ensure that there are appropriate mechanisms for maintaining the confidentiality of such information, such as the content and details of recovery and resolution plans and the result of any assessment carried out in that context.

(64) Resolution authorities should have ancillary powers to ensure the effectiveness of the transfer of instruments of ownership or debt instruments and assets, rights and liabilities. Subject to the safeguards, those powers should include the power to remove third parties rights from the transferred instruments or assets and the power to enforce contracts and to provide for the continuity of arrangements vis-à-vis the recipient of the transferred assets and instruments of ownership. However, the rights of employees to terminate a contract of employment should not be affected. The right of a party to terminate a contract with a CCP under resolution, or a group entity thereof, for reasons other than the resolution of the failing CCP should not be affected either. Resolution authorities should have the ancillary power to require the residual CCP that is being wound up under normal insolvency proceedings to provide services that are necessary to enable the CCP to which assets, contracts or instruments of ownership have been transferred by virtue of the application of the sale of business tool or the bridge CCP tool to operate its business.

(65) In accordance with Article 47 of the Charter, the parties concerned have a right to due process and to an effective remedy against the measures affecting them. Therefore, the decisions taken by the resolution authorities should be subject to a right of appeal ***on substantive grounds if the decision was arbitrary and unreasonable at the time it was taken, given the information then readily available***.

(66) Resolution action taken by national resolution authorities may require economic assessments and a large margin of discretion. The national resolution authorities are specifically equipped with the expertise needed for making those assessments and for determining the appropriate use of the margin of discretion. Therefore, it is important to ensure that the economic assessments made by national resolution authorities in that context are used as a basis by national courts when reviewing the crisis management measures concerned.

(67) In order to cover situations of extreme urgency, and since the suspension of any decision of the resolution authorities might impede the continuity of critical functions, it is necessary to provide that the lodging of any appeal should not result in automatic suspension of the effects of the challenged decision and that the decision of the resolution authority should be immediately enforceable.

(68) In addition, where necessary in order to protect third parties who have acquired assets, contracts, rights and liabilities of the CCP under resolution in good faith by virtue of the exercise of the resolution powers by the authorities and to ensure the stability of the financial markets, a right of appeal should not affect any subsequent administrative act or transaction concluded on the basis of an annulled decision. In such cases, remedies for a wrongful decision should therefore be limited to the award of compensation for the damages suffered by the affected persons.

(69) Given that resolution action may be required to be taken urgently due to serious financial stability risks in the Member State and the Union, any procedure under national law relating to the application for ex-ante judicial approval of a crisis management measure and the court's consideration of such an application should be swift. This is without prejudice to the right that interested parties might have in making an application to the court to set aside the decision for a limited period after the resolution authority has taken the crisis management measure.

(70) It is in the interest of an efficient resolution, and in order to avoid conflicts of jurisdiction, that no normal insolvency proceedings for the failing CCP be opened or continued whilst the resolution authority is exercising its resolution powers or using the resolution tools, except at the initiative of, or with the consent of, the resolution authority. It is useful and necessary to suspend, for a limited period, certain contractual obligations so that the resolution authority has time to put into practice the resolution tools. This should not, however, apply to obligations of a failing CCP towards systems designated under Directive 98/26/EC of the European Parliament and of the Council[23], ***including*** other central counterparties and central banks. Directive 98/26/EC reduces the risk associated with participation in payment and securities settlement systems, in particular by reducing disruption in the event of the insolvency of

a participant in such a system. To ensure that those protections apply appropriately in crisis situations, whilst maintaining appropriate certainty for operators of payment and securities systems and other market participants, a crisis prevention measure or a resolution action should not be deemed to be insolvency proceedings within the meaning of Directive 98/26/EC, provided that the substantive obligations under the contract continue to be performed. However, the operation of a system designated under or the right to collateral security guaranteed by Directive 98/26/EC should not be undermined.

(71) In order to ensure that resolution authorities, when transferring assets and liabilities to a private sector purchaser or bridge CCP, have an adequate period to identify contracts that need to be transferred, it might be appropriate to impose proportionate restrictions on counterparties' rights to close out, accelerate or otherwise terminate financial contracts before the transfer is made. Such a restriction would be necessary to allow authorities to obtain a true picture of the balance sheet of the failing CCP, without the changes in value and scope that extensive exercise of termination rights would entail. In order to interfere with the contractual rights of counterparties to the minimum extent necessary, the restriction on termination rights should apply only in relation to the crisis prevention measure or resolution action, including the occurrence of any event directly linked to the application of such a measure, and rights to terminate arising from any other default, including failure to pay or deliver margin, should remain.

(72) In order to preserve legitimate capital market arrangements in the event of a transfer of some, but not all, of the assets, contracts, rights and liabilities of a failing CCP, it is appropriate to include safeguards to prevent the splitting of linked liabilities, rights and contracts, as appropriate. Such a restriction on selected practices in relation to linked contracts and related collateral should extend to contracts with the same counterparty covered by security arrangements, title transfer financial collateral arrangements, set-off arrangements, close out netting agreements, and structured finance arrangements. Where the safeguard applies, resolution authorities should seek to transfer all linked contracts within a protected arrangement, or leave them all with the residual failing CCP. Those safeguards should ensure that the regulatory capital treatment of exposures covered by a netting agreement for the purposes of Directive 2013/36/EU is affected to a minimum degree.

(73) EU CCPs provide services to clearing members and clients located in third countries and third country CCPs provide services to clearing members and clients located in the EU. Effective resolution of internationally active CCPs requires cooperation between, Member States and third-country authorities. For that purpose ESMA should provide guidance on the relevant content of cooperation arrangements to be concluded with authorities of third countries. Those cooperation arrangements should ensure effective planning, decision-making and coordination in respect of internationally active CCPs. National resolution authorities should recognise and enforce third-country resolution proceedings in certain circumstances. Cooperation should also take place with regard to subsidiaries of Union or third-country CCPs and their clearing members and clients.

(74) In order to ensure consistent harmonisation and adequate protection for market participants across the Union, the Commission should adopt draft regulatory technical standards developed by ESMA by means of delegated acts pursuant to Article 290 TFEU, in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010 to specify the content of the written arrangements and procedures for the functioning of the resolution colleges, the contents of resolution plans and elements relevant to the conduct of valuations.

(75) The Commission should be able to suspend any clearing obligation established pursuant to Article 5 of Regulation (EU) No 648/2012, following a request from the resolution authority of a CCP in resolution or the competent authority of a clearing member of a CCP in resolution, and following a non-binding opinion by ESMA, for specific classes of OTC derivatives which are cleared by a CCP which is in resolution. The decision to suspend should be adopted only if it is necessary to preserve financial stability and market confidence, in particular to avoid contagion effects and to prevent counterparties and investors having high and uncertain risk exposures to a CCP. In order to adopt its decision, the Commission should take into account the resolution objectives and the criteria stated in Regulation (EU) No 648/2012 for subjecting OTC derivatives to the clearing obligation regarding those OTC derivatives for which the suspension is requested. The suspension should be of a temporary nature with a possibility of renewal. Likewise, the role of the CCP's risk committee, as set out on Article 28 of Regulation (EU) No 648/2012,

should be enhanced to further encourage the CCP to manage its risks prudently and improve its resilience. Members of the risk committee should be able to inform the competent authority when the CCP does not follow the risk committee's advice, and representatives of clearing members and clients on the risk committee should be able to use information provided to monitor their exposures to the CCP, in accordance with confidentiality safeguards. Finally, resolution authorities of CCPs should also have access to all necessary information in trade repositories. Regulation (EU) No 648/2012 and Regulation (EU) 2365/2015 of the European Parliament and of the Council [1] should therefore be amended accordingly.

(76) In order to ensure that resolution authorities of CCPs are represented in all relevant fora, and to ensure that the ESMA benefits from all expertise necessary to carry out the tasks related to the recovery and resolution of CCPs, Regulation (EU) No 1095/2010 should be amended in order to include national CCP resolution authorities in the concept of competent authorities established by that Regulation.

(77) In order to prepare the decisions of ESMA in relation to the tasks allocated to it involving the development of draft technical standards on ex ante and ex-post valuations and on resolution colleges and plans, and of guidelines on the conditions for resolution, and on binding mediation, and to ensure the comprehensive involvement of EBA and its members in the preparation of these decisions, ESMA should create an internal Resolution Committee where relevant EBA competent authorities shall be invited to participate as observers.

(78) This Regulation respects the fundamental rights and observes the rights, freedoms and principles recognised in particular by the Charter, and, in particular, the right to property, the right to an effective remedy and to a fair trial and the right of defence.

(79) When taking decisions or actions under this Regulation, competent authorities and resolution authorities should always have due regard to the impact of their decisions and actions on financial stability in other ***jurisdictions*** and on the economic situation in other ***jurisdictions*** and should give consideration to the significance of any clearing member for the financial sector and the economy of the ***jurisdictions*** where such a clearing member is established.

(80) Since the objective of this Regulation, namely the harmonisation of the rules and processes for the resolution of CCPs, cannot be sufficiently achieved by the Member States, but can rather, by reason of the effects of a failure of any CCPs in the whole Union, 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.

(81) In order avoid inconsistencies between the provisions relating to the recovery and resolution of CCPs and the legal framework governing the recovery and resolution of credit institutions and investment firms, it is appropriate to defer the application of this Regulation until the date from which Member States are to apply the measures transposing [*PO: Please insert reference to the Directive amending Directive 2014/59/EU*].

HAVE ADOPTED THIS REGULATION:

TITLE I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down rules and procedures relating to the recovery and resolution of central counterparties (CCPs) authorised in accordance with Regulation (EU) No 648/2012 and rules relating to the arrangements with third countries in the field of recovery and resolution of CCPs.

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[1] Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

Article 2

Definitions

For the purposes of this Regulation the following definitions apply:

(1) 'CCP' means a CCP as defined in point (1) of Article 2 of Regulation (EU) No 648/2012;

(2) 'resolution college' means the college established pursuant to Article 4;

(3) 'resolution authority' means an authority designated ▌ in accordance with Article 3;

(4) 'resolution tool' means a resolution tool referred to in Article 27(1);

(5) 'resolution power' means a power referred to in Article 48;

(6) 'resolution objectives' means the resolution objectives laid down in Article 21;

(7) 'competent authority' means an authority designated ▌ in accordance with Article 22 of Regulation (EU) No 648/2012;

(7a) 'default event' means a scenario in which one or more clearing members fail to honour their financial obligations to the CCP;

(7b) 'non-default' means a scenario in which losses are incurred by a CCP for any reason other than a default of a clearing member, such as business, custody, investment, legal or operational failures or fraud, including failures resulting from cyber-attacks, or uncovered liquidity shortfalls;

(8) 'resolution plan' means a resolution plan for a CCP drawn up in accordance with Article 13;

(9) 'resolution action' means the application of a resolution tool, or the exercise of one or more resolution powers ***once the conditions for resolution set out in Article 22 are met***;

(10) 'clearing member' means a clearing member as defined in point 14 of Article 2 of Regulation (EU) No 648/2012;

(11) 'parent undertaking' means a parent undertaking as defined in point (15)(a) of Article 4(1) of Regulation (EU) No 575/2013;

(12) 'third-country CCP' means a CCP, the head office of which is established in a third country;

(13) 'set-off arrangement' means an arrangement under which two or more claims or obligations owed between the CCP under resolution and a counterparty can be set off against each other;

(14) 'financial market infrastructure' (FMI) means a central counterparty, a central securities depository, a trade repository, a payment system or another system defined and designated by a Member State under Article 2(a) of Directive 98/26/EC;

(15) 'client' means a client as defined in point 15 of Article 2 of Regulation (EU) No 648/2012;

(15a) 'O-SII' means other systemically important institutions as referred to in Article 131(3) of Directive 2013/36/EU;

(16) '***interoperable*** CCP' means a CCP which ***has entered into*** an interoperability arrangement ***pursuant to*** Title V of Regulation (EU) No 648/2012;

▌

Wednesday 27 March 2019

(18) 'recovery plan' means a recovery plan drawn up and maintained by a CCP in accordance with Article 9;

(19) 'board' means the administrative or supervisory board, or both, set up pursuant to national company law in accordance with Article 27(2) of Regulation (EU) No 648/2012;

(20) '***supervisory*** college' means the college referred to in Article 18(1) of Regulation (EU) No 648/2012 ***with the participation of the Single Resolution Board (SRB)***;

(21) 'capital' means capital ***as defined in point 25 of Article 2 of Regulation (EU) No 648/2012***;

(22) 'default waterfall' means default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012;

(23) 'critical functions' means activities, services or operations provided to third parties external to the CCP the discontinuance of which is likely to lead to the disruption of services that are essential to the real economy or to disrupt financial stability in one or more Member States due to the size, market share, external and internal interconnectedness, complexity or cross-border activities of a CCP or group, with particular regard to the substitutability of those activities, services or operations;

(24) 'group' means a ***group as defined in point 16 of Article 2 of Regulation (EU) No 648/2012***;

(25) 'linked FMI' means ***an interoperable*** CCP or another FMI ***or a CCP*** with which the CCP has contractual arrangements;

(26) '▌public financial support' means State aid within the meaning of Article 107(1) TFEU, or any other public financial support at supra-national level, which, if provided for at national level, would constitute State aid, that is provided in order to preserve or restore the viability, liquidity or solvency of a CCP or of a group of which such a CCP forms part;

(27) 'financial contracts' means contracts and agreements as set out in point 100 of Article 2(1) of Directive 2014/59/EU;

(28) 'normal insolvency proceedings' means collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator or an administrator normally applicable to CCPs under national law and either specific to those institutions or generally applicable to any natural or legal person;

(29) 'instruments of ownership' means shares, other instruments that confer ownership, instruments that are convertible into or give the right to acquire shares or other instruments of ownership, and instruments representing interests in shares or other instruments of ownership;

(30) 'designated national macroprudential authority' means the authority entrusted with the conduct of macroprudential policy referred to in Recommendation B1 of the Recommendation of the European Systemic Risk Board (ESRB) of 22 December 2011 on the macroprudential mandate of national authorities (ESRB/2011/3);

(31) 'default fund' means a default fund held by a CCP in accordance with Article 42 of Regulation (EU) No 648/2012;

(32) 'pre-funded resources' means resources which are held by and freely available to the relevant legal person;

(33) 'senior management' means the person or persons who effectively direct the business of the CCP, and the executive member or members of the board;

(34) 'trade repository' means a trade repository as defined in point 2 of Article 2 of Regulation (EU) No 648/2012 or in point 1 of Article 3 of Regulation (EU) 2015/2365 of the European Parliament and of the Council [1];

(35) 'Union State aid framework' means the framework established by Articles 107, 108 and 109 of the Treaty on the Functioning of the European Union (TFEU) and regulations and all Union acts, including guidelines, communications and notices, made or adopted pursuant to Article 108(4) or Article 109 TFEU;

(36) 'debt instruments' means bonds or other forms of unsecured transferable debt, instruments creating or acknowledging a debt, and instruments giving rights to acquire debt instruments;

(37) 'resolution cash call' means a request for cash resources to be provided by clearing members to the CCP, additional to prefunded resources, based on statutory powers available to a resolution authority in accordance with Article 31 ***and as laid out in the operating rules of the CCP***;

(38) '***recovery*** cash calls' means requests for cash resources to be provided by clearing members to the CCP, additional to prefunded resources, based on contractual arrangements laid out in the operating rules of the CCP;

(39) 'transfer powers' means the powers specified in points (c) or (d) of Article 48(1) to transfer shares, other instruments of ownership, debt instruments, assets, rights, obligations or liabilities, or any combination of those items from a CCP under resolution to a recipient;

(40) 'derivative' means a derivative as defined in point 5 of Article 2 of Regulation (EU) No 648/2012;

(41) 'netting arrangement' means an arrangement under which a number of claims or obligations can be converted into a single net claim, including close-out netting arrangements under which, on the occurrence of an enforcement event (however or wherever defined) the obligations of the parties are accelerated so as to become immediately due or are terminated, and in either case are converted into or replaced by a single net claim, including 'close-out netting provisions' as defined in point (n)(i) of Article 2(1) of Directive 2002/47/EC of the European Parliament and of the Council [2] and 'netting' as defined in point (k) of Article 2 of Directive 98/26/EC;

(42) 'crisis prevention measure' means the exercise of powers to require a CCP to take measures to remedy deficiencies in its recovery plan under Article 10(8) and (9), the exercise of powers to address or remove impediments to resolvability under Article 17, or the application of an early intervention measure under Article 19;

(43) 'termination right' means a right to terminate a contract, a right to accelerate, close out, set-off or net obligations or any similar provision that suspends, modifies or extinguishes an obligation of a party to the contract or a provision that prevents an obligation under the contract from arising that would otherwise arise;

(44) 'title transfer financial collateral arrangement' means a title transfer financial collateral arrangement as defined in point (b) of Article 2(1) of Directive 2002/47/EC;

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[1] Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012 (OJ L 337, 23.12.2015, p. 1).

[2] Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements (OJ L 168, 27.6.2002, p. 43).

(45) 'covered bond' means an instrument as referred to in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council ([1]);

(46) 'third-country resolution proceedings' means an action under the law of a third country to manage the failure of a third-country CCP that is comparable, in terms of objectives and anticipated results, to resolution actions under this Regulation;

(47) 'relevant national authorities' means the resolution authorities, competent authorities or competent ministries designated in accordance with this Regulation or pursuant to Article 3 of Directive 2014/59/EU or other authorities in Member States with powers in relation to assets, rights, obligations or liabilities of third-country CCPs providing clearing services in their jurisdiction;

(48) 'relevant third-country authority' means a third-country authority responsible for carrying out functions comparable to those of resolution authorities or competent authorities pursuant to this Regulation.

TITLE II

AUTHORITIES, RESOLUTION COLLEGE AND PROCEDURES

SECTION I

RESOLUTION AUTHORITIES, RESOLUTION COLLEGES AND INVOLVEMENT OF EUROPEAN SUPERVISORY AUTHORITIES

Article 3

Designation of resolution authorities and competent ministries

1. ***Member States where a CCP is established shall and Member States where no CCP is established may designate one*** resolution authorit***y*** that ***is*** empowered to ***apply*** the resolution tools and exercise the resolution powers as set out in this Regulation.

Resolution authorities shall be national central banks, competent ministries, public administrative authorities or other authorities entrusted with public administrative powers.

2. Resolution authorities shall have the expertise, resources and operational capacity to apply resolution measures and exercise their powers with the speed and flexibility that are necessary to achieve the resolution objectives.

3. Where a resolution authority designated pursuant to paragraph 1 is entrusted with other functions, the ***effective*** operational independence***, including separate staff, reporting lines and of the decision making process*** of that resolution authority, ***in particular from the competent authority designated under Article 22 of Regulation (EU) No 648/2012 and the competent and resolution authorities of the clearing members referred to in point (c) of Article 18(2) of that Regulation shall be ensured and*** all necessary arrangements ***shall be established and demonstrated to the satisfaction of ESMA*** in order to avoid conflicts of interest between the functions entrusted to the resolution authority pursuant to this Regulation and all other functions entrusted to that authority.

The requirements expressed in the first paragraph shall not preclude either that reporting lines converge at the highest level of an organisation that subsumes different authorities or that, staff may, under predefined conditions, be seconded from one authority to another to meet temporarily high workloads.

4. ▌The resolution authority shall adopt and make public the internal rules ensuring the structural separation referred to in the first subparagraph, including rules regarding professional secrecy and information exchanges between the different functional areas.

5. Each Member State shall designate a single ministry which is responsible for exercising the functions entrusted to the competent ministry pursuant to this Regulation.

([1]) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32)

6. ▌The resolution authority shall inform the competent ministry ***in a timely manner*** of the decisions taken pursuant to this Regulation.

7. Where the decisions referred to in paragraph 6 have a direct fiscal impact ▌, the resolution authority shall obtain the ***necessary*** approval ***as*** stipulated by ▌ law.

8. Member States shall notify the Commission and the European Securities and Markets Authority (ESMA) of the resolution authorities designated pursuant to paragraph 1.

9. ▌

10. ESMA shall publish a list of the resolution authorities and the contact authorities notified pursuant to paragraph 8.

Article 4

Resolution colleges

1. The resolution authority of the CCP shall establish, manage and chair a resolution college to carry out the tasks referred to in Articles 13, 16 and 17 and ensure cooperation and coordination with third-country resolution authorities.

Resolution colleges shall provide a framework for resolution authorities and other relevant authorities to perform the following tasks:

(a) exchange information relevant for the development of resolution plans, ***for assessing the CCP's interconnectedness and that of its participants, along with other central banks of interest,*** for the application of preparatory and preventative measures and for resolution;

(b) ***assess*** resolution plans pursuant to Article 13;

(c) assess the resolvability of CCPs pursuant to Article 16;

(d) identify, address and remove impediments to the resolvability of CCPs pursuant to Article 17;

(e) coordinate public communication of resolution strategies and schemes;

(ea) exchange recovery and resolution plans of clearing members and assess potential impact and interconnectedness with the CCP;

2. The following shall be members of the resolution college:

(a) the resolution authority of the CCP;

(b) the competent authority of the CCP;

(c) the competent authorities and the resolution authorities of the clearing members referred to in point (c) of Article 18 (2) of Regulation (EU) No 648/2012;

(d) the competent authorities referred to in point (d) of Article 18(2) of Regulation (EU) No 648/2012;

(e) the competent authorities and the resolution authorities of the CCPs referred to in point (e) of Article 18(2) of Regulation (EU) No 648/2012;

(f) the competent authorities referred to in point (f) of Article 18(2) of Regulation (EU) No 648/2012;

(g) the members of the ESCB referred to in point (g) of Article 18(2) of Regulation (EU) No 648/2012;

(h) the central banks ***of issue*** referred to in point (h) of Article 18(2) of Regulation (EU) No 648/2012;

(i) the competent authority of the parent undertaking, where Article 11(1) applies;

(ia) the competent authorities charged with supervision of O-SIIs referred to in Article 131 (3) of Directive 2013/36/EU;

(j) the competent ministry, where the resolution authority referred to in point (a) is not the competent ministry;

(k) ESMA;

(l) the European Banking Authority (EBA).

3. ESMA, EBA ***and the competent authorities charged with the supervision of O-SIIs*** shall not have voting rights in resolution colleges.

4. The competent and resolution authorities of clearing members established in third countries and the competent and resolution authorities of third-country CCPs with which the CCP has established interoperability arrangements may be invited to participate in the resolution college as observers. Their attendance shall be conditional on those authorities being subject to confidentiality requirements equivalent, in the opinion of the chair of the ***resolution*** college, to those laid down in Article 71.

The participation of third country authorities in the resolution college ***may*** be limited to the discussion of ***select*** cross-border enforcement issues, ***which may include*** the following:

(a) effective and coordinated enforcement of resolution actions, in particular in accordance with Articles 53 and 75;

(b) identifying and removing possible impediments to effective resolution action that may stem from divergent laws governing collateral, netting and set-off arrangements and different recovery and resolution powers or strategies;

(c) identifying and coordinating any need for new licensing, recognition or authorisation requirements, considering the need for resolution actions to be carried out in a timely fashion;

(d) the possible suspension of any clearing obligation for the relevant asset classes affected by the resolution of the CCP pursuant to Article 6a of Regulation (EU) No 648/2012 or to any equivalent provision under the national law of the third country concerned;

(e) the possible influence of different time-zones on the applicable close of business hours regarding the end of trading.

5. The chair of the resolution college shall be responsible for the following tasks:

(a) establishing written arrangements and procedures for the functioning of the resolution college, after consulting the other members of the resolution college;

(b) coordinating all activities of the resolution college;

(c) convening and chairing all meetings of the resolution college;

(d) keeping all members of the resolution college fully informed in advance of the organisation of meetings, of the main issues to be discussed in those meetings and of the items to be considered for the purposes of those discussions;

(e) deciding whether and which third-country authorities are invited to attend particular meetings of the resolution college in accordance with paragraph 4;

(f) coordinating the timely exchange of all relevant information between members of the resolution college;

(g) keeping all members of the resolution college informed, in a timely manner, of the decisions and outcomes of those meetings;

(ga) making sure the college members exchange all relevant information in a timely manner for the exercise of their tasks under this Regulation.

6. In order to ensure the consistent and coherent functioning of resolution colleges across the Union, ESMA shall develop draft regulatory technical standards in order to specify the content of the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1.

For the purposes of preparing the regulatory standards referred to in the first subparagraph, ESMA shall take into account the relevant provisions of the Commission Delegated Regulation (EU) No 876/2013 ([1]), of Section 1 of Chapter 6 of Commission Delegated Regulation (EU) XXX/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 88(7) of Directive 2014/59/EU ([2]).

ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: insert date 12 months after the date of entry into force of this Regulation*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in paragraph 6 in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 5

ESMA Resolution Committee

1. ESMA shall create a resolution committee pursuant to Article 41 of Regulation (EU) No 1095/2010 for the purpose of preparing the decisions entrusted to ESMA in this Regulation, except for the decisions to be adopted pursuant to Article 12 of this Regulation.

The resolution committee shall ***also*** promote the development and coordination of resolution plans and ***design strategies*** for the resolution of failing CCPs.

2. The resolution committee shall be composed of the authorities designated pursuant to Article 3(1) of this Regulation.

Authorities referred to in points (i) and (iv) of Article 4(2) of Regulation (EU) No 1093/2010 ***and the competent authorities charged with supervision of O-SIIs*** shall be invited to participate in the resolution committee as observers.

2a. ESMA shall assess CCP recovery and resolution arrangements across the Union in terms of their aggregate effect on Union financial stability through regular stress-testing and crisis simulation exercises with respect to potential system-wide stress events. In exercising this role, ESMA shall ensure consistency with the assessments of the resilience of individual CCPs carried out pursuant to Chapter XII of Commission Delegated Regulation (EU) No 153/2013 with regard to the frequency and design of the tests and shall cooperate closely with the supervisory colleges established in accordance with Article 18 of Regulation (EU) No 648/2012, the ESRB and competent authorities designated under Article 4 of Directive 2013/36/EU, including the ECB in carrying out its tasks within a single supervisory mechanism under Regulation (EU) No 1024/2013 and any national competent authorities tasked with the supervision of CCPs. In areas where these arrangements are found to be wanting as a result of these comprehensive stress tests, the responsible institution or institutions will have to address the shortcomings and resubmit their arrangements for another round of stress tests within 6 months of the previous stress tests.

3. For the purposes of this Regulation, ESMA shall cooperate with the European Insurance and Occupational Pensions Authority (EIOPA) and EBA within the framework of the Joint Committee of the European Supervisory Authorities established in Article 54 of Regulation (EU) No 1093/2010, Article 54 of Regulation (EU) No 1094/2010 and Article 54 of Regulation (EU) No 1095/2010.

4. For the purposes of this Regulation, ESMA shall ensure structural separation between the resolution committee and other functions referred to in Regulation (EU) No 1095/2010.

([1]) Commission Delegated Regulation (EU) No 876/2013 of 28 May 2013 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on colleges for central counterparties (OJ L 244, 13.9.2013, p. 19)

([2]) Commission Delegated Regulation (EU) … of 23.3.2016 supplementing Directive 2014/59/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the content of recovery plans, resolution plans and group resolution plans, the minimum criteria that the competent authority is to assess as regards recovery plans and group recovery plans, the conditions for group financial support, the requirements for independent valuers, the contractual recognition of write-down and conversion powers, the procedures and contents of notification requirements and of notice of suspension and the operational functioning of the resolution colleges, C(2016)1691 [*Note to Publication Office — Please introduce number of Delegated Regulation*]

Article 6

Cooperation between authorities

1. Competent authorities and resolution authorities ***and ESMA*** shall cooperate closely in the preparation, planning and***, to the extent possible, in the*** application of resolution decisions. ***In particular, the resolution authority and other relevant authorities, including ESMA, the resolution authorities designated in accordance with Article 3 of Directive 2014/59/EU and competent authorities and authorities of linked FMIs, should cooperate and communicate effectively in recovery to enable the resolution authority to act in a timely manner.***

2. Competent authorities and resolution authorities shall cooperate with ESMA for the purposes of this Regulation in accordance with Regulation (EU) No 1095/2010.

Competent authorities and resolution authorities shall, without delay, provide ESMA with all the information necessary to carry out its duties in accordance with Article 35 of Regulation (EU) No 1095/2010.

SECTION II

DECISION-MAKING AND PROCEDURES

Article 7

General principles regarding decision-making

Competent authorities, resolution authorities and ESMA shall take account of all the following principles and aspects when making decisions and taking action pursuant to this Regulation:

(a) that the ***effectiveness and*** proportionality of any decision or action in relation to an individual CCP is ensured, taking into account at least the following factors:

i) ***the ownership, legal and organisational structure of the CCP, including whether it is part of a larger group of FMIs or other financial institutions***;

ii) the nature, size and complexity of the CCP's business;

iii) ***the nature and diversity of*** the CCP's clearing membership structure ***including clearing members, their clients and other counterparties to which those clearing members and clients provide clearing services under that CCP, where those can be identified easily and without undue delay;***

v) the CCP's interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general;

va) whether the CCP clears any OTC derivative contract pertaining to a class of OTC derivatives that has been declared subject to the clearing obligation in accordance with Article 5(2) of Regulation (EU) No. 648/2012;

vb) the availability of other CCPs that could credibly and feasibly act as a substitute for the critical functions of the CCP;

vi) the actual or potential consequences of the infringements referred to in Articles 19(1) and 22(2).

(b) that the imperatives of efficacy of decision-making and of keeping costs as low as possible ***while preventing market disruption*** when taking early intervention measures or resolution action are observed ***in order to avoid the use of public funds***;

(c) that decisions are made and action is taken in a timely manner and with due urgency when required;

(d) that resolution authorities, competent authorities and other authorities cooperate with each other to ensure that decisions are made and action is taken in a coordinated and efficient manner;

(e) that the roles and responsibilities of relevant authorities within each Member State are defined clearly;

(f) that due consideration is given to the interests of the Member States where the CCP provides services and where its clearing members, their clients, and any interoperable CCPs are established, and in particular the impact of any decision or action or inaction on the financial stability or fiscal resources of those Member States and the Union as a whole;

(g) that due consideration is given to the objectives of balancing the interests of the various clearing ***members, their clients, wider*** creditors and ***stakeholders of the CCP*** in the Member States involved and of avoiding unfairly prejudicing or unfairly protecting the interests of particular actors in some Member States, including avoiding unfair burden allocation across Member States;

(ga) that public financial support is avoided to the greatest extent possible and used only as a last resort and under conditions set out in Article 45, and that no expectation of public financial support is created;

(h) that any obligation under this Regulation to consult an authority before any decision or action is taken implies at least an obligation to consult on those elements of the proposed decision or action which have or which are likely to have:

(i) an effect on the clearing members, clients or linked FMIs;

(ii) an impact on the financial stability of the Member State where the clearing members, clients or linked FMIs are established or located;

(i) that resolution plans referred to in Article 13 are complied with, unless deviation from those plans is necessary in order to better achieve the resolution objectives;

(j) that transparency is ensured ***towards the relevant authorities*** wherever ***possible, in particular where*** a proposed decision or action is likely to have implications on the financial stability or fiscal resources, ***and towards*** any other jurisdiction, or other parties ***where reasonably possible.***

(k) that they coordinate and cooperate as closely as possible, also with the goal to lower the overall cost of resolution;

(l) that negative economic and social effects of any decision in all the Member States and third countries where the CCP provides services, including negative impacts on financial stability, are mitigated.

Article 8

Information exchange

1. Resolution authorities, competent authorities ***and ESMA*** shall, on their own initiative or on request, provide each other ***in a timely manner*** with all the information relevant for the exercise of their tasks under this Regulation.

2. Resolution authorities shall only divulge confidential information provided by a third-country authority where that authority has given its prior written consent.

Resolution authorities shall provide the competent ministry with all information relating to decisions or measures that require notification, consultation or consent of that ministry.

Wednesday 27 March 2019

TITLE III

PREPARATION

CHAPTER I

Recovery and resolution planning

SECTION 1

RECOVERY PLANNING

Article 9

Recovery plans

1. CCPs shall draw up and maintain a ***comprehensive and effective*** recovery plan providing for measures to be taken ***in the case of both default and non-default events and combinations of both*** in order to restore their financial position ***without any public financial support in order to enable them to continue to provide clearing services*** following a significant deterioration of their financial situation or a risk of breaching their prudential requirements under Regulation (EU) No 648/2012.

1a. The recovery plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on:

(a) default events;

(b) non-default events;

The recovery plan shall include arrangements on how the provisions foreseen for scenarios under points (a) and (b) are to be combined in the case that both scenarios occur at the same time.

2. The recovery plan shall include a framework of indicators, ***based on the risk profile on the CCP***, that identify the circumstances under which measures in the recovery plan are to be taken, taking into account different scenarios. The indicators may be of either a qualitative or a quantitative nature relating to the financial position of the CCP.

CCPs shall put in place appropriate arrangements, ***including close cooperation between the relevant authorities,*** for the regular monitoring of the indicators. ***CCPs shall report to ESMA and competent authorities on the outcome of this monitoring.***

2a. ESMA shall, in cooperation with the ESRB, by … [one year after the entry into force of this Regulation], issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify the minimum list of qualitative and quantitative indicators referred to in the first subparagraph of paragraph 2 of this Article.

3. CCPs shall ***include provisions in their operating rules outlining the procedures to be followed by them where, in order to achieve the goals of the recovery process, they propose to:***

(a) take measures provided for in their recovery plan despite the fact that the relevant indicators have not been met; or

(b) refrain from taking measures provided for in their recovery plan despite the fact that the relevant indicators have been met.

3a. Any measure to be taken pursuant to paragraph 3 shall require the approval of the competent authority

4. ▌ Where a CCP intends to activate its recovery plan, it shall inform the competent authority ***and ESMA*** of the nature and magnitude of the problems it has identified, setting out all relevant circumstances and indicating the recovery measures or other measures it intends to take to address the situation.

Where the competent authority considers that a recovery measure that the CCP intends to take may cause significant adverse effects to the financial system, ***is unlikely to be effective or may disproportionately affect the clients of the clearing members***, it may ***after informing ESMA*** require the CCP to refrain from taking that measure.

5. The competent authority shall promptly inform the resolution authority of any notification received in accordance with the first subparagraph of paragraph 4 and any subsequent instruction by the competent authority in accordance with the second subparagraph of paragraph 4.

Where the competent authority is informed in accordance with the first subparagraph of paragraph 4, it shall restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP and it may restrict, prohibit or freeze any payments of variable remuneration pursuant to Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, discretionary pension benefits or severence packages to management.

6. CCPs shall ***review and*** update, ***where necessary,*** their recovery plans at least annually and after ***any*** change to their legal or organisational structure or business or financial situation which could have a material effect on those plans or otherwise necessitate a change to the plans. Competent authorities may require CCPs to update their recovery plans more frequently.

7. Recovery plans shall:

(a) not assume any access to or receipt of public financial support, central bank emergency liquidity assistance or central bank emergency liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms;

(b) consider the interests of all stakeholders that are likely to be affected by that plan, specifically in relation to clearing members and their clients, both direct and indirect; and

(c) ensure that clearing members do not have unlimited exposures toward the CCP.

7a. Recovery tools shall allow to:

(a) address losses from non-default events;

(b) address losses from default events;

(c) re-establish a matched book following a default event;

(d) address uncovered liquidity shortfalls; and

(e) replenish the financial resources of the CCP, including its own funds, to a level sufficient in order for the CCP to meet its obligations under Regulation (EU) No 648/2012 and to support the continued and timely operation of the critical functions of the CCP.

7b. Recovery plans shall contemplate a range of extreme scenarios, including the default of clearing members beyond the largest two and of other CCPs, relevant to the CCP's specific conditions, including its product mix, business model and liquidity and risk governance framework. That range of scenarios shall include both system-wide stress events and stress events specific to the CCP, taking into account the potential impact of domestic and cross-border contagion in crises, as well as simultaneous crises in several significant markets.

7c. ESMA shall, in cooperation with the ESRB, by … [12 months after the date of entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 further specifying the range of scenarios to be considered for the purposes of paragraph 1. In issuing such guidelines, ESMA shall have regard, where appropriate, to the relevant international work carried out in the area of CCP supervisory stress testing and of CCP recovery. It shall seek to take advantage, where achievable, of synergies between supervisory stress testing and recovery scenarios modelling.

7d. Where the CCP is part of a group and contractual parental support agreements, including the financing of the CCP's capital requirements determined in accordance with Article 16 of Regulation (EU) No 648/2012 through instruments of ownership issued by its parent undertaking form part of the recovery plan, the recovery plan shall contemplate scenarios in which those agreements cannot be honoured.

7e. The recovery plan shall include the following items:

(a) a summary of the key elements of the plan and a summary of overall recovery capacity;

(b) a summary of the material changes to the CCP since the most recently filed recovery plan;

(c) a communication and disclosure plan outlining how the CCP intends to manage any potentially negative market reactions while acting in as transparent a manner as possible;

(d) a comprehensive range of capital, loss allocation and liquidity actions required to maintain or restore the viability and financial position of the CCP including to restore its matched book and capital, and replenish pre-funded resources which are necessary for the CCP to maintain its viability as a going concern and to continue providing its critical services in accordance with Article 1(2) of Commission Delegated Regulation (EU) No 152/2013 and Articles 32(2) and 32(3) of Commission Delegated Regulation (EU) No 153/2013;

(e) appropriate conditions and procedures to ensure the timely implementation of recovery actions, as well as a wide range of recovery options, including an estimation of the timeframe for executing each material aspect of the plan;

(f) a detailed description of any material impediment to the effective and timely execution of the plan, including consideration of the impact on clearing members and clients including in cases where clearing members are likely to take measures in accordance with their recovery plans as referred to in Articles 5 and 7 of Directive 2014/59/EU, and where appropriate on the rest of the group;

(g) identification of critical functions;

(h) a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the CCP;

(i) a detailed description of how recovery planning is integrated into the corporate governance structure of the CCP, how it forms part of the operating rules of the CCP agreed to by clearing members, as well as the policies and procedures governing the approval of the recovery plan and identification of the persons in the organisation responsible for preparing and implementing the plan;

(j) arrangements and measures incentivising non-defaulting clearing members to bid competitively in auctions of a defaulted members' positions;

(k) arrangements and measures to ensure that the CCP has adequate access to contingency funding sources, including potential liquidity sources, an assessment of available collateral and an assessment of the possibility to transfer resources or liquidity across business lines, to ensure that it can continue to carry out its operations and meet its obligations as they fall due;

(l) arrangements and measures:

(i) to reduce risk;

(ii) to restructure contracts, rights, assets and liabilities including:

a) to partially or fully terminate contracts

b) to reduce the value of any gains payable by the CCP to non-defaulting clearing members and their clients

(iii) to restructure business lines;

(iv) necessary to maintain continuous access to financial markets infrastructures;

(v) necessary to maintain the continuous functioning of the CCP's operational processes, including infrastructure and IT services;

(vi) a description of management actions or strategies to restore financial soundness and the anticipated financial effect of those actions or strategies;

(vii) preparatory measures that the CCP has taken or plans to take in order to facilitate the implementation of the recovery plan, including those necessary to enable the timely recapitalisation of the CCP, restoring its matched book and replenishment of its pre-funded resources, as well as to ensure its enforceability across borders; this shall include arrangements for non-defaulting clearing members to make a minimum contribution in cash to the CCP up to an amount equivalent to their contribution to the CCP's default fund.

(viii) a framework of indicators which identifies the points at which appropriate actions referred to in the plan may be taken.

(ix) where applicable, an analysis of how and when the CCP may apply, in the conditions addressed in the plan, for the use of central bank facilities and identify those assets that would be expected to qualify as collateral under the terms of the central bank facility;

(x) taking into account the provisions of Article 49(1) of Regulation (EU) 648/2012, a range of extreme scenarios of stress relevant to the CCP's specific conditions, including system-wide events and stress specific to the legal entity and any group to which it belongs and specific stress to the individual clearing members of the CCP or, where appropriate, a linked FMI;

(xi) taking into account the provisions of Article 34 and Article 49(1) of Regulation (EU) 648/2012, scenarios caused both by the stress or default of one or more of its members and by other reasons including losses from the CCP's investment activities or from operational problems (including severe external threats to a CCP's operations due to an external disruption, shock or cyber-related incident);

7f. Following a default event, a CCP shall use an additional amount of dedicated own resources equivalent to the amount required to be used in accordance with Article 45(4) of Regulation (EU) 648/2012, prior to the use of the tools referred to in paragraph 7e(l) of this Article. Where the competent authority deems the risks leading to the loss to have been under the control of the CCP, it may require the CCP to use a higher amount of dedicated own resources to be defined by the competent authority.

7 g. Following a non-default event, a CCP shall use dedicated own resources equivalent to three times the amount required to be used in accordance with Article 45(4) of Regulation (EU) 648/2012, prior to the use of the tools referred to in paragraph 7e(l) of this Article and, to maintain a strictly incentivised process, CCPs shall not use the default fund and the default waterfall. Where the competent authority deems the risks leading up to the loss to have been outside the control of the CCP, it may allow the CCP to use a lower amount of dedicated own resources to be defined by the competent authority.

7h. A CCP shall, in agreement with the competent authority, use the tools referred to in paragraph 7e (l)(ii) only after cash calls of a minimum amount equivalent to the CCP's default fund have been carried out under the conditions referred to in paragraph 7e(l)(vii).

7i. Competent authorities may require CCPs to include additional information in their recovery plans.

8. The board of the CCP shall assess, taking into account the advice of the risk committee in accordance with Article 28 (3) of Regulation (EU) No 648/2012, and approve the recovery plan before submitting it to the competent authority ***and to ESMA.***

9. Recovery plans shall be considered as part of the operating rules of CCPs and CCPs ***and their clearing members in the case of provisions related to their clients*** shall ensure that the measures set out in the recovery plans are enforceable at all times.

9a. CCPs shall make the items listed at points (a) to (g) of paragraph 7e publicly available. The items listed at points (h) to (l) of that paragraph should be publicly available to the extent there is public interest in transparency of these items. Clearing members shall ensure that any provisions affecting their clients are adequately communicated to them.

9b. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to measures taken by a CCP in accordance with its recovery plan established under this Regulation.

Article 10

Assessment of recovery plans

1. CCPs ▌ shall submit their recovery plans to the competent authority ▌.

2. The competent authority shall transmit each plan to the ***supervisory*** college and to the resolution authority without undue delay.

Within six months of the submission of each plan, and in coordination with the ***supervisory*** college in accordance with the procedure in Article 12, the competent authority shall review the recovery plan and assess the extent to which it satisfies the requirements set out in Article 9.

3. When assessing the recovery plan, the competent authority shall ***consult the ESRB*** and take into consideration the CCP's capital structure, its default waterfall, the level of complexity of the organisational structure and the risk profile of the CCP, ***including in terms of financial, operational and cyber risks, the substitutability of its activities***, and the impact that the implementation of the recovery plan would have on clearing members, their clients, financial markets served by the CCP and on the financial system as a whole ***The competent authority shall take into due consideration whether the recovery plan will ensure appropriate incentives for the CCP's owners and clearing members and their clients to control the amount of risk that they bring to or incur in the system. The competent authority shall encourage monitoring of the CCP's risk-taking and risk management activities, and encourage as full participation as possible in the CCP's default management process***.

3a. When assessing the recovery plan, the competent authority shall only take parental support agreements into consideration as valid parts of the recovery plan where those agreements are contractually binding.

4. The resolution authority shall examine the recovery plan in order to identify any measures which may adversely impact the resolvability of the CCP. ***Where any such matters are identified,*** the resolution authority shall ***bring them to the attention of the competent authority and*** make recommendations to the competent authority ***on ways to address the adverse impact of those measures on the resolvability of the CCP.***

5. Where the competent authority decides not to act on the recommendations of the resolution authority pursuant to paragraph 4, it shall justify that decision in full to the resolution authority.

6. Where the competent authority agrees with the recommendations of the resolution authority, or otherwise considers that there are material deficiencies in the recovery plan or material impediments to its implementation, it shall notify the CCP or its parent undertaking and shall give the CCP the opportunity to submit its views.

7. The competent authority, taking into account the CCP's views, may require the CCP or the parent undertaking to submit, within two months, extendable by one month with the competent authority's approval, a revised plan demonstrating how those deficiencies or impediments are addressed. The revised plan shall be assessed in accordance with the second subparagraph of paragraph 2.

8. Where the competent authority considers that the deficiencies and impediments have not been adequately addressed by the revised plan, or where the CCP or parent undertaking has not submitted a revised plan, it shall require the CCP or the parent undertaking to make specific changes to the plan.

9. Where it is not possible to adequately remedy the deficiencies or impediments through specific changes to the plan, the competent authority shall require the CCP or the parent undertaking to identify within a reasonable timeframe any changes to be made to its business in order to address the deficiencies in or impediments to the implementation of the recovery plan.

Where the CCP or parent undertaking fails to identify such changes within the timeframe set by the competent authority, or where the competent authority considers that the actions proposed would not adequately address the deficiencies or impediments to the implementation of the recovery plan, ***or improve the resolvability of the CCP,*** the competent authority shall require the CCP or parent undertaking***, within a reasonable period of time specified by the competent authority,*** to take any of the following measures, taking into account the seriousness of the deficiencies and impediments, the effect of the measures on the CCP's business ***and the ability of the CCP to remain in compliance with Regulation (EU) No 648/2012***:

(a) to reduce the risk profile of the CCP;

(b) to enhance the CCP's ability to be recapitalised in a timely manner to meet its prudential requirements;

(c) to review the CCP's strategy and structure;

(d) to make changes to the default waterfall, recovery measures and other loss allocation arrangements so as to improve resolvability and the resilience of critical functions;

(e) to make changes to the governance structure of the CCP.

10. The request referred to in the second subparagraph of paragraph 9 shall be reasoned and be notified in writing to the CCP.

10a. ESMA shall develop draft regulatory technical standards specifying the minimum criteria that the competent authority is to assess for the purposes of the assessment of paragraph 2 of this Article and of Article 11(1).

ESMA shall submit those draft regulatory technical standards to the Commission by … [12 months after the entry into force of this regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 11

Recovery plans for CCPs that belong to a group

1. Where the parent undertaking of the group to which a CCP belongs is an institution as defined in point 23 of Article 2(1) of Directive 2014/59/EU or an entity referred to in point (c) or (d) of Article 1(1) of that Directive, the competent authority, as referred to in point 21 of Article 2(1) of that Directive, shall require the parent undertaking to submit a recovery plan for the group in accordance with that Directive. That competent authority shall submit the recovery plan for the group to the competent authority of the CCP.

Wednesday 27 March 2019

Where the parent undertaking of the group to which a CCP belongs is not an institution or entity referred to in the first subparagraph and where ***necessary*** in order to ***assess all elements*** of Section A of the Annex, competent authorities may ▌ in accordance with the procedure laid down in Article 10 of this Regulation, require the ***CCP*** to submit a plan for the recovery of the CCP ***taking into account all relevant elements related to*** the group ***structure. Such a*** request shall be reasoned and shall be notified in writing to the CCP and its parent undertaking.

2. Where the parent undertaking submits the recovery plan in accordance with ***the first subparagraph of*** paragraph 1, the provisions on the recovery of the CCP shall constitute a distinct part of that recovery plan and shall comply with the requirements of this Regulation and the CCP ***may*** not be required to prepare an individual recovery plan.

3. The competent authority of the CCP shall assess in accordance with Article 10 the provisions on the recovery of the CCP, and, where relevant, shall consult the competent authority of the group.

Article 12

Coordination procedure for recovery plans

1. The ***supervisory*** college shall reach a joint decision on all of the following issues:

(a) the review and assessment of the recovery plan;

(b) the application of the measures referred to in Article 9(6), (7), (8) and (9);

(c) whether a recovery plan is to be drawn up by parent undertakings in accordance with Article 11(1).

2. The college shall reach a joint decision on the issues referred to in points (a) and (b) within four months of the date of the transmission of the recovery plan by the competent authority.

The college shall reach a joint decision on the issue referred to in point (c) within four months of the date that the competent authority decides to request the parent undertaking to prepare a group plan.

ESMA may, at the request of a competent authority within the supervisory college, assist the ***supervisory*** college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.

3. Where, after four months from the date of transmission of the recovery plan, the supervisory college has failed to reach a joint decision on the issues referred to in points (a) and (b) of paragraph 1, the competent authority of the CCP shall make its own decision.

The competent authority of the CCP shall make the decision referred to in the first subparagraph taking into account the views of the other college members expressed during the four-month period. The competent authority of the CCP shall notify in writing that decision to the CCP, to its parent undertaking, where relevant, and to the other members of the supervisory college.

4. Where, by the end of that four-month period, ***any group of members*** of the supervisory college ***representing a simple majority of the members of this college,*** has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the assessment of recovery plans and implementation of the measures pursuant to points (a), (b) and (d) of Article 10(9) of this Regulation, the competent authority of the CCP shall await the decision taken by ESMA in accordance with Article 19(3) of Regulation (EU) No 1095/2010 and decide in accordance with the decision of ESMA.

5. The four-month period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the competent authority of the CCP shall apply.

Wednesday 27 March 2019

SECTION 2

RESOLUTION PLANNING

Article 13

Resolution plans

1. The resolution authority of the CCP shall, after consultation with the competent authority ***and ESMA*** and in coordination with the resolution college, in accordance with the procedure set out in Article 15, draw up a resolution plan for each CCP.

2. The resolution plan shall provide for the resolution actions that the resolution authority may take where the CCP meets the conditions for resolution referred to in Article 22.

3. The resolution plan shall take into consideration at least the following:

(a) the CCP's failure due to:

i. ***default events;***

ii. ***non-default events;***

iii. broader financial instability or system wide events;

(b) the impact that the implementation of the resolution plan would have on clearing members and their clients including where clearing members are likely to be subject to recovery measures or resolution actions in accordance with Directive 2014/59/EU, on any linked FMIs, financial markets served by the CCP and the financial system as a whole;

(c) the manner and the circumstances under which a CCP may apply for the use of central bank facilities and the identification of the assets that would be expected to qualify as collateral.

4. The resolution plan shall not assume any of the following:

(a) public financial support;

(b) central bank emergency liquidity assistance;

(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

4a. The resolution plan shall make prudent assumptions regarding the financial resources available as resolution tools that may be required to achieve the resolution objectives and the resources that it expects to be available in accordance with the CCPs rules and arrangements at the time of entering into resolution. Those prudent assumptions shall be based on the findings of latest stress tests carried out in accordance with Article 5(2a) and still be valid in scenarios of extreme market conditions compounded by the recovery or resolution of one or more other CCPs, including the default of one or several additional clearing members beyond the two clearing members to which the CCP has the largest exposures.

5. Resolution authorities shall review resolution plans and where appropriate update them, at least annually and in any case after changes to the legal or organisational structure of the CCP, its business or financial situation or any other change that materially affects the effectiveness of the plan.

The CCPs and the competent authorities shall promptly inform the resolution authorities of any such change.

5a. The resolution plan shall clearly distinguish, in particular wherever practicable by way of separate sections, between scenarios based on the circumstances referred to in, respectively, points i), ii) and iii) of point a) of paragraph 3.

6. The resolution plan shall specify the circumstances and different scenarios for using the resolution tools and exercising the resolution powers. The resolution plan shall include the following, quantified whenever appropriate and possible:

(a) a summary of the key elements of the plan differentiating between default events, non-default events and a combination of the two;

(b) a summary of the material changes to the CCP that have occurred since the resolution plan was last updated;

(c) a demonstration of how the CCP's critical functions could be legally and economically separated, to the extent necessary, from its other functions so as to ensure their continuity upon entry into all possible forms of resolution, including failure, of the CCP;

(d) an estimation of the timeframe for ***carrying out*** each material aspect of the plan, ***including for replenishing the CCP's financial resources;***

(e) a detailed description of the assessment of resolvability carried out in accordance with Article 16;

(f) a description of any measures required pursuant to Article 17 to address or remove impediments to resolvability identified as a result of the assessment carried out in accordance with Article 16;

(g) a description of the processes for determining the value and marketability of the critical functions and assets of the CCP;

(h) a detailed description of the arrangements for ensuring that the information required pursuant to Article 14 is up to date and available to the resolution authorities at all times;

(i) an explanation as to how resolution actions could be financed without the assumption of the elements referred to in paragraph 4;

(j) a detailed description of the different resolution strategies that could be applied according to the different possible scenarios and their related timeframes;

(k) a description of critical interdependencies between the CCP and other market participants, ***including intragroup interdependencies, interoperability arrangements and links with other*** FMIs, ***together with the ways of addressing such interdependencies;***

(l) a description of the different options to ensure:

i. access to payments and clearing services and other infrastructures;

ii. timely settlement of obligations due to clearing members and their clients and any linked FMIs;

iii. access of clearing members and their clients to securities or cash accounts provided by the CCP and securities or cash collateral posted to and held by the CCP that is owed to such participants on a transparent and non-discriminatory basis;

iv. continuity in the operations of links between the CCP and other FMIs;

v. the portability of the assets and positions of the clients **and *indirect clients*** of clearing members, as ***set out*** in Article 39 of Regulation (EU) No 648/2012.;

vi. preservation of the licenses, authorisations, recognitions and legal designations of a CCP where necessary for the continued performance of the CCP's critical functions including its recognition for the purposes of the application of the relevant settlement finality rules and the participation in or links with other FMIs;

(la) a description of the approach that the resolution authority plans to follow in order to determine the scope and value of any contracts to be terminated in accordance with Article 29;

(m) an analysis of the impact of the plan on the employees of the CCP, including an assessment of any associated costs, and a description of envisaged procedures to consult with staff during the resolution process, taking into account any national rules and systems for dialogue with social partners;

(n) a plan for communicating with the media and the public ***so as to be as transparent as possible;***

(o) a description of essential operations and systems for maintaining the continuous functioning of the CCP's operational processes.

(oa) a description of the arrangements for exchanging information within the resolution college prior to and during resolution, in line with the written arrangements and procedures for the functioning of the resolution colleges referred to in paragraph 1 of Article 4.

The information referred to in point (a) of paragraph 6 shall be disclosed to the CCP concerned. The CCP may express its opinion in writing on the resolution plan to the resolution authority. That opinion shall be included in the plan.

7. Resolution authorities may require CCPs to provide them with detailed records of the contracts referred to in Article 29 of Regulation (EU) No 648/2012 to which it is a party. Resolution authorities may specify a time limit to provide those records and may specify different time limits for different types of contracts.

7a. The Resolution Authority of the CCP shall cooperate closely with the Resolution Authorities of the CCP's Clearing Member's with the aim of ensuring that there are no impediments to resolution.

8. ESMA, after consulting with the ESRB and taking into account the relevant provisions of Commission Delegated Regulation (EU) XXX/2016 supplementing Directive 2014/59/EU with regard to regulatory technical standards adopted on the basis of Article 10(9) of Directive 2014/59EU, ***and respecting the principle of proportionality*** shall develop draft regulatory technical standards further specifying the contents of the Resolution Plan in accordance with paragraph 6.

When developing the draft regulatory technical standards, ESMA shall take into due consideration the level of differentiation between national legal frameworks, in particular in the area of insolvency law, across the Union, as well the differing sizes and nature of CCPs established in the Union.

ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: please, insert date: twelve months from the date of entry into force of this Regulation*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Wednesday 27 March 2019

Article 14

CCPs' duty to cooperate and provide information

CCPs shall cooperate as necessary in the drawing up of resolution plans and provide the resolution authorities, either directly or through the competent authority, with all the information necessary to draw up and implement those plans, including the information and analysis specified in Section B of the Annex.

Competent authorities shall provide resolution authorities with any information referred to in the first subparagraph which is already available to them.

A CCP shall exchange information on a timely manner with competent authorities and ESMA in order to facilitate the assessment of the risk profiles of the CCP and the interconnectedness with other financial market infrastructures, other financial institutions and with the financial system in general as defined in Articles 9 and 10 of this Regulation.

Article 15

Coordination procedure for resolution plans

1. The resolution college shall reach a joint decision regarding the resolution plan and any changes thereto within a period of four months of the date of the transmission of that plan by the resolution authority as referred to in paragraph 2.

2. The resolution authority shall transmit to the resolution college a draft resolution plan, the information provided in accordance with Article 14 and any additional information relevant to the resolution college.

The resolution authority shall ensure that ESMA is provided with all the information that is relevant to its role in accordance with this Article.

3. The resolution authority may decide to involve third country authorities in the drawing up and review of the resolution plan, provided that they meet the confidentiality requirements laid down in Article 71 and are from jurisdictions in which any of the following entities are established:

i. the CCP's parent undertaking, where applicable;

ii. clearing members ***to which*** the CCP ***has significant exposure***;

iii. the CCP's subsidiaries, where applicable;

iv. other providers of critical services to the CCP;

iva. a CCP with interoperable arrangements with the CCP.

4. ESMA may, at the request of a resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.

5. Where, after four months from the date of transmission of the resolution plan, the ***resolution*** college has failed to reach a joint decision, the resolution authority shall make its own decision on the resolution plan. The resolution authority shall make its decision taking into account the views of the other ***resolution*** college members expressed during the four-month period. The resolution authority shall notify in writing the decision to the CCP, to its parent undertaking where relevant, and to the other members of the ***resolution*** college.

6. Where, by the end of that four-month period, ***any group of members*** of the supervisory college ***representing a simple majority of the members of this college,*** has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter in relation to the resolution plan, the resolution authority of the CCP shall await any decision that ESMA may take in accordance with Article 19(3) of that Regulation and take its decision in accordance with the decision of ESMA.

The four-month time period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.

7. Where a joint decision is taken pursuant to paragraph 1 and any resolution authority considers under paragraph 6 that the subject matter of the disagreement impinges on the fiscal responsibilities of its Member State, the resolution authority of the CCP shall initiate a reassessment of the resolution plan.

CHAPTER II

Resolvability

Article 16

Assessment of resolvability

1. The resolution authority, in cooperation with the resolution college in accordance with Article 17, shall assess the extent to which a CCP is resolvable without assuming any of the following:

(a) ▌ public financial support;

(b) central bank emergency liquidity assistance;

(c) central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms.

2. A CCP shall be deemed resolvable where the resolution authority considers it feasible and credible to either liquidate it under normal insolvency proceedings or to resolve it using the resolution tools and exercising the resolution powers while ensuring the continuity of the CCP's critical functions and avoiding ***any use of public funds and*** to the maximum extent possible any significant adverse effect on the financial system.

The adverse effects referred to in the first subparagraph shall include broader financial instability or system wide events in any Member State.

The resolution authority shall notify ESMA in a timely manner where it considers a CCP not to be resolvable.

3. Upon request by the resolution authority, a CCP shall demonstrate that:

(a) there are no impediments to the reduction of the value of instruments of ownership following the exercise of resolution powers, regardless of whether outstanding contractual arrangements or other measures in the CCP's recovery plan have been fully exhausted;

(b) the contracts of the CCP with clearing members or third parties do not enable those clearing members or third parties to successfully challenge the exercise of resolution powers by a resolution authority or otherwise avoid being subject to those powers.

4. For the purposes of the assessment of resolvability referred to in paragraph 1, the resolution authority shall, as relevant, examine the matters specified in Section C of the Annex.

4a. ESMA shall adopt guidelines to promote the convergence of supervisory and resolution practices regarding the application of section C of the Annex by … [18 months after the entry into force of this Regulation].

5. The resolution authority ***in cooperation with the resolution college*** shall make the resolvability assessment at the same time as drawing up and updating the resolution plan in accordance with Article 13.

Wednesday 27 March 2019

Article 17

Addressing or removing impediments to resolvability

1. Where, following the assessment in Article 16 ***and after consulting the resolution college***, the resolution authority ***concludes*** that there are substantive impediments to the resolvability of a CCP, the resolution authority, in cooperation with the competent authority, shall prepare and submit a report to the CCP and to the resolution college.

The report referred to in the first subparagraph shall analyse the ▌ impediments to the effective use of the resolution tools and the exercise of the resolution powers in relation to the CCP, consider their impact on the business model of the CCP and recommend targeted measures to remove those ▌ ***where possible***.

2. The requirement for resolution colleges to reach a joint decision on resolution plans laid down in Article 15 shall be suspended following the submission of the report referred to in paragraph 1 until the measures to remove the substantive impediments to resolvability have been accepted by the resolution authority pursuant to paragraph 3 of this Article or alternative measures have been decided pursuant to paragraph 4 of this Article.

3. Within four months of the date of receipt of the report submitted in accordance with paragraph 1, the CCP shall propose to the resolution authority possible measures to address or remove the substantive impediments identified in the report. The resolution authority shall communicate to the resolution college any measure proposed by the CCP. The resolution authority and resolution college shall assess, in accordance with point (b) of Article 18(1), whether those measures effectively address or remove those impediments.

4. Where the resolution authority***, taking into account the opinion of*** the resolution college***, concludes*** that the measures proposed by a CCP in accordance with paragraph 3 would not effectively reduce or remove the impediments identified in the report, the resolution authority shall identify alternative measures which it shall communicate to the resolution college for joint decision in accordance with Article 18.

The alternative measures referred to in the first subparagraph shall take into account the following:

(a) the threat to financial stability of those impediments to the resolvability of a CCP;

(b) the effect of the alternative measures on the particular CCP, its clearing members and their clients, any linked FMI and the internal market;

(ba) the effects on the provision of integrated clearing services for different products and portfolio margining across asset classes.

For the purposes of point (b) of the second subparagraph, the resolution authority shall consult the competent authority***, the supervisory college*** and the resolution college and, where appropriate, the ***ESRB***.

5. The resolution authority shall, in accordance with Article 18, notify the CCP in writing, either directly or indirectly through the competent authority, of the alternative measures to take in order to achieve the objective of removing impediments to resolvability. The resolution authority shall justify why the measures proposed by the CCP would not be able to remove the impediments to resolvability and how the alternative measures would be effective in doing so.

6. The CCP shall propose within one month a plan ***of how it intends to implement*** the alternative measures ***within the period of time established by the resolution authority***.

7. ***Only*** for the purposes of paragraph 4, the resolution authority ***in coordination with the competent authority*** may:

(a) require the CCP to revise or draw up service agreements, whether intra-group or with third parties, to cover the provision of critical functions;

(b) require the CCP to limit its maximum individual and aggregate uncovered exposures;

(c) require the CCP to make changes to how it collects and holds margin pursuant to Article 41 of Regulation (EU) No 648/2012;

(d) require the CCP to make changes to the composition and number of its default funds referred to in Article 42 of Regulation (EU) No 648/2012;

(e) impose on the CCP specific or regular additional information requirements;

(f) require the CCP to divest ***itself of*** specific assets;

(g) require the CCP to limit or cease specific existing or proposed activities;

(h) require the CCP to make changes to its recovery plan***, operating rules and other contractual arrangements***;

(i) restrict or prevent the development of new or existing business lines or provision of new or existing services;

(j) require changes to legal or operational structures of the CCP or any group entity directly or indirectly under its control to ensure that critical functions may be legally and operationally separated from other functions through the application of resolutions tools;

(k) require the CCP to set up a parent financial holding company in a Member State or a Union parent financial holding company;

(l) require the CCP ▌ to issue liabilities that can be written down and converted or to set aside other resources to increase the capacity for loss absorption, recapitalisation and the replenishment of pre-funded resources;

(m) require the CCP ▌ to take other steps to enable capital, other liabilities and contracts to be able to absorb losses, to recapitalise the CCP or to replenish pre-funded resources***. Actions considered may include*** in particular ***attempting*** to renegotiate any liability ***the CCP*** has issued or to revise contractual terms, with a view to ensuring that any decision of the resolution authority to write down, convert or restructure that liability, instrument or contract would be effected under the law of the jurisdiction governing that liability or instrument;

(n) ▌

(na) restrict or suspend interoperability links of the CCP where such a restriction or suspension is necessary in order to prevent the adverse effect that the application of the recovery tools and the exercise of the resolution powers could have on interoperable CCPs.

Article 18

Coordination procedure to address or remove impediments to resolvability

1. The resolution college shall reach a joint decision regarding:

(a) the identification of the material impediments to resolvability pursuant to Article 16(1);

(b) the assessment of the measures proposed by the CCP pursuant to Article 17(3), as necessary;

(c) the alternative measures required pursuant to Article 17(4).

2. The joint decision on the identification of material impediments to resolvability referred to in point (a) of paragraph 1 shall be adopted within four months of the submission of the report referred to in Article 17(1) to the resolution college.

The joint decision referred to in points (b) and (c) of paragraph 1 shall be adopted within four months of submission of the CCP's proposed measures to remove impediments to resolvability.

The joint decisions referred to in paragraph 1 shall be reasoned and notified in writing by the resolution authority to the CCP and, where relevant, its parent undertaking.

ESMA may, at the request of the resolution authority, assist the resolution college in reaching a joint decision in accordance with Article 31(c) of Regulation (EU) No 1095/2010.

3. Where, after four months from the date of transmission of the report provided for in Article 17(1), the ***resolution*** college has failed to adopt a joint decision, the resolution authority shall take its own decision on the appropriate measures to be taken in accordance with Article 17(5). The resolution authority shall take its decision having taken into account the views of the other ***resolution*** college members expressed during the four-month period.

The resolution authority shall notify the decision to the CCP, to its parent undertaking where relevant, and to the other members of the ***resolution*** college in writing.

4. Where, by the end of that four-month period, ***any group of members*** of the supervisory college ***representing a simple majority of the members of this college,*** has referred to ESMA in accordance with Article 19 of Regulation (EU) No 1095/2010 a matter referred to in points (j), (k) or (n) of Article 17(7), the resolution authority of the CCP shall defer its decision and await any decision that ESMA may take in accordance with Article 19(3) of that Regulation. In that case, the resolution authority shall take its decision in accordance with the decision of ESMA.

The four-month time period shall be deemed to be the conciliation phase within the meaning of Regulation (EU) No 1095/2010. ESMA shall take its decision within one month from the referral of the matter to it. The matter shall not be referred to ESMA after the end of the four month time period or after a joint decision has been reached. In the absence of an ESMA decision within one month, the decision of the resolution authority shall apply.

TITLE IV

EARLY INTERVENTION

Article 19

Early intervention measures

1. Where a CCP infringes or is likely to infringe the prudential requirements of Regulation (EU) No 648/2012, ***or poses a risk to the financial stability of the global financial system, the Union financial system, or parts of either thereof,*** or where the competent authority has determined that there are other indications of ***developments*** that could affect the operations of the CCP, in particular, its ability to provide clearing services, the competent authority may:

(a) require the CCP to update the recovery plan in accordance with Article ***9***, where the circumstances that required early intervention are different from the assumptions set out in the initial recovery plan;

(b) require the CCP to implement one or more of the arrangements or measures set out in the recovery plan within a specific timeframe. Where the plan is updated pursuant to point (a), those arrangements or measures shall include any updated arrangements or measures;

(c) require the CCP to identify the causes of the infringement or likely infringement as mentioned in paragraph 1 and draw up an action programme, including suitable measures and timeframes;

(d) require the CCP to convene a meeting of its shareholders or, if the CCP fails to comply with that requirement, convene the meeting itself. In both cases the competent authority shall set the agenda, including the decisions to be considered for adoption by the shareholders;

(e) require one or more members of the board or senior management to be removed or replaced where any of those persons is found unfit to perform their duties pursuant to Article 27 of Regulation (EU) No 648/2012;

(f) require changes to the business strategy of the CCP;

(g) require changes to the legal or operational structures of the CCP;

(h) provide the resolution authority with all the information necessary to update the CCP's resolution plan in order to prepare for the possible resolution of the CCP and the valuation of its assets and liabilities in accordance with Article 24, including any information required through on-site inspections;

(i) require, where necessary and in accordance with paragraph 4, the implementation of the CCP's recovery measures;

(j) require the CCP to abstain from the implementation of certain recovery measures where the competent authority has determined that the implementation of those measures may have an adverse effect on financial stability ***or unduly harm the interests of clients***;

(k) require the CCP to replenish its financial resources in a timely manner;

(ka) exceptionally and on a one-off basis allow clients of clearing members to participate directly in auctions, while waiving prudential requirements pursuant to Chapter 3 of Title IV of Regulation (EU) 648/2012 other than margin requirements as set out in Article 41 of Regulation (EU) 648/2012 for those clients. The clients' clearing members shall inform clients comprehensively about the auction and facilitate the bidding process for clients. Required margin payments by the clients shall be passed through a non-defaulting clearing member;

(kb) restrict or prohibit any remuneration of equity and instruments treated as equity to the fullest extent possible without triggering outright default, including dividend payments and buybacks by the CCP, and it may restrict, prohibit or freeze any payments of variable remuneration under Directive 2013/36/EU and EBA Guidelines EBA/GL/2015/22, of discretionary pension benefits or of severance packages to management.

2. For each of those measures, the competent authority shall set an appropriate deadline and evaluate the effectiveness of those measures once they have been taken.

2a. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to early intervention measures taken by the competent authority in accordance with this Regulation.

3. The competent authority may only apply the measures in points (a) to (k) of paragraph 1 after taking account of the impact of those measures in other Member States where the CCP operates or provides services, in particular where the CCP's operations are critical or important for local financial markets, including the places in which clearing members linked trading venues and FMIs are established.

4. The competent authority may only apply the measure in point (i) of paragraph 1 where that measure is in the public interest and is necessary to achieve any of the following objectives:

(a) maintain the financial stability of the Union;

(b) maintain the continuity of the critical ***functions*** of the CCP ***on a transparent and non-discriminatory basis***;

(c) maintain and enhance the financial resilience of the CCP.

The competent authority shall not apply the measure in point (i) of paragraph 1 in relation to measures involving the transfer of property, rights or liabilities of another CCP.

5. Where a CCP has initiated its default waterfall in accordance with Article 45 of Regulation (EU) No 648/2012, it shall inform the competent authority ***and the resolution authority*** without undue delay and explain whether that event reflects weaknesses or problems of that CCP.

6. Where the conditions referred to in paragraph 1 are met, the competent authority shall notify ESMA and the resolution authority and consult the ***supervisory*** college.

Following those notifications and the consultation of the ***supervisory*** college, the competent authority shall decide whether to apply any of the measures provided for in paragraph 1. The competent authority shall notify the decision on the measures to be taken to the ***supervisory*** college, the resolution authority and ESMA.

7. The resolution authority, following the notification of the first subparagraph of paragraph 6, may require the CCP to contact potential purchasers in order to prepare for its resolution, subject to the conditions laid down in Article 41 and the confidentiality provisions laid down in Article 71 ***as well as to the framework on market soundings laid down in Article 11 of Regulation (EU) No 596/2014 and in relevant delegated and implementing legislation***.

Article 20

Removal of senior management and board

Where there is a significant deterioration in the financial situation of a CCP, or the CCP infringes its legal requirements, including its operating rules, and other measures taken in accordance with Article 19 are not sufficient to reverse that situation, competent authorities may require total or partial removal of the senior management or board of the CCP.

The appointment of the new senior management or board shall be done in accordance with Article 27 of Regulation (EU) No 648/2012 and be subject to the approval or consent of the competent authority.

TITLE IVA

RECOUPMENT OF LOSSES

Article 20a

Issuance of instruments of ownerships in future profits to clearing members and clients that have suffered losses

1. Where a CCP in Recovery, caused by a non-default event has applied the arrangements and measures to reduce the value of any gains payable by the CCP to non-defaulting clearing members and their clients set out in its recovery plan pursuant to point (l)(ii)(b) of Article 9(7b) which go beyond the default waterfall set out in Article 45 of Regulation (EU) 648/2012, on non-defaulting clearing members and their clients, and has not entered Resolution as a result, the Competent Authority of the CCP may, once a matched book has been restored, require the CCP to recompense the participants for their loss, either through cash payments or, where appropriate, may require the CCP to issue instruments of ownership in future profits of the CCP.

The value of instruments of ownership in future profits of the CCP issued to each affected non-defaulting clearing member, which must be passed on to clients in a suitable form, shall be proportionate to its loss and shall be based on a valuation conducted in accordance with Article 24(3). These instruments of ownership shall entitle the possessor to receive payments from the CCP on an annual basis until the loss has been recouped in full up to an appropriate maximum number of years from the date of issuance. An appropriate maximum share of the CCP's annual profits shall be used towards payments relating to these instruments of ownership.

2. This Article does not diminish the responsibility of clearing members to take losses which go beyond the default waterfall.

3. ESMA shall develop draft regulatory technical standards to specify the order in which recompense must be paid, the appropriate maximum number of years and the appropriate maximum share of the CCP's annual profits referred to in the second subparagraph of paragraph 1.

ESMA shall submit those draft regulatory technical standards to the Commission by [XXX after entry into force of this Regulation].

The Commission is empowered to supplement this Regulation by adopting the regulatory technical standards referred to in this paragraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

TITLE V

RESOLUTION

CHAPTER I

Objectives, conditions and general principles

Article 21

Resolution objectives

1. When using the resolution tools and exercising the resolution powers, the resolution authority shall have regard to all the following resolution objectives and shall balance them as appropriate to the nature and circumstances of each case:

(a) to ensure the continuity of the CCP's critical functions, in particular:

(i) the timely settlement of the CCP's obligations to its clearing members and their clients;

(ii) continuous access of clearing members to securities or cash accounts provided by the CCP and securities or cash collateral held by the CCP on behalf of those clearing members;

(b) to ensure the continuity of the links with other FMIs which, if disrupted, would have a material negative impact on financial stability or the timely completion of payment, clearing, settlement and ***record-keeping*** functions;

(c) to avoid a significant adverse effect on the financial system, in particular by preventing contagion of financial distress ***to the CCP's clearing members, their clients or to the wider financial system, including other FMIs, and by maintaining market and public confidence;***

(d) to protect public funds by minimising reliance on public financial support ***and potential losses for taxpayers;***

(e) to minimise the cost of resolution on all affected stakeholders and avoid destruction of the CCP's value, ***unless such destruction is necessary to achieve the resolution objectives.***

2. The board and senior management of a CCP under resolution shall provide the resolution authority with all necessary assistance for the achievement of the resolution objectives.

Wednesday 27 March 2019

Article 22

Conditions for resolution

1. The resolution authority shall take a resolution action in relation to a CCP provided that all of the following conditions are met:

(a) the CCP is failing or is likely to fail as determined by any of the following:

i) the competent authority, after consulting the resolution authority;

ii) the resolution authority after consulting the competent authority, where the resolution authority has the necessary tools for reaching that conclusion;

(b) there is no reasonable prospect that any alternative private sector measures or supervisory action, including early intervention measures taken, would prevent the failure of the CCP within a reasonable timeframe, having regard to all relevant circumstances; ***and***

(c) a resolution action is necessary in the public interest to achieve the resolution objectives ***where implementing the CCP's contractual loss-allocation arrangements or, where such arrangements are not comprehensive and*** winding down the CCP under normal insolvency proceedings would not meet those objectives to the same extent.

For the purposes of point (a)(ii), the competent authority shall provide ***the resolution authority*** without delay and ***on its own initiative with*** any information that ***may give an indication that the CCP is failing or likely to fail. The competent authority shall also provide*** the resolution authority, ***upon request*** with ***any other information needed*** in order to perform its assessment.

2. For the purposes of point (a) of paragraph 1, a CCP shall be deemed to be failing or likely to fail where one or more of the following circumstances apply:

(a) the CCP infringes, or is likely to infringe, its authorisation requirements in a way that would justify the withdrawal of its authorisation pursuant to Article 20 of Regulation (EU) No 648/2012;

(b) the CCP is unable, or is likely to be unable, to provide a critical function;

(c) the CCP is unable, or is likely to be unable, to restore its viability through the implementation of its recovery measures;

(d) the CCP is unable, or is likely to be unable, to pay its debts or other liabilities as they fall due;

(e) the CCP requires ▌ public financial support.

For the purposes of point (e) ***a measure shall not be considered to be*** public financial support ***where*** all of the following conditions ***are met:***

i) it takes the form of a State guarantee to back liquidity facilities provided by a central bank according to the central bank's conditions, or the form of a State guarantee of newly issued liabilities;

ia) none of the circumstances referred to in points (a), (b), (c) or (d) of this paragraph is present at the time the public financial support is granted

ib) the State guarantees referred to in point (i) are required to remedy a serious disturbance in the economy of a Member State and preserve financial stability

ii) the State guarantees referred to in point (i) are ***confined to solvent CCPs,*** conditional on final approval under the Union State aid framework, are ***of a*** precautionary and temporary ***nature***, proportionate to remedy the consequences of the serious disturbance ***referred to in paragraph ib)*** and are not used to offset losses that the CCP has incurred or is likely to incur in the future;

▌

3. The resolution authority may also take a resolution action where it considers that the CCP applies or intends to apply recovery measures which could prevent the CCP's failure but cause significant adverse effects to the financial system.

3a. The decision taken by a resolution authority deeming a CCP failing or likely to may only be challenged on the basis that this decision was arbitrary and unreasonable at the time of the decision, based on the information then readily available.

4. ESMA shall adopt guidelines to promote the convergence of supervisory and resolution practices regarding the application of the circumstances under which a CCP is deemed to be failing or likely to fail by *[PO, please insert date 12 months from entry into force of this Regulation*]***, if and where appropriate taking into consideration the differing sizes and nature of CCPs established in the Union.***

When adopting those guidelines, ESMA shall take into account the guidelines issued in accordance with Article 32(6) of Directive 2014/59/EU.

Article 23

General principles regarding resolution

The resolution authority shall take all appropriate measures to use the resolution tools referred to in Article 27 and exercise the resolution powers referred to in Article 48 in accordance with the following principles:

(a) all contractual obligations and other arrangements in the CCP's recovery plan are enforced ▌, to the extent that they have not been exhausted before entry into resolution, unless***, in extreme circumstances***, the resolution authority determines that the use of resolution tools or the exercise of resolution powers is more appropriate to achieve the resolution objectives in a timely manner;

(b) the shareholders of the CCP under resolution bear first losses following the enforcement of all obligations and arrangements referred to in point (a) in accordance with that point;

(c) creditors of the CCP under resolution bear losses after the shareholders in accordance with the order of priority of their claims under normal insolvency proceedings, save as expressly provided otherwise in this Regulation;

(d) the CCP's creditors of the same class are treated in an equitable manner;

(e) none of the CCP's ***shareholders,*** creditors ***and clearing members or their clients*** incur higher losses than they would have incurred ***in accordance with Article 60;***

▌

(f) the board and senior management of the CCP under resolution are replaced, except where the resolution authority considers that the retention of the board and senior management, in whole or in part, is necessary for the achievement of the resolution objectives;

(g) resolution authorities inform and consult employee representatives in accordance with their national laws or practice;

(h) where a CCP is part of a group, resolution authorities take account of the impact on other group entities and on the group as a whole.

Wednesday 27 March 2019

CHAPTER II

Valuation

Article 24

Objectives of valuation

1. Resolution authorities shall ensure that any resolution action is taken on the basis of a valuation ensuring a fair, prudent and realistic assessment of the assets, liabilities, rights and obligations of the CCP.

2. Before the resolution authority places a CCP under resolution, it shall ensure that a first valuation is carried out to determine whether the conditions for resolution under Article 22(1) are met.

3. After the resolution authority has decided to place a CCP under resolution, it shall ensure that a second valuation is carried out to:

(a) inform the decision on the appropriate resolution action to be taken;

(b) ensure that any losses on the assets and rights of the CCP are fully recognised at the moment the resolution tools are used;

(c) inform the decision on the extent of the cancellation or dilution of instruments of ownership and the decision on the value and number of instruments of ownership issued or transferred as a result of the exercise of resolution powers;

(d) inform the decision on the extent of the write down or conversion of any unsecured liabilities, including debt instruments;

(e) where the loss and position allocation tools are used, inform the decision on the extent of losses to be applied against affected creditors' claims, outstanding obligations or positions in relation to the CCP ***and on the extent and necessity of a resolution cash call***;

(f) where the bridge CCP tool is used, inform the decision on the assets, liabilities, rights and obligations or instruments of ownership that may be transferred to the bridge CCP and the decision on the value of any consideration that may be paid to the CCP under resolution or, where relevant, to the holders of the instruments of ownership;

(g) where the sale of business tool is used, inform the decision on the assets, liabilities, rights and obligations or instruments of ownership that may be transferred to the third party purchaser and to inform the resolution authority's understanding of what constitutes commercial terms for the purposes of Article 40;

(ga) the price of any termination of contracts by the resolution authority shall be based, insofar as possible, upon a fair market price determined on the basis of the CCP's rules and arrangements, and only substituted for another price discovery method if deemed essential by the resolution authority.

For the purposes of point (d), the valuation shall take into account any losses that would be absorbed by the enforcement of any outstanding obligations of the clearing members or other third parties owed to the CCP and the level of conversion to be applied to debt instruments.

4. The valuations referred to in paragraphs 2 and 3 may be subject to an appeal in accordance with Article 72 only together with the decision to use a resolution tool or to exercise a resolution power.

Article 25

Requirements for valuation

1. The resolution authority shall ensure that the valuations referred to in Article 24 are carried out:

(a) by a person independent from any public authority and from the CCP;

(b) by the resolution authority, where those valuations cannot be carried out by a person as referred to in point (a).

2. The valuations referred to in Article 24 shall be considered definitive where they are carried out by the person referred to in point (a) of paragraph 1 and all the requirements laid down in this Article are fulfilled.

3. Without prejudice to the Union State aid framework, where applicable, a definitive valuation shall be based on prudent assumptions and shall not assume any potential provision of ▌ public financial support, any central bank emergency liquidity assistance or any central bank liquidity assistance provided under non-standard collateralisation, tenor and interest rate terms to the CCP from the point in time at which resolution action is taken. The valuation shall also take account of the potential recovery of any reasonable expenses incurred by the CCP under resolution in accordance with Article 27(9).

4. A definitive valuation shall be supplemented by the following information held by the CCP:

(a) an updated balance sheet and a report on the financial position of the CCP, including the remaining available prefunded resources and outstanding financial commitments;

(b) the records of cleared contracts as referred to in Article 29 of Regulation (EU) No 648/2012;

(c) any information on the market and accounting values of its assets, liabilities and positions, including relevant claims and outstanding obligations owed or due to the CCP.

5. A definitive valuation shall indicate the subdivision of the creditors in classes in accordance with their priority levels under the applicable insolvency law. It shall also include an estimate of the treatment that each class of shareholders and creditors would have been expected to receive in application of the principle specified in point (e) of Article 23.

The estimate referred to in the first subparagraph shall not prejudice the valuation referred to in Article 61.

6. ESMA, taking into account any regulatory technical standards drafted in accordance with Article 36(14) and (15) of Directive 2014/59/EU, shall develop draft regulatory technical standards to specify:

(a) the circumstances in which a person is deemed to be independent from both the resolution authority and from the CCP for the purposes of paragraph 1 of this Article;

(b) the methodology for assessing the value of the assets and liabilities of the CCP;

(c) the separation of the valuations under Articles 24 and 61.

ESMA shall submit those draft regulatory technical standards to the Commission by *[PO: insert date: within 12 months of the entry into force of this Regulation*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 26

Provisional valuation

1. The valuations referred to in Article 24 that do not meet the requirements laid down in Article 25(2) shall be considered to be provisional valuations.

Provisional valuations shall include a buffer for additional losses and an appropriate justification for that buffer.

2. Where resolution authorities take resolution action on the basis of a provisional valuation, they shall ensure that a definitive valuation is carried out as soon as practicable.

The resolution authority shall ensure that the definitive valuation referred to in the first subparagraph:

(a) allows for full recognition of any losses of the CCP in its books;

(b) informs a decision to write back creditors' claims or to increase the value of the consideration paid, in accordance with paragraph 3.

3. Where the definitive valuation's estimate of the net asset value of the CCP is higher than the provisional valuation's estimate of the net asset value of the CCP, the resolution authority may:

(a) increase the value of the claims of affected creditors which have been written down or restructured;

(b) require a bridge CCP to make a further payment of consideration in respect of the assets, liabilities, rights and obligations to the CCP under resolution or, as the case may be, in respect of the instruments of ownership to the owners of those instruments.

4. ESMA, taking into account any regulatory technical standards drafted in accordance with Article 36(15) of Directive 2014/59/EU, shall develop draft regulatory technical standards to specify, for the purposes of paragraph 1 of this Article, the methodology for calculating the buffer for additional losses to be included in provisional valuations.

ESMA shall submit those draft regulatory technical standards to the Commission by [*PO: insert date: within 12 months of the entry into force of this Regulation*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

CHAPTER III

Resolution tools

SECTION 1

GENERAL PRINCIPLES

Article 27

General provisions on resolution tools

1. Resolution authorities shall take resolution actions referred to in Article 21 by using any of the following resolution tools individually or in any combination:

(a) the position and loss allocation tools;

(b) the write-down and conversion tool;

(c) the sale of business tool;

(d) the bridge CCP tool;

(e) any other resolution tool consistent with Articles 21 and 23.

2. In the event of a systemic crisis, the resolution authority may also provide ▌public financial support by using government stabilisation tools in accordance with Articles 45, 46 and 47 on the condition of prior and final approval under the Union State aid framework ***and of the design of comprehensive and credible arrangements for the recovery of the funds provided over an appropriate period of time***.

3. Prior to the use of the tools referred to in paragraph 1, the resolution authority shall enforce:

(a) any existing and outstanding rights of the CCP, including any contractual obligations by clearing members to meet cash calls, to provide additional resources to the CCP, or to take on positions of defaulting clearing members, whether through an auction or other agreed means in the CCP's operating rules;

(b) any existing and outstanding contractual obligation committing parties other than clearing members to any forms of financial support.

The resolution authority may partially enforce the contractual obligations referred to in points (a) and (b) where it is not possible to enforce those contractual obligations in full within a reasonable timeframe.

4. By way of derogation from paragraph 3, the resolution authority may refrain from enforcing the relevant existing and outstanding obligations either partially or in full to avoid significant adverse effects on the financial system or widespread contagion, or where the use of the tools referred to in paragraph 1 is more appropriate in order to achieve the resolution objectives in a timely manner.

▌6. Where the use of a resolution tool other than the write-down and conversion tool results in losses being borne by clearing members, the resolution authority shall exercise the power to write down and convert any instruments of ownership and debt instruments or other unsecured liabilities immediately before or together with the use of the resolution tool.

7. Where only the resolution tools referred to in point (c) and (d) of paragraph 1 are used, and only part of the assets, rights, obligations or liabilities of the CCP under resolution are transferred in accordance with Articles 40 and 42, the residual part of that CCP shall be wound up in accordance with normal insolvency proceedings.

8. National insolvency law rules relating to the voidability or unenforceability of legal acts detrimental to creditors shall not apply to transfers of assets, rights, obligations or liabilities from a CCP in relation to which resolution tools or government financial stabilisation tools are used.

9. The resolution authority ***shall*** recover ***over an appropriate period of time*** any reasonable expenses***, including an appropriate risk premium,*** incurred in connection with the use of the resolution tools or powers or ***in connection with the use of the*** government financial stabilisation tools in any of the following ways:

(a) from the CCP under resolution, as a preferred creditor;

(b) from any consideration paid by the purchaser where the sale of business tool has been used;

(c) from any proceeds generated as a result of the termination of the bridge CCP, as a preferred creditor;

(ca) from any clearing member, to the extent that a clearing member does not incur greater losses than it would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up under normal insolvency proceedings;

(cb) from any revenues from the use of the government stabilisation tools, including the proceeds from the sale of the instruments of ownership referred to in Article 46 and from the sale of a CCP subject to temporary public ownership as referred to in Article 47.

9a. In determining the amounts to be recouped pursuant to the previous paragraph, the resolution authority shall take into account the amount that the clients and members of the CCP would otherwise have been required to contribute, both under the CCP rules and arrangements and in resolution, had public support not been granted by the authorities.

10. When using the resolution tools, resolution authorities shall ensure, on the basis of a valuation that complies with Article 25, the full allocation of losses, the ***restoration of matched book, the*** replenishment of the prefunded resources of the CCP or the bridge CCP, and the recapitalisation of the CCP or the bridge CCP.

Article 27a

The possibility to compensate CCP participants shall not apply to their contractually committed losses in the default management or recovery phases.

SECTION 2

POSITION ALLOCATION AND LOSS ALLOCATION TOOLS

Article 28

Objective and scope of the position and loss allocation tools

1. Resolution authorities shall use the position allocation tool in accordance with Article 29 and the loss allocation tools in accordance with Articles 30 and 31.

2. The tools referred to in paragraph 1 ***may*** be used in respect of all contracts relating to clearing services and the collateral related to those services posted to the CCP.

3. Resolution authorities shall use the position allocation tool referred to in Article 29 in order to rematch the book of the CCP or bridge CCP where relevant.

Resolution authorities shall use the loss allocation tools referred to in Articles 30 and 31 for any of the following purposes:

(a) to cover the losses of the CCP assessed in accordance with Article 27(10);

(b) to restore the ability of the CCP to meet payment obligations as they fall due;

(ba) to facilitate the restoration of a matched book;

(c) to ***facilitate restoration of a matched book by providing*** the CCP ***with funds to meet an auction bid which enables the CCP to allocate the defaulter's positions or to make payments on the contracts terminated pursuant to Article 29***;

(d) to achieve the outcome referred to in points (a), (b) and (c) in relation to a bridge CCP;

(e) to support the transfer of the CCP's business by way of the sale of business tool to a solvent third party.

Article 29

Termination of contracts — partial or full

1. The resolution authority may terminate certain or all of the following contracts:

(a) the contracts of the clearing member in default;

(b) the contracts of the affected clearing service or asset class;

(c) the contracts of the CCP in resolution.

1a. When using the power under paragraph 1, the resolution authority shall terminate contracts referred to under points (a), (b) and (c) of that paragraph in a similar way, without discriminating between counterparties to those contracts, with the exception of those contractual obligations that cannot be enforced in a reasonable timeframe.

2. The resolution authority may only terminate the contracts referred to in point (a) of paragraph 1 where the transfer of the assets and positions resulting from those contracts has not taken place within the meaning of Article 48(5) and (6) of Regulation (EU) No 648/2012.

3. The resolution authority shall give notice to all relevant clearing members of the date on which any contract referred to in paragraph 1 is terminated.

4. Prior to the termination of any of the contracts referred to in paragraph 1, the resolution authority shall take the following steps:

(a) require the CCP under resolution to value each contract and update the account balances of each clearing member;

(b) determine the net amount payable by or to each clearing member, taking account of any due but unpaid variation margin, including variation margin due as a result of the contract valuations referred to in point (a);

(c) notify each clearing member of the determined net amounts and collect them accordingly.

Once the contract has been terminated, the resolution authority shall notify, in a timely manner, the competent authority of any client designated as an O-SII whose contract has been terminated.

4a. The price of any termination of contracts by the resolution authority under this article shall be based upon a fair market price determined on the basis of the CCP's rules and arrangements, or, should the use of such alternative method be deemed necessary by the resolution authority, determined using any other appropriate price discovery method.

5. Where a non-defaulting clearing member is unable to pay the net amount determined in accordance with paragraph 4, the resolution authority may require the CCP to place the non-defaulting clearing member in default and use its initial margin and default fund contribution in accordance with Article 45 of Regulation (EU) No 648/2012.

6. Where the resolution authority has terminated one or more contracts of the types referred to in points (a), (b) and (c) of paragraph 1, it shall ***temporarily*** prevent the CCP from clearing any new contract of the same type as the one terminated.

The resolution authority may allow the CCP to resume the clearing of those types of contracts only where the following conditions are met:

(a) the CCP complies with the requirements of Regulation (EU) No 648/2012;

(b) the resolution authority issues and publishes a notice to that effect using the means referred to in Article 70(3).

Wednesday 27 March 2019

Article 30

Reduction of the value of any gains payable by the CCP to non-defaulting clearing members ***and their clients***

1. The resolution authority may reduce the value ***amount*** of the CCP's payment obligations to non-defaulting clearing members ***and their clients*** where those obligations arise from gains due in accordance with the CCP's processes for paying variation margin or an economically ***equivalent*** payment. ***Clearing members shall inform their clients without delay about the use of the resolution tool and the way in which such use affects them.***

2. The resolution authority shall calculate any reduction in payment obligations referred to in paragraph 1 using an equitable allocation mechanism determined in the valuation conducted in accordance with Article 24(3) and communicated to the clearing members as soon as the resolution tool is used. The total net gains to be reduced for each clearing member shall be proportional to the amounts due from the CCP.

3. The reduction in the value of gains payable shall take effect and shall be immediately binding on the CCP and affected clearing members from the moment at which the resolution authority takes the resolution action.

3a. Any use of the powers referred to in this article that affect the positions of a client designated as an O-SII shall be notified to the competent authority of that client in a timely manner.

4. A non-defaulting clearing member shall not have any claim in any subsequent proceedings against the CCP, or its successor entity, arising from the reduction in payment obligations referred to in paragraph 1.

5. Where a resolution authority reduces only in part the value of gains payable, the residual outstanding payable amount shall still be owed to the non-defaulting clearing member.

5a. The CCP shall include in its operating rules reference to the power to reduce payment obligations referred to in paragraph 1 in addition to any similar arrangements provided for in those operating rules at the recovery stage. The CCP shall ensure that contractual arrangements are concluded to allow the Resolution Authority to exercise its powers under this article.

Article 31

Resolution cash call

1. The resolution authority may require non-defaulting clearing members to make ***contributions*** in cash to the CCP***. The*** amount ***of those cash contributions shall be determined by the resolution authority so as to best achieve the resolution objectives referred to in Article 21(1)***.

Where the CCP operates multiple default funds, the amount of the contribution in cash referred to in the first subparagraph shall refer to the clearing member's contribution to the default fund or default funds of the affected clearing service or asset class.

The resolution authority may exercise the resolution cash call regardless of whether all contractual obligations requiring cash contributions from non-defaulting clearing members have been exhausted.

The resolution authority shall determine the amount of each non-defaulting clearing member's cash contribution in proportion to the clearing member's contribution to the default fund.

2. If a non-defaulting clearing member does not pay the required amount, the resolution authority may require the CCP to place that clearing member in default and use the clearing member's initial margin and default fund contribution in accordance with Article 45 of Regulation (EU) No 648/2012.

2a. The CCP shall include reference to the resolution cash call in addition to the recovery cash calls in its operating rules and ensure that contractual arrangements are concluded to allow the resolution authority to exercise its powers under this Article.

2b. The resolution authority shall define the amount of the resolution cash call to be included in the operating rules, which shall at the minimum be equivalent to the clearing member's contribution to the default fund.

2c. The resolution authority shall define the amount of the resolution cash call to be included in the operating rules.

SECTION 3

WRITE DOWN AND CONVERSION OF INSTRUMENTS OF OWNERSHIP AND DEBT INSTRUMENTS OR OTHER UNSECURED LIABILITIES

Article 32

Requirement to write down and convert instruments of ownership and debt instruments or other unsecured liabilities

1. The resolution authority shall use the write-down and conversion tool in accordance with Article 33 in respect of instruments of ownership and debt instruments issued by the CCP in resolution or other unsecured liabilities in order to absorb losses, recapitalise that CCP or a bridge CCP, or to support the use of the sale of business tool.

2. Based on the valuation carried out in accordance with Article 24(3), the resolution authority shall determine the following:

(a) the amount by which the instruments of ownership and debt instruments or other unsecured liabilities must be written down taking into account any losses that are to be absorbed by the enforcement of any outstanding obligations of the clearing members or other third parties owed to the CCP;

(b) the amount by which debt instruments or other unsecured liabilities must be converted into instruments of ownership in order to restore the prudential requirements of the CCP or the bridge CCP.

Article 33

Provisions governing the write-down or conversion of instruments of ownership and debt instruments or other unsecured liabilities

1. The resolution authority shall use the write-down and conversion tool in accordance with the priority of claims applicable under normal insolvency proceedings.

2. Prior to reducing or converting the principal amount of debt instruments or other unsecured liabilities, the resolution authority shall reduce the notional ***value*** of instruments of ownership in proportion to the losses and up to their full value, where necessary.

Where, in accordance with the valuation carried out pursuant to Article 24(3), the CCP maintains a positive net value after the reduction of ***the value of*** instruments of ownership, the resolution authority shall cancel or dilute, as the case may be, those instruments of ownership.

3. The resolution authority shall reduce, convert, or both, the principal amount of debt instruments or other unsecured liabilities to the extent required to achieve the resolution objectives, and up to the full value of those instruments or liabilities, where necessary.

4. The resolution authority shall not use the write-down and conversion tools in respect of the following liabilities:

(a) liabilities to employees, in relation to accrued salary, pension benefits or other fixed remuneration, except for the variable component of remuneration that is not regulated by a collective bargaining agreement;

(b) liabilities to commercial or trade creditors arising from the provision to the CCP of goods or services that are critical to the daily functioning of its operations, including IT services, utilities and the rental, servicing and upkeep of premises;

(c) liabilities to tax and social security authorities, provided that those liabilities are preferred liabilities under the applicable insolvency law;

(d) liabilities owed to systems or operators of systems designated according to Directive 98/26/EC.

5. Where the notional amount of an instrument of ownership or the principal amount of a debt instrument or other unsecured liabilities is reduced, the following conditions shall apply:

(a) that reduction shall be permanent;

(b) the holder of the instrument shall have no claim in connection with that reduction, except for any liability already accrued, any liability for damages that may arise as a result of an appeal challenging the legality of that reduction and any claim based on instruments of ownership issued or transferred pursuant to paragraph 6;

(c) where that reduction is only partial, the agreement that created the original liability shall continue to apply in respect of the residual amount subject to any necessary amendments of the terms of that agreement due to the reduction.

Point (a) shall not prevent resolution authorities from applying a write-up mechanism to reimburse holders of debt instruments or other unsecured liabilities and then holders of instruments of ownership, where the level of write-down based on the provisional valuation is found to exceed required amounts when assessed against the definitive valuation referred to in Article 26(2).

6. Where converting debt instruments or other unsecured liabilities pursuant to paragraph 3, the resolution authority may require CCPs or their parent undertakings to issue or to transfer instruments of ownership to the holders of the debt instruments or other unsecured liabilities.

7. The resolution authority shall only convert debt instruments or other unsecured liabilities pursuant to paragraph 3 where the following conditions are met:

(a) the resolution authority has obtained the agreement of the competent authority of the parent undertaking where the parent undertaking is required to issue the instruments of ownership;

(b) the instruments of ownership are issued prior to any issuance of instruments of ownership by the CCP for the purposes of provision of own funds by the State or a government entity;

(c) the conversion rate represents appropriate compensation to the affected debt holders, in line with their treatment under normal insolvency proceedings.

Following any conversion of debt instruments or other unsecured liabilities to instruments of ownership, the latter shall be subscribed or transferred without delay after the conversion.

8. For the purposes of paragraph 7, the resolution authority shall ensure, in the context of the development and maintenance of the CCP's resolution plan and as part of the powers to remove impediments to the resolvability of the CCP, that the CCP may issue at all times the necessary number of instruments of ownership.

Article 34

Effect of write-down and conversion

The resolution authority shall complete or require the completion of all the administrative and procedural tasks necessary to give effect to the use of the write-down and conversion tool, including:

(a) the amendment of all relevant registers;

(b) the delisting or removal from trading of instruments of ownership or debt instruments;

(c) the listing or admission to trading of new instruments of ownership;

(d) the relisting or readmission of any debt instruments which have been written down, without the requirement for the issuing of a prospectus in accordance with Directive 2003/71/EC of the European Parliament and of the Council [1].

Article 35

Removal of procedural obstacles for write-down and conversion

Where the second subparagraph of Article 32(1) is applied, the competent authority shall require CCPs, or their parent undertakings, to maintain at all times a sufficient amount of instruments of ownership to ensure that those CCPs or their parent undertakings may issue sufficient new instruments of ownership and that the issuance of or conversion into instruments of ownership could be carried out effectively.

The resolution authority shall use the write down and conversion tool regardless of any provisions in the CCP's instruments of incorporation or statutes, including with respect to pre-emption rights for shareholders or requirements for the consent of shareholders to an increase of capital.

Article 36

Submission of a business reorganisation plan

1. CCPs shall, within one month after the use of the tools referred to in Article 32, ***conduct a review of the causes of its failure*** and submit ***it*** to the resolution authority ***alongside*** a business reorganisation plan in accordance with Article 37. Where the Union State aid framework is applicable, that plan shall be compatible with the restructuring plan that the CCP is required to submit to the Commission in accordance with that framework.

Where necessary for achieving the resolution objectives, the resolution authority may extend the period referred to in the first subparagraph up to a maximum of two months.

2. Where a restructuring plan is required to be notified within the Union State aid framework, the submission of the business reorganisation plan shall be without prejudice to the deadline laid down by the Union State aid framework for the submission of that restructuring plan.

3. The resolution authority shall submit the ***review and*** business reorganisation plan, and any revision thereof in accordance with Article 38, to the competent authority and to the resolution college.

Article 37

Content of the business reorganisation plan

1. The business reorganisation plan referred to in Article 36 shall set out measures aiming to restore the long-term viability of the CCP or parts of its business within a reasonable timeframe. Those measures shall be based on realistic assumptions as to the economic and financial market conditions under which the CCP will operate.

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[1] Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

The business reorganisation plan shall take account of the current and potential states of the financial markets and reflect best-case and worst-case assumptions, including a combination of events to identify the CCP's main vulnerabilities. Assumptions shall be compared with appropriate sector-wide benchmarks.

2. The business reorganisation plan shall include at least the following elements:

(a) a detailed analysis of the factors and circumstances that caused the CCP to fail or to be likely to fail;

(b) a description of the measures to be adopted to restore the CCP's long-term viability;

(c) a timetable for the implementation of those measures.

3. Measures aiming to restore the long-term viability of a CCP may include:

(a) the reorganisation and restructuring of the activities of the CCP;

(b) changes to the CCP's operational systems and infrastructure;

(c) the sale of assets or of business lines.

3a. In the case where the Union State Aid framework is applied in accordance with Article 36(1) and (2), the resolution authority, the competent authority and the Commission should coordinate the assessment of the measures provided to restore the CCP's long-term viability, any request for a resubmission of an amended plan by the CCP and the final adoption of the business reorganisation or restructuring plan.

3b. ESMA shall by … [18 months after the entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify further the minimum elements that should be included in a business reorganisation plan pursuant to paragraph 2.

3c. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 3a, ESMA may develop draft regulatory technical standards to specify further the minimum elements that should be included in a business reorganisation plan pursuant to paragraph 2.

Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 38

Assessment and adoption of the business reorganisation plan

1. Within one month of the submission of the business reorganisation plan by the CCP pursuant to Article 36(1), the resolution authority and the competent authority shall assess whether the measures provided for in that plan would reliably restore the long-term viability of the CCP.

Where the resolution authority and the competent authority are satisfied that the plan would restore the CCP's long-term viability, the resolution authority shall approve the plan.

2. Where the resolution authority and the competent authority are not satisfied that the measures provided for in the plan would restore the CCP's long-term viability, the resolution authority shall notify the CCP of their concerns and require it to resubmit an amended plan addressing those concerns within two weeks of the notification.

3. The resolution authority and the competent authority shall assess the resubmitted plan and shall notify the CCP within one week of the reception of that plan whether the concerns are appropriately addressed or whether further amendments are required.

3a. ESMA shall by … [18 months after the entry into force of this Regulation] issue guidelines in accordance with Article 16 of Regulation (EU) No 1095/2010 to specify further the minimum criteria that a business reorganisation plan is to fulfil for approval by the resolution authority pursuant to paragraph 1.

3b. Taking into account, where appropriate, experience acquired in the application of the guidelines referred to in paragraph 3a, ESMA may develop draft regulatory technical standards to specify further the minimum criteria that a business reorganisation plan is to fulfil for approval by the resolution authority pursuant to paragraph 1s.

Power is conferred on the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 39

Implementation and monitoring of the business reorganisation plan

1. The CCP shall implement the business reorganisation plan and shall submit a report to the resolution authority and the competent authority as requested and, at least, every six months on its progress in implementing the plan.

2. The resolution authority, in agreement with the competent authority, may require the CCP to revise the plan where necessary to achieve the aim referred to in 37(1).

The CCP shall submit the revision referred to in the first subparagraph to the resolution authority for assessment in accordance with Article 38(3). ***The resolution authority, in the event that the Union State aid framework applies, shall coordinate this assessment with the Commission.***

SECTION 4

THE SALE OF BUSINESS TOOL

Article 40

The sale of business tool

1. The resolution authority may transfer the following to a purchaser that is not a bridge CCP:

(a) instruments of ownership issued by a CCP under resolution;

(b) any assets, rights, obligations or liabilities of a CCP under resolution.

The transfer referred to in the first subparagraph shall take place without obtaining the consent of the shareholders of the CCP or any third party other than the purchaser and without complying with any procedural requirements under company or securities law other than those provided for in Article 41.

2. A transfer made pursuant to paragraph 1 shall be made on commercial terms, having regard to the circumstances, and in accordance with the Union State aid framework.

For the purposes of the first subparagraph, the resolution authority shall take all reasonable steps to obtain commercial terms that conform to the valuation conducted under Article 24(3).

3. Unless otherwise provided for in this Regulation, any consideration paid by the purchaser shall benefit:

(a) the owners of the instruments of ownership where the sale of business has been effected by transferring instruments of ownership issued by the CCP from the holders of those instruments to the purchaser;

(b) the CCP, where the sale of business has been effected by transferring some or all of the assets or liabilities of the CCP to the purchaser;

(c) any non-defaulting clearing members that have suffered losses prior to resolution.

The allocation of any consideration paid by the purchaser shall be carried out in accordance with the CCP's default waterfall as set out in Articles 43 and 45 of Regulation (EU) No 648/2012 and the priority of claims under normal insolvency proceedings.

4. The resolution authority may exercise the transfer power referred to in paragraph 1 more than once in order to make supplemental transfers of instruments of ownership issued by the CCP or, as the case may be, the CCP's assets, rights, obligations, or liabilities.

5. The resolution authority may, with the consent of the purchaser, transfer the assets, rights, obligations or liabilities that had been transferred to the purchaser back to the CCP, or the instruments of ownership back to their original owners.

Where the resolution authority uses the transfer power referred to in the first subparagraph, the CCP or original owners shall take back any such assets, rights, obligations or liabilities, or instruments of ownership.

6. Any transfer made pursuant to in paragraph 1 shall take place irrespective of whether the purchaser is authorised to provide the services and carry out the activities resulting from the acquisition.

Where the purchaser is not authorised to provide the services and carry out the activities resulting from the acquisition, the resolution authority, in consultation with the competent authority, shall conduct an appropriate due diligence of the purchaser and ensure that the purchaser applies for authorisation as soon as practicable and, at the latest, within one month of the use of the sale of business tool. The competent authority shall ensure that any such application for authorisation is considered in an expedited manner.

7. Where the transfer of instruments of ownership referred to in paragraph 1 results in the acquisition of or increase in a qualifying holding referred to in Article 31(2) of Regulation (EU) No 648/2012, the competent authority shall carry out the assessment referred to in that Article within a period of time that neither delays the application of the sale of business tool nor prevents the resolution action from achieving the relevant resolution objectives.

8. Where the competent authority has not completed the assessment referred to in paragraph 7 by the date on which the transfer of instruments of ownership takes effect, the following shall apply:

(a) the transfer of instruments of ownership shall have immediate legal effect from the date on which they are transferred;

(b) during the assessment period and during any divestment period provided for in point (f), the purchaser's voting rights attached to those instruments of ownership shall be suspended and vested solely in the resolution authority, which shall have no obligation to exercise them and shall not be liable for exercising or refraining from exercising them;

(c) during the assessment period and during any divestment period provided for in point (f), any penalties or measures for infringing the requirements for acquisitions or disposals of qualifying holdings envisaged in Article 12 of Regulation (EU) No 648/2012 shall not apply to that transfer;

(d) the competent authority shall notify the resolution authority and the purchaser in writing of the result of its assessment in accordance with Article 32 of Regulation (EU) No 648/2012 promptly after completing its assessment;

(e) where the competent authority does not oppose the transfer, the voting rights attached to those instruments of ownership shall be deemed to be fully vested in the purchaser as from the notification referred to in point (d);

(f) where the competent authority opposes the transfer of instruments of ownership, point (b) shall continue to apply and the resolution authority may, having taken into account market conditions, establish a divestment period within which the purchaser shall divest such instruments of ownership.

9. For the purposes of exercising its right to provide services in accordance with Regulation (EU) No 648/2012, the purchaser shall be considered to be a continuation of the CCP under resolution, and may continue to exercise any such right that was exercised by the CCP under resolution in respect of the assets, rights, obligations or liabilities transferred.

10. The purchaser referred to in paragraph 1 shall not be prevented from exercising the CCP's rights of membership and accessing the payment and settlement systems or any other financial market infrastructure provided that the purchaser meets the criteria for membership or participation in those systems or infrastructures.

Where the purchaser does not meet the criteria referred to in the first subparagraph, the purchaser may continue to exercise the CCP's rights of membership and accessing those systems and infrastructures ***subject to approval*** by the resolution authority. ***Such approval shall be granted only for a*** period of time ***not exceeding*** 12 months.

11. ***For a period of 12 months,*** the purchaser shall not be denied access to payment and settlement systems or any other financial market infrastructure on the ground that the purchaser does not possess a rating from a credit rating agency, or that that rating is below the rating levels required to be granted access to those systems or infrastructures.

12. Unless otherwise provided for in this Regulation, shareholders, creditors, clearing members and clients of the CCP under resolution and other third parties whose assets, rights, obligations or liabilities are not transferred shall have no rights over, or in relation to, the assets, rights, obligations or liabilities transferred.

Article 41

Sale of business tool: procedural requirements

1. Where using the sale of business tool in relation to a CCP, the resolution authority shall advertise the availability, or make arrangements for the marketing, of the assets, rights, obligations, liabilities, or the instruments of ownership intended to be transferred. Pools of rights, assets, obligations and liabilities may be marketed separately.

2. Without prejudice to the Union State aid framework, where applicable, the marketing referred to in paragraph 1 shall be carried out in accordance with the following criteria:

(a) it shall be as transparent as possible and shall not materially misrepresent the assets, rights, obligations, liabilities, or instruments of ownership of the CCP, having regard to the circumstances and in particular the need to maintain financial stability;

(b) it shall not unduly favour or discriminate between potential purchasers;

(c) it shall be free from any conflict of interest;

(d) it shall take account of the need to effect a rapid resolution action;

(e) it shall aim at maximising, as far as possible, the sale price for the instruments of ownership, assets, rights, obligations or liabilities involved.

The criteria referred to in the first subparagraph shall not prevent the resolution authority from soliciting particular potential purchasers.

3. By way of derogation from paragraph 1, the resolution authority may market the assets, rights, obligations, liabilities or the instruments of ownership without complying with the criteria referred to in paragraph 2 where compliance with those criteria would be likely to undermine one or more of the resolution objectives.

SECTION 5

THE BRIDGE CCP TOOL

Article 42

Bridge CCP tool

1. The resolution authority may transfer to a bridge CCP the following:

(a) the instruments of ownership issued by a CCP under resolution;

(b) any assets, rights, obligations or liabilities of the CCP under resolution.

The transfer referred to in the first subparagraph may take place without obtaining the consent of the shareholders of the CCP under resolution or any third party other than the bridge CCP and without complying with any procedural requirements under company or securities law other than those provided for in Article 43.

2. The bridge CCP shall be a legal person that meets all of the following requirements:

(a) it is controlled by the resolution authority and it is wholly or partially owned by one or more public authorities which may include the resolution authority;

(b) it is created for the purpose of receiving and holding some or all of the instruments of ownership issued by a CCP under resolution or some or all of the assets, rights, obligations and liabilities of the CCP with a view to maintaining the critical functions of the CCP and subsequently selling the CCP.

3. When applying the bridge CCP tool, the resolution authority shall ensure that the total value of liabilities and obligations transferred to the bridge CCP does not exceed the total value of the rights and assets transferred from the CCP under resolution.

4. Unless otherwise provided for in this Regulation, any consideration paid by the bridge CCP shall benefit:

(a) the owners of the instruments of ownership, where the transfer to the bridge CCP has been effected by transferring instruments of ownership issued by the CCP under resolution from the holders of those instruments to the bridge CCP;

(b) the CCP under resolution, where the transfer to the bridge CCP has been effected by transferring some or all of the assets or liabilities of that CCP to the bridge CCP.

5. The resolution authority may exercise the transfer power referred to in paragraph 1 more than once in order to make supplemental transfers of instruments of ownership issued by a CCP or of its assets, rights, obligations or liabilities.

6. The resolution authority may transfer the rights, obligations, assets or liabilities that had been transferred to the bridge CCP back to the CCP under resolution, or the instruments of ownership back to their original owners where that transfer is expressly provided for in the instrument by which the transfer referred to in paragraph 1 is made.

Where the resolution authority uses the transfer power referred to in the first subparagraph, the CCP under resolution or original owners shall be obliged to take back any such assets, rights, obligations or liabilities, or instruments of ownership, provided that the conditions in the first subparagraph of this paragraph or in paragraph 7 are met.

7. Where the specific instruments of ownership, assets, rights, obligations or liabilities do not fall within the classes of, or meet the conditions for transfer of, instruments of ownership, assets, rights, obligations or liabilities specified in the instrument by which the transfer was made, the resolution authority may transfer them from the bridge CCP back to the CCP under resolution or the original owners.

8. A transfer referred to in paragraphs 6 and 7 may be made at any time, and shall comply with any other conditions stated in the instrument by which the transfer was made for the relevant purpose.

9. The resolution authority may transfer instruments of ownership or assets, rights, obligations or liabilities from the bridge CCP to a third party.

10. For the purposes of exercising its right to provide services in accordance with Regulation (EU) No 648/2012, a bridge CCP shall be considered to be a continuation of the CCP under resolution and may continue to exercise any such right that was exercised by the CCP under resolution in respect of the assets, rights, obligations or liabilities transferred.

For any other purposes, resolution authorities may require that a bridge CCP be considered to be a continuation of the CCP under resolution, and be able to continue to exercise any right that was exercised by the CCP under resolution in respect of the assets, rights, obligations or liabilities transferred.

11. The bridge CCP shall not be prevented from exercising the rights of membership and accessing payment and settlement systems and other FMIs of the CCP under resolution, provided that it meets the criteria for membership and participation in those systems and infrastructures.

Where the bridge CCP does not meet the criteria referred to in the first subparagraph, the bridge CCP may continue to exercise the CCP's rights of membership and accessing those systems and infrastructures for a period of time specified by the resolution authority. That period of time shall not exceed 12 months.

12. The bridge CCP shall not be denied access to payment and settlement systems or any other FMI on the ground that the bridge CCP does not possess a rating from a credit rating agency, or that that rating is below the rating levels required to be granted access to those systems or infrastructures.

13. Shareholders or creditors of the CCP under resolution and other third parties whose assets, rights, obligations or liabilities are not transferred to the bridge CCP, shall have no claims over or in relation to the assets, rights, obligations or liabilities transferred to the bridge CCP, or against its board or senior management.

14. The bridge CCP shall have no duty or responsibility to shareholders or creditors of the CCP under resolution, and the board or senior management of the bridge CCP shall have no liability to those shareholders or creditors for acts and omissions in the discharge of their duties, unless the act or omission is due to gross negligence or serious misconduct in accordance with applicable national law.

Article 43

Bridge CCP: procedural requirements

1. The bridge CCP shall comply with all of the following requirements:

(a) the bridge CCP shall seek the approval of the resolution authority for all of the following:

(i) the rules of incorporation of the bridge CCP;

(ii) the members of the bridge CCP's board, where those members are not directly appointed by the resolution authority;

(iii) the responsibilities and remuneration of the members of the bridge CCP's board, where the remuneration and the responsibilities are not determined by the resolution authority;

(iv) the strategy and risk profile of the bridge CCP;

(b) the bridge CCP shall ***take over the authorisations of the CCP under resolution*** to provide the services or carry out the activities resulting from the transfer referred to in Article 42(1) in accordance with Regulation (EU) No 648/2012.

Wednesday 27 March 2019

Where the bridge CCP is not authorised as required pursuant to point (b) of paragraph 1, the resolution authority shall seek the approval of the competent authority for carrying out the transfer referred to in Article 42(1). Where the competent authority approves that transfer, it shall indicate the period for which the bridge CCP's obligation to comply with the requirements of Regulation (EU) No 648/2012 is waived.

The prudential requirements under Chapter 3 of Title IV of Regulation (EU) No 648/2012 shall ***only be waived for a period of a maximum of three months, while all other provisions of Regulation (EU) No 648/2012 can be waived for a period of a maximum of*** 12 months.

2. Subject to any restrictions imposed in accordance with Union or national competition rules, the management of the bridge CCP shall operate the bridge CCP with the objective of maintaining access by stakeholders to the bridge CCP's critical functions and selling the bridge CCP or any of its assets, rights, obligations and liabilities to one or more private sector purchasers. That sale shall take place when market conditions are appropriate, and within the period specified in paragraphs 5 and, where applicable, 6 of this Article.

3. The resolution authority shall terminate the bridge CCP in any of the following cases:

(a) the resolution objectives are fulfilled;

(b) the bridge CCP merges with another entity;

(c) the bridge CCP ceases to meet the requirements laid down in Article 42(2);

(d) the bridge CCP or substantially all of its assets, rights, obligations or liabilities have been sold in accordance with paragraph 4;

(e) the period specified in paragraph 5 expires;

(f) the contracts cleared by the bridge CCP have been settled, have expired or have been closed out and the CCP's rights and obligations relating to those contracts are thereby completely discharged.

4. Before selling the bridge CCP or its assets, rights, obligations or liabilities, the resolution authority shall advertise the availability of the elements intended to be sold, and shall ensure that they are marketed openly and transparently, and that they are not materially misrepresented.

The resolution authority shall carry out the sale referred to in the first subparagraph on commercial terms and shall not unduly favour or discriminate between potential purchasers.

5. The resolution authority shall terminate the operation of a bridge CCP two years after the date on which the last transfer from the CCP under resolution is made.

Where the resolution authority terminates the operation of a bridge CCP, it shall request the competent authority to withdraw the bridge CCP's authorisation.

6. The resolution authority may extend the period referred to in paragraph 5 for one or more additional one-year periods where the extension is necessary to terminate the bridge CCP as referred to in points (a) to (d) of paragraph 3.

The decision to extend the period referred to in paragraph 5 shall be reasoned and shall contain a detailed assessment of the bridge CCP's situation in relation to relevant market conditions and market outlook.

7. Where a bridge CCP is terminated in the circumstances referred to in point (d) or (e) of paragraph 3, the bridge CCP shall be wound up under normal insolvency proceedings.

Unless otherwise provided for in this Regulation, any proceeds generated as a result of the termination of the bridge CCP shall benefit its shareholders.

Where a bridge CCP is used for the purpose of transferring assets and liabilities of more than one CCP under resolution, the proceeds referred to in the second subparagraph shall be attributed by reference to the assets and liabilities transferred from each of the CCPs under resolution.

SECTION 6

ADDITIONAL FINANCING ARRANGEMENTS

Article 44

Alternative funding means

The resolution authority may enter into contracts to borrow or obtain other forms of financial support, including from pre-funded resources available in any non-depleted default funds in the CCP under resolution, where necessary to ensure the effective use of the resolution tools.

SECTION 7

GOVERNMENT STABILISATION TOOLS

Article 45

Government financial stabilisation tools

1. The resolution authority may use the government stabilisation tools in accordance with Articles 46 and 47 for the purpose of resolving a CCP ***only*** where the following conditions are met:

(a) the financial support is necessary to meet the resolution objectives;

(b) the financial support is used as a last resort after having assessed and exploited the other resolution tools to the maximum extent practicable whilst maintaining financial stability, as determined by the competent ministry or the government after consulting the resolution authority;

(c) the financial support complies with the Union State aid framework;

(ca) the financial support is used for a limited period of time;

(d) ▌

(da) the resolution authority has, in advance, defined comprehensive and credible arrangements for recovering, over a suitable period of time, the public funds deployed from participants benefitting from the public support, unless such funds have been already recovered through the sale to a private purchaser pursuant to either Article 46(3) or Article 47(2).

2. To give effect to the government financial stabilisation tools, competent ministries or governments shall have the relevant resolution powers specified in Articles 48 to 59, and shall ensure that Articles 52, 54 and 70 are complied with.

3. Government financial stabilisation tools shall be deemed to be used as a last resort for the purposes of point (b) of paragraph 1, where, at least, any of the following conditions are met:

(a) the competent ministry or government and the resolution authority, after consulting the central bank and the competent authority, determine that the use of the resolution tools would not suffice to avoid a significant adverse effect on the financial system;

(b) the competent ministry or government and the resolution authority determine that the use of the resolution tools would not suffice to protect the public interest, where extraordinary liquidity assistance from the central bank has previously been given to the CCP;

(c) in respect of the temporary public ownership tool, the competent ministry or government, after consulting the competent authority and the resolution authority, determines that the use of the resolution tools would not suffice to protect the public interest, where public equity support through the equity support tool has previously been given to the CCP.

Article 46

Public equity support tool

1. Public financial support may be provided for the recapitalisation of a CCP in exchange for instruments of ownership.

2. CCPs subject to the public equity support tool shall be managed on a commercial and professional basis.

3. The instruments of ownership referred to in paragraph 1 shall be sold to a private purchaser as soon as commercial and financial circumstances allow.

Article 47

Temporary public ownership tool

1. A CCP may be taken into temporary public ownership by means of one or more transfer orders of instruments of ownership executed by a Member State to a transferee which is either of the following:

(a) a nominee of the Member State;

(b) a company wholly owned by the Member State.

2. CCPs subject to the temporary public ownership tool shall be managed on a commercial and professional basis and shall be sold to a private purchaser as soon as commercial and financial circumstances allow***, also considering the possibility to recover the cost of resolution***.

CHAPTER IV

Resolution powers

Article 48

General powers

1. The resolution authority shall have all the powers necessary to use the resolution tools effectively, including all the following powers:

(a) the power to require any person to provide the resolution authority with any information it requires to decide upon and prepare a resolution action, including updates and additional information to that provided in the resolution plan or required through on-site inspections;

(b) the power to take control of a CCP under resolution and exercise all the rights and powers conferred upon holders of instruments of ownership and the CCP's board;

(ba) the power to modify or amend the operating rules of the CCP, including as regards its terms of participation, where such changes are necessary to remove impediments to resolvability;

(bb) the power to refrain from enforcing certain contractual obligations under the CCP's rules and arrangements or otherwise depart from the CCP's rules and arrangements where necessary to achieve the resolution objectives and to avoid significant adverse effects on the financial system;

(c) the power to transfer instruments of ownership issued by a CCP under resolution;

(d) the power to transfer to another entity, with its consent, the CCP's rights, assets, obligations or liabilities;

(e) the power to reduce, including to reduce to zero, the principal amount of or outstanding amount due in respect of debt instruments or other unsecured liabilities of a CCP under resolution;

(f) the power to convert debt instruments or other unsecured liabilities of a CCP under resolution into instruments of ownership of that CCP or of a bridge CCP to which assets, rights, obligations or liabilities of the CCP under resolution have been transferred;

(g) the power to cancel debt instruments issued by a CCP under resolution;

(h) the power to reduce, including to reduce to zero, the nominal amount of instruments of ownership of a CCP under resolution and to cancel such instruments of ownership;

(i) the power to require a CCP under resolution ▌ to issue new instruments of ownership, including preference shares and contingent convertible instruments;

(j) with regards to debt instruments and other liabilities of the CCP, the power to amend or alter their maturity, amend the amount of interest payable, or amend the date on which interest becomes payable, including by suspending payment for a temporary period;

(k) the power to close out and terminate financial contracts;

(l) the power to remove or replace the board and senior management of a CCP under resolution;

(m) the power to require the competent authority to assess the buyer of a qualifying holding in a timely manner by way of derogation from the time-limits laid down in Article 31 of Regulation (EU) No 648/2012;

(n) the power to reduce, including to reduce to zero, the amount of variation margin due to a clearing ***member*** of a CCP under resolution***, or to a client of that clearing member, subject to the conditions set out in Article 30***;

(o) the power to transfer open positions and any related assets, including relevant title transfer and security financial collateral arrangements, set-off arrangements, and netting arrangements, from the account of a defaulting clearing member to a non-defaulting clearing member in a manner consistent with Article 48 of Regulation (EU) No 648/2012;

(p) the power to enforce any existing and outstanding contractual obligations of the participants of the CCP under resolution;

(q) the power to enforce any existing and outstanding obligations of the parent undertaking of the CCP under resolution including to provide the CCP with financial support by way of guarantees or credit lines;

(r) the power to require clearing members to provide further contributions in cash.

Resolution authorities may exercise the powers referred to in the first subparagraph individually or in any combination.

2. Unless otherwise provided for in this Regulation and the Union State aid framework, the resolution authority shall not be subject to any of the following requirements where it exercises the powers referred to in paragraph 1:

(a) requirement to obtain approval or consent from any public or private person;

(b) requirements relating to the transfer of financial instruments, rights, obligations, assets or liabilities of a CCP under resolution or a bridge CCP;

(c) requirement to notify any public or private person;

(d) requirement to publish any notice or prospectus;

(e) requirement to file or register any document with any other authority.

Article 49

Ancillary powers

1. Where a power referred to in Article 48(1) is exercised, the resolution authority may also exercise any of the following ancillary powers:

(a) subject to Article 65, provide for a transfer to take effect free from any liability or encumbrance affecting the financial instruments, rights, obligations, assets or liabilities transferred;

(b) remove rights to acquire further instruments of ownership;

(c) require the relevant authority to discontinue or suspend the admission to trading on a regulated market, or the official listing, of any financial instruments issued by the CCP pursuant to Directive 2001/34/EC of the European Parliament and of the Council [1];

(d) provide for the purchaser or bridge CCP, pursuant to Articles 40 and 42 respectively, to be treated as if it were the CCP under resolution, for the purposes of any rights or obligations of, or actions taken by, the CCP under resolution, including any rights or obligations relating to participation in a market infrastructure;

(e) require the CCP under resolution or the purchaser or bridge CCP, where relevant, to provide the other with information and assistance;

(f) provide for the clearing member which is a recipient of any positions allocated to it by way of the powers in points (o) and (p) of Article 48(1) to assume any rights or obligations relating to participation in the CCP in relation to those positions;

(g) cancel or modify the terms of a contract to which the CCP under resolution is a party or substitute the purchaser or bridge CCP, in place of the CCP under resolution, as a party;

(h) modify or amend the operating rules of the CCP under resolution ▌;

[1] Directive 2001/34/EC of the European Parliament and of the Council of 28 May 2001 on the admission of securities to official stock exchange listing and on information to be published on those securities (OJ L 184, 6.7.2001, p. 1).

(i) transfer the membership of a clearing member from the CCP under resolution to a purchaser of the CCP or a bridge CCP.

Any right of compensation provided for in this Regulation shall not be considered to be a liability or an encumbrance for the purposes of point (a) of the first subparagraph.

2. The resolution authority may provide for continuity arrangements necessary to ensure that the resolution action is effective and that the business transferred may be operated by the purchaser or bridge CCP. Those continuity arrangements may include:

(a) the continuity of contracts entered into by the CCP under resolution, in order for the purchaser or bridge CCP to assume the rights and liabilities of the CCP under resolution relating to any financial instrument, right, obligation, asset or liability that has been transferred and to replace the CCP under resolution, expressly or implicitly, in all relevant contractual documents;

(b) the replacement of the CCP under resolution by the purchaser or bridge CCP in any legal proceedings relating to any financial instrument, right, obligation, asset or liability that has been transferred.

3. The powers provided for in point (d) of paragraph 1 and point (b) of paragraph 2 shall not affect:

(a) the right of an employee of the CCP to terminate a contract of employment;

(b) subject to Articles 55, 56 and 57, the exercise of contractual rights of a party to a contract, including the right to terminate, where provided for in the terms of the contract, due to an act or omission by the CCP prior to the transfer, or by the purchaser or bridge CCP after the transfer.

Article 50

Special management

1. The resolution authority may appoint ***one or more*** special ***managers*** to replace the board of a CCP under resolution. The special manager shall be of sufficiently good repute and shall have adequate expertise in financial services, risk management and clearing services in accordance with the second subparagraph of Article 27(2) of Regulation (EU) No 648/2012.

2. The special manager shall have all the powers of the shareholders and the board of the CCP. The special manager may only exercise those powers under the control of the resolution authority. The resolution authority may limit the actions of the special manager or require prior consent for certain acts.

The resolution authority shall make public the appointment referred to in paragraph 1 and the terms and conditions attached to that appointment.

3. The special manager shall be appointed for no more than one year. The resolution authority may renew that period where necessary to achieve the resolution objectives.

4. The special manager shall take all the measures necessary to promote the resolution objectives and implement resolution actions taken by the resolution authority. In case of inconsistency or conflict, that statutory duty shall override any other duty of management in accordance with the statutes of the CCP or national law.

5. The special manager shall draw up reports for the appointing resolution authority at regular intervals set by the resolution authority and at the beginning and the end of the mandate. Those reports shall describe in detail the financial situation of the CCP and state the reasons for the measures taken.

Wednesday 27 March 2019

6. The resolution authority may remove the special manager at any time. It shall in any case remove the special manager in the following cases:

(a) where the special manager is failing to perform its duties in accordance with the terms and conditions set out by the resolution authority;

(b) where the objectives of resolution would be better achieved by removing or replacing that special manager;

(c) where the conditions for the appointment are no longer fulfilled.

7. Where national insolvency law provides for the appointment of an insolvency management, the special manager appointed pursuant to paragraph 1 may also be appointed as insolvency manager ***or vice versa***.

Article 51

Power to require the provision of services and facilities

1. The resolution authority may require a CCP under resolution, or any of its group entities or clearing members, to provide any services or facilities that are necessary to enable a purchaser or bridge CCP to operate effectively the business transferred to it.

The first subparagraph shall apply regardless of whether an entity in the same group as the CCP or one of the CCP's clearing members has entered into normal insolvency proceedings or is itself under resolution.

2. The resolution authority may enforce obligations imposed, pursuant to paragraph 1, by resolution authorities in other Member States where those powers are exercised in relation to entities belonging to the same group as the CCP under resolution, or of the clearing members of that CCP.

3. The services and facilities referred to in paragraph 1 shall not include any form of financial support.

4. The services and facilities provided pursuant to paragraph 1 shall be provided:

(a) on the same commercial terms on which they were provided to the CCP immediately before the resolution action was taken, where an agreement for those purposes exists;

(b) on reasonable commercial terms, where there is no agreement for those purposes or where that agreement has expired.

Article 52

Power to enforce resolution actions or crisis prevention measures by other Member States

1. Where instruments of ownership, assets, rights, obligations or liabilities of a CCP under resolution are located in, or governed by the law of a Member State other than the Member State of the resolution authority, any transfer ***or resolution action in respect*** of those instruments, assets, rights, obligations or liabilities shall have effect in accordance with the law of that other Member State.

2. The resolution authority of a Member State shall be provided with all necessary assistance by the authorities of other relevant Member States to ensure that any instruments of ownership, assets, rights, obligations or liabilities are transferred to the purchaser or bridge CCP ***or any other resolution action becomes effective*** in accordance with the applicable national law.

3. Shareholders, creditors and third parties that are affected by the transfer of instruments of ownership, assets, rights, obligations or liabilities referred to in paragraph 1 shall not be entitled to prevent, challenge, or set aside that transfer under the law of the Member State that governs that transfer.

4. Where the resolution authority of a Member State uses the resolution tools referred to in Articles 28 or 32, and the contracts, liabilities, instruments of ownership or debt instruments of the CCP under resolution include instruments, contracts or liabilities that are governed by the law of another Member State, or liabilities owed to creditors and contracts in respect of clearing ***members or their clients*** located in that other Member State, the relevant authorities in that other Member State shall ensure that any action resulting from those resolution tools takes effect.

For the purposes of the first subparagraph, shareholders, creditors and clearing ***members or their clients*** affected by those resolution tools shall not be entitled to challenge the reduction of the principal or payable amount of the instrument or liability or its conversion or restructuring.

5. The following rights and safeguards shall be determined in accordance with the law of the Member State of the resolution authority:

(a) the right for shareholders, creditors and third parties to appeal pursuant to Article 72 against the transfer of instruments of ownership, assets, rights, obligations or liabilities referred to in paragraph 1 of this Article;

(b) the right for affected creditors to appeal pursuant to Article 72 against the reduction of the principal or payable amount or the conversion or restructuring of an instrument, liability or contract covered by paragraph 4 of this Article;

(c) the safeguards for partial transfers, as referred to in Chapter V, in relation to assets, rights, obligations or liabilities referred to in paragraph 1 of this Article.

Article 53

Power in respect of assets, contracts, rights, liabilities, obligations and instruments of ownership of persons located in or governed by the law of third countries

1. Where a resolution action concerns assets or contracts of persons located in a third country or instruments of ownership, rights, obligations or liabilities governed by the law of a third country, the resolution authority may require that:

(a) the CCP under resolution and the recipient of those assets, contracts, instruments of ownership, rights, obligations or liabilities take all necessary steps to ensure that the action becomes effective;

(b) the CCP under resolution holds the instruments of ownership, assets or rights or discharges the liabilities or obligations on behalf of the recipient until the action becomes effective;

(c) the reasonable expenses of the recipient properly incurred in carrying out any action required under points (a) and (b) of this paragraph are reimbursed in any of the ways referred to in Article 27(9).

2. For the purposes of paragraph 1, the resolution authority may require the CCP to ensure the inclusion of a provision in its contracts and other agreements with clearing members and holders of instruments of ownership and debt instruments or other liabilities located in ***or governed by the law of*** third countries by which they agree to be bound by any action in respect of their assets, contracts, rights, obligations and liabilities taken by the resolution authority, including the application of Articles 55, 56 and 57. ***The resolution authority may require the CCP to provide it with a legal opinion relating to the legal enforceability and effectiveness of such provisions.***

3. Where the resolution action referred to in paragraph 1 does not become effective, that action shall be void in relation to the instruments of ownership, assets, rights, obligations or liabilities concerned.

Article 54

Exclusion of certain contractual terms in early intervention and resolution

1. A crisis prevention measure or a resolution action taken in accordance with this Regulation, or any event directly linked to the application of that action, shall not be deemed an enforcement or insolvency event within the meaning of Directive 2002/47/EC and Directive 98/26/EC provided that the substantive obligations under the contract, including payment and delivery obligations and the provision of collateral, continue to be performed.

For the purposes of the first subparagraph, third-country resolution proceedings recognised pursuant to Article 75, or otherwise where the resolution authority so decides, shall be considered a resolution action taken in accordance with this Regulation.

2. A crisis prevention measure or a resolution action referred to in paragraph 1 shall not be used to:

(a) exercise any termination, suspension, modification, netting or set-off rights, including in relation to a contract entered into by any entity of the group to which the CCP belongs which includes cross-default provisions or obligations which are guaranteed or otherwise supported by any group entity;

(b) obtain possession, exercise control or enforce any security over any property of the CCP concerned or any group entity in relation to a contract which includes cross-default provisions;

(c) affect any contractual rights of the CCP concerned or any group entity in relation to a contract which includes cross-default provisions.

Article 55

Power to suspend certain obligations

1. The resolution authority may suspend any payment or delivery obligations of both counterparties to any contract entered into by a CCP under resolution from the publication of the notice of suspension in accordance with Article 70 until the end of the working day which follows that publication.

For the purposes of the first subparagraph, the end of the working day shall mean midnight in the Member State of the resolution authority.

2. Where a payment or delivery obligation would have been due during the suspension period, the payment or delivery obligation shall be due immediately upon expiry of the suspension period.

3. The resolution authority shall not exercise the power referred to in paragraph 1 to payment and delivery obligations owed to systems or operators of systems designated for the purposes of Directive 98/26/EC, including other central counterparties, and central banks.

Article 56

Power to restrict the enforcement of security interests

1. The resolution authority may prevent secured creditors of a CCP under resolution from enforcing security interests in relation to any assets of that CCP under resolution from the publication of the notice of the restriction in accordance with Article 70 until the end of the working day which follows that publication.

For the purposes of the first subparagraph, the end of the working day shall mean midnight in the Member State of the resolution authority.

2. The resolution authority shall not exercise the power referred to in paragraph 1 in relation to any security interest of systems or operators of systems designated for the purposes of Directive 98/26/EC, including other central counterparties, and central banks over assets pledged or provided by way of margin or collateral by the CCP under resolution.

Article 57

Power to temporarily suspend termination rights

1. The resolution authority may suspend the termination rights of any party to a contract with a CCP under resolution from the publication of the notice of the termination in accordance with Article 70 until the end of the working day which follows that publication, provided that the payment and delivery obligations and the provision of collateral continue to be performed.

For the purposes of the first subparagraph, the end of the working day shall mean midnight in the Member State of the resolution.

2. The resolution authority shall not exercise the power referred to in paragraph 1 in relation to systems or operators of systems designated for the purposes of Directive 98/26/EC, including other central counterparties and central banks.

3. A party to a contract may exercise a termination right under that contract before the end of the period referred to in paragraph 1 where that party receives notice from the resolution authority that the rights and liabilities covered by the contract shall not be:

(a) transferred to another entity;

(b) subject to write-down, conversion, or the use of a resolution tool to allocate losses or positions.

4. Where the notice referred to in paragraph 3 has not been given, termination rights may be exercised on the expiry of the period of suspension, subject to Article 54, as follows:

(a) where the rights and liabilities covered by the contract have been transferred to another entity, a counterparty may exercise termination rights in accordance with the terms of that contract only if the recipient entity causes the enforcement event to occur or continue;

(b) where the rights and liabilities covered by the contract remain with the CCP, termination rights ***apply*** in accordance with the ***conditions for termination as set out in the*** contract ***between the CCP and the relevant counterparty only if the enforcement event occurs or continues after*** the expiry of ***the*** suspension ***period***.

Article 58

Power to exercise control over the CCP

1. The resolution authority may exercise control over the CCP under resolution to:

(a) manage the activities and services of the CCP, exercising the powers of its shareholders and board and to consult the risk committee;

(b) manage and dispose of the assets and property of the CCP under resolution.

The control referred to in the first subparagraph may be exercised directly by the resolution authority or indirectly by a person or persons appointed by the resolution authority.

2. Where the resolution authority exercises control over the CCP, the resolution authority shall not be deemed to be a shadow director or de facto director under national law.

Article 59

Exercise of powers by the resolution authorities

Subject to Article 72, resolution authorities shall take resolution actions through executive order in accordance with national administrative competences and procedures.

Wednesday 27 March 2019

CHAPTER V

Safeguards

Article 60

No Creditor Worse Off principle

Where the resolution authority uses one or more resolution tools, it ***should aim to*** ensure that shareholders, creditors, ***clearing members and their clients*** do not incur greater losses than they would have incurred had the resolution authority not taken resolution action in relation to the CCP at the time the resolution authority considered that the conditions for resolution pursuant to Article 22(1) were met and had instead been subject to all possible outstanding obligations pursuant to the CCP's recovery plan ***and all*** other contractual arrangements in its operating rules ***for either a default or a non-default event and the CCP is a gone concern with no residual franchise value and*** wound up under normal insolvency proceedings, ***properly taking into account any plausible adverse effects of systemic instability and market turmoil.***

(a) ▌

(b) ▌

Plausible adverse effects of systemic instability and market turmoil referred to in the first subparagraph shall not be taken into account as long as the regulatory technical standards referred to in paragraph 5 of Article 61 does not allow for their valuation.

Once the regulatory technical standards referred to in paragraph 5 of Article 61 have entered into force, the resolution authorities shall take into account plausible adverse effects of systemic instability and market turmoil for the purpose of the first subparagraph.

Article 61

Valuation for the application of the No Creditor Worse Off principle

1. ***For the purpose of informing stakeholders exposed to the CCP, the CCP shall produce an estimate of how losses would affect each category of creditor under extreme but plausible scenarios for a default and non-default event leading to the insolvency of the CCP and shall be updated annually.***

This estimate shall fully reflect the contractual arrangements governing the CCP's loss waterfall and be consistent with the margining and stress testing methodology used to fulfil the CCP's obligations under Regulation (EU) No 648/2012.

1a. For the purposes of assessing compliance with the no creditor worse off principle as laid down in Article 60, the resolution authority shall ensure that a valuation is carried out by an independent person as soon as possible after the resolution actions have been effected.

2. The valuation referred to in paragraph 1 shall include:

(a) the treatment that shareholders, creditors ***and clearing members or their clients*** would have received had the resolution authority not taken resolution action in relation to the CCP the resolution authority considered that the conditions for resolution pursuant to Article 22(1) were met, and they had instead been subject to the enforcement of possible outstanding obligations pursuant to the CCP's recovery plan ***and*** other arrangements in its operating rules and the CCP had been wound up under normal insolvency proceedings ***as a gone concern with no residual franchise value, properly taking into account any plausible adverse effects of systemic instability and market turmoil,***

(b) the actual treatment that shareholders, creditors ***and clearing members or their clients*** have received, in the resolution of the CCP;

(c) whether there is any difference between the treatment referred to in point (a) and the treatment referred to in point (b).

3. For the purposes of calculating the treatments referred to in paragraph 2(a), the valuation referred to in paragraph 1 shall disregard any provision of extraordinary public financial support to the CCP under resolution ***and the CCP's own pricing methodology shall be disregarded should this methodology fail to reflect the effective market conditions.***

4. The valuation referred to in paragraph 1 shall be distinct from the valuation carried out under Article 24(3).

5. ESMA, taking into account any regulatory technical standards developed in accordance with Article 74(4) of Directive 2014/59/EU, shall develop draft regulatory technical standards specifying the methodology for carrying out the valuation referred to in paragraph 1, ***including, if or when technically possible, the valuation of plausible adverse effects of systemic instability and market turmoil.***

ESMA shall submit those draft regulatory standards to the Commission by [*PO please insert the date 12 months from entry into force of the Regulation*].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 62

Safeguard for shareholders, creditors and clearing ***members and clients of clearing members***

Where, in accordance with the valuation carried out under Article 61, any shareholder, creditor, clearing ***member or client of a clearing member*** has incurred greater losses than it would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up under normal insolvency proceedings, that shareholder, creditor or clearing participant shall be entitled to the payment of the difference.

Article 62a

Recoupment of payments

The resolution authority shall recover any reasonable expenses incurred in connection with a payment as referred to in Article 62 in any of the following ways:

(a) from the CCP under resolution, as a preferred creditor;

(b) from any consideration paid by the purchaser where the sale of business tool has been used;

(c) from any proceeds generated as a result of the termination of the bridge CCP, as a preferred creditor;

(d) from any clearing member, to the extent that a clearing member does not incur greater losses than it would have incurred if the resolution authority would not have taken resolution action in relation to the CCP and they would instead have been subject to possible outstanding obligations pursuant to the CCP's recovery plan or other arrangements in its operating rules or the CCP had been wound up under normal insolvency proceedings.

Article 63

Safeguard for counterparties in partial transfers

The protections provided for in Articles 64, 65 and 66 shall apply in the following circumstances:

(a) where the resolution authority transfers some but not all of the assets, rights, obligations or liabilities of a CCP under resolution, or a bridge CCP, to a purchaser;

(b) where the resolution authority exercises the powers referred to in point (g) of Article 49(1).

Article 64

Protection for financial collateral, set off and netting agreements

The resolution authority shall ensure that the use of a resolution tool does not result in transferring some, but not all, of the rights and liabilities under a title transfer financial collateral arrangement, a set-off arrangement or a netting arrangement between a CCP under resolution and other parties to the arrangements, or in modifying or terminating the rights and liabilities under those arrangements through the use of ancillary powers.

The arrangements referred to in the first subparagraph shall include any arrangement to which the parties are entitled to set-off or net those rights and liabilities.

Article 65

Protection for security arrangements

Without prejudice to the use of position allocation tools in Article 29, the resolution authority shall ensure that the use of a resolution tool does not result in any of the following with respect to security arrangements between a CCP under resolution and other parties to those arrangements:

(a) the transfer of assets against which the liability is secured unless that liability and benefit of the security are also transferred;

(b) the transfer of a secured liability unless the benefit of the security is also transferred;

(c) the transfer of the benefit of the security unless the secured liability is also transferred;

(d) the modification or termination of a security arrangement through the use of ancillary powers, if the effect of that modification or termination is that the liability ceases to be secured.

Article 66

Protection for structured finance arrangements and covered bonds

The resolution authority shall ensure that the use of a resolution tool does not result in any of the following with respect to structured finance arrangements, including covered bonds:

(a) the transfer of some, but not all, of the assets, rights and liabilities which constitute or form part of a structured finance arrangement to which the ***CCP*** under resolution is a party;

(b) the termination or modification through the use of ancillary powers of the assets, rights and liabilities which constitute or form part of a structured finance arrangement to which the ***CCP*** under resolution is a party.

For the purposes of the first subparagraph, structured finance arrangements shall include securitisations and instruments used for hedging purposes which form an integral part of the cover pool and which according to national law are secured in a way similar to the covered bonds, which involve the granting and holding of security by a party to the arrangement or a trustee, agent or nominee.

Article 67

Partial transfers: protection of trading, clearing and settlement systems

1. The resolution authority shall ensure that the use of a resolution tool does not affect the operation of systems and rules of systems covered by Directive 98/26/EC, where the resolution authority:

(a) transfers some but not all of the assets, rights, obligations or liabilities of a CCP under resolution to a purchaser;

(b) cancels or amends the terms of a contract to which the CCP under resolution is a party or to substitute a purchaser or bridge CCP as a party.

2. For the purposes of paragraph 1, the resolution authority shall ensure that the use of a resolution tools does not result in any of the following outcomes:

(a) revoking a transfer order in accordance with Article 5 of Directive 98/26/EC;

(b) affecting the enforceability of transfer orders and netting as required by Articles 3 and 5 of Directive 98/26/EC;

(c) affecting the use of funds, securities or credit facilities as required by Article 4 of Directive 98/26/EC;

(d) affecting the protection of collateral security as required by Article 9 of Directive 98/26/EC.

CHAPTER VI

Procedural obligations

Article 68

Notification requirements

1. The CCP shall notify the competent authority where it considers that it is failing or likely to fail as referred to in Article 22(2).

2. The competent authority shall inform the resolution authority of any notifications received under paragraph 1, and of any recovery or other measures in accordance with Title IV that the competent authority requires the CCP to take.

The competent authority shall inform the resolution authority of any emergency situation referred to in Article 24 of Regulation (EU) No 648/2012 relating to a CCP and of any notification received in accordance with Article 48 of that Regulation.

3. Where a competent authority or resolution authority determines that the conditions referred to in points (a) and (b) of Article 22(1) are met in relation to a CCP, it shall notify the following authorities ***in a timely manner***:

(a) the competent authority or resolution authority for that CCP;

(b) the competent authority for the parent undertaking of the CCP;

(b a) the supervisory college for that CCP;

(bb) the resolution college for that CCP;

(c) the central bank;

(d) the competent ministry;

(e) the ESRB and the designated national macro-prudential authority.

Article 69

Decision of the resolution authority

1. After a notification from the competent authority pursuant to Article 68(3), the resolution authority shall determine whether any resolution action is needed.

2. The decision whether or not to take resolution action in relation to a CCP shall contain information on the following:

(a) the resolution authority's assessment of whether the CCP meets the conditions for resolution;

(b) any action that the resolution authority intends to take, including the decision to apply for winding up, the appointment of an administrator or any other measure under applicable normal insolvency proceedings or, subject to point (e) of Article 27(1), under national law.

Article 70

Procedural obligations of resolution authorities

1. As soon as practicable after taking a resolution action, the resolution authority shall notify all of the following:

(a) the CCP under resolution;

(b) the resolution college;

(c) the designated national macroprudential authority and the ESRB;

(d) the Commission, the European Central Bank, and EIOPA;

(e) the operators of the systems covered by Directive 98/26/EC in which the CCP under resolution participates.

2. The notification referred to in paragraph 1 shall include a copy of any order or instrument by which the relevant action is taken and indicate the date from which the resolution action is effective.

The notification to the resolution college pursuant to point (b) of paragraph (1) shall also indicate whether the resolution action deviates from the resolution plan and provide reasons for any such deviation.

3. A copy of the order or instrument by which the resolution action is taken, or a notice summarising the effects of the resolution action and, if applicable, the terms and period of suspension or restriction referred to in Articles 55, 56 and 57, shall be published at all of the following:

(a) the website of the resolution authority;

(b) the website of the competent authority, if different from the resolution authority, and the website of ESMA;

(c) the website of the CCP under resolution;

(d) where the instruments of ownership or debt instruments of the CCP under resolution are admitted to trading on a regulated market, the means used for the disclosure of regulated information concerning the CCP under resolution in accordance with Article 21(1) of Directive 2004/109/EC of the European Parliament and of the Council [1].

4. Where the instruments of ownership or debt instruments are not admitted to trading on a regulated market, the resolution authority shall ensure that the documents providing proof of the order referred to in paragraph 3 are sent to the holders of the instruments of ownership and creditors of the CCP under resolution that are known through the registers or databases of the CCP under resolution which are available to the resolution authority.

Article 71

Confidentiality

1. The requirements of professional secrecy shall be binding in respect of the following persons:

(a) resolution authorities;

(b) competent authorities, ESMA and EBA;

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[1] Directive 2004/109/EC of the European Parliament and of the Council of 15 December 2004 on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market and amending Directive 2001/34/EC (OJ L 390, 31.12.2004, p. 38).

(c) competent ministries;

(d) special managers or temporary administrators appointed under this Regulation;

(e) potential acquirers that are contacted by the competent authorities or solicited by the resolution authorities, irrespective of whether that contact or solicitation was made as preparation for the use of the sale of business tool, and irrespective of whether the solicitation resulted in an acquisition;

(f) auditors, accountants, legal and professional advisors, valuers and other experts directly or indirectly engaged by the resolution authorities, competent authorities, competent ministries or by the potential acquirers referred to in point (e);

(g) central banks and other authorities involved in the resolution process;

(h) a bridge CCP;

(i) any other persons who provide or have provided services directly or indirectly, permanently or occasionally, to persons referred to in points (a) to (k);

(j) the senior management and members of the board of the CCP, and employees of the bodies or entities referred to in points (a) to (k) before, during and after their appointment;

(k) all other members of the resolution college not referred to in points (a), (b), (c) and (g).

2. With a view to ensuring that the confidentiality requirements laid down in paragraphs 1 and 3 are complied with, the persons referred to in points (a), (b), (c), (g), (h) and (k) of paragraph 1 shall ensure that there are internal rules in place, including rules to secure secrecy of information between persons directly involved in the resolution process.

3. The persons referred to in paragraph 1 shall be prohibited from disclosing confidential information received during the course of their professional activities or from a competent authority or resolution authority in connection with their functions under this Regulation, to any person or authority unless it is in the exercise of their functions under this Regulation or in summary or aggregate form such that individual CCPs cannot be identified or with the express and prior consent of the authority or the CCP which provided the information.

Before disclosing any type of information, the persons referred to in paragraph 1 shall assess the effects that the disclosure may have on the public interest as regards financial, monetary or economic policy, on the commercial interests of natural and legal persons, on the purpose of inspections, on investigations and on audits.

The procedure for checking the effects of disclosing information shall include a specific assessment of the effects of any disclosure of the contents and details of recovery and resolution plans as referred to in Articles 9 and 13 and the result of any assessment carried out under Articles 10 and 16.

Any person or entity referred to in paragraph 1 shall be subject to civil liability in the event of an infringement of this Article, in accordance with national law.

4. By way of derogation from paragraph 3, the persons referred to in paragraph 1 may exchange confidential information with any of the following provided that confidentiality agreements are in place for the purposes of that exchange:

(a) any other person where necessary for the purposes of planning or carrying out a resolution action;

(b) parliamentary enquiry committees in their Member State, courts of auditors in their Member State and other entities in charge of enquiries in their Member State;

(c) national authorities responsible for overseeing payment systems, the authorities responsible for normal insolvency proceedings, the authorities entrusted with the public duty of supervising other financial sector entities, the authorities responsible for the supervision of financial markets and insurance undertakings and inspectors acting on their behalf, the authorities responsible for maintaining the stability of the financial system in Member States through the use of macroprudential rules, the authorities responsible for protecting the stability of the financial system, and persons charged carrying out statutory audits.

5. This Article shall not prevent:

(a) employees and experts of the bodies or entities referred to in points (a) to (g) and in point (k) of paragraph 1 from sharing information among themselves within each body or entity;

(b) resolution authorities and competent authorities, including their employees and experts, from sharing information with each other and with other Union resolution authorities, other Union competent authorities, competent ministries, central banks, authorities responsible for normal insolvency proceedings, authorities responsible for maintaining the stability of the financial system in Member States through the use of macroprudential rules, persons charged with carrying out statutory audits of accounts, EBA, ESMA, or, subject to Article 78, third-country authorities that carry out equivalent functions to resolution authorities, or, subject to strict confidentiality requirements, to a potential acquirer for the purposes of planning or carrying out a resolution action.

6. This Article shall be without prejudice to national law concerning the disclosure of information for the purpose of legal proceedings in criminal or civil cases.

CHAPTER VII

Right of appeal and exclusion of other actions

Article 72

Ex-ante judicial approval and rights of appeal

1. ▌

2. All persons affected by a decision to take a crisis prevention measure or a decision to exercise any power, other than a resolution action, shall have the right of appeal against that decision.

3. All persons affected by a decision to take a resolution action shall have the right of appeal against that decision.

4. The right of appeal referred to in paragraph 3 shall be subject to the following conditions:

(a) the decision of the resolution authority shall be immediately enforceable and it shall give rise to a rebuttable presumption that a suspension of its enforcement would be against the public interest;

(b) the procedure relating to the appeal shall be expeditious;

(c) the court shall use the economic assessments of the facts carried out by the resolution authority as a basis for its own assessment.

4a. A decision of the Resolution Authority to take a Resolution action, a crisis prevention measure or a decision to exercise any power, other than a Resolution action, shall be annulled on substantive grounds only if it was arbitrary and unreasonable at the time of the decision, based on the information then readily available.

4b. The lodging of an appeal shall not entail any automatic suspension of the effects of the challenged decision.

5. Where necessary to protect the interests of third parties acting in good faith who have acquired instruments of ownership, assets, rights, obligations or liabilities of a CCP under resolution by virtue of a resolution action, the annulment of a decision of a resolution authority shall not affect any subsequent administrative acts or transactions concluded by the resolution authority concerned which were based on the annulled decision.

For the purposes of the first subparagraph, the remedies available to the applicant where a decision of the resolution authority is annulled shall be limited to compensation for the loss suffered as a result of that decision.

Article 73

Restrictions on other proceedings

1. Normal insolvency proceedings shall not be commenced in relation to a CCP except at the initiative of the resolution authority or with its consent in accordance with paragraph 3.

2. Competent authorities and resolution authorities shall be notified without delay of any application for the opening of normal insolvency proceedings in relation to a CCP, irrespective of whether the CCP is under resolution or a decision has been made public in accordance with Article 70(3).

3. The authorities responsible for normal insolvency proceedings may only commence those proceedings after the resolution authority has notified them of its decision not to take any resolution action in relation to the CCP or where no notification has been received within seven days of the notification referred to in paragraph 2.

Where necessary for the effective use of the resolution tools and powers, resolution authorities may request the court to apply a stay for an appropriate period of time in accordance with the objective pursued, on any judicial action or proceeding in which a CCP under resolution is or may become a party.

TITLE VI

RELATIONS WITH THIRD COUNTRIES

Article 74

Agreements with third countries

1. In accordance with Article 218 TFEU, the Commission may submit to the Council recommendations for the negotiation of agreements with one or more third countries regarding the means of cooperation between the resolution authorities and the relevant third country authorities in connection with recovery and resolution planning in relation to CCPs and third country CCPs, with regard to the following situations:

(a) where a third country CCP provides services or has subsidiaries in one or more Member States;

(b) where a CCP established in a Member State provides services or has one or more subsidiaries in a third country;

(ba) where a significant number of clearing members of a CCP are established in that third country;

(bb) where a third country CCP has a significant number of clearing members that are established in the Union.

2. The agreements referred to in paragraph 1 shall, in particular, seek to ensure the establishment of processes and arrangements for cooperation in carrying out the tasks and exercising the powers indicated in Article 77, including the exchange of information necessary for those purposes.

Article 75

Recognition and enforcement of third-country resolution proceedings

1. This Article shall apply in respect of third-country resolution proceedings unless and until an international agreement as referred to in Article 74(1) enters into force with the relevant third country. It shall also apply following the entry into force of an international agreement as referred to in Article 74(1) with the relevant third country to the extent that recognition and enforcement of third-country resolution proceedings is not governed by that agreement.

2. Relevant national authorities shall recognise third-country resolution proceedings relating to a third-country CCP in any of the following cases:

(a) the third-country CCP provides services in or has subsidiaries established in one or more Member States;

(b) the third-country CCP has assets, rights, obligations or liabilities located in one or more Member States or are governed by the law of those Member States.

Relevant national authorities shall ensure the enforcement of the recognised third-country resolution proceedings in accordance with their national law.

3. The relevant national authorities shall at least have the power to do the following:

(a) exercise the resolution powers in relation to the following:

(i) assets of a third-country CCP that are located in their Member State or governed by the law of their Member State;

(ii) rights or liabilities of a third-country CCP that are booked in their Member State or governed by the law of their Member State, or where claims in relation to such rights and liabilities are enforceable in their Member State;

(b) perfect, including to require another person to take action to perfect, a transfer of instruments of ownership in a subsidiary established in the designating Member State;

(c) exercise the powers in Article 55, 56 and 57 in relation to the rights of any party to a contract with an entity referred to in paragraph 2 of this Article, where such powers are necessary in order to enforce third-country resolution proceedings;

(d) render unenforceable any right to terminate, liquidate or accelerate contracts, or affect the contractual rights, of entities referred to in paragraph 2 and other group entities, where such a right arises from resolution action taken in respect of the third-country CCP, whether by the third-country resolution authority itself or otherwise pursuant to legal or regulatory requirements as to resolution arrangements in that country, provided that the substantive obligations under the contract, including payment and delivery obligations, and provision of collateral, continue to be performed.

4. The recognition and enforcement of third-country resolution proceedings shall be without prejudice to any normal insolvency proceedings under national law applicable.

Article 76

Right to refuse recognition or enforcement of third-country resolution proceedings

By way of derogation from Article 75(2), the relevant national authorities may refuse to recognise or to enforce third-country resolution proceedings in any of the following cases:

(a) the third-country resolution proceedings would have adverse effects on financial stability in their Member State;

(b) creditors or clearing ***members or their clients of those clearing members*** located in their Member State would not receive the same treatment as third-country creditors or clearing ***members or their clients of those clearing members*** with similar legal rights under the third-country home resolution proceedings;

(c) recognition or enforcement of the third-country resolution proceedings would have material fiscal implications for their Member State;

(d) the recognition or enforcement would be contrary to national law.

Article 77

Cooperation with third-country authorities

1. This Article shall apply in respect of cooperation with a third country unless and until an international agreement as referred to in Article 74(1) enters into force with the relevant third country. It shall also apply following the entry into force of an international agreement provided for in Article 74(1) with the relevant third country to the extent that the subject matter of this Article is not governed by that agreement.

2. Competent authorities or resolution authorities, where appropriate, shall conclude cooperation arrangements with the following relevant third-country authorities, taking into account existing cooperation arrangements established pursuant to Article 25(7) of Regulation (EU) No 648/2012:

(a) where a third country CCP provides services or has subsidiaries in one or more Member States, the relevant authorities of the third country where the CCP is established;

(b) where a CCP provides services in or has one or more third-country subsidiaries, the relevant authorities of the third countries where those services are provided or where the subsidiaries are established.

3. The cooperation arrangements referred to in paragraph 2 shall establish processes and arrangements between the participating authorities for sharing the necessary information for and cooperating in carrying out the following tasks and exercising the following powers in relation to CCPs referred to in points (a) and (b) of paragraph 2 or groups including such CCPs:

(a) the development of resolution plans in accordance with Article 13 and similar requirements under the law of the relevant third countries;

(b) the assessment of the resolvability of such institutions and groups, in accordance with Article 16 and similar requirements under the law of the relevant third countries;

(c) the application of powers to address or remove impediments to resolvability pursuant to Article 17 and any similar powers under the law of the relevant third countries;

(d) the application of early intervention measures pursuant to Article 19 and similar powers under the law of the relevant third countries;

(e) the use of resolution tools and exercise of resolution powers and similar powers conferred upon the relevant third-country authorities.

4. Cooperation arrangements concluded between resolution authorities and competent authorities of Member States and third countries pursuant to paragraph 2 may include provisions on the following matters:

(a) the exchange of information necessary for the preparation and maintenance of resolution plans;

(b) consultation and cooperation in the development of resolution plans, including principles for the exercise of powers under Article 75 and similar powers under the law of the relevant third countries;

(c) the exchange of information necessary for the use of resolution tools and exercise of resolution powers and similar powers under the law of the relevant third countries;

(d) early warning to or consultation of parties to the cooperation arrangement before taking any significant action under this Regulation or relevant third-country law affecting the CCP or group to which the arrangement relates;

(e) the coordination of public communication in the case of joint resolution actions;

(f) procedures and arrangements for the exchange of information and cooperation under points (a) to (e), including, where appropriate, through the establishment and operation of crisis management groups.

In order to ensure the common, uniform and consistent application of paragraph 3, ESMA shall issue guidelines on the types and content of the provisions referred to in paragraph 4 by [*PO please insert the date 18 months from entry into force of the Regulation*].

5. Resolution authorities and competent authorities shall notify ESMA of any cooperation agreements that they have concluded in accordance with this Article.

Article 78

Exchange of confidential information

1. Resolution authorities, competent authorities, competent ministries and, where applicable, other relevant national authorities shall exchange confidential information, including recovery plans, with relevant third-country authorities only if the following conditions are met:

(a) those third-country authorities are subject to requirements and standards of professional secrecy at least considered to be equivalent, in the opinion of all the authorities concerned, to those imposed by Article 71;

(b) the information is necessary for the performance by the relevant third-country authorities of their functions under national law that are comparable to those under this Regulation and is not used for any other purposes.

2. In so far as the exchange of information relates to personal data, the handling and transmission of such personal data to third-country authorities shall be governed by the applicable Union and national data protection law.

3. Where confidential information originates in another Member State, resolution authorities, competent authorities and competent ministries shall not disclose that information to relevant third-country authorities unless the following conditions are met:

(a) the relevant authority of the Member State where the information originated agrees to that disclosure;

(b) the information is disclosed only for the purposes permitted by the authority referred to in point (a).

4. For the purposes of this Article, information is deemed to be confidential if it is subject to confidentiality requirements under Union law.

Article 78a

Administrative penalties and other administrative measures

1. Without prejudice to the right of Member States to provide for and impose criminal penalties, Member States shall lay down rules on administrative penalties and other administrative measures applicable where the provisions of this Regulation have not been complied with, and shall take all measures necessary to ensure that they are implemented. Where Member States decide not to lay down rules for administrative penalties for infringements which are subject to national criminal law they shall communicate to the Commission the relevant criminal law provisions. The administrative penalties and other administrative measures shall be effective, proportionate and dissuasive.

2. Member States shall ensure that, where obligations referred to in the first paragraph apply to CCPs, clearing members of CCPs or parent undertakings, in the event of an infringement, administrative penalties can be applied, subject to the conditions laid down in national law, to the members of the board of the CCP and to other natural persons who under national law are responsible for the infringement.

3. The powers to impose administrative penalties provided for in this Regulation shall be attributed to resolution authorities or, where different, to competent authorities, depending on the type of infringement. Resolution authorities and competent authorities shall have all information-gathering and investigatory powers that are necessary for the exercise of their respective functions. In the exercise of their powers to impose penalties, resolution authorities and competent authorities shall cooperate closely to ensure that administrative penalties or other administrative measures produce the desired results and coordinate their action when dealing with cross-border cases.

4. Resolution authorities and competent authorities shall exercise their administrative powers to impose penalties in accordance with this Regulation and national law in any of the following ways:

(a) directly;

(b) in collaboration with other authorities;

(c) under their responsibility by delegation to such authorities;

(d) by application to the competent judicial authorities.

Article 78b

Specific provisions

1. Member States shall ensure that their laws, regulations and administrative provisions provide for penalties and other administrative measures at least in respect of the following situations:

(a) failure to draw up, maintain and update recovery plans infringing Article 9;

(b) failure to provide all the information necessary for the development of resolution plans, infringing Article 14;

(c) failure of the board of the CCP to notify the competent authority when the CCP is failing or likely to fail, infringing Article 68(1).

2. Member States shall ensure that, in the cases referred to in paragraph 1, the administrative penalties and other administrative measures that can be applied include at least the following:

(a) a public statement which indicates the natural person, institution, Union parent undertaking, CCP, or other legal person responsible and the nature of the infringement;

(b) an order requiring the natural or legal person responsible to cease the conduct and to desist from a repetition of that conduct;

(c) a temporary ban against the members of the senior management of the CCP or any other natural person, who is held responsible, to exercise functions in CCPs;

(d) in the case of a legal person, administrative fines of up to 10 % of the total annual net turnover of that legal person in the preceding business year. Where the legal person is a subsidiary of a parent undertaking, the relevant turnover shall be the turnover resulting from the consolidated accounts of the ultimate parent undertaking in the preceding business year;

(e) in the case of a natural person, administrative fines of up to EUR 5 000 000, or in the Member States where the Euro is not the official currency, the corresponding value in the national currency on [date of entry into force of the Regulation];

(f) administrative fines of up to twice the amount of the benefit derived from the infringement where that benefit can be determined.

Article 78c

Publication of administrative penalties

1. Member States shall ensure that resolution authorities and competent authorities publish on their official website at least any administrative penalties imposed by them for infringing the provisions laid down in this Regulation where such penalties have not been the subject of an appeal or where the right of appeal has been exhausted. Such publication shall be made without undue delay after the natural or legal person is informed of that penalty including information on the type and nature of the infringement and the identity of the natural or legal person on whom the penalty is imposed.

Where Member States permit publication of penalties against which there is an appeal, resolution authorities and competent authorities shall, without undue delay, publish on their official websites information on the status of that appeal and the outcome thereof.

2. Resolution authorities and competent authorities shall publish the penalties imposed by them on an anonymous basis, in a manner which is in accordance with national law, in any of the following circumstances:

(a) where the penalty is imposed on a natural person and publication of personal data is shown to be disproportionate by an obligatory prior assessment of the proportionality of such publication;

(b) where publication would jeopardise the stability of financial markets or an ongoing criminal investigation;

(c) where publication would cause, insofar as it can be determined, disproportionate damage to the CCP or natural persons involved.

Alternatively, in such cases, the publication of the data in question may be postponed for a reasonable period of time, if it is foreseeable that the reasons for anonymous publication will cease to exist within that period.

3. Resolution authorities and competent authorities shall ensure that any publication in accordance with this Article shall remain on their official website for a period of at least five years. Personal data contained in the publication shall only be kept on the official website of the resolution authority or the competent authority for the period which is necessary in accordance with applicable data protection rules.

4. By … [PO: insert date: 18 months after the entry into force of this Regulation], ESMA shall submit a report to the Commission on the publication by Member States, on an anonymous basis as provided for under paragraph 2, of penalties for non-compliance with the provisions laid down in this Regulation and in particular whether there have been significant divergences between Member States in that respect. That report shall also address any significant divergences in the duration of publication of penalties under national law for Member States for publication of penalties.

Article 78d

Maintenance of central database by ESMA

1. Subject to the professional secrecy requirements referred to in Article 71, resolution authorities and competent authorities shall inform ESMA of all administrative penalties imposed by them under Article 78a for infringements of the provisions laid down in this Article and of the status of that appeal and outcome thereof.

2. ESMA shall maintain a central database of penalties reported to it solely for the purpose of exchange of information between resolution authorities which shall be accessible to resolution authorities only and shall be updated on the basis of the information provided by resolution authorities.

3. ESMA shall maintain a central database of penalties reported to it solely for the purpose of exchange of information between competent authorities which shall be accessible to competent authorities only and shall be updated on the basis of the information provided by competent authorities.

4. ESMA shall maintain a webpage with links to each resolution authority's publication of penalties and each competent authority's publication of penalties under Article 78c and indicate the period for which each Member State publishes penalties.

Article 78e

Effective application of penalties and exercise of powers to impose penalties by competent authorities and resolution authorities

Member States shall ensure that, when determining the type of administrative penalties or other administrative measures and the level of administrative fines, the competent authorities and resolution authorities take into account all relevant circumstances, including where appropriate:

(a) the gravity and the duration of the infringement;

(b) the degree of responsibility of the natural or legal person responsible;

(c) the financial strength of the natural or legal person responsible, for example, as indicated by the total turnover of the responsible legal person or the annual income of the responsible natural person;

(d) the amount of profits gained or losses avoided by the natural or legal person responsible, insofar as they can be determined;

(e) the losses for third parties caused by the infringement, insofar as they can be determined;

(f) the level of cooperation of the natural or legal person responsible with the competent authority and the resolution authority;

(g) previous infringements by the natural or legal person responsible;

(h) any potential systemic consequences of the infringement.

TITLE VII

AMENDMENTS TO REGULATIONS (EU) NO 1095/2010, (EU) NO 648/2012, AND (EU) 2015/2365

Article 79

Amendments to Regulation (EU) No 1095/2010

Regulation (EU) No 1095/2010 is amended as follows:

(22) in Article 4, in paragraph 3, the following point (iv) is added:

'(iv) with regard to Regulation (EU) No [*on CCP recovery and resolution*], a resolution authority as defined in point 3 of Article 2(1) of Regulation (EU) No [*on CCP recovery and resolution*].';

(23) in Article 40, in paragraph 5, the following subparagraph is added:

'For the purpose of acting within the scope of Regulation (EU) [*on CCP recovery and resolution*], the member of the Board of Supervisors referred to in point (b) of paragraph 1 may, where appropriate, be accompanied by a representative from the resolution authority in each Member State, who shall be non-voting.'.

Article 80

Amendments to Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

(1) The following Article 6a is inserted:

'Article 6a

Suspension of the clearing obligation in resolution

1. Where a CCP meets the conditions under Article 22 of Regulation (EU) [*on CCP recovery and resolution*], the resolution authority of the CCP designated under Article 3(1) of that Regulation ▌ may request the Commission to temporarily suspend the clearing obligation laid down in Article 4(1) for specific classes of OTC derivatives where the following conditions are met:

(a) the CCP in resolution is authorised under Article 14 to clear the specific classes of OTC derivatives subject to clearing pursuant to Article 4(1) for which the suspension is requested;

(b) the suspension of the clearing obligation laid down in Article 4 for those specific classes of OTC derivatives is necessary to avoid a serious threat to financial stability in the Union in connection with the resolution of the CCP, in particular where ***all*** of the following criteria are met:

(i) there are adverse events or developments which constitute a serious threat to financial stability;

(ii) the measure is necessary to address the threat and will not have a detrimental effect on financial stability ***including possible procyclical effects*** which is disproportionate to its benefits.

(iia) no alternative CCPs are available to offer the clearing service to the clearing participants of the CCP in resolution, or clearing members and clients are not operationally and technically able to meet within a reasonable timeframe all legal or operational requirements of those alternative CCPs.

The request referred to in the first subparagraph shall be accompanied by evidence that the conditions laid down in points (a) and (b) of the first subparagraph are fulfilled.

The ***resolution*** authority referred to in the first subparagraph shall notify its reasoned request to ESMA and the ESRB at the same time that the request is notified to the Commission.

2. ESMA shall, within 24 hours of notification of the request referred to in paragraph 1, and after consultation of the ESRB, issue an opinion on the intended suspension taking into account the necessity to avoid a serious threat to financial stability in the Union, the resolution objectives laid down in Article 21 of Regulation (EU) [*on CCP recovery and resolution*] and the criteria set out in paragraphs 4 and 5 of Article 5 of this Regulation.

3. The opinion referred to in paragraph 2 shall not be made public.

4. The Commission shall, within 48 hours of the request referred to in paragraph 1 and in accordance with paragraph 6 adopt a decision suspending temporarily the clearing obligation for specific classes of OTC derivatives or rejecting the requested suspension.

5. The Commission's decision shall be communicated to the authority that requested the suspension and to ESMA and shall be published on the Commission's website. Where the Commission decides to suspend a clearing obligation, this shall be published on the public register referred to in Article 6.

6. The Commission may decide to temporarily suspend the clearing obligation referred to in paragraph 1 for the specific class of OTC derivatives provided that the conditions in point (a) and (b) of paragraph 1 are fulfilled. In adopting such a decision, the Commission shall take into account the opinion issued by ESMA referred to in paragraph 2, the resolution objectives referred to in Article 21 of Regulation (EU) [*on CCP recovery and resolution*], the criteria set out in paragraphs 4 and 5 of Article 5 regarding those OTC derivative classes and the necessity of the suspension to avoid a serious threat to financial stability.

7. The suspension of a clearing obligation pursuant to paragraph 4 shall be valid for an initial period not exceeding ***one month*** from the date of its publication in the *Official Journal of the European Union*.

8. The Commission may, after consulting the ***Resolution Authority, ESMA and the*** ESRB, renew the suspension referred to in paragraph 7 for one or more periods not cumulatively exceeding six months from the end of the initial suspension period where the grounds for the suspension continue to apply.

9. Where the suspension is not renewed by the end of the initial period or by the end of any subsequent renewal period it shall automatically expire.

10. The Commission shall notify ESMA of its intention to renew the suspension of the clearing obligation.

ESMA shall, within 48 hours of notification by the Commission of its intention to renew the suspension of the clearing obligation, issue an opinion on the renewal of the suspension taking into account the necessity to avoid a serious threat to financial stability in the Union, the resolution objectives laid down in Article 21 of Regulation (EU) [*on CCP recovery and resolution*] and the criteria set out in paragraphs 4 and 5 of Article 5 of this Regulation.';

(2) In Article 28, paragraph 3 is replaced by the following:

'3. The risk committee shall advise the board on any arrangements that may impact the risk management of the CCP, such as a significant change in its risk model, the default procedures, the criteria for accepting clearing members, the clearing of new classes of instruments, or the outsourcing of functions. The risk committee shall inform the board in a timely manner of any new risk affecting the resilience of the CCP. The advice of the risk committee is not required for the daily operations of the CCP. Reasonable efforts shall be made to consult the risk committee on developments impacting the risk management of the CCP in emergency situations, including on developments relevant to clearing members' exposures to the CCP and interdependencies with other CCPs' without prejudice to the limitations to the exchange of information laid out in competition law.

(3) In Article 28, paragraph 5 is replaced by the following:

'5. A CCP shall promptly inform the competent authority and the risk committee of any decision in which the board decides not to follow the advice of the risk committee and explain such decision. The risk committee or any member of the risk committee may inform the competent authority of any areas in which it considers that the advice of the risk committee has not been followed.';

Wednesday 27 March 2019

(4) in Article 38, the following paragraph 6 is added:

'The clearing members of the CCP shall clearly inform their existing and potential clients of the specific potential losses or other costs that they may bear a result of the application of the default management process and loss allocation arrangements laid out in the CCPs operating rules, including the type of compensation they may receive, taking into account Article 48(7)of Regulation (EU) No 648/2012. Clients shall be provided with sufficient information to ensure that they understand the worst-case losses or other costs they could face should the CCP undertake recovery measures.';

(5) in Article 81, in paragraph 3, the following point (q) is added:

'(q) the resolution authorities designated under Article 3 of Regulation (EU) No [*on CCP recovery and resolution*].'.

Article 81

Amendment to Regulation (EU) 2015/2365

In Article 12, in paragraph 2, the following point (n) is added:

'(n) the resolution authorities designated under Article 3 of Regulation (EU) [*on CCP recovery and resolution*].'.

TITLE VIII

FINAL PROVISIONS

Article 82

Review

At the latest by …[two years following the date of entry into force of this Regulation] and sooner if appropriate in the light of other legislation adopted, ESMA shall assess the staffing and resources needs arising from the assumption of its powers and duties in accordance with this Regulation and submit a report to the European Parliament, the Council and the Commission.

By …***[three years following the date of entry into force of this Regulation or upon adoption of other relevant legislation],*** the Commission shall review this Regulation ***and its implementation and shall assess the effectiveness of the governance arrangements for the recovery and resolution of CCPs in the Union*** and submit a report thereon to the European Parliament and to the Council.

This report shall in particular:

(a) assess whether establishing a single resolution authority for Union CCPs would be beneficial, timely and consistent with the developments regarding the supervisory architecture for CCPs in the Union and with the state of integration of such supervisory architecture; and

(b) review the Union institutions, bodies and agencies that could take up the duties of a single resolution authority for Union CCPs and assess their suitability.

If a single supervisor for Union CCPs has been established by the time of this report or if the report concludes that the supervisory architecture for Union CCPs is sufficiently integrated for a single resolution authority for CCPs to be consistent with it, the Commission shall present a proposal to amend this Regulation in order to create a single resolution authority for CCPs or, as the case may be, in order to entrust the resolution of Union CCPs to any suitable Union institution, body or agency.

Article 83

Entry into force

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

It shall apply from [*PO: Please insert the date set out in the second subparagraph of Article 9(1) of the Directive amending Directive 2014/59/EU*].

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Wednesday 27 March 2019

ANNEX

SECTION A

REQUIREMENTS FOR RECOVERY PLANS

1. The recovery plan shall:

(1) not assume any access to or receipt of extraordinary public financial support;

(2) consider the interests of all stakeholders that are likely to be affected by that plan;

(3) ensure that clearing members do not have unlimited exposures toward the CCP.

The CCP shall develop adequate mechanisms to involve linked FMIs and stakeholders which would bear losses, incur costs or contribute to cover liquidity shortfalls in the event that the recovery plan was implemented in the process of drawing-up of that plan.

SECTION B

INFORMATION THAT RESOLUTION AUTHORITIES MAY REQUEST CCPS TO PROVIDE FOR THE PURPOSES OF DRAWING UP AND MAINTAINING RESOLUTION PLANS

Resolution authorities may request institutions to provide for the purposes of drawing up and maintaining resolution plans at least the following information:

(2) a detailed description of the CCP's organisational structure including a list of all legal persons;

(3) identification of the direct holders and the percentage of voting and non-voting rights of each legal person;

(4) the location, jurisdiction of incorporation, licensing and key management associated with each legal person;

(5) a mapping of the CCP's critical operations and core business lines including balance sheet details of such operations and business lines, by reference to legal persons;

(6) a detailed description of the components of the CCP's and all its legal entities' business activities, separating, at a minimum by types of services and respective amounts of cleared volumes, open interest, initial margin, variation margin flows, default funds and any associated assessment rights or other recovery actions pertaining to such business lines;

(7) details of capital and debt instruments issued by the CCP and its legal entities;

(8) an identification of from whom the CCP has received collateral and in what form (title transfer or security interest), and to whom it has pledged collateral and in what form and the person that holds the collateral, and in both cases the jurisdiction in which the collateral is located;

(9) a description of the off balance sheet exposures of the CCP and its legal entities, including a mapping to its critical operations and core business lines;

(10) the material hedges of the CCP including a mapping to legal persons;

(11) identification of the relative exposures and importance of clearing members of the CCP as well as an analysis of the impact of the failure of major clearing members on the CCP;

(12) each system on which the CCP conducts a material number or value amount of trades, including a mapping to the CCP's legal persons, critical operations and core business lines;

(13) each payment, clearing or settlement system of which the CCP is directly or indirectly a member, including a mapping to the CCP's legal persons, critical operations and core business lines;

(14) a detailed inventory and description of the key management information systems, including those for risk management, accounting and financial and regulatory reporting used by the CCP including a mapping to the CCP's legal persons, critical operations and core business lines;

(15) an identification of the owners of the systems identified in point (13), service level agreements related thereto, and any software and systems or licenses, including a mapping to their legal entities, critical operations and core business lines;

(16) an identification and mapping of the legal persons and the interconnections and interdependencies among the different legal persons such as:

— common or shared personnel, facilities and systems;

— capital, funding or liquidity arrangements;

— existing or contingent credit exposures;

— cross guarantee agreements, cross-collateral arrangements, cross-default provisions and cross-affiliate netting arrangements;

— risks transfers and back-to-back trading arrangements; service level agreements;

(17) the competent and resolution authority for each legal person, if different to those designated under Article 22 of Regulation (EU) No 648/2012 and under Article 3 of this Regulation;

(18) the member of the board responsible for providing the information necessary to prepare the resolution plan of the CCP as well as those responsible, if different, for the different legal persons, critical operations and core business lines;

(19) a description of the arrangements that the CCP has in place to ensure that, in the event of resolution, the resolution authority will have all the necessary information, as determined by the resolution authority, for applying the resolution tools and powers;

(20) all the agreements entered into by the CCP and their legal entities with third parties the termination of which may be triggered by a decision of the authorities to apply a resolution tool and whether the consequences of termination may affect the application of the resolution tool;

(21) a description of possible liquidity sources for supporting resolution;

(22) information on asset encumbrance, liquid assets, off-balance sheet activities, hedging strategies and booking practices.

SECTION C

MATTERS THAT THE RESOLUTION AUTHORITY IS TO CONSIDER WHEN ASSESSING THE RESOLVABILITY OF A CCP

When assessing the resolvability of a CCP, the resolution authority shall consider the following:

(23) the extent to which the CCP is able to map core business lines and critical operations to legal persons;

(24) the extent to which legal and corporate structures are aligned with core business lines and critical operations;

(25) the extent to which there are arrangements in place to provide for essential staff, infrastructure, funding, liquidity and capital to support and maintain the core business lines and the critical operations;

(26) the extent to which the service agreements that the CCP maintains are fully enforceable in the event of resolution of the CCP;

(27) the extent to which the governance structure of the CCP is adequate for managing and ensuring compliance with the CCP's internal policies with respect to its service level agreements;

(28) the extent to which the CCP has a process for transitioning the services provided under service level agreements to third parties in the event of the separation of critical functions or of core business lines;

(29) the extent to which there are contingency plans and measures in place to ensure continuity in access to payment and settlement systems;

(30) the adequacy of the management information systems in ensuring that the resolution authorities are able to gather accurate and complete information regarding the core business lines and critical operations so as to facilitate rapid decision making;

(31) the capacity of the management information systems to provide the information essential for the effective resolution of the CCP at all times even under rapidly changing conditions;

(32) the extent to which the CCP has tested its management information systems under stress scenarios as defined by the resolution authority;

(33) the extent to which the CCP can ensure the continuity of its management information systems both for the affected CCP and the new CCP in the case that the critical operations and core business lines are separated from the rest of the operations and business lines;

(34) where the CCP benefits or is exposed to any intra-group guarantees, the extent to which those guarantees are provided at market conditions and the risk management systems concerning those guarantees are robust;

(35) where the CCP engages in back-to-back transactions, the extent to which those transactions are performed at market conditions and the risk management systems concerning those transactions practices are robust;

(36) the extent to which the use of any intra-group guarantees or back-to-back booking transactions increases contagion across the group;

(37) the extent to which the legal structure of the CCP inhibits the application of the resolution tools as a result of the number of legal persons, the complexity of the group structure or the difficulty in aligning business lines to group entities;

(38) the extent to which the resolution of the CCP could have a negative impact on another part of its group, where applicable;

(39) the existence and robustness of service level agreements;

(40) whether third-country authorities have the resolution tools necessary to support resolution actions by Union resolution authorities, and the scope for coordinated action between Union and third-country authorities;

(41) the feasibility of using resolution tools in such a way which meets the resolution objectives, given the tools available and the CCP's structure;

(42) any specific requirements needed to issue new instruments of ownership as referred to in Article 33(1);

(43) the arrangements and means through which resolution could be hampered in the cases of CCP that have clearing members or collateral arrangements established in different jurisdictions;

(44) the credibility of using resolution tools in such a way which meets the resolution objectives, given possible impacts on clearing participants, other counterparties and employees and possible actions that third-country authorities may take;

(45) the extent to which the impact of the CCP's resolution on the financial system and on financial market's confidence can be adequately evaluated;

(46) the extent to which the resolution of the CCP could have a significant direct or indirect adverse effect on the financial system, market confidence or the economy;

(47) the extent to which contagion to other CCPs or to the financial markets could be contained through the application of the resolution tools and powers;

(48) the extent to which the resolution of the CCP could have a significant effect on the operation of payment and settlement systems.

Wednesday 27 March 2019

P8_TA(2019)0301

European Crowdfunding Service Providers (ECSP) for business ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council on European Crowdfunding Service Providers (ECSP) for Business (COM(2018)0113 — C8-0103/2018 — 2018/0048(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/38)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0113),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0103/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 11 July 2018 [1],

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A8-0364/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0048

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council on European Crowdfunding Service Providers (ECSP) for Business

(Text with EEA relevance)

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 114 thereof,

Having regard to the proposal from the European Commission,

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

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[1] OJ C 367, 10.10.2018, p. 65.

Having regard to the opinion of the European Central Bank [1],

Having regard to the opinion of the European Economic and Social Committee [2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Crowdfunding is increasingly an established form of alternative finance for ***start-ups, as well as for*** small and medium enterprises (SMEs) at an early stage of company growth, typically relying on small investments. Crowdfunding represents ***an increasingly important*** type of intermediation where a crowdfunding service provider ***operates*** a digital platform ***open to the public*** in order to match ***or facilitate the matching of*** prospective investors ***or lenders*** with businesses that seek funding, irrespective of whether that funding leads to a loan agreement, to an equity stake or to another transferable security based stake, ***without the crowdfunding service provider taking on own risk***. It is therefore appropriate to include in the scope of this Regulation both lending-based crowdfunding and investment-based crowdfunding .

(2) Crowdfunding can contribute to provide access to finance for ***SMEs*** and complete the Capital Markets Union (CMU). Lack of access to finance for such firms constitutes a problem even in Member States where access to bank finance has remained stable throughout the financial crisis. Crowdfunding has emerged as an established practice of funding a project or ***business***, typically by a large number of people or organisations, through online platforms on which ***private individuals***, organisations and businesses, including business start-ups, raise relatively small amounts of money.

(3) The provision of crowdfunding services generally relies on three types of actors: the project owner, that proposes the project ***or the business loans*** to be funded, investors who fund the proposed project, generally by limited investments ***or loans***, and an intermediating organisation in the form of a service provider that brings together project owners and investors ***or lenders*** through an online platform.

(4) In addition to providing an alternative source of financing, including venture capital, crowdfunding can offer other benefits to firms. It can provide concept and idea validation to the project ***or business***, give access to a large number of people providing the entrepreneur with insights and information and be a marketing tool.

(5) Several Member States have already introduced domestic bespoke regimes on crowdfunding. Those regimes are tailored to the characteristics and needs of local markets and investors. As a result, the existing national rules diverge as regards the conditions of operation of crowdfunding platforms, the scope of permitted activities and the licencing requirements.

(6) The differences between the existing national rules are such as to obstruct the cross-border provision of crowdfunding services and thus have a direct effect on the functioning of the internal market in such services. In particular, the fact that the legal framework is fragmented along national borders creates substantial legal compliance costs for retail investors who often face difficulties which are disproportional to the size of their investment in determining the rules applicable to cross-border crowdfunding services. Therefore, such investors are often discouraged from investing cross-border via crowdfunding platforms. For the same reasons crowdfunding service providers operating such platforms are discouraged from offering their services in a Member State other than the

[1] OJ C , , p. .
[2] OJ C , , p. .

one in which they are established. As a result, crowdfunding activities have remained hitherto largely national to the detriment of a Union-wide crowdfunding market, thus depriving businesses of access to crowdfunding services***, especially in cases where a business operates in a Member State lacking access to crowd because of its comparatively smaller population***.

(7) In order to foster cross border crowdfunding activities and to facilitate the exercise of the freedom to provide and receive such services in the internal market for crowdfunding providers it is therefore necessary to address the existing obstacles to the proper functioning of the internal market in crowdfunding services. Providing for a single set of rules on the provision of crowdfunding services giving crowdfunding service providers the option to apply for a single Union-wide authorisation to exercise their activity under those rules is a suitable first step for fostering cross border crowdfunding activities and thus enhance the operation of the Single Market.

(8) By addressing the obstacles to the functioning of the internal market in crowdfunding services, this Regulation aims to foster cross-border business funding. Crowdfunding services in relation to lending to consumers, as defined in Article 3(a) of Directive 2008/48/EC of the European Parliament and of the Council [1], should therefore not fall within the scope of this Regulation.

(9) In order to avoid that the same activity is subject to different authorisations within the Union, crowdfunding service provided by persons that have been authorised under Directive 2014/65/EU of the European Parliament and of the Council [2] or provided in accordance with national law should be excluded from the scope of this Regulation.

(10) In relation to lending-based crowdfunding, the facilitation of granting of loans, including services such as presenting crowdfunding offers to clients or rating the creditworthiness of project owners, should accommodate different business models enabling a loan agreement to be concluded through a crowdfunding platform between one or more clients and one or more project owners.

(11) In relation to investment-based crowdfunding, the transferability of a security is an important safeguard for investors to be able to exit their investment since it provides them with the legal possibility to dispose of their interest on the capital markets. This Regulation therefore only covers and permits investment-based crowdfunding services in relation to transferable securities. Financial instruments other than transferable securities should however be excluded from the scope of this Regulation because those securities entail risks for investors that cannot be properly managed within this legal framework.

(11a) The characteristics of initial coin offerings (ICOs) differ considerably from crowdfunding regulated in this Regulation. Among others, ICOs typically do not use intermediaries, such as crowdfunding platforms, and often raise funds in excess of EUR 1 000 000. The inclusion of ICOs in this Regulation would not tackle the problems associated with ICOs as a whole.

(12) Given the risks associated with crowdfunding investments, it is appropriate, in the interest of the effective protection of investors ***and of the provision of a mechanism of market discipline***, to impose a threshold for a maximum consideration for each crowdfunding offer. That threshold should be set at EUR ***8 000 000***, ***which is the maximum threshold up to which Member States are able to exempt offers of securities to the public from the obligation to publish a prospectus in accordance with*** Regulation (EU) 2017/1129 of the European Parliament and of the Council [3]. ***Notwithstanding the high standard of investor protection needed, that threshold should be set in accordance with practices on national markets to make the Union platform attractive for cross-border business funding***.

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[1] Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).

[2] 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).

[3] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

(12a) This Regulation lays down the content of a key investment information sheet to be supplied to potential investors for every crowdfunding offer. As the key investment information sheet is designed to be tailored to the specific features of a crowdfunding offer and the information needs of investors, it should replace the prospectus required by Regulation (EU) 2017/1129 when securities are offered to the public. Crowdfunding offers under this Regulation should therefore be excluded from the scope of Regulation (EU) 2017/1129 and that Regulation should be amended accordingly.

(13) To avoid regulatory arbitrage and to ensure the effective supervision of crowdfunding service providers, crowdfunding service providers should be prohibited from accepting deposits or other repayable funds from the public, unless they are authorised as a credit institution in accordance with Article 8 of Directive 2013/36/EU of the European Parliament and of the Council ([1]).

(14) In order to achieve that purpose, crowdfunding service providers should be given the option to apply for a single Union-wide authorisation and to exercise their activity in accordance with those uniform requirements. However, to preserve the broad availability of crowdfunding offers targeted solely at national markets, where crowdfunding service providers choose to provide their services under the applicable national law, they should remain able to do so. Accordingly, the uniform requirements laid down in this Regulation should be optional and therefore not apply to such crowdfunding service providers choosing to remain active on national basis only.

(15) In order to maintain a high standard of investor protection, to reduce the risks associated with crowdfunding and to ensure fair treatment of all clients, crowdfunding service providers should have in place a policy designed to ensure that projects are selected in a professional, fair and transparent way and that crowdfunding services are provided in the same manner.

(15a) For the same reasons, crowdfunding service providers that use ICOs on their platform should be excluded from this Regulation. To achieve efficient regulation on the emerging ICO technology, the Commission could in future propose a comprehensive Union-level legislative framework based on a thorough impact assessment.

(15b) Alternative investment instruments, such as ICOs, have potential in funding SMEs, innovative start-ups and scale-ups, can accelerate technology transfer, and can be an essential part of the capital markets union. The Commission should assess the need to propose a separate, Union legislative framework for ICOs. Increased legal certainty across the board could be instrumental in increasing investor and consumer protection and reducing risks stemming from asymmetric information, fraudulent behaviour and illegal activities.

(16) In order to improve the service to their clients, ***who can be prospective or actual investor or project owner,*** crowdfunding service providers should be able to exercise discretion on behalf of clients with respect to the parameters of the clients' orders, provided that they take all necessary steps to obtain the best possible result for their clients and that they disclose the exact method and parameters of the discretion. In order to ensure that prospective investors are offered investment opportunities on a neutral basis, crowdfunding service providers should not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular offer provided on their platform or to a particular offer provided on a third party platform.

(17) This Regulation aims to facilitate direct investment and to avoid creating regulatory arbitrage opportunities for financial intermediaries regulated under other Union legislation, in particular Union rules governing asset managers. The use of legal structures, including special purpose vehicles, to interpose between the crowdfunding project ***or business*** and investors, should therefore be strictly regulated and permitted only ***to eligible counterparties or elective professional investors as defined in Directive 2014/65/EU***.

([1]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(18) Ensuring an effective system of governance is essential for the proper management of risk and for preventing any conflict of interest. Crowdfunding service providers should therefore have governance arrangements that ensure effective and prudent management and their management should be of good repute and have adequate knowledge and experience. Crowdfunding service providers should also establish procedures to receive and handle complaints from clients.

(19) Crowdfunding service providers should operate as neutral intermediaries between clients on their crowdfunding platform. In order to prevent conflicts of interests, certain requirements should be laid down with respect to crowdfunding service providers and managers and employees, or any person directly or indirectly controlling them. ***Unless financial interests in projects or offers are disclosed in advance on their website***, crowdfunding service providers should be prevented from having any financial participation in the crowdfunding offers on their crowdfunding platforms. ***That will allow crowdfunding service providers to align their interests with the interests of the investors.*** Furthermore, shareholders holding 20 % or more of share capital or voting rights, ***and*** managers, or any person directly controlling crowdfunding platforms, should not act as clients, in relation to the crowdfunding services offered on that crowdfunding platform.

(20) In the interest of an efficient and smooth provision of crowdfunding services, crowdfunding service providers should be allowed to entrust any operational function, in whole or in part, to ***other*** service providers provided that the outsourcing does not impair materially the quality of crowdfunding services providers' internal controls and effective supervision. Crowdfunding service providers should however remain fully responsible for compliance with this Regulation.

(21) The holding of clients' funds and the provision of payment services require an authorisation as a payment service provider in accordance with Directive (EU) 2015/2366 of the European Parliament and of the Council [1]. That mandatory authorisation requirement cannot be satisfied by an authorisation as a crowdfunding service provider. Therefore, it is appropriate to clarify that where a crowdfunding service provider carries out such payment services in connection with its crowdfunding services, it needs to be authorised also as a payment institution in accordance with Directive (EU) 2015/2366. In order to enable a proper supervision of such activities, the ***national competent authority*** should be informed about whether the crowdfunding service provider intends to carry out payment services itself with the appropriate authorisation, or whether such services will be outsourced to an authorised third party.

(22) The growth and smooth functioning of cross-border crowdfunding services requires a sufficient scale and public confidence in those services. It is therefore necessary to lay down uniform, proportionate and directly applicable requirements for authorisation and a single point of supervision.

(23) A high level of investor confidence contributes to the growth of crowdfunding services. Requirements for crowdfunding services should therefore facilitate cross-border provision of those services, reduce operational risks and ensure a high degree of transparency and investor protection.

(24) Crowdfunding services can be exposed to money laundering and terrorist financing risks, as underlined in the Commission's Report on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border situations [2]. Safeguards should therefore be envisaged when meeting conditions for authorisation, assessing the good repute of the management, providing payment services only through licensed entities subject to anti-money laundering and terrorist financing requirements. With a view to further ensuring financial stability by preventing risks of money ***laundering*** and terrorism financing, ***and taking into account the maximum threshold of funds that can be raised by a crowdfunding offer in accordance with this Regulation,*** the Commission should assess the necessity and proportionality of subjecting crowdfunding service

[1] Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35).

[2] COM(2017)0340, Report from the Commission to the European Parliament and the Council on the assessment of the risks of money laundering and terrorist financing affecting the internal market and relating to cross-border activities.

providers, ***authorised under this Regulation to some or all of the*** obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849.

(25) To enable crowdfunding service providers to operate cross-border without facing divergent rules and thereby facilitating the funding of projects across the Union by investors from different Member States, Member States should not be allowed to impose additional requirements on crowdfunding service providers that are authorised ***under this Regulation***.

(26) The authorisation process should enable ***the national competent authority*** to be informed about the services that the prospective crowdfunding service providers intend to provide ***and the crowdfunding platforms that they intend to operate,*** to assess the quality of their management, and to assess the internal organisation and procedures set up by the prospective crowdfunding service providers to ensure compliance with the requirements set out in this Regulation.

(27) To facilitate transparency for retail investors as regards the provision of crowdfunding services, ESMA should establish a public and up-to-date register of all crowdfunding services ***providers authorised and*** operating ***crowdfunding platforms*** in the Union in accordance with this Regulation.

(28) The authorisation should be withdrawn where the conditions for its issuance are no longer met. In particular, ***the national competent authority*** should be able to assess whether the good repute of the management has been affected or whether the internal procedures and systems have seriously failed. To enable ***the national competent authority*** to assess whether the authorisation as a crowdfunding service provider should be withdrawn, ***the national competent authority*** should ***be*** informed whenever a crowdfunding service provider, or a third party acting on its behalf, has lost its authorisation as a payment institution, or has been found to be in breach of Directive (EU) 2015/849 of the European Parliament and of the Council [1].

(29) In order for prospective investors to have a clear understanding of the nature, risks, costs and charges of crowdfunding services, crowdfunding service providers should provide their clients with ***clear and disaggregated*** information.

(30) Investments in products marketed on crowdfunding platforms are not comparable to traditional investments products or savings products and should not be marketed as such. However, to ensure that prospective investors understand the level of risk associated with crowdfunding investments, crowdfunding service providers ***is mandatory to*** run an entry knowledge test of their prospective investors to establish their ***understanding of the*** investment. Crowdfunding service providers should explicitly warn prospective investors whenever the crowdfunding services provided are deemed as inappropriate for them.

(31) In order to enable investors to make an informed investment decision, crowdfunding service providers should provide prospective investors with a key investment information sheet. The key investment information sheet should warn prospective investors that the investing environment they have entered into entails risks and is covered neither by the deposit compensation scheme, nor by the investor compensation guarantees.

(32) The key investment information sheet should also take into account the specific features and risks associated with early stage companies, and focus on material information about the project owners, the investors' rights and fees, and the type of securities offered and loan agreements. Because the project owner concerned is in the best position to provide that information, the key investment information sheet should be drawn up by that project owner. However, since crowdfunding service providers are responsible for informing their prospective investors, they ***are responsible for the completeness of*** the key investment information sheet.

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[1] 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).

Wednesday 27 March 2019

(33) To ensure seamless and expedient access to capital markets for start-ups and SMEs, to reduce their costs of financing and to avoid delays and costs for crowdfunding service providers, the key investment information document should not be approved by a competent authority.

(34) To avoid unnecessary costs and administrative burden on the cross-border provision of crowdfunding services, marketing communications should not be subject to translation requirements .

(35) Crowdfunding service providers should not be able to provide any discretionary or non-discretionary matching of buying and selling interest, because that activity requires an authorisation as an investment firm in accordance with Article 5 of Directive 2014/65/EU, or as a regulated market in accordance with Article 44 of that Directive. Crowdfunding service providers should, in the interest of transparency and flow of information, be able to allow investors who have made investments through their platform to contact, and transact with, each other over their platforms in relation to investments originally made on their platform. Crowdfunding service ***providers*** should however inform their clients that they ***do*** not operate a trading system and that any buying and selling activity on their platforms is at the client's discretion and responsibility.

(36) To facilitate transparency and to ensure proper documentation of communications with the client, crowdfunding service providers should keep all appropriate records related to their services and transactions.

(37) To ensure fair and non-discriminatory treatment of investors ***and project owners***, crowdfunding service providers that are promoting their services through marketing communications should not treat any particular project more favourably than other projects offered on their platform***, unless there is an objective reason to do so such as specific requirements of the investor or in the light of an investor's predetermined risk profile***. Crowdfunding service providers should however not be prevented from mentioning successfully closed offers in which investments through the platform are no longer possible ***and are encouraged to allow for comparability of the performance of their closed projects***.

(38) To provide for more legal certainty to crowdfunding service providers operating across the Union and to ensure easier market access, complete information about the laws, regulations and administrative provisions applicable in the Member States, and summaries thereof, which specifically govern marketing communications of crowdfunding service providers, should be published electronically . For that purpose, competent authorities and ESMA should maintain central databases.

(39) To develop a better understanding of the extent of regulatory divergences existing among the Member States regarding the requirements applicable to marketing communications, competent authorities should provide ESMA annually with a detailed report on their enforcement activities in this area.

(39a) In order to ensure the consistent application of the authorisations of, and requirements for, crowdfunding services providers operating across the Union, regulatory technical standards should be developed by ESMA for submission to the Commission.

(40) It is important to effectively and efficiently ensure compliance with the requirements for authorisation and for the provision of crowdfunding services, in accordance with this Regulation. ***The national competent authority*** should grant authorisation and exercise oversight. ***The national competent authority*** should ***have*** the power to request information, carry out general investigations and on-site inspections, issue public notices and warnings and impose sanctions. ***The national competent authority*** should make use of its oversight and sanctioning competences in a proportionate manner.

(42) ***The national competent authority*** should charge fees on directly supervised entities to cover its costs, including overheads. The level of the fee should be proportionate to the size of a directly supervised entity, having regard to the early stage of development of the crowdfunding industry.

(43) Since the objectives of this Regulation, namely to address the fragmentation of the legal framework applicable to crowdfunding services in order to ensure the proper functioning of the internal market in such services while enhancing investor protection as well as market efficiency and contributing to establishing the Capital Markets Union, cannot be sufficiently achieved by the Member States 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 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 those objectives.

(44) The application of this Regulation should be deferred to align it with the application of the national rules transposing Directive XXX/XXXX/EU of the European Parliament and of the Council, which exempts crowdfunding service providers falling under the scope of this Regulation from the application of Directive 2014/65/EU.

(45) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. Therefore, this Regulation should be interpreted and applied in accordance with those rights and principles.

(46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council [1],

HAVE ADOPTED THIS REGULATION:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter

This Regulation establishes uniform requirements for the following:

(a) the operation and organisation of crowdfunding service providers;

(b) the authorisation and supervision of crowdfunding service providers;

(c) transparency and marketing communications in relation to the provision of crowdfunding services in the Union.

Article 2

Scope

1. This Regulation shall apply to legal persons who choose to seek authorisation in accordance with Article 10 and to crowdfunding service providers authorised in accordance with that Article, in relation to the provision of crowdfunding services. ***Those legal persons shall have an effective and stable establishment in a Member State in order to be eligible to apply for authorisation.***

2. This Regulation shall not apply to:

(a) crowdfunding services that are provided to project owners that are consumers, as defined in Article 3(a) of Directive 2008/48/EC;

(b) crowdfunding services that are provided by natural or legal persons that have been authorised as an investment firm in accordance with Article 7 of Directive 2014/65/EU;

(c) crowdfunding services that are provided by natural or legal persons in accordance with national law;

(d) crowdfunding offers with a consideration of more than ***EUR 8 000 000*** per crowdfunding offer, which shall be calculated over a period of 12 months with in regard to a particular crowdfunding project.

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[1] Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

2a. National laws on licence requirements relating to project owners or investors shall not prevent those project owners or investors from using crowdfunding services provided by crowdfunding service providers pursuant to, and authorised by, this Regulation.

Article 3

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(a) 'crowdfunding service' means the ***provision*** of a crowdfunding platform which ***enables either*** of ▌ the following:

(i) ***direct crowdfunding service, comprising the facilitation of matching a specific investor with a specific project owner and of matching a specific project owner with a specific investor,***

(ii) ***intermediated crowdfunding service, comprising the facilitation of matching an investor with a project owner and determining the pricing and packaging of offers in respect thereof, or the facilitation of matching a project owner with an investor and determining pricing of offers in respect thereof, or both;***

(b) 'crowdfunding platform' means an electronic▌ system operated or managed by a crowdfunding service provider;

(c) 'crowdfunding service provider' means a legal person who provides ***one or more*** crowdfunding services and has been authorised for that purpose by the ***relevant national competent authority*** in accordance with Article ***10*** of this Regulation;

(d) 'crowdfunding offer' means any communication by crowdfunding service providers that contains information which enables prospective investors to decide on the merits of entering into a crowdfunding transaction;

(e) 'client' means any prospective or actual investor or project owner to whom a crowdfunding service provider provides or may provide crowdfunding services;

(f) 'project owner' means any person that seeks to ***obtain funding*** through a crowdfunding platform;

(g) 'investor' means any person that, through a crowdfunding platform, grants loans or acquires transferable securities;

(h) 'crowdfunding project' means the ***purpose for which*** a project owner funds or seeks to ***raise funds*** through the crowdfunding offer;

(i) 'transferable securities' means transferable securities as defined in Article 4(1)(44) of Directive 2014/65/EU;

(j) 'marketing communications' means any information or communication from a crowdfunding service provider to a prospective investor or prospective project owner about the services of the crowdfunding service provider, other than investor disclosures required under this Regulation;

(k) 'durable medium' means an instrument which enables the storage of information in a way that is accessible for future reference and for a period of time adequate for the purposes of the information and which allows for the unchanged reproduction of the information stored;

(l) 'special purpose vehicle' or 'SPV' means ***an entity created solely for, or which solely serves the*** purpose ***of***, a securitisation within the meaning of Article 1(2) of Regulation (EU) No 1075/2013 of the European Central Bank ([1]);

([1]) OJ L 297, 7.11.2013, p. 107.

(la) 'loan' means an agreement which obliges an investor to make available to a project owner an agreed sum of money for an agreed period of time and under which the project owner is obliged to repay that amount within the agreed time;

(lb) 'national competent authority' or 'NCA' means the national authority, or authorities, designated by a Member State and having the necessary powers and allocated responsibilities for performing the tasks related to the authorisation and supervision of crowdfunding service providers within the scope of this Regulation.

Chapter II

Provision of crowdfunding services and organisational and operational requirements of crowdfunding service providers

Article 4

Provision of crowdfunding services

1. Crowdfunding services shall only be provided by legal persons that have an effective and stable establishment in a Member State of the Union and that have been authorised as crowdfunding service providers in accordance with Article ***10*** of this Regulation.

Legal persons established in a third country cannot apply for authorisation as crowdfunding service providers under this Regulation.

2. Crowdfunding service providers shall act honestly, fairly and professionally in accordance with the best interests of their clients and prospective clients.

3. Crowdfunding service providers shall not pay or accept any remuneration, discount or non-monetary benefit for routing investors' orders to a particular crowdfunding offer made on theirs platform or to a particular crowdfunding offer provided on a third party platform.

4. Crowdfunding service providers may exercise discretion on behalf of their clients with respect to the parameters of the clients' orders, in which case they shall disclose to their clients the exact method and parameters of that discretion and take all necessary steps to obtain the best possible result for their clients.

5. As regards the use of special purpose vehicles for the provision of crowdfunding services ***for investors who are not eligible counterparties as defined in Directive 2014/65/EU***, crowdfunding service providers shall only have the right to transfer one asset to the special purpose vehicle to enable investors to take exposure to that asset by means of acquiring securities. The decision to take exposure to that underlying asset shall exclusively lie with investors.

Article 4a

Intermediated crowdfunding services

For the purposes of this Regulation, intermediated crowdfunding services shall be considered to comprise the following:

a. the placing without a firm commitment basis, as referred to in point (7) of Section A of Annex I to Directive 2014/65/EU, of transferable securities or of the facilitation of loans issued by project owners;

b. the offer of investment advice, as referred to in point (5) of Section A to Annex I to Directive 2014/65/EU, with regards to transferable securities or the facilitation of loans issued by project owners; and

c. the reception and transmission of client orders, as referred to in point (1) of Section A to Annex I to Directive 2014/65, in relation to transferable securities or the facilitation of loans issued by project owners.

Article 5

Effective and prudent management

The management of crowdfunding service providers shall establish, and oversee the implementation of, adequate policies and procedures to ensure effective and prudent management, including the segregation of duties, business continuity and the prevention of conflicts of interest, in a manner that promotes the integrity of the market and the interest of their clients. ***Crowdfunding service providers who offer the services referred to in point (iia) of Article 3(1)(a) shall ensure that they have in place adequate systems and controls for the management of risk and financial modelling for that offer of services.***

Article 5a

Due diligence requirements

1a. Crowdfunding service providers shall undertake at least a minimum level of due diligence in respect of project owners that propose their project to be funded by the crowdfunding platform of a crowdfunding service provider.

2a. The minimum level of due diligence referred to in paragraph 1 shall comprise all of the following:

(a) evidence that the project owner has no criminal record regarding infringements of national commercial law, national insolvency law, national financial services law, anti-money laundering law, national fraud law or national professional liability obligations;

(b) evidence that the project owner that seeks to be funded through the crowdfunding platform:

(i) is not established in a non-cooperative jurisdiction, as recognised by the relevant Union policy, or in a high-risk third country pursuant to Article 9(2) of Directive (EU) 2015/849; or

(ii) effectively complies with Union or internationally agreed tax standards on transparency and exchange of information.

Article 6

Complaints handling

1. Crowdfunding service providers shall ***have in place and publish descriptions of*** effective and transparent procedures for the prompt, fair and consistent handling of complaints received from clients.

2. ***Crowdfunding service providers shall ensure that clients are*** able to file complaints ***against them*** free of charge.

3. Crowdfunding service providers shall ***develop and make available to clients a standard template for complaints and shall*** keep a record of all complaints received and the measures taken.

3a. Crowdfunding service providers shall investigate all complaints in a timely and fair manner and communicate the outcome within a reasonable period of time to the complainant.

4. ***ESMA shall develop draft regulatory technical standards*** to specify the requirements, standard formats and procedures for complaint handling.

ESMA shall submit those draft regulatory technical standards to the Commission by … [XXX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 7

Conflicts of interest

1. Crowdfunding service providers shall not have any financial participation in any crowdfunding offer on their crowdfunding platforms.

By way of derogation from the first subparagraph, crowdfunding service providers may hold a financial participation in a crowdfunding offer on their crowdfunding platforms when information on that participation is made clearly available to clients by publishing clear and transparent selection procedures.

2. Crowdfunding service providers shall not accept as their clients any of their shareholders holding 20 % or more of share capital or voting rights, any of their managers, or any person directly linked to those shareholders ***and*** managers by control as defined in Article 4(1)(35)(b) of Directive 2014/65/EU.

3. Crowdfunding service providers shall maintain and operate effective internal rules to prevent conflicts of interest ***and they shall ensure that their employees cannot hold directly or indirectly an influence over projects in which they have a financial participation.***

4. Crowdfunding service providers shall take all appropriate steps to prevent, identify, manage and disclose conflicts of interest between the crowdfunding service providers themselves, their shareholders, their managers and employees, or any person directly or indirectly linked to them by control, as defined in Article 4(1)(35)(b) of Directive 2014/65/EU, and their clients, or between one client and another client.

5. Crowdfunding service providers shall disclose to their clients the general nature and sources of conflicts of interest and the steps taken to mitigate those.

6. The disclosure referred to in paragraph 5 shall:

(a) be made in a durable medium;

(a) include sufficient detail, taking into account the nature of each client, to enable each client to take an informed decision about the service in the context of which the conflict of interest arises.

7. ***ESMA shall develop draft regulatory technical standards to specify the following***:

(a) the requirements for the maintenance or operation of ***financial participation selection procedures and*** internal rules referred to in ***paragraphs 1 and*** 3;

(b) the steps referred to in paragraph 4;

(c) the arrangements for the disclosure referred to in paragraphs 5 and 6.

ESMA shall submit those draft regulatory technical standards to the Commission by … [XXX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 7a

Alignment of the interests of crowdfunding platform with the investors

1. To ensure that crowdfunding platforms align their incentives with those of investors, incentive mechanisms shall be encouraged.

2. Crowdfunding platforms may participate in the funding of a project. That participation shall not exceed 2 % of the capital accumulated for the project.

3. A success fee (carry) may be granted to the crowdfunding service provider whenever the project exits successfully from the crowdfunding platform.

4. Crowdfunding service providers shall describe to ESMA the alignment of interests policy that they plan to use prior to the authorisation and request its approval.

5. Crowdfunding platforms may modify the alignment of interests policy every three years. Any modification is subject to approval by ESMA.

6. Crowdfunding platforms shall explicitly describe their alignment of interests policy on their website in a prominent place.

Article 8

Outsourcing

1. Crowdfunding service providers shall, when relying on a third party for the performance of operational functions, take all reasonable steps to avoid additional operational risk.

2. Outsourcing of operational functions shall not impair the quality of the crowdfunding service providers' internal control and the ability of ***the national competent authority*** to monitor the crowdfunding service provider's compliance with all obligations laid down in this Regulation.

3. Crowdfunding service providers shall remain fully responsible for compliance with this Regulation with respect to the outsourced activities.

Article 9

Client asset safekeeping, holding of funds and providing payment services

1. Crowdfunding service providers shall inform their clients of the following:

(a) whether, and on which terms and conditions they provide asset safekeeping services, including references to applicable national law;

(b) whether asset safekeeping services are provided by them or by a third party;

(c) whether payment services and the holding and safeguarding of funds are provided by the crowdfunding service provider or through a third party provider acting on their behalf.

2. Crowdfunding service providers or third party providers acting on their behalf shall not hold clients' funds or provide payment services unless those funds are intended for the provision of payment services related to the crowdfunding services and the crowdfunding service provider or the third party provider acting on its behalf is a payment service provider as defined in Article 4(11) of Directive (EU) 2015/2366.

3. The funds referred to in paragraph 2 shall be safeguarded in accordance with the national provisions transposing Directive (EU) 2015/2366.

4. Where crowdfunding service providers do not provide payment services or the holding and safeguarding of funds in relation to the crowdfunding services either themselves or through a third party, such crowdfunding service providers shall put in place and maintain arrangements to ensure that project owners accept funding of crowdfunding offers or any payment only by means of a payment service provider ***or an agent providing payment services*** as defined in Article 4(11) ***and Article 19*** of Directive (EU) 2015/2366.

Chapter II

Authorisation and supervision of crowdfunding service providers

Article 10

Authorisation as a crowdfunding service provider

1. ***In order to become a crowdfunding service provider under this Regulation, a prospective crowdfunding service provider shall apply to the national competent authority of the Member State in which it is established for authorisation to provide crowdfunding services.***

2. The application referred to in paragraph 1 shall contain all of the following:

(a) the address of the prospective crowdfunding service provider;

(b) the legal status of the prospective crowdfunding service provider;

(c) the articles of association of the prospective crowdfunding service provider;

(d) a programme of operations setting out the types of crowdfunding services that the prospective crowd funding service provider wishes to provide ***and the platform that it intends to operate, including where and how offers are to be marketed;***

(e) a description of the prospective crowdfunding service provider's governance arrangements and internal control mechanisms to ensure compliance with this Regulation, including risk management and accounting procedures;

(f) a description of the prospective crowdfunding service provider's systems, resources and procedures for the control and safeguarding of the data processing systems;

(g) a description of the prospective crowdfunding service provider's business continuity arrangements, ***to ensure that any loan repayments and investments will continue to be administered to the investors in the event of insolvency of the prospective crowdfunding service provider***;

(h) the identity of the persons responsible for the management of the prospective crowdfunding service provider;

(i) proof that the persons referred to in point (h) are of good repute and possess appropriate knowledge and experience to manage the prospective crowdfunding service provider;

(j) a description of the internal rules of the prospective crowdfunding service provider to prevent that its shareholders who hold 20 % or more of the share capital or voting rights, its managers , or any person directly linked to them by control engage in crowdfunding transactions offered by the prospective crowdfunding service provider***, and that description should also covering include the internal rules of the prospective crowdfunding service provider on conflicts of interest pertaining to employees' exposure to projects***;

(k) a description of the prospective crowdfunding service provider's outsourcing arrangements;

Wednesday 27 March 2019

(l) a description of the prospective crowdfunding service provider's procedures to deal with complaints from clients;

(m) where applicable, a description of the payment services that the prospective crowdfunding service provider intends to provide under Directive (EU) 2015/2366;

(ma) proof that the crowdfunding service provider is adequately covered or holds sufficient capital against the financial consequences of its professional liability in the event of a failure to comply with its professional obligations set out in this Regulation.

3. For the purposes of paragraph 2(i), prospective crowdfunding service providers shall provide proof of the following:

(a) absence of criminal record in respect of convictions or penalties of national rules in force in the fields of commercial law, insolvency law, financial services legislation, anti-money laundering legislation, fraud or professional liability for all the persons involved in the management of the prospective crowd funding service provider;

(b) proof that the persons involved in the management of the crowdfunding service provider collectively possess sufficient knowledge, skills and experience to manage the crowdfunding service provider and that those persons are required to commit sufficient time to perform their duties.

4. ***The national competent authority*** shall, within ***30*** working days of receipt of the application referred to in paragraph 1, assess whether that application is complete. Where the application is not complete, ***the national competent authority*** shall set a deadline by which the prospective crowdfunding service provider is to provide the missing information.

5. Where an application as referred to in paragraph 1 is complete, ***the national competent authority*** shall immediately notify the prospective crowdfunding service provider thereof.

5a. Before making a decision on the granting or refusal of an application for authorisation to provide crowdfunding service, the national competent authority shall consult the national competency authority of any other Member State in the following cases:

(a) the prospective crowdfunding service provider is a subsidiary of a crowdfunding service provider authorised in that other Member State;

(b) the prospective crowdfunding service provider is a subsidiary of the parent undertaking of a crowdfunding service provider authorised in that other Member State;

(c) the prospective crowdfunding service provider is controlled by the same natural or legal persons who control a crowdfunding service provider authorised in that other Member State;

(d) the prospective crowdfunding service provider intends to directly market offers in that other Member State.

5b. Where either of the national competent authorities referred to in paragraph 5a disagree about the procedure or content of an action or inaction of the other, such disagreement shall be resolved in accordance with Article 13a.

6. ***The national competent authority*** shall, within ***three*** months from the receipt of a complete application, assess whether the prospective crowdfunding service provider complies with the requirements set out in this Regulation and shall adopt a fully reasoned decision granting or refusing authorisation as a crowdfunding service provider. ***The national competent authority*** shall have the right to refuse authorisation if there are objective and demonstrable grounds for believing that the management of the crowdfunding service provider may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market.

6a. The national competent authority shall inform ESMA of a successful application for authorisation under this Article. ESMA shall add that application to the register of approved platforms provided for in Article 11. ESMA may request information in order to ensure that national competent authorities grant authorisations under this Article in a consistent manner. If ESMA does not agree with a decision of the national competent authority to grant or refuse an application for authorisation under this Article, it shall issue its reasons for such disagreement and shall explain and justify any significant deviation from the decision.

7. ***The national competent authority*** shall notify the prospective crowdfunding service provider of its decision within ***two*** working days after having taken that decision.

7a. A crowdfunding service provider authorised in accordance with this Article shall meet at all times the conditions for its authorisation.

8. The authorisation referred to in paragraph 1 shall be effective and valid for the entire territory of the Union.

9. Member States shall not require crowdfunding service providers to have physical presence in the territory of a Member State other than ***the facilities in*** the Member State in which those crowdfunding service providers are established ***and have obtained authorisation*** in order to provide crowdfunding services on a cross-border basis.

10. ***ESMA shall develop draft implementing technical standards to establish standard forms, templates and procedures for the application for authorisation.***

ESMA shall submit those draft implementing technical standards to the Commission by … [XX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the implementing technical standards referred to in the first subparagraph in accordance with the procedure laid down in Article 15 of Regulation (EU) No 1095/2010.

Article 11

Register of crowdfunding service providers

1. ESMA shall establish a register of all crowdfunding service providers. That register shall be publicly available on its website and shall be updated on a regular basis.

2. The register referred to in paragraph 1 shall contain the following data:

(a) the name and legal form of the crowdfunding service provider;

(b) the commercial name and internet address of the crowdfunding platform operated by the crowdfunding service provider;

(c) information on the services for which the crowdfunding service provider is authorised;

(d) sanctions imposed on the crowdfunding service provider or its managers.

3. Any withdrawal of an authorisation in accordance with Article 13 shall be published in the register for five years.

Article 12

Supervision

1. Crowdfunding service providers shall provide their services under the supervision of ***the national competent authority of the Member State where the crowdfunding service provider has been authorised.***

2. Crowdfunding service providers shall comply at all times with the conditions for authorisation ***set out in Article 10 of this Regulation***.

3. ***The national competent authority*** shall assess compliance of crowdfunding service providers with the obligations provided for in this Regulation. ***It shall determine the frequency and depth of that assessment having regard to the size and complexity of the activities of the crowdfunding service provider. For the purpose of that assessment, the national competent authority may subject the crowdfunding service provider to an on-site inspection.***

4. Crowdfunding service providers shall notify ***the national competent authority*** of any material changes to the conditions for authorisation without undue delay and, upon request, shall provide the information needed to assess their compliance with this Regulation.

Article 12 a

Designation of the competent authority

1. Each Member State shall designate the national competent authority responsible for carrying out the duties under this Regulation for the authorisation and supervision of crowdfunding services providers and shall inform ESMA thereof.

Where a Member State designates more than one national competent authority, it shall determine their respective roles and shall designate a single authority to be responsible for cooperation with the national competent authorities of other Member States and with ESMA, where provided for in this Regulation.

2. ESMA shall publish on its website a list of the competent authorities designated in accordance with the first subparagraph.

3. The national competent authorities shall have the supervisory and investigatory powers necessary for the exercise of their functions.

Article 13

Withdrawal of authorisation

1. ***The national competent authorities*** shall have the power to withdraw the authorisation of a crowdfunding service provider in any of the following situations where the crowdfunding service provider:

(a) has not used its authorisation within 18 months after the authorisation has been granted;

(b) has expressly renounced its authorisation;

(c) has not provided crowdfunding services for six successive months;

(d) has obtained its authorisation by irregular means, including making false statements in its application for authorisation;

(e) no longer meets the conditions under which the authorisation was granted;

(f) has seriously infringed the provisions of this Regulation;

(g) has lost its authorisation as a payment institution in accordance with pursuant to Article 13 of Directive 2015/2366/EU, or a third party provider acting on its behalf has lost that authorisation;

(h) has infringed provisions of national law implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing, or its managers, employees or third parties acting on its behalf have infringed those provisions.

4. ***The national competent authorities*** shall notify, without undue delay, ***ESMA*** of ***their*** decision to withdraw the authorisation of a crowdfunding service provider.

4a. Before making a decision to withdraw the authorisation of a crowdfunding service provider to provide crowdfunding services, the national competent authority shall consult the national competent authority of any other Member State in cases where the crowdfunding service provider:

(a) is a subsidiary of a crowdfunding service provider authorised in that other Member State;

(b) is a subsidiary of the parent undertaking of a crowdfunding service provider authorised in that other Member State;

(c) is controlled by the same natural or legal persons who control a crowdfunding service provider authorised in that other Member State;

(d) directly markets offers in that other Member State.

Article 13a

Settlement of disputes between competent authorities

1. Where a competent authority disagrees about the procedure or content of an action or inaction of a competent authority of another Member State regarding the application of this Regulation, ESMA***, at the request of one or more of the competent authorities concerned, may assist the authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.***

Where on the basis of objective criteria disagreement between competent authorities from different Member States can be identified, ESMA may, on its own initiative, assist the competent authorities in reaching an agreement in accordance with the procedure set out in paragraphs 2 to 4.

2. ESMA shall set a time limit for conciliation between the competent authorities taking into account any relevant time periods, as well as the complexity and urgency of the matter. At that stage ESMA shall act as a mediator.

If the competent authorities concerned fail to reach an agreement within the conciliation phase referred to in the first subparagraph, ESMA may, in accordance with the procedure set out in the third and fourth subparagraph of Article 44 (1) of Regulation (EU) No 1095/2010, take a decision requiring them to take specific action or to refrain from action in order to settle the matter, with binding effects for the competent authorities concerned, in order to ensure compliance with Union law.

3. Without prejudice to the powers of the Commission under Article 258 TFEU, where a competent authority does not comply with the decision of ESMA, and thereby fails to ensure that a crowdfunding service provider complies with requirements under this Regulation, ESMA may adopt an individual decision addressed to the crowdfunding service provider requiring the necessary action to comply with its obligations under Union law, including the cessation of any practice.

4. Decisions adopted under paragraph 3 shall prevail over any previous decision adopted by the competent authorities on the same matter. Any action by the competent authorities in relation to facts which are subject to a decision pursuant to paragraph 2 or 3 shall be compatible with such decision.

5. In the report referred to in Article 50(2) of Regulation (EU) No 1095/2010, the Chairperson of ESMA shall set out the nature and type of disagreements between competent authorities, the agreements reached and the decisions taken to settle such disagreements.

Wednesday 27 March 2019

Chapter IV

Transparency and entry knowledge test by crowdfunding service providers

Article 14

Information to clients

1. All information, including marketing communications as referred to in Article 19, from crowdfunding service providers to clients▌ about themselves, about the costs***, financial risks*** and charges related to crowdfunding services or investments, ***including about insolvency risks of the crowdfunding service provider*** about the crowdfunding conditions, including crowdfunding project selection criteria, or about the nature of and risks associated with their crowdfunding services shall be ***fair,*** clear, ***and not misleading***.

2. ***All*** information ***to be provided to clients in accordance with*** paragraph 1 shall be provided ***in a concise, accurate and easily accessible manner, including on the website of the crowdfunding service provider. The information shall be provided whenever appropriate, including prior to entering*** into a crowdfunding transaction.

▌

Article 14 a

Default rate disclosure

1. Crowdfunding service providers shall disclose annually the default rates of the crowdfunding projects offered on their crowdfunding platform over at least the preceding 24 months.

2. The default rates referred to in paragraph 1 shall be published online in a prominent place on the website of the crowdfunding service provider.

3. In close cooperation with the EBA, ESMA shall develop draft regulatory technical standards to specify the methodology for calculating the default rate of the projects offered on crowdfunding platform.

ESMA shall submit those draft regulatory technical standards to the Commission by … [XX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 15

Entry knowledge test and simulation of the ability to bear loss

1. Crowdfunding service providers shall▌ assess whether and which crowdfunding services offered are appropriate for the prospective investors.

2. For the purposes of the assessment pursuant to▌ paragraph 1, crowdfunding service providers shall request information about the prospective investor's ***experience, investment objectives, financial situation and*** basic understanding of risk in investing in general and in the types of investments offered on the crowdfunding platform, including information about:

(a) the prospective investor's past investments in transferable securities or loan agreements, including in early or expansion stage businesses;

(b) ***the understanding of the prospective investor of the risks involved in granting loans or acquiring transferable securities through a crowdfunding platform, and*** professional experience in relation to crowdfunding investments.

4. Where crowdfunding service providers consider, on the basis of the information received under paragraph **2,** that the prospective investors have insufficient ***understanding of the offer or that the offer is not suitable for those prospective investors***, crowdfunding service providers shall inform those prospective investors that the services offered on their platforms may be inappropriate for them and give them a risk warning. That information or risk warning shall not prevent prospective investors from investing in crowdfunding projects. ***The information or risk warning shall clearly state the risk of losing the entirety of the money invested.***

5. ***All crowdfunding*** service providers shall at all times offer prospective investors and investors the possibility to simulate their ability to bear loss, calculated as 10 % of their net worth, based on the following information:

(a) regular income and total income ***and, where appropriate, household income***, and whether the income is earned on a permanent or temporary basis;

(b) assets, including financial investments, personal and investment property, pension funds and any cash deposits;

(c) financial commitments, including regular, existing or future.

On the basis of the results of the simulation, ***crowdfunding service providers may prevent*** prospective investors and investors from investing in crowdfunding projects. ***However, investors shall remain responsible for the full risk of making an investment.***

6. ***In close cooperation with the EBA, ESMA shall develop draft regulatory technical standards*** to specify the arrangements necessary to:

(a) carry out the assessment referred to in paragraph 1;

(b) carry out the simulation referred to in paragraph ***5***;

(c) provide the information referred to in paragraphs 2 and 4.

ESMA shall submit those draft regulatory technical standards to the Commission by … [XX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to supplement this Regulation by adopting the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 16

Key investment information sheet

-1. Crowdfunding service providers that offer the services referred to in point (i) of point (a) of Article 3(1) of this Regulation shall provide prospective investors with all of the information referred to in this Article.

1. ***Prospective*** investors ***shall be provided*** with a key investment information sheet drawn up by the project owner for each crowdfunding offer. The key investment information sheet shall be drafted in at least one of the official languages of the Member State concerned or in a language customary in ***English***.

2. The key investment information sheet referred to in paragraph 1 shall contain all of the following information:

(a) the information set out in the Annex;

Wednesday 27 March 2019

(b) the following explanatory statement, appearing directly underneath the title of the key investment information sheet:

'This crowdfunding offer has been neither verified nor approved by ESMA or national competent authorities.

The appropriateness of your education and knowledge have not been assessed before you were granted access to this investment. By making this investment, you assume full risk of taking this investment, including the risk of partial or entire loss of the money invested.';

(c) a risk warning, which shall read as follows:

'Investment in this crowdfunding offer entails risks, including the risk of partial or entire loss of the money invested. Your investment is not covered by the deposit guarantee and investor compensation schemes established in accordance with Directive 2014/49/EU of the European Parliament and of the Council (*) and Directive 97/9/EC of the European Parliament and of the Council (**).

You may not receive any return on your investment.

This is not a saving product and ***we advise you*** not ***to*** invest more than 10 % of your net wealth in crowdfunding projects.

You may not be able to sell the investment instruments when you wish. ***If you are able to sell them, you may nonetheless be subject to losses.***

(*) Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173, 12.6.2014, p. 149).
(**) Directive 97/9/EC of the European Parliament and of the Council of 3 March 1997 on investor-compensation schemes (OJ L 084, 26.3.1997, p. 22).'

3. The key investment information sheet shall be ***fair***, clear, ***and not misleading*** and shall not contain any footnotes, other than those with references to applicable law. It shall be presented in a stand-alone, durable medium which is clearly distinguishable from marketing communications and consist of ***a*** maximum ***of three*** sides of A4-sized paper format if printed.

4. The crowdfunding service provider shall keep the key investment information sheet updated at all times and for the whole period of validity of the crowdfunding offer.

4a. The requirement set out in point (a) of paragraph 3 of this Article shall not apply to crowdfunding service providers that offer services referred to in point (ii) of point (a) of Article 3(1). Such providers shall instead draw up a key investment information sheet regarding the crowdfunding service provider, which shall contain detailed information on the crowdfunding service provider; its systems and controls for the management of risk, financial modelling for the crowdfunding offer and its historic performance.

5. ***All crowdfunding*** service providers shall have in place and apply adequate procedures to verify the completeness, ***the correctness*** and the clarity of information contained in the key investment information sheet.

6. When a crowdfunding service provider identifies **an** ▌ omission, a ▌ mistake or ***an*** ▌ inaccuracy in the key investment information sheet ***which could have a material impact on the expected return of the investment, the corrections shall be made in the following manner:***

(a) crowdfunding service providers that offer the services referred to in point (i) of point (a) of Article 3(1) shall signal the omission, mistake or inaccuracy promptly to the project owner, who shall complement or amend that information;

(b) crowdfunding service providers that offer services referred to in point (ii) of point (a) of Article 3(1) shall themselves amend the omission, mistake or inaccuracy in the key information sheet themselves.

Where such complement or amendment is not ***made***, the crowdfunding service provider shall not make the crowdfunding offer or cancel the existing offer until the key investment information sheet complies with the requirements of this Article.

7. An investor may request a crowdfunding service provider to arrange for a translation of the key investment information sheet into a language of the investor's choice. The translation shall ***faithfully and*** accurately reflect the content of the original key investment information sheet.

Where the crowdfunding service provider does not provide the requested translation of the key investment information sheet, the crowdfunding service provider shall clearly advise the investor to refrain from making the investment.

8. National competent authorities shall not require an ex ante notification and approval of a key investment information sheet.

9. ***ESMA may develop draft regulatory technical standards to specify the following***:

(a) the requirements for and content of the model for presenting the information referred to in paragraph 2 and the Annex;

(b) the types of risks that are material to the crowdfunding offer and therefore must be disclosed in accordance with Part C of the Annex;

(ba) the use of certain financial ratios to enhance the clarity of key financial information;

(c) the ***commissions and*** fees and ***transaction*** costs referred to in point (a) of Part H of the Annex, including a ***detailed*** breakdown of direct and indirect costs to be borne by the investor.

In drafting the standards, ESMA shall differentiate between the services referred to in point (i) of point (a) of Article 3 (1) and those referred to in point (ii) of point (a) of Article 3(1).

ESMA shall submit those draft regulatory technical standards to the Commission by … [XXX months from the date of entry into force of this Regulation].

Power is delegated to the Commission to adopt the regulatory technical standards referred to in the first subparagraph of this paragraph in accordance with the procedure laid down in Articles 10 to 14 of Regulation (EU) No 1095/2010.

Article 17

Bulletin board

1. Crowdfunding service providers that allow their investors to interact directly with each other to buy and sell loan agreements or transferable securities which were originally crowdfunded on their platforms, shall inform their clients that they do not operate a trading system and that such buying and selling activity on their platforms is at the client's own discretion and responsibility. ***Such crowdfunding service providers shall also inform their clients that the rules applicable under Directive 2014/65/EU to trading venues, as defined in point (24) of Article 4(1) of that Directive, do not apply to their platforms.***

2. Crowdfunding service providers that ***provide*** a reference price for the buying and selling referred to in paragraph 1 shall inform their clients ***whether the*** reference price is ***binding or*** non-binding and ***justify the basis on which*** the reference price ***was calculated***.

2a. In order to enable investors to buy and sell loans acquired through their platform, crowdfunding service providers shall facilitate transparency to investors about their platforms by providing information on the performance of loans generated.

Article 18

Access to records

Crowdfunding service providers shall:

(a) keep all records related to their services and transactions on a durable medium for five years;

(b) ensure that their clients have immediate access to records of the services provided to them at all times;

(c) maintain for five years all agreements between the crowdfunding service providers and their clients.

Chapter V

Marketing communications

Article 19

Requirements regarding marketing communications

1. Crowdfunding service providers shall ensure that all ***their*** marketing communications to investors are clearly identifiable as such.

2. ***Prior to the closure of raising funds for a project, no*** marketing communication shall ***disproportionately target*** individual planned, pending ***or current*** crowdfunding projects or offers. ▌

3. For their marketing communications, crowdfunding service providers shall use one or more of the official languages of the Member State in which the crowdfunding service provider is active or ***English***.

4. National competent authorities shall not require an ex ante notification and approval of marketing communications.

Article 20

Publication of national provisions concerning marketing requirements

1. National competent authorities shall publish and keep updated on their websites national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers.

2. Competent authorities shall notify ESMA of the laws, regulations and administrative provisions referred to in paragraph 1 and the hyperlinks to the websites of competent authorities where that information is published. Competent authorities shall provide ESMA with a summary of those relevant national provisions in a language customary in the sphere of international finance.

3. Competent authorities shall notify ESMA of any change in the information provided pursuant to paragraph 2 and submit an updated summary of the relevant national provisions without delay.

4. ESMA shall publish and maintain on its website a summary of the relevant national provisions in a language customary in the sphere of international finance and the hyperlinks to the websites of competent authorities referred to in paragraph 1. ESMA shall not be held liable for the information presented in the summary.

5. National competent authorities shall be the single points of contact responsible for providing information on marketing rules in their respective Member States.

7. Competent authorities shall regularly, and at least on a yearly basis, report to ESMA on their enforcement actions taken during the previous year on the basis of their national laws, regulations and administrative provisions applicable to marketing communications of crowdfunding service providers. In particular, the report shall include:

(a) the total number of enforcement actions taken by type of misconduct, where applicable;

(b) where available, the outcomes of the enforcement actions, including types of sanctions imposed by type of sanction or remedies provided by crowdfunding service providers;

(c) where available, examples of how competent authorities have dealt with the failure of crowdfunding service providers to comply with the national provisions.

Chapter VI

Powers and competences of the relevant national competent authority

SECTION I

COMPETENCES AND PROCEDURES

Article 21

Legal privilege

The powers conferred on ***the national competent authority***, or on any official or other person authorised by ***the national competent authority***, shall not be used to require the disclosure of information which is subject to legal privilege.

Article 25

Exchange of information

ESMA and the competent authorities shall provide each other with the information required for the purposes of carrying out their duties under this Regulation without undue delay.

Article 26

Professional secrecy

The obligation of professional secrecy referred to in Article 76 of Directive 2014/65/EU shall apply to ***the national competent authorities,*** ESMA and all persons who work or who have worked for ***the national competent authorities or*** ESMA or for any other person to whom ***tasks were*** delegated, including auditors and experts contracted.

SECTION II

ADMINISTRATIVE PENALTIES AND OTHER ADMINISTRATIVE MEASURES

Article 27a

Administrative penalties and other administrative measures

1. Without prejudice to the right of Member States to provide for and impose criminal penalties pursuant to Article 27c, Member States shall lay down rules establishing appropriate administrative penalties and other administrative measures, applicable at least to situations where a crowdfunding service provider has failed to meet the requirements laid down in Chapters I to V. Such administrative penalties and other administrative measures shall be effective, proportionate and dissuasive.

Member States shall ensure that the administrative penalties and other administrative measures are effectively implemented.

2. Member States shall, in accordance with national law, confer on national competent authorities the power to apply at least the following administrative penalties and other administrative measures in the event of an infringement of Chapters I to V of this Regulation:

(a) a public statement indicating the person responsible for, and the nature of, the infringement;

(b) an order requiring the person to cease the infringing conduct and to desist from a repetition of that conduct;

(c) a temporary or, for repeated serious infringements, permanent ban preventing any member of the management body of the legal person responsible for the infringement, or any other natural person held responsible for the infringement, from exercising management functions in such undertakings;

(d) in the case of a natural person, maximum administrative pecuniary fines of 5 % of the annual turnover of the crowdfunding service provider during the calendar year in which the infringement took place;

(e) maximum administrative pecuniary fines of at least twice the amount of the benefit derived from the infringement where that benefit can be determined, even if that exceeds the maximum amounts in point (d).

3. Where the provisions referred to in paragraph 1 apply to legal persons, Member States shall confer on competent authorities the power to apply the administrative penalties and other administrative measures set out in paragraph 2, subject to the conditions provided for in national law, to members of the management body, and to other individuals who under national law are responsible for the infringement.

4. Member States shall ensure that any decision or measure imposing administrative penalties or other administrative measures set out in paragraph 2 is properly reasoned and is subject to a right of appeal before a tribunal.

Article 27b

Exercise of the power to impose administrative penalties and other administrative measures

1. Competent authorities shall exercise their powers to impose administrative penalties and other administrative measures referred to in Article 27a in accordance with this Regulation and with their national legal frameworks, as appropriate:

(a) directly;

(b) in collaboration with other authorities;

(c) under their responsibility by delegation to other authorities;

(d) by application to the competent judicial authorities.

2. Competent authorities, when determining the type and level of an administrative penalty or other administrative measure imposed under Article 27a, shall take into account the extent to which the infringement is intentional or results from negligence and all other relevant circumstances, including, where appropriate:

(a) the materiality, gravity and the duration of the infringement;

(b) the degree of responsibility of the natural or legal person responsible for the infringement;

(c) the financial strength of the natural or legal person responsible for the infringement;

(d) the importance of profits gained or losses avoided by the natural or legal person responsible for the infringement, insofar as those can be determined;

(e) the losses for third parties caused by the infringement, insofar as those can be determined;

(f) the level of cooperation of the natural or legal person responsible for the infringement with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by that person;

(g) previous infringements by the natural or legal person responsible for the infringement.

Article 27c

Criminal penalties

1. Member States may decide not to lay down rules for administrative penalties or other administrative measures for infringements which are subject to criminal penalties under their national law.

2. Where Member States have chosen, in accordance with paragraph 1 of this Article, to lay down criminal penalties for an infringement referred to in Article 27a(1), they shall ensure that appropriate measures are in place so that competent authorities have all the necessary powers to liaise with judicial, prosecuting, or criminal justice authorities within their jurisdiction to receive specific information related to criminal investigations or proceedings commenced for the infringements referred to in Article 27a(1), and to provide the same information to other competent authorities as well as to ESMA, in order to fulfil their obligation to cooperate for the purposes of this Regulation.

Article 27d

Notification duties

Member States shall notify the laws, regulations and administrative provisions implementing this Chapter, including any relevant criminal law provisions, to the Commission and ESMA by… [one year from the date of entry into force of this Regulation]. Member States shall notify the Commission and ESMA without undue delay of any subsequent amendments thereto.

Article 27e

Cooperation between competent authorities and ESMA

1. The national competent authorities and ESMA shall cooperate closely with each other and exchange information in order to carry out their duties under this Chapter.

2. National competent authorities shall closely coordinate their supervision in order to identify and remedy infringements of this Regulation, develop and promote best practices, facilitate collaboration, foster consistency of interpretation and provide cross-jurisdictional assessments in the event of any disagreements.

3. Where a national competent authority finds that a requirement of Chapters I to V has not been met or has reason to believe that to be the case, it shall inform the competent authority of the entity or entities suspected of such infringement of its findings in a sufficiently detailed manner. The competent authorities concerned shall closely coordinate their supervision in order to ensure consistent decisions.

Article 27f

Publication of administrative penalties and other administrative measures

1. Subject to paragraph 4, Member States shall ensure that national competent authorities publish on their official websites, without undue delay and as a minimum, any decision imposing an administrative penalty or other administrative measure against which no appeal has been made after the addressee of that penalty or measure has been notified of that decision.

2. The publication referred to in paragraph 1 shall include information on the type and nature of the infringement and the identity of the persons responsible and the administrative penalties or other administrative measures imposed.

3. Where the publication of the identity, in the case of legal persons, or of the identity and personal data, in the case of natural persons is considered by the competent authority to be disproportionate following a case-by-case assessment, or where the competent authority considers that the publication jeopardises the stability of financial markets or an on-going criminal investigation, or where the publication would cause, insofar as it can be determined, disproportionate damages to the person involved, Member States shall ensure that competent authorities do one of the following:

(a) defer publication of the decision imposing the administrative penalty or other administrative measure until the moment where the reasons for that deferral cease to exist;

(b) publish the decision imposing the administrative penalty or other administrative measure on an anonymous basis, in accordance with national law; or

(c) not publish the decision to impose the administrative penalty or other administrative measure in the event that the competent authority is of the opinion that the options set out in points (a) and (b) are considered to be insufficient to ensure:

(i) that the stability of financial markets would not be jeopardised; or

(ii) the proportionality of the publication of such decisions with regard to measures which are deemed to be of a minor nature.

4. In the case of a decision to publish an administrative penalty or other administrative measure on an anonymous basis, the publication of the relevant data may be postponed. Where a national competent authority publishes a decision imposing an administrative penalty or other administrative measure against which there is an appeal before the relevant judicial authorities, competent authorities shall also publish immediately on their official website that information and any subsequent information on the outcome of such appeal. Any judicial decision annulling a decision imposing an administrative penalty or other administrative measure shall also be published.

5. National competent authorities shall ensure that any decision that is published in accordance with paragraphs 1 to 4 remains accessible on their official website for a period of at least five years after its publication. Personal data contained in those decisions shall only be retained on the official website of the competent authority for the period which is necessary in accordance with the applicable data protection rules.

6. National competent authorities shall inform ESMA of all administrative penalties and other administrative measures imposed, including, where appropriate, any appeal in relation thereto and the outcome thereof.

7. ESMA shall maintain a central database of administrative penalties and other administrative measures communicated to it. That database shall be only accessible to ESMA, the EBA, EIOPA and the competent authorities and shall be updated on the basis of the information provided by the national competent authorities in accordance with paragraph 6.

Article 36

Data protection

1. With regard to the processing of personal data within the framework of this Regulation, competent authorities shall carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council.

2. With regard to the processing of personal data by ESMA within the framework of this Regulation, it shall comply with Regulation (EC) No 45/2001.

Chapter VII

Delegated acts

Article 37

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 3(2), Article 31(10) and Article 34(3) shall be conferred on the Commission for ***a period of five years*** from… [***date*** of entry into force of this Regulation]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for period of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

3. The delegation of powers referred to in Article 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16 (9), Article 31(10) and Article 34(3) 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 3(2), Article 6(4), Article 7(7), Article 10(10), Article 15(6), Article 16(9), Article 31(10) and Article 34(3)shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of three 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 three months at the initiative of the European Parliament or of the Council.

Chapter VIII

Final provisions

Article 38

Report

1. Before … [publications office please insert 24 months of entry into application of this Regulation] the Commission shall, after consulting ESMA, present a report to the European Parliament and the Council on the application of this Regulation, accompanied where appropriate by a legislative proposal.

2. The report shall assess the following:

(a) the functioning of the market for crowdfunding service providers in the Union, including market development and trends, ▌ their market share and in particular examining whether any adjustments are needed to the definitions ***and thresholds*** set out in this Regulation and whether the scope of services covered by this Regulation remains appropriate;

(b) the impact of this Regulation on the proper functioning of the internal market of crowdfunding services, including the impact on access to financing by SMEs and on investors and other categories of persons affected by those services;

(c) the implementation of the technological innovation in the crowdfunding sector, including the application of ***non-bank financing methods (including initial coin offering),*** new innovative business models and technologies;

(d) whether the threshold set out in Article 2(2)(d) remains appropriate to pursue the objectives set out in this Regulation;

(e) the effects that national laws, regulations and administrative provisions governing marketing communications of crowdfunding service providers have on the freedom to provide services, competition and investor protection;

(f) the application of the administrative sanctions and in particular any need to further harmonise the administrative sanctions set out for the infringement of this Regulation;

(g) the necessity and proportionality of subjecting crowdfunding service providers to obligations for compliance with the national provisions implementing Directive (EU) 2015/849 in respect of money laundering or terrorism financing and adding such crowdfunding service providers to the list of obliged entities for the purposes of Directive (EU) 2015/849;

(h) the appropriateness of expanding the scope of this Regulation to third countries;

(i) the cooperation between national competent authorities and ESMA and the appropriateness of national competent authorities as the supervisor of this Regulation;

(j) the possibility of introducing specific measures in this Regulation to promote sustainable and innovative crowdfunding projects, as well as the use of EU Funds.

Article 38a

Amendment to Regulation (EU) 2017/1129

In Article 1(4) of Regulation (EU) 2017/1129, the following point is added:

(k) a crowdfunding offer from a European crowdfunding service provider as defined in Article 3(1)(c) of Regulation (EU) No …/… (*), provided that it does not exceed the threshold laid down in Article 2(2)(d) of that Regulation.

Article 39

Entry into force and application

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

It shall apply from … [Publications Office please insert 12 months from entry into force].

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

(*) OJ: please insert the number and publication details for this Regulation.

Wednesday 27 March 2019

P8_TA(2019)0302

Markets in financial instruments: crowdfunding service providers ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments (COM(2018)0099 — C8-0102/2018 — 2018/0047(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/39)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0099),

— having regard to Article 294(2) and Article 53(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0102/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 11 July 2018 [1],

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs (A8-0362/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0047

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council amending Directive 2014/65/EU on markets in financial instruments

(Text with EEA relevance)

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 53(1) thereof,

Having regard to the proposal from the European Commission,

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

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[1] OJ C 367, 10.10.2018, p. 65.

Wednesday 27 March 2019

Having regard to the opinion of the European Central Bank [1],

Having regard to the opinion of the European Economic and Social Committee [2],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Crowdfunding ***is a financial technology solution that*** provides ***SMEs, and, in particular, start-ups and scale-ups, with*** alternative access to finance, ***in order to promote innovative entrepreneurship in the Union***, thereby ***strengthening*** the Capital Markets Union. ***That in turn contributes to a more diversified financial system that is less dependent on bank financing, therefore limiting systemic and concentration risks. Other benefits of promoting innovative entrepreneurship through crowdfunding are the unlocking of frozen capital for investment in new and innovative projects, the acceleration of efficient allocation of resources and a diversification of assets.***

(2) Under Regulation (EU) XXX/XXX of the European Parliament and of the Council [3] legal persons can choose to apply to the ***national competent authority*** for an authorisation as crowdfunding service providers.

(3) Regulation (EU) XXX/XXXX [Regulation on European crowdfunding service providers] provides for uniform, proportionate and directly applicable requirements for authorisation and supervision of crowdfunding service providers .

(4) To provide legal certainty as to the scope of persons and activities falling within the respective scope of Regulation (EU) XXX/XXXX and of Directive 2014/65/EU of the European Parliament and of the Council [4], and in order to avoid that the same activity is subject to different authorisations within the Union, legal persons authorised as crowdfunding service providers under Regulation (EU) XXX/XXXX [Regulation on European crowdfunding service providers] should be excluded from the scope of Directive 2014/65/EU.

(5) As the amendment provided for in this Directive is directly linked to Regulation (EU) XXX/XXXX [Regulation on crowdfunding services in the European Union], the date from which Member States are to apply the national measures transposing that amendment should be deferred in order to coincide with the date of application laid down in that Regulation.

(5a) Virtual currencies are used by retail investors as substitutes for other assets. Unlike other financial instruments, virtual currencies are largely unregulated at present. As a consequence, markets for virtual currencies lack transparency, can be prone to market abuse and suffer from a lack of basic investor protection. The Commission should keep virtual currencies under review and propose clear guidance setting out the conditions under which virtual currencies could be classified as financial instruments and, if necessary, add virtual currencies to the list of financial instruments, as a new category. If the Commission concludes that it is appropriate to regulate virtual currencies, it should submit to the European Parliament and to the Council a proposal on the same,

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[1] OJ C […], […], p. […].
[2] OJ C […], […], p. […].
[3] Regulation (EU) XXX/XXX of the European Parliament and of the Council on European crowdfunding service providers (OJ L […], […], p. […]).
[4] 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).

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In Article 2(1) of Directive 2014/65/EU, the following point (p) is added:

'(p) crowdfunding service providers as defined in Article 3(1)(c) of Regulation (EU) XXX/XXX of the European Parliament and of the Council (*) ***and legal persons providing crowdfunding services in accordance with national law, as long as they are below the threshold of Article 2(d) of Regulation (EU) XXX/XXX of the European Parliament and of the Council*.***

(*) Regulation (EU) XXX/XXX of the European Parliament and of the Council on European crowdfunding service providers (OJ L […], […], p. […]).'.

Article 2

1. Member States shall adopt and publish, by … [Publications Office: 6 months from entry into force of the Crowdfunding Regulation], the laws, regulations and administrative provisions necessary to comply with this Directive.

Members States shall apply those measures from … [Publications Office: date of entry into application of the Crowdfunding Regulation].

2. Member States shall communicate to the Commission and to ESMA the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Wednesday 27 March 2019

P8_TA(2019)0303

European Regional Development Fund and Cohesion Fund ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the European Regional Development Fund and on the Cohesion Fund (COM(2018)0372 — C8-0227/2018 — 2018/0197(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/40)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0372),

— having regard to Article 294(2) and Articles 177, 178 and 349 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0227/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 December 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development and also the opinion of the Committee on Budgets, the position in the form of amendments of the Committee on Budgetary Control, and the opinions of the Committee on the Environment, Public Health and Food Safety, of the Committee on Transport and Tourism, of the Committee on Agriculture and Rural Development, of the Committee on Culture and Education, and the Committee on Civil Liberties, Justice and Home Affairs (A8-0094/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0197

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council 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, Article 178 and Article 349 thereof,

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([1]) OJ C 62, 15.2.2019, p. 90.
([2]) OJ C 86, 7.3.2019, p. 115.

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. Under that Article and the second and third paragraphs of Article 174 of the TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and to reducing 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 such as the northernmost regions with very low population density and island, 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) 2018/XXX of the European Parliament and of the Council [new CPR] ([5]) sets out common rules applicable to various funds including the European Regional Development Fund ('ERDF'), the European Social Fund Plus ('ESF+'), the Cohesion Fund, ***the European Agricultural Fund for Rural Development (EAFRD),*** the European Maritime and Fisheries Fund ('EMFF'), the Asylum and Migration Fund ('AMIF'), the Internal Security Fund ('ISF') and the Border Management and Visa Instrument ('BMVI') which operate under a common framework ('the Funds'). **[Am. 1]**

(3a) Member States and the Commission shall ensure the coordination, complementarity and coherence between the European Regional Development Fund (ERDF), the Cohesion Fund (CF), the European Social Development Fund+ (ESF+), the European Maritime and Fisheries Fund (EMFF) and the European Fund for Agricultural Development (EAFRD), so that they can complement each other where this is beneficial for creating successful projects. **[Am. 2]**

(4) In order to simplify the rules applicable to both the ERDF and the Cohesion Fund for the 2014-2020 programming period, a single Regulation should set out the applicable rules covering both funds.

(5) Horizontal principles as set out in Article 3 of the Treaty on European Union ('TEU') and in Article 10 of the TFEU, including principles of subsidiarity and proportionality as set out in Article 5 of the 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 of the UN Convention on the~~ ***and the European Pillar of Social*** Rights ~~of Persons with Disabilities and ensure accessibility in line with its article 9 and in accordance with the Union law harmonising accessibility requirements for products and services~~. Member States and the Commission should aim at eliminating ***social and income*** inequalities***, at furthering the fight against poverty, at the preservation*** and ~~at~~ promoting ~~equality between men and women and integrating the gender perspective, as well as at~~ ***the creation of quality jobs with attendant rights and at ensuring that the ERDF and the Cohesion Fund promote equal opportunities for all,*** combating discrimination based on ***gender,*** sex, racial or ethnic origin, religion

([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.
([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]) [Full reference — new CPR].

or belief, disability, age or sexual orientation. ***The Funds should also promote the transition from institutional care to family and community-based care, in particular for those who face multiple discrimination.*** The Funds should not support actions that contribute to any form of segregation. ~~The objectives of the~~ ***Investments under*** ERDF ~~and the Cohesion Fund~~ ***, in synergy with ESF+,*** should ~~be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the~~ ***contribute to promoting social inclusion and fighting poverty, and to raising citizens'*** quality of ~~the environment as set out in Articles 11 and 191(1) of the TFEU, taking into account the polluter pays principle. In order to protect the integrity~~ ***life in line with the obligations*** of the ~~internal market, operations benefitting undertakings shall comply with State aid rules as set out in Articles 107 and 108 of the TFEU~~ ***UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child (UNCRC) to contribute to children's rights***. **[Am. 3]**

(6) It is necessary to cover provisions for the ERDF for its support both to the Investment for jobs and growth goal and the European territorial cooperation goal (Interreg) ('ETC/Interreg').

(7) In order to identify the type of activities which can be supported by the ERDF and the Cohesion Fund, specific policy objectives for providing support from those funds should be laid down to ensure that they contribute to one or more of common policy objectives set out in Article 4(1) of Regulation (EU) 2018/xxx [new CPR] .

(8) In an increasingly interconnected world and in view of the ***internal and external*** 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. ***The ERDF must pay more specific attention to demographic change as a key challenge and priority area in devising and implementing programmes.*** In order to ensure coherent, strong and consistent support for solidarity and ~~responsibility sharing~~ ***responsibility as well as sharing*** efforts between Member States in managing migration, ~~the ERDF should provide support to facilitate the long-term~~ ***cohesion policy could contribute to*** integration ~~of~~ ***processes of refugees and*** migrants ***under international protection by adopting an approach aimed at protecting the dignity and rights of them, not least in view of the mutually-reinforcing relationship between integration and local economic growth, especially by providing infrastructure support to cities and local authorities involved in implementing integration policies***. **[Am. 4]**

(9) In order to support the efforts of Member States and regions in ***reducing disparities between levels of development and harmonise different situations of EU regions,*** facing ***up to social disparities,*** new challenges and ensuring ***inclusive societies and*** 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***, modern, accessible*** and secure public spaces and critical infrastructure, such as ***communication, public*** transport, ~~and~~ energy ***and universal, high-quality public services which are vital to address regional and social disparities, promote social cohesion and regional development and encourage enterprises and people to stay in their local area***. **[Am. 5]**

(10) In addition, investments under the ERDF should contribute to the development of a comprehensive high-speed digital infrastructure network, ***throughout the Union, including in rural areas where it is a vital contributor to small and medium-sized enterprises (SMEs),*** and to promoting ~~clean~~ ***pollution-free*** and sustainable multimodal ~~urban~~ ***mobility with a focus on walking, cycling, public transport and shared*** mobility. **[Am. 6]**

(10a) Many of the greatest challenges in Europe increasingly affect marginalised Roma communities, who often live in the most disadvantaged micro-regions which lack safe and accessible drinking water, sewage, electricity, and

which do not enjoy transportation possibilities, digital connectivity, renewable energy systems or disaster resilience. Therefore, ERDF-CF shall contribute to improving the living conditions of Roma and fulfilling their true potential as EU citizens, and Member States shall safeguard that the benefits of all the five policy objectives of ERDF-CF will reach the Roma as well. **[Am. 7]**

(11) 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 specific objectives to which the Cohesion Fund should support.

(12) In order to ***contribute to an appropriate governance, enforcement, cross-border cooperation and spread of best practices and innovations in the field of smart specialization and circular economy*** improve the overall administrative capacity of ***the*** institutions and governance in ***the*** Member States***, including at the regional and local levels on the principles of multilevel governance,*** implementing ***the*** programmes under the Investment for jobs and growth goal, it is necessary to ~~enable supporting~~ ***promote administrative reinforcement*** measures ~~under all of the~~ ***of a structural nature in support of all*** specific objectives. ***Being based on measurable objectives and notified to citizens and businesses as a means of simplifying and reducing the administrative burden imposed on beneficiaries and managing authorities, it is possible for these measures to strike the right balance between the result-orientation of the policy and the level of checks and controls.*** **[Am. 8]**

(13) 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 ETC/Interreg and should in particular support cooperation among structured partnerships with a view to implementing regional strategies as referred to in the Communication from the Commission 'Strengthening Innovation in Europe's Regions: Strategies for resilient, inclusive and sustainable growth' ([6]). Partners may therefore come from any region in the Union, but may also include cross-border regions and regions which are all covered by ***European Groupings of Territorial Cooperation,*** a macro-regional or sea-basin strategy or a combination of the two. **[Am. 9]**

(13a) The future cohesion policy may take adequate consideration of and provide support to the regions of the Union that are most impacted by the consequences of the United Kingdom's exit from the Union, in particular those that will, as a result, find themselves situated on external sea or land borders of the Union; **[Am. 10]**

(14) ***The objectives of the ERDF and the Cohesion Fund should be pursued in the framework of sustainable development, notably the highly importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement, 2030 Agenda of the United Nations and the UN Sustainable Development Goals as well as and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Articles 11 and 191(1) of the TFEU, taking into account the polluter pays principle as well as focusing on poverty, inequality and a just transition to a socially and environmentally sustainable economy in a participatory approach in cooperation with relevant public authorities, economic, and social partners as well as civil society organisations.*** Reflecting the importance of tackling climate change ***and loss of biodiversity in order to contribute to the financing of necessary actions to be taken at EU, national and local level to fulfil*** in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, ***as well as to ensure integrated disaster prevention support linking resilience and risk prevention, preparation and response,*** the Funds will contribute to mainstream climate actions and ~~to the achievement of an overall target of 25 %~~ ***biodiversity protection by targeting 30 %*** of the EU budget expenditure supporting climate objectives. ***The Funds must contribute substantially to the achievement of a circular and low-carbon economy in all territories of the Union and fully incorporating the regional dimension.*** Operations under the ERDF are expected ~~to~~ contribute ~~30 %~~ ***to at least 35 %*** of the overall financial envelope of the ERDF to climate objectives. Operations under the Cohesion Fund are expected to contribute ~~37 %~~ ***40*** % of the overall

([6]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions of 8 July 2017 — COM(2017)0376.

financial envelope of the Cohesion Fund to climate objectives. ***These percentages should be respected throughout the programming period. Therefore, relevant actions will be identified during the preparation and implementation of these funds, and reassessed in the context of the relevant evaluations and review procedures. These actions and the financial allocation reserved for their implementation are to be included in the national Integrated Energy and Climate Plans in accordance with Annex IV of Regulation (EU)2018/xxxx[new CPR] as well as long-term renovation strategy established under the revised Energy Performance of Building Directive (E) 2018/844 to contribute to the achievement of a decarbonised building stock by 2050, and attached to the Programmes. Specific attention should be paid to carbon-intensive areas facing challenges due to decarbonisation commitments, in view of assisting them in pursuing strategies consistent with the Union's climate commitment and laid down in the Integrated National Energy and Climate Plans and under the ETS Directive 2018/410 and to protect workers also through training and reskilling opportunities.*** **[Am. 11]**

(15) In order to enable the ERDF to provide support under ETC/Interreg in terms of both investments in infrastructure and the associated investments, training and integration activities, ***for the improvement and development of administrative skills and competences,*** it is necessary to provide that the ERDF may also provide support for activities under the specific objectives of the ESF+, set up under Regulation (EU) 2018/XXX of the European Parliament and of the Council [new ESF+] ([7]). **[Am. 12]**

(16) In order to concentrate the use of limited resources in the most efficient way, the support given to by the ERDF to productive investments under the relevant specific objective, should be ~~limited~~ ***directed*** to only micro, small and medium-sized enterprises ('SMEs') within the meaning of Commission Recommendation 2003/361/EC ([8]), ~~except where investments involve cooperation with SMEs in research and innovation activities~~ ***and to enterprises other than SMEs, without prejudice to jobs related to the same or similar activity in other European regions, within the meaning of Article 60 of Regulation (EU) .../…[new CPR]***. **[Am. 190/rev]**

(17) 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 the decarbonisation commitments ***through financial support for the transitional period. It should also foster resilience and prevent vulnerable territories from falling behind***. 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) 2018/xxx [new CPR]. Therefore support from the ERDF should be concentrated ***specifically*** on the policy ***two*** objectives of ***a*** 'a smarter Europe by promoting innovative, ~~and~~ smart ***and inclusive*** economic ***development and*** transformation' ***, regional connectivity in the area of technologies, developing the information and communication technologies (ICT), connectivity and efficient public administration*** and 'a greener, low-carbon ***and resilient*** Europe ***for all*** by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk prevention and management' '***while taking account of the overall policy objectives of a more cohesive and solidarity-based Europe helping reduce economic, social and territorial asymmetries.*** ~~That~~ '***while taking account of the overall policy objectives of a more cohesive and solidarity-based Europe helping reduce economic, social and territorial asymmetries. Said*** thematic concentration should be attained at national level, while allowing ***margins*** for flexibility at the level of individual programmes and between ~~the three groups of Member States formed according to respective gross national income~~ ***various categories of regions, taking account too of different levels of development***. In addition, the methodology to classify ***the regions*** ~~Member States~~ should be set out in detail taking into account the specific situation of the outermost regions. **[Am. 14]**

([7]) [Full reference — new ESF+].

([8]) 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).

(17a) In order to ensure the strategic importance of investments co-financed by the ERDF and CF, Members States could make a duly justified request for further flexibility within the current framework of Stability and Growth Pact for the public or equivalent structural expenditure. **[Am. 15]**

(18) In order to concentrate the support on key Union priorities ***and in line with the objectives of social, economic and territorial cohesion set out in Article 174 TFEU and the policy objectives laid down in Regulation (EU) 2018/xxx [new CPR]***, 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. **[Am. 16]**

(18a) The ERDF should address the problems of accessibility to, and remoteness from, large markets, faced by areas with an extremely low population density, as referred to in Protocol No 6 on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden to the 1994 Act of Accession. The ERDF should also address the specific difficulties encountered by certain islands, border regions, mountain regions and sparsely populated areas, the geographical situation of which slows down their development, with a view to supporting their sustainable development. **[Am. 17]**

(19) This Regulation should set out the different types of activities th e costs of which may 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 the environment and in TEN-T. 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 and it should be able to support investments in infrastructure, ***including research and innovation infrastructure and facilities, cultural and heritage infrastructure, sustainable tourism infrastructure also through the tourist districts, services to enterprises, as well as investments in housing,*** investments in relation to access to services ***with a particular focus on disadvantaged, marginalised and segregated communities***, productive investments in SME's, equipment, software and intangible assets***, incentives during the transition period of regions in the process of decarbonisation***, 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 support provide for a broader range of interventions for Interreg programmes, the scope should be enlarged to also include the sharing a broad range of facilities and human resources and costs linked to measures within the scope of the ESF+. **[Am. 18]**

(20) Trans-European transport networks projects in accordance with Regulation (EU) ~~No 1316/2013~~ ***No1316/2013*** shall continue to be financed from the Cohesion Fund***, including tackling the missing links and bottlenecks, in a balanced manner as well as including for improving the safety of existing bridges and tunnels*** via both shared management and the direct implementation mode under the Connecting Europe Facility ('CEF'). ***These networks must boost public services in rural areas, especially in sparsely populated areas and in areas with largely ageing populations, in order to foster interconnectivity between cities and the countryside, promote rural development, bridge the digital divide.*** **[Am. 19]**

(21) At the same time, it is important to ***identify synergies on the one hand and*** 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 ([9])~~ ***on the other hand; this*** in order to ***multiplication effects or*** ~~avoid duplication of available financing, which already exists as part of that Directive~~. In addition, it should be explicitly set out that the overseas countries and territories listed in Annex II of the TFEU are not eligible for support from the ERDF and the Cohesion Fund. **[Am. 20]**

~~([9]) 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).~~

Wednesday 27 March 2019

(22) 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 necessary by programme-specific output and result indicators. The information provided by the 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.

(23) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate the Funds on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens~~, in particular on Member States~~. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Funds on the ground. **[Am. 21]**

(24) In order to maximise the contribution to territorial development, ***and to address more effectively economic, demographic, environmental and social challenges, as envisaged in Article 174 TFEU, in areas with natural or demographic disadvantages including ageing, rural desertification and demographic decline but also demographic pressure or where it is difficult to access basic services,*** actions in this field should be based on ***programmes, axes or*** integrated territorial strategies including ~~in~~ urban areas ***and rural communities***. ***These actions should be the two sides of the same coin, based on both the central urban hubs and their surroundings as well as the more remote rural. These strategies may also benefit from a multifund and integrated approach involving the ERDF, ESF+, EMFF and EAFRD. A minimum target of 5 % of ERDF resources should be earmarked at national level for integrated territorial development***. Therefore, ~~the ERDF~~ support should be delivered ~~through the forms set out in Article 22 of Regulation (EU) 2018/xxxx [new CPR]~~ ensuring appropriate involvement of local, regional and urban authorities***, economic and social partners and representatives of civil society and non-governmental organisations***. **[Am. 22]**

(24a) Specific attention should be paid to carbon-intensive areas facing challenges due to decarbonisation commitments, in view of assisting them in pursuing strategies consistent with the Union's climate commitment under the Paris Agreement that protect workers and affected communities alike. Such areas should benefit from dedicated support to prepare and implement plans for decarbonisation of their economies taking into account the need for targeted vocational training and reskilling opportunities for the workforce. **[Am. 23]**

(25) 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***, technology*** and social ***and cultural*** challenges affecting urban areas, including functional urban areas ***and rural communities***, while taking into account the need to promote urban-rural linkages***, including through peri-urban areas where appropriate***. 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~~ ***. Said actions may also benefit from a multifund and integrated approach involving the ERDF, ESF+, EMFF and the EAFRD.*** A minimum target of ~~6 %~~ ***10 %***of the ERDF resources ~~allocated~~ ***should be earmarked*** at national level for ~~that purpose~~ ***the sustainable urban development priority***. 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. **[Am. 24]**

(26) 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~~ ***continued and developed into*** a European Urban Initiative~~, to be implemented under direct or indirect management~~. That initiative should ~~cover all urban areas and~~ support the Urban Agenda for the European Union ***([10]) aiming to stimulate growth, liveability and innovation and to identify and successfully tackle social challenges***. **[Am. 25]**

([10]) Council Conclusions on an Urban Agenda for the EU of 24 June 2016.

(27) Specific attention should be paid to outermost regions, namely by adopting measures under Article 349 of the 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 of the 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. This allocation can cover investments, operating costs and public service obligations aimed at offsetting additional costs caused by such restraints. Operating aid may cover expenditure on freight transport services***, green logistics, mobility management*** 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***. This allocation shall not be subject to the thematic concentration provided for in this Regulation***. 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 of the TFEU. **[Am. 26]**

(28) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of making adjustments, where justified, to the Annex II which sets out 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 on Better Law-Making of 13 April 2016 ([11]). In particular, in order 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.

(29) Since the objective of this Regulation, namely to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union ***through citizens oriented approach aimed at supporting community led development and fostering active citizenship***, 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 the 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 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 that objective. **[Am. 27]**

HAVE ADOPTED THIS REGULATION:

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 [4(2)] of Regulation (EU) 2018/xxxx [new CPR].

([11]) 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).

Wednesday 27 March 2019

2. This Regulation also sets out the specific objectives and the scope support from the Cohesion Fund with regard to the Investment for jobs and growth goal ('the Investment for jobs and growth goal') referred to in [point (a) of Article 4(2)] of Regulation (EU) 2018/xxxx [new CPR].

Article 1a

Tasks of the ERDF and the Cohesion Fund

The ERDF and the Cohesion Fund (CF) shall contribute to the overall objective of strengthening the Union's economic, social and territorial cohesion.

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 including environmental challenges, through sustainable development and structural adjustment of regional economies.

The Cohesion Fund shall contribute to projects in the field of trans-European networks and environment. **[Am. 28]**

Article 2

Specific objectives for the ERDF and the Cohesion Fund

1. In accordance with the policy objectives set out in Article [4(1)] of Regulation (EU) 2018/xxxx[new CPR], the ERDF shall support the following specific objectives:

(a) 'a smarter Europe by promoting innovative ~~and~~ , smart ***and inclusive*** economic ***development and*** transformation***, regional connectivity in the area of technologies, developing the information and communication technologies (ICT), connectivity and efficient public administration***' ('PO 1') by: **[Am. 29]**

(i) ~~enhancing~~ ***supporting the development and enhancement of*** research and innovation capacities ~~and~~ ***, investments and infrastructure,*** the uptake of advanced technologies ***and supporting and promoting the clusters for innovation between business, research, academia and public authorities***; **[Am. 30]**

(ii) ***enhancing digital connectivity and*** reaping the benefits of digitisation for citizens, ***scientific establishments,*** companies ~~and~~ governments ***and public administration at regional and local level including smart cities and smart villages***; **[Am. 31]**

(iii) enhancing ***sustainable*** growth and competitiveness of SMEs ***and providing support for the creation and safeguarding of jobs and support technological upgrade and modernization***; **[Am. 32]**

(iv) developing skills ***and strategies, and building capacities*** for smart specialisation, ~~industrial~~ ***just*** transition ~~and~~ ***, circular economy, social innovation,*** entrepreneurship ***, tourism sector and transition to industry 4.0***; **[Am. 33]**

(b) 'a greener, low-carbon ***and resilient*** Europe ***for all*** by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk prevention and management' ('PO 2') by: **[Am. 34]**

(i) promoting energy efficiency***, savings and energy poverty*** measures; **[Am. 35]**

(ii) promoting ***sustainable*** renewable energy; **[Am. 36]**

(iii) developing smart energy systems, grids and storage ~~at local level~~; **[Am. 37]**

(iv) promoting climate change adaptation, risk prevention***, management of*** and ~~disaster~~ resilience ***to extreme weather events and natural disasters including earthquakes, forest fires, flooding and drought, taking into account eco-system based approaches***; **[Am. 38]**

(v) promoting ***universal access to water and*** sustainable water management; **[Am. 39]**

(vi) promoting the transition to a circular economy economy ***and improving resource efficiency***; **[Am. 40]**

(via) supporting regional transformation processes towards decarbonisation as well as the transition towards low-carbon energy generation; **[Am. 41]**

(vii) ***protecting and*** enhancing biodiversity~~, green infrastructure in the urban environment, and reducing~~ ***and natural heritage, preserving and highlighting protected natural areas***, ***natural resources*** and reducing ***every form of pollution such as air, water, soil, noise and light*** pollution; **[Am. 42]**

(viia) enhancing green infrastructure in functional urban areas, developing small-scale multimodal urban mobility as part of a net zero emission economy; **[Am. 43]**

(c) 'a more connected Europe ***for all*** by enhancing mobility ~~and regional ICT connectivity~~' ('PO 3') by: **[Am. 44]**

~~(i) enhancing digital connectivity;~~ **[Am. 45]** *(This amendment will require consequential adjustments to Annex I and Annex II)*

(ii) developing a ~~sustainable~~, climate resilient, intelligent, secure and ***sustainable road and railway and*** intermodal TEN-T ***and cross-border links focussing on noise reduction measures, environmentally friendly public transport and rail networks***; **[Am. 46]**

(iii) developing sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T ~~and~~ cross-border mobility ***and environmentally friendly public transport networks***; **[Am. 47]**

~~(iv) promoting sustainable multimodal urban mobility;~~ **[Am. 48]** *(This amendment will require consequential adjustments to Annex I and Annex II)*

(d) 'a more social ***and inclusive*** Europe implementing the European Pillar of Social Rights' ('PO 4') by: **[Am. 49]**

(i) enhancing the effectiveness ***and inclusiveness*** of labour markets and access to ***high*** quality employment through developing social innovation and infrastructure ***and promoting the social economy and innovation***; **[Am. 50]**

(ii) improving ***equal*** access to inclusive and quality services in education, training and life long learning ***and sport*** through developing ***accessible*** infrastructure ***and services***; **[Am. 51]**

(iia) investment in housing, when owned by public authorities or non-profit operators for use as housing designated for low-income households or people with special needs; **[Am. 52]**

(iii) ~~increasing~~ ***promoting*** the socioeconomic ~~integration~~ ***inclusion*** of marginalised communities~~, migrants and disadvantaged~~ ***and deprived communities such as Roma and disadvantage*** groups, through integrated ~~measures~~ including housing and social services; **[Am. 53]**

Wednesday 27 March 2019

(iiia) promoting long-term socio-economic integration of refugees and migrants under international protection through integrated actions including housing and social services by providing infrastructure support to cities and local authorities involved; **[Am. 54]**

(iv) ensuring equal access to health care through developing ***health care*** infrastructure ***and other assets***, including primary care ***and preventive measures and advancing the transition from institutional to family- and community-based care***; **[Am. 55]**

(iva) providing support for physical, economic and social regeneration in deprived communities; **[Am. 56]**

(e) 'a Europe closer to citizens by fostering the sustainable and integrated development of urban~~, rural and coastal~~ ***and all other*** areas and local initiatives' ('PO 5') by: **[Am. 57]**

(i) fostering ~~the~~ integrated ***and inclusive*** social, economic and environmental development, ~~cultural~~ ***culture, natural*** heritage***, sustainable tourism also through the tourist districts, sports*** and security in urban areas***, including functional urban areas***; **[Am. 58]**

(ii) fostering ~~the~~ integrated ***and inclusive*** social, economic and environmental ~~local~~ development, ~~cultural~~ ***culture, natural*** heritage***, sustainable tourism also through the tourist districts, sports*** and security, ~~including for~~ ***all at local level,*** rural***, mountain, islands*** and coastal ***regions, isolated and sparsely populated and all other*** areas ~~also~~ ***that have difficulty accessing basic services including also on NUTS 3 level,*** through ~~community-led~~ ***territorial and*** local development ***strategies, through the forms set out in points (a) (b) and (c) of Article 22 of Regulation (EU) 2018/xxxx [new CPR]***. **[Am. 59]**

1a. Enhancing small-scale multimodal urban mobility as referred to in point b (vii a) of this Article, which shall be considered eligible for support if ERDF contribution to the operation shall not exceed EUR 10 000 000. **[Am. 60]**

2. The Cohesion Fund shall support PO 2 and specific obejctives under PO 3 set out in points (ii), (iii) and (iv) of paragraph 1(c).

3. With regard to ***achieving*** the specific objectives set out in parargraph 1, the ERDF or the Cohesion Fund~~, as appropriate,~~ may also ~~support activities under the Investment for jobs and growth goal, where they either~~: **[Am. 61]**

(a) improve the capacity of programme authorities, and bodies linked to the implementation of the Funds***, and support public authorities, local and regional administrations responsible for implementation of the ERDF and the Cohesion Fund, through specific administrative capacity-building plans aimed at localising the Sustainable Development Goals (SDGs), simplifying procedures and cutting implementation time for actions, provided these are structural in nature and the programme itself has measurable objectives***; **[Am. 62]**

(b) enhance cooperation with partners both within and outside a given Member State.

Support of capacity-building, referred to point (a) of this Article, may be complemented by additional support from the Reform Support Programme established under regulation EU (2018/xxx (Reform Support Programme); **[Am. 63]**

Cooperation referred to in point (b) 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; **[Am. 64]**

Meaningful participation of regional and local authorities, civil society organisations including beneficiaries in all stages of the preparation, implementation, monitoring and evaluation of the Programmes under ERDF shall be ensured in line with principles, set in the European Code of Conduct on Partnership. **[Am. 65]**

Article 3

Thematic concentration of ERDF support

1. With regard to programmes implemented under the Investment for jobs and growth goal, the total ERDF resources in each Member State shall be concentrated at national level in accordance with paragraphs 3 and 4.

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~~ ***Regions at NUTS 2 level*** shall be classified, in terms of their gross ~~national income ratio~~ ***domestic product (GDP) per capita***, as follows: **[Am. 66]**

(a) those with a ~~gross national income ratio equal to or~~ ***GDP per capita*** above 100 % of the ~~EU~~ average ***GDP of the EU27*** ('group 1'); **[Am. 67]**

(b) those with a ~~gross national income ratio equal to or above 75 % and below~~ ***GDP per capita between 75 % and*** 100 % of the ~~EU~~ average ***GDP of the EU27*** ('group 2'); **[Am. 68]**

(c) those with a ~~gross national income ratio below~~ ***GDP per capita less than*** 75 % of the ~~EU~~ ***average GDP of the EU27*** average ('group 3'). **[Am. 69]**

For the purposes of this Article, the ~~gross national income ratio means~~ ***classification of a region under one of the three categories of regions shall be determined on the basis of*** the ratio between the gross ~~national income~~ ***domestic product*** per capita of ~~a Member State~~ ***each region***, measured in purchasing power standards ***(PPS)*** and calculated on the basis of Union figures for the period from 2014 to 2016, and the average ~~gross national income per capita in purchasing power standards~~ ***GDP*** of the ~~27 Member States~~ ***EU27*** for that same reference period. **[Am. 70]**

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.

4. Member States shall comply with the following thematic concentration requirements:

(a) ~~Member States of~~ ***For the more developed regions category*** (group 1***) they*** shall allocate ~~at least 85 % of their total ERDF resources under priorities other than for technical assistance to PO 1 and PO 2, and at least 60 % to PO 1~~: **[Am. 71]**

(i) at least 50 % of total ERDF resources at national level to PO 1; and **[Am. 72]**

(ii) at least 30 % of total ERDF resources at national level to PO 2. **[Am. 73]**

(b) ~~Member States of~~ ***For the transition regions category*** (group 2***) they*** shall allocate ~~at least 45 % of their total ERDF resources under priorities other than for technical assistance to PO 1, and at least 30 % to PO 2;~~**:** **[Am. 74]**

(i) at least 40 % of total ERDF resources at national level to PO 1; and **[Am. 75]**

(ii) at least 30 % of total ERDF resources at national level to PO 2. **[Am. 76]**

Wednesday 27 March 2019

(c) ~~Member States of~~ ***For the less developed regions category*** (group 3***) they*** shall allocate ~~at least 35 % of their total ERDF resources under priorities other than for technical assistance to PO 1, and at least 30 % to PO 2.~~**:** **[Am. 77]**

(i) at least 30 % of total ERDF resources at national level to PO 1; and **[Am. 78]**

(ii) at least 30 % of total ERDF resources at national level to PO 2. **[Am. 79]**

4a. In duly justified cases, the Member State concerned may request that the concentration level for resources at regional category level be decreased by no more than 5 percentage points, or 10 percentage points in the cases of outermost regions, for the thematic objective determined in accordance with Article 3(4)(a)(i), Article 3(4)(b)(i) and Article 3(4)(c)(i) [new ERDF-Cohesion Fund]. **[Am. 80]**

5. The thematic concentration requirements set out in paragraph 4 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 [14] of Regulation (EU) 2018/xxxx [new CPR].

6. Where the ERDF allocation ~~with regard to~~ ***concerning*** PO 1 or PO 2***, the main policy objectives,*** or both of a given programme is reduced following a decommitment under Article [99] of Regulation (EU) 2018/xxxx [new CPR], or due to financial corrections by the Commission in accordance with Article [98] of that Regulation, compliance with the thematic concentration requirement set out in paragraph 4 shall not be re-assessed. **[Am. 81]**

Article 4

Scope of support from the ERDF

1. The ERDF shall support the following:

(a) investments in infrastructure;

(aa) investments in research, development and innovation (R&D&I); **[Ams 83 and 191/rev]**

(b) investments in access to services;

(c) productive investments ***and investments which help to safeguard existing jobs and create new jobs*** in SMEs ***and any support in SMEs in the form of grants and financial instruments***; **[Ams 84 and 192/rev]**

(d) equipment, software and intangible assets;

(e) information, communication, studies, networking, cooperation, exchange of experience and activities involving clusters;

(f) technical assistance.

~~In addition,~~ Productive investments in enterprises other than SMEs can be supported when they involve cooperation with SMEs ***or business infrastructure that benefits SMEs.***

In addition, productive investments in enterprises other than SMEs can also be supported in research and innovation activities supported under point (a)(i) of Article 2(1) ***and in energy efficiency and renewable energy activities under points (b)(i) and (ii) of Article 2 (1) respectively, in accordance with point (a) of Article 59(1) and Article 60 of Regulation (EU) .../…[new CPR].*** **[Am. 193/rev]**

In order to contribute to the specific objective under PO 1 set out in point (a) (iv) of Article 2(1), the ERDF shall also support training, ***mentoring,*** life long learning***, reskilling*** and education activities. **[Ams 87 and 194/rev]**

2. Under the European territorial cooperation goal (Interreg), the ERDF may also support:

(a) sharing of facilities and of human resources;

(b) accompanying soft investments and other activities linked to PO 4 under the European Social Fund Plus as set out in Regulation (EU) 2018/xxxx [new ESF+].

Article 5

Scope of support from the Cohesion Fund

1. The Cohesion Fund shall support the following:

(a) investments in the environment, including investments related to ***circular economy,*** sustainable development and ***renewable*** energy presenting environmental benefits; **[Am. 88]**

(b) investments in TEN-T ***core and comprehensive network***; **[Am. 89]**

(c) technical assistance***, including improvement and development of administrative skills and competences of local authorities in managing these funds***. **[Am. 90]**

(ca) information, communication, studies, networking, cooperation, exchange of experience and activities involving clusters; **[Am. 91]**

Member States shall ensure an appropriate balance between investments under points (a) and (b)***, based on the investments and specific requirements of each Member State***. **[Am. 92]**

2. The amount of the Cohesion Fund transferred to the Connecting Europe Facility ([12]) shall be ***proportional and shall be*** used for TEN-T projects. **[Am. 93]**

Article 6

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 of the European Parliament and of the Council ([13]);;

(c) the manufacturing, processing and marketing of tobacco and tobacco products;

(d) undertakings in difficulty, as defined in point 18 of Article 2 of Commission Regulation (EU) No 651/2014 ([14]);

(e) investment ***in new regional airport and*** in airport infrastructure, except for ~~outermost regions~~; **[Am. 94]**

([12]) Reference

([13]) 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.

([14]) 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).

Wednesday 27 March 2019

(ea) investment related to outermost regions; **[Am. 95]**

(eb) support linked to core TEN-T networks; **[Am. 96]**

(ec) Investment related to environmental protection and aimed to mitigate or reduce its negative environmental impact. **[Am. 97]**

(f) investment in disposal of waste in landfill***, except in the outermost regions and for support for decommissioning, reconverting or making safe existing facilities and without prejudice to Article 4(2) of Directive (EU) 2008/98 of the European Parliament and of the Council*** ***([15])***; **[Am. 98]**

(g) investment in facilities for the treatment of residual waste ***with the exception of outermost regions and in case of state-of-the-art recycling solutions in line with the principles of the circular economy and the waste hierarchy fully respecting the targets laid down in Art 11(2) of Directive (EU) 2008/98 and provided that Member States have established their waste management plans according to Art. 29 of Directive (EU) 2018/851. Residual waste should be understood as primarily non separately collected municipal waste and rejects from waste treatment***; **[Am. 99]**

(h) investment related to production, processing***, transport***, distribution, storage or combustion of fossil fuels, with the exception of investment ~~related to clean vehicles as defined in Article 4 of Directive 2009/33/EC of the European Parliament and of the Council ([16])~~; **[Am. 100]**

~~(i) investment in broadband infrastructure in areas in which there are at least two broadband networks of equivalent category;~~ **[Am. 102]**

~~(j) funding for the purchase of rolling stock for use in rail transport, except if it is linked to the:~~

~~(i) discharge of a publicly tendered public service obligation under Regulation 1370/2007 as amended;~~

~~(ii) provision of rail transport services on lines fully opened to competition, and the beneficiary is a new entrant eligible for funding under Regulation (EU) 2018/xxxx [Invest EU regulation].~~ **[Ams 103 and 245]**

(ja) investments in the construction of institutional care facilities that segregate or infringe on personal choice and independence; **[Am. 104]**

1a. The exceptions mentioned in paragraph h shall be limited to an amount up to 1 % of the total ERDF-CF resources at national level. **[Am. 101]**

2. In addition, the Cohesion Fund shall not support investment in housing unless related to the promotion of energy ***and resource*** efficiency or renewable energy use ***and accessible living conditions for older people and persons with disabilities and seismic retrofitting***. **[Am. 105]**

([15]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

~~([16]) 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).~~

3. 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) 2018/xxxx [ETC (Interreg].

Article 6a

Partnership

Each Member State shall ensure the meaningful and inclusive participation of social partners, civil society organisations and service users in the management, programming, delivery, monitoring and evaluation of activities and policies supported by the ERDF and the Cohesion Fund under shared management, according to Article 6 of the proposed CPR Regulation 'Commission Delegated Regulation (EU) No 240/2014.' **[Am. 106]**

Article 7

Indicators

1. Common output and result indicators, as set out ***and defined*** in the Annex I with regard to the ERDF and to the Cohesion Fund, and, where ~~necessary~~ ***relevant***, programme-specific output and result indicators shall be used in accordance with point (a) of the second subparagraph of Article [12(1)], point (d)(ii) of Article [17(3)] and point (b) of Article [37(2)] of Regulation (EU) 2018/xxxx [new CPR]. **[Am. 107]**

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 Article [38(3)(e)(i)] of the Financial Regulation, the Commission shall present to the European Parliament and the Council information on performance in accordance with Annex II.

4. The Commission is empowered to adopt delegated acts in accordance with Article 13 to amend Annex I in order to make the necessary adjustments to the list of indicators to be used by Member States and to amend Annex II in order to make the necessary adjustments to the information on performance to be provided to the European Parliament and the Council.

4a. Member States may make a duly justified request for further flexibility within the current framework of Stability and Growth Pact for the public or equivalent structural expenditure, supported by the public administration by way of co-financing of investments activated as part of ERDF and CF. When defining the fiscal adjustment under either the preventive or the corrective arm of the Stability and Growth Pact, the Commission shall carefully assess this request in a manner reflecting the strategic importance of investments co-financed by the ERDF and CF. **[Am. 108]**

CHAPTER II

Specific provisions on the treatment of particular territorial features

Article 8

Integrated territorial development

1. The ERDF ~~may~~ ***shall*** support integrated territorial development within programmes under both goals referred to in Article 4(2) of Regulation (EU) 2018/xxxx [new CPR] in accordance with Chapter II of Title III of that Regulation[new CPR]. **[Am. 109]**

1a. At least 5 % of the ERDF resources available at national level under the Investment for jobs and growth goal, other than for technical assistance, shall be allocated to integrated territorial development in non-urban areas with natural, geographic or demographic handicaps or disadvantages or which have difficulty accessing basic services. Out of this amount, at least 17,5 % shall be allocated to rural areas and communities taking into account provisions of a Smart Villages Pact to develop projects such as smart villages. **[Am. 110]**

2. Member States shall implement integrated territorial development, ~~supported by the ERDF, exclusively~~ ***through a specific axis or programme or*** through the ***other*** forms referred to in Article [22] of Regulation (EU) 2018/xxxx [new CPR]***, and may benefit from a multifund and integrated approach involving the ERDF, ESF+, EMFF and EAFRD***. **[Am. 111]**

Article 9

Sustainable urban development

1. ***To address economic, environmental, climate, demographic and social challenges, t***he ERDF shall support integrated territorial development based on territorial strategies in accordance with Article [23] of Regulation (EU) 2018/xxxx [new CPR]***, which may also benefit from a multifund and integrated approach involving the ERDF and the ESF+, and*** focused on ***functional*** urban areas ('sustainable urban development') within programmes under both goals referred to in Article 4(2) of that Regulation. **[Am. 112]**

2. At least ~~6 %~~ ***10 %***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 the form of ***a specific programme, a specific priority axis,*** community-led local development, integrated territorial investments or ~~another~~ ***other*** territorial ~~tool~~ ***tools, as set out in point (c) of Article 22 of Regulation (EU) 2018/xxxx (new CPR). The 'urban authorities' referred to in Article 6 of Regulation (EU) 2018/XXXX [new CPR] shall be empowered to choose the measures and projects involved. Operations carried out under POs other than PO5 may, if consistent, contribute to reaching the 10 % minimum threshold for sustainable urban development. Investments made*** under PO5***(i) should count as contributing to this earmarking of 10 %, as well as operations carried out under other POs, if consistent with sustainable urban development***. **[Am. 113]**

The programme or programmes concerned shall set out the planned amounts for this purpose under point (d)(vii) of Article [17(3)] of Regulation (EU) 2018/xxxx [new CPR].

3. The percentage allocated to sustainable urban development under paragraph 2 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 [14] of Regulation (EU) 2018/xxxx [new CPR].

4. Where the ERDF allocation is reduced following a decommitment under Article [99] of Regulation (EU) No [new CPR], or due to financial corrections by the Commission in accordance with Article [98] of that Regulation, compliance with paragraph 2 shall not be re-assessed.

Article 10

European Urban Initiative

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

This initiative shall cover all ***functional*** urban areas and shall support the ***partnerships and organisational costs of the*** Urban Agenda of the Union. ***Local authorities should be actively involved in establishing and implementing the European Urban Initiative.*** **[Am. 114]**

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

(a) support of capacity-building***, including actions of exchange for regional and local representatives at subnational level***; **[Am. 115]**

(b) support of innovative actions ***which may receive additional co-funding for regulation (EU) 2018/xxx (European Agricultural Fund for Rural Development) and be provided jointly with the European Network for Rural Development in particular with regard to rural and urban links and projects supporting the development of urban and functional urban areas***; **[Am. 116]**

(c) support of knowledge, ***territorial impact assessments,*** policy development and communication. **[Am. 117]**

Upon request from one or more Member States, the European Urban Initiative may also support inter-governmental cooperation on urban matters ***such as the reference framework on sustainable cities, the territorial agenda of the European Union and the adjustment of the UN Sustainable Development Goals to the local level circumstances***. **[Am. 118]**

The Commission shall submit an annual report to the European Parliament on developments in connection with the European Urban Initiative. **[Am. 119]**

Article 10a

Areas facing natural or demographic handicaps and challenges

In programmes that are co-funded by the ERDF and cover areas facing severe and permanent natural or demographic handicaps and challenges such as those referred to in Article 174 TFEU, special attention shall be paid to addressing the challenges faced by those areas.

In particular, NUTS level 3 areas or clusters of local administrative units (LAUs) with a population density of below 12,5 inhabitants per km2 for sparsely populated areas or below 8 inhabitants per km2 for very sparsely populated areas, or with an average population decrease of more than1 % between 2007 and 2017 shall be subject to specific regional and national plans to enhance attractiveness, increase business investment and boost the accessibility of digital and public services, including a fund in the cooperation agreement. A dedicated funding may be earmarked in the Partnership Agreement. **[Am. 120]**

Article 11

Outermost regions

1. ~~The~~ ***Article 3 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 listed in Article 349 of the TFEU. **[Am. 121]**

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

(a) the activities within the scope as set out in Article 4;

(b) by way of derogation from Article 4, 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 listed in Article 349 of the TFEU.

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

Wednesday 27 March 2019

3. The allocation, referred to in paragraph 1, 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) of the 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.

3a. By way of derogation from Article 4(1), the ERDF may support productive investment in enterprises in the outermost regions, irrespective of their size. **[Am. 122]**

CHAPTER III

Final provisions

Article 12

Transitional provisions

Regulations (EC) No 1300/2013 and 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 13

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 7(4) shall be conferred on the Commission ~~for an indeterminate period of time~~ from the date of the entry into force of this Regulation ***until 31 December 2027***. **[Am. 123]**

3. The delegation of power referred to in Article 7(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 on Better Law-Making of 13 April 2016 ([17]).

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 7(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 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.

([17]) OJ L 123, 12.5.2016, p. 13.

Article 13a

Repeal

Without prejudice to Article 12 of this Regulation, Regulations (EC) No 1301/2013 and (EC) No 1300/2013 are repealed with effect from 1 January 2021. **[Am. 124]**

Article 13b

Review

The European Parliament and the Council shall review this Regulation by 31 December 2027, in accordance with Article 177 TFEU. **[Am. 125]**

Article 14

Entry into force

This Regulation shall enter into force on the twentieth 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 …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Common output and result indicators for the ERDF and the Cohesion Fund — Article 7(1) [1]

Table 1: Common output and result indicators for ERDF (Investment for jobs and growth and Interreg) and the Cohesion Fund (**)

Policy objective	Outputs	Results
(1)	(2)	(3)
1. A smarter Europe by promoting innovative and smart economic transformation ***regional connectivity in the area of technologies, developing the information and communication technologies (ICT), connectivity and efficient public administration' ('PO 1') by:*** **[Am. 126]**	RCO [1] 01 — Enterprises supported (of which: micro, small, medium, large)* ***RCO - 01a — Regional average income*** **[Am. 127]** RCO 02 — Enterprises supported by grants* RCO 03 — Enterprises supported by financial instruments* RCO 04 — Enterprises with non-financial support* RCO 05 — Start-ups supported* RCO 06 — Researchers working in supported research facilities RCO 07 — Research institutions participating in joint research projects RCO 08 — Nominal value of research and innovation equipment RCO 10 — Enterprises cooperating with research institutions ***RCO 10a — Enterprises supported to transform their products and services into circular economy*** **[Am. 128]** RCO 96 — Interregional investments in EU projects*	RCR [2] 01 — Jobs created in supported entities* ***RCR - 01 — Increase of regional income ratio as defined in Article 3(3)*** **[Am. 131]** RCR 02 — Private investments matching public support (of which: grants, financial instruments)* RCR 03 — SMEs introducing product or process innovation* RCR 04 — SMEs introducing marketing or organisational innovation* RCR 05 — SMEs innovating in-house* RCR 06 — Patent applications submitted to European Patent Office* RCR 07 — Trademark and design applications* RCR 08 — Public-private co-publications
	RCO 12 — Enterprises supported to digitise their products and services RCO 13 — Digital services and products developed for enterprises RCO 14 — Public institutions supported to develop digital services and applications	RCR 11 — Users of new public digital services and applications* RCR 12 — Users of new digital products, services and applications developed by enterprises* RCR 13 — Enterprises reaching high digital intensity*

(1) To be used, for the Investment for jobs and growth and Interreg in accordance with point (a) of the second subparagraph of Article [12(1)], and point (b) of Article [36(2) [data transmission] of Regulation (EU) [new CPR] and, for Investment for jobs and growth in accordance with point (d)(ii) of Article [17 (3)] of the Regulation (EU) [new CPR] and, for Interreg, in accordance with point (e)(ii) of Article 17 (4) of the of the Regulation (EU) [new ETC regulation]

Policy objective	Outputs	Results
(1)	(2)	(3)
	***RCO 14a — Additional socio-economic hubs with broadband access of very high capacity* [Am. 129]**	RCR 14 — ~~Enterprises using~~ ***Users of*** public digital services* **[Am. 132]** ***RCR 14a — Socio-economic hubs with broadband subscriptions to a very high capacity network* [Am. 130]**
	RCO 15 — Capacity of incubation created*	RCR 16 — High growth enterprises supported* RCR 17 — 3-year-old enterprises surviving in the market* RCR 18 — SMEs using incubator services one year after the incubator creation RCR 19 — Enterprises with higher turnover RCR 25 — Value added per employee in supported SMEs*
	RCO 16 — Stakeholders participating in entrepreneurial discovery process RCO 17 — Investments in regional/ local ecosystems for skills development RCO 101 — SMEs investing in skills development RCO 102 — SMEs investing in training management systems*	RCR 24 — SMEs benefiting from activities for skills development delivered by a local/ regional ecosystem RCR 97 — Apprenticeships supported in SMEs RCR 98 — SMEs staff completing Continuing Vocational Education and Training (CVET) (by type of skill: technical, management, entrepreneurship, green, other) RCR 99 — SMEs staff completing alternative training for knowledge intensive service activities (KISA) (by type of skills: technical, management, entrepreneurship, green, other) RCR 100 — SMEs staff completing formal training for skills development (KISA) (by type of skills: technical, management, entrepreneurship, green, other)*

Policy objective	Outputs	Results
(1)	(2)	(3)
2. A greener, low-carbon ***and resilient*** Europe ***for all*** by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk prevention and management **[Am. 133]**	RCO 18 — Households supported to improve energy performance of their dwelling ***RCO 18a — The percentage of annual energy savings for the entire building stock (compared to a baseline) in line with the objective of reaching a high-efficient and decarbonised building stock as included in the national long term renovation strategy to support renovation of the national stock of residential and non-residential buildings*** **[Am. 134]** ***RCO 18b — Households with improved energy performance of their dwellings, reaching at least 60 % energy savings*** **[Am. 135]** ***RCO 18c — Households with improved energy performance of their dwellings, reaching Nearly Zero Energy Buildings (nZEB) standard level after renovation*** **[Am. 136]** RCO 19 — ~~Public~~ Buildings supported to improve energy performance ***(of which: residential, private non-residential, public non-residential)*** **[Am. 137]** ***RCO 19a — Number of energy poor/vulnerable consumers supported to improve the energy performance of their dwelling*** **[Am. 138]** RCO 20 — District heating network lines newly constructed or improved ***RCO 20a — Buildings supported to improve their smart readiness*** **[Am. 139]**	RCR 26 — Annual final energy consumption (of which: residential, private non-residential, public non-residential) RCR 27 — Households with improved energy performance of their dwellings ***reaching at least 60 % energy savings*** **[Am. 150]** RCR 28 — Buildings with improved energy classification (of which: residential, private non-residential, public non-residential) ***RCR 28 a Buildings with improved energy performances resulting from contractual arrangements which guarantee verifiable energy savings and improved efficiency, such as energy performance contracting as defined in point (27) of Article 2 of Directive 2012/27/EU*** [3] **[Am. 151]** RCR 29 — Estimated greenhouse gas emissions* RCR 30 — Enterprises with improved energy performance ***RCR 30a — Buildings with improved smart readiness*** **[Am. 152]**
	RCO 22 — Additional production capacity for renewable energy (of which: electricity, thermal) ***RCO 22a — Total final renewable energy consumption and consumption per sector (heating and cooling, transport, electricity)*** **[Am. 140]** ***RCO 22b — Share of total renewable energy produced*** **[Am. 141]** ***RCO 22c — Reduction of annual import of non-renewable energy*** **[Am. 142]**	RCR 31 — Total renewable energy produced (of which: electricity, thermal) RCR 32 — Renewable energy: Capacity connected to the grid (operational)*

Policy objective	Outputs	Results
(1)	(2)	(3)
	RCO 97 — Number of energy communities and renewable energy communities supported* ***RCO 97a — Share of renewable self-consumers in the total electricity capacity installed*** **[Am. 143]**	
	RCO 23 — Digital management systems for smart grids RCO 98 — Households supported to use smart energy grids ***RCO 98a — Support transitional period regions effected by decarbonisation*** **[Am. 144]**	RCR 33 — Users connected to smart grids RCR 34 — Roll-out of projects for smart grids
	RCO 24 — New or upgraded disaster monitoring, preparedness, warning and response systems ***for natural disasters such as earthquakes, forest fires, floods or droughts**** **[Am. 145]** RCO 25 — Coastal strip, river banks and lakeshores, and landslide protection newly built or consolidated to protect people, assets and the natural environment RCO 26 — Green infrastructure built for adaptation to climate change RCO 27 — National/ regional/ local strategies addressing climate change adaptation RCO 28 — Areas covered by protection measures against forest fires***, earthquakes, floods or droughts*** **[Am. 146]**	RCR 35 — Population benefiting from flood protection measures RCR 36 — Population benefiting from forest fires protection measures RCR 37 — Population benefiting from protection measures against climate related natural disasters (other than floods and forest fires) RCR 96 — Population benefiting from protection measures against non-climate related natural risks and risks related to human activities* RCR 38 — Estimated average response time to disaster situations*
	RCO 30 — Length of new or consolidated pipes for household water connections RCO 31 — Length of sewage collection networks newly constructed or consolidated RCO 32 — New or upgraded capacity for waste water treatment ***RCO 32a — Total fossil fuels replaced by low-emission energy sources*** **[Am. 147]**	RCR 41 — Population connected to improved water supply RCR 42 — Population connected to at least secondary waste water treatment RCR 43 — ***Reduction of*** water losses **[Am. 153]** RCR 44 — Waste water properly treated

Policy objective	Outputs	Results
(1)	(2)	(3)
	RCO 34 — Additional capacity for waste ***prevention and*** recycling **[Am. 148]** ***RCO 34a — Number of converted jobs*** **[Am. 149]**	RCR 46 — Population served by waste recycling facilities and small waste management systems ***RCR - 46a — Waste generation per capita*** **[Am. 154]** ***RCR - 46b — Per capita waste sent to disposal and energy recovery*** **[Am. 155]** RCR 47 — Waste recycled ***RCR - 47a — Biowaste recycled*** **[Am. 156]** RCR 48 — Recycled waste used as raw materials ***RCR 48a — Population served by waste preparing for re-use facilities*** **[Am. 157]** ***RCR 48b — Circular material use rate*** **[Am. 158]** RCR 49 — Waste ~~recovered~~ ***reused*** **[Am. 159]** ***RCR 49a — Waste prepared for re-use*** **[Am. 160]**
	RCO 36 — Surface area of green infrastructure supported in urban areas RCO 37 — Surface of Natura 2000 sites covered by protection and restoration measures in accordance with the prioritised action framework RCO 99 — Surface area outside Natura 2000 sites covered by protection and restoration measures RCO 38 — Surface area of rehabilitated land supported RCO 39 — Systems for monitoring air pollution installed	RCR 50 — Population benefiting from measures for air quality RCR 95 -Population having access to new or upgraded green infrastructure in urban areas RCR 51 — Population benefiting from measures for noise reduction RCR 52 — Rehabilitated land used for green areas, social housing, economic or community activities
3. A more connected Europe *for all* by enhancing mobility ~~and regional ICT connectivity~~ [Am. 161]	RCO 41 — Additional households with broadband access of very high capacity RCO 42 — Additional enterprises with broadband access of very high capacity	RCR 53 — Households with broadband subscriptions to a very high capacity network RCR 54 — Enterprises with broadband subscriptions to a very high capacity network

Policy objective	Outputs	Results
(1)	(2)	(3)
	RCO 43 — Length of new roads supported — TEN-T [4] ***(core and comprehensive networks)*** **[Am. 162]** RCO 44 — Length of new roads supported — other RCO 45 — Length of roads reconstructed or upgraded — TEN-T ***(core and comprehensive networks)*** **[Am. 163]** RCO 46 — Length of roads reconstructed or upgraded — other	RCR 55 — Users of newly built, reconstructed or upgraded roads ***RCR - 55a — Ratio of completion of the TEN-T corridor on the national territory*** **[Am. 166]** RCR 56 — Time savings due to improved road infrastructure RCR 101 — Time savings due to improved rail infrastructure
	RCO 47 — Length of new rail supported — TEN-T ***(core and comprehensive networks)*** **[Am. 164]** RCO 48 — Length of new rail supported — other RCO 49 — Length of rail reconstructed or upgraded — TEN-T ***(core and comprehensive networks)*** **[Am. 165]** RCO 50 — Length of rail reconstructed or upgraded — other RCO 51 — Length of new or upgraded inland waterways — TEN-T RCO 52 — Length of new or upgraded inland waterways — other RCO 53 — Railways stations and facilities — new or upgraded RCO 54 — Intermodal connections — new or upgraded RCO 100 — Number of ports supported	RCR 57 — Length of European Rail Traffic Management System equipped railways in operation ***RCR - 57a — Ratio of completion of the TEN-T corridor on the national territory*** **[Am. 167]** RCR 58 — Annual number of passengers on supported railways RCR 59 — Freight transport on rail RCR 60 — Freight transport on inland waterways
	RCO 55 — Length of tram and metro lines- new RCO 56 — Length of tram and metro lines- reconstructed/ upgraded RCO 57 — Environmentally friendly rolling stock for public transport RCO 58 — Dedicated cycling infrastructure supported RCO 59 — Alternative fuels infrastructure (refuelling/ recharging points) supported RCO 60 — Cities and towns with new or upgraded digitised urban transport systems	RCR 62 — Annual passengers of public transport RCR 63 — Annual users of new/ upgraded tram and metro lines RCR 64 — Annual users of dedicated cycling infrastructure

Policy objective	Outputs	Results
(1)	(2)	(3)
4. A more social ***and inclusive*** Europe implementing the European Pillar of Social Rights **[Am. 168]**	RCO 61 — Annual unemployed persons served by enhanced facilities for employment services (capacity)	RCR 65 — Job seekers using annually the services of the employment services supported
	RCO 63 — Capacity of temporary reception infrastructure created RCO 64 — Capacity of rehabilitated housing — migrants, refugees and persons under or applying for international protection RCO 65 — Capacity of rehabilitated housing — other	RCR 66 — Occupancy of temporary reception infrastructure built or renovated RCR 67 — Occupancy of rehabilitated housing — migrants, refugees and persons under or applying for international protection RCR 68 — Occupancy of rehabilitated housing — other ***RCR - 68a — Members of marginalised communities and disadvantaged groups through integrated actions including housing and social services (other than Roma)*** **[Am. 169]** ***RCR - 68b — Members of marginalised communities and disadvantaged groups through integrated actions including housing and social services (Roma)*** **[Am. 170]**
	RCO 66 — Classroom capacity of supported childcare infrastructure (new or upgraded) RCO 67 — Classroom capacity of supported education infrastructure (new or upgraded)	RCR 70 — Annual number of children using childcare infrastructure supported RCR 71 — Annual number of students using education infrastructure supported
	RCO 69 — Capacity of supported health care infrastructure RCO 70 — Capacity of supported social infrastructure (other than housing)	RCR 72 — People with access to improved health care services RCR 73 — Annual number of persons using the health care facilities supported RCR 74 — Annual number of persons using the social care facilities supported RCR 75 — Average response time for medical emergencies in the area supported
5. A Europe closer to citizens by fostering the sustainable and integrated development of urban~~, rural~~ and ~~coastal~~ ***all other*** areas and local initiatives **[Am. 171]**	RCO 74 — Population covered by strategies for integrated urban development RCO 75 — Integrated strategies for urban development RCO 76 — Collaborative projects RCO 77 — Capacity of cultural and tourism infrastructure supported	RCR 76 — Stakeholders involved in the preparation and implementation of strategies of urban development RCR 77 — Tourists/ visits to supported sites* RCR 78 — Users benefiting from cultural infrastructure supported

Policy objective	Outputs	Results
(1)	(2)	(3)
	RCO 80 — Community-led local development strategies for local development	
Horizontal — Implementation	RCO 95 — Staff financed by ERDF and Cohesion Fund	RCR 91 — Average time for launch of calls, selection of projects and signature of contracts*
		RCR 92 — Average time for tendering (from launch of procurement until signature of contract) *
		RCR 93 — Average time for project implementation (from signature of contract to last payment) *
		RCR 94 — Single bidding for ERDF and Cohesion Fund interventions*

([1]) RCO: Regional Policy Common Output Indicator.
([2]) RCR: Regional Policy Common Result Indicator.
([3]) ***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).***
([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).
(**) For presentational reasons, indicators are grouped under, but not limited to, a policy objective. In particular, under policy objective 5, specific objectives from policy objectives 1-4 may be used with the relevant indicators. In addition, in order to develop a full picture of the expected and actual performance of the programmes, the indicators marked with (*) may be used by specific objectives under more than one of the policy objectives 1 to 4, when relevant.

Table 2: Additional common output and result indicators for the ERDF for Interreg

Interreg-specific indicators	RCO 81 — Participants in cross-border mobility initiatives RCO 82 — Participants in joint actions promoting gender equality, equal opportunities and social inclusion RCO 83 — Joint strategies/ action plans developed or implemented RCO 84 — Joint pilot activities implemented in projects RCO 85 — Participants in joint training schemes RCO 96 — Legal or administrative obstacles identified RCO 86 — Joint administrative or legal agreements signed RCO 87 — Organisations cooperating across borders RCO 88 — Projects across national borders for peer-learning to enhance cooperation activities RCO 89 — Projects across borders to improve multilevel governance RCO 90 — Projects across national borders leading to networks/clusters	RCR 79 — Joint strategies/ action plans taken up by organisations at/ after project completion RCR 80 — Joint pilot activities taken up or up-scaled by organisations at/ after project completion RCR 81 — Participants completing joint training schemes RCR 82 — Legal or administrative obstacles addressed or alleviated RCR 83 — Persons covered by signed joint agreements signed RCR 84 — Organisations cooperating across borders 6-12 months after project completion RCR 85 — Participants in joint actions 6-12 months after project completion RCR 86 — Stakeholders/ institutions with enhanced cooperation capacity beyond national borders

ANNEX II

Core set of performance indicators for the ERDF and the Cohesion Fund referred to in Article 7(3) [1]

Policy objective	Specific objective	Outputs	Results
(1)	(2)	(3)	(4)
1. A smarter Europe by promoting innovative and smart economic transformation ***regional connectivity in the area of technologies, developing the information and communication technologies (ICT), connectivity and efficient public administration*' by:** **[Am. 172]**	(i) Enhancing research and innovation capacities and the uptake of advanced technologies	CCO 01 — Enterprises supported to innovate ***CCO - 01a — Enterprises supported for sustainable economical activity*** **[Am. 173]** CCO 02 — Researchers working in supported research facilities	CCR 01 — (SMEs introducing product, process, marketing or organisational innovation ***CCR - 01a — Increase of regional income ratio*** **[Am. 175]**
	(ii) Reaping the benefits of digitisation for citizens, companies and governments	CCO 03 — Enterprises and public institutions supported to develop digital products, services and applications	CCR 02 — Additional users of new digital products, services and applications developed by enterprises and public institutions
	(iii) Enhancing growth and competitiveness of SMEs	CCO 04 — SMEs supported to create jobs and ***sustainable*** growth **[Am. 174]**	CCR 03 — Jobs created in SMEs supported
	(iv) Developing skills for smart specialisation, industrial transition and entrepreneurship	CCO 05 — SMEs investing in skills development	CCR 04 — SMEs staff benefiting from training for skills development

[1] These indicators will be used by the Commission in compliance with its reporting requirement pursuant to Article 38(3)(e)(i) of the [applicable] Financial Regulation.

Policy objective	Specific objective	Outputs	Results
(1)	(2)	(3)	(4)
2. A greener, low-carbon ***and resilient*** Europe ***for all*** by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk prevention and management **[Am. 176]**	(i) Promoting energy efficiency measures	CCO 06 — Investments in measures to improve energy efficiency	CCR 05 — Beneficiaries with improved energy classification
	(ii) Promoting renewable energy	CCO 07 — Additional renewable energy production capacity	CCR 06 — Volume of additional renewable energy produced
	(iii) Developing smart energy systems, grids and storage at local level	CCO 08 — Digital management systems developed for smart grids ***CCO 08a — Development of new enterprises*** **[Am. 177]**	CCR 07 — Additional users connected to smart grids ***CCR 07a — Number of jobs created*** **[Am. 179]**
	(iv) Promoting climate change adaptation, risk prevention and disaster resilience	CCO 09 — New or upgraded disaster monitoring, warning and response systems ***CCO 09a — Increased climate change adaptation, increased natural disasters risk prevention and better resilience to disasters and extreme weather events*** **[Am. 178]**	CCR 08 — Additional population benefiting from protection measures against floods, forest fires, and other climate related natural disasters
	(v) Promoting 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 economy	CCO 11 — New or upgraded capacity for waste recycling	CCR 10 — Additional waste recycled
	(vii) Enhancing biodiversity, green infrastructure in the urban environment, and reducing pollution	CCO 12 — Surface area of green infrastructure in urban areas	CCR 11 — Population benefiting from measures for air quality

Policy objective	Specific objective	Outputs	Results
(1)	(2)	(3)	(4)
3. A more connected Europe ***for all*** by enhancing mobility ~~and regional ICT connectivity~~ **[Ams 180]**	(i) Enhancing digital connectivity	CCO 13 — Additional households and enterprises with coverage by very high capacity broadband networks	CCR 12 — Additional households and enterprises with broadband subscriptions to a very high capacity networks
	(ii) Developing a sustainable, climate resilient, intelligent, secure and intermodal TEN-T	CCO 14 — Road TEN-T: New and upgraded roads ***and bridges*** **[Am. 181]**	CCR 13 — Time savings due to improved road ***and bridge*** infrastructure **[Am. 182]**
	(iii) Developing sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility	CCO 15 — Rail TEN-T: New and upgraded railways	CCR 14 — Annual number of passengers served by improved rail transport
	(iv) Promoting sustainable multimodal urban mobility	CCO 16 — Extension and modernisation of tram and metro lines	CCR 15 — Annual users served by new and modernised tram and metro lines
4. A more social ***and inclusive*** Europe implementing the European Pillar of Social Rights **[Am. 183]**	(i) Enhancing the effectiveness of labour markets and access to quality employment through developing social innovation and infrastructure	CCO 17 — Annual unemployed persons served by enhanced facilities for employment services	CCR 16 — Job seekers using annually enhanced facilities for employment services
	(ii) Improving access to inclusive and quality services in education, training and lifelong learning through developing infrastructure	CCO 18 — New or upgraded capacity for childcare and education infrastructure	CCR 17 — Annual users served by new or upgraded childcare and education infrastructure
	(iii) Increasing the socio-economic integration of marginalised communities, migrants and disadvantaged groups, through integrated measures including housing and social services;	CCO 19 — Additional capacity of reception infrastructures created or upgraded	CCR 18 — Annual users served by new and improved reception and housing facilities

Policy objective	Specific objective	Outputs	Results
(1)	(2)	(3)	(4)
	(iv) Ensuring equal access to health care through developing infrastructure, including primary care	CCO 20 — New or upgraded capacity for health care infrastructure	CCR 19 — Population with access to improved health care services
5. A Europe closer to citizens by fostering the sustainable and integrated development of urban~~, rural~~ and ~~coastal~~ ***all other*** areas ~~and local initiatives~~ **[Am. 184]**	(i) Fostering the integrated social, economic and environmental development, cultural heritage and security in urban areas	CCO 21 — Population covered by strategies for integrated urban development	

Wednesday 27 March 2019

P8_TA(2019)0304

Emission performance standards for new passenger cars and for new light commercial vehicles ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council setting emission performance standards for new passenger cars and for new light commercial vehicles as part of the Union's integrated approach to reduce CO2 emissions from light-duty vehicles and amending Regulation (EC) No 715/2007 (recast) (COM(2017)0676 — C8-0395/2017 — 2017/0293(COD))

(Ordinary legislative procedure — recast)

(2021/C 108/41)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2017)0676),

— having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0395/2017),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 14 February 2018 ([1]),

— after consulting the Committee of the Regions,

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([2]),

— having regard to the letter of 3 May 2018 sent by the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 16 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rules 104 and 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinion of the Committee on Transport and Tourism (A8-0287/2018),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission ([3]);

([1]) OJ C 227, 28.6.2018, p. 52.
([2]) OJ C 77, 28.3.2002, p. 1.
([3]) This position replaces the amendments adopted on 3 October 2018 (Texts adopted, P8_TA(2018)0370).

2. Takes note of the Commission statement annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2017)0293

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council setting CO_2 emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011 (recast)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/631.)

Wednesday 27 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

Commission statement on Article 15

During the review provided for in Article 15 and when proposing, if appropriate, a legislative amendment to this Regulation, the Commission will carry out the relevant consultations in accordance with the Treaties. It will, in particular, consult the European Parliament and the Member States in that context.

As part of that review, the Commission will also examine the appropriateness of the cap of 5 % specified in point 6.3 of Part A of Annex I in view of the need to accelerate the promotion of zero- and low-emission vehicles in the concerned Member States.

Wednesday 27 March 2019

P8_TA(2019)0305

Reduction of the impact of certain plastic products on the environment ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment (COM(2018)0340 — C8-0218/2018 — 2018/0172(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/42)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0340),

— having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0218/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 10 October 2018 ([2]),

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety and the opinions of the Committee on Economic and Monetary Affairs, the Committee on Industry, Research and Energy, the Committee on Agriculture and Rural Development and the Committee on Fisheries (A8-0317/2018),

1. Adopts its position at first reading hereinafter set out ([3]);

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 62, 15.2.2019, p. 207.
([2]) OJ C 461, 21.12.2018, p. 210.
([3]) This position replaces the amendments adopted on 24 October 2018 (Texts adopted, P8_TA(2018)0411).

Wednesday 27 March 2019

P8_TC1-COD(2018)0172

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/904.)

Wednesday 27 March 2019

P8_TA(2019)0306

EU fertilising products ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council laying down rules on the making available on the market of CE marked fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 (COM(2016)0157 — C8-0123/2016 — 2016/0084(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/43)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0157),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0123/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee [1],

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 12 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on the Environment, Public Health and Food Safety, the Committee on Agriculture and Rural Development and the Committee on International Trade (A8-0270/2017),

1. Adopts its position at first reading hereinafter set out [2];

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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[1] OJ C 389, 21.10.2016, p. 80.

[2] This position replaces the amendments adopted on 24 October 2017 (Texts adopted, P8_TA(2017)0392).

Wednesday 27 March 2019

P8_TC1-COD(2016)0084

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) 2019/… of the European Parliament and of the Council laying down rules on the making available on the market of EU fertilising products and amending Regulations (EC) No 1069/2009 and (EC) No 1107/2009 and repealing Regulation (EC) No 2003/2003

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Regulation (EU) 2019/1009.)

Wednesday 27 March 2019

P8_TA(2019)0307

Protection of workers from the risks related to exposure to carcinogens or mutagens at work ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (COM(2018)0171 — C8-0130/2018 — 2018/0081(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/44)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0171),

— having regard to Article 294(2) and Articles 153(2)(b) and 153(1)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0130/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 19 September 2018 ([1]),

— after consulting the Committee of the Regions,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 February 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Legal Affairs (A8-0382/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 440, 6.12.2018, p. 145.

Wednesday 27 March 2019

P8_TC1-COD(2018)0081

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/983.)

Wednesday 27 March 2019

P8_TA(2019)0308

Common rules for certain types of combined transport of goods between Member States ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States (COM(2017)0648 — C8-0391/2017 — 2017/0290(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/45)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2017)0648),

— having regard to Article 294(2) and Article 91(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0391/2017),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinion submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Riksdag, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 19 April 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 July 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on the Environment, Public Health and Food Safety (A8-0259/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 262, 25.7.2018, p. 52.
([2]) Not yet published in the Official Journal.

Wednesday 27 March 2019

P8_TC1-COD(2017)0290

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) …/… of the European Parliament and of the Council amending Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States

(Text with EEA relevance)

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 91(1) 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) ***The overall aim of this Directive is to establish a resource-efficient multimodal transport network and to reduce*** the negative impact of transport on air pollution, greenhouse gas emissions, accidents, noise and congestion ~~continue to pose problems to the economy, health and well-being of European citizens. Despite the fact that road transport is the main contributor of those negative effects, road freight transport is estimated to grow by 60 per cent by 2050~~. **[Am. 1]**

(2) Reducing the negative impact of transport activities remains one of the main goals of the Union's transport policy. Council Directive 92/106/EEC ([4]) which establishes measures to encourage the development of combined transport, is the only legislative act of the Union to directly incentivise the shift from road freight to lower emission transport modes such as inland waterways, maritime and rail. ***In order to further reduce the negative effects of road freight, research into, and the sharing of, best practices between Member States on solutions leading to better routing, network optimisation, increases in load efficiency and the possibilities for the charging of external costs should be encouraged.*** **[Am. 2]**

(3) The goal of reaching 30 % of road freight over 300 km shifted to other modes of transport such as rail or waterborne transport by 2030, and more than 50 % by 2050, ~~in order to optimise the performance of multimodal logistic chains, including by making greater use of more energy-efficient modes, has been slower than expected and according to the current projections, will not be reached~~ ***is to be achieved via efficiency gains and infrastructure improvements within the rail and waterborne sector***. **[Am. 3]**

([1]) OJ C 262, 25.7.2018, p. 52.
([2]) Not yet published in the Official Journal.
([3]) Position of the European Parliament of 27 March 2019.
([4]) Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38).

Wednesday 27 March 2019

(4) Directive 92/106/EEC has contributed to the development of the Union's policy on combined transport and has helped shift a considerable amount of freight away from road. Shortcomings in the implementation of that Directive, notably ambiguous language and outdated provisions, ~~and~~ the limited scope of its support measures, ***as well as the bureaucratic and protectionist obstacles within the rail sector,*** have significantly reduced its impact. **[Am. 4]**

(4a) This Directive should pave the way for efficient intermodal and multimodal freight services, offering a level playing field for different modes of transport. **[Am. 5]**

(5) Directive 92/106/EEC should be simplified and its implementation improved by reviewing the economic incentives to combined transport, with the aim of ~~encouraging the shift of goods from~~ ***improving the competitiveness of rail and waterborne transport in comparison to*** road transport ~~to modes which are more environmentally friendly, safer, more energy efficient and cause less congestion~~. **[Am. 6]**

(6) The volume of national intermodal operations constitutes 19,3 % of the total intermodal transport in the Union. Such operations currently do not benefit from the support measures provided by Directive 92/106/EEC because of the limited scope of the definition of combined transport. However, the negative effect of national road transport operations, and notably greenhouse gas emissions and congestion, have an impact beyond the national borders. Therefore it is necessary to broaden the scope of Directive 92/106/EEC to national (intra-Member State) combined transport operations in order to support the further development of combined transport in the Union, hence an increase in the modal shift from road to rail, inland waterways and short sea shipping. ***The derogation from the cabotage rules continues, however, to apply only to international combined transport operations between Member States. The Member States will be required to carry out effective checks to ensure that those rules are observed and to promote the harmonisation of working and social conditions across the various modes of transport and the different Member States.*** **[Am. 7]**

(7) A combined transport operation is to be seen as one single transport operation that directly competes with a unimodal transport operation from the point of departure to the final destination. Regulatory conditions should ensure equivalence between international combined transport and international unimodal transport, and national combined transport and national unimodal transport respectively.

(7a) In order to ensure the good functioning of the internal market, the road legs of a combined transport operation should be covered by Regulations (EC) No 1071/2009 ([5]) and (EC) No 1072/2009 ([6]) of the European Parliament and of the Council if they are part of an international transport operation or of a domestic transport operation respectively. It is also necessary to ensure the social protection of drivers performing activities in another Member State. Provisions on posting of drivers, provided for under Directive 96/71/EC of the European Parliament and of the Council ([7]), and on the enforcement of those provisions under Directive 2014/67/EU of the European Parliament and of the Council ([8]), should apply to hauliers operating on the road legs of combined transport operations. Road legs should be considered to be an integral part of a single combined transport operation. In particular, the rules on international transport operations provided for by those Directives should apply to the road legs which are part of an international combined transport operation. In addition, in the event of cabotage operations, the rules on cabotage transport laid down in Regulation 1072/2009 should apply to the road legs which are part of a domestic combined transport operation. **[Am. 8]**

([5]) Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC (OJ L 300, 14.11.2009, p. 51).

([6]) Regulation (EC) No 1072/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market (OJ L 300, 14.11.2009, p. 72).

([7]) Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, (OJ L 18, 21.1.1997, p. 1).

([8]) Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), (OJ L 159, 28.5.2014, p. 11).

(8) The current definition of combined transport includes different distance limits for the road legs of a combined transport operation, according to the mode of the non-road leg, and, for rail, the absence of a fixed distance limit but instead takes account of the notion of 'nearest suitable terminal' to provide some flexibility to take account of specific situations. That definition has raised many difficulties in its implementation due to various interpretations and specific difficulties to establish the conditions for implementation. It would be useful to lift those ambiguities while also ensuring that some measure of flexibility is retained.

(9) In the current definition of combined transport, the minimum distance of 100 km for the non-road leg of a combined transport operation ensures that most combined transport operations are covered. Rail and short sea shipping legs run over large distances to be competitive with road-only transport. That minimum distance also ensures exclusion from the scope of specific operations such as short ferry crossings or deep sea transport which would occur anyway. However, with such limitations, a number of inland waterways operations around ports and in and around agglomerations, which contribute greatly to decongesting the road networks in sea ports and in the immediate hinterland and to reducing environmental burdens in agglomerations, are not considered for the purposes of combined transport operations. It would therefore be useful to remove that minimum distance while maintaining the exclusion of certain operations such as those including deep sea shipments or short-distance ferry crossings.

(9a) It is necessary to clarify that cranable trailers and semi-trailers are allowed to have a gross weight of 44 tonnes if the loading units are identified according to international standards ISO6346 and EN13044. **[Am. 9]**

(10) The minimum size limit of load units currently specified in the definition of combined transport could hamper the future development of innovative intermodal solutions for urban transport. On the contrary, being able to identify load units through existing standards could speed up their handling in terminals and facilitate the flow of the combined transport operations in order to ensure the easier treatment of defined load units and ensure that they are future-proof.

(11) The outdated usage of stamps in proving that a combined transport operation has occurred prevent the effective enforcement or the verification of eligibility for the measures provided for in Directive 92/106/EEC. The evidence necessary to prove that a combined transport operation is taking place should be clarified as well as the means by which such evidence is provided. The use and transmission of electronic transport information, which should simplify the provision of relevant evidence and its treatment by the relevant authorities, should be encouraged ***with a view to phasing out the use of paper documents in the future***. The format used should be reliable and authentic. The regulatory framework and initiatives simplifying administrative procedures and the digitalisation of transport aspects, should take into consideration developments at Union level. **[Am. 10]**

(11a) With a view to making combined transport competitive and attractive to operators, in particular for very small enterprises (VSEs) and small and medium-sized enterprises (SMEs), the potential administrative burden entailed in carrying out a combined transport operation as opposed to a unimodal operation should be minimised. **[Am. 11]**

(12) The scope of the current economic support measures defined in Directive 92/106/EEC is very limited, consisting of fiscal measures (namely the reimbursement or reduction of taxes) which concern only combined rail/road transport operations. Such measures should be extended to combined transport operations covering inland waterways and maritime transport. Other relevant types of measures, such as infrastructure ***and digital-technology*** investment support measures or different economic support measures, should also be supported. ***With regard to digital technologies, a transitional period for the dematerialisation of documents that certify that combined transport has occurred should be provided for. During that period, the inspecting authorities' instruments should be technologically upgraded. Member States should prioritise investment in transhipment terminals in order to reduce congestion on the roads, to alleviate the isolation of industrial areas which lack such infrastructure and to improve the accessibility and physical and digital connectivity of freight handling facilities.*** **[Am. 12]**

Wednesday 27 March 2019

(13) The main infrastructure bottleneck hampering the shift from road freight to other modes of transport is at the transhipment terminal level***, and it is aggravated by a lack of coherent implementation of the TEN-T's network***. The current distribution and coverage of transhipment terminals in the Union, at least along the existing TEN-T Core and Comprehensive network, is insufficient yet the capacity of existing transhipment terminals is reaching its limit and will need to develop in order to cope with overall freight traffic growth. Investing in transhipment terminal capacity may reduce overall transhipment costs, and hence produce a derived modal shift, as demonstrated in some Member States. Member States should therefore ensure, in coordination with the neighbouring Member States and with the Commission, that ***existing transhipment terminals are, where necessary, extended and that*** more combined transport transhipment terminals and transhipment capacity are constructed or made available to transport operators ***or that transhipment points are installed in areas where they are needed***. This would incentivise the use of freight transport alternatives and increase modal shift, thus making combined transport operations more competitive than road transport alone. The increased coverage and capacity of transhipment terminals should, at the very minimum, be established along the existing TEN-T Core and Comprehensive networks. There should be on average at least one suitable transhipment terminal for combined transport located no further than 150 km from any shipment location in the Union. ***Combined transport should benefit from revenues generated from the levy of external-costs charges provided for under Article 2 of Directive 1999/62/EC of the European Parliament and of the Council*** [9]**.** **[Am. 13]**

(13a) Member States should prioritise investment in transhipment terminals to reduce bottlenecks and congestion areas, in particular near urban and sub-urban areas, in order to make it easier to cross natural barriers such as mountain areas, to improve cross-border connections, to reduce harmful airborne emissions and to improve access to and from industrial areas which lack such infrastructure. **[Am. 14]**

(14) Member States should implement additional economic support measures in addition to the existing ones, targeting the various legs of a combined transport operation, in order to reduce the road freight and to encourage the use of other modes of transport such as rail, inland waterways and maritime transport, thereby reducing air pollution, greenhouse gas emissions, road traffic accidents, noise and congestion***, as well as encouraging action to boost and implement the digitalisation of the sector and the internal market***. Such measures may include the reduction of certain taxes or transport fees, grants for intermodal load units effectively transported in combined transport operations, or the partial reimbursement of transhipments cost***, among other measures***. ***Such measures could include fostering the integration of connected systems and the automation of operations as well as investment in digital logistics, innovative freight handling systems information and communications technologies and intelligent transport systems, in order to facilitate information flows. Such measures could also include boosting the environmental performance, efficiency and sustainability of combined transport by encouraging the use of clean or low-emission vehicles and alternative fuels, supporting energy efficiency efforts and the use of renewables throughout the combined transport chain and reducing the various types of nuisance associated with transport, including noise***. **[Am.15]**

(14a) The various Union funds and programmes for financing research should continue to support the Member States in achieving the aims of this Directive. **[Am. 16]**

(14b) Investment in logistics is another important lever for making combined transport more competitive. More systematic recourse to digital solutions, including information and communication technologies and smart connected systems, would facilitate data exchange, help to make transhipment operations more efficient and less costly and reduce the time they take. **[Am. 17]**

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(9) Directive 1999/62/EC of the European Parliament and of the Council of 17 June 1999 on the charging of heavy goods vehicles for the use of certain infrastructures (OJ L 187, 20.07.1999, p. 42).

(14c) Investment in workforce training in the logistics chain, particularly at transhipment terminals, would also help to make combined transport more competitive. **[Am. 18]**

(15) Support measures for combined transport operations should be implemented in compliance with the State aid rules contained in the Treaty on the Functioning of the European Union (TFEU). ***State aid facilitates the development of economic activities when it does not affect trading conditions to an extent contrary to the common interest within the meaning of Article 107(3)(c) TFEU, and it is a useful tool to promote the execution of important projects of common European interest within the meaning of Article 107(3)(b) TFEU. Therefore, in such cases, the Commission should consider partially exempting Member States from the requirement to inform the Commission provided for in Article 108(3) TFEU.*** **[Am. 19]**

(16) ~~Support~~ ***To ensure the avoidance of possible overlapping investments between Member States in close proximity, support*** measures should be coordinated, as needed, between Member States and the Commission ***by means of close cooperation between the Member Sates' competent authorities***. **[Am. 20]**

(17) Support measures should also be reviewed on a regular basis by the Members States to ensure their effectiveness and efficiency***, and their overall impact on the European transport sector, as reflected in the European Strategy for Low Emission Mobility should be assessed. Corrective measures should be taken as needed. The Commission should carry out, on the basis of information supplied by the Member States, an assessment of the various measures that the Member States undertake and the effectiveness of those measures, and should promote the sharing of good practice***. **[Am. 21]**

(18) For the purposes of this Directive, there should not be a distinction between combined transport for hire or reward and own-account combined transport.

(18a) The lack of comparable, reliable statistics is currently impeding the evaluation of combined transport in the Union and the adoption of measures to release its potential. **[Am. 22]**

(19) To cope with the evolution of Union transport, and in particular the combined transport market, relevant data and information should be gathered by the Member States and reported to the Commission on a regular basis and the Commission should submit a report to the European Parliament and the Council ***and the Member States' competent authorities*** on the application of this Directive every four years. **[Am. 23]**

(19a) The Commission should be responsible for the proper implementation of this Directive and for achieving the objective of developing combined transport Union-wide by 2030 and 2050. To that end, it should regularly assess progress in increasing the share of combined transport in each Member State, on the basis of the information provided by the Member States, and should, if necessary, submit a proposal to amend to this Directive with a view to achieving that Union-wide objective. **[Am. 24]**

(20) Transparency is important for all stakeholders involved in combined transport operations, notably those affected by this Directive. To support such transparency, and promote further cooperation, competent authorities should be identified in each Member State.

(21) In order to take into account market developments and technical progress the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing this Directive with further details on the information on combined transport operations to be reported by the Member States. 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 [10]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

[10] OJ L 123, 12.5.2016, p. 1.

Wednesday 27 March 2019

(22) Since the objectives of this Directive, ~~to further promote the shift from~~ ***namely to make combined transport competitive towards*** road transport ~~to more environmentally friendly modes of transport, and hence reduce the negative externalities of the Union transport system,~~ cannot be sufficiently achieved by the Member States but can rather, by reason of the primarily cross-border nature of freight combined transport and interlinked infrastructure, and of the problems this Directive is intended to address, 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 Directive does not go beyond what is necessary in order to achieve those objectives. **[Am. 25]**

(23) Directive 92/106/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 92/106/EEC is amended as follows:

(1) the title is replaced by the following:

'Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods';

(2) Article 1 is replaced by the following:

'Article 1

1. This Directive applies to combined transport operations.

2. For the purposes of this Directive, "combined transport" means carriage of goods by a transport operation, consisting of an initial or final road leg of the journey, or both, as well as a non-road leg of the journey using rail, inland waterway or maritime transport:

(a) in a trailer or semi-trailer, with or without a tractor unit, swap body or container, identified in accordance with the identification regime established pursuant to international standards ISO6346 and EN13044, ***including cranable semi-trailers with a maximum gross weight allowance of 44 tonnes,*** where the ***unaccompanied intermodal*** load unit is transhipped between the different modes of transport ***(unaccompanied combined transport operation)***; or **[Am. 26]**

(b) by a road vehicle that is ***accompanied by its driver and*** carried by rail, inland waterways or maritime transport for the non-road leg of the journey ***(accompanied transport operation)***. **[Am. 27]**

By way of derogation, point (a) of this paragraph shall until [five years after entry into force of this Directive] also cover non-cranable trailers and semi-trailers in unaccompanied combined transport that are not identified in accordance with the identification regime established pursuant to international standards ISO6346 and EN13044. **[Am. 28]**

Non-road legs using inland waterway or maritime transport for which there is no equivalent ***or commercially viable*** road transport alternative ~~or which are unavoidable in a commercially viable transport operation~~, shall not be taken into consideration for the purposes of the combined transport operations. **[Am. 29]**

3. Each road leg referred to in paragraph 2 shall not exceed ~~the longest of the following distances~~ ***150 km in distance*** in the territory of the Union: .

~~(a) 150 km in distance as the crow flies;~~

~~(b) 20 % of the distance as the crow flies between the loading point for the initial leg and the unloading point for the final leg, when it amounts to more than the distance referred to in point (a).~~ **[Am. 30]**

That road leg distance limit shall apply to the total length of each road leg, including all intermediary pick-ups and deliveries. It shall not apply to the transport of an empty load unit or to the pick-up point of the goods or from the delivery point of the goods.

Exceeding the road leg distance limit ~~may be exceeded~~ ***specified in this paragraph*** for combined road/rail transport operations~~, when authorised~~ ***shall be allowed*** by the Member State or Member States on whose territory the road leg takes place, ***if this is necessary*** in order to reach the geographically nearest transport terminal ***or transhipment point*** which has the necessary operational transhipment capability for loading or unloading in terms of transhipment equipment, terminal capacity, ***terminal opening times*** and appropriate rail freight services***, in the absence of a transhipment terminal or point fulfilling all of these conditions within the distance limit . Such excess should be duly justified in accordance with Article 3 paragraph 2, point (ea). Member States may reduce the 150 km length of the road leg by up to 50 % in the case of combined road/rail operations on a precisely defined part of their territory on the grounds of environmental reasons provided that a suitable terminal is located within that distance limit***. **[Am. 31]**

4. A combined transport operation shall be deemed to take place in the Union where the operation or the part thereof taking place in the Union fulfils the requirements laid down in paragraphs 2 and 3. ***For the purpose of this Directive, the road leg and/or non-road leg or the part thereof taking place out of the territory of the Union shall not be considered to be part of the combined transport operation.***' **[Am. 32]**

(3) Article 3 is replaced by the following:

'Article 3

1. Member States shall ensure that road transport is considered forming part of a combined transport operation covered by this Directive only if the carrier can produce ***information providing*** clear evidence that such road transport constitutes a road leg of a combined transport operation~~, including the transport of empty load units before and after the transport of goods~~ ***and if that information is duly transmitted to the haulier carrying the transport operation before the start of the operation***. **[Am. 33]**

2. ~~The~~ ***In order to be considered to be clear*** evidence***, the information*** referred to in paragraph 1 ***shall be presented or transmitted in the format referred to in paragraph 5 and*** shall comprise the following details for each combined transport operation: **[Am. 34]**

(a) the name, address, contact details and signature of the shipper;[.]

(aa) if different from the shipper, the name, address, contact details and signature of the operator responsible for the routing of the combined transport operation; **[Am. 35]**

(b) the place and date where the combined transport operation begins in the Union;

(c) the name, address and contact details of the consignee;

(d) the place where the combined transport operation ends in the Union;

(e) the distance as the crow flies between the place where the combined transport operation begins and the place where the combined transport operations ends in the Union;

(ea) if that distance exceeds the limits referred to in Article 1(3), a justification in accordance with the criteria provided for in the last subparagraph thereof; **[Am. 36]**

(f) a description~~, signed by the shipper,~~ of the combined transport operation routing***, signed by the responsible operator for the planning, where the signature can mean an electronic signature,*** including at least the following details for each leg, including for each mode of transport which constitutes the non-road leg, of the operation within the Union: **[Am. 37]**

(i) leg order (i.e. first leg, non-road leg or final leg);

(ii) name, address and contact details of the carrier***(s)***; **[Am. 38]**

(iii) mode of transport and its order in the operation;

(g) identification of the intermodal load unit transported;

(h) for the initial road transport leg:

~~(i) the place of transhipment to the non-road leg;~~ **[Am. 39]**

(ii) the distance of the initial road transport leg ~~as the crow flies~~ between the place of shipment and the first ***transport terminal or*** transhipment terminal ***point***; **[Am. 40]**

(iii) if the initial road leg is completed, a signature of the ~~carrier~~ ***haulier*** confirming that the transport operation of the road leg has been carried out; **[Am. 41]**

(i) for the final road transport leg:

(i) the place where the goods are taken [over] from the non-road leg (rail, inland waterways or maritime transport);

(ii) the distance of the final road transport leg ~~as the crow flies~~ between the place of transhipment and the place where the combined transport operation ends in the Union); **[Am. 42]**

(j) for the non-road leg:

(i) if the non-road leg is completed, a signature of the carrier (or carriers in the case of two or more non-road operations on the non-road leg) confirming that the transport operation on the non-road leg has been carried out;

(ii) when available, a signature or seal of the relevant rail ~~or port authorities~~ ***authority or the responsible body*** in the relevant terminals (railway station or port) concerned along the non-road leg operation confirming that the relevant part of the non-road leg has been completed. **[Am. 43]**

(ja) when the road leg distance limits are exceeded in accordance with the third subparagraph of Article 1(3) the reasons justifying this. **[Am. 44]**

3. No additional document shall be required in order to prove that the carrier is carrying out a combined transport operation.

4. The evidence referred to in paragraph 1 shall be presented or transmitted upon the request of the authorised inspecting officer of the Member State where the check is carried out ***and in the format referred to in paragraph 5***. In case of road side checks, it shall be presented within the duration of such check***, and within a maximum of 45 minutes***. ***If it cannot be made available at the time of the road check, the signatures referred to in point (h)(iii) and point (j) of paragraph 2 shall be presented or transmitted within 5 working days following the check to the competent authority of the Member State concerned. The evidence*** ~~It~~ shall be in an official language of that Member State or in English. During a roadside check, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may support him in providing the ~~evidence~~ ***information*** referred to ***in*** paragraph 2. **[Am. 45]**

5. The evidence may be provided through ~~a transport document fulfilling the requirements laid down in Article 6 of Council Regulation No 11, or through other~~ existing transport documents such as the ~~Convention on the Contract for the International Carriage of Goods by Road (CMR) transport document or the Uniform Rules Concerning the Contract of International Carriage of Goods by Rail (CIM) transport document~~ ***consignment notes provided for under existing international or national transport conventions, until a standardised form is laid down by the Commission by way of implementing acts***. **[Am. 46]**

Such evidence may be presented or transmitted electronically, using a revisable structured format which can be used directly for storage and processing by computers, including supplementing the electronic consignment note under ~~the Convention on the Contract for the International Carriage of Goods by Road (eCMR) for the road part~~ ***existing international or national transport convention. Member States authorities shall be required to accept electronic information related to the evidence. When exchanges of information between authorities and operators are made by electronic tools, such exchanges and the storage of such information, shall be made using electronic data-processing techniques.*** **[Am. 47]**

Member States shall move towards a gradual dematerialisation of documentation, and shall provide for a transitional period until the use of the paper format has been fully abandoned. **[Am. 48]**

6. For the purposes of road side checks, a discrepancy of the transport operation with the provided evidence, notably as regards the routing information in ~~point (g)~~ ***points (f), (h) and (i)*** of paragraph 2 shall be permitted, if duly justified, in case of exceptional circumstances outside the control of the ~~carrier~~ ***haulier***(s) causing changes in the combined transport operation. To that end, the driver shall be allowed to contact the head office, the transport manager or any other person or entity which may provide additional justification on this discrepancy between provided evidence and actual operation.'; **[Am. 49]**

(4) Article 5 is replaced by the following:

'Article 5

1. Member States shall submit to the Commission in the first instance by [xx/xx/xxxx — ~~18~~ ***12*** months after transposition of the Directive] and every two years thereafter a report providing the following information related to the combined transport operations covered by this Directive on their territory: **[Am. 50]**

(a) national and cross-border transport network ~~links~~ ***corridors*** used in combined transport operations; **[Am. 51]**

(b) the ***total and yearly*** volume in twenty-foot equivalent unit (TEU) and in tonne kilometres of combined transport operations by type of operation (***road leg/non-road leg, namely by*** rail, ~~road/inland~~ ***inland*** waterways~~, etc…~~ ***and maritime routes***) and by geographic coverage (national and intra-Union); **[Am. 52]**

(c) ***the number of transhipments realised through bimodal technologies and geographic coverage of these transhipment points, as well as*** the number and geographic coverage of terminals servicing combined transport operations ***with a breakdown by type of operations per terminal (road leg/non-road leg, namely by rail, inland waterways, maritime routes)*** and the yearly number of transhipments ~~on those~~ ***and an assessment of the capacity used in*** terminals; **[Am. 53]**

(ca) changes in the share of combined transport and the various modes of transport on the territory; **[Am. 54]**

(d) an overview of all national support measures used and envisaged, including their respective uptake and assessed impact ***on the use of combined transport and their effect as regards social and environmental sustainability, bottlenecks, congestion, safety and efficiency***; **[Am. 55]**

(da) the number and the geographical location of the operations exceeding the road leg distance limit referred to in Article 1(3); **[Am. 56]**

(db) the origins and destinations, at NUTS 3 level, of freight flows on roads of the Trans-European Transport Network (TEN-T) defined in Regulation (EU) No 1315/2013 of the European Parliament and of the Council (*). **[Am. 57]**

1a. The Commission shall publish the data transmitted by Member States in a form that makes comparisons between Member States possible. **[Am. 58]**

2. The Commission is empowered to adopt delegated acts in accordance with Article 10a supplementing this Directive by describing the content and details of the information on combined transport operations referred to in paragraph 1.

3. On the basis of an analysis of the national reports, ***and statistical data drawn up on the basis of indications and methodologies that are common to the entire Union,*** in the first instance by [xx/xx/xxx — 9 months after the MS report submission deadline] and every two years thereafter the Commission shall draw up and submit a report to the European Parliament and to the Council ***and the Member States' competent authorities*** on: **[Am. 59]**

(a) the economic development of combined transport ***at Member State and Union-wide level***, notably in light of the evolution of the environmental performance of different modes of transport; **[Am. 60]**

(b) the effects of the implementation of the Directive and related legislative acts of the Union in this area;

(c) the effectiveness and efficiency of the support measures provided for in Article 6, ***specifying the measures that it deems to be most effective to serve the original purpose of this Directive and best practices in the Member States;*** **[Am. 61]**

(ca) changes in the share of combined transport in each Member State and at Union level, with a view to achieving the Union's transport objectives by 2030 and 2050; **[Am. 62]**

(d) possible further measures, including a revision of the definition of combined transport as defined in Article 1***, improvements to data collection and publication of such data at Union level,*** and an adaptation of the list of measures provided for in Article 6***, including possible amendments to State aid rules***.;**[Am. 63]**

(*) ***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).';***

(4a) In Article 6(1), the first subparagraph is replaced by the following:

'1. Member States shall take the measures necessary to ensure that the taxes listed in paragraph 3 which are applicable to road vehicles (lorries, tractors, trailers, semi-trailers, ***inland waterways containers*** or ***multi-modal loading units***) when routed in combined transport are reduced or reimbursed either by a standard amount, or in proportion to the journeys that such vehicles undertake by rail ***or inland waterway transport***, within limits and in accordance with conditions and rules they fix after consultation with the Commission.' **[Am. 64]**

(4b) In Article 6(1), the second subparagraph is replaced by the following:

'The reductions of reimbursements referred to in the first paragraph shall be granted by the State in which the vehicles are registered, on the basis of the rail ***or inland waterway*** journeys effected within that State.' **[Am. 65]**

(4c) In Article 6(1), the third subparagraph is replaced by the following:

'Member States may, however, grant these reductions or reimbursements on the basis of the rail journeys ***or inland waterway*** which take place partially or wholly outside the Member State in which the vehicles are registered.' **[Am. 66]**

(5) In Article 6 the following paragraphs 4, 5, 6, 7 and 8 are added:

'4. Where necessary for the achievement of the aim referred to in paragraph 8, Member States shall take the necessary measures to support investment in ***transport terminals and*** transhipment ~~terminals~~ ***points*** as regards **[Am. 67]**:

(a) the construction ~~and, where necessary, the expansion of such transhipment terminals~~ ***in areas where no suitable facilities are available within the distance limit referred to in Article 1 (3), of transport terminals or the installation of transhipment points*** for combined transport ***unless there is no need of such facilities due to a lack of economic relevance or for reasons related to the geographic or natural features of a given area***; **[Am. 68]**

(aa) the expansion, in areas where additional terminal capacity is needed, of existing terminals or the installation of additional transhipment points and, following an assessment of the economic impacts showing that the market would not be negatively affected and that new terminals are necessary, and provided that environmental concerns have been taken into account, the construction of new terminals for combined transport; **[Am. 69]**

(b) the increase of operational efficiency in existing terminals***, including by ensuring access to those terminals***. **[Am. 70]**

Support measures to combined transport shall be deemed to be compatible with the internal market within the meaning of Article 107(3) TFEU and shall be exempted from the notification requirement of Article 108 (3) TFEU, provided that they would not represent more than 35 % of the entire operation costs. **[Am. 71]**

Member States shall coordinate with neighbouring Member States and with the Commission and ensure that, when such measures are implemented, priority is given to ensuring a balanced and sufficient geographical distribution of suitable facilities in the Union, and notably on the TEN-T Core and Comprehensive networks, allowing that any location in the Union is not situated at a distance farther than ~~150 km~~ ***the limit referred to in point (a) of Article 1(3)*** from such terminal. ***When taking the measures referred to in this paragraph, Member States shall take due account of the need to:***

(a) reduce congestion, in particular near urban and sub-urban areas or in areas with natural constraints;

(b) improve cross-border connections;

(c) alleviate the isolation of areas lacking infrastructure while taking into account the specific needs and constraints of peripheral and outermost regions;

(d) improve accessibility and connectivity in particular as regards the access infrastructure to transhipment terminals; and

(e) accelerate the shift to digitalisation; and

(f) reduce the impact of freight on the environment and on public health, by promoting, for instance, vehicle efficiency, the use of alternative and less pollutant fuels, the use of renewable energies, including in terminals, or by the more efficient use of transport networks via the implementation of information and communication technologies. **[Am. 72]**

Member States shall ensure that the supported transhipment facilities are accessible to all operators without discrimination.

Member States may establish additional conditions for the eligibility for the support. ***They shall make those conditions known to interested parties.*** **[Am. 73]**

5. ***By 31 December 2021,*** Member States ~~may~~ ***shall*** take additional measures ***of an economic and legislative nature***, to improve the competitiveness of combined transport operations as compared to equivalent alternative road transport operations***, in particular with a view to reducing the time and costs involved in transhipment operations***. **[Am. 74]**

Such measures may address any or part of a combined transport operation, such as the operation of a road or non-road leg including the vehicle used on such a leg, or such as the load unit or the transhipment operations.

With a view to reducing the time and costs involved in combined transport operations, the measures referred to in the first subparagraph shall include at least one or more of the following incentives:

(a) exempting hauliers from external-cost charges and/or congestion charges referred to in Article 2 of Directive 1999/62/EC, favouring in particular vehicles powered by alternative fuels as referred to in Article 2 of Directive 2014/94/EU of the European Parliament and of the Council (*)***;***

(b) reimbursing undertakings performing operations as part of a combined transport the charges for the use of certain infrastructure;

(c) exempting hauliers from the limitations imposed under national traffic bans. **[Am. 75]**

When taking additional measures, Member States shall also take due account of the need to accelerate the shift towards the digitalisation of the combined transport sector and shall in particular:

(a) foster the integration of connected systems and the automation of operations;

(b) improve the investments in digital logistics, information and communication technologies and intelligent transport systems; and

(c) phase out the use of paper documents in the future. **[Am. 76]**

5a. Such additional measures shall contain incentives favouring the use of non-road transport legs. Member states shall include measures for strengthening the competitiveness of waterborne transport, such as financial incentives for using short sea shipping routes or inland waterways or for the creation of new short sea links. **[Am. 77]**

6. Member States shall report to the Commission on the measures taken pursuant to this Article and their specifications.

7. Member States shall assess the impact of such support measures, and re-evaluate their needs at least every four years and where necessary adapt the measures.;

8. Member States shall ensure that support measures for combined transport operations aim at reducing the road freight and encourage the use of other modes of transport such as rail, inland waterways and maritime transport ***or low-emission vehicles, or the use of lower-emission alternative fuels such as biofuels, electricity from renewable sources, natural gas or hydrogen fuel cells***, thereby reducing air pollution, greenhouse gas emissions, road traffic accidents, noise and congestion. **[Am. 78]**

(*) ***Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure (OJ L 307, 28.10.2014, p. 1).';***

(6) Articles 7 and 9 are deleted.

(7) The following article is inserted:

'Article 9a

1. Member States shall designate one or more competent authority to ensure the implementation of this Directive and to act as the main point of contact for its implementation.

Member States shall notify the other Member States and the Commission of the competent authorities referred to in the first subparagraph.

2. Member States shall ensure that national competent authorities cooperate with the competent authorities from other member States. For such purpose, Member States shall ensure that competent authorities provide each other with the information necessary for the application of the present Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as the originating authority.

3. Member States shall publish in an easily accessible manner ***on the internet*** and free of charge the relevant information concerning the measures adopted pursuant Article 6, as well as other relevant information for the purposes of the application of the present Directive. **[Am. 79]**

4. The Commission shall publish ***on the internet*** and update, where necessary, the list of competent authorities referred to in paragraph 1, as well as a list of the measures referred to in Article 6.'; **[Am. 80]**

(8) The following article is inserted:

'Article 10a

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 5(2) shall be conferred on the Commission for ~~an indeterminate~~ ***a*** period of ~~time~~ ***five years*** from [date of entry into force of this (amending) Directive]***. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*** **[Am. 81]**

3. The delegation of power referred to in Article 5(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 line 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 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within 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.

(*) OJ L 123, 12.5.2016, p. 1.;'

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by XXXXXX [one year after adoption of the Directive.] at the latest. They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at …,

For the European Parliament *For the Council*

The President *The President*

Wednesday 27 March 2019

P8_TA(2019)0309

Disclosure of income tax information by certain undertakings and branches ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (COM(2016)0198 — C8-0146/2016 — 2016/0107(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/46)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0198),

— having regard to Article 294(2) and Article 50(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0146/2016),

— having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Irish Houses of the Oireachtas and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 21 September 2016 ([1]),

— having regard to the OECD Action Plan on Base Erosion and Profit Shifting (BEPS),

— having regard to Rules 59 and 39 of its Rules of Procedure,

— having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs under Rule 55 of the Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the opinion of the Committee on Development (A8-0227/2017),

1. Adopts its position at first reading hereinafter set out ([2]);

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 487, 28.12.2016, p. 62.

([2]) This position corresponds to the amendments adopted on 4 July 2017 (Texts adopted, P8_TA(2017)0284).

Wednesday 27 March 2019

P8_TC1-COD(2016)0107

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Directive (EU) …/… of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches

(Text with EEA relevance)

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 50(1) 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]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(-1) ***Equality of tax treatment for all, and in particular for all undertakings, is a sine qua non for the single market. A coordinated and harmonised approach to the implementation of national tax systems is vital for the proper functioning of the single market, and would contribute to preventing tax avoidance and profit shifting.*** **[Am. 1]**

(-1a) ***Tax avoidance and tax evasion, along with profit-shifting schemes, have deprived governments and populations of the resources necessary to, among other things, ensure that there is universal free access to public education and health services and state social services, and have deprived states of the possibility of ensuring a supply of affordable housing and public transport, and of building infrastructure that is essential in order to achieve social development and economic growth. In short, such schemes have been a factor of injustice, inequality and economic, social and territorial divergences.*** **[Am. 2]**

(-1b) ***A fair and effective corporate tax system should respond to the urgent need for a progressive and fair global tax policy, promote the redistribution of wealth and combat inequalities.*** **[Am. 3]**

(1) ***Transparency is essential for the smooth functioning of the Single Market.*** In recent years, the challenge posed by corporate income tax avoidance has increased considerably and has become a major focus of concern within the Union and globally. The European Council in its conclusions of 18 December 2014 acknowledged the urgent need to advance efforts in the fight against tax avoidance both at global and Union level. The Commission in its communications entitled 'Commission Work Programme 2016 — No time for business as usual' ([3]) and 'Commission Work Programme 2015 — A New Start' ([4]) identified as a priority the need to move to a system whereby the country in which profits are generated is also the country of taxation. The Commission also identified as a priority the need to respond to ~~our societies'~~ ***European citizens'*** call for ~~fairness and tax~~ transparency ***and the need to act as a reference model for other countries. It is essential that transparency takes into account reciprocity between competitors***. **[Am. 4]**

([1]) OJ C 487, 28.12.2016, p. 62.
([2]) Position of the European Parliament of 27 March 2019.
([3]) COM(2015)0610 of 27 October 2015.
([4]) COM(2014)0910 of 16 December 2014.

(2) The European Parliament in its resolution of 16 December 2015 on bringing transparency, coordination and convergence to corporate tax policies in the Union ([5]) acknowledged that increased transparency***, cooperation and convergence*** in the area of corporate taxation ***policy in the Union*** can improve tax collection, make the work of tax authorities more efficient, ~~and~~ ***support policy-makers in assessing the current taxation system to develop future legislation,*** ensure increased public trust and confidence in tax systems and governments ***and improve investment decision-making based on more accurate risk profiles of companies***. **[Am. 5]**

(2a) Public country-by-country reporting is an efficient and appropriate tool to increase transparency in relation to the activities of multinational enterprises, and to enable the public to assess the impact of those activities on the real economy. It will also improve shareholders' ability to properly evaluate the risks taken by companies, lead to investment strategies based on accurate information and enhance the ability of decision-makers to assess the efficiency and the impact of national legislations. **[Am. 6]**

(2b) Country-by-country reporting will also have a positive impact on employees' rights to information and consultation as provided for in Directive 2002/14/EC and, by increasing knowledge on companies' activities, on the quality of engaged dialogue within companies. **[Am. 7]**

(3) Following the European Council conclusions of 22 May 2013, a review clause was introduced in Directive 2013/34/EU of the European Parliament and of the Council ([6]) requiring the Commission to consider the possibility of introducing an obligation on large undertakings of additional industry sectors to produce, on an annual basis, a country-by-country reporting taking into account the developments in the Organisation for Economic Cooperation and Development (OECD) and the results of related European initiatives.

(4) Calling for a globally fair and modern international tax system in November 2015, the G20 endorsed the OECD 'Action Plan on Base Erosion and Profit Shifting' (BEPS) which aimed at providing governments with clear international solutions to address the gaps and mismatches in existing rules which allow corporate profits to shift to locations of no or low taxation, where no real value creation may take place. In particular, BEPS Action 13 introduces a country-by-country reporting by certain multinational undertakings to national tax authorities on a confidential basis. On 27 January 2016, the Commission adopted the 'Anti-Tax Avoidance Package'. One of the objectives of that package is to transpose into Union law, the BEPS Action 13 by amending Council Directive 2011/16/EU ([7]). ***However, taxing profits where the value is created requires a more comprehensive approach to country-by-country reporting that is based on public reporting***. **[Am. 8]**

(4a) The International Accounting Standards Board (IASB) should upgrade the relevant International Financial Reporting Standards (IFRS) and the International Accounting Standards (IAS) to ease the introduction of public country-by-country reporting requirements. **[Am. 9]**

(4b) Public country-by-country reporting has already been established in the Union for the banking sector by Directive 2013/36/EU as well as for the extractive and logging industry by Directive 2013/34/EU. **[Am. 10]**

([5]) 2015/2010(INL)

([6]) 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 (OJ L 182, 29.6.2013, p. 19).

([7]) Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

Wednesday 27 March 2019

(4c) ***The Union has demonstrated by an unprecedented introduction of public country-by-country reporting that it has become a global leader in the fight against tax avoidance.*** **[Am. 11]**

(4d) ***Since the fight against tax evasion, tax avoidance and aggressive tax planning can only be successful with joint action on international level, it is imperative that the Union, while continuing to be a global leader in this struggle, coordinate its actions with international actors, for instance within the OECD framework. Unilateral actions, even if very ambitious, do not have a real chance of being successful, and, in addition, such actions put at risk the competitiveness of European companies and harm the Union's investment climate.*** **[Am. 12]**

(4e) ***More transparency in financial disclosure results in a win-win situation as tax administrations will be more efficient, civil society more involved, employees better informed, and investors less risk-averse. In addition, undertakings will benefit from better relations with stakeholders, resulting in more stability, along with easier access to finance due to a clearer risk profile and an enhanced reputation.*** **[Am. 13]**

(5) ***In addition to the increased transparency created by country-by-country reporting to national tax authorities,*** enhanced public scrutiny of corporate income taxes borne by multinational undertakings carrying out activities in the Union is an essential element ***to promote corporate accountability, and*** to further foster corporate ***social*** responsibility, to contribute to the welfare through taxes, to promote fairer tax competition within the Union through a better informed public debate, and to restore public trust in the fairness of the national tax systems. Such public scrutiny can be achieved by means of a report on income tax information, irrespective of where the ultimate parent undertaking of the multinational group is established. ***Public scrutiny, however, has to be conducted without harming the investment climate in the Union or the competitiveness of Union companies, especially SMEs as defined in this Directive and mid-cap companies as defined in Regulation (EU) 2015/1017 ([8]), which should be excluded from the reporting obligation established under this Directive.*** **[Am. 14]**

(5a) ***The Commission has defined corporate social responsibility (CSR) as the responsibility of enterprises for their impact on society. CSR should be company led. Public authorities can play a supporting role through a smart mix of voluntary policy measures and, where necessary, complementary regulation. Companies can become socially responsible either by following the law or by integrating social, environmental, ethical, consumer or human rights concerns into their business strategy and operations, or both.*** **[Am. 15]**

(6) The public should be able to scrutinise all the activities of a group when the group has certain establishments within ***and outside*** the Union. ~~For groups which carry out activities within the Union only through subsidiary undertakings or branches, subsidiaries and branches should publish and make accessible the report of the ultimate parent undertaking. However for reasons of proportionality and effectiveness, the obligation to publish and make accessible the report should be limited to medium-sized or large subsidiaries established in the Union, or branches of a comparable size opened in a Member State. The scope of Directive 2013/34/EU should therefore be extended accordingly to branches opened in a Member State by an undertaking which is established outside the Union.~~ ***Groups with establishments within the Union should comply with the Union principles of tax good governance. Multinational undertakings are operating worldwide and their corporate behaviour has a substantial impact on developing countries. Providing their citizens access to corporate country-by-country information would allow them and tax administrations in their countries to monitor, assess and hold those companies to account. By making the information public for each tax jurisdiction where the multinational undertaking is operating, the Union would increase its policy coherence for development and limit potential tax avoidance schemes in countries where domestic resources mobilization has been identified as a key component of the Union development policy.*** **[Am. 16]**

([8]) Regulation (EU) 2015/1017 of the European Parliament and of 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).

(7) In order to avoid double reporting for the banking sector, ultimate parent undertakings which are subject to Directive 2013/36/EU of the European Parliament and of the Council ([9]) and which include in their report prepared in accordance with Article 89 of Directive 2013/36/EU all its activities and all the activities of its affiliated undertakings included in the consolidated financial statements, including activities not subject to the provisions of Chapter 2 of Title 1 of Part Three of Regulation (EU) No 575/2013 of the European Parliament and of the Council ([10]), should be exempted from the reporting requirements set out in this Directive.

(8) The report on income tax information should provide information concerning all the activities of an undertaking or of all the affiliated undertakings of a group controlled by an ultimate parent undertaking. The information should ~~be based on~~ ***take into account*** the reporting specifications of BEPS' Action 13 and should be limited to what is necessary to enable effective public scrutiny, in order to ensure that disclosure does not give rise to disproportionate risks or disadvantages***, in terms of competitiveness or misinterpretation for the undertakings concerned***. The report should also include a brief description of the nature of the activities. Such description might be based on the categorisation provided for in table 2 of the Annex III of Chapter V of the OECD 'Transfer Pricing Guidelines on Documentation'. The report should include an overall narrative providing explanations***, including*** in case of material discrepancies at group level between the amounts of taxes accrued and the amounts of taxes paid, taking into account corresponding amounts concerning previous financial years. **[Am. 17]**

(9) In order to ensure a level of detail that enables citizens to better assess the contribution of multinational undertakings to welfare in each ~~Member State~~ ***jurisdiction in which they operate, both within and outside the Union, without harming the undertakings' competitiveness***, the information should be broken down by ~~Member State. Moreover, information concerning the operations of multinational enterprises should also be shown with a high level of detail as regards certain tax jurisdictions which pose particular challenges. For all other third country operations, the information should be given in an aggregate number~~ ***jurisdiction. Reports on income tax information can only be meaningfully understood and used if information is presented in a disaggregated fashion for each tax jurisdiction.*** **[Am. 18]**

(9a) When the information to be disclosed could be considered commercially sensitive information by the undertaking, the latter should be able to request authorisation from the competent authority where it is established not to disclose the full extent of information. In cases in which the national competent authority is not a tax authority, the competent tax authority should be involved in the decision. **[Am. 82]**

(10) In order to strengthen responsibility vis-á-vis third parties and to ensure appropriate governance, the members of the administrative, management and supervisory bodies of the ultimate parent undertaking which is established within the Union and which has the obligation to draw up, publish and make accessible the report on income tax information, should be collectively responsible for ensuring the compliance with these reporting obligations. Given that members of the administrative, management and supervisory bodies of the subsidiaries which are established within the Union and which are controlled by an ultimate parent undertaking established outside the Union or the person(s) in charge of carrying out the disclosures formalities for the branch may have limited knowledge of the content of the report on income tax information prepared by the ultimate parent undertaking, their responsibility to publish and make accessible the report on income tax information should be limited.

(11) To ensure that cases of non-compliance are disclosed to the public, statutory auditor(s) or audit firm(s) should check whether the report on income tax information has been submitted and presented in accordance with the requirements of this Directive and made accessible on the relevant undertaking's website or on the website of an affiliated undertaking***, and that publicly-disclosed information is in line with the audited financial information for the undertaking within the time limits provided for in this Directive.*** **[Am. 19]**

([9]) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

([10]) Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013, p. 1).

Wednesday 27 March 2019

(11a) Cases of infringements by undertakings and branches of the requirements on reporting on income tax information, giving rise to penalties by Member States, under Directive 2013/34/EU, should be reported in a public registry managed by the Commission. Those penalties could include, inter alia, administrative fines or exclusions from public calls for tenders and from the awarding of funding from the Union's structural funds. **[Am. 20]**

(12) This Directive aims to enhance transparency and public scrutiny on corporate income tax by adapting the existing legal framework concerning the obligations imposed on companies and firms in respect of the publication of reports, for the protection of the interests of members and others, within the meaning of Article 50(2)(g) TFEU. As the Court of Justice held, in particular, in Case C-97/96 *Verband deutscher Daihatsu-Händler* ([11]) , Article 50(2)(g) TFEU refers to the need to protect the interests of 'others' generally, without distinguishing or excluding any categories falling within the ambit of that term. Moreover, the objective of attaining freedom of establishment, which is assigned in very broad terms to the institutions by Article 50(1) TFEU, cannot be circumscribed by the provisions of Article 50(2) TFEU. Given that this Directive does not concern the harmonisation of taxes but only obligations to publish reports on income tax information, Article 50(1) TFEU constitutes the appropriate legal basis.

~~(13) In order to determine certain tax jurisdictions for which a high level of detail should be shown, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of drawing up a common Union list of these tax jurisdictions. This list should be drawn up on the basis of certain criteria, identified on the basis of Annex 1 of the Communication from the Commission to the European Parliament and Council on an External Strategy for Effective Taxation (COM(2016)0024). 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 on Better Law-Making as approved by the European Parliament, the Council and the Commission and pending formal signature. 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.~~ **[Am. 21]**

(13a) In order to ensure uniform conditions for the implementation of Article 48b(1), (3), (4) and (6) and Article 48c (5) of Directive 2013/34/EU, implementing powers should also 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 ([12]). **[Am. 22]**

(14) Since the objective of this Directive cannot be sufficiently achieved by the Member States but can rather, by reason of its effect, 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. ***Union action is thus justified in order to address the cross-border dimension where there is aggressive tax planning or transfer pricing arrangements. This initiative responds to the concerns expressed by the interested parties about the need to tackle distortions in the single market without compromising Union competitiveness. It should not cause undue administrative burden on companies, generate further tax conflicts or pose the risk of double taxation.*** In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective, ***at least with regard to greater transparency***. **[Am. 23]**

(15) ***Overall, within the framework of this Directive, the extent of the information disclosed is proportionate to the objectives of increasing public transparency and public scrutiny.*** This Directive ~~respects~~ ***is therefore considered to respect*** the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. **[Am. 24]**

([11]) Judgement of the Court of Justice of 4 December 1997, C-97/96 *Verband deutscher Daihatsu-Händler* ECLI:EU:C:1997:581

([12]) 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(16) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents ([13]), Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments***, for example in the form of a comparative chart.*** With regard to this Directive, the legislator considers the transmission of such documents to be justified ***to achieve the objective of this Directive and to avoid potential omissions and inconsistencies regarding implementation by the Member States under their national legislation***. **[Am. 25]**

(17) Directive 2013/34/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2013/34/EU

Directive 2013/34/EU is amended as follows:

(1) in Article 1, the following paragraph 1a is inserted:

'1a. The coordination measures prescribed by Articles 2, 48a to 48 g and 51 shall also apply to the laws, regulations and administrative provisions of the Member States relating to branches opened in a Member State by an undertaking which is not governed by the law of a Member State but which is of a legal form comparable with the types of undertakings listed in Annex I.';

(2) the following Chapter 10a is inserted:

'Chapter 10a

Report on Income tax information

Article 48a

Definitions relating to reporting on income tax information

For the purposes of this Chapter, the following definitions shall apply:

(1) "ultimate parent undertaking" means an undertaking which draws up the consolidated financial statements of the largest body of undertakings;

(2) "consolidated financial statements" means the financial statements prepared by a parent undertaking of a group in which the assets, liabilities, equity, income and expenses are presented as those of a single economic entity;

(3) "tax jurisdiction" means a State as well as a non-State jurisdiction which has fiscal autonomy in respect of corporate income tax.

Article 48b

Undertakings and branches required to report on income tax information

1. Member States shall require ultimate parent undertakings governed by their national laws and having a consolidated net turnover ***of or*** exceeding EUR 750 000 000 as well as undertakings governed by their national laws that are not affiliated undertakings and having a net turnover ***of or*** exceeding EUR 750 000 000 to draw up and ~~publish~~ ***make publicly available free of charge*** a report on income tax information on an annual basis. **[Am. 26]**

([13]) OJ C 369, 17.12.2011, p. 14.

The report on income tax information shall be ***published in a common template available free of charge in an open data format and*** made accessible to the public on the website of the undertaking on the date of its publication ***in at least one of the official languages of the Union. On the same date, the undertaking shall also file the report in a public registry managed by the Commission***.

Member States shall not apply the rules set out in this paragraph where such undertakings are established only within the territory of a single Member State and in no other tax jurisdiction. **[Am. 27]**

2. Member States shall not apply the rules set out in paragraph 1 of this Article to ultimate parent undertakings where such undertakings or their affiliated undertakings are subject to Article 89 of Directive 2013/36/EU of the European Parliament and of the Council (*) and encompass, in a country-by-country report, information on all the activities of all the affiliated undertakings included in the consolidated financial statement of those ultimate parent undertakings.

3. Member States shall require ~~the medium-sized and large~~ subsidiary undertakings ~~referred to in Article 3(3) and (4)~~ which are governed by their national laws and controlled by an ultimate parent undertaking which ***on its balance sheet in a financial year*** has a consolidated net turnover ***of or*** exceeding EUR 750 000 000 and which is not governed by the law of a Member State, to publish the report on income tax information of that ultimate parent undertaking on an annual basis. **[Am. 28]**

The report on income tax information shall be ***published in a common template available free of charge in an open data format and*** made accessible to the public on the date of its publication on the website of the subsidiary undertaking or on the website of an affiliated undertaking ***in at least one of the official languages of the Union. On the same date, the undertaking shall also file the report in a public registry managed by the Commission***. **[Am. 29]**

4. Member States shall require branches which are opened in their territories by an undertaking which is not governed by the law of a Member State to publish ***and make publicly available free of charge*** on an annual basis the report on income tax information of the ultimate parent undertaking referred to in point (a) of paragraph 5 of this Article. **[Am. 30]**

The report on income tax information shall be ***published in a common template available in an open data format and*** made accessible to the public on the date of its publication on the website of the branch or on the website of an affiliated undertaking ***in at least one of the official languages of the Union. On the same date, the undertaking shall also file the report in a public registry managed by the Commission***. **[Am. 31]**

Member States shall apply the first subparagraph of this paragraph only to branches which have net turnover exceeding net turnover threshold defined by the law of each Member State pursuant to Article 3(2).

5. Member States shall apply the rules set out in paragraph 4 only to a branch where the following criteria are met:

(a) the undertaking which opened the branch is either an affiliated undertaking of a group which is controlled by an ultimate parent undertaking not governed by the law of a Member State and which ***on its balance sheet*** has a consolidated net turnover ***of or*** exceeding EUR 750 000 000, or an undertaking that is not an affiliated and which has a net turnover ***of or*** exceeding EUR 750 000 000; **[Am. 32]**

(b) the ultimate parent undertaking referred to in point (a) does not have a medium-sized or large subsidiary undertaking as referred to in paragraph 3 ***already subject to the reporting obligations***. **[Am. 33]**

6. Member States shall not apply the rules set out in paragraphs 3 and 4 of this Article where a report on income tax information drawn up in accordance with Article 48c is made accessible to the public on the website of the ultimate parent undertaking not governed by the law of a Member State within a reasonable period of time, which shall not exceed 12 months after the balance sheet date and where the report identifies the name and registered office of the single subsidiary undertaking or the single branch governed by the law of a Member State which has published the report in accordance with Article 48d(1).

7. Member State shall require subsidiaries or branches not subject to the provisions of paragraphs 3 and 4 to publish and make accessible the report on income tax information where such subsidiaries or branches have been established for the purpose of avoiding the reporting requirements set out in this Chapter.

7a. For Member States which have not adopted the euro, the amount in national currency equivalent to the amount set out in paragraphs 1, 3 and 5 shall be obtained by applying the exchange rate published in the Official Journal of the European Union and that is effective as of the date of the entry into force of this Chapter. **[Am. 34]**

Article 48c

Content of the report on income tax information

1. The report on income tax information shall include information relating to all the activities of the undertaking and the ultimate parent undertaking, including activities of all affiliated undertakings consolidated in the financial statement in respect of the relevant financial year.

2. The information referred to in paragraph 1 shall ***be presented in a common template and*** shall comprise the following***, broken down by tax jurisdiction***: **[Am. 35]**

(a) ***the name of the ultimate undertaking and, where applicable, the list of all its subsidiaries,*** a brief description of the nature of ~~the~~ ***their*** activities ***and their respective geographical location***; **[Am. 36]**

(b) the number of employees ***on a full-time equivalent basis***; **[Am. 37]**

(ba) fixed assets other than cash or cash equivalents; **[Am. 38]**

(c) the amount of the net turnover, ~~which includes~~ ***including a distinction between*** the turnover made with related parties ***and the turnover made with unrelated parties***; **[Am. 39]**

(d) the amount of profit or loss before income tax;

(e) the amount of income tax accrued (current year) which is the current tax expense recognised on taxable profits or losses of the financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction;

(f) the amount of income tax paid which is the amount of income tax paid during the relevant financial year by undertakings and branches resident for tax purposes in the relevant tax jurisdiction;

(g) the amount of accumulated earnings;

(ga) stated capital; **[Am. 40]**

(gb) details of public subsidies received and any donations made to politicians, political organisations or political foundations; **[Am. 65]**

(gc) whether undertakings, subsidiaries or branches benefit from preferential tax treatment, from a patent box or equivalent regimes. **[Am. 41]**

Wednesday 27 March 2019

For the purposes of point (e) of the first subparagraph the current tax expense shall relate only to the activities of an undertaking in the current financial year and shall not include deferred taxes or provisions for uncertain tax liabilities.

3. The report shall present the information referred to in paragraph 2 separately for each Member State. Where a Member State comprises several tax jurisdictions, the information shall be ~~combined at Member State level~~ ***presented separately for each tax jurisdiction***. **[Am. 42]**

The report shall also present the information referred to in paragraph 2 of this Article separately for each tax jurisdiction ~~which, at the end of the previous financial year, is listed in the common~~ ***outside the*** Union ~~list of certain tax jurisdictions drawn up pursuant to Article 48 g, unless the report explicitly confirms, subject to the responsibility referred to in Article 48e below, that the affiliated undertakings of a group governed by the laws of such tax jurisdiction do not engage directly in transactions with any affiliated undertaking of the same group governed by the laws of any Member State~~. **[Am. 43]**

~~The report shall present the information referred to in paragraph 2 on an aggregated basis for other tax jurisdictions.~~ **[Am. 44]**

In order to protect commercially sensitive information and to ensure fair competition, Member States may allow one or more specific items of information listed in this Article to be temporarily omitted from the report as regards activities in one or more specific tax jurisdictions when they are of a nature such that their disclosure would be seriously prejudicial to the commercial position of the undertakings referred to in Article 48b(1) and Article 48b (3) to which it relates. The omission shall not prevent a fair and balanced understanding of the tax position of the undertaking. The omission shall be indicated in the report together with a duly justified explanation for each tax jurisdiction as to why this is the case and with a reference to the tax jurisdiction or tax jurisdictions concerned. **[Am. 83]**

Member States shall make such omissions subject to prior authorisation of the national competent authority. The undertaking shall seek each year a new authorisation from the competent authority, which will take a decision on the basis of a new assessment of the situation. Where the information omitted no longer complies with the requirement laid down in subparagraph 3a, it shall immediately be made publicly available. As from the end of the non-disclosure period, the undertaking shall also retroactively disclose, in the form of an arithmetic average, the information required under this Article for the preceding years covered by the non-disclosure period. **[Am. 69/rev]**

Members States shall notify the Commission of the granting of such a temporary derogation and shall transmit to it, in a confidential manner, the omitted information together with a detailed explanation for the derogation granted. Every year, the Commission shall publish on its website the notifications received from Member States and the explanations provided in accordance with subparagraph 3a. **[Am. 47]**

The Commission shall verify that the requirement laid down in subparagraph 3a is duly respected, and shall monitor the use of such a temporary derogation authorised by national authorities. **[Am. 48]**

If the Commission concludes, after having carried out its assessment of the information received pursuant to subparagraph 3c, that the requirement laid down in subparagraph 3a is not fulfilled, the undertaking concerned shall immediately make the information publicly available. As from the end of the non-disclosure period, the undertaking shall also retroactively disclose, in the form of an arithmetic average, the information required under this Article for the preceding years covered by the non-disclosure period. **[Am. 70/rev]**

The Commission shall, by means of a delegated act, adopt guidelines to assist Member States defining cases where the publication of information shall be considered seriously prejudicial to the commercial position of the undertakings to which it relates. **[Am. 50]**

The information shall be attributed to each relevant tax jurisdiction on the basis of the existence of a fixed place of business or of a permanent business activity which, arising from the activities of the group, can give rise to income tax liability in that tax jurisdiction.

Where the activities of several affiliated undertakings can give rise to a tax liability within a single tax jurisdiction, the information attributed to that tax jurisdiction shall represent the sum of the information relating to such activities of each affiliated undertaking and their branches in that tax jurisdiction.

Information on any particular activity shall not be attributed simultaneously to more than one tax jurisdiction.

4. The report shall include at group level an overall narrative providing explanations on material discrepancies between the amounts disclosed pursuant to points (e) and (f) of paragraph 2, if any, taking into account if appropriate corresponding amounts concerning previous financial years.

5. The report on income tax information shall be published ***in a common template available free of charge in an open data format*** and made accessible ***to the public on the date of its publication*** on the website ***of the subsidiary undertaking or on the website of an affiliated undertaking*** in at least one of the official languages of the Union. ***On the same date, the undertaking shall also file the report in a public registry managed by the Commission.*** **[Am. 51]**

6. The currency used in the report on income tax information shall be the currency in which the consolidated financial statements are presented. Member States shall not require this report to be published in a different currency than the currency used in the financial statements.

7. Where Member States have not adopted the euro, the threshold referred to in Article 48b(1) shall be converted into the national currency by applying the exchange rate as at … [date of the entry in force of this Directive] published in the Official Journal of the European Union and by increasing or decreasing it by not more than 5 % in order to produce a round sum in the national currencies.

The thresholds referred to in Article 48b(3) and (4) shall be converted to an equivalent amount in the national currency of any relevant third countries by applying the exchange rate as at … [date of the entry in force of this Directive], rounded off to the nearest thousand.

Article 48d

Publication and Accessibility

1. The report on income tax information shall be published as laid down by the laws of each Member State in accordance with Chapter 2 of Directive 2009/101/EC, together with documents referred to in Article 30(1) of this Directive and where relevant, with the accounting documents referred to in Article 9 of Council Directive 89/666/EEC (**).

2. The report referred to in Article 48b(1), (3), (4) and (6) shall remain accessible on the website for a minimum of five consecutive years.

Article 48e

Responsibility for drawing up, publishing and making accessible the report on income tax information

1. ***To strengthen accountability towards third parties and ensure appropriate governance,*** Member States shall ensure that the members of the administrative, management and supervisory bodies of the ultimate parent undertaking referred to in Article 48b(1), acting within the competences assigned to them under national law, have collective responsibility for ensuring that the report on income tax information is drawn up, published and made accessible in accordance with Articles 48b, 48c and 48d. **[Am. 52]**

2. Member States shall ensure that the members of the administrative, management and supervisory bodies of the subsidiary undertakings referred to in Article 48b(3) of this Directive and the person(s) designated to carry out the disclosure formalities provided for in Article 13 of Directive 89/666/EEC for the branch referred to in Article 48b(4) of this Directive, acting within the competences assigned to them by national law, have collective responsibility for ensuring that, to the best of their knowledge and ability, the report on income tax information is drawn up, published and made accessible in accordance with Articles 48b, 48c and 48d.

Article 48f

Independent check

Member States shall ensure that, where the financial statements of an affiliated undertaking are audited by one or more statutory auditor(s) or audit firm(s) pursuant to Article 34(1), the statutory auditor(s) or audit firm(s) also check whether the report on income tax information has been provided and made accessible in accordance with Articles 48b, 48c and 48d. The statutory auditor(s) or audit firm(s) shall indicate in the audit report if the report on income tax information has not been provided or made accessible in accordance with those Articles.

~~Article 48 g~~

~~Common Union list of certain tax jurisdictions~~

~~The Commission shall be empowered to adopt delegated acts in accordance with Article 49 in relation to drawing up a common Union list of certain tax jurisdictions. That list shall be based on the assessment of the tax jurisdictions, which do not comply with the following criteria:~~

~~(1) Transparency and exchange of information, including information exchange on request and Automatic Exchange of Information of financial account information;~~

~~(2) Fair tax competition;~~

~~(3) Standards set up by the G20 and/or the OECD;~~

~~(4) Other relevant standards, including international standards set up by the Financial Action Task Force.~~

~~The Commission shall regularly review the list and, where appropriate, amend it to take account of new circumstances.~~ **[Am. 53]**

Article 48h

Commencement date for reporting on income tax information

Member States shall ensure that laws, regulations and administrative provisions transposing Articles 48a to 48f apply, at the latest, from the commencement date of the first financial year starting on or after …*[two years after the entry into force of this Directive]*.

Article 48i

Report

The Commission shall report on the compliance with and the impact of the reporting obligations set out in Articles 48a to 48f. The report shall include an evaluation of whether the report on income tax information delivers appropriate and proportionate results, ***and shall assess the costs and benefits of lowering the consolidated net turnover threshold beyond which undertakings and branches are required to report on income tax information. The report shall, in addition, evaluate any necessity to take further complementary measures,*** taking into account the need to ensure a sufficient level of transparency and the need ~~for~~ ***to preserve and ensure*** a competitive environment for undertakings ***and private investment***. **[Am. 54]**

The report shall be submitted to the European Parliament and to the Council by …[*six years after the entry into force of this Directive*].

(*) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.6.2013, p. 338).

(**) Eleventh Council Directive 89/666/EEC of 21 December 1989 concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State (OJ L 395, 30.12.1989, p. 36).'

(2a) the following article is inserted:

'Article 48ia

No later than 4 years after the adoption of this Directive and taking into account the situation at OECD level, the Commission shall review, assess and report on the provisions of this Chapter, in particular as regards:

— undertakings and branches required to report on income tax information, particularly whether it would be appropriate to enlarge the scope of this Chapter to include large undertakings as defined in Article 3(4) and large groups as defined in Article 3(7) of this Directive;

— the content of the report on income tax information as provided for in Article 48c;

— the temporary derogation provided for in subparagraphs 3a to 3f of Article 48c(3).

The Commission shall submit the report to the European Parliament and to the Council, together with a legislative proposal, if appropriate.' **[Am. 55]**

(2b) the following article is inserted:

'Article 48ib

Common template for the report

The Commission shall, by means of implementing acts, lay down the common template to which Article 48b(1), (3), (4) and (6) and Article 48c(5) refer. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 50(2).' **[Am. 56]**

(3) Article 49 is amended as follows:

(a) Paragraphs 2 and 3 are replaced by the following

'2. The power to adopt delegated acts referred to in Article 1(2), Article 3(13), Article 46(2) and Article 48 g shall be conferred on the Commission for an indeterminate period of time from the date referred to in Article 54.

3. The delegation of power referred to in Article 1(2), Article 3(13), Article 46(2) and Article 48 g 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.'

Wednesday 27 March 2019

(b) The following paragraph 3a is inserted:

'3a. 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 (***), ***taking particular account of the provisions of the Treaties and the Charter of Fundamental Rights of the European Union.*** **[Am. 57]**

(***) ***OJ L 123, 12.5.2016, p. 1***.'

(c) Paragraph 5 is replaced by the following:

'5. A delegated act adopted pursuant to Article 1(2), Article 3(13) Article 46(2) or Article 48 g 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 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.'

(3a) in Article 51, paragraph 1 is replaced by the following:

'Member States shall ~~provide for~~ ***lay down rules on*** penalties applicable to infringements of the national provisions adopted in accordance with this Directive and shall take all the measures necessary to ensure that ~~those penalties are enforced~~ ***they are implemented***. The penalties provided for shall be effective, proportionate and dissuasive.

Member States shall at least provide for administrative measures and penalties for the infringement by undertakings of national provisions adopted in accordance with this Directive.

Member States shall notify the Commission of those provisions at the latest by … [one year after entry into force of this Directive] and shall notify it without delay of any subsequent amendment affecting the provisions.

By … [three years after the entry into force of this Directive] the Commission shall compile a list of the measures and penalties laid down by each Member State in accordance with this Directive.' **[Am. 58]**

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by … *[one year after the entry into force of this Directive]* at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Wednesday 27 March 2019

P8_TA(2019)0310

Common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those ***I

European Parliament legislative resolution of 27 March 2019 on the proposal for a regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument (COM(2018)0375 — C8-0230/2018 — 2018/0196(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/47)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0375),

— having regard to Article 294(2) and Articles 177, 322(1)(a) and 349 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0230/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 December 2018 ([2]),

— having regard to the opinion of the Court of Auditors of 25 October 2018 ([3]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Regional Development and also the opinion of the Committee on Budgets, the position in the form of amendments of the Committee on Budgetary Control, the opinion of the Committee on Economic and Monetary Affairs, the Committee on Employment and Social Affairs, the Committee on the Environment, Public Health and Food Safety, the Committee on Transport and Tourism, the Committee on Agriculture and Rural Development, the Committee on Civil Liberties, Justice and Home Affairs and the position in the form of amendments of the Committee on Women's Rights and Gender Equality (A8-0043/2019),

1. Adopts its position at first reading hereinafter set out ([4]);

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([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]) This position corresponds to the amendments adopted on 13 February 2019 (Texts adopted, P8_TA(2019)0096).

Wednesday 27 March 2019

P8_TC1-COD(2018)0196

Position of the European Parliament adopted at first reading on 27 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, *the European Agricultural Fund for Rural Development,* and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument [Am. 1]

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 Articles 177, 322(1)(a) 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]),

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. ***These regions particularly benefit from cohesion policy***. Article 175 of the TFEU requires that the Union is to support the achievement of these 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 of the 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. **[Am. 2]**

(1a) It is important for the future of the European Union and its citizens that cohesion policy remains the main investment policy of the Union, keeping its funding in the 2021-2027 period at least at the level of the 2014-2020 programming period. New funding for other areas of activity or programmes of the Union should not be to the detriment of the European Regional Development Fund, the European Social Fund Plus or the Cohesion Fund. **[Am. 3]**

(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, measures financed under shared management in the European Maritime and Fisheries Fund ('EMFF'), the Asylum and Migration Fund ('AMIF'), Internal Security Fund ('ISF') and Integrated Border Management Fund ('BMVI'), financial rules based on Article 322 of the TFEU should be established for all these

([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.

Funds ('the Funds'), clearly specifying the scope of application of the relevant provisions. In addition, common provisions based on Article 177 of the TFEU should be established to cover policy specific rules for the ERDF, the ESF+, the Cohesion Fund and the EMFF ***and to a specific extent the European Agricultural Fund for Rural Development (EAFRD)***. **[Am. 430]**

(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 the provisions of this Regulation.

(4) The outermost regions and the northern sparsely populated regions should benefit from specific measures and from additional funding pursuant to Article 349 of the TFEU and Article 2 of Protocol No 6 to the 1994 Act of Accession ***in order to address their specific disadvantages related to their geographic location***. **[Am. 5]**

(5) Horizontal principles as set out in Article 3 of the Treaty on the European Union ('TEU') and in Article 10 of the TFEU, including principles of subsidiarity and proportionality as set out in Article 5 of the 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 of the UN Convention on the Rights of ***the Child and of the UN Convention on the Rights of*** Persons with Disabilities and ensure accessibility in line with its article 9 and in accordance with the Union law harmonising accessibility requirements for products and services. ***In that context, the Funds should be implemented in a way which promotes deinstitutionalisation 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, or support infrastructure which is inaccessible to persons with a disability***. 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) of the TFEU, taking into account the polluter pays principle ***and taking into account the commitments agreed under the Paris Agreement***. In order to protect the integrity of the internal market, operations benefitting undertakings shall comply with Union State aid rules as set out in Articles 107 and 108 of the TFEU. ***Poverty is one of the greatest challenges of the EU. The Funds should therefore contribute to the elimination of poverty. They should also contribute to fulfilling the commitment of the Union and its Member States to achieving the United Nations' Sustainable Development Goals.*** **[Am. 6]**

(6) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective EU funding.

(7) 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 are incomplete or non-compliant with the requirements of this Regulation and of Fund-specific Regulations, thus not enabling the Commission to take fully-informed action, that time limit should be suspended until the Member States comply with the regulatory requirements.

(8) 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 Funds-specific regulations.

(9) 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 will contribute to ~~mainstream~~ ***mainstreaming*** climate actions and to the achievement of an overall target of ~~25 %~~ ***30 %*** of the EU budget

expenditure supporting climate objectives. ***Climate proofing mechanisms should be an integral part of programming and implementation.*** **[Am. 7]**

(9a) ***Given the impact of migration flows from third countries, cohesion policy should contribute to integration processes, in particular by providing infrastructure support to towns and cities and local and regional authorities on the front line, which are more involved in implementing integration policies.*** **[Am. 8]**

(10) 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 Regulation (EU, Euratom) [*number of the new Financial Regulation*] of the European Parliament and of the Council ([5]) (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. ***Member States should be responsible for preparing and implementing programmes. This should take place at the appropriate territorial level, in accordance with their institutional, legal and financial framework, and by the bodies designated by them for that purpose. Member States should refrain from adding rules that complicate the use of the funds for beneficiaries.*** **[Am. 9]**

(11) 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, and other public authorities,*** civil society and social partners. In order to provide continuity in the organisation of partnership, ***the Commission should be empowered to amend and adapt*** Commission Delegated Regulation (EU) No 240/2014 ([6]) ~~should continue to apply~~. **[Am. 10]**

~~(12) At Union level, the European Semester of economic policy coordination is the framework to identify national reform priorities and monitor their implementation. Member States develop their own national multiannual investment strategies in support of these reform priorities. These 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 and Union funding. 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 notably from the Funds, the European Investment Stabilisation Function and InvestEU.~~ **[Am. 11]**

(13) Member States should ~~determine how~~ ***take into account*** relevant country-specific recommendations adopted in accordance with Article 121(2) of the TFEU and relevant Council recommendations adopted in accordance with Article 148(4) of the TFEU ('CSR's') ~~are taken into account~~ in the preparation of programming documents***, where they are consistent with the programme's objectives***. 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 CSRs***, as well as of the European Pillar of Social Rights***. During a mid-term review, Member States should, among other elements, consider the need for programme modifications to accommodate relevant CSRs adopted or modified since the start of the programming period. **[Am. 12]**

(14) Member States should take account of the contents of their draft National Energy and Climate Plan, to be developed under the Regulation on the Governance of the Energy Union ([7]), 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. **[Am. 13]**

([5]) OJ L […], […], p. […].

([6]) 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).

([7]) [Regulation on the Governance of the Energy Union, amending Directive 94/22/EC, Directive 98/70/EC, Directive 2009/31/EC, Regulation (EC) No 663/2009, Regulation (EC) No 715/2009, Directive 2009/73/EC, Council Directive 2009/119/EC, Directive 2010/31/EU, Directive 2012/27/EU, Directive 2013/30/EU and Council Directive (EU) 2015/652 and repealing Regulation (EU) No 525/2013 (COM(2016)0759 — 2016/0375(COD)].

Wednesday 27 March 2019

(15) The Partnership Agreement, prepared by each Member State, should be a strategic document guiding the negotiations between the Commission and the Member State concerned on the design of programmes. In order to reduce the administrative burden, it should not be necessary to amend Partnership Agreements during the programming period. To facilitate the programming and avoid overlapping content in programming documents, ***it should be possible for*** Partnership Agreements ~~can~~ ***to*** be included as part of a programme. **[Am. 14]**

(16) Each Member State ~~should~~ have the flexibility to contribute to InvestEU for the provision of budgetary guarantees for investments in that Member State***, under certain conditions specified in Article 10 of this Regulation***. **[Am. 15]**

(17) To ensure the necessary prerequisites for the ***inclusive, non-discriminatory,*** 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. Where those conditions are not fulfilled, expenditure related to operations under the related specific objectives should not be included in payment applications.. In order to maintain a favourable investment framework, the continued fulfilment of the enabling conditions should be monitored regularly. 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. **[Am. 16]**

(18) 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 project selection and evaluation to be result-driven.*** **[Am. 17]**

(19) The Member State should carry out a mid-term review of each programme supported by the ERDF, the ESF+ and the Cohesion Fund. 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 CSRs issued in 2024***, as well as progress with the National Energy and Climate Plans and the European Pillar of Social Rights. Demographic challenges should also be taken into account***. In parallel, in 2024 the Commission should, together with the technical adjustment for the year 2025, review all Member States' total allocations under the Investment for jobs and growth goal of cohesion policy for the years 2025, 2026 and 2027, applying the allocation method set out in the relevant basic act. That review together with the outcome of the mid-term review should result in programme amendments modifying the financial allocations for the years 2025, 2026 and 2027. **[Am. 18]**

~~(20) 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 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. 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.~~ **[Ams 425rev, 444rev, 448 and 469]**

(20a) Member States could make in duly justified cases a request for flexibility within the current framework of the Stability and Growth Pact for the public or equivalent structural expenditure, supported by the public administration by way of co-financing of investments activated as part of European Structural and Investment Funds ('ESI Funds'). The Commission should carefully assess the respective request, when defining the fiscal adjustment under either the preventive or the corrective arm of the Stability and Growth Pact. **[Am. 20]**

(21) 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) [XXX] of the European Parliament and of the Council ([8]) (the 'ETC Regulation') should set out specific provisions on the content of programmes under the European territorial cooperation goal (Interreg).

(22) 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.

(22a) Major projects represent a substantial share of Union spending and are frequently of strategic importance with respect to the achievement of the Union strategy for smart, sustainable and inclusive growth. It is therefore justified that operations above certain thresholds continue to be subject to specific approval procedures under this Regulation. The threshold should be established in relation to total eligible cost after taking account of expected net revenues. To ensure clarity, it is appropriate to define the content of a major project application for such a purpose. The application should contain the necessary information to provide assurance that the financial contribution from the Funds does not result in a substantial loss of jobs in existing locations within the Union. The Member State should submit all required information and the Commission should appraise the major project to determine whether the requested financial contribution is justified. **[Am. 21]**

(23) To strengthen the integrated territorial development approach, investments in the form of territorial tools such as integrated territorial investments ('ITI'), community-led local development ('CLLD')***, known as 'LEADER' under the EAFRD,*** or any other territorial tool under policy objective 'a Europe closer to citizens' supporting initiatives designed by the Member State for investments programmed for the ERDF 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 ITIs 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 involved in that selection. **[Am. 22]**

(24) To better mobilise potential at the local level, it is necessary to strengthen and facilitate CLLD. It should take into account local needs and potential, as well as relevant socio-cultural characteristics, and should provide for structural changes, build community ***and administrative*** capacity and stimulate innovation. The close cooperation and integrated use of the Funds to deliver local development strategies should be strengthened. Local action groups, representing the interests of the community, should be, as an essential principle responsible for the design and implementation of CLLD strategies. In order to facilitate coordinated support from different Funds to CLLD strategies and to facilitate their implementation, the use of a 'Lead Fund' approach should be facilitated. **[Am. 23]**

(25) In order to reduce the administrative burden, technical assistance at the initiative of the Member State should be implemented through a flat rate based on progress in programme implementation. That technical assistance may be complemented with targeted administrative capacity building measures***, such as the evaluation of the skills set of human resources,*** using reimbursement methods that are not linked to costs. Actions and deliverables as well as corresponding Union payments can be agreed in a roadmap and can lead to payments for results on the ground. **[Am. 24]**

([8]) Regulation (EU) […] on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments (OJ L […], […], p. […]).

Wednesday 27 March 2019

(26) It is opportune to clarify that, where a Member State proposes to the Commission that a priority of a programme or part thereof is supported through a financing scheme not linked to costs, the actions, deliverables and conditions agreed should be related to concrete investments undertaken under the shared management programmes in that Member State or region.

(27) In order to examine the performance of the programmes, the Member State should set up monitoring committees***, consisting also of representatives of civil society and social partners***. For the ERDF, the ESF+ and the Cohesion Fund, 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. **[Am. 25]**

(28) Pursuant to paragraphs 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016 ([9]), there is a need to evaluate the Funds on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burden, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Funds on the ground. ***Indicators should be developed in a gender sensitive manner when possible.*** **[Am. 26]**

(29) To ensure availability of comprehensive up-to-date information on programme implementation, ~~more frequent~~ ***effective and timely*** electronic reporting on quantitative data should be required. **[Am. 27]**

(30) In order to support the preparation of related programmes and activities of the next 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.*** **[Am. 28]**

(31) 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 these requirements to be enforceable, programme authorities and the Commission should be able to apply remedial measures in case of non-compliance.

(32) 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 ([10]) of the European Parliament and of the Council.

(33) 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.

(34) 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 Member State intends to propose the use of a simplified cost option, it could consult the monitoring committee.*** **[Am. 29]**

(35) 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.

([9]) OJ L 123, 12.5.2016, p. 13.

([10]) 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.

(36) In order to optimise the uptake of co-financed environmental investments, synergies should be ensured with the LIFE programme for Environmental and Climate Action, in particular through LIFE strategic integrated projects and strategic nature projects***, as well as with projects funded under Horizon Europe and other Union programmes***. **[Am. 30]**

(37) 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.

(38) To ensure the ***inclusiveness,*** effectiveness, fairness and sustainable impact of the Funds, there should be provisions guaranteeing that investments in infrastructure or productive investment are ***non-discriminatory and*** 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. **[Am. 31]**

(39) With a view to improving complementarities and simplifying implementation, it should be possible to combine support from the Cohesion Fund and the ERDF with support from the ESF+ in joint programmes under the Investment for jobs and growth goal.

(40) 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 directly managed instruments, including the Reform Delivery Tool. ***This policy coordination should promote easy-to-use mechanisms and multi-level governance.*** Those synergies should be achieved through 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. **[Am. 32]**

(41) 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.

(42) The decision to finance support measures through financial instruments should be determined on the basis of an *ex ante* assessment. This Regulation should lay down the minimum mandatory elements of *ex ante* assessments and should allow Member States to make use of the *ex ante* assessment carried out for the 2014-2020 period, updated where necessary, in order to avoid administrative burden and delays in setting up financial instruments.

(42a) Managing authorities should have the possibility to implement financial instruments through a direct award of a contract to the EIB Group, national promotional banks and to international financial institutions (IFIs). **[Am. 33]**

(43) In order to facilitate the implementation of certain types of financial instruments where ancillary grant support is envisaged, it is possible to apply the rules on financial instruments on such combination in one financial instrument operation. Specific conditions preventing double financing in such cases should be set out.

(44) In full respect of the applicable State aid and public procurement rules already clarified during the 2014-2020 programming period, the 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 this framework, the Commission should, in cooperation with the European Court of Auditors, give guidance to auditors, managing authorities and beneficiaries for assessing compliance with state aid and developing state aid schemes.*** **[Am. 34]**

Wednesday 27 March 2019

(45) 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.

(45a) In order to increase accountability and transparency, the Commission should provide for a complaints-handling system accessible to all citizens and stakeholders at all stages of preparation and implementation of programmes including monitoring and evaluation. **[Am. 35]**

(46) In order to hasten the start of programme implementation, the roll-over of implementation arrangements***, including administrative and IT systems,*** from the previous programming period should be facilitated ***where possible***. 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. **[Am. 36]**

(47) 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.

(48) Since the managing authority bears the main responsibility for the effective and efficient implementation of the Funds and therefore fulfils a substantial number of functions, its functions in relation to the selection of projects, programme management and support for the monitoring committee should be set out in detail. Operations selected should be in line with the horizontal principles.

(48a) To support the effective use of the Funds, the EIB support should be available to all Member States at their request. This could cover capacity building, support for project identification, preparation and implementation, as well as advice on financial instruments and investment platforms. **[Am. 37]**

(49) In order to optimise synergies between the Funds and directly managed instruments, the provision of support for operations that have already received a Seal of Excellence certification should be facilitated.

(50) 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 account of factors such as the type of operations implemented, the ***complexity and number of operations, the*** beneficiaries as well as the level of risk identified by previous management verifications and audits. ***Management and control measures for the Funds should be proportionate to the level of risk to the Union budget.*** **[Am. 38]**

(51) 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.

(52) 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.

(53) To reduce administrative burden on beneficiaries and administrative costs, the concrete application of the single audit principle should be specified for the Funds.

(54) 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.

(55) To reduce the administrative burden for Member States as well as for the Commission, a compulsory schedule of quarterly payment applications should be established. Commission payments should continue to be subject to a 10 % 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.

(56) In order to reduce the administrative burden, the procedure for the annual acceptance of accounts should be simplified by providing simpler modalities for payments and recoveries where there is no disagreement between the Commission and the Member State.

(57) 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 of 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.

(58) Member States should also prevent, detect and deal effectively with any irregularities including fraud committed by beneficiaries. Moreover, in accordance with Regulation (EU, Euratom) No 883/2013 ([11]), and Regulations (Euratom, EC) No 2988/95 ([12]) and No 2185/96 ([13]) the European Anti-Fraud Office (OLAF) may 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. In accordance with Regulation (EU) 2017/1939 ([14]), the European Public Prosecutor's Office may investigate and prosecute fraud and other criminal offences affecting the financial interests of the Union as provided for in Directive (EU) 2017/1371 ([15]) on the fight against fraud to the Union's financial interests by means of criminal law. Member States should take the necessary measures so that any person or entity receiving Union funds fully cooperates in the protection of the Union's financial interests, grants the necessary rights and access to the Commission, the European Anti-Fraud Office (OLAF), the European Public Prosecutor's Office (EPPO) and the European Court of Auditors (ECA) and ensures that any third parties involved in the implementation of Union funds grant equivalent rights. Member States should ***provide a detailed*** report to the Commission on detected irregularities including fraud, and on their follow-up as well as on the follow-up of OLAF investigations. ***Member States that do not participate in the enhanced cooperation with the EPPO should report to the Commission on decisions taken by national prosecution authorities in relation to cases of irregularities affecting the Union budget.*** **[Am. 39]**

(59) In order to encourage financial discipline, it is appropriate to define the arrangements for decommitment of budgetary commitments at programme level.

(60) 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 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.

([11]) 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).

([12]) 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).

([13]) 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).

([14]) 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).

([15]) 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).

Wednesday 27 March 2019

(61) Objective criteria should be established for designating eligible regions and areas for support from the Funds. To this 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 ([16]), as ***most recently*** amended by Commission Regulation (EU) ~~No 868/2014~~ ***No 2016/2066*** ([17]). **[Am. 40]**

(62) In order to set out an appropriate financial framework for the ERDF, the ESF+***, the EMFF*** and the Cohesion Fund, 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). Taking into account that the national allocations of Member States should be established on the basis of the statistical data and forecasts available in 2018 and given the forecasting uncertainties, the Commission should review the total allocations of all Member States in 2024 on the basis of the most recent statistics available at the time and, where there is a cumulative divergence of more than +/- 5 %, it should adjust those allocations for the years 2025 to 2027 in order for the outcomes of the mid-term review and the technical adjustment exercise to be reflected in programme amendments at the same time. **[Am. 41]**

(63) Trans-European transport networks projects in accordance with Regulation (EU) No [new CEF Regulation] ([18]) will 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~~ ***4 000 000 000*** of the Cohesion Fund should be transferred to the CEF for this purpose. **[Am. 42]**

(64) A certain amount of the resources from 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. ***Further reflection should be carried out in future on the specific support which is provided for disadvantaged regions and communities.*** **[Am. 43]**

(65) With a view to ensuring an appropriate allocation to categories of regions, as a 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 State's needs to tackle specific challenges, Member States should be able to request a transfer from their allocations for more developed regions or for transition regions to less developed regions and 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 to transition regions. Transferability of resources between goals should not be possible.

(65a) With a view to tackling the challenges faced by middle income regions, as described in the 7th cohesion report ([19]) (low growth compared to more developed regions but also compared to less developed regions, this issue being faced especially by regions with a GDP per capita between 90 % and 100 % of the average GDP of the EU-27), 'transition regions' should receive adequate support and be defined as regions whose GDP per capita is between 75 % and 100 % of the average GDP of the EU-27. **[Am. 44]**

(66) 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 new 'PEACE PLUS' cross-border programme should 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, this programme should be supported with a specific allocation to continue support for peace and reconciliation actions, and that an appropriate share of the Irish allocation under the European Territorial Cooperation goal (Interreg) should also be allocated to the programme.

([16]) 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).

([17]) Commission Regulation (EU) ~~No 868/2014 of 8 August 2014~~ ***No 2066/2016 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 ~~241, 13.8.2014~~***322, 29.11.2016***, p. 1).

([18]) Regulation (EU) […] of the European Parliament and of the Council of […] on [CEF] (OJ L […], […], p. […])]

([19]) The Commission's 7th report on economic, social and territorial cohesion, entitled 'My region, My Europe, Our future: The 7th report on economic, social and territorial cohesion' (COM(2017)0583, 9 October 2017).

(66a) Within the context of the UK's withdrawal from the Union, several regions and Member States will be more exposed to the consequences of this withdrawal than the others, due to their geography, nature and / or the extent of their trading links. It is therefore important to identify practical solutions for support also within the framework of cohesion policy to address the challenges for the concerned regions and Member States once the UK's withdrawal has taken place. Furthermore, a continuous cooperation, involving exchanges of information and good practices at the level of the most impacted local and regional authorities and Member States will need to be established. **[Am. 45]**

(67) It is necessary to establish the maximum rates of co-financing in the area of cohesion policy by category of region 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***. **[Am. 46]**

(68) In order to supplement and amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of the amendment of the elements contained in certain Annexes to this Regulation, i.e. 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 use of the emblem of the Union, the elements for funding agreements and strategy documents, , the audit trail, electronic data exchange systems, the templates for the description of the management and control system, for the management declaration, for the audit opinion, for the annual control report, for the audit strategy, for the payment applications, for the accounts as well as for the determination of the level of financial corrections.

(69) In addition the power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of ***the amendment of the European code of conduct on partnership in order to adapt the code to this Regulation,*** the establishment of the criteria for determining the cases of irregularities to be reported, the definition 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. **[Am. 47]**

(70) It is of particular importance that the Commission carry 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 on Better Law-Making of 13 April 2016. 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. **[Am. 48]**

(71) 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 relating to the format to be used for reporting on irregularities, the electronic data to be recorded and stored and for 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 ([20]). Although these acts are of a general nature, the advisory procedure should be used given that they only set out technical aspects, forms and templates. The implementing powers in relation to the establishment of the breakdown of financial allocations for the ERDF, ESF+ and the Cohesion Fund. should be adopted without comitology procedures given that they merely reflect the application of a pre-defined calculation methodology.

(72) Since Regulation (EU) No 1303/2013 of the European Parliament and of the Council ([21]) 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. Since the implementation period of Regulation (EU)

([20]) 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).

([21]) 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).

No 1303/2013 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.

(73) 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 on the one hand due to the extent of the disparities between the levels of development of the various regions and the ~~backwardness of~~ ***specific challenges faced by*** the least favoured regions, as well as the limit on the financial resources of the Member States and regions and on the other hand due to the need for a coherent implementation framework covering several Union funds under shared management. Since those objectives can therefore 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 of the 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. **[Am. 49]**

(74) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union,

HAVE ADOPTED THIS REGULATION:

TITLE I

OBJECTIVES AND GENERAL RULES ON SUPPORT

CHAPTER I

Subject-matter and definitions

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 European Agricultural Fund for Rural Development ('EAFRD'),*** the European Maritime and Fisheries Fund ('EMFF'), the Asylum and Migration Fund ('AMIF'), the Internal Security Fund ('ISF') and the Border Management and Visa Instrument ('BMVI') ('the Funds'); **[Am. 50]**

(b) common provisions applicable to the ERDF, the ESF+, the Cohesion Fund and the EMFF***, and to the EAFRD as prescribed in paragraph 1a of this Article***. **[Am. 431]**

1a. Title I, Chapter I — Article 2- paragraph 4 a, Chapter II — Article 5, Title III, Chapter II — Articles 22 to 28 and Title IV — Chapter III — Section I- Articles 41 to 43 shall apply to aid measures financed by the EAFRD and Title I- Chapter 1 — Article 2- paragraphs 15 to 25 , as well as Title V- Chapter II — Section II — Articles 52 to 56 shall apply to financial instruments provided for in Article 74 of Regulation (EU) …/… [CAP Strategic Plans Regulation] and supported under the EAFRD. **[Am. 432]**

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

3. Articles 4 and 10, Chapter III of Title II, Chapter II of Title III, and Title VIII shall not apply to the AMIF, the ISF and the BMVI.

4. Title VIII shall not apply to the EMFF.

5. Article 11 of Chapter II and Article 15 of Chapter III of Title II, Chapter I of Title III, Articles 33 to 36 and Article 38 (1) to (4) of Chapter I, Article 39 of Chapter II, Article 45 of Chapter III of Title IV, Articles 67, 71, 73 and 74 of Chapter II and Chapter III of Title VI shall not apply to Interreg programmes.

6. The Fund-specific Regulations listed below may establish complementary rules to this Regulation which shall not be in contradiction with this Regulation. In case of doubt about the application between this Regulation and Fund-specific Regulations, this Regulation shall prevail:

(a) Regulation (EU) […] (the 'ERDF and CF Regulation') ([22]);

(b) Regulation (EU) […] (the 'ESF+ Regulation') ([23]);

(c) Regulation (EU) […] (the 'ETC Regulation') ([24]);

(d) Regulation (EU) […] (the 'EMFF Regulation') ([25]);

(e) Regulation (EU) […] (the 'AMIF Regulation') ([26]);

(f) Regulation (EU) […] (the 'ISF Regulation') ([27]);

(g) Regulation (EU) […] (the 'BMVI Regulation') ([28]) .

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 ~~Article 121(2)~~ ***Articles 121(2) and (4)*** and Article 148(4) of the TFEU relating to structural challenges which it is appropriate to address through multiannual investments that fall within the scope of the Funds as set out in Fund-specific Regulations, and relevant recommendations adopted in accordance with Article [XX] of Regulation (EU) [*number of the new Energy Union Governance Regulation*] of the European Parliament and of the Council; **[Am. 54]**

(1a) 'enabling condition' means a concrete and precisely defined condition which has a genuine link to a direct impact on the effective and efficient achievement of a specific objective of the programme; **[Am. 55]**

(2) 'applicable law' means Union law and the national law relating to its application;

(3) '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;

(4) 'operation of strategic importance' means an operation which provides a key contribution to the achievement of the objectives of a programme and which are subject to particular monitoring and communication measures;

([22]) OJ L , , p. .
([23]) OJ L , , p. .
([24]) OJ L , , p. .
([25]) OJ L , , p. .
([26]) OJ L , , p. .
([27]) OJ L , , p. .
([28]) OJ L , , p. .

Wednesday 27 March 2019

(4a) 'programme' in the context of the EAFRD means the CAP Strategic Plans as referred to in Regulation (EU) […] (the 'CAP Strategic Plans Regulation'); **[Am. 56]**

(5) 'priority' in the context of the AMIF, the ISF and the BMVI, means a specific objective; in the context of the EMFF it means a 'type of areas of support' as referred to in the nomenclature laid down in Annex III of the EMFF Regulation;

(6) 'specific objective' in the context of the EMFF, shall be understood as 'areas of support' as referred to in Annex III of the EMFF Regulation;

(7) 'intermediate body' means any public or private law body which acts under the responsibility of a managing authority, or which carries out functions or tasks on behalf of such an authority;

(8) 'beneficiary' means:

(a) a public or private law 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 ('PPP'), the public law body initiating a PPP operation or the private partner selected for its implementation;

(c) in the context of State aid schemes, the ***body or the*** undertaking***, as appropriate,*** which receives the aid***, except where the aid per undertaking is less than EUR 200 000, in which case the Member State concerned may decide that the beneficiary is the body granting the aid, without prejudice to Commission Regulations (EU) No 1407/2013 ([29]), (EU) No 1408/2013 ([30]) and (EU) No 717/2014 ([31])***; **[Am. 57]**

(d) 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;

(9) 'mall project fund' means an operation in an Interreg programme aimed at the selection and implementation of ***projects, including people-to-people*** projects of limited financial volume; **[Am. 58]**

(10) 'target' means a pre-agreed value to be achieved at the end of the programming period in relation to an indicator included under a specific objective;

(11) 'milestone' means an intermediate value to be achieved at a given point in time during the programming period in relation to an indicator included under a specific objective;

(12) 'output indicator' means an indicator to measure the specific deliverables of the intervention;

(13) 'result indicator' means an indicator to measure the short term effects of the interventions supported, with particular reference to the direct addressees, population targeted or users of infrastructure;

(14) '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, pooling of private sector expertise or additional sources of capital;

(15) 'financial instrument' means a structure through which financial products are provided;

(16) 'financial product' means equity or quasi equity investments, loans and guarantees as defined in Article 2 of Regulation (EU, Euratom) […] ('the Financial Regulation');

(17) '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;

([29]) OJ L 352, 24.12.2013, p. 1.
([30]) OJ L 352, 24.12.2013, p. 9.
([31]) OJ L 190, 28.6.2014, p. 45.

(18) 'programme contribution' means the support from the Funds and the national public and private, if any, co-financing, to a financial instrument;

(19) 'body implementing a financial instrument' means a body, governed by public or private law, carrying out tasks of a holding fund or of a specific fund;

(20) 'holding fund' means a fund set up by a managing authority under one or more programmes, to implement financial instruments through one or more specific funds;

(21) 'specific fund' means a fund~~, set up~~ ***set up*** by a managing authority or a holding fund~~, to~~ ***through which they*** provide financial products to final recipients; **[Am. 59]**

(22) 'leverage effect' means the amount of reimbursable financing provided to final recipients divided by the amount of the contribution from the Funds;

(23) 'multiplier ratio' in the context of guarantee instruments, means a ratio between the value of the underlying disbursed new loans, equity or quasi-equity investments, and the amount of the programme contribution set aside as agreed in guarantee contracts to cover expected and unexpected losses from those new loans, equity or quasi-equity investments;

(24) 'management costs' means direct or indirect costs reimbursed against evidence of expenditure incurred in the implementation of financial instruments;

(25) '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;

(26) 'relocation' means a transfer of the same or similar activity or part thereof within the meaning of Article 2(61a) of Commission Regulation (EU) No 651/2014 ([32]) declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the TFEU;

(27) '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 ([33]), 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;

(28) '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;

(29) 'irregularity' means any breach of applicable law, resulting from an act or omission by an economic operator involved in the implementation of the Funds, which has, or would have, the effect of prejudicing the budget of the Union by charging unjustified expenditure to that budget;

(30) '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 X, or two or more of the other key requirements are assessed into categories 3 and 4 of that Annex;

([32]) 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).

([33]) 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).

Wednesday 27 March 2019

(31) 'total error rate' means the sum of the projected random errors and, if applicable, systemic errors and uncorrected anomalous errors, divided by the population;

(32) 'residual error rate' means the total error rate less the financial corrections applied by the Member State which intend to reduce the risks identified by the audit authority in its audits of operations;

(33) '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;

(34) '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 a population is divided for the purpose of sampling;

(35) '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 and/or after the eligibility period;

(36) 'participant' means a natural person benefiting from an operation but not receiving financial support from the Funds;

(36a) 'energy efficiency first principle' means the prioritisation, in energy planning, policy and investment decisions, of measures that make the demand and supply of energy more efficient; **[Am. 60]**

(37) 'climate proofing' means a process to ensure that infrastructure is resilient to the adverse impacts of the climate in accordance with ***internationally recognised standards or*** national rules and guidance, where available, ~~or internationally recognised standards~~ ***that the energy efficiency first principle is respected and that specific emission reduction and decarbonisation pathways are chosen***; **[Am. 61]**

(37a) 'EIB' means the European Investment Bank, the European Investment Fund or any subsidiary of the European Investment Bank. **[Am. 62]**

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.

CHAPTER II

Policy objectives and principles for the support of the Funds

Article 4

Policy objectives

1. The ERDF, the ESF+, the Cohesion Fund and the EMFF shall support the following policy objectives:

(a) a ***more competitive and*** smarter Europe by promoting innovative and smart economic transformation ***and strengthening small and medium-sized enterprises***; **[Am. 63]**

(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 and risk prevention and management; **[Am. 64]**

(c) a more connected Europe by enhancing mobility***, including smart and sustainable mobility,*** and regional ICT connectivity; **[Am. 65]**

(d) a more social ***and inclusive*** Europe implementing the European Pillar of Social Rights; **[Am. 66]**

(e) a Europe closer to citizens by fostering the sustainable and integrated development of ~~urban, rural and coastal~~ ***all regions,*** areas and local initiatives. **[Am. 67]**

2. The ERDF, the ESF+ and the Cohesion Fund shall contribute to the actions of the Union leading to strengthening of its economic, social and territorial cohesion in accordance with Article 174 of the TFEU by pursuing the following goals:

(a) Investment for jobs and growth in Member States and regions, to be supported by the ERDF, the ESF+ and the Cohesion Fund; and

(b) European territorial cooperation (Interreg), to be supported by the ERDF.

3. Member States ***shall ensure climate proofing for relevant operations through the entire planning and implementation process and*** shall provide information on the support for environment and climate objectives 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. **[Am. 68]**

4 ***In accordance with their respective responsibilities and in line with the principles of subsidiarity and multilevel governance,*** Member States and the Commission shall ensure the coordination, complementarity and coherence between the Funds and other Union instruments such as the Reform Support Programme, including the Reform Delivery Tool and the Technical Support Instrument. They shall optimise mechanisms for coordination between those responsible ***in order*** to avoid duplication during planning and implementation. **[Am. 69]**

4a. Member States and the Commission shall ensure compliance with relevant State aid rules. **[Am. 70]**

Article 5

Shared management

1. The Member States***, in accordance with their institutional and legal framework,*** and the Commission shall implement the budget of the Union allocated to the Funds under shared management in accordance with Article [63] of Regulation (EU, Euratom) [number of the new financial regulation] (the 'Financial Regulation'). **[Am. 71]**

2. ~~However,~~ ***Without prejudice to Article 1(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 InvestEU ([34]) and technical assistance at the initiative of the Commission under direct or indirect management in accordance with [points (a) and (c) of Article 62(1)] of the Financial Regulation. **[Am. 72]**

([34]) [Regulation (EU) No […] on […] (OJ L […], […], p. […])].

Wednesday 27 March 2019

3. The Commission may***, with the agreement of the Member State and the region concerned,*** implement outermost regions' cooperation under the European territorial cooperation goal (Interreg) under indirect management. **[Am. 73]**

Article 6

Partnership and multi-level governance

1. ***For the Partnership Agreement and each programme,*** each Member State shall ***, in accordance with its institutional and legal framework,*** organise a ***fully -fledged, effective*** partnership ~~with the competent regional and local authorities~~. That partnership shall include at least the following partners: **[Am. 74]**

(a) ***regional, local,*** urban and other public authorities; **[Am. 75]**

(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**; [Am. 76]**

(ca) research institutions and universities, where appropriate. **[Am. 77]**

2. In accordance with the multi-level governance principle ***and following a bottom-up approach***, the Member State shall involve those partners in the preparation of Partnership Agreements and throughout the preparation, ~~and~~ ***and evaluation*** implementation of programmes including through participation in monitoring committees in accordance with Article 34. ***In that context, Member States shall allocate an appropriate percentage of the resources coming from the Funds for the administrative capacity building of social partners and civil society organisations. For cross-border programmes, the Member States concerned shall include partners from all participating Member States.*** **[Ams. 78 and 459]**

3. The organisation and implementation of partnership shall be carried out in accordance with Commission Delegated Regulation (EU) No 240/2014 ([35]). ***The Commission is empowered to adopt delegated acts, in accordance with Article 107, concerning amendments to Delegated Regulation (EU) 240/2014 in order to adapt that Delegated Regulation to this Regulation.*** **[Am. 79]**

4. At least once a year, the Commission shall consult the organisations which represent the partners at Union level on the implementation of programmes***, and shall report to the European Parliament and Council on the outcome***. **[Am. 80]**

Article 6a

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 gender perspective are taken into account and promoted throughout the preparation and implementation of programmes, including in relation to monitoring, reporting and evaluation.

([35]) 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).

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 principle of sustainable development, taking into account the UN Sustainable Development Goals and with the Union's promotion of the aim of preserving, protecting and improving the quality of environment and combating climate change, taking into account the polluter pays principle, as set out in Article 191(1) and (2) TFEU.

Member States and the Commission shall ensure that environmental protection requirements, resource efficiency, energy efficiency first-principle, socially just energy transition, climate change mitigation and adaptation, biodiversity, disaster resilience, and risk prevention and management are promoted in the preparation and implementation of programmes. They shall aim at avoiding investments related to production, processing, distribution, storage or combustion of fossil fuels. **[Am. 81]**

TITLE II

STRATEGIC APPROACH

CHAPTER I

Partnership Agreement

Article 7

Preparation and submission of the Partnership Agreement

1. Each Member State shall prepare a Partnership Agreement which sets out arrangements for using the Funds in an effective and efficient way for the period from 1 January 2021 to 31 December 2027. ***Such Partnership Agreement shall be prepared in accordance with the code of conduct established by the Commission Delegated Regulation (EU) No 240/2014.*** **[Am. 82]**

2. The Member State shall submit the Partnership Agreement to the Commission before or at the same time as the submission of the first programme***, but not later than 30 April 2021***. **[Am. 83]**

3. The Partnership Agreement may be submitted together with the relevant annual National Reform Programme ***and the National Energy and Climate Plan***. **[Am. 84]**

4. The Member State shall draw up the Partnership Agreement in accordance with the template set out in Annex II. It may include the Partnership Agreement in one of its programmes.

5. Interreg programmes may be submitted to the Commission before the submission of the Partnership Agreement.

Article 8

Content of the Partnership Agreement

The Partnership Agreement shall contain the following elements:

(a) the selected policy objectives indicating by which of the Funds and programmes they will be pursued and a justification thereto, ~~and where relevant, a justification for using the delivery mode of the InvestEU~~, taking into account ***and listing*** relevant country-specific recommendations***, as well as regional challenges***; **[Am. 85]**

Wednesday 27 March 2019

(b) for each of the selected policy objectives referred to in point (a):

(i) a summary of the policy choices and the main results expected for each of the Funds~~, including where relevant, through the use of InvestEU~~; **[Am. 86]**

(ii) coordination, demarcation and complementarities between the Funds and, where appropriate, coordination between national and regional programmes***, in particular with regard to CAP Strategic Plans referred to in Regulation (EU) […] (the 'CAP Strategic Plans Regulation')***; **[Am. 87]**

(iii) complementarities ***and synergies*** between the Funds and other Union instruments, including LIFE strategic integrated projects and strategic nature projects***, and, where appropriate, projects funded under Horizon Europe;*** **[Am. 88]**

(iiia) delivery on targets, policies and measures under the National Energy and Climate Plans; **[Am. 89]**

(c) the preliminary financial allocation from each of the Funds by policy objective at national ***and where appropriate at regional*** level, respecting Fund-specific rules on thematic concentration; **[Am. 90]**

(d) ~~where relevant,~~ the breakdown of financial resources by category of regions drawn up in accordance with Article 102 (2) and the amounts of allocations proposed to be transferred between categories of regions pursuant to Article 105; **[Am. 91]**

~~(e) the amounts to be contributed to InvestEU by Fund and by category of regions;~~ **[Am. 92]**

(f) the list of planned programmes under the Funds with the respective preliminary financial allocations by fund and the corresponding national contribution by category of regions;

(g) a summary of the actions which the Member State concerned shall take to reinforce its administrative capacity of the implementation of the Funds ***and its management and control system;*** **[Am. 93]**

(ga) where appropriate, an integrated approach to address the demographic challenges and/ or specific needs of regions and areas; **[Am. 94]**

(gb) a communication and visibility strategy. **[Am. 95]**

The EIB may, at the request of Member States, participate in the preparation of the Partnership Agreement, as well as in activities relating to the preparation of operations, financial instruments and PPPs. **[Am. 96]**

With regard to the European territorial cooperation goal (Interreg), the Partnership Agreement shall only contain the list of planned programmes ***and the cross-border investment needs in the concerned Member State***. **[Am. 97]**

Article 9

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. In its assessment, the Commission shall, ~~in particular,~~ take into account ***the provisions of Article 4 and 6, the*** relevant country-specific recommendations***, as well as the measures linked to integrated national energy and climate plans and the way they are addressed***. **[Am. 98]**

2. The Commission may make observations within ~~three~~ ***two*** months of the date of submission by the Member State of the Partnership Agreement. **[Am. 99]**

3. The Member State shall review the Partnership Agreement taking into account the observations ~~made by~~ the Commission ***within one month of the date of their submission***. **[Am. 100]**

4. The Commission shall adopt a decision by means of an implementing act approving the Partnership Agreement no later than four months after the date of ***the first*** submission of that Partnership Agreement by the Member State concerned. The Partnership Agreement shall not be amended. **[Am. 101]**

5. If, pursuant to Article 7(4), the Partnership Agreement is included in a programme, the Commission shall adopt a decision by means of an implementing act approving that programme no later than six months after the date of submission of that programme by the Member State concerned.

Article 10

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

1. ***As of 1 January 2023,*** Member States***, with the agreement of the managing authorities concerned,*** may allocate, ~~in the Partnership Agreement or~~ in the request for an amendment of a programme, ~~the amount~~ ***up to 2 %*** of ERDF, the ESF+, the Cohesion Fund and the EMFF to be contributed to InvestEU and delivered through budgetary guarantees. ~~The amount to be contributed to InvestEU shall not exceed 5 %~~ ***Up to 3 %*** of the total allocation of each Fund~~, except in duly justified cases~~ ***may be further allocated to InvestEU under the mid-term review***. Such contributions shall ~~not constitute transfers of~~ ***be available for investments in line with cohesion policy objectives and in the same category of regions targeted by the Funds of origin. Whenever an amount of ERDF, ESF+, Cohesion Fund is contributed to Invest EU, the enabling conditions as described in Article 11 and in Annexes III and IV to this Regulation shall apply. Only*** resources ~~under Article 21~~ ***of future calendar years may be allocated***. **[Am. 428]**

~~2. For the Partnership Agreement, resources of the current and future calendar years may be allocated. For the request for an amendment of a programme, only resources of future calendar years may be allocated.~~ **[Am. 103]**

3. The amount referred to in paragraph 1 shall be used for the provisioning of the part of the EU guarantee under the ***respective*** Member State compartment. **[Am. 104]**

4. Where a contribution agreement, as ~~set~~ out in Article [9] of the [InvestEU Regulation], has not been concluded by 31 December ~~2021~~ ***2023*** for an amount referred to in paragraph 1 ~~allocated in the Partnership Agreement~~, the Member State shall submit a request for amendment of a programme or programmes to use the corresponding amount. **[Am. 105]**

The contribution agreement for an amount referred to in paragraph 1 allocated in the request of the amendment of a programme shall be concluded***, or amended as the case may be,*** simultaneously with the adoption of the decision amending the programme. **[Am. 106]**

5. Where a guarantee agreement, as set out in Article [9] of the [InvestEU Regulation], has not been concluded within nine months from the approval of the contribution agreement, the respective amounts paid into the common provisioning fund as a provisioning shall be transferred back to ~~a~~ ***the original*** programme or programmes and the Member State shall submit a corresponding request for a programme amendment. ***In this particular case, resources of past calendar years may be modified, as long as the commitments are not yet implemented.*** **[Am. 107]**

6. Where a guarantee agreement, as set out in Article [9] of the [InvestEU Regulation], has not been fully implemented within four years from the signature of the guarantee agreement, the Member State may request that amounts committed in the guarantee agreement but not covering underlying loans or other risk bearing instruments shall be treated in accordance with paragraph 5.

7. Resources generated by or attributable to the amounts contributed to InvestEU and delivered through budgetary guarantees shall be made available to the Member State and ***the local or regional authority concerned by the contribution and*** shall be used for support under the same objective or objectives in the form of financial instruments. **[Am. 108]**

8. The Commission shall re-budget contributed amounts which have not been used for InvestEU for the year in which the corresponding programme amendment is approved. Such re-budgetisation may not go beyond the year 2027.

The decommitment time limit for the re-budgeted amount in accordance with Article 99 shall start from the year in which the contribution has been re-budgeted.

CHAPTER II

Enabling conditions and performance framework

Article 11

Enabling conditions

1. For each specific objective, prerequisite conditions for its effective and efficient implementation ('enabling conditions') are laid down in this Regulation. ***Enabling conditions shall apply to the extent to which they contribute to the achievement of the specific objectives of the programme.*** **[Am. 109]**

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

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

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 where it considers that an enabling condition is fulfilled, it shall provide justification. ***On the request of a Member State, the EIB may contribute to the assessments of actions needed to fulfil the relevant enabling conditions.*** **[Am. 110]**

3. Where an enabling condition is not fulfilled at the time of approval of the programme or the programme amendment, the Member State shall report to the Commission as soon as it considers the enabling condition fulfilled with justification.

4. The Commission shall, within ~~three~~ ***two*** months of receipt of the information referred to in paragraph 3, perform an assessment and inform the Member State where it agrees with the fulfilment. **[Am. 111]**

Where the Commission disagrees with the assessment of the Member State, it shall inform the Member State accordingly and give it the opportunity to present its observations within ~~one month~~ ***maximum two months***. **[Am. 112]**

5. Expenditure related to operations linked to the specific objective ~~cannot~~ ***may*** be included in payment applications ~~until~~ ***before*** the Commission has informed the Member State of the fulfilment of the enabling condition pursuant to paragraph 4***, without prejudice to the suspension of the reimbursement itself until such time as the condition is fulfilled***. **[Am. 113]**

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

6. The Member State shall ensure that enabling conditions are fulfilled and applied 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 and give it the opportunity to present its observations within one month. Where the Commission concludes that the non-fulfilment of the enabling condition persists, expenditure related to the specific objective concerned cannot be included in payment applications as from the date the Commission informs the Member State accordingly.

7. Annex IV shall not apply to programmes supported by the EMFF.

Article 12

Performance framework

1. The Member State***, where appropriate, in cooperation with local and regional authorities,*** shall establish a performance framework which shall allow monitoring, reporting on and evaluating programme performance during its implementation, and contribute to measuring the overall performance of the Funds. **[Am. 115]**

The performance framework shall consist of:

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

(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 Article ~~[4(e)(vii)]~~ ***[4 (1)(xi)***] of the ESF+ Regulation. **[Am. 116]**

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 13

Methodologies for the establishment of the performance framework

1. The methodologies 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 those methodologies available upon request by the Commission.

Article 14

Mid-term review

1. For programmes supported by the ERDF, the ESF+ and the Cohesion Fund, the Member State ***and relevant managing authorities*** shall review each programme, taking into account the following elements: **[Am. 117]**

(a) ~~the~~ ***new*** challenges identified in relevant country-specific recommendations adopted in 2024 ***and the targets identified in the implementation of the integrated national climate and energy plans, if relevant***; **[Am. 118]**

(b) the socio-economic situation of the Member State or region concerned***, including the state of implementation of the European Pillar of Social Rights and territorial needs with a view to reducing disparities, as well as economic and social inequalities***; **[Am. 119]**

Wednesday 27 March 2019

(c) the progress in achieving the milestones;

(d) the outcome of the technical adjustment as set out in Article 104(2), where applicable;

(da) any major negative financial, economic or social developments which require an adjustment of the programmes, including as a consequence of symmetric or asymmetric shocks in the Member States and their regions. **[Am. 120]**

2. ***In accordance with the outcome of the review,*** the Member State shall submit to the Commission by 31 March 2025 a request for the amendment of each programme in accordance with Article 19(1) ***or state that no amendment is requested***. The Member State shall justify the amendment on the basis of the elements set out in paragraph 1 ***or, as appropriate, give reasons for not requesting the amendment of a programme***. **[Am. 121]**

The revised programme shall include:

(a) the ***revised initial*** allocations of the financial resources by priority including the amounts for the years 2026 and 2027; **[Am. 122]**

(b) revised or new targets;

(ba) the amounts to be contributed to InvestEU per Fund and per category of region, where appropriate; **[Am. 123]**

(c) the revised allocations of the financial resources resulting from the technical adjustment set out in Article 104(2) including the amounts for the years 2025, 2026 and 2027, where applicable.

3. Where as a result of the review a new programme is submitted, the financing plan under point (ii) of Article 17(3)(f) shall cover the total financial appropriation for each of the Funds as of the year of the programme approval.

3a. The Commission shall, by 31 March 2026, adopt a report summarising the results of the review referred to in paragraphs 1 and 2. The Commission shall communicate the report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. **[Am. 124]**

CHAPTER III

Measures linked to sound economic governance

~~*Article 15*~~

~~*Measures linking effectiveness of Funds to sound economic governance*~~

~~1. The Commission may request a Member State to review and propose amendments to 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 Articles 7(2) or 8(2) of Regulation (EU) No 1176/2011 ([36]) of the European Parliament and of the Council provided that these amendments are deemed necessary to help correct the macro-economic imbalances.~~

([36]) 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).

~~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.~~

~~3. The Member State shall submit its response to the request referred to in paragraph 1 within two 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 one month of the receipt of that response.~~

~~4. The Member State shall submit a proposal to amend the relevant programmes within two 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 to the relevant programmes in accordance with the time limit set out in Article [19(4)].~~

~~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 suspend all or part of the payments for the programmes or priorities concerned in accordance with Article 91.~~

~~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 in the following cases:~~

~~(a) where the Council decides in accordance with Article 126(8) or Article 126(11) TFEU that a Member State has not taken effective action to correct its excessive deficit;~~

~~(b) where the Council adopts two successive recommendations in the same imbalance procedure, in accordance with Article 8(3) of Regulation (EU) No 1176/2011 of the European Parliament and of the Council ([37]) on the grounds that a Member State has submitted an insufficient corrective action plan;~~

~~(c) where the Council adopts two successive decisions in the same 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;~~

~~(d) where the Commission concludes that a Member State has not taken measures as referred to in Council Regulation (EC) No 332/2002 ([38]) and as a consequence decides not to authorise the disbursement of the financial assistance granted to that Member State;~~

~~(e) where the Council decides that a Member State does not comply with the macro-economic adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 of the European Parliament and of the Council ([39]), or with the measures requested by a Council decision adopted in accordance with Article 136(1) TFEU.~~

~~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.~~

~~The Commission may, on grounds of exceptional economic circumstances or following a reasoned request by the Member State concerned addressed to the Commission within 10 days of adoption of the decision or recommendation referred to in the previous sub-paragraph, recommend that the Council cancel the suspension referred to in the same sub-paragraph.~~

~~([37])~~ 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).

~~([38])~~ 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).

~~([39])~~ 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).

Wednesday 27 March 2019

8. A proposal by the Commission for 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 one 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 decision to suspend.

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

9. The scope and level of the suspension of commitments or payments to be imposed shall be proportionate, shall respect the equality of treatment between Member States and shall 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 of the Member State concerned in relation 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.

10. 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 under point (a) of paragraph 7;;

(b) in the first case of non- compliance relating to a corrective action plan under an excessive imbalance procedure as referred to under point b of paragraph 7;

(c) in case of non-compliance with the recommended corrective action pursuant to an excessive imbalance procedure as referred to under point (c) of paragraph 7;

(d) in the first case of non-compliance as referred to under points (d) and (e) of paragraph 7.

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

11. The Council shall lift the suspension of commitments on a proposal from the Commission, in accordance with the procedure set out in paragraph 8, in the following cases:

(a) where the excessive deficit procedure is held in abeyance in accordance with Article 9 of Council Regulation (EC) No 1467/97 ([40]) 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 a Member State 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 adjustment programme referred to in Article 7 of Regulation (EU) No 472/2013 or the measures requested by a decision of the Council in accordance with Article 136(1) TFEU.

([40]) 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).

~~After the Council has lifted the suspension of commitments, the Commission shall re-budget the suspended commitments in accordance with Article [8] of Council Regulation (EU, Euratom) [*[…] (MFF regulation)*~~].

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

~~The decommitment time limit for the re-budgeted amount in accordance with Article 99 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 in the first sub-paragraph are fulfilled.~~

~~12. 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 7 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 of commitments.~~

~~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 sub-paragraph.~~

~~The Commission shall transmit the proposal for suspension of commitments or the proposal to lift such a suspension, to the European Parliament and to the Council.~~

~~13. Paragraphs 1 to 12 shall not apply to priorities or programmes under Article [4(c)(v)(ii)] of ESF+ Regulation.~~ **[Am. 425/rev, 444/rev, 448 and 469]**

TITLE III

PROGRAMMING

CHAPTER I

General provisions on the Funds

Article 16

Preparation and submission of programmes

1. Member States ***in cooperation with the partners referred to in Article 6*** shall prepare programmes to implement the Funds for the period from 1 January 2021 to 31 December 2027. **[Am. 140]**

2. Member States shall submit programmes to the Commission no later than 3 months after the submission of the Partnership Agreement.

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, the Member State shall prepare programmes in accordance with the programme template set out in Annex VI.

Article 17

Content of programmes

1. Each programme shall set out a strategy for the programme's contribution to the policy objectives and the communication of its results.

2. A programme shall consist of priorities. Each priority shall correspond to ~~a single~~ ***one or several*** policy ~~objective~~ ***objectives*** or to technical assistance. 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. **[Am. 141]**

Wednesday 27 March 2019

For programmes supported by the EMFF, each priority may correspond to one or more policy objectives. Specific objectives correspond to areas of support as defined in Annex [III] to the EMFF Regulation.

For programmes supported by the AMIF, the ISF and the BMVI, a programme shall consist of 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 EMFF; **[Am. 142]**

(ii) market failures, investment needs and complementarity ***and synergies*** with other forms of support; **[Am. 143]**

(iii) challenges identified in ***the*** relevant country-specific recommendations ~~and other relevant Union recommendations addressed to the Member State~~; **[Am. 144]**

(iv) challenges in administrative capacity and governance ***and simplification measures***; **[Am. 145]**

(iva) an integrated approach to address demographic challenges, where relevant; **[Am. 146]**

(v) lessons learnt from past experience;

(vi) macro-regional strategies and sea-basin strategies where Member States and regions participate in such strategies;

(via) challenges and related objectives identified within National Energy and Climate Plans and in the European Pillar of Social Rights; **[Am. 147]**

(vii) for programmes supported by the AMIF, the ISF and the BMVI, progress in implementing the relevant Union *acquis* and action plans***, as well as identified shortcomings***; **[Am. 148]**

(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, including ~~a~~ ***an indicative*** list ***and timetable*** of planned operations of strategic importance, and their expected contribution to those specific objectives and to macro-regional strategies and sea-basin strategies, where appropriate; **[Am. 149]**

(ii) output indicators and result indicators with the corresponding milestones and targets;

(iii) the main target groups;

(iiia) actions safeguarding equality, inclusion and non-discrimination; **[Am. 150]**

(iv) specific territories targeted, including the planned use of integrated territorial investment, community-led local development or other territorial tools;

(v) the interregional ***, cross-border*** and transnational actions with beneficiaries located in at least one other Member State; **[Am. 151]**

(va) sustainability of investments; **[Am. 152]**

(vi) the planned use of financial instruments;

(vii) the types of intervention and an indicative breakdown of the programmed resources by type of intervention or area of support;

(viia) a description of how complementarities and synergies with other Funds and instruments are to be pursued; **[Am. 153]**

(e) the planned use of technical assistance in accordance with Articles 30 to 32 and relevant types of intervention;

(f) a financing plan containing:

(i) a table specifying the total financial allocations for each of the Funds and for each category of region for the whole programming period and by year, including any amounts transferred pursuant to Article 21;

(ii) a table specifying the total financial allocations for each priority by Fund and by category of region and the national contribution and whether it is made up of public and private contribution;

(iii) for programmes supported by the EMFF, a table specifying for each type of area of support, 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 and private contribution;

(g) the actions taken to involve the relevant partners referred to in Article 6 in the preparation of the programme, and the role of those partners in the implementation, monitoring and evaluation of the programme;

(h) for each enabling condition, established in accordance with Article 11, Annex III and Annex IV, an assessment of whether the enabling condition is fulfilled at the date of submission of the programme;

(i) the envisaged approach to communication and visibility for the programme through defining its objectives, target audiences, communication channels, ***where appropriate*** social media outreach, ***as well as*** planned budget and relevant indicators for monitoring and evaluation; **[Am. 154]**

(j) the managing authority, the audit authority***, the body responsible for the accounting function under Article 70,*** and the body which receives payments from the Commission. **[Am. 155]**

Points (c) and (d) of this paragraph shall not apply to the specific objective set out in Article ~~[4(c)(vii)]~~ ***[4(1)(xi)]*** of the ESF+Regulation. **[Am. 156]**

An environmental report containing relevant information on the effects on the environment in accordance with Directive 2001/42/EC shall be annexed to the programme, taking into account climate change mitigation needs. **[Am. 157]**

4. By way of derogation from point (d) 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 operational objectives;

(c) an indicative list of actions and their expected contribution to the specific and operational objectives;

(d) where applicable, a justification for the operating support, specific actions, emergency assistance, and actions as referred to in Articles [16 and 17] 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 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+ and Cohesion Fund programmes submitted in accordance with Article 16, the table referred to in paragraph (3)(f)(ii) shall include the amounts for the years 2021 to ~~2025 only~~ ***2027***. **[Am. 158]**

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

Article 18

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 its consistency with the Partnership Agreement. In its assessment, the Commission shall, in particular, take into account relevant country-specific recommendations***, as well as relevant challenges identified in the implementation of the Integrated National Energy and Climate Plans and in the European Pillar of Social Rights and the way they are addressed***. **[Am. 160]**

2. The Commission may make observations within ~~three~~ ***two*** months of the date of submission of the programme by the Member State. **[Am. 161]**

3. The Member State shall review the programme taking into account the observations made by the Commission ***within two months of their submission***. **[Am. 162]**

4. The Commission shall adopt a decision by means of an implementing act approving the programme no later than ~~six~~ ***five*** months after the date of ***the first*** submission of the programme by the Member State. **[Am. 163]**

Article 19

Amendment of programmes

1. The Member State may submit a motivated 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 ~~three~~ ***two*** months of the submission of the amended programme. **[Am. 164]**

3. The Member State shall review the amended programme and take into account the observations made by the Commission ***within two months of their submission***. **[Am. 165]**

4. The Commission shall approve the amendment of a programme no later than ~~six~~ ***three*** months after its submission by the Member State. **[Am. 166]**

5. The Member State may transfer during the programming period an amount of up to ~~5 %~~ ***7 %*** of the initial allocation of a priority and no more than ~~3 %~~ ***5 %*** of the programme budget to another priority of the same Fund of the same programme. ***In doing so the Member State shall respect the code of conduct established by the Commission Delegated Regulation (EU) No 240/2014.*** For the programmes supported by the ERDF and ESF+, the transfer shall only concern allocations for the same category of region. **[Am. 167]**

Such transfers shall not affect previous years. They shall be considered to be not substantial and shall not require a decision of the Commission amending the programme. They shall however, comply with all regulatory requirements. The Member State shall submit to the Commission the revised table referred to under points (f)(ii), (f)(iii) or (f)(iv) of Article 17(3) as applicable.

6. The approval of the Commission shall not be required for corrections of a purely clerical***, technical*** or editorial nature that do not affect the implementation of the programme. Member States shall inform the Commission of such corrections. **[Am. 168]**

7. For programmes supported by the EMFF, amendments to the programmes relating to the introduction of indicators shall not require the approval of the Commission.

Article 20

Joint support from the ERDF, the ESF+ and the Cohesion Fund

1. The ERDF, the ESF+ and the Cohesion Fund 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 ~~10 %~~ ***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. **[Am. 169]**

Article 21

Transfer of resources

1. ***For the purpose of ensuring flexibility,*** Member States may request***, if agreed by the monitoring committee of the programme,*** the transfer of up to 5 % of programme financial allocations from any of the Funds to ~~any other Fund under shared management or to any instrument under direct or indirect management~~ ***the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, or the European Maritime and Fisheries Fund***. **[Am. 170]**

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~~. **[Ams 171 and 434]**

3. Requests under paragraph 1 shall set out the total amount transferred for each year by Fund and by category of region, where relevant, shall be duly justified ***with a view to the complementarities and impact to be achieved,*** and shall be accompanied by the revised programme or programmes, from which the resources are to be transferred in accordance with Article 19 indicating to which other Fund or instrument the amounts are transferred. **[Ams 172, 433 and 434]**

4. The Commission may object to a request for transfer in the related programme amendment where this would undermine the achievement of the objectives of the programme from which the resources are to be transferred.

5. Only resources of future calendar years may be transferred.

Wednesday 27 March 2019

CHAPTER Ia

***Major projects* [Am. 173]**

Article 21a

Content

***As part of a programme or programmes, the ERDF and the Cohesion Fund may support an operation comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and for which the total eligible cost exceeds EUR 100 000 000 (the 'major project'). Financial instruments shall not be considered to be major projects.* [Am. 174]**

Article 21b

Information necessary for the approval of a major project

Before a major project is approved, the managing authority shall submit to the Commission the following information:

(a) details concerning the body to be responsible for implementation of the major project, and its capacity;

(b) a description of the investment and its location;

(c) the total cost and total eligible cost;

(d) feasibility studies carried out, including the options analysis, and the results;

(e) a cost-benefit analysis, including an economic and a financial analysis, and a risk assessment;

(f) an analysis of the environmental impact, taking into account climate change adaptation and mitigation needs, and disaster resilience;

(g) an explanation as to how the major project is consistent with the relevant priorities of the programme or programmes concerned, and its expected contribution to achieving the specific objectives of those priorities and the expected contribution to socio-economic development;

(h) the financing plan showing the total planned financial resources and the planned support from the Funds, the EIB, and all other sources of financing, together with physical and financial indicators for monitoring progress, taking account of the identified risks;

***(i) the timetable for implementing the major project and, where the implementation period is expected to be longer than the programming period, the phases for which support from the Funds is requested during the programming period.* [Am. 175]**

Article 21c

Decision on a major project

1. The Commission shall appraise the major project on the basis of the information referred to in Article 21b in order to determine whether the requested financial contribution for the major project selected by the managing authority is justified. The Commission shall adopt a decision on the approval of the financial contribution to the selected major project, by means of an implementing act, no later than three months after the date of submission of the information referred to in Article 21b.

2. The approval by the Commission under paragraph 1 shall be conditional on the first works contract being concluded, or, in the case of operations implemented under PPP structures, on the signing of the PPP agreement between the public body and the private sector body, within three years of the date of the approval.

3. Where the Commission does not approve the financial contribution to the selected major project, it shall give in its decision the reasons for its refusal.

4. Major projects submitted for approval under paragraph 1 shall be contained in the list of major projects in a programme.

5. Expenditure relating to a major project may be included in a payment application after the submission for approval referred to in paragraph 1. Where the Commission does not approve the major project selected by the managing authority, the declaration of expenditure following the withdrawal of the application by the Member State or the adoption of the Commission decision shall be rectified accordingly. **[Am. 176]**

CHAPTER II

Territorial development

Article 22

Integrated territorial development

The Member State shall support integrated territorial development through territorial and local development strategies in any of the following forms:

(a) integrated territorial investments;

(b) community-led local development;

(c) another territorial tool supporting initiatives designed by the Member State for investments programmed ~~for the ERDF~~ under the policy objective referred in Article 4(1)(e). **[Am. 177]**

The Member State shall ensure coherence and coordination when local development strategies are financed by more than one Fund. **[Am. 178]**

Article 23

Territorial strategies

1. Territorial strategies implemented pursuant to points (a) or (c) of Article 22 shall contain the following elements:

(a) the geographical area covered by the strategy ***including economic, social and environmental interlinkages***; **[Am. 179]**

(b) an analysis of the development needs and the potential of the area;

(c) a description of an integrated approach to address the identified development needs and the potential;

(d) a description of the involvement of partners ~~in accordance with~~ ***under*** Article 6 in the preparation and in the implementation of the strategy. **[Am. 180]**

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

2. Territorial strategies shall be ~~drawn up~~ ***prepared and endorsed*** under the responsibility of the relevant ~~urban~~ ***regional***, local ~~or~~ ***and*** other ***public authorities. Pre-existing strategic documents concerning the covered areas may be updated and used for*** territorial ~~authorities or bodies~~ ***strategies***. **[Am. 181]**

3. Where the list of operations to be supported has not been included in the territorial strategy, the relevant ~~urban~~ ***regional***, local or other territorial authorities or bodies shall select or shall be involved in the selection of operations. **[Am. 182]**

Selected operations shall comply with the territorial strategy.

3a. When preparing territorial strategies, the authorities 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. **[Am. 183]**

4. Where ~~an urban~~ ***a regional***, local or other ~~territorial~~ ***public*** authority or ***other*** 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. **[Am. 184]**

The selected operations may be supported under more than one priority of the same programme. **[Am. 185]**

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

Article 24

Integrated territorial investment

1. Where a strategy implemented in accordance with Article 23 involves investments that receive support from one or more ~~Funds~~ ***than one Fund***, 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 ('ITI'). ***Where appropriate, each ITI may be complemented by financial support from the EAFRD.*** **[Am. 186]**

2. The managing authority shall ensure that the electronic system for the programme or programmes provides for the identification of operations and outputs and results contributing to an ITI.

2a. Where the list of operations to be supported has not been included in the territorial strategy, the relevant regional, local, other public authorities or bodies shall be involved in the selection of operations. **[Am. 187]**

Article 25

Community-led local development

1. The ERDF, the ESF+, ~~and~~ the EMFF ~~may~~ ***and the EAFRD shall*** support community-led local development. ***In the context of the EAFRD, such development shall be designated as LEADER local development.*** **[Am. 188]**

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 socio-economic interests, in which no single interest group***, including the public sector,*** controls the decision-making; **[Am. 189]**

(c) carried out through integrated strategies in accordance with Article 26;

(d) supportive of networking***, bottom-up approaches, accessibility***, innovative features in the local context and, where appropriate, cooperation with other territorial actors. **[Am. 190]**

3. Where support to strategies referred to in paragraph 2(c) 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 28 (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. ***The type of measures and operations to be financed by each affected Fund may also be specified.*** **[Am. 191]**

5. 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 Lead Fund authority.

6. The authorities 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 Regulation.

Article 26

Community-led local development strategies

1. The relevant managing authorities shall ensure that each strategy referred to in Article 25(2)(c) 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 ***in response to local needs as identified by the local community***; **[Am. 192]**

(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***, including where appropriate the EAFRD,*** and ***each*** programme concerned. **[Am. 193]**

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 27(3) within 12 months of the date of the approval of the relevant programme or, in the case of strategies supported by more than one Fund, within 12 months of the date of the approval of 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. ***Corresponding national public contributions shall be guaranteed upfront for the whole period.*** **[Am. 194]**

Article 27

Local action groups

1. Local action groups shall design and implement the strategies referred to in Article 25(2)(c).

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***, in order to implement tasks relating to the community-led local development strategy***. **[Am. 195]**

3. The local action groups, exclusively, shall carry out all of the following tasks:

(a) building the ***administrative*** capacity of local actors to develop and implement operations; **[Am. 196]**

(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, those 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***, encouraging the separation of functions inside the local action group***. **[Am. 197]**

Article 28

Support from Funds for community-led local development

1. ***With a view to ensuring complementarities and synergies,*** the Member State shall ensure that support from the Funds for community-led local development covers: **[Am. 198]**

(a) ***administrative*** capacity building and preparatory actions supporting the design and future implementation of the strategies; **[Am. 199]**

(b) the implementation of operations, including cooperation activities and their preparation, selected under the local development strategy;

(ba) animation of the community-led local development strategy in order to facilitate exchange between stakeholders, to provide them with information and to support potential beneficiaries in their preparation of applications; **[Am. 200]**

(c) the management, monitoring and evaluation of the strategy and its animation.

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.

Wednesday 27 March 2019

CHAPTER III

Technical assistance

Article 29

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.

1a. The actions referred to in the first subparagraph 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 6(1) and their umbrella organisations. **[Am. 201]**

1b. The Commission shall dedicate at least 15 % of the resources for technical assistance at the initiative of the Commission to bring about 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 on 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. **[Am. 202]**

2. Such actions may cover ~~future and~~ previous ***and future*** programming periods. **[Am. 203]**

2a. In order to avoid situations where payments are suspended, the Commission shall ensure that Member States and regions which face compliance concerns due to a lack of administrative capacity receive adequate technical assistance to improve that administrative capacity. **[Am. 204]**

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

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

Article 30

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***, for the capacity building of the partners referred to in Article 6, as well as to ensure functions such as preparation, training, management, monitoring, evaluation, visibility and communication***. **[Am. 205]**

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

3. Within each programme, technical assistance shall take the form of a priority relating to ***either*** one single Fund ***or several Funds***. **[Am. 206]**

Article 31

Flat-rate financing for technical assistance of Member States

1. Technical assistance to each programme shall be reimbursed as a flat-rate by applying the percentages set out in paragraph 2 to the eligible expenditure included in each payment application pursuant to Article 85(3)(a) or (c) as appropriate.

2. ***On the basis of an agreement between the Commission and the Member States and taking into account the programme financial plan,*** the percentage of the Funds reimbursed for technical assistance ~~shall be the following~~ ***may be up to***: **[Am. 207]**

(a) for the ERDF support under the Investment for jobs and growth goal, and for the Cohesion Fund support: ~~2,5 %~~ ***3 %***; **[Am. 208]**

(b) for the ESF+ support: ~~4 %~~ ***5 %*** and for programmes under Article ~~4(1)(c)(vii)~~ ***4(1)(xi)*** of the ESF+ Regulation: ~~5 %~~ ***6 %***; **[Am. 209]**

(c) for the EMFF support: 6 %;

(d) for the AMIF, the ISF and the BMVI support: ~~6 %~~ ***7 %***. **[Am. 210]**

For the outermost regions, for (a), (b), (c) the percentage shall be up to 1 % higher. **[Am. 211]**

3. Specific rules for technical assistance for Interreg programmes shall be set out in the ETC Regulation .

Article 32

Financing not linked to costs for technical assistance of Member States

In addition to Article 31, the Member State may propose to undertake additional technical assistance actions to reinforce the ***institutional*** capacity ~~of Member State~~ ***and efficiency of public*** authorities ***and services***, beneficiaries and relevant partners necessary for the effective administration and use of the Funds. **[Am. 212]**

Support for such actions shall be implemented by financing not linked to costs in accordance with Article 89. ***Technical assistance in the form of an optional specific programme may be implemented either through financing not linked to costs for technical assistance or through reimbursement of direct costs***. **[Am. 213]**

TITLE IV

MONITORING, EVALUATION, COMMUNICATION AND VISIBILITY

CHAPTER I

Monitoring

Article 33

Monitoring committee

1. The Member State shall set up a committee to monitor the implementation of the programme ('monitoring committee')***, after consultation with the managing authority,*** within three months of the date of notification to the Member State concerned of the decision approving the programme. **[Am. 214]**

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***, taking into account the need for full transparency***. **[Am. 215]**

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 Member State shall publish the rules of procedures of the monitoring committee and all the data and information shared with the monitoring committee on the website referred to in Article 44(1).

5. Paragraphs 1 to 4 shall not apply to programmes under Article ~~[4(c)(vi)]~~ ***[4(1)(xi)]*** of the ESF+ Regulation and related technical assistance. **[Am. 216]**

Wednesday 27 March 2019

Article 34

Composition of the monitoring committee

1. The 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 6 ***through a transparent process***. **[Am. 217]**

Each member of the monitoring committee shall have a vote.

The Member State shall publish the list of the members of the monitoring committee on the website referred to in Article 44(1).

2. Representatives of the Commission shall participate in the work of the monitoring committee in ***a monitoring and*** an advisory capacity. ***Representatives of the EIB may be invited to participate in the work of the monitoring committee, in an advisory capacity, where appropriate.*** **[Am. 218]**

2a. For the AMIF, the ISF and the BMVI, relevant decentralised agencies shall participate in the work of the monitoring committee in an advisory capacity. **[Am. 219]**

Article 35

Functions of the monitoring committee

1. The monitoring committee shall examine:

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

(aa) proposals for possible simplification measures for beneficiaries; **[Am. 220]**

(b) any issues that affect the performance of the programme and the measures taken to address those issues***, including also any irregularities, where appropriate***; **[Am. 221]**

(c) the contribution of the programme to tackling the challenges identified in the relevant country-specific recommendations;

(d) the elements of the *ex ante* assessment listed in Article 52(3) and the strategy document referred to in Article 53(2);

(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. **[Am. 222]**

2. The monitoring committee shall approve:

(a) the methodology and criteria used for the selection of operations, including any changes thereto, after consultation with the Commission pursuant to Article 67(2), without prejudice to points (b), (c) and (d) of Article 27(3);

(b) the annual performance reports for programmes supported by the EMFF, the ~~AMF~~ ***AMIF***, the ISF and the BMVI, and the final performance report for programmes supported by the ERDF, the ESF+ and the Cohesion Fund; **[Am. 224]**

(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 19(5) and Article 21;

(da) changes to the list of planned operations of strategic importance referred to in point (d) of Article 17(3). **[Am. 225]**

2a. The monitoring committee may propose to the managing authority further functions of intervention. **[Am. 226]**

Article 36

Annual performance review

1. An annual review meeting shall be organised between the Commission and each Member State to examine the performance of each programme. ***Managing authorities shall be duly involved in this process.*** **[Am. 227]**

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

2. 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+ and the Cohesion Fund, the Member State shall no later than one month before the annual review meeting provide the Commission with the information on the elements listed in Article 35 (1).

For programmes under Article [4(1)(c)(vii)] of the ESF+ Regulation, the information to be provided shall be limited to points (a), (b), (e), (f) and (h) of Article 35(1).

4. The outcome of the annual review meeting shall be recorded in agreed minutes.

5. The Member State shall follow up issues raised by the Commission and inform the Commission within three months of the measures taken.

6. For programmes supported by the EMFF, the ~~AMF~~ ***AMIF***, the ISF and the BMVI, the Member State shall submit an annual performance report in accordance with the Fund-specific Regulations. **[Am. 228]**

Article 37

Transmission of data

1. The managing authority shall electronically transmit to the Commission cumulative data for each programme by 31 January, 31 March, 31 May, 31 July, 30 September and 30 November of each year in accordance with the template set out in Annex VII.

The first transmission shall be due by ~~31 January~~ ***28 February*** 2022 and the last one by ~~31 January~~ ***28 February*** 2030. **[Am. 229]**

For programmes under Article ~~4(1)(c)(vii)~~ ***4(1)(xi)*** of the ESF+ Regulation, data shall be transmitted annually by 30 November. **[Am. 230]**

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

(a) ***in the data transmissions due by 31 January, 31 March, 31 May, 31 July, 30 September and 30 November of each year,*** 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 types of intervention; **[Am. 231]**

(b) ***in the data transmissions due by 31 May and 30 November of each year only,*** the values of output and result indicators for selected operations and values achieved by operations. **[Am. 232]**

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 54 and resources returned attributable to support from the Funds as referred to in Article 56.

4. The data submitted in accordance with this Article shall be reliable and up-to-date as of the end of the month preceding the month of submission.

5. The managing authority shall publish all the data transmitted to the Commission on the website referred to in Article 44(1).

6. For programmes supported by the EMFF, the Commission shall adopt an implementing act in accordance with the advisory procedure referred to in Article 109(2) in order to establish the template to be used for the implementation of this Article.

Article 38

Final performance report

1. For programmes supported by the ERDF, the ESF+ and the Cohesion Fund, 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 35(1) with the exception of the information provided under Article 35(1)(d).

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 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 three months, of measures taken. The Commission shall inform the Member State of the acceptance of the report.

4. The managing authority shall publish final performance reports on the website referred to in Article 44(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 108.

CHAPTER II

Evaluation

Article 39

Evaluations by the Member State

1. The managing authority shall carry out evaluations of the programme. Each evaluation shall assess the programme's ***inclusiveness, non-discriminatory nature,*** effectiveness, efficiency, relevance, coherence***, visibility*** and EU added value with the aim to improve the quality of the design and implementation of programmes. **[Am. 233]**

2. In addition, the managing authority shall carry out an evaluation for each programme to assess its impact by 30 June 2029.

3. The managing authority shall entrust evaluations to functionally independent experts.

4. The managing authority or the Member State shall ensure the necessary procedures to produce and collect the data necessary for evaluations.

5. The managing authority or the Member State shall draw up an evaluation plan. That evaluation plan 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 managing authority shall submit the evaluation plan to the monitoring committee no later than one year after the approval of the programme.

7. The managing authority shall publish all evaluations on the website referred to in Article 44(1).

Article 40

Evaluation by the Commission

1. The Commission shall carry out a mid-term evaluation to examine the effectiveness, efficiency, relevance, coherence and EU 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 EU added value of each Fund by 31 December 2031.

2a. The evaluation referred to in paragraph 2 shall include an evaluation of the socio-economic impact and the funding needs under the policy objectives referred to in Article 4(1), within and among the programmes with a focus on a more competitive and smarter Europe by promoting innovative and smart economic transformation and a more connected Europe by enhancing mobility, including smart and sustainable mobility and regional ICT connectivity. The Commission shall publish the results of the 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. **[Am. 234]**

CHAPTER III

Visibility, transparency and communication

SECTION I

VISIBILITY OF SUPPORT FROM THE FUNDS

Article 41

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 42

Emblem of the Union

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

Article 43

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 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 networks; educational and research institutions;

(b) other relevant partners and bodies***, including regional, local and other public authorities, and economic and social partners***. **[Am. 235]**

2. Each managing authority shall identify a communication officer for each programme ('programme communication officer').

3. The Commission shall run a network comprising communication coordinators, programme 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 44

Responsibilities of the managing authority

1. The managing authority shall ensure that, within six months of the programme's approval, there is a website where information on programmes under its responsibility is available, covering the programme's objectives, activities, ***indicative timetable for calls for proposals,*** available funding opportunities and achievements. **[Am. 236]**

2. The managing authority shall publish on the website referred to in paragraph 1, at the latest one month before the opening of a call for proposal, a short summary of planned and published calls for proposals with the following 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 Union and shall update that list at least every three 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 the contractor's*** name; **[Am. 237]**

(b) where the beneficiary is a natural person the first name and the surname;

(c) for EMFF operations linked to a fishing vessel, the Union fishing fleet register identification number as referred to in Commission Implementing Regulation (EU) 2017/218 ([41]);

(d) name of the operation;

(e) the purpose of the operation and its 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 region on NUTS 2 level where the beneficiary is a natural person;

(n) type of intervention for the operation in accordance with Article 67(3)(g);

For data referred to in points (b), (c) and (k) of the first sub-paragraph, the data shall be removed after two years from the date of the initial publication on the website.

For programmes supported by the EMFF, the data referred to in points (b) and (c) of the first sub-paragraph shall only be published if such publication is in line with national law on the protection of personal data.

4. The data referred to in paragraphs 2 and 3 shall be published on the website in open, machine-readable formats, as set out in Article 5(1) of the Directive 2003/98/EC ([42]) of the European Parliament and of the Council, which allows data to be sorted, searched, extracted, compared and reused.

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 all communication and visibility material including at the level of beneficiaries is made available upon request to Union Institutions, bodies 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 VIII.

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

([42]) Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ L 345, 31.12.2003, p. 90).

Article 45

Responsibilities of beneficiaries

1. Beneficiaries and bodies implementing financial instruments shall acknowledge support from the Funds, including resources reused in accordance with Article 56, to the operation by:

(a) providing on the beneficiary's professional website ~~or~~ ***and*** social media sites, where such sites exist, 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; **[Am. 240]**

(b) providing a statement highlighting the support from the Funds in a visible manner on documents and communication material relating to the implementation of the operation, used for the public or for participants;

(c) ~~publicly~~ displaying ***permanent*** plaques or billboards ***clearly visible to the public*** as soon as the physical implementation of operations involving physical investment or the purchase of equipment starts, with regard to the following: **[Am. 241]**

(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 EMFF, the ISF, the AMIF and the BMVI the total cost of which exceeds EUR 100 000.

(d) for operations not falling under point (c), publicly displaying ***at a location clearly visible to the public*** at least one printed or electronic display of a minimum size A3 with information about the operation highlighting the support from the Funds; **[Am. 243]**

(e) for operations of strategic importance and operations whose total cost exceed EUR 10 000 000 organising a communication event and involving the Commission and the responsible managing authority in a timely manner;

(ea) publicly and permanently displaying, as of the moment of the physical implementation, the Union emblem in a way that is clearly visible to the public and in accordance with the technical characteristics laid down in Annex VIII. **[Am. 244]**

For operations supported under the specific objective set out in Article ~~4(1)(c)(vii)~~ ***4(1)(xi)*** of the ESF+ Regulation, this requirement shall not apply. **[Am. 245]**

2. For small project funds, the beneficiary shall ensure that final recipients comply with the requirements set out in paragraph 1.

For financial instruments, the beneficiary shall ensure 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 42 or paragraphs 1 and 2 of this Article, the Member State shall apply a financial correction by cancelling up to 5 % of the support from the Funds to the operation concerned.

TITLE V

FINANCIAL SUPPORT FROM THE FUNDS

CHAPTER I

Forms of Union contribution

Article 46

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 89 and based on either of the following:

(i) the fulfilment of conditions;

(ii) the achievement of results;

(b) reimbursement of eligible costs actually incurred by beneficiaries or the private partner of PPP operations and paid in implementing operations;

(c) unit costs in accordance with Article 88, 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 88, 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 88, 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 47

Forms of support

Member States shall use the contribution from the Funds to provide support to beneficiaries in the form of grants, ***limited use of*** financial instruments or prizes or a combination thereof. **[Am. 246]**

SECTION I

FORMS OF GRANTS

Article 48

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, including 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.

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 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 the first sub-paragraph.

Wednesday 27 March 2019

In addition, allowances and salaries paid to participants may be reimbursed in accordance with point (a) of the first sub-paragraph.

2. The amounts for the forms of grants referred to under point (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 this Regulation or the Fund-specific Regulations.

Article 49

Flat-rate financing for indirect costs concerning grants

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

(a) a flat rate of 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) a flat rate of 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) a flat rate of up to 25 % of eligible direct costs, provided that the rate is calculated in accordance with Article 48(2)(a) ***or 48(2)(c)***. **[Am. 247]**

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

Article 50

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 ([43]) or in Article 15 of Directive 2014/25/EU of the European Parliament and of the Council ([44]).

([43]) 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).

([44]) 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).

For the AMIF, the ISF and the BMVI, any costs subject to public procurement and the direct staff costs of that operation shall be excluded from the basis for calculation of the flat rate.

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***, with expected additional costs in order to take account of factors such as increases in tariffs or staff promotions,*** by 1 720 hours for persons working full time, or by a corresponding pro-rata of 1 720 hours, for persons working part-time; **[Am. 248]**

(b) by dividing the latest documented monthly gross employment costs***, with expected additional costs in order to take account of factors such as increases in tariffs or staff promotions,*** by the monthly working time of the person concerned in accordance with applicable national legislation referred to in the contract for employment. **[Am. 249]**

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 contract for employment, 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 51

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 AMIF, the ISF, the BMVI, the ESF+ and the ERDF, 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 50(1).

SECTION II

FINANCIAL INSTRUMENTS

Article 52

Financial instruments

1. Managing authorities may provide a programme contribution, under one or more programmes, to financial instruments set up at national, regional, transnational or cross border level and managed 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 new investments expected to be financially viable, such as generating revenues or savings, and which do not find sufficient funding from market sources. ***Such support may target investments in both tangible and intangible assets as well as working capital, in compliance with applicable Union State aid rules.*** **[Am. 250]**

3. 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 decide to 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 expected leverage effect***, accompanied by the relevant assessments***; **[Am. 251]**

(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 and 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 any form of Union contribution, including from the same Fund and may cover the same expenditure item. In that case, the Funds' financial instrument support, 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 ancillary programme support in the form of grants as 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 case~~ ***Where the amount of the programme support in the form of grant is less than the amount of programme support in the form of a financial instrument,*** the rules applicable to financial instruments shall apply ~~to that single financial instrument operation~~. **[Am. 252]**

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 53

Implementation of financial instruments

1. Financial instruments managed 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 including all the elements set outin Annex IX.

2. Financial instruments managed under the responsibility of the managing authority may be set up as 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 within an institution.

The managing authority shall select the body implementing a financial instrument ***either through direct or indirect award of a contract***. **[Am. 253]**

The managing authority may entrust implementation tasks through a direct award to:

(a) the EIB;

(b) an international financial institution in which a Member State is a shareholder;

(c) a publicly-owned bank or institution, established as a legal entity and carrying out financial activities on a professional basis. **[Am. 254]**

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

3. 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 IX.

4. 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.

5. The bodies implementing the financial instruments concerned, or in the context of guarantees, the body providing the underlying loans, shall select 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 process of final recipients shall be transparent, justified by the nature of the action and shall not give rise to a conflict of interest.

6. 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.

7. The managing authority, in managing the financial instrument pursuant to paragraph 2, or the body implementing the financial instrument, in managing the financial instrument pursuant to paragraph 3, shall keep separate accounts or maintain an accounting code per priority and per each category of region***, or by type of intervention for the EAFRD,*** for each programme contribution and separately for resources referred to in Articles 54 and 56 respectively. **[Am. 255]**

7a. Reporting requirements on the financial instrument's use for the intended purposes shall be limited to the managing authorities and to financial intermediaries. **[Am. 256]**

Wednesday 27 March 2019

Article 54

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 interest-bearing accounts in financial institutions domiciled within Member States and shall be managed in line with active treasury management and 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, 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; or***, ***where applicable, to cover the losses in the nominal amount of the Funds contribution to the financial instrument that result from negative interest, if such losses occur despite active treasury management by the bodies implementing financial instruments***, until the end of the eligibility period. **[Am. 257]**

3. Interest and other gains referred to in paragraph 2 not used in accordance with that provision shall be deducted from the eligible expenditure.

Article 55

Differentiated treatment of investors

1. Support from the Funds to financial instruments invested in final recipients as well as any type of income generated by those investments, which are attributable to the support from the Funds, may be used for differentiated treatment of investors operating under the market economy principle***, or for other forms of Union support,*** through an appropriate sharing of risks and profits profits ***taking into account the principle of sound financial management***. **[Am. 258]**

2. The level of such differentiated treatment shall not exceed what is necessary to create incentives for attracting private resources, established by either a competitive process or ~~an independent~~ ***the ex ante*** assessment ***performed in line with Article 52 of this Regulation***. **[Am. 259]**

Article 56

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 as agreed in 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, under the same specific objective or objectives and for any management costs and fees associated to such further investments***, taking into account the principle of sound financial management***. **[Am. 260]**

Savings through more efficient operations shall not be considered to constitute generated income for the purposes of the first subparagraph. In particular, cost savings resulting from energy efficiency measures shall not result in a corresponding reduction in operating subsidies. **[Am. 261]**

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 eight 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 57

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~~ ***2030***. **[Am. 262]**

For costs reimbursed pursuant to points (b) and (c) of Article 48(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 102 (2) within a Member State shall be allocated to the categories of regions concerned on a *pro rata* basis, based on objective criteria.

For the ESF+, expenditure related to operations shall contribute to the achievement of the specific objectives of the programme.

4. All or part of an operation ***under the ERDF, the ESF+ or the Cohesion Fund*** may be implemented outside of a Member State, including outside the Union, provided that the operation ***falls under one of the five components of the European territorial cooperation goal (Interreg) as defined in Article 3 of the Regulation (EU) […] ('the ETC Regulation') and*** contributes to the objectives of the programme. **[Am. 263]**

5. For grants taking the forms of points (b), (c) and (d) of Article 48(1), the expenditure which shall be eligible for a contribution from the Funds shall equal the amounts calculated in accordance with Article 48(2).

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 to the managing authority, irrespective of whether all related payments have been made. ***This paragraph shall not apply to EMFF compensation for additional costs in outermost regions or expenditure financed by specific supplementary ERDF and ESF+ allocations for outermost regions.*** **[Am. 264]**

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, that shall be the case where a new type of intervention referred to in Table 1 of Annex I or, for 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 in the context of the mid-term review in accordance with Article 14, 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.

Wednesday 27 March 2019

Article 58

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 ***or in relation to a contribution to financial instruments that results from negative interest***; **[Am. 265]**

(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 guarantees those percentages shall apply to the amount of the underlying loan.

~~(c) value added tax ('VAT'), except for operations the total cost of which is below EUR 5 000 000.~~ **[Am. 266]**

For point (b), the limits shall not apply to operations concerning environmental conservation.

The eligibility for value added tax ('VAT') operations shall be determined on a case-by-case approach, except for operations the total cost of which is below EUR 5 000 000, and for investments and expenditure by final recipients. **[Am. 267]**

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

Article 59

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 five 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;

(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 three years in ***the duly justified*** cases ***referred to in points (a), (b) and (c)*** concerning the maintenance of ~~investments or~~ jobs created by SMEs. **[Am. 268]**

2. Operations supported by the ESF+ shall repay the support from the ESF+ only 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 from financial instruments and*** any operation which undergoes cessation of a productive activity due to a non-fraudulent bankruptcy. **[Am. 269]**

Article 60

Relocation

1. Expenditure supporting relocation as defined in Article 2(26) 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 Commission Regulation (EU) No 651/2014.

Article 61

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 Article shall be certified by an independent qualified expert or duly authorised official body and shall not exceed the limit laid down in Article 58(1)(b).

2. Depreciation costs for which no payment supported by invoices has been made, may be considered as 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 Article 48(1)(a);

(c) the costs relate exclusively to the period of support for the operation;

(d) public grants have not contributed towards the acquisition of the depreciated assets.

Article 62

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 as agreed in 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 as agreed in 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 covering a multiple amount of 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 52(5);

(d) payments of management fees and reimbursements of management costs incurred by the bodies implementing the financial instrument.

2. For point (b) of paragraph 1, the multiplier ratio shall be established in a prudent *ex ante* risk assessment and agreed in the relevant funding agreement. The multiplier ratio may be reviewed, where justified by subsequent changes in market conditions. Such a review shall not have retroactive effect.

3. For point (d) of paragraph 1, management fees shall be performance based***. For the first twelve months of implementation of the financial instrument, base remuneration for management costs and fees shall be eligible***. Where bodies implementing a holding fund and/or specific funds, pursuant to Article ~~53(3)~~ ***53(2)***, are selected through a direct award of contract, the amount of management cost 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, equity or quasi-equity investments or set aside as agreed in guarantee contracts. **[Am. 270]**

~~That threshold is not applicable~~ Where the selection of bodies implementing financial instruments is made through a competitive tender in accordance with the applicable law and the competitive tender establishes the need for a higher level of management costs and fees ***which shall be performance-based***. **[Am. 271]**

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

5. 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 63

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 sound financial management and the key requirements listed in Annex X.

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. ***Member States shall fully cooperate with OLAF.*** **[Am. 272]**

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***, independence*** and reliability of the monitoring system and of data on indicators. **[Am. 273]**

5. Member States shall have systems and procedures to ensure that all documents required for the audit trail asset out in Annex XI are kept in accordance with the requirements set out in Article 76.

6. Member Stated shall make arrangements for ensuring 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.*** They shall, upon request by the Commission ***in accordance with Article 64(4a)***, examine complaints submitted to the Commission falling within the scope of their programmes and shall inform the Commission of the results of those examinations. **[Am. 274]**

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.

7. Member States shall ensure that all exchanges of information between beneficiaries and the programme authorities are carried out by means of ***user-friendly*** electronic data exchange systems in accordance with Annex XII. **[Am. 275]**

For programmes supported by the EMFF, the AMIF, the ISF and the BMVI, the first sub-paragraph shall apply as from 1 January ~~2023~~ ***2022***. **[Am. 276]**

The first sub-paragraph shall not apply to programmes under Article ~~[4(1)(c)(vii)]~~ ***[4(1)(xi)]*** of the ESF+ Regulation. **[Am. 277]**

8. 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 XIII.

9. Each Member State shall draw up, after the approval of the programme and 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 XIV. It shall keep that description updated to reflect any subsequent modifications.

10. The Commission is empowered to adopt delegated acts in accordance with Article 107 to supplement paragraph 2 of this Article by setting out the criteria for determining the cases of irregularity to be reported and the data to be provided.

11. The Commission shall adopt an implementing act setting out the format to be used for reporting of irregularities in accordance with the advisory procedure referred to in Article 109(2) in order to ensure uniform conditions ***and rules*** for the implementation of this Article. **[Am. 278]**

Article 64

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 those systems function effectively ***and efficiently*** during the implementation of the programmes. The Commission shall draw up ***for Member States*** an audit strategy and an audit plan which shall be based on a risk-assessment. **[Am. 279]**

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

2. Commission audits shall be carried out up to ~~three~~ ***two*** calendar years following the acceptance of the accounts in which the expenditure concerned was included. This period shall not apply to operations where there is a suspicion of fraud. **[Am. 280]**

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 ~~12~~ ***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. **[Am. 281]**

(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, in at least one of the official languages of the Union, no later than ~~3~~ **2** months after the last day of the audit, to the competent Member State authority. **[Am. 282]**

(d) the Commission shall transmit the audit report, in at least one of the official languages of the Union, no later than ~~3~~ **2** 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 if the Commission has not reported on the existence of outstanding documentation within 2 months.*** **[Am. 283]**

The Commission may ***in duly justified cases*** extend the time limits referred in points (c) and (d) by an additional ~~three~~ ***two*** months. **[Am. 284]**

4a. Without prejudice to paragraph 6 of Article 63, the Commission shall provide for a complaints handling system which shall be accessible to citizens and stakeholders. **[Am. 285]**

Article 65

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 makes use of the option referred to in Article 66(2), the body concerned shall 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 ***or private*** authority, functionally independent from the ~~auditees~~ ***Management Authority and the bodies or entities to which functions have been entrusted or delegated***. **[Am. 286]**

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. The body implementing the programme co-fund as referred to in Article [11] of Regulation EU (…) [*Horizon Europe Rules for Participation*] shall be identified as an intermediate body by the managing authority of the relevant programme, in line with paragraph 3.

CHAPTER II

Standard management and control systems

Article 66

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 67;

(b) carry out programme management tasks in accordance with Article 68;

(c) support the work of the monitoring committee in accordance with Article 69;

(d) supervise intermediate bodies;

(e) record and store in ~~an~~ electronic ~~system~~ ***systems*** the data on each operation necessary for monitoring, evaluation, financial management, verifications and audits, and shall ensure the security, integrity and confidentiality of data and the authentication of the users. **[Am. 287]**

2. The Member State may entrust the accounting function referred to in Article 70 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.

4. The Commission shall adopt an implementing act in accordance with the advisory procedure referred to in Article 109(2) in order to ensure uniform conditions for the electronic data to be recorded and stored referred to in point (e) of paragraph 1. That implementing act shall be adopted in accordance with the advisory procedure referred to in Article 109(2).

Article 67

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,*** 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 Articles 11 and 191(1) of the TFEU. **[Am. 288]**

The criteria and procedures shall ensure the prioritisation of operations to be selected with a view to maximise the contribution of Union funding to the achievement of the objectives of the programme.

2. Upon request of the Commission, the managing authority shall consult the Commission and take its comments into account prior to the initial submission of the selection criteria to the monitoring committee and before any subsequent changes to those criteria.

3. In selecting operations, the managing authority shall:

(a) ensure that selected operations ***are sustainable,*** comply with the programme***, as well as territorial strategies,*** and provide an effective contribution to the achievement of its specific objectives; **[Am. 289]**

(b) ensure that selected operations are consistent with the corresponding strategies and planning documents established for the fulfilment of enabling conditions;

(c) ensure that selected operations present ~~the best~~ ***an appropriate*** relationship between the amount of support, the activities undertaken and the achievement of objectives; **[Am. 290]**

(d) verify that the beneficiary has the necessary financial resources and mechanisms to cover operation and maintenance costs;

(e) ensure that selected operations which fall under the scope of Directive 2011/92/EU of the European Parliament and of the Council ([45]) are subject to an environmental impact assessment or a screening procedure ***and that the assessment of alternative solutions as well as a comprehensive public consultation has been taken in due account***, on the basis of the requirements of that Directive as amended by Directive 2014/52/EU of the European Parliament and of the Council ([46]); **[Am. 291]**

([45]) 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).

([46]) Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ L 124, 25.4.2014, p. 1).

(f) ~~verify~~ ***ensure*** that where the operations have started before the submission of an application for funding to the managing authority, applicable law has been complied with; **[Am. 292]**

(g) ensure that selected operations fall within the scope of the Fund concerned and are attributed to a type of intervention or area of support for the EMFF;

(h) ensure that operations do not include activities which were part of an operation subject to relocation in accordance with Article 60 or which would constitute a transfer of a productive activity in accordance with Article 59(1)(a);

(i) ensure that selected operations are not affected by a reasoned opinion by the Commission in respect of an infringement under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure or the performance of operations;

(j) ensure***, before taking investment decisions,*** the climate proofing of investments in infrastructure with an expected lifespan of at least five years***, as well as the application of the Energy Efficiency First principle***. **[Am. 293]**

4. 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 grant.

5. For operations awarded a Seal of Excellence certification, or selected under the programme co-fund under Horizon Europe, the managing authority may decide to grant support from the ERDF or the ESF+ directly, provided that such operations are consistent with the objectives of the programme.

The co-financing rate of the instrument providing the Seal of Excellence certification or the programme co-fund shall apply and shall be set out in the document referred in paragraph 4.

5a. The managing authority may also decide, in duly justified cases, to contribute up to 5 % of a programme's financial allocation under the ERDF and ESF+ to specific projects within the Member State eligible under Horizon Europe, including those selected in the second phase, provided that those specific projects contribute to the programme's objectives in that Member State. **[Am. 294]**

6. When the managing authority selects an operation of strategic importance, it shall inform the Commission ~~immediately~~ ***within one month*** and shall provide all relevant information to the Commission about that operation***, including a cost-benefit analysis***. **[Am. 295]**

Article 68

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 Article 48(1)(a), that the amount of expenditure claimed by the beneficiaries in relation to those costs has been paid and that beneficiaries maintain separate accounting records for all transactions relating to the operation;

(ii) where costs are to be reimbursed pursuant to points (b), (c) and (d) of Article 48(1), that the conditions for reimbursement of expenditure to the beneficiary have been met;

(b) ensure~~, subject to the availability of funding,~~ ***for pre-financing and interim payments*** that a beneficiary receives the amount due in full ***for verified expenditure*** and no later than ~~90~~ ***60*** days from the date of submission of the payment claim by the beneficiary; **[Am. 296]**

(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 XV;

(g) provide forecasts of the amount for payment applications to be submitted for the current and subsequent calendar years by 31 January and 31 July, in accordance with Annex VII.

For point (b) of the first sub-paragraph, 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 carry out 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 paragraph 1 shall be risk-based and proportionate to the risks identified as defined in a risk management strategy.

Management verifications shall include administrative verifications in respect of payment claims by beneficiaries and on-the-spot verifications of operations. They shall be carried out at the latest before preparation of the accounts in accordance with Article 92.

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

4. By way of derogation from paragraph 2, the ETC Regulation may establish specific rules on management verifications applicable to Interreg programmes.

Article 69

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 70

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 85 and 86 ***and taking account of the audits carried out by, or under the responsibility of the audit authority***; **[Am. 297]**

(b) drawing up ***and presenting*** the accounts***, confirming the completeness, accuracy and correctness*** in accordance with Article 92 and keeping records of all the elements of the accounts in an electronic system; **[Am. 298]**

(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 ETC Regulation may establish a different method to convert the amounts of expenditure incurred in another currency into euro.

Wednesday 27 March 2019

Article 71

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 XVI and based on all audit work carried out, covering the following distinct components:

(i) the completeness, veracity and accuracy 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 Article [63(5)(b)] of the Financial Regulation, in accordance with the template set out in Annex XVII and, supporting the audit opinion referred to in point (a) and setting out a summary of the 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 Article 73(2), the information required under paragraph (3)(b) may be grouped in a single report.

Where the audit authority makes use of this option for programmes supported by the AMIF, the ISF and the BMVI, the information required under paragraph (3)(b) shall be reported by Fund.

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 at least once a year, unless otherwise agreed, to examine the audit strategy, the annual control report, 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.

6a. The audit shall be carried out with reference to the applicable standard at the time of the convention of the audited operation, except when new standards are more favourable to the beneficiary. **[Am. 299]**

6b. The finding of an irregularity, as part of the audit of an operation leading to a financial penalty, cannot lead to extending the scope of the control or to financial corrections beyond the expenditure covered by the accounting year of the audited expenditure. **[Am. 300]**

Article 72

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 63(9), 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***. The audit shall be performed*** within nine months following their first year of functioning. The audit strategy shall be prepared in accordance with the template set out in Annex XVIII 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. ***In the audit strategy, the audit authority may determine a limit for single account audits.*** **[Am. 301]**

2. The audit strategy shall be submitted to the Commission upon request.

Article 73

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 Cohesion Fund and the ESF+ 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 AMIF, the ISF and the BMVI and by the EMFF 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.

In case of a disagreement between the Commission and a Member State on audit findings, a settlement procedure shall be put in place. **[Am. 302]**

The ESF+ Regulation may set out specific provisions for programmes under Article [4(1)(c)(vii)] of the ESF+ Regulation.

4. The Commission is empowered to adopt a delegated act in accordance with Article 107 to supplement this Article by setting out standardised off-the-shelf sampling methodologies and modalities to cover one or more programming periods.

Article 74

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. They shall avoid duplication of audits 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 information and records available in ~~the~~ electronic ~~system~~ ***systems*** referred to in Article 66(1)(e), 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. **[Am. 303]**

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 European Public Prosecutor's Office, the Commission's own audits shall be limited to auditing the work of the audit authority.

3. Operations for which the total eligible expenditure does not exceed EUR 400 000 for the ERDF and the Cohesion Fund, EUR 300 000 for the ESF+, EUR 200 000 for the EMFF, the AMIF, the ISF and the BMVI shall not be subject to more than one audit 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.

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. Nothwithstanding the provisions of paragraph 3, any operation may be subject to more than one audit, if the audit authority concludes based on its professional judgment, 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 an indication 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 75

Management verifications and audits of financial instruments

1. The managing authority shall carry out on-the-spot management verifications in accordance with Article 68(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. ***Without prejudice to the provisions of Article 127 of the Financial Regulation, if the financial instrument provides control reports supporting the payment application, the managing authority may decide not to carry out on-the-spot management verifications.*** **[Am. 304]**

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

However, the EIB or other ~~internationally~~ ***international*** financial institutions in which a Member State is a shareholder shall provide control reports supporting the payment applications to the managing authority. **[Am. 305]**

3. The audit authority shall carry out system audits and audits of operations in accordance with Articles 71, 73 or 77 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. ***Without prejudice to the provisions of Article 127 of the Financial Regulation, if the financial instrument provides the audit authority with an annual audit report drawn up by their external auditors by the end of each calendar year that covers the elements included in Annex XVII, the audit authority may decide not to carry out further audits.*** **[Am. 306]**

3a. In the context of guarantee funds, the bodies responsible for the audit of programmes may conduct verifications or 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 that implement financial instruments;

(b) there is evidence that the documents available at the level of the managing authority or at the level of the bodies that implement financial instruments do not represent a true and accurate record of the support provided. **[Am. 307]**

4. 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 XVII.

5. 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 76

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 ~~five year~~ ***three-year*** period from 31 December of the year in which the last payment by the managing authority to the beneficiary is made. **[Am. 308]**

2. This time period shall be interrupted either in the case of legal proceedings or by a request of the Commission.

2a. The document retention period may be reduced, proportionally to the risk profile and the size of beneficiaries, by decision of the managing authority. **[Am. 309]**

CHAPTER III

Reliance on national management systems

Article 77

Enhanced proportionate arrangements

The Member State may apply the following enhanced proportionate arrangements for the management and control system of a programme when the conditions set out in Article 78 are fulfilled:

(a) by way of derogation from Article 68(1)(a) and 68(2), the managing authority may apply only national procedures to carry out management verifications;

(b) by way of derogation from Article 73(1) and (3), the audit authority may limit its audit activity to a statistical sample of 30 sampling units for the programme or group of programmes concerned;

(c) 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.

For point (b), where the population consists of less than 300 sampling units, the audit authority may apply a non-statistical sampling method in accordance with Article 73(2).

Article 78

Conditions for application of enhanced proportionate arrangements

1. The Member State may apply the enhanced proportionate arrangements set out in Article 77 at any time during the programming period, where the Commission has confirmed in its published annual activity reports for the last two years preceding the Member State's decision to apply the provisions of this Article, that the programme's management and control system is functioning effectively and that the total error rate for each year is below 2 %. When assessing the effective functioning of the programme's management and control system, the Commission shall take into account the participation of the Member State concerned in the enhanced cooperation on the European Public Prosecutor's Office.

Where a Member State decides to use this option, it shall notify the Commission on the application of the proportionate arrangements set out in Article 77 which shall apply from the start of the subsequent accounting year.

2. At the start of the programming period, the Member State may apply the arrangements referred to in Article 77, 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 for the previous programme. In such cases, the enhanced proportionate arrangements will 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 described in Articles 63(9) and 72.

Article 79

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 78 are no longer fulfilled, the Commission shall request the audit authority to carry out additional audit work in accordance with Article 63(3) and take remedial actions.

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 77 shall no longer be applied.

TITLE VII

FINANCIAL MANAGEMENT, SUBMISSION AND EXAMINATION OF ACCOUNTS AND FINANCIAL CORRECTIONS

CHAPTER I

Financial management

SECTION I

GENERAL ACCOUNTING RULES

Article 80

Budgetary commitments

1. The decision approving the programme in accordance with Article 18 shall constitute a financing decision within the meaning of [Article 110(3)] of the Financial Regulation and its notification to the Member State concerned shall constitute a legal commitment.

That decision shall specify the Union contribution per Fund and per year.

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 81

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 82

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 83

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 84

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 pursuant to Article 17(3)(f)(i).

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: **[Am. 310]**

(a) 2021: 0,5 %;

(b) 2022: ~~0,5 %~~ ***0,7 %***; **[Am. 311]**

(c) 2023: ~~0,5 %~~ ***1 %***; **[Am. 312]**

(d) 2024: ~~0,5 %~~ ***1,5 %***; **[Am. 313]**

(e) 2025: ~~0,5 %~~ ***2 %***; **[Am. 314]**

(f) 2026: ~~0,5 %~~ ***2 %***; **[Am. 315]**

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, for Interreg programmes, specific rules on pre-financing shall be set out in the ETC Regulation.

4. The amount paid as pre-financing shall be cleared from the Commission accounts no later than with the final accounting year.

5. 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.

Wednesday 27 March 2019

Article 85

Payment applications

1. The Member State shall submit a maximum of four payment applications per programme, per Fund and per accounting year. Every year the time limit for each payment application shall be 30 April, 31 July, 31 October and 26 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.

2. Payment applications shall not be admissible unless the latest assurance package due has been submitted.

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

(a) the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as entered in the system of the body carrying out the accounting function;

(b) the amount for technical assistance calculated in accordance with Article 31~~(2)~~; **[Am. 316]**

(c) the total amount of public contribution paid or to be paid, as entered in the accounting systems 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 46, the amounts included in a payment application shall be the amounts justified by the progress in the fulfilment of conditions, or achievement of results, in accordance with the decision referred to in Article 89(2);

(b) where the Union contribution is made pursuant to points (c), (d) and (e) of Article 46, the amounts included in an payment application shall be the amounts determined in accordance with the decision referred to in Article 88(3);

(c) for the forms of grants listed in points (b), (c) and (d) of Article 48(1), the amounts included in a payment application shall be the costs calculated on the applicable basis.

(ca) 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: they are subject to a bank or equivalent guarantee, they do not exceed 40 % of the total amount of the aid to be granted to a beneficiary for a given operation and are covered by expenditure paid by beneficiaries and supported by receipted invoices within 3 years. **[Am. 317]**

5. By way of derogation from point (c) of paragraph 3, in the case of aid schemes under Article 107 of the 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 86

Specific elements for financial instruments in payment applications

1. Where financial instruments are implemented in accordance with Article ~~53(2)~~ ***53(1)***, payment applications submitted in accordance with Annex XIX shall include the total amounts disbursed or, in the case of guarantees, the amounts set aside as agreed in guarantee contracts, by the managing authority to final recipients as referred to in points (a), (b) and (c) of Article 62(1). **[Am. 318]**

2. Where financial instruments are implemented in accordance with Article ~~53(3)~~ ***53(2)***, payment applications that include expenditure for financial instruments shall be submitted in accordance with the following conditions: **[Am. 319]**

(a) the amount included in the first payment application shall have been paid to the financial instruments and may be up to 25 % 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, if applicable;

(b) the amount included in subsequent payment applications submitted during the eligibility period shall include the eligible expenditure as referred to in Article 62(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 87

Common rules for payments

1. ~~Subject to available funding,~~ The Commission shall make interim payments no later than 60 days after the date on which a payment application is received by the Commission. **[Am. 320]**

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 90 % 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 94.

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 of the Commission approving the programme.

4. Where the Union contribution takes the form of point (a) of Article 46 or where the grants take the form listed in points (b), (c) and (d) of Article 48(1) the Commission shall not pay more than the amount requested by the Member State.

5. In addition, 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 to beneficiaries;

(c) the amount requested by the Member State.

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 [date of adoption of this Regulation]:

(a) the Member State receives a loan from the Union under Council Regulation (EU) No 407/2010;

(b) the Member State receives medium-term financial assistance under the ESM as established by the Treaty establishing the ESM of 2 February 2012 or as referred to in Council Regulation (EC) No 332/2002 ([47]) conditional on the implementation of a macro-economic 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 ([48]) of the European Parliament and of the Council.

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 88

Reimbursement of eligible expenditure 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 for reimbursement of the Union contribution to a programme.

2. In order to make use of a Union contribution to the programme based on unit costs, lump sums and flat rates as referred to in Article 46, 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 amounts and rates proposed by the Member State shall be established on the basis of the delegated act referred to in paragraph 4 or on the basis of the following:

(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 and lump sums applicable in Union policies for a similar type of operation;

(d) the rules on corresponding unit costs and lump sums applied under schemes for grants funded entirely by the Member State for a similar type of operation.

3. The Commission 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 unit costs, lump sums and flat rates and the methods for adjustment of the amounts.

Member States shall use one of the forms of grants as referred to in Article 48(1) to support operations for which expenditure is reimbursed by the Commission on the basis of this Article.

([47]) 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).

([48]) 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).

Commission or Member States audits shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled.

4. The Commission is empowered to adopt a delegated act in accordance with Article 107 to supplement this Article by defining unit costs, lump sums, flat rates, their amounts and adjustment methods in the ways referred to in the second sub-paragraph of paragraph 2.

Article 89

Financing not linked to costs

1. In order to make use of a Union contribution to all or parts of a priority of programmes based on financing not linked to costs, the Member State 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; a description of the part of the programme and the type of operations covered by the financing not linked to costs;

(b) a description of the conditions to be fulfilled or of the results to be achieved and a timeline;

(c) intermediate deliverables triggering reimbursement by the Commission;

(d) measurement units;

(e) the schedule for reimbursement by the Commission and related amounts linked to the progress in the fulfilment of conditions or achievement of results;

(f) the arrangements for verification of the intermediate deliverables and of the fulfilment of conditions or achievement of results;

(g) the methods for adjustment of the amounts, where applicable;

(h) the arrangements to ensure the audit trail in accordance with Annex XI demonstrating the fulfilment of conditions or achievement of results.

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

3. Member States shall use one of the forms of grants as referred to in Article 48(1) to support operations for which expenditure is reimbursed by the Commission on the basis of this Article.

Commission or Member States audits 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 107 to supplement this Article by establishing amounts for 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 90

Interruption of the payment deadline

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

(a) there is evidence ~~to suggest~~ ***of*** a serious deficiency and for which corrective measures have not been taken; **[Am. 321]**

(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 three 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 in writing of the reason for interruption and shall ask 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 EMFF may lay down specific bases for interruption of payments linked to non-compliance with rules applicable under the Common Fisheries Policy.

Article 91

Suspension of payments

1. The Commission may suspend all or part of payments 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 90;

(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 under Article 258 of the TFEU that puts at risk the legality and regularity of expenditure

~~(e) the Member State has failed to take the necessary action in accordance with Article 15(6).~~ **[Am. 322]**

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 EMFF 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 92

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 as defined in Article 2(28):

(a) the accounts in accordance with the template set out in Annex XX;

(b) the management declaration referred to in Article 68(1)(f) in accordance with the template set out in Annex XV;

(c) the audit opinion referred to in Article 71(3)(a) in accordance with the template set out in Annex XVI;

(d) the annual control report referred to in Article 71(3)(b) in accordance with the template set out in Annex XVII.

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, fund and 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 paid or to be paid;

(b) the amounts withdrawn during the accounting year;

(c) the amounts of public contribution paid to each financial instrument;

(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 accounts shall not be admissible if Member States have not undertaken the necessary corrections to reduce the residual risk on the legality and regularity of the expenditure included in the accounts to less than 2 %.

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

(a) the irregular expenditure which has been subject to financial corrections in accordance with Article 97;

(b) the expenditure which is subject to an ongoing assessment of its legality and regularity;

(c) other amounts as necessary to reduce to 2 % the residual error rate of the expenditure declared in the accounts.

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

6. The Member State may replace irregular amounts which it has detected after the submission of the accounts by making the corresponding adjustments in the accounts for the accounting year in which the irregularity is detected, without prejudice to Article 98.

7. As part of the assurance package, the Member State shall submit for the last accounting year the final performance report referred to in Article 38 or the last annual implementation report for the EMFF, the AMIF, the ISF and the BMVI.

Article 93

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 96 applies.

Article 94

Calculation of the balance

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

(a) the amounts in the accounts referred to in point (a) of Article 95(2) 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.

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 [177 (3)] of the Financial Regulation.

Article 95

Procedure for the examination of accounts

1. The procedure set out in Article 96 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 94 and make the respective payments or recoveries before 1 July. That payment or recovery shall constitute the acceptance of accounts.

Article 96

Contradictory procedure for the examination of accounts

1. If the audit authority provides an audit opinion which is qualified due to reasons linked to the completeness, accuracy and veracity of the accounts, the Commission shall ask the Member State to revise the accounts and to resubmit the documents referred to in Article 92(1) within one month.

Where by the time limit set out in the first sub-paragraph:

(a) the audit opinion is unqualified, Article 94 shall apply and the Commission shall pay any additional amount due or proceed to a recovery within two 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 this amount within one month, the Commission shall pay any additional amount due or proceed to a recovery in accordance with Article 94 within two months.

4. Where the Member State does not agree with the amount referred to in paragraph 2, 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 any additional amount due or proceed to a recovery in accordance with Article 94 within two months.

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+ and the Cohesion Fund no later than two months after the date of acceptance of the final performance report as referred to in Article 38.

CHAPTER III

Financial corrections

Article 97

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 when 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 EMFF 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 to 3, in operations comprising financial instruments, a contribution cancelled in accordance with this Article, as a result of an individual irregularity, may be re-used 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 instrument shall reimburse to Member States programme contributions affected by irregularities, together with interest and any other gains generated by those 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 performed 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 98

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 91 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 XXI.

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 its observations within two months.

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 by means of an implementing act within 12 months of the hearing or from 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 States agrees to the financial correction for cases referred to in points (a) and (c) of paragraph 1 before the adoption of the decision referred to in paragraph 1, the Member State may reuse the amounts concerned. This possibility shall not apply to financial correction for cases referred to in (b) of paragraph 1.

5. The Fund-specific rules for the EMFF may lay down specific bases for financial corrections by the Commission linked to non-compliance with rules applicable under the Common Fisheries Policy.

CHAPTER IV

Decommitment

Article 99

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 84 or for which a payment application has not been submitted in accordance with Articles 85 and 86 by ~~26~~ ***31*** December of the ~~second~~ ***third*** calendar year following the year of the budget commitments for the years 2021 to 2026. **[Am. 323]**

~~2. The amount to be covered by pre-financing or payment applications by the time limit established in paragraph 1 concerning the budget commitment of 2021 shall be 60 % of that commitment. 10 % of the budget commitment of 2021 shall be added to each budget commitment for the years 2022 to 2025 for the purposes of calculating the amounts to be covered.~~ **[Am. 324]**

3. The part of commitments still open on 31 December ~~2029~~ ***2030*** shall be decommitted if the assurance package and the final performance report for programmes supported by the ESF+, the ERDF and the Cohesion Fund have not been submitted to the Commission by the time limit set out in Article 38(1). **[Am. 325]**

Article 100

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;

(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; or

(ba) it has not been possible to make a timely payment application because of delays at Union level in setting up the legal and administrative framework for the funds for the 2021-2027 period. **[Am. 326]**

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 paragraph 1 for the amount to be declared by 26 December.

Article 101

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 ~~one month~~ ***two months*** to agree to the amount to be decommitted or to submit its observations. **[Am. 327]**

3. By 30 June, the Member State shall submit to the Commission a revised 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 submission, the Commission shall revise 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.

Wednesday 27 March 2019

TITLE VIII

FINANCIAL FRAMEWORK

Article 102

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 Commission Regulation (EC) ~~No 868/2014~~ ***No 2016/2066***. **[Am. 328]**

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 of the EU-27 ('less developed regions');

(b) transition regions, whose GDP *per capita* is between 75 % and 100 % of the average GDP of the EU-27 ('transition regions');

(c) more developed regions, whose GDP *per capita* is above 100 % of the average GDP of the EU-27 ('more developed regions').

The classification of regions under one of the three categories of regions 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 2014-2016, relates to the average GDP of the EU-27 for the same reference period.

3. The Cohesion Fund shall support those Member States whose GNI *per capita*, measured in PPS and calculated on the basis of Union figures for the period 2014-2016, 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 regions and of Member States fulfilling the criteria of paragraph 3. That list shall be valid from 1 January 2021 to 31 December 2027.

Article 103

Resources for economic, social and territorial cohesion

1. The resources for economic, social and territorial cohesion available for budgetary commitment for the period 2021-2027 shall be EUR ~~330 624 388 630~~ ***378 097 000 000*** in 2018 prices. **[Am. 329]**

For the purposes of programming and subsequent inclusion in the budget of the Union, that amount 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 per Member State under the Investment for jobs and growth goal, per category of regions, together with the list of eligible regions in accordance with the methodology set out in Annex XXII. ***The minimum overall allocation from the Funds, at national level, should be equal to 76 % of the budget allocated to each Member State or region over the 2014-2020 period.*** **[Am. 330]**

That decision shall also set out the annual breakdown of the global resources per Member State under the European territorial cooperation goal (Interreg).

Without prejudice to the national allocations for the Member States, funding for regions, which are downgraded in category for the 2021-2027 period, shall be maintained at the level of 2014-2020 allocations. **[Am. 429]**

In view of the particular importance of cohesion funding for cross-border and transnational cooperation, and for the outermost regions, the eligibility criteria for such funding should be no less favourable than in the 2014-2020 period, and ensure maximum continuity with existing programmes. **[Am. 331]**

3. 0,35 % of the global resources after the deduction of the support to the CEF referred to in Article 104(4), shall be allocated to technical assistance at the initiative of the Commission.

Article 104

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 shall amount to ~~97,5 %~~ ***97 %*** of the global resources (, i.e., a total of EUR ***366 754 000 000 (in 2018 prices). Out of this amount, EUR 5 900 000 000 shall be allocated to the Child Guarantee from the resources under the ESF+. The remaining envelope of EUR 360 854 000 000 (in 2018 prices)*** shall be allocated as follows: **[Am. 332]**

(a) 61,6 % (i.e a total of EUR ~~198 621 593 157~~ ***222 453 894 000***) for less developed regions; **[Am. 333]**

(b) 14,3 % (i.e a total of EUR ~~45 934 516 595~~ ***51 446 129 000***) for transition regions; **[Am. 334]**

(c) 10,8 % (i.e., a total of EUR ~~34 842 689 000~~ ***39 023 410 000***) for more developed regions; **[Am. 335]**

(d) 12,8 % (i.e., a total of EUR ~~41 348 556 877~~ ***46 309 907 000***) for Member States supported by the Cohesion Fund; **[Am. 336]**

(e) 0,4 % (i.e., a total of EUR ~~1 447 034 001~~ ***1 620 660 000***) as additional funding for the outermost regions identified in Article 349 of the 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. **[Am. 337]**

2. In 2024, the Commission shall, in its technical adjustment for the year 2025 in accordance with Article [6] of Regulation (EU, Euratom) [[…] (*MFF Regulation*)], review the total allocations under the Investment for jobs and growth goal of each Member State for 2025 to 2027.

The Commission shall in its review apply the allocation method set out in Annex XXII on the basis of the then available most recent statistics.

Following the technical adjustment, the Commission shall amend the implementing act setting out a revised annual breakdown referred to in Article 103(2).

3. The ~~amount of~~ resources available for the ESF+ ***shall amount to 28,8 % of the resources*** under the Investment for jobs and growth goal ~~shall be EUR 88 646 194 590~~ ***(i.e., EUR 105 686 000 000 in 2018 prices)***. ***That does not include the financial envelope for the Employment and Social Innovation strand or the Health strand.*** **[Am. 338]**

The amount of additional funding for the outermost regions referred to in point (e) in paragraph 1 allocated to the ESF+ shall ~~be EUR 376 928 934~~ ***correspond to 0,4 % of the resources referred to in the first subparagraph (i.e., EUR 424 296 054 in 2018 prices)***. **[Am. 339]**

4. The amount of support from the Cohesion Fund to be transferred to the CEF shall be EUR ~~10 000 000 000~~ ***4 000 000 000 in 2018 prices***. 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 Regulation (EU) [*number of new CEF Regulation*] exclusively in Member States eligible for funding from the Cohesion Fund. **[Am. 340]**

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, which amount shall be determined on a *pro rata* basis for the whole period.

The Cohesion Fund allocation of each Member State shall be reduced accordingly.

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 Regulation (EU) [*the new CEF Regulation*].~~ **[Am. 341]**

Rules applicable for the transport sector under Regulation (EU) [*new 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~~. **[Am. 342]**

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 Regulation (EU) [*the new CEF Regulation*].

5. EUR ~~500 000 000~~ ***560 000 000 in 2018 prices*** 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. **[Am. 343]**

6. EUR ~~175 000 000~~ ***196 000 000 in 2018 prices*** 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. **[Am. 344]**

7. Resources for the European territorial cooperation goal (Interreg) shall amount to ~~2.5 %~~ ***3 %*** of the global resources available for budgetary commitment from the Funds for the period 2021-2027 (i.e. a total of EUR ~~8 430 000 000~~ ***11 343 000 000 in 2018 prices***). **[Am. 345]**

Article 105

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) of not more than ~~15 %~~ ***5 %*** of the total allocations for less developed regions to transition regions or more developed regions and from transition regions to more developed regions; **[Am. 346]**

(b) from the allocations for more developed regions or transition regions to less developed regions.

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 those goals.

Article 106

Determination of co-financing rates

1. The Commission 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) ~~70 %~~ ***85 %*** for the less developed regions; **[Am. 347]**

(b) ~~55 %~~ ***65 %*** for the transition regions; **[Am. 348]**

(c) ~~40 %~~ ***50 %*** for the more developed regions. **[Ams. 349 and 447]**

The co-financing rates set out under point (a), shall also apply to outermost regions ***and to the additional allocation for the outermost regions***. **[Am. 350]**

The co-financing rate for the Cohesion Fund at the level of each priority shall not be higher than ~~70 %~~ ***85 %***. **[Am. 351]**

The ESF+ Regulation may ***in duly justified cases*** establish higher co-financing rates ***of up to 90 %,*** for priorities supporting innovative actions in accordance with Article ~~[14]~~ ***[13] and Article [4 (1) (x)] and [(xi)]*** of that Regulation***, as well as for programmes addressing material deprivation in accordance with Article [9], youth unemployment in accordance with Article [10], supporting the European Child Guarantee in accordance with Article [10a] and transnational cooperation in line with Article [11b]***. **[Am. 352]**

4. The co-financing rate for Interreg programmes shall be no higher than ~~70 %~~ ***85 %***. **[Am. 353]**

The ETC Regulation may establish higher co-financing rates for external cross-border cooperation programmes under the European territorial cooperation goal (Interreg).

4a. Member States may make in a duly justified case a request for further flexibility within the current framework of Stability and Growth Pact for the public or equivalent structural expenditure, supported by the public administration by way of co-financing of investments as part of the European Structural and Investment Funds. The Commission shall carefully assess the respective request when defining the fiscal adjustment under either the preventive or the corrective arm of the Stability and Growth Pact in a manner reflecting the strategic importance of investments. **[Am. 453]**

5. 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 107

Delegation of powers

The Commission is empowered to adopt delegated acts in accordance with Article 108 to amend the Annexes to this Regulation in order adapt to changes occuring during the programming period for non-essential elements of this Regulation, except for Annexes III, IV, X and XXII. ***The Commission is empowered to adopt delegated acts in accordance with Article 108 in order to amend and adapt Delegated Regulation (EU) 204/2014, referred to in Article 6(3), to this Regulation.*** **[Am. 354]**

Wednesday 27 March 2019

Article 108

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 6(3),*** Article 63(10), Article 73(4), Article 88(4), Article 89(4) and Article 107 shall be conferred on the Commission ~~for an indeterminate period of time~~ from ***the*** date of entry into force of this Regulation ***until 31 December 2027***. **[Am. 355]**

3. The delegation of power referred to in Article ***6(3), Article*** 63(10), Article 73(4), Article 88(4)***, Article 89(4)*** ~~and~~ and Article ~~89(1)~~ ***107*** 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. **[Am. 356]**

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 on Better Law-Making of 13 April 2016.

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 6(3),*** Article 63(10), Article 73(4), Article 88(4), Article 89(4) and 107 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 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. **[Am. 357]**

Article 109

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 110

Transitional provisions

Regulation (EC) No 1303/2013 or any other act applicable to the 2014–2020 programming period shall continue to apply to programmes and operations supported by the ERDF, the ESF+, the Cohesion Fund and the EMFF under that period.

Article 111

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 (EC) No 1303/2013, provided that the following cumulative conditions are met:

(a) the operation, as selected for support under Regulation (EC) No 1303/2013, has two phases identifiable from a financial point of view with separate audit trails;

(b) the total cost of the operation exceeds EUR 10 million;

(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+ and the Cohesion Fund 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 submitted in accordance with Article 141 of Regulation (EC) No 1303/2013.

2. The provisions of this Regulation shall apply to the second phase of the operation.

Article 112

Entry into force

This Regulation shall enter into force on the twentieth 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 …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Dimensions and codes for the types of intervention for the ERDF, the ESF+ and the Cohesion Fund — Article 17(5)

TABLE 1: CODES FOR THE INTERVENTION FIELD DIMENSION

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
POLICY OBJECTIVE 1: A SMARTER EUROPE BY PROMOTING INNOVATIVE AND SMART ECONOMIC TRANSFORMATION			
001	Investment in fixed assets in micro enterprises directly linked to research and innovation activities ***or linked to competitiveness*** **[Am. 359]**	0 %	0 %
002	Investment in fixed assets in small and medium-sized enterprises (including private research centres) directly linked to research and innovation activities ***or linked to competitiveness*** **[Am. 360]**	0 %	0 %
003	Investment in fixed assets in public research centres and higher education directly linked to research and innovation activities	0 %	0 %
004	Investment in intangible assets in micro enterprises directly linked to research and innovation activities ***or linked to competitiveness*** **[Am. 361]**	0 %	0 %
005	Investment in intangible assets in small and medium-sized enterprises (including private research centres) directly linked to research and innovation activities ***or linked to competitiveness*** **[Am. 362]**	0 %	0 %
006	Investment in intangible assets in public research centres and higher education directly linked to research and innovation activities	0 %	0 %
007	Research and innovation activities in micro enterprises including networking (industrial research, experimental development, feasibility studies)	0 %	0 %
008	Research and innovation activities in small and medium-sized enterprises, including networking	0 %	0 %
009	Research and innovation activities in public research centres, higher education and centres of competence including networking (industrial research, experimental development, feasibility studies)	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
010	Digitizing SMEs (including e-Commerce, e-Business and networked business processes, digital innovation hubs, living labs, web entrepreneurs and ICT start-ups, B2B)	0 %	0 %
011	Government ICT solutions, e-services, applications	0 %	0 %
012	IT services and applications for digital skills and digital inclusion	0 %	0 %
013	e-Health services and applications (including e-Care, Internet of Things for physical activity and ambient assisted living)	0 %	0 %
014	Business infrastructure for SMEs (including industrial parks and sites)	0 %	0 %
015	SME business development and internationalisation	0 %	0 %
016	Skills development for smart specialisation, industrial transition and entrepreneurship	0 %	0 %
017	Advanced support services for SMEs and groups of SMEs (including management, marketing and design services)	0 %	0 %
018	Incubation, support to spin offs and spin outs and start ups	0 %	0 %
019	Innovation cluster support and business networks primarily benefiting SMEs	0 %	0 %
020	Innovation processes in SMEs (process, organisational, marketing, co-creation, user and demand driven innovation)	0 %	0 %
021	Technology transfer and cooperation between enterprises, research centres and higher education sector	0 %	0 %
022	Research and innovation processes, technology transfer and cooperation between enterprises focusing on the low carbon economy, resilience and adaptation to climate change	100 %	40 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
023	Research and innovation processes, technology transfer and cooperation between enterprises focusing on circular economy	40 %	100 %
POLICY OBJECTIVE 2: A GREENER, LOW CARBON EUROPE BY PROMOTING CLEAN AND FAIR ENERGY TRANSITION, GREEN AND BLUE INVESTMENT, THE CIRCULAR ECONOMY, CLIMATE ADAPTATION AND RISK PREVENTION AND MANAGEMENT			
024	Energy efficiency and demonstration projects in SMEs and supporting measures	100 %	40 %
025	Energy efficiency renovation of existing housing stock, demonstration projects and supporting measures	100 %	40 %
026	Energy efficiency renovation of public infrastructure, demonstration projects and supporting measures	100 %	40 %
027	Support to enterprises that provide services contributing to the low carbon economy and to resilience to climate change	100 %	40 %
028	Renewable energy: wind	100 %	40 %
029	Renewable energy: solar	100 %	40 %
030	Renewable energy: biomass	100 %	40 %
031	Renewable energy: marine	100 %	40 %
032	Other renewable energy (including geothermal energy)	100 %	40 %
033	Smart Energy Distribution Systems at medium and low voltage levels (including smart grids and ICT systems) and related storage	100 %	40 %
034	High efficiency co-generation, district heating and cooling	100 %	40 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
035	Adaptation to climate change measures and prevention and management of climate related risks: floods ***and landslides*** (including awareness raising, civil protection and disaster management systems and infrastructures) **[Am. 363]**	100 %	100 %
036	Adaptation to climate change measures and prevention and management of climate related risks: fires (including awareness raising, civil protection and disaster management systems and infrastructures)	100 %	100 %
037	Adaptation to climate change measures and prevention and management of climate related risks: others, e.g. storms and drought (including awareness raising, civil protection and disaster management systems and infrastructures)	100 %	100 %
038	Risk prevention and management of non-climate related natural risks (i.e. earthquakes) and risks linked to human activities (e.g. technological accidents), including awareness raising, civil protection and disaster management systems and infrastructures	0 %	100 %
039	Provision of water for human consumption (extraction, treatment, storage and distribution infrastructure, efficiency measures, drinking water supply)	0 %	100 %
040	Water management and water resource conservation (including river basin management, specific climate change adaptation measures, reuse, leakage reduction)	40 %	100 %
041	Waste water collection and treatment	0 %	100 %
042	Household waste management: prevention, minimisation, sorting, recycling measures	0 %	100 %
~~043~~	~~Household waste management: mechanical biological treatment, thermal treatment~~	~~0 %~~	~~100 %~~ **[Am. 364]**
044	Commercial, industrial or hazardous waste management	0 %	100 %
045	Promoting the use of recycled materials as raw materials	0 %	100 %
046	Rehabilitation of industrial sites and contaminated land	0 %	100 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
047	Support to environmentally-friendly production processes and resource efficiency in SMEs	40 %	40 %
048	Air quality and noise reduction measures	40 %	100 %
049	Protection, restoration and sustainable use of Natura 2000 sites	40 %	100 %
050	Nature and biodiversity protection, green infrastructure	40 %	100 %
POLICY OBJECTIVE 3: A MORE CONNECTED EUROPE BY ENHANCING MOBILITY AND REGIONAL ICT CONNECTIVITY			
051	ICT: Very High-Capacity broadband network (backbone/backhaul network)	0 %	0 %
052	ICT: Very High-Capacity broadband network (access/local loop with a performance equivalent to an optical fibre installation up to the distribution point at the serving location for multi-dwelling premises)	0 %	0 %
053	ICT: Very High-Capacity broadband network (access/local loop with a performance equivalent to an optical fibre installation up to the distribution point at the serving location for homes and business premises)	0 %	0 %
054	ICT: Very High-Capacity broadband network (access/local loop with a performance equivalent to an optical fibre installation up to the base station for advanced wireless communication)	0 %	0 %
055	ICT: Other types of ICT infrastructure (including large-scale computer resources/equipment, data centres, sensors and other wireless equipment)	0 %	0 %
056	Newly built motorways***, bridges*** and roads — TEN-T core network **[Am. 365]**	0 %	0 %
057	Newly built motorways***, bridges*** and roads — TEN-T comprehensive network **[Am. 366]**	0 %	0 %
058	Newly built secondary road links to TEN-T road network and nodes	0 %	0 %
059	Newly built other national, regional and local access roads	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
060	Reconstructed or improved motorways***, bridges*** and roads — TEN-T core network **[Am. 367]**	0 %	0 %
061	Reconstructed or improved motorways***, bridges*** and roads — TEN-T comprehensive network **[Am. 368]**	0 %	0 %
062	Other reconstructed or improved roads (motorway, national, regional or local)	0 %	0 %
063	Digitalisation of transport: road	40 %	0 %
064	Newly built railways — TEN-T core network	100 %	40 %
065	Newly built railways — TEN-T comprehensive network	100 %	40 %
066	Other newly built railways	100 %	40 %
067	Reconstructed or improved railways — TEN-T core network	0 %	40 %
068	Reconstructed or improved railways — TEN-T comprehensive network	0 %	40 %
069	Other reconstructed or improved railways	0 %	40 %
070	Digitalisation of transport: rail	40 %	0 %
071	European Rail Traffic Management System (ERTMS)	0 %	40 %
072	Mobile rail assets	40 %	40 %
073	Clean urban transport infrastructure	100 %	40 %
074	Clean urban transport rolling stock	100 %	40 %
075	Cycling infrastructure	100 %	100 %
076	Digitalisation of urban transport	40 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
077	Alternative fuels infrastructure	100 %	40 %
078	Multimodal transport (TEN-T)	40 %	40 %
079	Multimodal transport (not urban)	40 %	40 %
080	Seaports (TEN-T)	40 %	0 %
081	Other seaports	40 %	0 %
082	Inland waterways and ports (TEN-T)	40 %	0 %
083	Inland waterways and ports (regional and local)	40 %	0 %
084	Digitising transport: other transport modes	40 %	0 %
POLICY OBJECTIVE 4: A MORE SOCIAL EUROPE BY IMPLEMENTING THE EUROPEAN PILLAR OF SOCIAL RIGHTS			
085	Infrastructure for early childhood education and care	0 %	0 %
086	Infrastructure for primary and secondary education	0 %	0 %
087	Infrastructure for tertiary education	0 %	0 %
088	Infrastructure for vocational education and training and adult learning	0 %	0 %
089	Housing infrastructure for migrants, refugees and persons under or applying for international protection	0 %	0 %
090	Housing infrastructure (other than for migrants, refugees and persons under or applying for international protection)	0 %	0 %
091	Other social infrastructure contributing to social inclusion in the community	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
092	Health infrastructure	0 %	0 %
093	Health equipment	0 %	0 %
094	Health mobile assets	0 %	0 %
095	Digitalisation in health care	0 %	0 %
096	Temporary reception infrastructure for migrants, refugees and persons under or applying for international protection	0 %	0 %
097	Measures to improve access to employment	0 %	0 %
098	Measures to promote access to employment of long-term unemployed	0 %	0 %
099	Specific support for youth employment and socio-economic integration of young people	0 %	0 %
100	Support for self-employment and business start-up	0 %	0 %
101	Support for social economy and social enterprises	0 %	0 %
102	Measures to modernise and strengthen labour market institutions and services to assess and anticipate skills needs and to ensure timely and tailor-made assistance	0 %	0 %
103	Support for labour market matching and transitions	0 %	0 %
104	Support for labour mobility	0 %	0 %
105	Measures to promote women's labour market participation and reducing gender-based segregation in the labour market	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
106	Measures promoting work-life balance, including access to childcare and care for dependent persons	0 %	0 %
107	Measures for a healthy and well–adapted working environment addressing health risks, including promotion of physical activity	0 %	0 %
108	Support for the development of digital skills	0 %	0 %
109	Support for adaptation of workers, enterprises and entrepreneurs to change	0 %	0 %
110	Measures encouraging active and healthy ageing	0 %	0 %
111	Support for early childhood education and care (excluding infrastructure)	0 %	0 %
112	Support for primary to secondary education (excluding infrastructure)	0 %	0 %
113	Support for tertiary education (excluding infrastructure)	0 %	0 %
114	Support for adult education (excluding infrastructure)	0 %	0 %
115	Measures to promote equal opportunities and active participation in society	0 %	0 %
116	Pathways to integration and re-entry into employment for disadvantaged people	0 %	0 %
117	Measures to improve access of marginalised groups such as the Roma to education, employment and to promote their social inclusion	0 %	0 %
118	Support to the civil society working with marginalised communities such as the Roma	0 %	0 %
119	Specific actions to increase participation of third-country nationals in employment	0 %	0 %
120	Measures for the social integration of third-country nationals	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
121	Measures to enhancing the equal and timely access to quality, sustainable and affordable services	0 %	0 %
122	Measures to enhancing the delivery of family and community-based care services	0 %	0 %
123	Measures to improve the accessibility, effectiveness and resilience of healthcare systems (excluding infrastructure)	0 %	0 %
124	Measures to improve access to long-term care (excluding infrastructure)	0 %	0 %
125	Measures to modernise social protection systems, including promoting access to social protection	0 %	0 %
126	Promoting social integration of people at risk of poverty or social exclusion, including the most deprived and children	0 %	0 %
127	Addressing material deprivation through food and/or material assistance to the most deprived, including accompanying measures	0 %	0 %
POLICY OBJECTIVE 5: A EUROPE CLOSER TO CITIZENS BY FOSTERING THE SUSTAINABLE AND INTEGRATED DEVELOPMENT OF URBAN, RURAL AND COASTAL AREAS AND LOCAL INITIATIVES ([1])			
128	Protection, development and promotion of public tourism assets and ~~related~~ tourism services **[Am. 369]**	0 %	0 %
129	Protection, development and promotion of cultural heritage and cultural services	0 %	0 %
130	Protection, development and promotion of natural heritage and eco-tourism ***other than Natura 2000 sites*** **[Am. 370]**	0 %	100 %
131	Physical regeneration and security of public spaces	0 %	0 %
OTHER CODES RELATED TO POLICY OBJECTIVES 1-5			
132	Improve the capacity of programme authorities and bodies linked to the implementation of the Funds	0 %	0 %

	INTERVENTION FIELD	Coefficient for the calculation of support to climate change objectives	Coefficient for the calculation of support to environmental objectives
133	Enhancing cooperation with partners both within and outside the Member State	0 %	0 %
134	Cross-financing under the ERDF (support to ESF-type actions necessary for the implementation of the ERDF part of the operation and directly linked to it)	0 %	0 %
135	Enhancing institutional capacity of public authorities and stakeholders to implement territorial cooperation projects and initiatives in a cross-border, transnational, maritime and inter-regional context	0 %	0 %
136	Outermost regions: compensation of any additional costs due to accessibility deficit and territorial fragmentation	0 %	0 %
137	Outermost regions: specific action to compensate additional costs due to size market factors	0 %	0 %
138	Outermost regions: support to compensate additional costs due to climate conditions and relief difficulties	40 %	40 %
139	Outermost regions: airports	0 %	0 %
TECHNICAL ASSISTANCE			
140	Information and communication	0 %	0 %
141	Preparation, implementation, monitoring and control	0 %	0 %
142	Evaluation and studies, data collection	0 %	0 %
143	Reinforcement of the capacity of Member State authorities, beneficiaries and relevant partners	0 %	0 %

([1]) For policy objective 5 all dimension codes under policy objectives 1 to 4 may be chosen in addition to those listed under policy objective 5.

TABLE 2: CODES FOR THE FORM OF FINANCE DIMENSION

FORM OF FINANCE	
01	Grant
02	Support through financial instruments: equity or quasi-equity
03	Support through financial instruments: loan
04	Support through financial instruments: guarantee
05	Support through financial instruments: ancillary support
06	Prize

TABLE 3: CODES FOR THE TERRITORIAL DELIVERY MECHANISM AND TERRITORIAL FOCUS DIMENSION

TERRITORIAL DELIVERY MECHANISM AND TERRITORIAL FOCUS		
INTEGRATED TERRITORIAL INVESTMENT (ITI)		ITI focused on sustainable urban development
11	Urban neighbourhoods	x
12	Cities, towns, ~~and~~ suburbs ***and connected rural areas*** **[Am. 371]**	x
13	Functional urban areas	x
14	Mountainous areas	
15	Islands and coastal areas	
16	***Rural and*** sparsely populated areas **[Am. 372]**	
17	Other types of territories targeted	
COMMUNITY LED LOCAL DEVELOPMENT (CLLD)		CLLD focused on sustainable urban development
21	Urban neighbourhoods	x
22	Cities, towns, ~~and~~ suburbs ***and connected rural areas*** **[Am. 373]**	x
23	Functional urban areas	x
24	Mountainous areas	
25	Islands and coastal areas	

Wednesday 27 March 2019

	TERRITORIAL DELIVERY MECHANISM AND TERRITORIAL FOCUS	
26	***Rural and*** sparsely populated areas **[Am. 374]**	
27	Other types of territories targeted	
	OTHER TYPE OF TERRITORIAL TOOL UNDER POLICY OBJECTIVE 5	Other type of territorial tool focused on sustainable urban development
31	Urban neighbourhoods	x
32	Cities, towns, ~~and~~ suburbs ***and connected rural areas*** **[Am. 375]**	x
33	Functional urban areas	x
34	Mountainous areas	
35	Islands and coastal areas	
36	***Rural and*** sparsely populated areas **[Am. 376]**	
37	Other types of territories targeted	
	OTHER APPROACHES [1]	
41	Urban neighbourhoods	
42	Cities, towns and suburbs	
43	Functional urban areas	
44	Mountainous areas	
45	Islands and coastal areas	
46	Sparsely populated areas	
47	Other types of territories targeted	
48	No territorial targeting	

[1] Other approaches undertaken under policy objectives other than policy objective 5 and not in a form of ITI, not in form of CLLD

TABLE 4: CODES FOR THE ECONOMIC ACTIVITY DIMENSION

	ECONOMIC ACTIVITY
01	Agriculture and forestry
02	Fisheries

	ECONOMIC ACTIVITY
03	Aquaculture
04	Other blue economy sectors
05	Manufacture of food products and beverages
06	Manufacture of textiles and textile products
07	Manufacture of transport equipment
08	Manufacture of computer, electronic and optical products
09	Other unspecified manufacturing industries
10	Construction
11	Mining and quarrying
12	Electricity, gas, steam, hot water and air conditioning
13	Water supply, sewerage, waste management and remediation act
14	Transport and storage
15	Information and communication activities, including telecomm
16	Wholesale and retail trade
17	***Tourism,*** accommodation and food service activities **[Am. 377]**
18	Financial and insurance activities
19	Real estate, renting and business services activities
20	Public administration
21	Education
22	Human health activities
23	Social work activities, community, social and personal services
24	Activities linked to the environment
25	Arts, entertainment, creative industries and recreation
26	Other unspecified services

TABLE 5: CODES FOR THE LOCATION DIMENSION

LOCATION	
Code	Location
	Code of region or area where operation is located/carried out, as set out in the Classification of Territorial Units for Statistics (NUTS) in the Annex to Regulation (EC) No 1059/2003 of the European Parliament and of the Council [1], as last amended by Commission Regulation (EU) No 868/2014

[1] 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).

TABLE 6: CODES FOR ESF SECONDARY THEMES

ESF SECONDARY THEME		Coefficient for the calculation of support to climate change objectives
01	**Contributing to green skills and jobs and the green economy**	**100 %**
02	**Developing digital skills and jobs**	**0 %**
03	**Investing in research and innovation and smart specialisation**	**0 %**
04	**Investing in small and medium-sized enterprises (SMEs)**	**0 %**
05	**Non-discrimination**	**0 %**
06	**Gender equality**	**0 %**
07	**Capacity building of social partners**	**0 %**
08	**Capacity building of the civil society organisations**	**0 %**
09	**Not applicable**	**0 %**

TABLE 7: CODES FOR THE MACRO-REGIONAL AND SEA BASIN STRATEGIES

MACRO-REGIONAL AND SEA BASIN STRATEGIES	
11	Adriatic & Ionian Region Strategy
12	Alpine Region Strategy
13	Baltic Sea Region Strategy
14	Danube Region Strategy

	MACRO-REGIONAL AND SEA BASIN STRATEGIES
21	Arctic Ocean
22	Atlantic Strategy
23	Black Sea
24	Mediterranean Sea
25	North Sea
26	Western Mediterranean Strategy
30	No contribution to macro-regional or sea basin strategies

Wednesday 27 March 2019

ANNEX II

Template for Partnership Agreement — Article 7(4)

CCI	[15 characters]
Title	[255]
Version	
First year	[4]
Last year	[4]
Commission decision number	
Commission decision date	

1. Selection of policy objectives

Reference: Article 8(a), CPR, Article 3 of the AMIF, the ISF, the BMVI Regulations

Table 1: Selection of policy objective with justification

Selected policy objective	Programme	Fund	Justification for selection of a policy objective
			[3 500 per PO]

2. Policy choices, coordination and complementarity

Reference: Article 8(b)(i)-(iii), CPR

Text field [60 000]

3. Contribution to the budgetary guarantee under InvestEU with justification

Reference: Article 8(e) CPR; Article 10(a) CPR;

Table 2: Transfer to InvestEU

	Category of regions*	Window 1 (a)	Window 2 (b)	Window 3 (c)	Window 4 (d)	Window 5 (e)	Amount (f)=(a)+(b)+(c)+(d)+(e))
ERDF	More developed						
	Less developed						
	Transition						
	Outermost and northern sparsely populated						

	Category of regions*	**Window 1** (a)	**Window 2** (b)	**Window 3** (c)	**Window 4** (d)	**Window 5** (e)	**Amount** (f)=(a)+(b)+(c)+(d)+(e))
ESF+	More developed						
	Less developed						
	Transition						
	Outermost						
CF							
EMFF							
AMIF							
ISF							
BMVI							
Total							

Text field [3 500] (justification)

4. Transfer between categories of region with justification

Reference: Article 8(d), Article 105 CPR;

Table 3. Transfer between categories of region

Category of region	**Allocation by category of region** (*)	**Transfer to:**	**Transfer amount**	**Share of the initial allocation transferred**	**Allocation by category of region after the transfer**
(a)	(b)	(c)	(d)	(g)=(d)/(b)	(h)=(b)-(d)
Less developed		*More developed*			
		Transition			
More developed		*Less developed*			

Wednesday 27 March 2019

Category of region	Allocation by category of region (*)	Transfer to:	Transfer amount	Share of the initial allocation transferred	Allocation by category of region after the transfer
(a)	(b)	(c)	(d)	(g)=(d)/(b)	(h)=(b)-(d)
Transition		*Less developed*			

(*) *Initial allocation by category of region as communicated by the Commission after transfers referred to in tables 2-4, applicable to ERDF and ESF+ only.*

Text field [3 500] (justification)

5. Preliminary financial allocation by policy objective

Reference: Article 8(c) CPR

Table 4: Preliminary financial allocation from ERDF, CF, ESF+, EMFF by policy objective (*)

Policy objectives	ERDF	Cohesion Fund	ESF+	EMFF	Total
Policy objective 1					
Policy objective 2					
Policy objective 3					
Policy objective 4					
Policy objective 5					
Technical assistance					
Allocation for 2026-2027					
Total					

(*) Policy objectives according to Article 4(1), CPR. For ERDF, CF and ESF+ years 2021-2025; for EMFF for 2021-2027.

Text field [3 500] (justification)

Table 5: Preliminary financial allocation from AMIF, ISF and BMVI by policy objective (*)

Policy objective	Allocation
Policy objective as referred to in Article 3 of the [AMIF Regulation]	

Policy objective	Allocation
Policy objective as referred to in Article 3 of the [ISF Regulation]	
Policy objective as referred to in Article 3 of the [BMVI Regulation]	
Technical assistance	
Total	

(*) Policy objectives according to fund-specific regulations for EMFF, AMIF, ISF and BMVI; allocation for years 2021-2027

6. List of programmes

Reference: Article 8(f), CPR; Article 104

Table 6: List of programmes with preliminary financial allocations (*)

Title [255]	**Fund**	**Category of regions**	**EU contrubution**	**National contribution** (**)	**Total**
Programme 1	ERDF	More developed			
		Transition			
		Less developed			
		Outermost and northern sparsely populated			
Programme 1	CF				
Programme 1	ESF+	More developed			
		Transition			
		Less developed			
		Outermost			
Total	**ERDF, CF, ESF+**				
Programme 2	EMFF				
Programme 3	AMIF				

Wednesday 27 March 2019

Title [255]	**Fund**	**Category of regions**	**EU contrubution**	**National contribution** (**)	**Total**
Programme 4	ISF				
Programme 5	BMVI				
Total	**All funds**				

(*) Policy objectives according to Article 4(1), CPR. For ERDF, CF and ESF+ years 2021-2025; for EMFF for 2021-2027.
(**) In line with Article 106(2) on determination of co-financing rates.

Reference: Article 8 CPR

Table 7: List of Interreg programmes

Programme 1	Title 1 [255]
Programme 2	Title 1 [255]

7. A summary of actions to be taken to reinforce administrative capacity

Reference: Article 8(g), CPR

Text field [4 500]

Wednesday 27 March 2019

ANNEX III

Horizontal enabling conditions — Article 11(1)

Applicable to all specific objectives	
Name of enabling conditions	**Fulfilment criteria**
Effective monitoring mechanisms of the public procurement market	Monitoring mechanisms are in place that cover all procedures under national procurement legislation which includes: 1. Arrangements to ensure compilation of effective, reliable and exhaustive data and indicators within a single IT system or a network of interoperable systems, with a view to implementing the 'once-only principle' and facilitating reporting obligations under Article 83(3) of Directive 2014/24/EU, in accordance with the e-procurement requirements, as well as under Article 84 of Directive 2014/24/EU. The data and indicators cover at least the following elements: a. Quality and intensity of competition: names of winning as well as initial bidders, number of initial bidders, number of selected bidders, contractual price — against initial budgetary allocation and, whenever possible through contract registers, final price after completion; b. Participation of SMEs as direct bidders; c. Appeals launched against the decisions of the contracting authorities, including at least their number, the time needed to render a decision in the first instance, and number of decisions referred to the second instance; d. A list of all contracts awarded pursuant to rules on exclusions from the public procurement rules, with an indication of the specific provision used. 2. Arrangements to ensure sufficient capacity for monitoring and analysis of the data by the dedicated competent national authorities. 3. Arrangements to make the data and indicators as well as the result of the analysis available to the public through user friendly open data. 4. Arrangements to ensure that all information pointing to suspected bid-rigging situations is systematically communicated to the competent national competition bodies.
Tools and capacity for effective application of State aid rules	Managing authorities have the tools and capacity to verify compliance with State aid rules through: 1. Easy and comprehensive access to permanently updated information on undertakings in difficulty and under a recovery requirement. 2. Access to expert advice and guidance on State aid matters, provided by local or national expert centre, under the coordination of national State aid authorities, with working arrangements to ensure that the expertise is effectively consulted with stakeholders.

Wednesday 27 March 2019

Applicable to all specific objectives	
Name of enabling conditions	**Fulfilment criteria**
Effective application and implementation of the EU Charter of Fundamental Rights	Effective mechanisms are in place to ensure compliance with the EU Charter of Fundamental Rights which include: 1. Arrangements to ensure verification of compliance of operations supported by the Funds with the Charter of Fundamental Rights. 2. Reporting arrangements to the monitoring committee on the compliance with the Charter of the operations supported by the Funds
Implementation and application of the United Nations Convention on the rights of persons with disabilities (UNCRPD) in accordance with Council Decision 2010/48/EC	A national framework for implementing the UNCRPD is in place that includes: 1. Objectives with measurable goals, data collection and monitoring mechanism***, applicable across all policy objectives***. 2. Arrangements to ensure that the accessibility policy, legislation and standards are properly reflected in the preparation and implementation of the programmes ***in line with the provisions of the UNCRPD and included in the project selection criteria and obligations***. ***2a. Reporting arrangements to the monitoring committee on the compliance of the operations supported.*** **[Am. 378]**
Implementation of the principles and rights of the European Pillar of Social Rights that contribute to real convergence and cohesion in the European Union.	***Arrangements at national level to ensure the proper implementation of the principles of the European Pillar of Social Rights that contribute to upward social convergence and cohesion in the EU, especially the principles preventing unfair competition within the internal market.*** **[Am. 379]**
Effective application of the partnership principle	***A framework is in place for all partners to play a fully-fledged role in the preparation, implementation, monitoring and evaluation of programmes, which includes*** 1. ***Arrangements to ensure transparent procedures for the involvement of partners*** 2. ***Arrangement for dissemination and disclosure of information relevant for partners to prepare and follow-up meetings*** 3. ***Support for empowering partners and capacity building*** **[Am. 380]**

ANNEX IV

Thematic enabling conditions applicable to ERDF, ESF+ and the Cohesion Fund — Article 11(1)

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
1. A smarter Europe by promoting innovative and smart economic transformation	ERDF: All specific objectives under this policy objectives	Good governance of national or regional smart specialisation strategy	Smart specialisation strategy(ies) shall be supported by: 1. Up-to-date analysis of bottlenecks for innovation diffusion, including digitalisation 2. Existence of competent regional / national institution or body, responsible for the management of the smart specialisation strategy 3. Monitoring and evaluation tools to measure performance towards the objectives of the strategy 4. Effective functioning of entrepreneurial discovery process 5. Actions necessary to improve national or regional research and innovation systems 6. Actions to manage industrial transition 7. Measures for international collaboration
2. A greener, low carbon Europe by promoting clean and fair energy transition, green and blue investment, the circular economy, climate adaptation and risk prevention and management	ERDF and Cohesion Fund: 2.1 Promoting energy efficiency measures	Strategic policy framework to support energy efficiency renovation of residential and non-residential buildings	1. A national long term renovation strategy to support renovation of the national stock of residential and non-residential buildings is adopted, in line with the requirements of the Directive 2010/31/ EU on energy performance of buildings, which: a. Entails indicative milestones for 2030, 2040 and targets for 2050 b. Provides an indicative outline of budgetary resources to support the implementation of the strategy c. Defines effective mechanisms for promoting investments in building renovation 2. Energy efficiency improvement measures to achieve required energy savings

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ERDF and Cohesion Fund: 2.1 Promoting energy efficiency measures 2.2 Promoting renewable energy through investment in generation capacity	Governance of for the energy sector	National Energy and Climate Plan ***comply with the Paris Agreement objective of limiting global warming to 1,5 °C,*** are adopted and include: 1. All elements required by the template in Annex I of the Regulation on Governance of the Energy Union [1] 2. An ~~indicative~~ outline of envisaged financing resources and mechanisms for measures promoting low-carbon energy **[Am. 381]**
	ERDF and Cohesion Fund: 2.2 Promoting renewable energy through investment in generation capacity	Effective promotion of the use of renewable energy across sectors and across the EU	Measures are in place which ensure: 1. Compliance with the 2020 national renewables binding target and with this baseline up to 2030 in accordance with the recast of the Directive 2009/28/EC [2] 2. An increase in the share of renewables in the heating and cooling sector by 1 percentage point per year up to 2030
	ERDF and Cohesion Fund: 2.4 Promoting climate ***and structural*** change adaptation, risk prevention and disaster resilience **[Am. 382]**	Effective disaster risk management framework.	A national or regional disaster risk management plan, consistent with the existing climate adaptation strategies is in place and includes: 1. A description of key risks, assessed in accordance with the provisions of Article 6 (a) of Decision No 1313/2013/EU, reflecting current and long term threats (25- 35 years). The assessment shall build, for climate related risks, on climate change projections and scenarios 2. Description of the disaster prevention, preparedness and response measures to address the key risks identified. The measures shall be prioritized in proportion to the risks and their economic impact, capacity gaps [3], effectiveness and efficiency, taking into account possible alternatives

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
			3. Information on budgetary and financing resources and mechanisms available for covering the operation and maintenance costs related to prevention, preparedness and response
	ERDF and Cohesion Fund: 2.5 Promoting water efficiency	Updated planning for required investments in water and wastewater sectors	A national investment plan is in place and includes: 1. An assessment of the current state of implementation of the Urban Wastewater Treatment Directive (UWWTD) 91/271/EEC and of the Drinking Water Directive (DWD) 98/83/EC 2. The identification and planning of any public investments, including an indicative financial estimation a. Required to achieve compliance with the UWWTD, including a prioritization with regard to the size of agglomerations and the environmental impact, with investments broken down for each wastewater agglomeration b. Required to implement the DWD Directive on drinking water 98/83/EC c. Required to match the needs stemming from the proposed recast (COM(2017)0753), regarding in particular the revised quality parameters detailed in annex I 3. An estimate of investments needed to renew existing wastewater and water supply infrastructure, including networks, based on their age and depreciation plans 4. An indication of potential sources of public financing, when needed to complement user charges

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ERDF and Cohesion Fund: 2.6 Developing the (Transition to) circular economy, through investment in the waste sector and resource efficiency	Updated planning for waste management	Waste management plan(s) are in place in accordance with Article 28 of Directive 2008/98/EC as amended by Directive EU 2018/xxxx and covering the entire territory of the Member State and include: 1. An analysis of the current waste management situation in the geographical entity concerned, including the type, quantity and source of waste generated and an evaluation of their future development taking into account the expected impacts of measures set out in the Waste Prevention Programme(s) developed in accordance with Article 29 of Directive 2008/98/EC as amended by Directive 2018/xx/EU 2. An assessment of existing waste collection schemes, including the material and territorial coverage of separate collection and measures to improve its operation, as well as the need for new collection schemes 3. An investment gap assessment justifying the need for additional or upgraded waste infrastructure, with an information of the sources of revenues available to meet operation and maintenance costs 4. Information on the location criteria for site identification and on the capacity of future waste treatment installations
	ERDF and Cohesion Fund: 2.6 Promoting green infrastructure in the urban environment and reducing pollution	Prioritised action framework for the necessary conservation measures involving Union co-financing	A priority action framework pursuant to Article 8 of Directive 92/43/EEC is in place and includes: 1. All elements required by the template for the priority action framework for 2021-2027 agreed by the Commission and the Member States ~~2.~~ ~~The identification of~~ ***including*** the priority measures and an estimate of financing needs **[Am. 383]**

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
3. A more connected Europe by enhancing mobility and regional ICT connectivity	ERDF: 3.1 Enhancing digital connectivity	National or regional broadband plan	A national or regional broadband plan is in place which includes: 1. An assessment of the investment gap that needs to be addressed to reach the EU Gigabit connectivity objectives ([4]), based on: — a recent mapping ([5]) of existing private and public infrastructure and quality of service using standard broadband mapping indicators — a consultation on planned investments 2. The justification of planned public intervention on the basis of sustainable investment models that: — enhance, affordability and access to open, quality and future-proof infrastructure and services — adjust the forms of financial assistance to the market failures identified — allow for a complementary use of different forms of financing from EU, national or regional sources 3. Measures to support demand and use of Very High Capacity (VHC) networks, including actions to facilitate their roll-out, in particular through the effective implementation of the EU Broadband Cost-Reduction Directive ([6]) 4. Technical assistance mechanisms, including Broadband Competence Offices to reinforce the capacity of local stakeholders and advise project promoters 5. A monitoring mechanism based on standard broadband mapping indicators

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ERDF and Cohesion Fund: 3.2 Developing a sustainable, climate resilient, intelligent, ~~secure~~ ***safe*** and intermodal TEN-T **[Am. 384]**	Comprehensive transport planning at the appropriate level	Multimodal mapping of existing and planned infrastructures until 2030 is in place which: ***-1a. Requires social, economic and territorial cohesion to be ensured, and, to a greater extent, missing links to be completed and bottlenecks to be removed on the TEN-T network, which also means investment in hard infrastructure*** **[Am. 385]** 1. Includes economic justification of the planned investments, underpinned by robust demand analysis and traffic modelling, which should take into account the anticipated impact of ~~rail liberalisation~~ ***the opening of the rail services markets*** **[Am. 386]** 2. Reflects air quality plans, taking into account in particular national ~~decarbonisation plans~~ ***emission reduction strategies for the transport sector*** **[Am. 387]** 3. Includes investments in core TEN-T network corridors, as defined by regulation (EU) 1316/2013, in line with the respective TEN-T work plans ***as well as pre-identified sections on the comprehensive network*** **[Am. 388]** 4. For investments outside the core TEN-T, ensures complementarity by providing sufficient connectivity of the ***urban networks,*** regions and local communities to the core TEN-T and its nodes **[Am. 389]** 5. Ensures interoperability of the rail network, through the deployment of baseline-3 compliant ERTMS covering at least the European Deployment Plan 6. Promotes multimodality, identifying needs for multimodal or transhipment freight and passengers terminals and active modes 7. Includes measures aiming at promoting alternative fuels, in line with the relevant national policy frameworks

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
			8. Includes assessment of road safety risks in line with existing national road safety strategies, together with a mapping of the affected roads and sections and providing with a prioritisation of the corresponding investments
	3.3 sustainable, climate resilient, intelligent and intermodal national, regional and local mobility, including improved access to TEN-T and cross-border mobility		9. Provides information on budgetary and financing resources corresponding to the planned investments and required to cover operation and maintenance costs of the existing and planned infrastructures ***9a. Promotes sustainable regional and cross-border tourism initiatives that lead to win-win situations for both the tourists and the inhabitants, such as interconnecting the EuroVelo network with the TRAN European Railway network*** **[Am. 390]**
4. A more social Europe by implementing the European Pillar of Social Rights	ERDF: 4.1 enhancing the effectiveness of labour markets and access to quality employment trough developing infrastructure ESF: 4.1.1 Improving access to employment of all jobseekers, ~~including~~ ***in particular*** youth ***and long-term unemployed***, and of inactive people and promoting self-employment, and the social economy; 4.1.2 Modernising labour market institutions and services to ***assess and anticipate skills needs and*** ensure timely and tailor-made assistance and support to labour market matching, transitions and mobility; **[Am. 391]**	Strategic policy framework for active labour market policies	A strategic policy framework for active labour market policies in the light of the Employment guidelines is in place and includes: 1. Arrangements for conducting jobseekers' profiling and assessment of their needs, including for entrepreneurial pathways 2. Information on job vacancies and employment opportunities taking into account the needs of the labour market 3. Arrangements for ensuring that its design, implementation, monitoring and review is conducted in close cooperation with relevant stakeholders 4. Arrangements for monitoring, evaluation and review of active labour market policies 5. For youth employment interventions, evidence-based and targeted pathways towards young people not in employment, education or training including outreach measures and based on quality requirements taking into account criteria for quality apprenticeships and traineeships, including in the context of Youth Guarantee schemes implementation

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ERDF: 4.1 enhancing the effectiveness of labour markets and access to quality employment trough developing infrastructure ESF: 4.1.3 Promoting ***women's labour market participation*** a better work/life balance including access to childcare, a healthy and well–adapted working environment addressing health risks, adaptation of workers***, enterprises and entrepreneurs*** to change and healthy and active ageing; **[Am. 392]**	National strategic framework for gender equality	A national strategic policy framework for gender equality is in place that includes: 1. Evidence-based identification of challenges to gender equality 2. Measures to address gender gaps in employment, pay, ***social security*** and pensions, and promote work-life balance, including through improving access to early childhood education and care, with targets **[Am. 393]** 3. Arrangements for monitoring, evaluation and review of the strategic policy framework and data collection methods 4. Arrangements for ensuring that its design, implementation, monitoring and review is conducted in close cooperation with equality bodies, social partners and relevant civil society organisations
	ERDF: 4.2 improving access to inclusive and quality services in education, training and lifelong learning through developing infrastructure; ESF: 4.2.1 Improving the quality, ***inclusiveness and*** effectiveness and labour market relevance of education and training systems ***to support acquisition of key competences including digital skills and to facilitate the transition between education and work***;	Strategic policy framework for the education and training system at all levels.	A national and/or regional strategic policy framework for the education and training system is in place and includes: 1. Evidence-based systems for skills anticipation and forecasting as well as ~~graduate~~ ***follow-up*** tracking mechanisms and services for quality and effective guidance for learners of all ages ***including learner-centred approaches*** **[Am. 395]** 2. Measures to ensure equal access to, participation in and completion of quality, ***affordable,*** relevant***, non-segregated*** and inclusive education and training and acquisition of key competences at all levels, including ~~higher~~ ***tertiary*** education **[Am. 396]**

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	4.2.2 Promoting ***lifelong learning, notably*** flexible upskilling and reskilling opportunities for all~~, including by~~ ***as well as informal and non-formal learning,*** facilitating career transitions and promoting professional mobility		3. Coordination mechanism across all levels of education and training, including tertiary education ***and non-formal and informal learning providers***, and clear assignment of responsibilities between the relevant national and/or regional bodies **[Am. 397]** 4. Arrangements for monitoring, evaluation and review of the strategic policy framework 5. Measures to target low-skilled, low-qualified adults and those with disadvantaged socio-economic backgrounds and upskilling pathways
	4.2.3 Promoting equal access ***to and completion of, quality and inclusive education and training***, in particular for disadvantaged groups, ~~to quality and inclusive education and training~~, from early childhood education and care through general and vocational education and training and to tertiary level***, as well as adult education and learning, including facilitating learning mobility for all***; **[Am. 394]**		6. Measures to support teachers, trainers and academic staff as regards appropriate learning methods, assessment and validation of key competences 7. Measures to promote mobility of learners and staff and transnational collaboration of education and training providers, including through recognition of learning outcomes and qualifications
	ERDF: 4.3 increasing the socio-economic integration of marginalised communities, ***refugees and*** migrants ***under international protection*** and disadvantaged groups, through integrated measures including housing and social services **[Am. 398]**	National strategic policy framework for social inclusion and poverty reduction	A national strategic policy framework ***and action plan*** for social inclusion and poverty reduction is in place that includes: 1. Evidence-based diagnosis of poverty and social exclusion including child poverty, homelessness, spatial and educational segregation, limited access to essential services and infrastructure, and the specific needs of vulnerable people 2. Measures to prevent and combat segregation in all fields, including through providing adequate income support, ***social protection,*** inclusive labour markets and access to quality services for vulnerable people, including migrants ***and refugees***

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ESF: 4.3.1 ~~Promoting~~ ***fostering*** active inclusion ~~including~~ with a view to promoting equal opportunities and active participation, and improving employability; **[Am. 399]** ***4.3.1a. Promoting social integration of people at risk of poverty or social exclusion, including the most deprived and children*** **[Am. 400]**		3. Measures for the ~~shift~~ ***transition*** from institutional to ***family- and*** community-based care ***based on a national deinstitutionalisation strategy and an action plan*** 4. Arrangements for ensuring that its design, implementation, monitoring and review is conducted in close cooperation with social partners and relevant civil society organisations **[Am. 401]**
	ESF: 4.3.2 Promoting socio-economic integration ***of third country nationals and*** of marginalised communities such as the Roma; **[Am. 402]**	National Roma Integration Strategy	The National Roma Integration Strategy (NRIS) is in place that includes: 1. Measures to accelerate Roma integration, prevent and eliminate segregation, taking into account the gender dimension and situation of young Roma, and sets baseline and measurable milestones and targets 2. Arrangements for monitoring, evaluation and review of the Roma integration measures 3. Arrangements for the mainstreaming of Roma inclusion at regional and local level 4. Arrangements for ensuring that its design, implementation, monitoring and review is conducted in a close cooperation with the Roma civil society and all other relevant stakeholders, including at the regional and local levels

Policy objective	Specific objective	Name of enabling condition	Fulfilment criteria for the enabling condition
	ERDF: 4.4 ensuring equal access to health care through developing infrastructure, including primary care ESF: 4.3.4 Enhancing the equal and timely access to quality, sustainable and affordable services; ***modernising social protection systems, including promoting access to social protection;*** improving accessibility, effectiveness and resilience of healthcare systems; improving access to long-term care services **[Am. 403]**	Strategic policy framework for health.	A national or regional strategic policy framework for health is in place that contains: 1. Mapping of health and long-term care needs, including in terms of medical staff, to ensure sustainable and coordinated measures 2. Measures to ensure the efficiency, sustainability, accessibility and affordability ~~to~~ ***of*** health and long-term care services, including specific focus on individuals excluded from the health and long-term care systems ***and those who are hardest to reach*** 3. Measures to promote community based services, including prevention and primary care, home-care and community-based services***, and the transition from institutional to family and community based care*** ***3a. Measures to ensure the efficiency, sustainability, accessibility and affordability of social protection systems*** **[Am. 404]**

([1]) OJ [not yet adopted].
([2]) OJ [not yet adopted].
([3]) As assessed in the risk management capabilities assessment required under Article 6(c) of Decision 1313/2013.
([4]) As defined in the Communication from the European Commission: 'Towards a European Gigabit Society' — COM(2016)0587: https://ec.europa.eu/digital-single-market/en/policies/improving-connectivity-and-access.
([5]) In line with article 22 of the [Proposal for a] Directive of the European Parliament and of the Council establishing the European Electronic Communications Code].
([6]) Directive 2014/61/EU.

Wednesday 27 March 2019

ANNEX V

Template for programmes supported from the ERDF (Investment for Jobs and growth goal), ESF+, the Cohesion Fund and the EMFF — Article 16(3)

CCI	
Title in EN	[255 characters (1)]
Title in national language(s)	[255]
Version	
First year	[4]
Last year	[4]
Eligible from	
Eligible until	
Commission decision number	
Commission decision date	
Member State amending decision number	
Member State amending decision entry into force date	
Non substantial transfer (art. 19.5)	Yes/No
NUTS regions covered by the programme (not applicable to the EMFF)	
Fund concerned	☐ ERDF
	☐ Cohesion Fund
	☐ ESF+
	☐ EMFF

(1) Numbers in square brackets refer to number of characters.

Wednesday 27 March 2019

1. Programme strategy: main development challenges and policy responses

Reference: Article 17(3)(a)(i)-(vii) and 17(3)(b)

Text field [30 000]

For Jobs and growth goal:

Table 1

Policy objective	**Specific objective or dedicated priority** (*)	**Justification (summary)**
		[2 000 per specific objective or dedicated priority]

(*) *Dedicated priorities according to ESF+ Regulation*

For the EMFF:

Table 1A

Policy objective	**Priority**	**SWOT analysis (for each priority)**	**Justification (summary)**
		Strengths [10 000 per priority]	[20 000 per priority]
		Weaknesses [10 000 per priority]	
		Opportunities [10 000 per priority]	
		Threats [10 000 per priority]	
		Identification of needs on the basis of the SWOT analysis and taking into account the elements set out in Article 6(6) of the EMFF Regulation [10 000 per priority]	

Wednesday 27 March 2019

2. Priorities other than technical assistance

Reference: Article 17(2) and 17(3)(c)

Table 1.T: Programme structure (*)

ID	Title [300]	TA	Basis for calculation	Fund	Category of region supported	Specific Objective selected
1	Priority 1	No		ERDF	More	SO 1
					Transition	
					Less developed	SO 2
					Outermost and sparsely populated	
					More	SO 3
2	Priority 2	No		ESF+	More	SO 4
					Transition	
					Less developed	SO 5
					Outermost	
3	Priority 3	No		CF	N/A	
3	Priority technical assistance	Yes				NA
..	Dedicated priority youth employment)	No		ESF+		
	Dedicated priority Child Guarantee	***No***		***ESF+***		
..	Dedicated priority CSRs	No		ESF+		
..	Dedicated priority Innovative actions	No		ESF+		SO 8
	Dedicated priority Material deprivation	No		ESF+		SO 9

(*) *Information on this table will serve as technical input to prefill other fields and tables in the tamplate in the electionic format.Not applicable to EMFF.* **[Am. 405]**

2.1 Title of the priority [300] (repeated for each priority)

☐	This is a priority dedicated to a relevant country-specific recommendation
☐	This is a priority dedicated to youth employment
☐	***This is a priority dedicated to Child Guarantee***
☐	This is a priority dedicated to innovative actions
☐	This is a priority dedicated to addressing material deprivation (**)

* *Table applicable to ESF+ priorities.*
(**) *If marked go to section 2.1.2* **[Am. 406]**

2.1.1. Specific objective ([1]) (Jobs and growth goal) or Area of support (EMFF) — repeated for each selected specific objective or area of support, for priorities other than technical assistance **[Am. 407]**

2.1.1.1 Interventions of the Funds

Reference: Article 17(3)(d)(i)(iii)(iv)(v)(vi);

The related types of actions — Article 17(3)(d)(i):

Text field [8 000]

List of planned operations of strategic importance- Article 17(3)(d)(i):

Text field [2 000]

The main target groups — Article 17(3)(d)(iii):

Text field [1 000]

Specific territories tageted, including the planned use of territorial tools — Article 17(3)(d)(iv)

Text field [2 000]

The interregional and transnational actions –Article — 17(3)(d)(v)

Text field [2 000]

The planned use of financial instruments — Article — 17(3)(d)(vi)

Text field [1 000]

([1]) Except for a specific objective set out in Article ~~4(1)(c)(vii)~~ ***4(1)(xi)*** of the ESF+ Regulation.

Wednesday 27 March 2019

2.1.1.2 Indicators ~~(2)~~ **[Am. 408]**

Reference: Article 17(3)(d)(ii)

Table 2: Output indicators

Priority	Specific objective (Jobs and growth goal) or area of support (EMFF)	Fund	Category of region	ID [5]	Indicator [255]	Measurement unit	Milestone (2024)	Target (2029)

Table 3: Result indicators

Priority	Specific objective (Jobs and growth goal) or area of support (EMFF)	Fund	Category of region	ID [5]	Indicator [255]	Measure-ment unit	Baseline or reference value	Reference year	Target (2029)	Source of data [200]	Comments [200]

2.1.1.3 Indicative breakdown of the programme resources (EU) by type of intervention [3] (not applicable to the EMFF) **[Am. 409]**

Reference: Article 17(3)(d)(vii)

Table 4: Dimension 1 — intervention field

Priority No	Fund	Category of region	Specific objective	Code	Amount (EUR)

Table 5: Dimension 2 — form of financing

Priority No	Fund	Category of region	Specific objective	Code	Amount (EUR)

Table 6: Dimension 3 — territorial delivery mechanism and territorial focus

Priority No	Fund	Category of region	Specific objective	Code	Amount (EUR)

~~(2) Prior to the mid-term review in 2025 for the ERDF, the ESF+ and the CF, breakdown for the years 2021 to 2025 only.~~

~~(3) Prior to the mid-term review in 2025 for the ERDF, the ESF+ and the CF, breakdown for the years 2021 to 2025 only.~~

Table 7: Dimension 6 — ESF+ secondary themes

Priority No	Fund	Category of region	Specific objective	Code	Amount (EUR)

2.1.2 Specific objective addressing material deprivation

Reference: Article 17(3); CPR

Types of support

Text field [2 000 characters]

Main target groups

Text field [2 000 characters]

Decryption of the national or regional schemes of support

Text field [2 000 characters]

Criteria for the selection of operations [4] **[Am. 410]**

Text field [4 000 characters]

2.T: Technical assistance priority

Reference: Article 17(3)(e); Article 29, Article 30, Article 31, Article 89 CPR;

Description of technical assistance under flat rate payments — Article 30

Text field [5 000]

Description of technical assistance under payments not linked to costs — Article 31

Text field [3 000]

Table 8: Dimension 1 — intervention field

Priority No	Fund	Category of region	Code	Amount (EUR)

[4] Only for programmes limited to the specific objective set out in Article ~~4(1)(c)(vii)~~ ***4(1)(xi)*** of the ESF+ Regulation.

Wednesday 27 March 2019

Table 9: Dimension 5 — ESF+ secondary themes

Priority No	Fund	Category of region	Code	Amount (EUR)

3. Financial plan

Reference: Article 17(3)(f)(i)-(iii); Article 106(1)-(3), Article 10; Article 21; CPR,

3.A Transfers and contributions ([5])

Reference: Article 10; Article 21; CPR

☐	Programme amendment related to Article 10, CPR (contribution to Invest EU)
☐	Programme amendment related to Article 21, CPR (transfers to instruments under direct or indirect management between shared management funds)

Table 15: Contributions to InvestEU (*)

	Category of regions	Window 1 (a)	Window 2 (b)	Window 3 (c)	Window 4 (d)	Window 5 (e)	amount (f)=(a)+(b)+(c)+(d)+(e))
ERDF	**More developed**						
	Less developed						
	Transition						
	Outermost and northern sparsely populated						
ESF+	**More developed**						
	Less developed						
	Transition						
	Outermost						

([5]) Applicable only to programme amendments in line with Article 10 and 21, CPR..

	Category of regions	Window 1 (a)	Window 2 (b)	Window 3 (c)	Window 4 (d)	Window 5 (e)	amount (f)=(a)+(b)+(c)+(d)+(e))
CF							
EMFF							
Total							

(*) Cumulative amounts for all contributions during programming period.

~~**Table 16: Transfers to instruments under direct or indirect management**~~ (*)

~~Fund~~	~~Category of regions~~	~~Instrument 1 (a)~~	~~Instrument 2 (b)~~	~~Instrument 3 (c)~~	~~Instrument 4 (d)~~	~~Instrument 5 (e)~~	~~Transfer amount (f)=(a)+(b)+(c)+(d)+(e)~~
~~**ERDF**~~	~~**More developed**~~						
	~~**Transition**~~						
	~~**Less developed**~~						
	~~**Outermost and northern sparsely populated**~~						
~~**ESF+**~~	~~**More developed**~~						
	~~**Transition**~~						
	~~**Less developed**~~						
	~~**Outermost**~~						
~~**CF**~~							
~~**EMFF**~~							
~~**Total**~~							

(*) ~~Cumulative amounts for all transfers during programming period.~~

[Am. 411]

Table 17: Transfers between shared management funds (*)

		ERDF				ESF+				CF	EMFF	AMF	ISF	BMVI	Total
		More developed	Transition	Less developed	Outermost and northern sparsely populated	More developed	Transition	Less developed	Outermost						
ERDF	**More developed**														
	Transition														
	Less developed														
	Outermost and northern sparsely populated														
ESF+	**More developed**														
	Transition														
	Less developed														
	Outermost														
CF															

		ERDF				ESF+				CF	EMFF	AMF	ISF	BMVI	Total
		More developed	Transition	Less developed	Outermost and northern sparsely populated	More developed	Transition	Less developed	Outermost						
EMFF															
Total															

(*) Cumulative amounts for all transfers during programming period.

3.1 Financial appropriations by year

Reference: Article 17(3)(f)(i)

Table 10: Financial appropriations by year

Fund	Category of region	2021	2022	2023	2024	2025	2026	2027	Total
ERDF	**Less developed**								
	More developed								
	Transition								
	Outermost and northern sparsely populated								
Total									

Table 10: Financial appropriations by year

Fund	Category of region	2021	2022	2023	2024	2025	2026	2027	Total
ESF+	Less developed								
	More developed								
	Transition								
	Outermost								
Total									
Cohesion Fund	N/A								
EMFF	N/A								
Total									

3.2 Total financial appropriations by fund and national co-financing [6] **[Am. 412]**

Reference: Article 17(3)(f)(ii), Article 17(6)

For Jobs and growth goal:

Table 11: Total financial appropriations by fund and national co-financing

Policy objecive No or TA	Priority	Basis for calculation EU support (total or public)	Fund	Category of region (*)	EU contrubution	National contribution	Indicative breakdown of national contribution		Total	Co-financing rate
							public	private		
					(a)	(b)=(c)+(d)	(c)	(d)	(e)=(a)+(b) (**)	(f)=(a)/(e) (**)
	Priority 1	**P/T**	**ERDF**	**Less developed**						
				More developed						
				Transition						
				Special allocation for outermost and northern sparsely populated regions						
	Priority 2		**ESF+**	**Less developed**						
				More developed						
				Transition						
				Outermost						

(6) ~~Prior to the mid-term review in 2025 for the ERDF, the ESF+ and the CF, financial appropriations for the years 2021 to 2025 only.~~

Table 11: Total financial appropriations by fund and national co-financing

Policy objecive No or TA	Priority	Basis for calculation EU support (total or public)	Fund	Category of region (*)	EU contrubution	National contribution	Indicative breakdown of national contribution		Total	Co-financing rate
							public	private		
					(a)	(b)=(c)+(d)	(c)	(d)	(e)=(a)+(b) (**)	(f)=(a)/(e) (**)
	Priority 3		CF							
TA	TA Art 29 CPR		ERDF or ESF+ or CF							
	TA Art 30 CPR		ERDF or ESF+ or CF							
Total ERDF				More developed						
				Transition						
				Less developed						
				Special allocation for outermost and northern sparsely populated regions						
Total ESF+				More developed						
				Transition						

Table 11: Total financial appropriations by fund and national co-financing

Policy objecive No or TA	Priority	Basis for calculation EU support (total or public)	Fund	Category of region (*)	EU contrubution	National contribution	Indicative breakdown of national contribution		Total	Co-financing rate
							public	private		
					(a)	(b)=(c)+(d)	(c)	(d)	(e)=(a)+(b) (**)	(f)=(a)/(e) (**)
				Less developed						
				Outermost						
Total CF			**N/A**							
Grand total										

(*) For ERDF: less developed, transition, more developed, and, where applicable special allocation for outermost and northern sparsely populated regions. For ESF+: less developed, transition, more developed and, where applicable, additional allocation for outermost regions. For CF: not applicable. For technical assistance, application of categories of region depends on selection of a fund.

(**) Where relevant for all categories of region.

Wednesday 27 March 2019

For the EMFF:

Reference: Article 17(3)(f)(iii)

Table 11 A

Priority	Type of area of support (nomenclature set out in the EMFF Regulation)	Basis for calculation of EU support	EU contribution	National public	Total	Co-financing rate
Priority 1	**1.1**	**Public**				
	1.2	**Public**				
	1.3	**Public**				
	1.4	**Public**				
	1.5	**Public**				
Priority 2	**2.1**	**Public**				
Priority 3	**3.1**	**Public**				
Priority 4	**4.1**	**Public**				
Technical assistance	**5.1**	**Public**				

4. Enabling conditions

Reference: Article 19(3)(h)

Table 12: Enabling conditions

Enabling conditions	Fund	Specific objective (N/A to the EMFF)	Fulfilment of enabling condition	Criteria	Fulfilment of criteria	Reference to relevant documents	Justification
			Yes/No	**Criterion 1**	**Y/N**	**[500]**	**[1 000]**
				Criterion 2	**Y/N**		

5. Programme authorities

Reference: Article 17(3)(j); Article 65, Article 78 CPR

Table 13: Programme authorities

Programme authorities	Name of the institution [500]	Contact name [200]	E-mail [200]
Managing authority			

Table 13: Programme authorities

Programme authorities	Name of the institution [500]	Contact name [200]	E-mail [200]
Audit authority			
Body which receives payments from the Commission			

6. Partnership

Reference: Article 17(3)(g)

Text field [10 000]

7. Communication and visibility

Reference: Article 17(3)(i) CPR, Article 42(2) CPR

Text field [4 500]

8. Use of unit costs, lump sums, flat rates and financing not linked to costs

Reference: Articles 88 and 89 CPR

Table 14: Use of unit costs, lump sums, flat rates and financing not linked to costs

Indication of use of Articles 88 and 89 (*):	Priority No	Fund	Specific objective (Jobs and growth goal) or area of support (EMFF)
Use of reimbursement of eligible expenditure based on unit costs, lump sums and flat rates under priority according to Article 88 CPR	**Priority 1**	**ERDF**	**SO 1**
			SO 2
	Priority 2	**ESF+**	**SO 3**
			SO 4
	Priority 3	**CF**	**SO 5**
			SO 6

Wednesday 27 March 2019

Indication of use of Articles 88 and 89 (*):	Priority No	Fund	Specific objective (Jobs and growth goal) or area of support (EMFF)
Use of financing not linked to costs according to Article 89 CPR	**Priority 1**	**ERDF**	**SO 7**
			SO 8
	Priority 2	**ESF+**	**SO 9**
			SO 10
	Priority 3	**CF**	**SO 11**
			SO 12

(*) Full information will be provided acorrding to the models annexed to the CPR.

APPENDICES

— Reimbursement of eligible expenditure based on unit costs, lump sums and flat rates (Article 88 CPR)

— Financing not linked to costs (Article 89 CPR)

— EMFF action plan for small-scale coastal fishing

— EMFF action plan for each outermost region

Wednesday 27 March 2019

Appendix 1: **Reimbursement of eligible expenditure from the Commission to the Member State based on unit costs, lump sums and flat rates**

Template for submitting data for the consideration of the Commission

(Article 88)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	Fund	Specific objective (jobs and growth goal) or area of support (EMFF)	Category of region	Estimated proportion of the total financial allocation within the priority to which the SCO will be applied in % (estimate)	Type(s) of operation		Corresponding indicator name(s)		Unit of measurement for the indicator	Type of SCO (standard scale of unit costs, lump sums or flat rates)	Corresponding standard scales of unit costs, lump sums or flat rates (in national currency)
					Code	Description	Code	Description			

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

Types of operation:

1.1. Description of the operation type	
1.2 Priority /specific objective(s) concerned (Jobs and growth goal) or area of support (EMFF)	
1.3 Indicator name ([1])	
1.4 Unit of measurement for indicator	
1.5 Standard scale of unit cost, lump sum or flat rate	
1.6 Amount	
1.7 Categories of costs covered by 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	
11.10 Verification of the achievement of the unit of measurement — what document(s) will be used to verify the achievement of the unit of measurement? — describe what will be checked during management verifications (including on-the-spot), and by whom. — what arrangements to collect and store the data/documents described?	
1.11 Possible perverse incentives or problems caused by this indicator, how they could be mitigated, and the estimated level of risk	
1.12 Total amount (national and EU) expected to be reimbursed	

([1]) Several complementary indicators (for instance one output indicator and one result indicator) are possible for one type of operation. In these cases, fields 1.3 to 1.11 should be filled in for each indicator.

Wednesday 27 March 2019

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.).

2. Please specify why the proposed method and calculation 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 attached to this annex 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(ies) of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data.

Wednesday 27 March 2019

Appendix 2: **Financing not linked to cost**

Template for submitting data for the consideration of the Commission

(Article 89)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	**Fund**	**Specific objective (Jobs and growth goal) or area of support (EMFF)**	**Category of region**	***The amount covered by the financing not linked to cost***	**Type(s) of operation**	**Conditions to be fulfilled/results to be achieved**	**Corresponding indicator name(s)**		**Unit of measurement for the indicator**
							Code	Description	
The overall amount covered									

B. Details by type of operation (to be completed for every type of operation)

Types of operation:

1.1. Description of the operation type			
1.2 Priority / specific objective(s) (Jobs and growth goal) or area of support (EMFF) concerned			
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 Indicator definition for deliverables			
1.6 Unit of measurement for indicator for deliverables			
1.7 Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Date	Amounts
1.8 Total amount (including EU and national funding)			
1.9 Adjustment(s) method			
1.10 Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables) — describe what document(s) will be used to verify the achievement of the result or condition — describe what will be checked during management verifications (including on-the-spot), and by whom. — describe what are the arrangements to collect and store the data/documents			
1.11 Arrangements to ensure the audit trail Please list the body(ies) responsible for these arrangements.			

Wednesday 27 March 2019

***Appendix 3*: EMFF action plan for small-scale coastal fishing**

Template for submitting data for the consideration of the Commission

Date of submitting the proposal	
Current version	

1. Description of the small-scale coastal fleet

Text field [5 000]

2. General description of the strategy for the development of profitable and sustainable small-scale coastal fishing

Text field [5 000]and indicative overall EMFF amount allocated

3. Description of the specific actions under the strategy for the development of profitable and sustainable small-scale coastal fishing

Description of the main actions	Indicative EMFF amount allocated (EUR)
Adjustment and management of fishing capacity *Text field [10 000]*	
Promotion of sustainable, climate resilient and low-carbon fishing practices that minimize damage to the environment *Text field [10 000]*	
Reinforcement of the value chain of the sector and the promotion of marketing strategies *Text field [10 000]*	
Promotion of skills, knowledge, innovation and capacity building *Text field [10 000]*	
Improvement of health, safety and working conditions on board fishing vessels *Text field [10 000]*	
Increased compliance with data collection, traceability, monitoring, control and surveillance requirements *Text field [10 000]*	
Involvment of small-scale operators in the participatory management of the maritime space, including Marine Protected Areas and Natura 2000 areas *Text field [10 000]*	

Description of the main actions	Indicative EMFF amount allocated (EUR)
Diversification of activities in the borader sustainable blue economy *Text field [10 000]*	
Collective organisation and participation of small-scale operators in the decision-making and advisory processes *Text field [10 000]*	

4. Where appropriate, the implementation of the FAO voluntary guidelines for securing sustainable small-scale fisheries

Text field [10 000]

5. Where appropriate, the implementation of the regional plan of action for small-scale fisheries from the General Fisheries Commission for the Mediterranean

Text field [10 000]

6. Indicators

Table 1: Output indicators

Title of the output indicator	Measurement unit	Milestone (2024)	Target (2029)

Table 2: Result indicators

Title of the result indicator	Measurement unit	Baseline	Reference year	Target (2029)

Wednesday 27 March 2019

***Appendix 4*: EMFF action plan for each outermost region**

Template for submitting data for the consideration of the Commission

Date of submitting the proposal	
Current version	

1. Description of the strategy for the sustainable exploitation of fisheries and the development of the sustainable blue economy

Text field [30 000]

2. Description of the main actions envisaged and the corresponding financial means

Description of the main actions	**EMFF amount allocated (EUR)**
Structural support to the fishery and aquaculture sector under the EMFF *Text field [10 000]*	
Compensation for the additional costs under Article 21 of the EMFF *Text field [10 000]*	
Other investments in the sustainable blue economy necessary to achieve a sustainable coastal development *Text field [10 000]*	

3. Description of the synergies with other sources of Union funding

Text field [10 000]

4. Description of the synergies with the action plan for small-scale coastal fishing

Text field [10 000]

Wednesday 27 March 2019

ANNEX VI

Template of a programme for the AMIF, the ISF and the BMVI — Article 16(3)

CCI number	
Title in English	[255 characters [1]]
Title in the national language	[255]
Version	
First Year	[4]
Last Year	[4]
Eligible from	
Eligible until	
Commission Decision Number	
Commission Decision Date	
Member State amending decision number	
Member State amending decision entry into force date	

[1] Number in square brackets refer to number of characters

Wednesday 27 March 2019

1. Programme strategy: main challenges and policy responses

Reference: Article 17(3)(a)(i)-(v) and (vii) and 17(3)(b)

This section explains how the programme will address the main challenges identified in the Partnership Agreement, provides a summary of challenges identified at the national level based on local, regional and national needs assessments and/or strategies. It provides an overview of the state of implementation of relevant EU acquis and the progress achieved on EU action plans, and describes how the Fund will support their development through the programming period.

Text field [15 000]

2. Specific objectives (repeated for each specific objective other than technical assistance)

Reference: Article 17(2) and 17(4)

2.1. Title of the specific objective [300]

2.1.1. Description of a specific objective

This section describes, for each specific objective, the initial situation, main challenges and proposes responses supported by the Fund. It describes which operational objectives are addressed with the support of the Fund; it provides an indicative list of actions within the scope of Articles 3 and 4 of the AMIF, ISF or BMVI Regulations. *In particular: For operating support, it provides a justification in line with Article 17 of the ISF Regulation, Articles 17 and 18 of the BMVI Regulation or Article 20 of the AMIF Regulation. It includes an indicative list of beneficiaries with their statutory responsibilities, main tasks to be supported and indicative number of staff to be supported for each beneficiary and task. For the ISF, operating support is to be described in point 4 of the template.* *For specific actions, it describes how the action will be carried out and provides justification for the allocated amount. In addition, for joint specific actions, the lead Member State lists the participating Member States, including their role and, if applicable, their financial contribution.* *For emergency assistance, it describes how the action will be carried out and provides justification for the allocated amount.* *Planned use of financial instruments, if applicable.* *AMIF only: resettlement and solidarity shall be presented separately.* *Text field (16 000 characters)*

2.1.2 Indicators

Table 1: Output indicators

Specific objective	ID [5]	Indicator [255]	Measurement unit	Milestone (2024)	Target (2029)

Table 2: Result indicators

Specific objective	ID [5]	Indicator [255]	Measure-ment unit	Baseline or reference value	Reference year	Target (2029)	Source of data [200]	Comments [200]

2.1.3 Indicative breakdown of the programme resources (EU) by type of intervention

Reference: Article 17(5) and Article 10(16) of the BMVI Regulation or Article 10(9) of the ISF Regulation or Article 10(8) of the AMIF Regulation

Table 3

Specific objective	Type of intervention	Code	Indicative amount (Euro)

1.1. Operating support (ISF only)

This section is applicable only to programmes receiving support from the ISF and provides a justification for the use of it in line with Article 17 of the ISF Regulation. It includes an indicative list of beneficiaries with their statutory responsibilities, main tasks to be supported and indicative number of staff to be supported for each beneficiary and task. See also point 2.1.1 above

Text field [5 000]

Table 4

Type of intervention	Code	Indicative amount (Euro)

1.2. Technical assistance

Reference: Article 17(3)(e); Article 30 CPR; Article 31 CPR; Article 89 CPR;

Text field [5 000] (Technical assistance under flat rate payments)

Text field [3 000] (Technical assistance under payments not linked to costs)

Table 5

Type of intervention	Code	Indicative amount (Euro)

3. Financial plan

Reference: Article 17(3)(f)

3.1. Financial appropriations by year

Table 6

Fund	2021	2022	2023	2024	2025	2026	2027	Total

Wednesday 27 March 2019

3.2 Total financial appropriations from the Fund and national co-financing

Reference: Article 17(3)(f) (iv)

Table 7

Specific objective	Type of action	Basis for calculation EU support (total or public)	EU contribution (a)	National contribution (b)=(c)+(d)	Indicative breakdown of national contribution		Total e=(a)+(b)	Co-financing rate (f)=(a)/(e)
					public (c)	private (d)		
Specific objective 1	Type of action no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]							
	Type of action no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]							
	Type of action no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]							
	Type of action no 4 [Reference to Article 14 and 15 of AMIF Regulation]							
Total for SO 1								
SO 2	Type of action no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]							
	Type of action no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]							
	Type of action no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]							
Total for SO 2								
SO 3	Type of action no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]							

Table 7

Specific objective	Type of action	Basis for calculation EU support (total or public)	EU contribution (a)	National contribution (b)=(c)+(d)	Indicative breakdown of national contribution		Total e=(a)+(b)	Co-financing rate (f)=(a)/(e)
					public (c)	private (d)		
	Type of action no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]							
	Type of action no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]							
Total for SO 3								
TA (Art 30 CPR)								
TA (Art 31 CPR)								
Grand total								

Wednesday 27 March 2019

Table 8 [AMIF only]	**Number of persons per year**						
Category	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**2027**
Resettlement							
Humanitarian admission							
[other categories]							

4. Enabling conditions

Reference: Article 17(3)(h)

Table 9

Enabling condition	**Fulfilment of enabling condition**	**Criteria**	**Fulfilment of criteria**	**Reference to relevant documents**	**Justification**
		Criterion 1	Y/N	[500]	[1000]
		Criterion 2			

5. Programme authorities

Reference: Article 17(3)(j); Article 65 and 78 CPR

Table 10	**Name of the institution** [500]	**Contact name and position** [200]	**e-mail [200]**
Managing authority			
Audit authority			
Body which receives payments from the Commission			

6. Partnership

Reference: Article 17(3)(g);

text field [10 000]

7. Communication and visibility

Reference: Article 17(3)(i) CPR, Article 42(2)

Text field [4 500]

8. Use of unit costs, lump sums, flat rates and financing not linked to costs

Reference: Articles 88 and 89 CPR

Indication of use of Article 88 and 89 (*):	**Specific objective**
Use of reimbursement of eligible expenditure based on unit costs, lump sums and flat rates under priority according to Article 88 CPR	
Use of financing not linked to costs according to Article 89 CPR	

(*) Full information will be provided acorrding to the models in appendices.

APPENDICES

— Reimbursement of eligible expenditure based on unit costs, lump sums and flat rates (Article 88 CPR)

— Financing not linked to costs (Article 89 CPR)

Wednesday 27 March 2019

Appendix 1: **Reimbursement of eligible expenditure from the Commission to the Member State based on unit costs, lump sums and flat rates**

Template for submitting data for the consideration of the Commission

(Article 88)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	Fund	Estimated proportion of the total financial allocation within the priority to which the SCO will be applied in % (estimate)	Type(s) of operation		Corresponding indicator name(s)		Unit of measurement for the indicator	Type of SCO (standard scale of unit costs, lump sums or flat rates)	Corresponding standard scales of unit costs, lump sums or flat rates
			Code	Description	Code	Description			

Wednesday 27 March 2019

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

Types of operation:

1.1. Description of the operation type	
1.2 Priority /specific objective(s) (Jobs and growth goal) or area of support (EMFF) concerned	
1.3 Indicator name ([1])	
1.4 Unit of measurement for indicator	
1.5 Standard scale of unit cost, lump sum or flat rate	
1.6 Amount	
1.7 Categories of costs covered by 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	
11.10 Verification of the achievement of the unit of measurement — describe what document(s) will be used to verify the achievement of the unit of measurement — describe what will be checked during management verifications (including on-the-spot), and by whom — describe what arrangements there are to collect and store the data/documents described	
1.11 Possible perverse incentives or problems caused by this indicator, how they could be mitigated, and the estimated level of risk	
1.12 Total amount (national and EU) expected to be reimbursed	

([1]) Several complementary indicators (for instance one output indicator and one result indicator) are possible for one type of operation. In these cases, fields 1.3 to 1.11 should be filled in for each indicator.

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.).

2. Please specify why the proposed method and calculation 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 attached to this annex 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(ies) of the calculation methodology and amounts and the arrangements to ensure the verification, quality, collection and storage of data.

Wednesday 27 March 2019

***Appendix 2:* Financing not linked to costs**

Template for submitting data for the consideration of the Commission

(Article 89)

Date of submitting the proposal	
Current version	

A. Summary of the main elements

Priority	Fund	*The amount covered by the financing not linked to costs*	Type(s) of operation	Conditions to be fulfilled/results to be achieved	Corresponding indicator name (s)		Unit of measurement for the indicator
					Code	Description	
The overall amount covered							

Wednesday 27 March 2019

B. Details by type of operation (to be completed for every type of operation)

Types of operation:

1.1. Description of the operation type			
1.2 Priority /specific objective(s) concerned			
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 Indicator definition for deliverables			
1.6 Unit of measurement for indicator for deliverables			
1.7 Intermediate deliverables (if applicable) triggering reimbursement by the Commission with schedule for reimbursements	Intermediate deliverables	Date	Amounts
1.8 Total amount (including EU and national funding)			
1.9 Adjustment(s) method			
1.10 Verification of the achievement of the result or condition (and where relevant, the intermediate deliverables) — what document(s) will be used to verify the achievement of the result or condition? — describe what will be checked during management verifications (including on-the-spot), and by whom. — what arrangements to collect and store the data/documents described?			
1.11 Arrangements to ensure the audit trail Please list the body(ies) responsible for these arrangements.			

ANNEX VII

Template for the transmission of data — Article 37 and 68(1)(g) [1]

TABLE 1: Financial information at priority and programme level (Article 37(2)(a))

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
The financial appropriation of the priority based on the programme							Cumulative data on the financial progress of the programme					
Priority	Specific objective	Fund	Category of region	Basis for the calculation of Union contribution* (Total contribution or public contribution)	Total financial appropriation (EUR)	Co-financing rate (%)	Total eligible cost of operations selected for support (EUR)	Contribution from the funds to operations selected for support (EUR)	Proportion of the total allocation covered with selected operations (%) [column 7/ column 5x 100]	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Proportion of the total allocation covered by eligible expenditure incurred by beneficiaries and paid in implementing operations (%) [column 10/ column 5x100]	Number of operations selected
									Calculation		*Calculation*	
<type="S" input="G">	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="N" input="G">*	*<type="P" input="G">*	*<type="Cu" input="M">*		*<type="P" input="G">*	*<type="Cu" input="M">*	*<type="P" input="G">*	*<type="N" input="M">*
Priority 1	SO 1	ERDF										
Priority 2	SO 2	ESF+										
Priority 3	SO 3	Cohesion Fund	NA									

[1] Legend for the characteristics of fields:
type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency
input: M=Manual, S=Selection, G=Generated by system

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
The financial appropriation of the priority based on the programme							Cumulative data on the financial progress of the programme					
Priority	Specific objective	Fund	Category of region	Basis for the calculation of Union contribution* (Total contribution or public contribution)	Total financial appropriation (EUR)	Co-financing rate (%)	Total eligible cost of operations selected for support (EUR)	Contribution from the funds to operations selected for support (EUR)	Proportion of the total allocation covered with selected operations (%) [column 7/ column 5x 100]	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Proportion of the total allocation covered by eligible expenditure incurred by beneficiaries and paid in implementing operations (%) [column 10/ column 5x100]	Number of operations selected
									Calculation		*Calculation*	
Total		ERDF	Less developed		*<type="N" input="G">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*
Total		ERDF	Transition		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input="G ">*
Total		ERDF	More developed		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*
Total		ERDF	Special allocation to outermost regions or northern sparsely populated regions		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*
Total		ESF	Less developed		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
The financial appropriation of the priority based on the programme							Cumulative data on the financial progress of the programme					
Priority	Specific objective	Fund	Category of region	Basis for the calculation of Union contribution* (Total contribution or public contribution)	Total financial appropriation (EUR)	Co-financing rate (%)	Total eligible cost of operations selected for support (EUR)	Contribution from the funds to operations selected for support (EUR)	Proportion of the total allocation covered with selected operations (%) [column 7/ column 5x 100]	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Proportion of the total allocation covered by eligible expenditure incurred by beneficiaries and paid in implementing operations (%) [column 10/ column 5x100]	Number of operations selected
									Calculation		*Calculation*	
Total		ESF	Transition		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type='Cu" input=" G ">*	*<type='P" input='G">*	*<type="N" input=" G ">*
Total		ESF	More developed		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*
Total		ESF	Special allocation to outermost regions		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type="P" input="G">*	*<type="N" input="G ">*
Total		Cohesion Fund	NA		*<type="N" input=" G ">*		*<type="Cu" input=" G ">*		*<type="P" input=" G ">*	*<type="Cu" input=" G ">*	*<type='P" input='G">*	*<type="N" input=" G ">*

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.
The financial appropriation of the priority based on the programme							Cumulative data on the financial progress of the programme					
Priority	Specific objective	Fund	Category of region	Basis for the calculation of Union contribution* (Total contribution or public contribution)	Total financial appropriation (EUR)	Co-financing rate (%)	Total eligible cost of operations selected for support (EUR)	Contribution from the funds to operations selected for support (EUR)	Proportion of the total allocation covered with selected operations (%) [column 7/ column 5x 100]	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Proportion of the total allocation covered by eligible expenditure incurred by beneficiaries and paid in implementing operations (%) [column 10/ column 5x100]	Number of operations selected
									Calculation		*Calculation*	
Grand Total		All Funds			*<type="N" input=" G ">*		*<type="N" input=" G ">*		*<type="P" input=" G ">*	*<type="N" input=" G ">*	*<type="P" input="G">*	*<type="N" input=" G ">*

TABLE 2: Breakdown of the cumulative financial data by type of intervention (Article 37(2)(a))

Priority	Specific objective	Characteristics of expenditure		Categorisation dimension							Financial data		
		Fund	Category of region	1 Intervention field	2 Form of finance	3 Territorial delivery dimension	4 Economic activity dimension	5 Location dimension	6 ESF+ secondary theme	7 Macro-regional and sea-basin dimension	Total eligible cost of operations selected for support (EUR)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Number of operations selected
<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="S" input="S">	<type="Cu" input="M">	<type="Cu" input="M">	<type="N" input="M">

TABLE 3: Common and programme specific output indicators for ERDF and Cohesion Fund (Article 37(2)(b))

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
Data on output indicators from the operational programme [extracted from Table 2 of the operational programme]										**Progress in output indicators to date**			
Priority	**Specific objective**	**Fund**	**Category of region**	**ID**	**Indicator name**	**Indicator breakdown** [1] **(of which:)**	**Measurement unit**	**Milestone (2024)**	**Target 2029**	**Forecast to date [dd/mm/yy]**	**Achieved to date [dd/mm/yy]**	**Based on Commission guidelines (Yes/ No)**	**Comments**
<type="S" input="G"> [2]	***<type="S" input="G">***	***<type="S" input='G">***	***<type="S" input="G">***	***<type="S" input="G">***	***<type="S" input="G">***	***<type="S" input="G">***	***<type="S" input="G">***	***<type="S" input="G">***	***<type="N" input="G">***	***<type="N" input="M">***	***<type="N" input="M">***	***<type="C" input="S">***	***<type="S" input="M">***
…													

([1]) It applies only to some indicators. See Commission guidelines for details.
([2]) Legend for the characteristics of fields:
type: N=Number, S=String, C=Checkbox
input: M=Manual, S=Selection, G=Generated by system

TABLE 4: Staff salaries financed by ERDF and Cohesion Fund at programme level (Article 37(2)(b))

Fund	ID	Indicator name	Measurement unit	Annual value achieved to date [dd/mm/yy]			Based on Commission guidelines (Yes/ No)	Comments
				2021	…	*2029*		
<type="S" input="M">	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="N" input="M">*	*<type="N" input="M">*	*<type="N" input="M">*	*<type="C" input="S">*	*<type="S" input="M">*
	RCO xx	Staff financed by the Fund	FTE					

TABLE 5: Multiple support to enterprises for ERDF and Cohesion Fund at programme level (Article 37(2)(b))

ID	Indicator name	Indicator breakdown (of which:)	Number enterprises net of multiple support by [dd/mm/yy]	Based on Commission guidelines (Yes/ No)	Comments
<type="S" input="G">	*<type="S" input="G">*	*<type="S" input="G">*	*<type="N" input="M">*	*<type="C" input="S">*	*<type="S" input="M">*
RCO 01	Enterprises supported	Micro			
RCO 01	Enterprises supported	Small			
RCO 01	Enterprises supported	Medium			
RCO 01	Enterprises supported	Large			
RCO 01	Enterprises supported	Total	*<type="N" input="G">*		

TABLE 6: Common and programme specific result indicators for ERDF and Cohesion Fund (Article 37(2)(b))

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.
Data on result indicators from the operational programme [extracted from Table 3 of the operational programme]										Progress in result indicators to date					
Priority	Specific objective	Fund	Category of region	ID	Indicator name	Indicator breakdown [1] (of which:)	Measurement unit	Baseline in the programme	Target 2029	Baseline updated [dd/mm/yy]		Value to date [dd/mm/yy]		Based on Commission guidelines (Yes/ No)	Comments
										Forecast	Completed	Forecast	Achieved		
<type="S" input="G">- [2]	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="S" input="G">*	*<type="N" input="G">*	*<type="N" input="G">*	*<type="N" input="M">*	*<type="N" input="M">*	*<type="N" input="M">*	*<type="N" input="M">*	*<type="C" input="S">*	*<type="S" input="M">*
…															

(1) It applies only to some indicators. See Commission guidelines for details.
(2) Legend for the characteristics of fields:
type: N=Number, S=String, C=Checkbox
input: M=Manual, S=Selection, G=Generated by system

TABLE 7: A forecast of the amount for which the Member State expects to submit payment applications for the current and the subsequent calendar year (Article 68(1)(g))

For each programme, to be filled in by Fund and category of region, where appropriate

Fund	Category of region	Union contribution		
		[current calendar year]		[subsequent calendar year]
		January — October	November — December	January- December
ERDF	Less developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
	Transition regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
	More developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

Fund	Category of region	Union contribution		
		[current calendar year]		[subsequent calendar year]
		January — October	November — December	January- December
	Outermost regions and Northern sparsely populated regions (1)	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
ETC		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
ESF	Less developed regions	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
	Transition regions	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
	More developed regions	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
	Outermost regions (2)	<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
Cohesion Fund		<type="Cu" input="M">	<type="Cu" input="M">	<type="Cu" input="M">
EMFF				
AMF				
ISF				
BMVI				

(1) This should only show the specific allocation for outermost regions / Northern sparsely populated regions.
(2) This should only show the specific allocation for outermost.

TABLE 8: Financial instruments data (Article 37(3))

Priority	Characteristics of expenditure			Eligible expenditure by product				Amount of private and public resources mobilised in addition to the Funds				Amount of management costs and fees declared as eligible expenditure	Interest and other gains generated by support from the Funds to financial instruments referred to in Article 54	Resources returned attributable to support from the Funds as referred to in Article 56
	Fund	Specific objective	Category of region	Loans (form of finance code for FI)	Guarantee (form of finance code for FI)	Equity or quasi-equity (form of finance code for FI)	Ancillary support combined within FI (form of finance code for FI)	Loans (form of finance code for FI)	Guarantee (form of finance code for FI)	Equity or quasi-equity (form of finance code for FI)	Ancillary support combined within FI (form of finance code for FI)			
Input = selection	Input = selection	Input = selection	Input = selection	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual	Input = manual

Wednesday 27 March 2019

ANNEX VIII

Communication and visibility — Articles 42 and 44

1. *The use and technical characteristics of the Union emblem*

1.1. The emblem of the European Union shall be prominently featured on all communication materials such as printed or digital products, websites and their mobile views relating to the implementation of an operation, used for the public or for participants.

1.2. The statement 'Funded by the EUROPEAN UNION' or 'Co-funded by the EUROPEAN UNION' shall always be spelled out in full and placed next to the emblem.

1.3. The typeface to be used in conjunction with the Union emblem may be any of the following fonts: Arial, Auto, Calibri, Garamond, Trebuchet, Tahoma, Verdana, Ubuntu. Italic, underlined variations or font effects shall not be used.

1.4. The positioning of the text in relation to the Union emblem shall not interfere with the Union emblem in any way.

1.5. The font size used shall be proportionate to the size of the emblem.

1.6. The colour of the font shall be reflex blue, black or white depending on the background.

1.7. The European Union emblem shall not be modified or merged with any other graphic elements or texts. If other logos are displayed in addition to the Union emblem, the Union emblem shall have at least the same size as the biggest of the other logos. Apart from the Union emblem, no other visual identity or logo must be used to highlight the support from the Union.

1.8. Where several operations are taking place at the same location, supported by the same or different funding instruments, or where further funding is provided for the same operation at a later date, only one plaque or billboard shall be displayed.

1.9. Graphic standards for the Union emblem and the definition of standard colours:

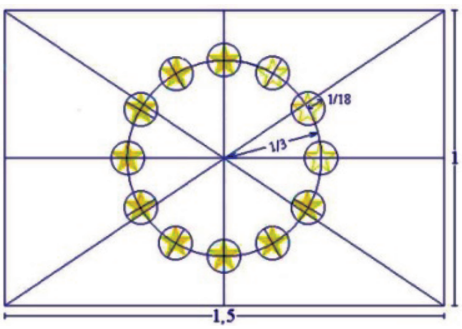
A) SYMBOLIC DESCRIPTION

Against a background of blue sky, twelve golden stars form a circle representing the union of the peoples of Europe. The number of stars is fixed, twelve being the symbol of perfection and unity.

B) HERALDIC DESCRIPTION

On an azure field a circle of twelve golden mullets, their points not touching.

C) GEOMETRIC DESCRIPTION



The emblem has the form of a blue rectangular flag of which the fly is one and a half times the length of the hoist. Twelve gold stars situated at equal intervals form an invisible circle whose centre is the point of intersection of the diagonals of the rectangle. The radius of the circle is equal to one third of the height of the hoist. Each of the stars has five points which are situated on the circumference of an invisible circle whose radius is equal to one eighteenth of the height of the hoist. All the stars are upright, i.e. with one point vertical and two points in a straight line at right angles to the mast. The circle is arranged so that the stars appear in the position of the hours on the face of a clock. Their number is invariable.

D) REGULATION COLOURS

The emblem is in the following colours: PANTONE REFLEX BLUE for the surface of the rectangle; PANTONE YELLOW for the stars

E) FOUR-COLOUR PROCESS

If the four-colour process is used, recreate the two standard colours by using the four colours of the four-colour process.

PANTONE YELLOW is obtained by using 100 % 'Process Yellow'.

PANTONE REFLEX BLUE is obtained by mixing 100 % 'Process Cyan' and 80 % 'Process Magenta'.

INTERNET

PANTONE REFLEX BLUE corresponds in the web-palette colour RGB:0/51/153 (hexadecimal: 003399) and PANTONE YELLOW corresponds in the web-palette colour RGB: 255/204/0 (hexadecimal: FFCC00).

MONOCHROME REPRODUCTION PROCESS

Using black, outline the rectangle in black and print the stars in black on white.

Using blue (Reflex Blue), use 100 % with the stars reproduced in negative white.

REPRODUCTION ON A COLOURED BACKGROUND

If there is no alternative to a coloured background, put a white border around the rectangle, the width of the border being 1/25th of the height of the rectangle.

The principles of the use of the Union emblem by third parties are set out in an administrative agreement with the Council of Europe ([1])

2. The licence on intellectual property rights referred to in Article 44(6) grant to the EU the following rights:

2.1. internal use i.e. right to reproduce, copy and make available the communication and visibility materials to EU and EU Member States' institutions and agencies and their employees;

2.2. reproduction of the communication and visibility materials by any means and in any form, in whole or in part;

2.3. communication to the public of the communication and visibility materials by using any and all means of communication;

([1]) OJ 2012/C 271/04 of 8/9/2012.

2.4. distribution to the public of the communication and visibility materials (or copies thereof) in any and all forms;

2.5. storage and archiving of the communication and visibility materials

2.6. sub-licensing of the rights on the communication and visibility materials to third parties

2.7. Additional rights maybe granted to the EU.

ANNEX IX

Elements for funding agreements and strategy documents — Article 53

1. Elements of the funding agreement for financial instruments implemented under Article 53(3)

(a)	the investment strategy or policy including implementation arrangements, financial products to be offered, final recipients targeted, and envisaged combination with grant support (as appropriate);
(b)	a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in point (a) of Article 52(3);
(c)	the target results that the financial instrument concerned is expected to achieve to contribute to the specific objectives and results of the relevant priority;
(d)	provisions for monitoring of the implementation of investments and of deal flows including reporting by the financial instrument to the holding fund and to the managing authority to ensure compliance with Article 37;
(e)	audit requirements, such as minimum requirements for documentation to be kept at the level of the financial instrument (and at the level of the holding fund where appropriate), and requirements in relation to the maintenance of separate records for the different forms of support in compliance with Article 52 (where applicable), including provisions and requirements regarding access to documents by audit authorities of Member States, Commission auditors and the Court of Auditors in order to ensure a clear audit trail, in accordance with Article 76;
(f)	requirements and procedures for managing the contribution provided by the programme in accordance with Article 86 and for the forecast of deal flows, including requirements for fiduciary/separate accounting as set out in Article 53;
(g)	requirements and procedures for managing interest and other gains generated as referred to in Article 54, including acceptable treasury operations/investments, and the responsibilities and liabilities of the parties concerned;
(h)	provisions regarding the calculation and payment of management costs incurred or of the management fees of the financial instrument in compliance with Article 62;
(i)	provisions regarding the re-use of resources attributable to the support from the Funds in compliance with Article 56 and an exit policy for the contribution from the Funds out of the financial instrument;
(j)	conditions for a possible total or partial withdrawal of programme contributions from programmes to financial instruments, including the fund of funds where applicable;
(k)	provisions to ensure that bodies implementing financial instruments manage financial instruments with independence and in accordance with the relevant professional standards, and act in the exclusive interest of the parties providing contributions to the financial instrument;

Wednesday 27 March 2019

(l)	provisions for the winding-up of the financial instrument.
(m)	other terms and conditions for making contributions from the programme to the financial instrument
(n)	appraisal and selection of bodies implementing the financial instruments, including calls for expression of interest or public procurement procedures (only where financial instruments are organised through a holding fund)

2. Elements of the strategy document(s) referred to in Article 53(1)

(a)	the investment strategy or policy of the financial instrument, general terms and conditions of envisaged debt products, target recipients and actions to be supported;
(b)	a business plan or equivalent documents for the financial instrument to be implemented, including the expected leverage effect referred to in Article 52;
(c)	the use and re-use of resources attributable to the support of the Funds in accordance with Articles 54 and 56
(d)	monitoring and reporting of the implementation of the financial instrument to ensure compliance with Article 37.

Wednesday 27 March 2019

ANNEX X

Key requirements of management and control systems and their classification — Article 63(1)

Table 1 — Key requirements of management and control system		Bodies/authorities concerned
1	Appropriate separation of functions and written arrangements for reporting, supervising and monitoring delegated tasks to an intermediate body	Managing authority
2	Appropriate criteria and procedures for the selection of operations	Managing authority
3	Appropriate information to beneficiaries on applicable conditions for support for the selected operations	Managing authority
4	Appropriate management verifications, including appropriate procedures for checking fulfilment of conditions for financing not linked to costs and for simplified cost options	Managing authority
5	Effective system to ensure that all documents necessary for the audit trail are held	Managing authority
6	Reliable electronic system (including links with electronic data exchange systems with beneficiaries) for recording and storing data for monitoring, evaluation, financial management, verifications and audits, including appropriate processes to ensure the security, integrity and confidentiality of the data and the authentication of users	Managing authority
7	Effective implementation of proportionate anti-fraud measures	Managing authority
8	Appropriate procedures for drawing up the management declaration	Managing authority
9	Appropriate procedures for confirming that the expenditure entered into the accounts is legal and regular	Managing authority
10	Appropriate procedures for drawing up and submission of interim payment applications and of accounts	Managing authority/ Body carrying out the accounting function
11	Appropriate separation of functions and functional independence between the audit authority (and other audit or control bodies on which the audit authority relies and supervises, if applicable) and the other programme authorities and audit work carried out in accordance with internationally accepted audit standards	Audit authority
12	Appropriate system audits	Audit authority
13	Appropriate audits of operations	Audit authority

Wednesday 27 March 2019

Table 1 — Key requirements of management and control system		Bodies/authorities concerned
14	Appropriate audits of accounts	Audit authority
15	Appropriate procedures for providing a reliable audit opinion and for preparing the annual control report	Audit authority

Table 2 — Classification of management and control systems with regard to their effective functioning

Category 1	Works well. No or only minor improvement needed.
Category 2	Works. Some improvement needed.
Category 3	Works partially. Substantial improvement needed.
Category 4	Essentially does not work.

Wednesday 27 March 2019

ANNEX XI

Elements for the audit trail — Article 63(5)

I. Obligatory elements of audit trail for grants:

1. documentation that allows verification of the application of the selection criteria by the managing authority, as well as documentation relating to the overall selection procedure and the approval of operations;

2. document (grant agreement or equivalent) setting out the conditions for support signed between the beneficiary and the managing authority/intermediate body;

3. accounting records of payment claims submitted by the beneficiary, as recorded in the managing authority/intermediate body's electronic system;

4. documentation on verifications addressing the non-relocation and durability requirements as set out in Articles 59, 60(2) and 67(3)(h);

5. proof of payment of the public contribution to the beneficiary and of the date the payment was made;

6. documentation evidencing the administrative and, where applicable, on-the-spot checks carried out by the managing authority/intermediate body;

7. information on audits carried out;

8. documentation relating to the follow-up by the managing authority/intermediate body for purposes of management verifications and audit findings;

9. documentation that allows verification of compliance with applicable law;

10. data in relation to output and result indicators enabling reconciliation with corresponding targets and reported milestones;

11. documentation related to financial corrections and deductions pursuant to Article 92(5)) made by the managing authority/intermediate body to the expenditure declared to the Commission;

12. for grants taking the form set out in Article 48(1)(a), the invoices (or documents of equivalent probative value) and proof of their payment by the beneficiary, as well as accounting records of the beneficiary relating to the expenditure declared to the Commission;

13. for grants taking the forms set out in Article 48(1)(b), (c) and (d) and as applicable, documents justifying the method of establishing unit costs, lump sums and flat rates; the categories of costs forming the basis for the calculation; documents evidencing costs declared under other categories of costs to which a flat rate applies; the explicit agreement by the managing authority on the draft budget on the document setting out the conditions for support; documentation on the gross employment costs and on calculation of the hourly rate; where simplified cost options are used based on existing methods, documentation confirming compliance with similar type of operations and with documentation required by the existing method, if any.

II Obligatory elements for audit trail for financial instruments:

1. documents on the establishment of the financial instrument, such as funding agreements, etc;

2. documents identifying the amounts contributed by each programme and under each priority to the financial instrument, the expenditure that is eligible under each programme and the interest and other gains generated by support from the Funds and re-use of resources attributable to the Funds in accordance with Articles 54 and 56;

3. documents on the functioning of the financial instrument, including those related to monitoring, reporting and verifications;
4. documents concerning exits of programme contributions and the winding-up of the financial instrument;
5. documents on the management costs and fees;
6. application forms, or equivalent, submitted by final recipients with supporting documents, including business plans and, when relevant, previous annual accounts;
7. checklists and reports from the bodies implementing the financial instrument;
8. declarations made in connection with de minimis aid:
9. agreements signed in connection with the support provided by the financial instrument, including for equity, loans, guarantees or other forms of investment provided to final recipients;
10. evidence that the support provided through the financial instrument is to be/was used for its intended purpose;
11. records of the financial flows between the managing authority and the financial instrument, and within the financial instrument at all levels, down to the final recipients, and, for guarantees, proof that underlying loans were disbursed;
12. separate records or accounting codes for a programme contribution paid or a guarantee committed by the financial instrument for the benefit of the final recipient.

Provisions for audit trail for reimbursement of the support from the Funds by the Commission to the programme on the basis of simplified cost options or of financing not linked to costs

III. Obligatory elements of audit trail for simplified cost options to be kept at the level of the managing authority/ intermediate body:

1. documents evidencing costs declared under other categories of costs to which a flat rate applies;
2. the categories of costs and the costs forming the basis for the calculation;
3. documents evidencing the adjustment of the amounts, where relevant;
4. documents evidencing the calculation method if Article 48(2)(a) is applied.

IV. Obligatory elements of audit trail for financing not linked to costs to be kept at the level of the managing authority/ intermediate body:

1. document setting out the conditions of support signed by the beneficiary and the managing authority/intermediate body stating the form of grant provided to beneficiaries;
2. documents evidencing the ex-ante agreement of the Commission on the conditions to be fulfilled or the results to be achieved and corresponding amounts (programme approval or amendment);
3. documents evidencing the fulfilment of conditions or the achievement of results at each stage if done in steps, as well as before final expenditure is declared to the Commission;
4. documentation relating to the selection and approval of operations covered by the financing not linked to costs.

ANNEX XII

E-Cohesion: electronic data exchange systems between programme authorities and beneficiaries — Article 63(7)

1. Responsibilities of programme authorities regarding the functioning of electronic data exchange systems

1.1 Ensuring the data security, data integrity, data confidentiality, authentication of the sender in accordance with Articles 63(5), 63(7), 66(4) and 76 of this Regulation.

1.2 Ensuring availability and functioning during and outside standard office hours (except during technical maintenance)

1.3 Use of functionalities in the system providing for:

(a) interactive forms and/or forms prefilled by the system on the basis of the data which are stored at consecutive steps of the procedures;

(b) automatic calculations, where applicable;

(c) automatic embedded controls which reduce repeated exchanges of documents or information;

(d) system-generated alerts to inform the beneficiary that certain actions can be performed;

(e) online status tracking allowing the beneficiary to monitor the current status of the project;

(f) all previously available data and documents processed by the electronic data exchange system.

1.4 Ensuring record-keeping and data storage in the system enabling both administrative verifications of payment claims submitted by beneficiaries in accordance with Article 68(2) and audits

2. Responsibilities of programme authorities regarding the modalities for transmission of documents and data for all exchanges

2.1 Ensuring the use of electronic signature compatible with one of the three types of electronic signature defined by Directive 1999/93/EC of the European Parliament and of the Council [1]

2.2 Providing for storing the date of transmission of documents and data by the beneficiary to the programme authorities and vice versa

2.3 Ensuring accessibility directly through an interactive user interface (a web application) or via a technical interface that allows for automatic synchronisation and transmission of data between beneficiaries' and Member States' systems.

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[1] Directive 1999/93/EC of the European Parliament and of the Council of 13 December 1999 on a Community framework for electronic signatures (OJ L 13, 19.1.2000, p. 12).

Wednesday 27 March 2019

2.4 Ensuring the protection of privacy of personal data for individuals and commercial confidentiality for legal entities according to Directive 2002/58/EC of the European Parliament and of the Council ([2]), Directive 2009/136/EC of the European Parliament and of the Council ([3]) and 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) (Text with EEA relevance) of the European Parliament and of the Council ([4]).

([2]) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (OJ L 201, 31.7.2002, p. 37).

([3]) Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 337, 18.12.2009, p. 11).

([4]) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

Wednesday 27 March 2019

ANNEX XIII

SFC2021: electronic data exchange system between the Member States and the Commission — Article 63(8)

1. Responsibilities of the Commission

1.1 Ensuring the operation of an electronic data exchange system ('SFC2021') for all official exchanges of information between the Member State and the Commission. SFC2021 shall contain at least the information specified in the templates established in accordance with this Regulation.

1.2 Ensuring the following characteristics of SFC2021:

(a) interactive forms or forms pre-filled by the system on the basis of the data already recorded in the system previously;

(b) automatic calculations, where they reduce the encoding effort of users;

(c) automatic embedded controls to verify internal consistency of transmitted data and consistency of this data with applicable rules;

(d) system generated alerts warning SFC2021 users that certain actions can or cannot be performed;

(e) online status tracking of the treatment of information entered into the system;

(f) availability of historical data in respect of all information entered for an operational programme.

(g) availability of a compulsory electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council which will be recognised as evidence in legal proceedings.

1.3 Ensuring an information technology security policy for SFC2021 applicable to the personnel using the system in accordance with relevant Union rules, in particular Commission Decision C(2006)3602 [1] and its implementing rules.

1.4 Designating a person or persons responsible for defining, maintaining and ensuring the correct application of the security policy to SFC2021.

2. Responsibilities of Member States

2.1 Ensuring that the programme authorities of the Member State identified in accordance with Article 65(1) as well as the bodies identified to carry out certain tasks under the responsibility of the managing authority in accordance with Article 65(3) of this Regulation enter into SFC2021 the information for the transmission of which they are responsible and any updates thereto

2.2 Ensuring the verification of information submitted by a person other than the person who entered the data for that transmission.

2.3 Providing arrangements for the above separation of tasks through the Member State's management and control information systems connected automatically with SFC2021.

2.4 Appointing a person or persons responsible for managing access rights to fulfil the following tasks:

(a) identifying users requesting access, making sure those users are employed by the organisation;

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[1] Commission Decision C(2006) 3602 of 16 August 2006 concerning the security of information systems used by the European Commission.

(b) informing users about their obligations to preserve the security of the system;

(c) verifying the entitlement of users to the required privilege level in relation to their tasks and their hierarchical position;

(d) requesting the termination of access rights when those access rights are no longer needed or justified;

(e) promptly reporting suspicious events that may bring prejudice to the security of the system;

(f) ensuring the continued accuracy of user identification data by reporting any changes;

(g) taking the necessary data protection and commercial confidentiality precautions in accordance with Union and national rules;

(h) informing the Commission of any changes affecting the capacity of the Member State authorities or users of SFC2021 to carry out the responsibilities referred to in paragraph 1 or their personal capacity to carry out responsibilities referred to in points (a)-(g).

2.5 Providing arrangements for the respect of the protection of privacy and of personal data for individuals and of commercial confidentiality for legal entities in accordance with Directive 2002/58/EC of the European Parliament and of the Council [2], Directive 2009/136/EC of the European Parliament and of the Council [3], Regulation (EU) 2016/679 of the European Parliament and of the Council Directive 1995/46/EC of the European Parliament and of the Council [4] and Regulation (EC) No 45/2001.

2.6 Adopting national, regional or local information security policies on access to SFC2021 based on a risk assessment applicable to all authorities using SFC2021 and addressing the following aspects:

(a) the IT security aspects of the work performed by the person or persons responsible for managing the access rights referred to point 3 of section II in case of application of direct use;

(b) for national, regional or local computer systems connected to SFC2021, through a technical interface referred to in point 1 the security measures for those systems allowing to be aligned with SFC2021 security requirements and covering:

(i) physical security;

(ii) data media and access control;

(iii) storage control;

(iv) access and password control;

(v) monitoring;

(vi) interconnection with SFC2021;

(vii) communication infrastructure;

(viii) human resources management prior to employment, during employment and after employment;

(ix) incident management.

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[2] Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37).

[3] Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector and Regulation (EC) No 2006/2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws (OJ L 337, 18.12.2009, p. 11).

[4] Directive 1995/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

2.7 Making the document referred to in point 2.6 available to the Commission upon request

2.8 Appointing a person or persons responsible for maintaining and ensuring the application of the national, regional or local IT security policies and acting as a contact point with the person or persons designated by the Commission and referred to in point 1.4

3. Joint responsibilities of the Commission and the Member States

3.1 Ensuring accessibility either directly through an interactive user-interface (i.e. a web-application) or via a technical interface using pre-defined protocols (i.e. web-services) that allows for automatic synchronisation and transmission of data between Member States information systems and SFC2021

3.2 Providing for the date of electronic transmission of the information by the Member State to the Commission and vice versa in electronic data exchange which constitutes the date of submission of the document concerned

3.3 Ensuring that official data is exchanged exclusively through SFC2021 (with the exception where force majeure occurs) and that information provided in the electronic forms embedded in SFC2021 (hereinafter referred to as 'structured data') is not replaced by non-structured data and that structured data prevails over non structured data in case of inconsistencies.

In the event of *force majeure*, a malfunctioning of SFC2021 or a lack of a connection with SFC2021 exceeding one working day in the last week before a regulatory deadline for the submission of information or in the period from 18 to 26 December, or five working days at other times, the information exchange between the Member State and the Commission may take place in paper form using the templates set out in this Regulation in which case the date of submission is the date of submission of the document concerned. When the cause of the force majeure ceases the party concerned enters in SFC2021 without delay the information already provided in paper form.

3.4 Ensuring compliance with the IT security terms and conditions published in the SFC2021 portal and the measures that are implemented in SFC2021 by the Commission to secure the transmission of data, in particular in relation to the use of the technical interface referred to in point 1.

3.5 Implementing and ensuring the effectiveness of the security measures adopted to protect the data stored and transmitted through SFC2021.

3.6 Updating and reviewing annually the SFC IT security policy and the relevant national, regional and local IT security policies in the event of technological changes, the identification of new threats or other relevant developments.

Wednesday 27 March 2019

ANNEX XIV

Template for the description of the management and control system — Article 63(9)

1. GENERAL

1.1 ***Information submitted by:***

— Member State:

— Title of the programme(s) and CCI number(s): (all programmes covered by the managing authority where there is a common management and control system):

— Name and e-mail of main contact point: (body responsible for the description):

1.2 ***The information provided describes the situation on:*** (dd/mm/yy)

1.3 ***System structure*** (general information and flowchart showing the organisational relationship between the authorities/bodies involved in the management and control system)

1.3.1 Managing authority (Name, address and contact point in the managing authority):

1.3.2 Intermediate bodies (Name, address and contact points in the intermediate bodies).

1.3.3 The body carrying out the accounting function (Name, address and contact points in the managing authority or the programme authority carrying out the accounting function)

1.3.4 Indicate how the principle of separation of functions between and within the programme authorities is respected.

2. MANAGING AUTHORITY

2.1 ***Managing authority and its main functions***

2.1.1 The status of the managing authority (national, regional or local public body or private body) and the body of which it is part.

2.1.2 Specification of the functions and tasks carried out directly by the managing authority.

2.1.3. Where applicable, specification per intermediate body of each of the functions [1] and tasks delegated by the managing authority, identification of the intermediate bodies and the form of the delegation. Reference should be made to relevant documents (written agreements).

2.1.4 Procedures for the supervision of the functions and tasks delegated by the managing authority.

2.1.5 Framework to ensure that an appropriate risk management exercise is conducted when necessary, and in particular in the event of major modifications to the management and control system.

2.2 ***Description of the organisation and the procedures related to the functions and tasks of the managing authority*** [2]

2.2.1 Description of the functions, including the accounting function, and tasks carried out by the managing authority:

2.2.2 Description of how the work under the different functions, including the accounting function, is organised, what procedures apply, what functions if any are delegated, how these are supervised, etc.

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[1] Including the accounting function for the AMIF, ISF and IMBF funds as it falls under the responsibility of the managing authority according to Article 66(3)

[2] Including the accounting function for the AMIF, ISF and IMBF funds as it falls under the responsibility of the Managing Authority according to Article 66(3)

2.2.3 Organisation chart of the managing authority and information on its relationship with any other bodies or divisions (internal or external) that carry out functions and tasks as provided for in Articles 66 to 69.

2.2.4 Indication of planned resources to be allocated in relation to the different functions of the managing authority (including information on any planned outsourcing and its scope, where appropriate).

3. BODY CARRYING OUT THE ACCOUNTING FUNCTION

3.1 ***Status and description of the organisation and the procedures related to the functions of the body carrying out the accounting function***

3.1.1 The status of the body carrying out the accounting function (national, regional or local public or private body) and the body of which it is part, where relevant.

3.1.2 Description of the functions and tasks carried out by the body carrying out the accounting function as set out in Article 70.

3.1.2 Description of how the work is organised (workflows, processes, internal divisions), what procedures apply and when, how these are supervised, etc.

3.1.3 Indication of planned resources to be allocated in relation to the different accounting tasks.

4. ELECTRONIC SYSTEM

4.1 ***Description of the electronic system or systems including a flowchart (central or common network system or decentralised system with links between the systems) for:***

4.1.1 Recording and storing, in a computerised form data on each operation, including where appropriate data on individual participants and a breakdown of data on indicators when provided for in the Regulation.

4.1.2 Ensuring that accounting records for each operation are recorded and stored, and that those records support the data required for drawing up payment applications and of the accounts;

4.1.3 Maintaining accounting records of expenditure declared to the Commission and the corresponding public contribution paid to beneficiaries;

4.1.4 Recording all amounts deducted from payment applications and from the accounts as set out in Article 92(5) and the reasons for these deductions;

4.1.5 Indicating whether the systems are functioning effectively and can reliably record the data mentioned on the date where this description is compiled as set out in Point 1.2 above;

4.1.6 Describing the procedures to ensure the electronic systems' security, integrity and confidentiality.

Wednesday 27 March 2019

ANNEX XV

Template for the management declaration — Article 68(1)(f)

I/We, the undersigned (*name(s), first name(s), title(s) or function(s)*), Head of the managing authority for the programme (*name of the operational programme, CCI*)

based on the implementation of the (*name of programme*) during the accounting year ended 30 June (*year*), based on my/our own judgment and on all information available to me/us at the date of the accounts submitted to the Commission, including the results from management verifications carried out in accordance with Article 68 of Regulation (EU) No xx/xx and from audits in relation to the expenditure included in the payment applications submitted to the Commission in respect of the accounting year ended 30 June … (year),

and taking into account my/our obligations under Regulation (EU) xx/xx

hereby declare that:

(a) the information in the accounts is properly presented, complete and accurate in accordance with Article 92 of Regulation (EU) No XX,

(b) the expenditure entered in the accounts complies with applicable law and was used for its intended purpose,

I/We confirm that irregularities identified in the final audit and control reports in relation to the accounting year have been appropriately treated in the accounts, in particular to comply with Article 92 for submitting accounts providing assurance that irregularities are below the 2 % materiality level.

I/We also confirm that expenditure which is subject to an ongoing assessment of its legality and regularity has been excluded from the accounts pending conclusion of the assessment, for possible inclusion in an interim payment application in a subsequent accounting year.

Furthermore, I/we confirm the reliability of data relating to indicators, milestones and the progress of the programme.

I/we also confirm that effective and proportionate anti-fraud measures are in place and that these take account of the risks identified in that respect.

Finally, I/we confirm that I/we am/are not aware of any undisclosed matter related to the implementation of the operational programme which could be damaging to the reputation of the cohesion policy.

Wednesday 27 March 2019

ANNEX XVI

Template for the audit opinion — Article 71(3)(a)

To the European Commission, Directorate-General

1. INTRODUCTION

I, the undersigned, representing the [name of the audit authority], independent in the sense of Article 65(2) of Regulation (EU) No […] ., have audited

i) the accounts for the accounting year started on 1 July … [year] and ended 30 June … [year] ([1]) and dated … [date of the accounts submitted to the Commission] (hereafter 'the accounts'),

ii) the legality and regularity of the expenditure for which reimbursement has been requested from the Commission in reference to the accounting year (and included in the accounts), and

iii) the functioning of the management and control system, and verified the management declaration in relation to the programme [name of programme, CCI number] (hereafter 'the programme'),

in order to issue an audit opinion in accordance with Article 71(3).

2. RESPONSIBILITIES OF THE MANAGING AUTHORITY

[name of the managing authority], identified as the managing authority of the programme, is responsible to ensure proper functioning of the management and control system in regard to the functions and tasks provided for in Articles 66 to 70.

In addition, the [name of the managing authority or of the body carrying out the accounting function where relevant], is responsible to ensure and declare the completeness, accuracy and veracity of the accounts, as required in Article 70 of Regulation (EU) No […] .

Moreover, in accordance with Article 68 of Regulation (EU) No […] it is the responsibility of the managing authority to confirm that the expenditure entered in the accounts is legal and regular and complies with applicable law.

3. RESPONSIBILITIES OF THE AUDIT AUTHORITY

As established by Article 71 of Regulation (EU) No […], my responsibility is to independently express an opinion on the completeness, veracity and accuracy of the accounts, whether expenditure for which reimbursement has been requested from the Commission and which are declared in the accounts is legal and regular, and whether the management and control system put in place functions properly.

My responsibility is also to include in the opinion a statement as to whether the audit work puts in doubt the assertions made in the management declaration.

The audits in respect of the programme were carried out in accordance with the audit strategy and complied with internationally accepted audit standards. These standards require that the audit authority complies with ethical requirements, plans and performs the audit work in order to obtain reasonable assurance for the purpose of the audit opinion.

An audit involves performing procedures to obtain sufficient and appropriate evidence to support the opinion set out below. The procedures performed depend on the auditor's professional judgement, including assessing the risk of material non-compliance, whether due to fraud or error. The audit procedures performed are those I believe are appropriate in the circumstances and are compliant with the requirements of Regulation (EU) No […].

Wednesday 27 March 2019

I believe that the audit evidence gathered is sufficient and appropriate to provide the basis for my opinion, [*in case there is any scope limitation*:] except those which are mentioned in the paragraph 'Scope limitation'.

The summary of the findings drawn from the audits in respect of the programme are reported in the attached annual control report in accordance with point (b) of Article 71(3) of Regulation (EU) No […].

4. SCOPE LIMITATION

Either

There were no limitations on the audit scope.

Or

The audit scope was limited by the following factors:

(a) …

(b) …

(c) ….

[Indicate any limitation on the audit scope [1], for example any lack of supporting documentation, cases under legal proceedings, and estimate under 'Qualified opinion' below, the amounts of expenditure and contribution the support from the Funds affected and the impact of the scope limitation on the audit opinion. Further explanations in this regard shall be provided in the annual control report, as appropriate.]

5. OPINION

Either

(Unqualified opinion)

In my opinion, and based on the audit work performed:

(i) the accounts give a true and fair view;

(ii) expenditure included in the accounts is legal and regular [2],

(iii) the management and control system functions properly.

The audit work carried out does not put in doubt the assertions made in the management declaration.

Or

(Qualified opinion)

In my opinion, and based on the audit work performed,

1) Accounts

— the accounts give a true and fair view [where the qualification applies to the accounts, the following text is added:] except in the following material aspects:…….

---

[1] Including for purposes of the Interreg programmes that do not fall under the annual sample for audits of operations to be drawn by the Commission as set out in Article 48 of the ETC Regulation.

[2] Except for the Interreg programmes that do not fall under the annual sample for audits of operation to be drawn by the Commission as envisaged in Article 48 of the ETC Regulation where the expenditure in the accounts for which reimbursement has been requested could not be checked in the accounting year in question.

2) Legality and regularity of the expenditure certified in the accounts

— the expenditure certified in the accounts is legal and regular [where the qualification applies to the accounts, the following text is added:] except for the following aspects:….

The impact of the qualification is limited [or significant] and corresponds to …. (amount in EUR of the total amount of expenditure certified)

3) The management and control system in place as at the date of this audit opinion

— the management and control system put in place functions properly [where the qualification applies to the management and control system, the following text is added:] except for the following aspects:….

The impact of the qualification is limited [or significant] and corresponds to …. (amount in EUR of the total amount of expenditure certified)

The audit work carried out *does not put/puts* [delete as appropriate] in doubt the assertions made in the management declaration.

[Where the audit work carried out puts in doubt the assertions made in the management declaration, the audit authority shall disclose in this paragraph the aspects leading to this conclusion.]

Or

(Adverse opinion)

In my opinion, and based on the audit work performed:

(i) the accounts *give/do* ***not*** *give* [delete as appropriate] a true and fair view; and/or

(ii) the expenditure in the accounts for which reimbursement has been requested from the Commission *is/is* ***not*** [delete as appropriate] legal and regular; and/or

(iii) the management and control system put in place *functions/does* ***not*** *function* [delete as appropriate] properly.

This adverse opinion is based on the following aspects:

— in relation to material matters related to the accounts:

and/or [delete as appropriate]

— in relation to material matters related to the legality and regularity of the expenditure in the accounts for which reimbursement has been requested from the Commission:

and/or [delete as appropriate]

— in relation to material matters related to the functioning of the management and control system ([3]):

The audit work carried out puts in doubt the assertions made in the management declaration for the following aspects:

[The audit authority may also include emphasis of matter, not affecting its opinion, as established by internationally accepted auditing standards. A disclaimer of opinion can be foreseen in exceptional cases ([4]).]

([3]) Same remark as in previous footnote.
([4]) These exceptional cases should be related to unforeseeable, external factors outside the remit of the audit authority.

Date:

Signature:

([2]) To be included in case of Interreg programmes.

([3]) In case the management and control system is affected, the body or bodies and the aspect(s) of their systems that did not comply with requirements and/or did not function properly shall be identified in the opinion, except where this information is already clearly disclosed in the annual control report and the opinion paragraph refers to the specific section(s) of this report where such information is disclosed.

ANNEX XVII

Template for the annual control report — Article 71(3)(b)

1. Introduction

1.1 Identification of the audit authority and other bodies that have been involved in the preparation of the report.

1.2 Reference period (i.e. the accounting year)

1.3 Audit period (during which the audit work took place).

1.4 Identification of the programme(s) covered by the report and of its/their managing authority/ies. Where the report covers more than one programme or Fund, the information shall be broken down by programme and by Fund, identifying in each Section the information that is specific for the programme and/or the Fund.

1.5 A description of the steps taken to prepare the report and to draw up the corresponding audit opinion. This Section should also cover information on the consistency checks by the audit authority on the management declaration.

Section 1.5 is to be adapted for Interreg programmes in order to describe the steps taken to prepare the report based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

2. Significant changes in management and control system(s)

2.1 Details of any major changes in the management and control systems related with the managing authority's responsibilities, in particular with respect to the delegation of functions to intermediate bodies, and confirmation of their compliance with Articles 66 to 70 and 75 based on the audit work carried out by the audit authority.

2.2 Information on the application of enhanced proportionate arrangements pursuant to Articles 77 to 79.

3. Changes to the audit strategy

3.1 Details of any changes made to the audit strategy and related explanations. In particular, indicate any change to the sampling method used for the audit of operations (see Section 5 below) and whether the strategy was subject to changes due to the application of enhanced proportionate arrangements pursuant to Articles 77 to 79 of the Regulation.

3.2 Section 1 above is to be adapted for Interreg programmes in order to describe changes to the audit strategy based on the specific rules on audits of operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

4. System audits (where applicable)

This Section applies for audit authorities that do not apply the enhanced proportionate arrangements for the accounting year in question:

4.1 Details of the bodies (including the audit authority) that have carried out audits on the proper functioning of the management and control system of the programme — hereafter 'system audits'.

4.2 A description of the basis for the audits carried out, including a reference to the audit strategy applicable and more particularly, to the risk assessment methodology and the results that led to establishing the audit plan for system audits. If the risk assessment has been updated, this should be described in Section 3 above covering the changes in the audit strategy.

4.3 In relation to the table in Section 9.1 below, a description of the main findings and conclusions drawn from system audits, including the audits targeted at specific thematic areas.

Wednesday 27 March 2019

4.4 Indications as to whether any irregularities identified were considered to be of a systemic character, details of the measures taken, including a quantification of the irregular expenditure and any related financial corrections made, in accordance with Article 71(3)(b) and 97 of the Regulation.

4.5 Information on the follow up of audit recommendations from system audits from previous accounting years.

4.6 A description of irregularities or deficiencies specific to financial instruments or other types of expenditure or costs covered by particular rules (e.g. State aid, public procurement, simplified cost options, financing not linked to costs), detected during system audits and of the follow up given by the managing authority to remedy these irregularities or deficiencies.

4.7 Level of assurance obtained following the system audits (low/average/high) and a justification.

5. Audits of operations

Sections 5.1 to 5.10 below are to be adapted for Interreg programmes in order to describe the steps taken to prepare the report based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

5.1 Identification of the bodies (including the audit authority) that carried out the audits of operations (as envisaged in Article 73).

5.2 A description of the sampling methodology applied and information whether the methodology is in accordance with the audit strategy.

5.3 An indication of the parameters used for statistical sampling and an explanation of the underlying calculations and professional judgement applied. The sampling parameters include: materiality level, confidence level, sampling unit, expected error rate, sampling interval, standard deviation, population value, population size, sample size, information on stratification. The underlying calculations for sample selection, total error rate and residual error rate in Section 9.3 below, in a format permitting an understanding of the basic steps taken, in accordance with the specific sampling method used.

5.4 A reconciliation between the amounts included in the accounts, as well as the amounts declared in interim payment applications during the accounting year and the population from which the random sample was drawn (column 'A' of table in Section 9.2 below). Reconciling items include negative sampling units where financial corrections have been made.

5.5 Where there are negative items, confirmation that they have been treated as a separate population. Analysis of the principal results of the audits of these units, namely focusing on verifying whether the decisions to apply financial corrections (taken by the Member State or by the Commission) have been registered in the accounts as withdrawals.

5.6 Where a non-statistical sampling method is used, specify the reasons for using the method, the percentage of sampling units covered by audits, the steps taken to ensure randomness of the sample bearing in mind that the sample has to be representative.

In addition, define the steps taken to ensure a sufficient size of the sample, enabling the audit authority to draw up a valid audit opinion. A total (projected) error rate should also be calculated a where non-statistical sampling method has been used.

5.7 Analysis of the main findings of the audits of operations, describing:

(1) the number of sample items audited, the respective amount;

(2) the type of error by sampling unit ([1]),

(3) the nature of errors found ([2])

(4) the stratum ([3]) error rate and corresponding serious deficiencies or irregularities the upper limit of the error rate, root causes, corrective measures proposed (including those intending to improve the management and control systems) and the impact on the audit opinion.

Further explanations on the data presented in Sections 9.2 and 9.3 below shall be provided, in particular concerning the total error rate.

5.8 Details of any financial corrections relating to the accounting year and implemented by the managing authority before submitting the accounts to the Commission, and as a consequence of the audits of operations, including flat rate or extrapolated corrections leading to a reduction to 2 % of the residual error rate of the expenditure included in the accounts pursuant to Article 92.

5.9 Comparison of the total error rate and the residual error rate (as shown in Section 9.2 below) with the materiality level of 2 %, in order to ascertain if the population is materially misstated and the impact on the audit opinion.

5.10 Details of whether any irregularities identified were considered to be systemic in nature, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections.

5.11 Information on the follow-up of audits of operations carried out in respect of the common sample for Interreg programmes based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

5.12 Information on the follow-up of audits of operations carried out for previous accounting years, in particular on serious deficiencies of systemic nature.

5.13 A table following the typology of errors that may have been agreed with the Commissions.

5.14 Conclusions drawn from the main findings of the audits of operations with regard to the proper functioning of the management and control system.

Section 5.14 is to be adapted for Interreg programmes in order to describe the steps taken to draw the conclusions based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

6. Audits of accounts

6.1 Identification of the authorities/bodies that have carried out audits of accounts.

6.2 Description of audit approach used to verify that the accounts are complete, accurate and true. This shall include a reference to the audit work carried out in the context of system audits, audits of operations with relevance for the assurance on the accounts and additional verifications to be carried over the draft accounts before these are sent to the Commission.

([1]) Random, systemic, anomalous

([2]) For instance: eligibility, public procurement, State aid

([3]) The stratum error rate is to be disclosed where stratification was applied, covering sub-populations with similar characteristics such as operations consisting of financial contributions from a programme to financial instruments, high-value items, Funds (in case of multi-Fund programmes).

6.3 Conclusions drawn from the audits in relation to the completeness, accuracy and veracity of the accounts, including an indication on the corresponding financial corrections made and reflected in the accounts as a follow-up to such conclusions.

6.4 Indication of whether any irregularities identified were considered to be systemic in nature, and of the measures taken.

7. Other information

7.1 Audit authority's assessment of the cases of suspicions of fraud detected in the context of their audits (including the cases reported by other national or EU bodies and related to operations audited by the audit authority), together with the measures taken. Information on number of cases, gravity, and the amounts affected, if known.

7.2 Subsequent events occurred after the end of the accounting year and before the transmission of the annual control report to the Commission and considered when establishing the level of assurance and opinion by the audit authority.

8. Overall level of assurance

8.1 Indication of the overall level of assurance on the proper functioning of the management and control system, and an explanation of how the level was obtained from the combination of the results of the system audits and audits of operations. Where relevant, the audit authority shall take also account of the results of other national or Union audit work carried out.

8.2 Assessment of any mitigating actions not linked to financial corrections that were implemented, financial corrections implemented and an assessment of the need for any additional corrective measures, both from the perspective of improvements of the management and control systems and of the impact on the EU budget.

9. ANNEXES TO THE ANNUAL CONTROL REPORT

9.1 Results of system audits.

Audited Entity	Fund (Multi-funds programme)	Title of the audit	Date of the final audit report	Programme: [CCI and Name of Programme]										Overall assessment (category 1, 2, 3, 4) [as defined in Table 2 — Annex X to the Regulation	Comments
				Key requirements (as applicable) [as defined in Table 1- Annex X to the Regulation											
				KR 1	KR 2	KR 3	KR 4	KR 5	KR 6	KR 7	KR 8	KR 9	KR 10		
MA															
IB(s)															
Accounting Function (if not performed by the MA)															

Note: The blank parts in the table above refer to key requirements that are not applicable to the audited entity.

9.2 Results of audits of operations

Fund	Programme CCI number	Programme title	A	B		C	D	E	F	G	H
			Amount in Euros corresponding to the population from which the sample was drawn (7)	Expenditure in reference to the accounting year audited for the random sample		Amount of irregular expenditure in random sample	Total error rate (8)	Corrections implemented as a result of the total error rate	Residual total error rate (F = (D * A) – E)	Other expenditure audited (9)	Amount of irregular expenditure in other expenditure audited
				Amount (10)	% (11)						

(1) As defined in Article 2 (29) of the Regulation
(2) Random, systemic, anomalous.
(3) For instance: eligibility, public procurement, State aid.
(4) The stratum error rate is to be disclosed where stratification was applied, covering sub-populations with similar characteristics such as operations consisting of financial contributions from a programme to financial instruments, high-value items, Funds (in case of multi-Fund programmes).
(5) Total errors minus corrections referred to in point 5.8 above, divided by the total population.
(6) The overall level of assurance shall correspond to one of the four categories defined in Table 2 of Annex X to the Regulation
(7) Column 'A' shall refer to the population from which the random sample was drawn, i.e. total amount of eligible expenditure entered into the accounting system of the managing authority/accounting function which has been included in payment applications submitted to the Commission less negative sampling units if any. Where applicable, explanations shall be provided in section 5.4 above.
(8) The total error rate is calculated before any financial corrections are applied in relation to the audited sample or the population from which the random sample was drawn. Where the random sample covers more than one Fund or programme, the total error rate (calculated) presented in column 'D' concerns the whole population. Where stratification is used, further information by stratum shall be provided in section 5.7 above.
(9) Column 'G' shall refer to expenditure audited in the context of a complementary sample.
(10) Amount of expenditure audited (in case sub-sampling is applied) only the amount of the expenditure items effectively audited, shall be included in this column).
(11) Percentage of expenditure audited in relation to the population.

9.3 Calculations underlying the random sample selection, total error rate and total residual error rate

ANNEX XVIII

Template for the audit strategy — Article 72

1. INTRODUCTION

(a) Identification of the programme(s) (title(s) and CCI(s) numbers [1]), Funds and period covered by the audit strategy.

(b) Identification of the audit authority responsible for drawing up, monitoring and updating the audit strategy and of any other bodies that have contributed to this document.

(c) Reference to the status of the audit authority (national, regional or local public body) and the body in which it is located.

(d) Reference to the mission statement, audit charter or national legislation (where applicable) setting out the functions and responsibilities of the audit authority and other bodies carrying out audits under its responsibility.

(e) Confirmation by the audit authority that the bodies carrying out audits have the requisite functional and organisational independence.

2. RISK ASSESSMENT

(a) explanation of the risk assessment method followed; and

(b) internal procedures for updating the risk assessment.

3. METHODOLOGY

3.1. Overview

(a) Reference to the internationally accepted audit standards that the audit authority will apply for its audit work.

(b) Information on how the audit authority will obtain its assurance with regard to programmes in the standard management and control system and for programmes with enhanced proportionated arrangements (description of main building blocks — types of audits and their scope).

(c) Reference to the procedures in place for drawing up the annual control report and audit opinion to be submitted to the Commission in accordance with Articles 71(3) of the Regulation with the necessary exceptions for Interreg programmes based on the specific rules on audits on operations applicable to Interreg programmes as set out in Article 48 of Regulation EU No [ETC Regulation].

(d) Reference to audit manuals or procedures containing the description of the main steps of the audit work, including the classification treatment of the errors detected in the preparation of the annual control report to be submitted to the Commission in accordance with Article 71(3) of the Regulation.

(e) For Interreg programmes, reference to specific audit arrangements and explanation on how the audit authority intends to ensure cooperation with the Commission regarding the audits of operations under the common Interreg sample to be drawn by the Commission set out in Article 48 of Regulation EU No [ETC Regulation].

(f) For Interreg programmes, when additional audit work may be required as set out in Article 48 of Regulation EU No [ETC Regulation] (reference to specific audit arrangements in that respect and to the follow up of that additional audit work).

---

[1] Indicate the programmes covered by a common management and control system, in case a single audit strategy is prepared for several programmes

Wednesday 27 March 2019

3.2. Audits on the proper functioning of management and control systems (system audits)

Identification of the bodies/structures to be audited, as well as the relevant key requirements in the context of system audits. The list should include any bodies that have been appointed in the last twelve months.

Where applicable, reference to the audit body on which the audit authority relies to perform these audits.

Indication of any system audits targeted at specific thematic areas or bodies, such as:

(a) quality and quantity of the administrative and on-the-spot management verifications in respect of public procurement rules, State aid rules, environmental requirements and other applicable law;

(b) quality of project selection and of management verifications at the level of the managing authority or intermediate body;

(c) set-up and implementation of financial instruments at the level of the bodies implementing financial instruments;

(d) functioning and security of electronic systems, and their interoperability with the electronic data exchange system of the Commission.

(e) reliability of data related to targets and milestones and on the progress of the programme in achieving its objectives provided by the managing authority.

(f) financial corrections (deductions from the accounts);

(g) implementation of effective and proportionate anti-fraud measures underpinned by a fraud risk assessment.

3.3. Audits of operations other than for Interreg programmes

(a) Description of (or reference to internal document specifying) the sampling methodology to be used in line with Article 73 of the Regulation (and other specific procedures in place for audits of operations, namely related to the classification and treatment of the errors detected, including suspected fraud).

(b) A separate description should be proposed for years when the Member States chooses to apply the enhanced proportionate system for one or more programmes as set out in Article 77 of the Regulation.

3.4. Audits of operations for Interreg programmes

(a) Description of (or reference to internal document specifying) the treatment of findings and errors to be used in line with Article 48 of Regulation EU No [ETC Regulation] and other specific procedures in place for audits of operations, namely related to the common Interreg sample to be drawn up by the Commission each year.

(b) A separate description should be proposed for years when the common sample for audits of operations for Interreg programmes does not include operations or sampling units from of the programme in question.

In this case, there should be a description of the sampling methodology to be used by the audit authority and other specific procedures in place for audits of operations, namely related to the classification and treatment of the errors detected, etc.

3.5. Audits of the accounts

Description of the audit approach for audits of accounts.

3.6. Verification of the management declaration

Reference to the internal procedures setting out the work involved in the verification of the management declaration as drawn up by the managing authority, for purposes of the audit opinion.

4. AUDIT WORK PLANNED

(a) Description and justification of the audit priorities and objectives in relation to the current accounting year and the two subsequent accounting years, together with an explanation of the linkage of the risk assessment results to the audit work planned.

(b) An indicative schedule of audit assignments in relation to the current accounting year and the two subsequent accounting years for system audits (including audits targeted to specific thematic areas), as follows:

Authorities/Bodies or specific thematic areas to be audited	CCI	Programme Title	Body responsible for auditing	Result of risk assessment	20xx Audit objective and scope	20xx Audit objective and scope	20xx Audit objective and scope

5. RESOURCES

(a) Organisation chart of the audit authority.

(b) Indication of planned resources to be allocated in relation to the current accounting year and the two subsequent accounting years (including information on any foreseen outsourcing and its scope, where appropriate).

Wednesday 27 March 2019

ANNEX XIX

Template for payment applications — Article 85(3)

PAYMENT APPLICATION

EUROPEAN COMMISSION

Fund concerned ([1]):	*<type="S" input="S" >* ([2])
Commission reference (CCI):	*<type="S" input="S">*
Name of programme:	*<type="S" input="G">*
Commission Decision:	*<type="S" input="G">*
Date Commission Decision:	*<type="D" input="G">*
Payment application number:	*<type="N" input="G">*
Date of submission of the payment application:	*<type="D" input="G">*
National reference (optional):	*<type="S" maxlength="250" input="M">*

([1]) If a programme concerns more than one fund, a payment application should be sent separately for each fund.
([2]) Legends:
type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency
input: M=Manual, S=Selection, G=Generated by system

According to Article 85 of Regulation (EU) No 2018/yyyy [CPR], this payment application refers to the accounting year:

From ([1])	*<type="D" input="G">*	until:	*<type="D" input="G">*

([1]) First day of the accounting year, automatically encoded by the electronic system.

Expenditure broken down by priority and category of regions as entered into the accounts of the body carrying out the accounting function

(Including programme contributions paid to financial instruments (Article 86 of the Regulation)

Priority	Calculation basis (public or total) [1]	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of Article 85(3)(a) and 85(4)	Amount for technical assistance in the meaning of Article 85(3)(b)	Total amount of public contribution paid or to be paid in the meaning of Article 85 (3)(c))
	(A)	(B)	(C)	(D)
Priority 1				
Less developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
More developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Priority 2				
Less developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
More developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

Priority	Calculation basis (public or total) ([1])	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of Article 85(3)(a) and 85(4)	Amount for technical assistance in the meaning of Article 85(3)(b)	Total amount of public contribution paid or to be paid in the meaning of Article 85 (3)(c))
	(A)	(B)	(C)	(D)
Priority 3				
Less developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
More developed regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total		*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*

([1]) For the EMFF the co-financing applies only on 'Total eligible public expenditure'. Therefore, in case of EMFF, the calculation base in this template will automatically be adjusted to 'Public'.

OR

Expenditure broken down by specific objective as entered into the accounts of the managing authority

Applicable for AMIF/ISF and BMVI Funds only

Specific Objective	Calculation basis (public or total)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public expenditure incurred in implementing operations
	(A)	(B)	(C)
Specific objective 1			
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Specific objective 2			
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

Specific Objective	Calculation basis (public or total)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public expenditure incurred in implementing operations
	(A)	(B)	(C)
Specific objective 3			
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type="S" input="G">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total		*<type="Cu" input="G">*	*<type="Cu" input="G">*

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (the Cohesion Fund, ETC, EMFF if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

Priority	Calculation basis (public or total) (1) (A)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations in the meaning of Article 85(3)(a) and 85(4) (B)	Amount for technical assistance in the meaning of Article 85(3)(b) (C)	Total amount of public contribution paid or to be paid in the meaning of Article 85(3)(c) (D°(C)
Priority 1	*<type="S"input="C">*	*<type="Cu"input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Priority 2	*<type="S"input="C">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Priority 3	*<type="S"input="C">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total		*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*

Wednesday 27 March 2019

DECLARATION

By validating this payment application the accounting function/managing authority requests the payment of the amounts as mentioned below.

Representing the body responsible for the accounting function: Or Representing the managing authority responsible for the accounting function:	*<type="S" input="G">*

PAYMENT APPLICATION

FUND	Less developed regions	Transition regions	More developed regions	Outermost regions and Northern sparsely populated regions
	(A)	(B)	(C)	(D)
<type="S" input="G">	*<type="Cu" input="G">*		*<type="Cu" input="G">*	*<type="Cu" input="G">*

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

Or

Applicable for AMIF/ISF and BMVI Funds only

Fund		Amounts
<type="S" input="G">	Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*
	Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*
	Type of actions no 3 [Reference to Article 8(3) and 8 (4) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*
	Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type="Cu" input="G">*

FUND	AMOUNT
<type="S" input="G">	*<type="Cu" input="G">*

The payment will be made on the following bank account:

Designated body	*<type="S" maxlength="150" input="G">*
Bank	*<type="S" maxlength="150" input="G">*
BIC	*<type="S" maxlength="11" input="G">*
Bank account IBAN	*<type="S" maxlength="34" input="G">*
Holder of account (where not the same as the designated body)	*<type="S" maxlength="150" input="G">*

Wednesday 27 March 2019

***Appendix:* Information on programme contributions paid to financial instruments as referred to in Article 86 of the Regulation and included in the payment applications (cumulative from the start of the programme)**

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Priority 1				
Less developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
More developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Priority 2	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Less developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
More developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Priority 3	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Less developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Transition regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

Wednesday 27 March 2019

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
More developed regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Outermost regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Northern sparsely populated regions	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*

[1] This amount shall not be included in the payment application.

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Priority 1				
Priority 2	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Priority 3	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*

[1] This amount shall not be included in the payment application.

Or

Applicable for AMIF/ISF and BMVI Funds only

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Specific objective 1				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*

Wednesday 27 March 2019

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Specific objective 2				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Specific objective 3				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*	*<type="Cu" input="M">*
Grand Total	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*

[1] This amount shall not be included in the payment application.

Wednesday 27 March 2019

ANNEX XX

Template for the accounts — Article 92(1)(a)

ACCOUNTS FOR ACCOUNTING YEAR

<type='D' – type='D' input='S'>

EUROPEAN COMMISSION

Fund concerned [1]:	*<type='S' input='S' >* [2]
Commission reference (CCI):	*<type='S' input='S'>*
Name of programme:	*<type='S' input='G'>*
Commission Decision:	*<type='S' input='G'>*
Date of Commission Decision:	*<type='D' input='G'>*
Version of the accounts:	*<type='S' input='G'>*
Date of submission of the accounts:	*<type='D' input='G'>*
National reference (optional):	*<type='S' maxlength='250' input='M'>*

[1] If a programme concerns more than one fund, accounts should be sent separately for each fund.
[2] Legends:
type: N=Number, D=Date, S=String, C=Checkbox, P=Percentage, B=Boolean, Cu=Currency
input: M=Manual, S=Selection, G=Generated by system

DECLARATION

The managing authority responsible for the programme hereby confirms that:

1) the accounts are complete accurate and true and that the expenditure entered into the accounts complies with applicable law and is legal and regular;

2) the provisions in the Fund-specific Regulations, Article 63(5) of Regulation (EU, Euratom) No [*Financial Regulation*] and in points, (a) to (e) of Article 68 of the Regulation are respected;

3) the provisions in Article 76 with regard to the availability of documents are respected.

Representing the managing authority:	*<type='S' input='G'>*

Wednesday 27 March 2019

***Appendix 1*: Amounts entered into the accounting systems of the accounting function/managing authority**

Priority	Total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in payment applications for the accounting year in the meaning of Article 92(3)(a) (A)	The amount for technical assistance in the meaning of Article 85 (3)(b) (B)	Total amount of the corresponding public contribution paid or to be paid in the meaning of Article 92(3)(a) (C)
Priority 1			
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 2			
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 3			
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

Priority	Total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in payment applications for the accounting year in the meaning of Article 92(3)(a) (A)	The amount for technical assistance in the meaning of Article 85 (3)(b) (B)	Total amount of the corresponding public contribution paid or to be paid in the meaning of Article 92(3)(a) (C)
Priority 4			
Totals			
Less developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Outermost regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Northern sparsely populated regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Grand Total	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

Wednesday 27 March 2019

Or

Applicable for AMIF/ISF and BMVI Funds only

Specific objective	Total amount of eligible expenditure entered into the accounting systems of the managing authority and which has been included in the payment applications submitted to the Commission (A)	Total amount of the corresponding public expenditure incurred in implementing operations (B)
Specific objective 1		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Specific objective 2		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF, if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

Priority	Total amount of eligible expenditure entered into the accounting systems of the body carrying out the accounting function which has been included in payment applications for the accounting year in the meaning of Article 92(3)(a) (A)	The amount for technical assistance in the meaning of Article 85 (3)(b) (B)	Total amount of the corresponding public contribution paid or to be paid in the meaning of Article 92(3)(a) (C)
Priority 1	*<type='Cu' input='M'>*		*<type='Cu' input='M'>*
Priority 2	*<type='Cu' input='M'>*		*<type='Cu' input='M'>*
Priority 3	*<type='Cu' input='M'>*		*<type='Cu' input='M'>*
Grand Total	*<type='Cu' input='G'>*		*<type='Cu' input='G'>*

Wednesday 27 March 2019

Appendix 2: **Amounts withdrawn during the accounting year**

Priority	WITHDRAWALS	
	Total eligible amount of expenditure included in interim payment applications	Corresponding public contribution
	(A)	**(B)**
Priority 1		
Less developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Transition regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
More developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Outermost regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Northern sparsely populated regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Priority 2		
Less developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Transition reigons	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
More developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Outermost regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Northern sparsely populated regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Priority 3		
Less developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Transition regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
More developed regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>
Outermost regions		
Northern sparsely populated regions	<*type='Cu' input='M'*>	<*type='Cu' input='M'*>

Priority	WITHDRAWALS	
	Total eligible amount of expenditure included in interim payment applications	Corresponding public contribution
	(A)	**(B)**
Priority 4		
Totals		
Less developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
GRAND TOTAL	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

Split of amounts withdrawn during the accounting year by accounting year of declaration of the corresponding expenditure

In relation to accounting year ending 30 June XX … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In relation to accounting year ending 30 June … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF, if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

Priority	WITHDRAWALS	
	Total eligible amount of expenditure included in payment applications	Corresponding public contribution
	(A)	**(B)**
Priority 1	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

Wednesday 27 March 2019

Priority	WITHDRAWALS	
	Total eligible amount of expenditure included in payment applications	Corresponding public contribution
	(A)	**(B)**
Priority 2	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 3	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
GRAND TOTAL	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

Split of amounts withdrawn during the accounting year by accounting year of declaration of the corresponding expenditure

In relation to accounting year ending 30 June XX … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In relation to accounting year ending 30 June … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

Or

Applicable for AMIF/ISF and BMVI Funds only

Specific objective	WITHDRAWALS	
	Total eligible amount of expenditure included in payment applications	Corresponding public expenditure
	(A)	**(B)**
Specific objective 1		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

Specific objective	WITHDRAWALS	
	Total eligible amount of expenditure included in payment applications	Corresponding public expenditure
	(A)	**(B)**
Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Specific objective 2		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Specific objective 3		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Totals		
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

Wednesday 27 March 2019

Specific objective	WITHDRAWALS	
	Total eligible amount of expenditure included in payment applications	Corresponding public expenditure
	(A)	**(B)**
Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
GRAND TOTAL	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Split of amounts withdrawn during the accounting year by accounting year of declaration of the corresponding expenditure		
In relation to accounting year ending 30 June … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In relation to accounting year ending 30 June … (total)	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
In particular, out of which amounts corrected as a result of audits of operations	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

Appendix 2: **Amounts of programme contributions paid to financial instruments (cumulative from the start of the programme) — Article 86**

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Priority 1				
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 2	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 3	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Less developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Outermost regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Northern sparsely populated regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 4				
Totals				
Less developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Transition regions	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
More developed regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Outermost regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Northern sparsely populated regions	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*
Grand Total	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

[1] This amount shall not be included in payment applications

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF, if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
Priority	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Priority 1	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 2	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Priority 3	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Grand Total	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

[1] This amount shall not be included in payment applications

Or

Applicable for AMIF/ISF and BMVI Funds only

	Amount included in the first payment application and paid to the financial instrument in accordance with Article 86 (max [25 %] of the total amount of programme contributions committed to [the] financial instrument[s] under the relevant funding agreement)		Corresponding cleared amount as referred to in Article 86(3) [1]	
	(A)	(B)	(C)	(D)
	Total amount of programme contributions paid to financial instruments	Amount of corresponding public contribution	Total amount of programme contributions effectively paid, or, in the case of guarantees, committed, as eligible expenditure in the meaning of Article 86	Amount of corresponding public contribution
Specific objective 1				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Specific objective 2				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Specific objective 3				
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*	*<type='Cu' input='M'>*
Grand Total	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*	*<type='Cu' input='G'>*

([1]) This amount shall not be included in the payment application.

Appendix 4: **Reconciliation of expenditure — Article 92**

Priority	*Total eligible expenditure included in payment applications submitted to the Commission*		*Expenditure declared in accordance with Article 92 of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	(F=B-D)	
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**
Priority 1							
Less developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Transition regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
More developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Outermost regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Northern sparsely populated regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">

Priority	*Total eligible expenditure included in payment applications submitted to the Commission*		*Expenditure declared in accordance with Article 92 of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	(F=B-D)	
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**
Priority 2							
Less developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Transition regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
More developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Outermost regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">
Northern sparsely populated regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="S" maxlength="500" input="M">

Priority	*Total eligible expenditure included in payment applications submitted to the Commission*		*Expenditure declared in accordance with Article 92 of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	(F=B-D)	
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**
Priority 3							
Totals							
Less developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
Transition regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
More developed regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
Outermost regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
Northern sparsely populated regions	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
Grand Total	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	<type="Cu" input="G">	
Out of which amounts corrected in the current accounts as a result of audits according					<type="Cu" input="M">	<type="Cu" input="M">	

Or

Applicable for AMIF/ISF and BMVI Funds only

Specific Objective	*Total eligible expenditure included in payment applications submitted to the Commission*		*Expenditure declared in accordance with Article 92 of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(A)**	**(B)**
Specific objective 1							
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
Type of actions no 4 [Reference to Article 14 and 15 of AMIF Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*

Specific Objective	*Total eligible expenditure included in payment applications submitted to the Commission*		*Expenditure declared in accordance with Article 92 of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(A)**	**(B)**
Specific objective 2							
Type of actions no 1 [Reference to Article 8(1) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
Type of actions no 2 [Reference to Article 8(2) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
Type of actions no 3 [Reference to Article 8(3) and 8(4) of AMIF/ISF/BMVI Regulation]	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" maxlength="500" input="M">*
ect							
Grand Total	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	
Out of which amounts corrected in the current accounts as a result of audits according					*<type="Cu" input="M">*	*<type="Cu" input="M">*	

The template is automatically adjusted on the basis of the CCI No. As an example, in case of programmes not including categories of regions (Cohesion Fund, ETC, EMFF, if applicable) or in case of programmes not modulating co-financing rates within a priority (specific objective), the table shall look as follows:

Priority	*Total eligible expenditure included in payment application**s** submitted to the Commission*		*Expenditure declared in accordance with Article XX of the Regulation*		*Difference*		*Comments (obligatory in case of difference)*
	Total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations	Total amount of public contribution paid or to be paid in implementing operations	Total amount of eligible expenditure entered into the accounting systems of the accounting function and which has been included in interim payment applications submitted to the Commission	Total amount of the corresponding contribution made or to be made in implementing operations	(E=A-C)	(F=B-D)	
	(A)	**(B)**	**(C)**	**(D)**	**(E)**	**(F)**	**(G)**
Priority 1	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" max-length="500" input="M">*
Priority 2	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="S" max-length="500" input="M">*
Grand Total	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	*<type="Cu" input="G">*	
Out of which amounts corrected in the current accounts as a result of audits					*<type="Cu" input="M">*	*<type="Cu" input="M">*	

Wednesday 27 March 2019

ANNEX XXI

Determination of the level of financial corrections: flat-rate and extrapolated financial corrections — Article 98(1)

Elements for applying an extrapolated correction

Where extrapolated financial corrections are to be applied, the results of the examination of the representative sample are extrapolated to the rest of the population from which the sample was drawn for purposes of determining the financial correction.

Elements for consideration when applying a flat rate correction

(a) gravity of the serious deficiency(-ies) in the context of the management and control system as a whole;

(b) the frequency and extent of the serious deficiency(-ies);

(c) the degree of financial prejudice to the Union budget.

The level of flat rate financial correction is determined as follows:

(a) where the serious deficiency(-ies) is so fundamental, frequent or widespread that it represents a complete failure of the system that puts at risk the legality and regularity of all expenditure concerned, a flat rate of 100 % is applied;

(b) where the serious deficiency(-ies) is so frequent and widespread that it represents an extremely serious failure of the system that puts at risk the legality and regularity of a very high proportion of the expenditure concerned, a flat rate of 25 % is applied;

(c) where the serious deficiency(-ies) is due to the system not fully functioning or functioning so poorly or so infrequently that it puts at risk the legality and regularity of a high proportion of the expenditure concerned, a flat rate of 10 % is applied;

(d) where the serious deficiency(-ies) is due to the system not functioning consistently so that it puts at risk the legality and regularity of a significant proportion of the expenditure concerned, a flat rate of 5 % is applied.

Where, due to a failure of the responsible authorities to take corrective measures following the application of a financial correction in an accounting year, the same serious deficiency (-ies) is identified in a subsequent accounting year, the rate of correction may, due to the persistence of the serious deficiency(-ies) be increased to a level not exceeding that of the next higher category.

Wednesday 27 March 2019

ANNEX XXII

Methodology on the allocation of global resources per Member State — Article 103(2)

Allocation method for the less developed regions eligible under the Investment for jobs and growth goal — Article 102(2)(a)

1. Each Member State's allocation shall be the sum of the allocations for its individual eligible regions, calculated in accordance with the following steps:

a) determination of an absolute amount per year (in EUR) obtained by multiplying the population of the region concerned by the difference between that region's GDP per capita, measured in PPS, and the EU-27 average GDP per capita (in PPS);

b) application of a percentage to the above absolute amount in order to determine that region's financial envelope; this percentage shall be graduated to reflect the relative prosperity, measured in PPS, as compared to the EU-27 average, of the Member State in which the eligible region is situated, i.e.:

i. for regions in Member States whose level of GNI per capita is below 82 % of the EU-27 average: 2,8 %;

ii. for regions in Member States whose level of GNI per capita is between 82 % and 99 % of the EU-27 average: 1,3 %;

iii. for regions in Member States whose level of GNI per capita is over 99 % of the EU-27 average: 0,9 %;

c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 500 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the less developed regions applied;

d) to the amount obtained in accordance with point (c) is added, if applicable, an amount resulting from the allocation of a premium of EUR 500 per young unemployed person (age group 15-24) per year, applied to the number of young persons unemployed in that region exceeding the number that would be unemployed if the average youth unemployment rate of all less developed regions applied;

e) to the amount obtained in accordance with point (d) is added, if applicable, an amount resulting from the allocation of a premium of EUR 250 per person (age group 25-64) per year, applied to the number of persons in that region that would need to be subtracted in order to reach the average level of low education rate (less than primary, primary and lower secondary education) of all less developed regions;

f) to the amount obtained in accordance with point (e) is added, if applicable, an amount of EUR 1 per tonne of CO_2 equivalent per year applied to the population share of the region of the number of tonnes of CO_2 equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016;

g) to the amount obtained in accordance with point (f) is added, an amount resulting from the allocation of a premium of EUR 400 per person per year, applied to the population share of the region of net migration from outside the EU to the Member State since 1 January 2013.

Wednesday 27 March 2019

Allocation method for transition regions eligible under the Investment for jobs and growth goal — Article 102(2)(b)

2. Each Member State's allocation shall be the sum of the allocations for its individual eligible regions, calculated in accordance with the following steps:

a) determination of the minimum and maximum theoretical aid intensity for each eligible transition region. The minimum level of support is determined by the initial average per capita aid intensity of all more developed regions, i.e. EUR 18 per head and per year. The maximum level of support refers to a theoretical region with a GDP per head of 75 % of the EU-27 average and is calculated using the method defined in points (a) and (b) of paragraph 1. Of the amount obtained by this method, 60 % is taken into account;

b) calculation of initial regional allocations, taking into account regional GDP per capita (in PPS) through a linear interpolation of the region's relative GDP per capita compared to EU-27;

c) to the amount obtained in accordance with point (b) is added, if applicable, an amount resulting from the allocation of a premium of EUR 500 per unemployed person per year, applied to the number of persons unemployed in that region exceeding the number that would be unemployed if the average unemployment rate of all the less developed regions applied;

d) to the amount obtained in accordance with point (c) is added, if applicable, an amount resulting from the allocation of a premium of EUR 500 per young unemployed person (age group 15-24) per year, applied to the number of young persons unemployed in that region exceeding the number that would be unemployed if the average youth unemployment rate of all less developed regions applied;

e) to the amount obtained in accordance with point (d) is added, if applicable, an amount resulting from the allocation of a premium of EUR 250 per person (age group 25-64) per year, applied to the number of persons in that region that would need to be subtracted in order to reach the average level of low education rate (less than primary, primary and lower secondary education) of all less developed regions;

f) to the amount obtained in accordance with point (e) is added, if applicable, an amount of EUR 1 per tonne of CO_2 equivalent per year applied to the population share of the region of the number of tonnes of CO_2 equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016;

g) to the amount obtained in accordance with point (f) is added, an amount resulting from the allocation of a premium of EUR 400 per person per year, applied to the population share of the region of net migration from outside the EU to the Member State since 1 January 2013.

Allocation method for the more developed regions eligible under the Investment for jobs and growth goal — Article 102(2)(c)

3. The total initial theoretical financial envelope shall be obtained by multiplying an aid intensity per head and per year of EUR 18 by the eligible population.

4. The share of each Member State concerned shall be the sum of the shares of its eligible regions, which are determined on the basis of the following criteria, weighted as indicated:

a) total regional population (weighting 20 %);

b) number of unemployed people in NUTS level 2 regions with an unemployment rate above the average of all more developed regions (weighting 15 %);

c) employment to be added to reach the average employment rate (ages 20 to 64) of all more developed regions (weighting 20 %);

d) number of persons aged 30 to 34 with tertiary educational attainment to be added to reach the average tertiary educational attainment rate (ages 30 to 34) of all more developed regions (weighting 20 %);

e) number of early leavers from education and training (aged 18 to 24) to be subtracted to reach the average rate of early leavers from education and training (aged 18 to 24) of all more developed regions (weighting 15 %);

f) difference between the observed GDP of the region (measured in PPS), and the theoretical regional GDP if the region were to have the same GDP per head as the most prosperous NUTS level 2 region (weighting 7,5 %);

g) population of NUTS level 3 regions with a population density below 12,5 inhabitants/km² (weighting 2,5 %).

5. To the amounts by NUTS level 2 region obtained in accordance with point (4) is added, if applicable, an amount of EUR 1 per tonne of CO_2 equivalent per year applied to the population share of the region of the number of tonnes of CO_2 equivalent by which the Member State exceeds the target of greenhouse gas emissions outside the emissions trading scheme set for 2030 as proposed by the Commission in 2016.

6. To the amounts by NUTS level 2 region obtained in accordance with point (5) is added, an amount resulting from the allocation of a premium of EUR 400 per person per year, applied to the population share of the region of net migration from outside the EU to the Member State since 1 January 2013.

Allocation method for the Member States eligible for the Cohesion Fund — Article 102(3)

7. The financial envelope shall be obtained by multiplying the average aid intensity per head and per year of EUR 62,9 by the eligible population. Each eligible Member State's allocation of this theoretical financial envelope corresponds to a percentage based on its population, surface area and national prosperity, and shall be obtained by applying the following steps:

a) calculation of the arithmetical average of that Member State's population and surface area shares of the total population and surface area of all the eligible Member States. If, however, a Member State's share of total population exceeds its share of total surface area by a factor of five or more, reflecting an extremely high population density, only the share of total population will be used for this step;

b) adjustment of the percentage figures so obtained by a coefficient representing one third of the percentage by which that Member State's GNI per capita (measured in purchasing power parities) for the period 2014-2016 exceeds or falls below the average GNI per capita of all the eligible Member States (average expressed as 100 %).

For each eligible Member State, the share of the Cohesion Fund shall not be higher than one third of the total allocation minus the allocation for the European territorial development goal after the application of paragraphs 10 to 16. This adjustment will proportionally increase all other transfers resulting from paragraphs 1 to 6.

Allocation method for the European territorial cooperation goal — Article 9

8. The allocation of resources by Member State, covering cross-border, transnational and outermost regions' cooperation is determined as the weighted sum of the shares determined on the basis of the following criteria, weighted as indicated:

a) total population of all NUTS level 3 land border regions and of other NUTS level 3 regions of which at least half of the regional population lives within 25 kilometres of the land border (weighting 36 %);

b) population living within 25 kilometres of the land borders (weighting 24 %);

c) total population of the Member States (weighting 20 %);

d) total population of all NUTS level 3 regions along border coastlines and of other NUTS level 3 regions of which at least half of the regional population lives within 25 kilometres of the border coastlines. (weighting 9,8 %);

e) population living in the maritime border areas within 25 kilometres of the border coastlines (weighting 6,5 %);

f) total population of outermost regions (weighting 3,7 %).

The share of the cross-border component corresponds to the sum of the weights of criteria (a) and (b). The share of the transnational component corresponds to the sum of weights of criteria (c), (d) and (e). The share of the outermost regions' cooperation corresponds to the weight of criterion (f).

Allocation method for the 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 — Article 104(1)(e)

9. An additional special allocation corresponding to an aid intensity of EUR 30 per inhabitant per year will be allocated to the outermost NUTS level 2 regions and the northern sparsely populated NUTS level 2 regions. That allocation will be distributed per region and Member State in a manner proportional to the total population of those regions.

Minimum and maximum levels of transfers from the funds supporting economic, social and territorial cohesion

10. In order to contribute to achieving adequate concentration of cohesion funding on the least developed regions and Member States and to the reduction of disparities in average per capita aid intensities, the maximum level of transfer (capping) from the Funds to each individual Member State will be determined as a percentage of the GDP of the Member State, whereby these percentages will be as follows:

a) for Member States whose average GNI per capita (in PPS) is under 60 % of the EU-27 average: 2,3 % of their GDP

b) for Member States whose average GNI per capita (in PPS) is equal to or above 60 % and below 65 % of the EU-27 average: 1,85 % of their GDP

c) for Member States whose average GNI per capita (in PPS) is equal to or above 65 % of the EU-27 average: 1,55 % of their GDP.

The capping will be applied on an annual basis, and will — if applicable — proportionally reduce all transfers (except for the more developed regions and European territorial cooperation goal) to the Member State concerned in order to obtain the maximum level of transfer.

11. The rules described in paragraph 10 shall not result in allocations per Member State higher than 108 % of their level in real terms for the 2014-2020 programming period. This adjustment shall be applied proportionately to all transfers (except for the European territorial development goal) to the Member State concerned in order to obtain the maximum level of transfer.

12. The minimum total allocation from the Funds for a Member State shall correspond to 76 % of its individual 2014-2020 total allocation. The adjustments needed to fulfil this requirement shall be applied proportionally to the allocations from the Funds, excluding the allocations under the European territorial cooperation goal.

13. The maximum total allocation from the Funds for a Member State having a GNI per capita (in PPS) of at least 120 % of the EU-27 average shall correspond to its individual 2014-2020 total allocation. The adjustments needed to fulfil this requirement shall be applied proportionally to the allocations from the Funds, excluding the allocation under the European territorial cooperation goal.

Additional provisions

14. For all regions that were classified as less developed regions for the 2014-2020 programming period, but whose GDP per capita is above 75 % of the EU-27 average, the minimum yearly level of support under the Investment for jobs and growth goal will correspond to 60 % of their former indicative average annual allocation under the Investment for jobs and growth goal, calculated by the Commission within the multiannual financial framework 2014-2020.

15. No transition region shall receive less than what it would have received if it had been a more developed region.

16. A total of EUR 60 000 000 will be allocated for the PEACE PLUS programme where it is acting in support of peace and reconciliation. In addition, at least EUR 60 000 000 shall be allocated for the PEACE PLUS programme from the allocation for Ireland under the European Territorial Cooperation goal (INTERREG) for the continuation of North-South cross border co-operation.

Wednesday 27 March 2019

The application of paragraphs 1 to 16 will result in Member State allocations as follows:

	2018 prices	Current prices
BE	2 443 732 247	2 754 198 305
BG	8 929 511 492	10 081 635 710
CZ	17 848 116 938	20 115 646 252
DK	573 517 899	646 380 972
DE	15 688 212 843	17 681 335 291
EE	2 914 906 456	3 285 233 245
IE	1 087 980 532	1 226 203 951
EL	19 239 335 692	21 696 841 512
ES	34 004 950 482	38 325 138 562
FR	16 022 440 880	18 058 025 615
HR	8 767 737 011	9 888 093 817
IT	38 564 071 866	43 463 477 430
CY	877 368 784	988 834 854
LV	4 262 268 627	4 812 229 539
LT	5 642 442 504	6 359 291 448
LU	64 879 682	73 122 377
HU	17 933 628 471	20 247 570 927
MT	596 961 418	672 802 893
NL	1 441 843 260	1 625 023 473
AT	1 279 708 248	1 442 289 880
PL	64 396 905 118	72 724 130 923
PT	21 171 877 482	23 861 676 803
RO	27 203 590 880	30 765 592 532
SI	3 073 103 392	3 463 528 447
SK	11 779 580 537	13 304 565 383
FI	1 604 638 379	1 808 501 037
SE	2 141 077 508	2 413 092 535

Wednesday 27 March 2019

P8_TA(2019)0311

Asylum, Migration and Integration Fund

European Parliament resolution of 27 March 2019 on the Commission delegated regulation of 14 December 2018 amending Annex II to Regulation (EU) No 516/2014 of the European Parliament and of the Council establishing the Asylum, Migration and Integration Fund (C(2018)08466 — 2018/2996(DEA))

(2021/C 108/48)

The European Parliament,

— having regard to the Commission delegated regulation (C(2018)08466),

— having regard to Article 290 of the Treaty on the Functioning of the European Union,

— having regard to Regulation (EU) No 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund, amending Council Decision 2008/381/EC and repealing Decisions No 573/2007/EC and No 575/2007/EC of the European Parliament and of the Council and Council Decision 2007/435/EC ([1]), and in particular Articles 16(2) and 26(5) thereof,

— having regard to the motion for a resolution by the Committee on Civil Liberties, Justice and Home Affairs,

— having regard to Rule 105(3) of its Rules of Procedure,

A. whereas Article 1 of the Commission delegated regulation proposes that Annex II of Regulation (EU) No 516/2014 be amended to include a specific action related to 'the establishment, development and operation of adequate reception and accommodation and detention facilities, and respective services, for applicants for international protection or third-country nationals who are present in a Member State and do not or no longer fulfil the conditions for entry and/or stay';

B. whereas the Commission delegated regulation proposes that a concept of 'controlled centres' be included in that new specific action, and thus that funding be provided to Member States for the establishment, development and operation of such 'controlled centres';

C. whereas the concept of 'controlled centres' is a controversial concept of questionable legality which does not exist under Union law and has not been approved by the co-legislators;

D. whereas Parliament takes the view that such a concept should not be funded unless and until it is properly defined in an appropriate legislative instrument — adopted by the co-legislators — detailing the legal basis, nature, purpose and objective of such a concept;

1. Objects to the Commission delegated regulation;

2. Instructs its President to forward this resolution to the Commission and to notify it that the delegated regulation cannot enter into force;

3. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.

([1]) OJ L 150, 20.5.2014, p. 168.

Wednesday 27 March 2019

P8_TA(2019)0312

Instrument for financial support for external borders and visa

European Parliament resolution of 27 March 2019 on the Commission delegated regulation of 14 December 2018 amending Annex II to Regulation (EU) No 515/2014 of the European Parliament and of the Council establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa (C(2018)08465 — 2018/2994(DEA))

(2021/C 108/49)

The European Parliament,

— having regard to the Commission delegated regulation (C(2018)08465),

— having regard to Article 290 of the Treaty on the Functioning of the European Union,

— having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC [1], and in particular Articles 7(2) and 17(5) thereof,

— having regard to the motion for a resolution by the Committee on Civil Liberties, Justice and Home Affairs,

— having regard to Rule 105(3) of its Rules of Procedure,

A. whereas Article 1 of the Commission delegated regulation proposes that Annex II of Regulation (EU) No 515/2014 be amended to include a specific action related to '[the] establishment, development and operation including the provision of services such as identification, […] registration and first reception, of hotspot areas';

B. whereas the Commission delegated regulation proposes that a concept of 'controlled centres' be included in that new specific action, and thus that funding be provided to Member States for the provision of services in such 'controlled centres';

C. whereas the concept of 'controlled centres' is a controversial concept of questionable legality which does not exist under Union law and has not been approved by the co-legislators;

D. whereas Parliament takes the view that such a concept should not be funded unless and until it is properly defined in an appropriate legislative instrument — adopted by the co-legislators — detailing the legal basis, nature, purpose and objective of such a concept;

1. Objects to the Commission delegated regulation;

2. Instructs its President to forward this resolution to the Commission and to notify it that the delegated regulation cannot enter into force;

3. Instructs its President to forward this resolution to the Council and to the governments and parliaments of the Member States.

[1] OJ L 150, 20.5.2014, p. 143.

Thursday 28 March 2019

P8_TA(2019)0319

Listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Kosovo) ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (Kosovo (*)) (COM(2016)0277 — C8-0177/2016 — 2016/0139(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/50)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0277)),

— having regard to Article 294(2) and Article 77(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0177/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinion of the Committee on Foreign Affairs (A8-0261/2016),

1. Adopts its position at first reading, taking over the Commission proposal;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(*) 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.

Thursday 28 March 2019

P8_TA(2019)0320

Quality of water intended for human consumption ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) (COM(2017)0753 — C8-0019/2018 — 2017/0332(COD))

(Ordinary legislative procedure — recast)

(2021/C 108/51)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2017)0753),

— having regard to Article 294(2) and Article 192(1) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0019/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Czech Chamber of Deputies, the Irish Houses of the Oireachtas, the Austrian Federal Council and the United Kingdom House of Commons, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 12 July 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 16 May 2018 ([2]),

— having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts ([3]),

— having regard to the letter of 18 May 2018 sent by the Committee on Legal Affairs to the Committee on the Environment, Public Health and Food Safety in accordance with Rule 104(3) of its Rules of Procedure,

— having regard to Rules 104 and 59 of its Rules of Procedure,

— having regard to the report of the Committee on the Environment, Public Health and Food Safety (A8-0288/2018),

A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;

1. Adopts its position at first reading hereinafter set out ([4]), taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 367, 10.10.2018, p. 107.
([2]) OJ C 361, 5.10.2018, p. 46.
([3]) OJ C 77, 28.3.2002, p. 1.
([4]) This position corresponds to the amendments adopted on 23 October 2018 (Texts adopted, P8_TA(2018)0397).

Thursday 28 March 2019

P8_TC1-COD(2017)0332

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Directive (EU) …/… of the European Parliament and of the Council on the quality of water intended for human consumption (recast)

(Text with EEA relevance)

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 192(1) 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) Council Directive 98/83/EC ([4]) has been substantially amended several times ([5]). Since further amendments are to be made, that Directive should be recast in the interests of clarity.

(2) Directive 98/83/EC set the legal framework to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean. This Directive should pursue the same objective ***and should provide universal access to such water for all in the Union***. To that end, it is necessary to lay down at Union level the minimum requirements with which water intended for that purpose must comply. Member States should take ~~the~~ ***all*** necessary measures to ensure that water intended for human consumption is free from any micro-organisms and parasites and from substances which, in certain cases, constitute a potential danger to human health, and that it meets those minimum requirements. **[Am. 161, 187, 206 and 213]**

(2a) In line with the communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 2 December 2015 entitled 'Closing the loop — An EU action plan for the Circular Economy', this Directive should strive to encourage water resource efficiency and sustainability, thereby meeting circular economy goals. **[Am. 2]**

(2b) The Human Right to Water and Sanitation (HRWS) was recognised as a human right by the United Nations (UN) General Assembly on 28 July 2010 and thus, access to clean, potable water should not be restricted due to unaffordability by the end user. **[Am. 3]**

(2c) Coherence between Directive 2000/60/EC of the European Parliament and of the Council ([6]) and this Directive is necessary. **[Am. 4]**

([1]) OJ C 367, 10.10.2018, p. 107.
([2]) OJ C 361, 5.10.2018, p. 46.
([3]) Position of the European Parliament of 28 March 2019.
([4]) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330 5.12.1998, p. 32).
([5]) See Annex V.
([6]) 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 (OJ L 327, 22.12.2000, p. 1).

Thursday 28 March 2019

(2d) The requirements set out in this Directive should reflect the national situation and conditions of the water suppliers in the Member States. **[Am. 5]**

(3) It is necessary to exclude from the scope of this Directive natural mineral waters and waters which are medicinal products, since these waters are respectively covered by Directive 2009/54/EC of the European Parliament and of the Council ([7]) and Directive 2001/83/EC of the European Parliament and of the Council ([8]). However, Directive 2009/54/EC deals with both natural mineral waters and spring waters, and only the former category should be exempted from the scope of this Directive. In accordance with the third subparagraph of Article 9(4) of Directive 2009/54/EC, spring waters should comply with the provisions of this Directive. ***However, that obligation should not extend to the microbiological parameters set out in Part A of Annex I to this Directive.*** In the case of water intended for human consumption ***from public water supply or private wells*** put into bottles or containers intended for sale or used in the ***commercial*** manufacture, preparation or treatment of food, the water should***, as a matter of principle, continue to*** comply with the provisions of this Directive until the point of compliance ~~(i.e. the tap)~~, and should afterwards be considered as food, in accordance with the second subparagraph of Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council ([9]). ***Where applicable food safety requirements are met, competent authorities in the Member States should have the power to authorise the reuse of water in food processing industries.*** **[Am. 6]**

(4) Following the conclusion of the European citizens' initiative on the right to water (Right2Water) ([10]) ***which called on the Union to increase its efforts to achieve universal access to water***, a Union-wide public consultation was launched and a Regulatory Fitness and Performance (REFIT) Evaluation of Directive 98/83/EC was performed ([11]). It became apparent from that exercise that certain provisions of Directive 98/83/EC needed to be updated. Four areas were identified as offering scope for improvement, namely the list of quality-based parametric values, the limited reliance on a risk-based approach, the imprecise provisions on consumer information, and the disparities between approval systems for materials in contact with water intended for human consumption ***and the implications this has for human health***. In addition, the European citizens' initiative on the right to water identified as a distinct problem the fact that part of the population, ~~especially~~ ***among vulnerable and*** marginalised groups, has ***limited or*** no access to ***affordable*** water intended for human consumption, which is also a commitment ***made*** under Sustainable Development Goal 6 of UN Agenda 2030. ***In this context, the European Parliament recognised a right of access to water intended for human consumption for all in the Union.*** A final issue identified is the general lack of awareness of water leakages, which are driven by underinvestment in maintenance and renewal of the water infrastructure, as also pointed out in the European Court of Auditors' Special Report on water infrastructure ([12])***, and by what is sometimes insufficient knowledge of water systems***. **[Am. 7]**

(4a) In order to fulfil the ambitious goals set up under the United Nations' Sustainable Development Goal No 6, Member States should be obliged to implement action plans to ensure universal and equitable access to safe and affordable drinking water for all by 2030. **[Am. 8]**

(4b) The European Parliament adopted resolution of 8 September 2015 on the follow-up to the European Citizens' Initiative Right2Water. **[Am. 9]**

([7]) Directive 2009/54/EC of the European Parliament and of the Council of 18 June 2009 on the exploitation and marketing of natural mineral waters (Recast) (OJ L 164, 26.6.2009, p. 45).

([8]) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use (OJ L 311, 28.11.2001, p. 67).

([9]) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

([10]) COM(2014)0177.

([11]) SWD(2016)0428.

([12]) Special report of the European Court of Auditors SR 12/2017: '*Implementing the Drinking Water Directive: water quality and access to it improved in Bulgaria, Hungary and Romania, but investment needs remains substantial*'.

(5) The World Health Organisation (WHO) Regional Office for Europe conducted a detailed review of the list of parameters and parametric values laid down in Directive 98/83/EC in order to establish whether there is a need to adapt it in light of technical and scientific progress. In view of the results of that review ([13]), enteric pathogens and *Legionella* should be controlled, six chemical parameters or parameter groups should be added, and three representative endocrine disrupting compounds should be considered with precautionary benchmark values. For three of the new parameters, parametric values that are more stringent than the ones proposed by the WHO, yet still feasible, should be laid down in light of the precautionary principle. For lead, the WHO noted that concentrations should be as low as reasonably practical, and for chromium, the value remains under WHO review; therefore, for both parameters, a transitional period of ten years should apply before the values become more stringent.

(5a) Water intended for human consumption plays a fundamental role in the Union's ongoing efforts to strengthen the protection of human health and the environment against endocrine-disrupting chemicals. The regulation of endocrine-disrupting compounds in this Directive constitutes a promising step in line with the updated Union strategy on endocrine disruptors, which the Commission is obliged to deliver without any further delay. **[Am. 11]**

(6) The WHO also recommended that three parametric values be made less stringent and five parameters be removed from the list. Nevertheless, those changes are not considered necessary as the risk-based approach introduced by Commission Directive (EU) 2015/1787 ([14]) allows water suppliers to remove a parameter from the list to be monitored under certain conditions. Treatment techniques to meet those parametric values are already in place.

(6a) Where scientific knowledge is not sufficient to determine the human health risk, or absence thereof, of a substance present in water intended for human consumption, or the permissible value for the presence of that substance, it should be placed on a watchlist, on the basis of the precautionary principle, until there are clearer scientific data. Accordingly, Member States should monitor such emerging parameters separately. **[Am. 13]**

(6b) Indicator parameters have no direct public-health impact. However, they are important as a means of determining how water production and distribution facilities are functioning and of evaluating water quality. They can help to identify water treatment deficiencies and they also play an important role in increasing and maintaining consumer confidence in water quality. Therefore, they should be monitored by Member States. **[Am. 14]**

(7) Where necessary ***for full implementation of the precautionary principle and*** to protect human health within their territories, Member States should be required to set values for additional parameters not included in Annex I. **[Am. 15]**

(8) Preventive safety planning and risk-based elements were only considered to a limited extent in Directive 98/83/EC. The first elements of a risk-based approach were already introduced in 2015 with Directive (EU) 2015/1787, which amended Directive 98/83/EC so as to allow Member States to derogate from the monitoring programmes they have established, provided credible risk assessments are performed, which may be based on the WHO's Guidelines for Drinking Water Quality ([15]). Those Guidelines, laying down the so-called 'Water Safety Plan' approach, together with standard EN 15975-2 concerning security of drinking water supply, are internationally recognised principles on which the production, distribution, monitoring and analysis of parameters in water intended for human

([13]) Drinking Water Parameter Cooperation Project of the WHO Regional Office for Europe 'Support to the revision of Annex I Council Directive 98/83/EC on the quality of water intended for human consumption (Drinking Water Directive) Recommendation', 11 September 2017.

([14]) Commission Directive (EU) 2015/1787 of 6 October 2015 amending Annexes II and III to Council Directive 98/83/EC on the quality of water intended for human consumption (OJ L 260, 7.10.2015, p. 6).

([15]) Guidelines for drinking water quality, Fourth Edition, World Health Organisation, 2011 http://www.who.int/water_sanitation_-health/publications/2011/dwq_guidelines/en/index.html

consumption are based. They should be maintained in this Directive. To ensure that those principles are not limited to monitoring aspects, to focus time and resources on risks that matter and on cost-effective source measures, and to avoid analyses and efforts on non-relevant issues, it is appropriate to introduce a complete risk-based approach, throughout the supply chain, from the abstraction area to distribution until the tap. That approach should ***be based on the knowledge gained and actions carried out under Directive 2000/60/EC and should take into account more effectively the impact of climate change on water resources. A risk-based approach should*** consist of three components: first, an assessment by the Member State of the hazards associated with the abstraction area ('hazard assessment'), in line with the WHO's Guidelines and Water Safety Plan Manual ([16]); second, a possibility for the water supplier to adapt monitoring to the main risks ('supply risk assessment'); and third, an assessment by the Member State of the possible risks stemming from ~~the~~ domestic distribution systems (e.g. *Legionella* or lead)***, with special focus on priority premises*** ('domestic distribution risk assessment'). Those assessments should be regularly reviewed, *inter alia*, in response to threats from climate-related extreme weather events, known changes of human activity in the abstraction area or in response to source-related incidents. The risk-based approach ensures a continuous exchange of information between competent authorities, ~~and~~ water suppliers ***and other stakeholders, including those responsible for the pollution source or the risk of pollution. As an exception, the implementation of the risk-based approach should be adapted to the specific constraints of maritime vessels that desalinate water and carry passengers. European flag maritime vessels comply with the international regulatory framework when sailing in international waters. Furthermore, there are particular constraints for the transport and production of water intended for human consumption on board which means that the provisions of this Directive should be adapted accordingly.*** **[Am. 16]**

(8a) Ineffective use of water resources, in particular leakage in the water supply infrastructure, leads to over exploitation of scarce resources of water intended for human consumption. This severely hinders the Member States in reaching the objectives set under Directive 2000/60/EC. **[Am. 17]**

(9) The hazard assessment should ~~be geared towards~~ ***take a holistic approach to risk assessment, founded on the explicit aim of*** reducing the level of treatment required for the production of water intended for human consumption, for instance by reducing the pressures causing the pollution of***, or a risk of pollution of,*** water bodies used for abstraction of water intended for human consumption. To that end, Member States should identify hazards and possible pollution sources associated with those water bodies and monitor pollutants which they identify as relevant, for instance because of the hazards identified (e.g. microplastics, nitrates, pesticides or pharmaceuticals identified under Directive 2000/60/EC of the European Parliament and of the Council ([17])), because of their natural presence in the abstraction area (e.g. arsenic), or because of information from the water suppliers (e.g. sudden increase of a specific parameter in raw water). ***In accordance with Directive 2000/60/EC,*** those parameters should be used as markers that trigger action by competent authorities to reduce the pressure on the water bodies, such as prevention or mitigating measures (including research to understand impacts on health where necessary), to protect those water bodies and address the pollution source ***or risk***, in cooperation with ***all stakeholders, including those responsible for pollutant or potential pollutant sources. Where a Member State finds, via the hazard assessment, that a parameter is not present in a given abstraction area, for instance because that substance never occurs in groundwaters or surface waters, the Member State should inform the relevant*** water suppliers and ~~stakeholders~~ ***should be able to allow them to decrease the monitoring frequency for that parameter, or remove that parameter from the list of parameters to be monitored, without carrying out a supply risk assessment.*** **[Am. 18]**

(10) As regards the hazard assessment, Directive 2000/60/EC requires Member States to identify water bodies used for the abstraction of water intended for human consumption, monitor them, and take the necessary measures to avoid deterioration in their quality in order to reduce the level of purification treatment required in the production of

([16]) Water Safety Plan Manual: step-by-step risk management for drinking water suppliers, World Health Organisation, 2009, http://apps.who.int/iris/bitstream/10665/75141/1/9789241562638_eng.pdf

([17]) 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 (OJ L 327, 22.12.2000, p. 1).

water that is fit for human consumption. To avoid any duplication of obligations, Member States should, when carrying out the hazard assessment, make use of the monitoring carried out under Articles 7 and 8 of Directive 2000/60/EC and Annex V to that Directive and of the measures included in their programmes of measures pursuant to Article 11 of Directive 2000/60/EC.

(11) The parametric values used to assess the quality of water intended for human consumption are to be complied with at the point where water intended for human consumption is made available to the appropriate user. However, the quality of water intended for human consumption can be influenced by the domestic distribution system. The WHO notes that, in the Union, *Legionella* causes the highest health burden of all waterborne pathogens***, in particular Legionella pneumophila, which accounts for most cases of Legionnaires' disease in the Union***. It is transmitted by warm water systems through inhalation, for instance during showering. It is therefore clearly linked to the domestic distribution system. Since imposing a unilateral obligation to monitor all private and public premises for this pathogen would lead to unreasonably high costs ***and would contravene the principle of subsidiarity***, a domestic distribution risk assessment is therefore more suited to address this issue***, with a special focus on priority premises***. In addition, the potential risks stemming from products and materials in contact with water intended for human consumption should also be considered in the domestic distribution risk assessment. The domestic distribution risk assessment should therefore include, *inter alia*, focusing monitoring on priority premises, assessing the risks stemming from the domestic distribution system and related products and materials~~, and verifying the performance of construction products~~ in contact with water intended for human consumption ~~on the basis of their declaration of performance in accordance with Regulation (EU) No 305/2011 of the European Parliament and of the Council ([18])~~. The information referred to in Articles 31 and 33 of Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([19]) is also to be supplied together with the declaration of performance. On the basis of this assessment, Member States should take all necessary measures to ensure, *inter alia*, that appropriate control and management measures (e.g. in case of outbreaks) are in place, in line with the guidance of the WHO ([20]), and that the migration from ~~construction products~~ ***substances and*** **materials** ***in contact with water intended for human consumption*** does not endanger human health. ~~However, without prejudice to Regulation (EU) No 305/2011, where these measures would imply limits to the free movement of products and materials in the Union, these limits need to be duly justified and strictly proportionate, and not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.~~ **[Am. 19]**

(12) The provisions of Directive 98/83/EC on quality assurance of treatment, equipment and materials did not succeed in addressing obstacles to the internal market when it comes to the free circulation of construction products in contact with water intended for human consumption ***or providing sufficient protection with regard to human health***. National product approvals are still in place, with different requirements from one Member State to another. This renders it difficult and costly for manufacturers to market their products all over the Union. ~~The removal of technical barriers may only be effectively achieved by establishing harmonised technical specifications for construction products in contact with water intended for human consumption under Regulation (EU) No 305/2011. That Regulation allows for the development of~~ ***That situation stems from the fact that there are no minimum*** European ***hygiene*** standards ~~harmonising the assessment methods for construction~~ ***for all*** products ***and materials*** in contact

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([18]) ~~Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).~~

([19]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

([20]) 'Legionella and the prevention of Legionellosis', World Health Organisation, 2007, http://www.who.int/water_sanitation_health/emerging/legionella.pdf

with water intended for human consumption ~~and for threshold levels and classes to be set in relation to the performance level of an essential characteristic. To that end, a standardisation request specifically requiring standardisation work on hygiene and safety for~~***, which is essential for fully ensuring mutual recognition between Member States. The removal of technical barriers and conformity of all*** products and materials in contact with water intended for human consumption ~~under Regulation (EU) No 305/2011 has been included in the 2017 standardisation Work Programme ([21]), and a standard is to be issued by 2018. The publication of this harmonised standard in the Official Journal of the European Union will ensure a rational decision-making for placing or making available~~ ***at Union level can, therefore, only be effectively achieved by establishing minimum quality requirements at Union level. As a consequence, those provisions should be strengthened by means of a procedure for harmonisation of such products and materials. That work should draw*** on the ~~market safe construction products in contact with water intended for human consumption. As a consequence, the provisions on equipment and material in contact with water intended for human consumption should be deleted, partly replaced by provisions related to the domestic distribution risk assessment and complemented by relevant harmonised standards under Regulation (EU) No 305/2011~~ ***experience gained and advances made by a number of Member States that have been working together for some years, in a concerted effort, to bring about regulatory convergence.*** **[Am. 20]**

(13) Each Member State should ensure that monitoring programmes are established to check that water intended for human consumption meets the requirements of this Directive. Most of the monitoring carried out for the purposes of this Directive is performed by water suppliers ***but, where necessary, Member States should clarify with which competent authorities the obligations stemming from the transposition of this Directive lie***. A certain flexibility should be granted to water suppliers as regards the parameters they monitor for the purposes of the supply risk assessment. If a parameter is not detected, water suppliers should be able to decrease the monitoring frequency or stop monitoring that parameter altogether. The supply risk assessment should be applied to most parameters. However, a core list of parameters should always be monitored with a certain minimum frequency. This Directive mainly sets provisions on monitoring frequency for the purposes of compliance checks and only limited provisions on monitoring for operational purposes. Additional monitoring for operational purposes may be necessary to ensure the correct functioning of water treatment, at the discretion of water suppliers. In that regard, the water suppliers may refer to the WHO's Guidelines and Water Safety Plan Manual. **[Am. 21]**

(14) The risk-based approach should ~~gradually~~ be applied by all water suppliers, including ***very*** small***, small and medium-sized*** water suppliers, as the evaluation of Directive 98/83/EC showed deficiencies in its implementation by those suppliers, which were sometimes due to the cost of performing unnecessary monitoring operations***, while allowing for the possibility for derogations for very small suppliers***. When applying the risk-based approach, security concerns ***and concerns relating to the 'polluter pays' principle*** should be taken into account. ***For smaller suppliers, the competent authority should support the monitoring operations by providing expert support.*** **[Am. 188]**

(14a) In order to deliver the strongest protection for public health, Member States should ensure a clear and balanced distribution of responsibilities for the application of the risk-based approach in line with their national institutional and legal framework. **[Am. 24]**

(15) In the event of non-compliance with the standards imposed by this Directive the Member State concerned should immediately investigate the cause and ensure that the necessary remedial action is taken as soon as possible to restore the quality of the water. In cases where the water supply constitutes a potential danger to human health, the supply of such water should be prohibited or its use restricted, ***and citizens who could be affected should be duly informed***. In addition, ~~it is important to clarify that~~ ***in the event of*** failure to meet the minimum requirements for values relating to microbiological and chemical parameters***, Member States*** should ~~automatically be considered by Member States as~~ ***determine whether exceeding the values constitutes*** a potential ~~danger~~ ***risk*** to human health. ***To that end, Member States should take account of, in particular, the extent to which minimum requirements have not been met and the type of parameter concerned.*** In cases where remedial action is necessary to restore the quality of water intended for human consumption, in accordance with Article 191(2) of the Treaty, priority should be given to action which rectifies the problem at source. **[Am. 25]**

~~([21]) SWD(2016)0185.~~

(***15a***) ***It is important to prevent contaminated water causing a potential danger to human health. Therefore, the supply of such water should be prohibited or its use restricted.*** **[Am. 26]**

(16) Member States should ~~no longer~~ be authorised to grant derogations from this Directive. Derogations were initially used to allow Member States up to nine years to resolve a non-compliance with a parametric value. This procedure ***has*** proved to be ~~burdensome~~ ***useful*** for Member States ~~and Commission alike. In addition~~***, given the level of ambition of the Directive. It should be noted, however, that***, in some cases, it ***has*** led to delays in remedial actions being taken, as the possibility for derogation was ***sometimes*** considered ~~as~~ ***to be*** a transitional period. ~~The provision on derogations should therefore be deleted. For reasons of protection of human health, when parametric values are exceeded, the provisions related to remedial actions should apply immediately without the possibility of granting a derogation from the parametric value~~. ***In the light of the fact, firstly, that the quality parameters in this Directive are to be strengthened and, secondly, that emerging pollutants are being increasingly detected, requiring stepped-up evaluation, monitoring and management actions, it remains, nonetheless, necessary to maintain a derogation procedure that is in keeping with those circumstances, provided that they do not constitute a potential risk to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means. The provision in Directive 98/83/EC on derogations should therefore be amended so as to ensure faster and more effective compliance by Member States with the requirements of this Directive***. Derogations granted by Member States pursuant to Article 9 of Directive 98/83/EC and still applicable at the date of entry into force of this Directive should~~, however,~~ continue to apply ~~until the end of the derogation but should not be renewed~~ ***in accordance with the arrangements laid down by the provisions in force when the derogation was granted***. **[Am. 27]**

(17) The Commission, in its reply to the European citizens' initiative 'Right2Water' in 2014 ([22]), invited Member States to ensure access to a minimum water supply for all citizens, in accordance with the WHO recommendations. It also committed to continue to '*improve access to safe drinking water […] for the whole population through environmental policies*' ([23]). ***This is in line with Articles 1 and 2 of the Charter of Fundamental Rights of the European Union.*** This is ***also*** in line with UN Sustainable Development Goal 6 and the associated target to '*achieve universal and equitable access to safe and affordable drinking water for all*'. The concept of equitable access covers a wide array of aspects such as availability (due for instance to geographic reasons, lack of infrastructure or the specific situation of certain parts of the populations), quality, acceptability, or financial affordability. Concerning affordability of water, it is important to recall that, ***without prejudice to Article 9(4) of Directive 2000/60/EC,*** when setting water tariffs in accordance with the principle of recovery of costs set out in ***that*** Directive ~~2000/60/EC~~, Member States may have regard to the variation in the economic and social conditions of the population and may therefore adopt social tariffs or take measures safeguarding populations at a socio-economic disadvantage. This Directive deals, in particular, with the aspects of access to water which are related to quality and availability. To address those aspects, as part of the reply to the European citizens' initiative and to contribute to the implementation of Principle 20 of the European Pillar of Social Rights ([24]) that states that 'everyone has the right to access essential services of good quality, including water', Member States should be required to tackle the issue of ***affordable*** access to water at national level whilst enjoying ~~some~~ ***a certain margin of*** discretion as to the exact type of measures to be implemented. This can be done through actions aimed, *inter alia*, at improving access to water intended for human consumption for all, for instance ***by not unjustifiably making water quality requirements more stringent on public-health grounds, which would increase the price of water for citizens,*** with freely accessible fountains in cities, and promoting its use by encouraging the free provision of water intended for human consumption in public buildings, ~~and~~ restaurants***, shopping and recreational centres, as well as areas of transit and large footfall such as train stations or airports. Member States should be free to determine the right mix of such instruments with regard to their specific national circumstances.*** **[Am. 28]**

([22]) COM(2014)0177.
([23]) COM(2014)0177, p. 12.
([24]) Interinstitutional Proclamation on the European Pillar of Social Rights (2017/C 428/09) of 17 November 2017 (OJ C 428, 13.12.2017, p. 10).

Thursday 28 March 2019

(18) The European Parliament, in its Resolution on the 'follow-up to the European citizens' initiative Right2Water' ([25]), 'requested that Member States should pay special attention to the needs of vulnerable groups in society' ([26]). The specific situation of minority cultures, such as Roma~~, Sinti,~~ ***and*** Travellers, ~~Kalé, Gens du voyage etc.,~~ whether sedentary or not — in particular their lack of access to drinking water — was also acknowledged in the Commission Report on the implementation of the EU Framework for National Roma Integration Strategies ([27]) and the Council Recommendation on effective Roma integration measures in the Member States ([28]). In light of that general context, it is appropriate that Member States pay particular attention to vulnerable and marginalised groups by taking the necessary measures to ensure that those groups have access to water. ***Taking into account the principle of recovery of costs set out in Directive 2000/60/EC, Member States should improve access to water for vulnerable and marginalised groups without jeopardising the supply of universally affordable high-quality water.*** Without prejudice to the right of the Member States to define those groups, they should at least include refugees, nomadic communities, homeless people and minority cultures such as Roma~~, Sinti,~~ ***and*** Travellers, ~~Kalé, Gens du voyage, etc.,~~ whether sedentary or not. Such measures to ensure access, left to the appreciation of the Member States, might for example include providing alternative supply systems (individual treatment devices), providing water via tankers (trucks and cisterns) and ensuring the necessary infrastructure for camps. ***Where local public authorities are made responsible for meeting those obligations, Member States should ensure that they have sufficient financial resources and technical and material capacities and should support them accordingly, by providing expert support for example. In particular, the distribution of water for vulnerable and marginalised groups should not be disproportionately costly for local public authorities.*** **[Am. 29]**

(19) The 7th Environment Action Programme to 2020 'Living well, within the limits of our planet' ([29]), requires that the public have access to clear environmental information at national level. Directive 98/83/EC only provided for passive access to information, meaning that Member States merely had to ensure that information was available. Those provisions should therefore be replaced to ensure that up-to-date information ***that*** is ***comprehensible and relevant to consumers and*** easily accessible, for instance ***in a booklet,*** ~~on~~ a website ~~whose link should be actively distributed~~ ***or a smart application***. The up-to-date information should not only include results from the monitoring programmes, but also additional information that the public may find useful, such as ~~information on indicators (iron, hardness, minerals, etc.), which often influence consumers' perception of tap~~ ***the outcome of actions taken to monitor water suppliers as regards*** water ***quality***~~. To that end, the indicator parameters of Directive 98/83/EC that did not provide health-related information should be replaced by on-line information on those~~ parameters ***and information on indicator parameters listed in Part Ba of Annex I***. For very large water suppliers, additional information on, *inter alia*~~, energy efficiency~~, management, ~~governance, cost~~ ***tariff*** structure, and treatment applied, should also be available on-line. ~~It is assumed that~~ ***The purpose of*** better consumer knowledge ***of relevant information*** and improved transparency ~~will contribute to increasing~~ ***should be to increase*** citizens' confidence in the water supplied to them~~. This in turn is expected to~~***, as well as in water services***, ***and should*** lead to ***an*** increased use of tap water~~, thereby contributing~~ ***as drinking water, which could contribute*** to reduced plastic ***usage and*** litter and greenhouse gas emissions, and a positive impact on climate change mitigation and the environment as a whole. **[Am. 30]**

(20) For the same reasons, and in order to make consumers more aware of the implications of water consumption, they should also receive information ~~(for instance on their invoice or by smart applications)~~ ***in an easily accessible manner, for instance on their invoice or by smart application*** on the volume consumed ***per year, changes in consumption, a comparison with average household consumption***, ***where such information is available to the***

([25]) P8_TA(2015)0294
([26]) P8_TA(2015)0294, paragraph 62.
([27]) COM(2014)0209.
([28]) Council Recommendation (2013/C 378/01) of 9 December 2013 on effective Roma integration measures in the Member States (OJ C 378, 24.12.2013, p. 1).
([29]) Decision No 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354, 28.12.2013, p. 171).

water supplier, the ~~cost~~ structure of the tariff charged by the water supplier, including ***the distribution of*** variable and fixed ~~costs~~ ***parts of it***, as well as on the price per litre of water intended for human consumption, thereby allowing a comparison with the price of bottled water. **[Am. 31]**

(21) The ***fundamental*** principles to be considered in the setting of water tariffs, ***without prejudice to Article 9(4) of Directive 2000/60/EC,*** namely recovery of costs for water services and polluter pays, are set out in ***that*** Directive ~~2000/60/EC~~. However, the financial sustainability of the provision of water services is not always ensured, sometimes leading to under-investment in the maintenance of water infrastructure. With the improvement of monitoring techniques, leakage ~~rates~~ ***levels*** — mainly due to such under-investment — have become increasingly apparent and reduction of water losses should be encouraged at Union level to improve the efficiency of water infrastructure. In line with the principle of subsidiarity, ~~that~~ ***in order to raise awareness of this*** issue ~~should be addressed by increasing transparency and consumer~~***, the*** information ~~on leakage rates and energy efficiency~~ ***related to it should be shared in a more transparent way with consumers***. **[Am. 32]**

(22) Directive 2003/4/EC of the European Parliament and of the Council ([30]) aims at guaranteeing the right of access to environmental information in the Member States in line with the Aarhus Convention. It encompasses broad obligations related both to making environmental information available upon request and actively disseminating such information. Directive 2007/2/EC of the European Parliament and of the Council ([31]) is also of broad scope, covering the sharing of spatial information, including data-sets on different environmental topics. It is important that provisions of this Directive related to access to information and data-sharing arrangements complement those Directives and do not create a separate legal regime. Therefore, the provisions of this Directive on information to the public and on information on monitoring of implementation should be without prejudice to Directives 2003/4/EC and 2007/2/EC.

(23) Directive 98/83/EC did not set out reporting obligations for small water suppliers. To remedy this, and to address the need for implementation and compliance information, a new system should be introduced, whereby Member States are required to set up, keep up-to-date and make accessible to the Commission and the European Environmental Agency data sets containing only relevant data, such as exceedances of parametric values and incidents of a certain significance. This should ensure that the administrative burden on all entities remains as limited as possible. To ensure the appropriate infrastructure for public access, reporting and data-sharing between public authorities, Member States should base the data specifications on Directive 2007/2/EC and its implementing acts.

(24) Data reported by Member States is not only necessary for the purposes of compliance checking but is also essential to enable the Commission to monitor and assess the performance of the legislation against the objectives it pursues in order to inform any future evaluation of the legislation in accordance with paragraph 22 of the Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 ([32]). In that context, there is a need for relevant data that will allow better assessment of the efficiency, effectiveness, relevance, and EU value added of the Directive, hence the necessity to ensure appropriate reporting mechanisms that can also serve as indicators for future evaluations of this Directive.

(25) Pursuant to paragraph 22 of the Interinstitutional Agreement on Better Law-Making, the Commission should carry out an evaluation of this Directive within a certain period of time from the date set for its transposition. That evaluation should be based on experience gathered and data collected during the implementation of the Directive, on ~~relevant scientific, analytical, epidemiological data, and on~~ any available WHO recommendations***, and on relevant scientific, analytical and epidemiological data***. **[Am. 34]**

([30]) Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).

([31]) Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

([32]) OJ L 123, 12.5.2016, p. 1.

(26) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to promote the principles relating to health care, access to services of general economic interest, environmental protection and consumer protection.

(27) As the Court of Justice has held on numerous occasions, it would be incompatible with the binding effect which the third paragraph of Article 288 of the Treaty ascribes to a Directive to exclude, in principle, the possibility of an obligation imposed by a Directive from being relied on by persons concerned. That consideration applies particularly in respect of a Directive which has the objective of protecting human health from the adverse effects of any contamination of water intended for human consumption. Therefore, in accordance with the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters ([33]), members of the public concerned should have access to justice in order to contribute to the protection of the right to live in an environment which is adequate for personal health and well-being. In addition, where a large number of persons are in a 'mass harm situation', due to the same illegal practices relating to the violation of rights granted by this Directive, they should have the possibility to use collective redress mechanisms, where such mechanisms have been established by Member States in line with Commission Recommendation 2013/396/EU ([34]).

(28) In order to adapt this Directive to scientific and technical progress or to specify monitoring requirements for the purposes of the hazard and domestic distribution risk assessments, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission to amend Annexes I to IV to this Directive***, and take measures necessary under the changes set out under Article 10a***. 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. In addition, the empowerment laid down in Annex I, part C, Note 10, of Directive 98/83/EC, to set monitoring frequencies and monitoring methods for radioactive substances has become obsolete due to the adoption of Council Directive 2013/51/Euratom ([35]) and should therefore be deleted. The empowerment laid down in the second subparagraph of part A of Annex III to Directive 98/83/EC concerning amendments of the Directive is no longer necessary and should be deleted. **[Am. 35]**

(29) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission for the adoption of the format of, and modalities to present, the information on water intended for human consumption to be provided to all persons supplied, as well as for the adoption of the format of, and modalities to present, the information to be provided by Member States and compiled by the European Environmental Agency on the implementation of this Directive. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([36]).

(30) Without prejudice to the requirements of Directive 2008/99/EC of the European Parliament and of the Council ([37]), Member States should lay down rules on penalties applicable to infringements of the provisions of this Directive and ensure that they are implemented. The penalties should be effective, proportionate and dissuasive.

([33]) OJ L 124, 17.5.2005, p. 4.

([34]) Commission Recommendation of 11 June 2013 on common principles for injunctive and compensatory collective redress mechanisms in the Member States concerning violations of rights granted under Union law (OJ L 201, 26.7.2013, p. 60).

([35]) Council Directive 2013/51/Euratom of 22 October 2013 laying down requirements for the protection of the health of the general public with regard to radioactive substances in water intended for human consumption (OJ L 296, 7.11.2013, p. 12).

([36]) 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

([37]) Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJ L 328, 6.12.2008, p. 28).

(31) Directive 2013/51/Euratom lays down specific arrangements for the monitoring of radioactive substances in water intended for human consumption. Therefore, this Directive should not set out parametric values on radioactivity.

(32) Since the objective of this Directive, namely the protection of human health, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and 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 the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(33) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directives. The obligation to transpose the provisions which are unchanged arises under the earlier Directives.

(34) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex V, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Objective

1. This Directive concerns the quality of water intended for human consumption ***for all in the Union***. **[Am. 36]**

2. The objective of this Directive shall be to protect human health from the adverse effects of any contamination of water intended for human consumption by ensuring that it is wholesome and clean***, and to provide universal access to water intended for human consumption***. **[Am. 163, 189, 207 and 215]**

Article 2

Definitions

For the purposes of this Directive:

1. 'water intended for human consumption' shall mean all water either in its original state or after treatment, intended for drinking, cooking, food preparation or production, ***or for other food purposes,*** or other domestic purposes in both public and private premises***, including food businesses***, regardless of its origin and whether it is supplied from a distribution network, supplied from a tanker or~~, for spring waters,~~ put in bottles ***or containers***. **[Am. 38]**

2. 'domestic distribution system' shall mean the pipework, fittings and appliances which are installed between the taps that are normally used for human consumption in both public and private premises and the distribution network but only if they are not the responsibility of the water supplier, in its capacity as a water supplier, according to the relevant national law. **[Am. 39 not concerning all languages]**

3. 'water supplier' shall mean ~~an~~ ***a legal*** entity supplying at least 10 m^3 of water intended for human consumption a day as an average. **[Am. 40]**

3a. 'very small water supplier' shall mean a water supplier supplying less than 50 m^3 per day or serving less than 250 people. **[Am. 41]**

4. 'small water supplier' shall mean a water supplier supplying less than 500 m^3 per day or serving less than ~~5 000~~ ***2 500*** people. **[Am. 42]**

Thursday 28 March 2019

4a. 'medium water supplier' shall mean a water supplier supplying at least 500 m³ per day or serving at least 2 500 people. **[Am. 43]**

5. 'large water supplier' shall mean a water supplier supplying at least ~~500~~ ***5 000*** m³ per day or serving at least ~~5 000~~ ***25 000*** people. **[Am. 44]**

6. 'very large water supplier' shall mean a water supplier supplying at least ~~5 000~~ ***20 000*** m³ per day or serving at least ~~50 000~~ ***100 000*** people. **[Am. 45]**

7. 'priority premises' shall mean large ***non-household*** premises with many ~~users~~ ***people, in particular vulnerable people,*** potentially exposed to water-related risks, such as hospitals, healthcare institutions, ***retirement homes, schools, universities and other education facilities, crèches and nurseries, sport, recreation, leisure and exhibition facilities,*** buildings with a lodging facility, penal institutions and campgrounds, as identified by Member States. **[Am. 46]**

8. 'vulnerable and marginalised groups' shall mean people isolated from society, as a result of discrimination or of a lack of access to rights, resources, or opportunities, and who are more exposed to a range of possible risks relating to their health, safety, lack of education, engagement in harmful practices, or other risks, compared to the rest of society.

8a. 'food business' shall mean a food business as defined in point (2) of Article 3 of Regulation (EC) No 178/2002. **[Am. 47]**

Article 3

Exemptions

1. This Directive shall not apply to:

(a) natural mineral waters recognised as such by the responsible authority, as referred to in Directive 2009/54/EC;

(b) waters which are medicinal products within the meaning of Directive 2001/83/EC.

1a. For water used in food businesses for the manufacture, processing, preservation or marketing of products or substances intended for human consumption, only Articles 4, 5, 6 and 11 of this Directive shall apply. However, none of the articles of this Directive shall apply where an operator of a food business can demonstrate to the satisfaction of the competent national authorities that the quality of the water it uses does not affect the hygiene of the products or substances resulting from its activities and that such products or substances comply with Regulation (EC) No 852/2004 of the European Parliament and of the Council ([38]). **[Am. 48]**

1b. A producer of water intended for human consumption that is put into bottles or containers shall not be considered a water supplier.

Provisions of this Directive shall apply to water intended for human consumption put into bottles or containers insofar as they are not covered by obligations under other Union legislation. **[Am. 49]**

1c. Maritime vessels that desalinate water, carry passengers and act as water suppliers shall only be subject to Articles 1 to 7 and 9 to 12 of this Directive and its Annexes. **[Am. 50]**

([38]) Regulation (EC) No 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (OJ L 139, 30.4.2004, p. 1).

2. Member States may exempt from the provisions of this Directive:

(a) water intended exclusively for those purposes for which the competent authorities are satisfied that the quality of the water has no influence, either directly or indirectly, on the health of the consumers concerned;

(b) water intended for human consumption from an individual supply providing less than 10 m^3 a day as an average or serving fewer than 50 persons, unless the water is supplied as part of a commercial or public activity.

3. Member States that have recourse to the exemptions provided for in paragraph 2(b) shall ensure that the population concerned is informed thereof and of any action that can be taken to protect human health from the adverse effects resulting from any contamination of water intended for human consumption. In addition, when a potential danger to human health arising out of the quality of such water is apparent, the population concerned shall promptly be given appropriate advice.

Article 4

General obligations

1. Without prejudice to their obligations under other Union provisions, Member States shall take the measures necessary to ensure that water intended for human consumption is wholesome and clean. For the purposes of the minimum requirements of this Directive, water intended for human consumption shall be wholesome and clean if it meets all the following conditions:

(a) it is free from any micro-organisms and parasites and from any substances which, in numbers or concentrations, constitute a potential danger to human health;

(b) it meets the minimum requirements set out in Annex I, Parts A and B;

(c) Member States have taken all other measures necessary to comply with the requirements set out:

(i) in Articles ~~5~~ **4** to 12 of this Directive ***for water intended for human consumption supplied to the final consumers from a distribution network or from a tanker;***

(ii) in Articles 4, 5 and 6 and Article 11(4) of this Directive for water intended for human consumption put into bottles or containers in a food business;

(iii) in Articles 4, 5, 6 and 11 of this Directive for water intended for human consumption produced and used in a food business for the production, processing and distribution of food. **[Am. 51]**

2. Member States shall ensure that the measures taken to implement this Directive ***adhere fully to the precautionary principle and*** in no circumstances have the effect of allowing, directly or indirectly, any deterioration of the present quality of water intended for human consumption or any increase in the pollution of waters used for the production of water intended for human consumption. **[Am. 52]**

2a. Member States shall take measures to ensure that competent authorities carry out an assessment of the water leakage levels on their territory and of the potential for improvements in water leakage reduction in the drinking water sector. That assessment shall take into account relevant public health, environmental, technical and economic aspects. Member States shall adopt, by 31 December 2022, national targets to reduce the leakage levels of water suppliers in their territory by 31 December 2030. Member States may provide meaningful incentives to ensure that water suppliers in their territory meet the national targets. **[Am. 53]**

2b. If a competent authority in charge of the production and distribution of water intended for human consumption hands over the management of all or part of the water production or supply activities to a water supplier, the contract between the competent authority and the water supplier shall specify each party's responsibilities under this Directive. **[Am. 54]**

Article 5

Quality standards

1. Member States shall set values applicable to water intended for human consumption for the parameters set out in Annex I~~, which shall not be less stringent than the values set out therein~~. **[Am. 55]**

1a. The values set pursuant to paragraph 1 shall not be less stringent than those set out in Parts A, B and Ba of Annex I. As regards the parameters set out in Part Ba of Annex I, the values shall be set only for monitoring purposes and for the sake of ensuring that the requirements set out in Article 12 are met. **[Am. 56]**

2. A Member State shall set values for additional parameters not included in Annex I where the protection of human health within its national territory or part of it so requires. The values set shall, as a minimum, satisfy the requirements of Article 4(1)(a).

The Member States shall take all necessary measures to ensure that the treatment agents, the materials, and the disinfection procedures used for disinfection purposes in water supply systems do not adversely affect the quality of water intended for human consumption. Any contamination of water intended for human consumption from the use of such agents, materials and procedures shall be minimised without, however, compromising the effectiveness of the disinfection. **[Am. 57]**

Article 6

Point of compliance

1. The parametric values set in accordance with Article 5 for the parameters listed in Annex I, parts A, ~~and~~ B ***and C***, shall be complied with: **[Am. 58]**

(a) in the case of water supplied from a distribution network, at the point, within premises or an establishment, at which it emerges from the taps that are normally used for human consumption;

(b) in the case of water supplied from a tanker, at the point at which it emerges from the tanker;

(c) in the case of ~~spring waters~~ ***water intended for human consumption put into bottles or containers***, at the point at which the water is put into the bottles ***or containers.;*** **[Am. 59]**

(***ca) in the case of water used in a food business where water is supplied by a water supplier, at the point of delivery in the food business.*** **[Am. 60]**

1a. In the case of water covered by point (a) of paragraph 1, Member States shall be deemed to have fulfilled their obligations under this Article, where it can be established that non-compliance with the parameters provided for in Article 5 is caused by a private distribution system or the maintenance thereof, except as regards priority premises. **[Am. 61]**

Article 7

Risk-based approach to water safety

1. Member States shall ensure that the supply, treatment and distribution of water intended for human consumption is subject to a risk-based approach, composed of the following elements:

(a) a hazard assessment of bodies of water ***or parts of bodies of water*** used for the abstraction of water intended for human consumption, ***carried out by Member States*** in accordance with Article 8; **[Am. 62]**

(b) a supply risk assessment carried out by the water suppliers ***in each water supply system*** for the purposes of ***safeguarding and*** monitoring the quality of the water they supply, in accordance with Article 9 and Annex II, part C; **[Am. 63]**

(c) a domestic distribution risk assessment, in accordance with Article 10.

1a. Member States may adapt the implementation of the risk-based approach, without compromising the objective of this Directive concerning the quality of water intended for human consumption and the health of consumers, when there are particular constraints due to geographical circumstances such as remoteness or accessibility of water supply zone. **[Am. 64]**

1b. Member States shall ensure a clear and appropriate distribution of responsibilities between stakeholders, as defined by the Member States, for the application of the risk-based approach with regard to the bodies of water used for the abstraction of water intended for human consumption and domestic distribution systems. Such distribution of responsibilities shall be tailored to their institutional and legal framework. **[Am. 65]**

2. Hazard assessments shall be carried out by [3 years after the end-date for transposition of this Directive]. They shall be reviewed every 3 years, ***taking account of the requirement, provided for in Article 7 of Directive 2000/60/EC, for Member States to identify bodies of water,*** and updated where necessary. **[Am. 66]**

3. Supply risk assessments shall be carried out by ~~very large~~ water suppliers ~~and large water suppliers by [3 years after the end-date for transposition of this Directive], and by small water suppliers~~ by [6 years after the end-date for transposition of this Directive]. They shall be reviewed at regular intervals of no longer than 6 years, and updated where necessary. **[Am. 67]**

3a. Pursuant to Articles 8 and 9 of this Directive, Member States shall take the necessary corrective measures under the programmes of measures and river basin management plans provided for in Articles 11 and 13 of Directive 2000/60/EC respectively. **[Am. 68]**

4. Domestic distribution risk assessments ***in the premises referred to in Article 10(1)*** shall be carried out by [3 years after the end-date for transposition of this Directive]. They shall be reviewed every 3 years, and updated where necessary. **[Am. 69]**

Article 8

*Hazard assessment****, monitoring and management*** *of bodies of water used for the abstraction of water intended for human consumption* **[Am. 70]**

1. Without prejudice to ~~Articles 6 and 7 of~~ Directive 2000/60/EC, ***in particular Articles 4 to 8,*** Member States shall***, in cooperation with their competent water authorities,*** ensure that a hazard assessment is performed covering the bodies of water used for the abstraction of water intended for human consumption that provide more than 10 m^3 a day as an average. The hazard assessment shall include the following elements: **[Am. 71]**

(a) identification of and geo-references for all abstraction points in the bodies ***or parts of bodies*** of water covered by the hazard assessment***. Given that the data referred to in this point are potentially sensitive, in particular in the context of public health protection, the Member States shall ensure that such data are protected and communicated only to the relevant authorities***; **[Am. 72]**

(b) mapping of the safeguard zones, where those zones have been established in accordance with Article 7(3) of Directive 2000/60/EC~~, and the protected areas referred to in Article 6 of that Directive~~; **[Am. 73]**

Thursday 28 March 2019

(c) identification of hazards and possible pollution sources affecting the bodies of water covered by the hazard assessment. ***Such research and identification of pollution sources shall be regularly updated to detect new substances that affect micro-plastics, notably PFAS.*** To that end, Member States may use the review of the impact of human activity undertaken in accordance with Article 5 of Directive 2000/60/EC and information on significant pressures collected in accordance with point 1.4 of Annex II to that Directive; **[Am. 216]**

(d) regular monitoring in the bodies ***or parts of bodies*** of water covered by the hazard assessment of ~~relevant~~ pollutants ***that are relevant for the water supply and that are*** selected from the following lists: **[Am. 75]**

(i) parameters listed in parts A and B of Annex I to this Directive;

(ii) groundwater pollutants listed in Annex I to Directive 2006/118/EC of the European Parliament and of the Council ([39]), and pollutants and indicators of pollution for which threshold values have been established by Member States in accordance with Annex II to that Directive;

(iii) priority substances and certain other pollutants listed in Annex I to Directive 2008/105/EC of the European Parliament and of the Council ([40]);

(iv) ***parameters for monitoring purposes only in Part Ca of Annex I, or*** other relevant pollutants, such as microplastics, ***provided that a methodology to measure microplastics as specified in Article 11(5b) is in place,*** or river basin specific pollutants established by Member States on the basis of the review of the impact of human activity undertaken in accordance with Article 5 of Directive 2000/60/EC and information on significant pressures collected in accordance with point 1.4 of Annex II to that Directive. **[Am. 76]**

Member States shall select from points (i) to (iv) for monitoring the parameters, substances or pollutants that are considered relevant in light of the hazards identified under point (c) or in light of the information provided by the water suppliers in accordance with paragraph 2.

For the purpose of the regular monitoring, ***as well as for the purpose of detecting new harmful substances through new investigations,*** Member States may use the monitoring carried out***, and the investigation capacity provided for,*** in accordance with other Union legislation. **[Am. 217]**

Very small water suppliers may be exempted from the requirements referred to in points (a), (b) and (c) of this paragraph, provided that the competent authority has prior and up to date documented knowledge of the relevant parameters referred to in those points. This exemption shall be reviewed by the competent authority at least every three years and updated where necessary. **[Am.** 77]

2. Those water suppliers that monitor their raw water for the purposes of operational monitoring shall be required to inform the competent authorities of trends and of unusual concentrations of monitored parameters, substances or pollutants.

~~3. Member States shall inform water suppliers using the body of water covered by the hazard assessment of the results of the monitoring carried out under paragraph 1(d) and may, on the basis of those monitoring results:~~

~~(a) require water suppliers to carry out additional monitoring or treatment of certain parameters;~~

([39]) Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJ L 372, 27.12.2006, p. 19).

([40]) Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJ L 348, 24.12.2008, p. 84).

~~(b) allow water suppliers to decrease the monitoring frequency of certain parameters, without being required to carry out a supply risk assessment, provided that they are not core parameters within the meaning of Annex II, part B, point 1, and provided that no factor that can be reasonably anticipated is likely to cause deterioration of the quality of the water.~~ **[Am. 78]**

~~4. In such cases where a water supplier is allowed to decrease the monitoring frequency as referred to in paragraph 2(b), Member States shall continue to regularly monitor those parameters in the body of water covered by the hazard assessment.~~ **[Am. 79]**

5. On the basis of the information collected under paragraphs 1 and 2 and gathered under Directive 2000/60/EC, Member States shall take the following measures in cooperation with water suppliers and other stakeholders~~, or ensure that those measures are taken by the water suppliers~~. **[Am. 80]**

~~(a) prevention measures to reduce the level of treatment required and to safeguard the water quality, including measures referred to in Article 11(3)(d) of Directive 2000/60/EC;~~ **[Am. 178]**

(aa) ensure that polluters, in cooperation with water suppliers and other relevant stakeholders, take preventive measures to reduce or avoid the level of treatment required and to safeguard the water quality, including measures referred to in point (d) of Article 11(3) of Directive 2000/60/EC as well as additional measures deemed necessary on the basis of the monitoring carried out under point (d) of paragraph 1 of this Article; **[Am. 82]**

(b) mitigating measures, which are considered necessary on the basis of the monitoring carried out under paragraph 1(d), in order to identify and address the pollution source ***and avoid any additional treatment, when prevention measures are considered not viable or not effective enough to address the pollution source in a timely manner;***. **[Am. 83]**

(ba) where measures set out in points (aa) and (b) have not been deemed sufficient to provide adequate protection for human health, require water suppliers to carry out additional monitoring of certain parameters at the point of abstraction or treatment, if strictly necessary to prevent health risks. **[Am. 84]**

Member States shall regularly review any such measure.

5a. Member States shall inform water suppliers using the body or parts of bodies of water covered by the hazard assessment of the results of the monitoring carried out under point (d) of paragraph 1 and may, on the basis of those monitoring results, and of the information collected under paragraphs 1 and 2 and gathered under Directive 2000/60/EC:

(a) allow water suppliers to decrease the monitoring frequency of certain parameters, or the number of parameters being monitored, without requiring them to carry out a supply risk assessment, provided that the parameters concerned are not core parameters within the meaning of point 1 of Part B of Annex II, and provided that no factor that can be reasonably anticipated is likely to cause deterioration of the quality of the water;

(b) where a water supplier is allowed to decrease the monitoring frequency as referred to in point (a), continue to regularly monitor those parameters in the body of water covered by the hazard assessment. **[Am. 85]**

Article 9

*Supply risk assessment****, monitoring and management*** **[Am. 86]**

1. Member States shall ensure that water suppliers perform a supply risk assessment ***in accordance with Part C of Annex II,*** providing for the possibility to adjust the monitoring frequency for any parameter listed in Annex I, parts A, ~~and~~ B ***and Ba*** that are not core parameters according to part B of Annex II, depending on their occurrence in the raw water. **[Am. 87]**

Thursday 28 March 2019

For those parameters Member States shall ensure that water suppliers can deviate from the sampling frequencies set out in Annex II, part B, in accordance with the specifications set out in ~~Annex II,~~ part C ***of Annex II, and depending on their occurrence in the raw water and the treatment set-up***. **[Am. 88]**

To that end, water suppliers shall ~~be required to~~ take into account the results of the hazard assessment carried out in accordance with Article 8 of this Directive and of the monitoring carried out pursuant to Article 7(1) and Article 8 of Directive 2000/60/EC. **[Am. 89]**

1a. Member States may exempt very small water suppliers from paragraph 1, provided that the competent authority has prior and up to date documented knowledge of the relevant parameters and deems there to be no risk to human health as a result of such exemptions, and without prejudice to the authority's obligations under Article 4.

The exemption shall be reviewed by the competent authority every three years or when any new pollution hazard is detected in the catchment area, and updated where necessary. **[Am. 90]**

2. Supply risk assessments shall be ~~approved by~~ the ~~competent authorities~~ ***responsibility of the water suppliers who shall ensure that they comply with this Directive. To this end, water suppliers may request the support of competent authorities.***

Member States may require competent authorities to approve or monitor water suppliers' supply risk assessments. **[Am. 91]**

2a. On the basis of the results of the supply risk assessment carried out pursuant to paragraph 1, Member States shall ensure that water suppliers establish a water safety plan tailored to the risks identified and proportionate to the size of the water supplier. By way of example, that water safety plan may concern the use of materials in contact with water, water treatment products, possible risks stemming from leaking pipes, or measures to adapt to present and future challenges, such as climate change, and shall be further specified by the Member States. **[Am. 92]**

Article 10

*Domestic distribution risk assessment****, monitoring and management*** **[Am. 93]**

1. Member States shall ensure that a domestic distribution risk assessment is performed ***in priority premises***, comprising the following elements: **[Am. 94]**

(a) an assessment of the potential risks associated with the domestic distribution systems, and with the related products and materials, and whether they affect the quality of water at the point where it emerges from the taps normally used for human consumption~~, in particular where water is supplied to the public in priority premises~~; **[Am. 95]**

(b) regular monitoring of the parameters listed in Annex I, part C, in ***priority*** premises where ~~the potential danger to human health is considered highest. Relevant parameters and premises for monitoring shall be selected on the basis of~~ ***specific risks to water quality have been identified during*** the assessment performed under point (a). **[Am. 96]**

With regard to the regular monitoring***, Member States shall ensure access*** ~~referred~~ to ***installations*** in ***priority premises for*** the ~~first subparagraph, Member States~~ ***purposes of sampling and*** may set up a monitoring strategy ~~focusing on priority premises~~***, in particular as regards Legionella pneumophila***; **[Am. 97]**

(c) a verification of whether the performance of ~~construction~~ products ***and materials*** in contact with water intended for human consumption is adequate in relation to the ~~essential characteristics linked to the basic requirement for construction works specified in point 3(c) of Annex I to Regulation (EU) No 305/2011~~ ***protection of human health***. **[Am. 98]**

(ca) a verification of whether the materials used are suitable for contact with water intended for human consumption and whether the requirements specified in Article 11 are met. **[Am. 99]**

2. Where Member States consider, on the basis of the assessment carried out under paragraph 1(a), that there is a risk to human health stemming from the domestic distribution system ***in priority premises*** or from the related products and materials, or where monitoring carried out in accordance with paragraph 1(b) demonstrates that the parametric values set out in Annex I, part C, are not met, Member States shall ***ensure that appropriate measures are taken to eliminate or reduce the risk of non-compliance with the parametric values set out in Part C of Annex I.***:

~~(a) take appropriate measures to eliminate or reduce the risk of non-compliance with the parametric values set out in Annex I, part C;~~

~~(b) take all necessary measures to ensure that the migration of substances or chemicals from construction products used in the preparation or distribution of water intended for human consumption does not, either directly or indirectly, endanger human health;~~

~~(c) take other measures, such as appropriate conditioning techniques, in cooperation with water suppliers, to change the nature or properties of the water before it is supplied so as to eliminate or reduce the risk of non compliance with the parametric values after supply;~~

~~(d) duly inform and advise consumers about the conditions of consumption and use of the water and about possible action to avoid the risk from reoccurring;~~

~~(e) organise training for plumbers and other professionals dealing with domestic distribution systems and the installation of construction products;~~

~~(f) for *Legionella*, ensure that effective control and management measures are in place to prevent and address possible disease outbreaks.~~ **[Am. 100]**

2a. With a view to reducing the risks connected to domestic distribution across all the domestic distribution systems, Member States shall:

(a) encourage owners of public and private premises to carry out a domestic distribution risk assessment;

(b) inform consumers and owners of public and private premises about measures to eliminate or reduce the risk of non-compliance with the quality standards for water intended for human consumption due to the domestic distribution system;

(c) duly inform and advise consumers about the conditions of consumption and use of the water and about possible action to avoid the risk from reoccurring;

(d) promote training for plumbers and other professionals dealing with domestic distribution systems and the installation of construction products and materials in contact with water; and

(e) for Legionella, in particular Legionella pneumophila, ensure that effective control and management measures which are proportionate to the risk are in place to prevent and address possible outbreaks of the disease. **[Am. 101]**

Thursday 28 March 2019

Article 10a

Minimum hygiene requirements for products, substances and materials in contact with water intended for human consumption

1. Member States shall take all necessary measures to ensure that substances and materials for the manufacture of all new products in contact with water intended for human consumption, placed on the market and used for abstraction, treatment or distribution, or the impurities associated with such substances:

(a) do not directly or indirectly reduce the protection of human health provided for in this Directive;

(b) do not affect the smell or taste of water intended for human consumption;

(c) are not present in water intended for human consumption at a concentration above the level necessary to achieve the purpose for which they are used; and

(d) do not promote microbial growth.

2. For the purposes of ensuring the harmonised application of paragraph 1, by … [three years after the date of entry into force of this Directive], the Commission shall adopt delegated acts in accordance with Article 19 in order to supplement this Directive by laying down the minimum hygiene requirements and the list of substances that are used for production of materials in contact with water intended for human consumption, and are approved in the Union, including specific migration limits and special conditions of use wherever applicable. The Commission shall regularly review and update this list in line with the latest scientific and technological developments.

3. In order to support the Commission in adopting and amending the delegated acts pursuant to paragraph 2, a standing committee shall be set up consisting of representatives appointed by the Member States who may call on the assistance of experts or advisers.

4. Materials in contact with water intended for human consumption, which are covered by other Union legislation, such as Regulation (EU) No 305/2011 of the European Parliament and of Council ([41]), shall comply with paragraphs 1 and 2 of this Article. **[Am. 102]**

Article 11

Monitoring

1. Member States shall take all measures necessary to ensure that regular monitoring of the quality of water intended for human consumption is carried out, in order to check that ~~the water available to consumers~~ ***it*** meets the requirements of this Directive and in particular the parametric values set in accordance with Article 5. Samples shall be taken so that they are representative of the quality of the water consumed throughout the year. In addition, Member States shall take all measures necessary to ensure that, where disinfection forms part of the preparation or distribution of water intended for human consumption, the efficiency of the disinfection treatment applied is verified, and that any contamination from disinfection by-products is kept as low as possible without compromising the disinfection. **[Am. 103]**

2. To meet the obligations imposed in paragraph 1, appropriate monitoring programmes shall be established in accordance with Annex II, Part A for all water intended for human consumption. Those monitoring programmes shall consist of the following elements:

(a) monitoring of the parameters listed in Annex I, parts A and B, and of the parameters set in accordance with Article 5(2), in accordance with Annex II, and, where a supply risk assessment is performed, in accordance with Article 9;

([41]) Regulation (EU) No 305/2011 of the European Parliament and of the Council of 9 March 2011 laying down harmonised conditions for the marketing of construction products and repealing Council Directive 89/106/EEC (OJ L 88, 4.4.2011, p. 5).

(b) monitoring of the parameters listed in Annex I, part C, for the purposes of the domestic distribution risk assessment, as provided for under Article 10(1)(b);

(c) monitoring, for the purposes of the hazard assessment, as provided for under Article 8(1)(d).

3. The sampling points shall be determined by the competent authorities and shall meet the relevant requirements set out in Annex II, part D.

4. Member States shall comply with the specifications for the analyses of parameters set out in Annex III, in accordance with the following principles:

(a) methods of analysis other than those specified in Annex III, Part A, may be used, provided that it can be demonstrated that the results obtained are at least as reliable as those produced by the methods specified by providing the Commission with all relevant information concerning such methods and their equivalence;

(b) for those parameters listed in Annex III, Part B, any method of analysis may be used provided that it meets the requirements set out therein.

5. Member States shall ensure that additional monitoring is carried out on a case-by-case basis of substances and micro-organisms for which no parametric value has been set in accordance with Article 5, if there is reason to suspect that they may be present in amounts or numbers which constitute a potential danger to human health.

5a. Member States shall communicate to the Commission the results of the monitoring carried out in accordance with the monitoring of parameters listed in Part Ca of Annex I by … [three years from the date of entry into force of this Directive], and thereafter once a year.

The Commission is empowered to adopt delegated acts in accordance with Article 19 in order to amend this Directive by updating the substances included on the watch list set out in Part Ca of Annex I. The Commission may decide to add substances where there is a risk of such substances being present in water intended for human consumption and posing a potential risk to human health, but in respect of which scientific knowledge has not demonstrated a risk to human health. To that end, the Commission shall make use in particular of the scientific research of the WHO. The addition of any new substance shall be duly justified under Article 1 of this Directive. **[Am. 104]**

5b. By … [one year after the date of entry into force of this Directive], the Commission shall adopt delegated acts in accordance with Article 19 in order to supplement this Directive by adopting a methodology to measure the microplastics listed in the watch list set out in Part Ca of Annex I. **[Am. 105]**

Article 12

Remedial action and restrictions in use

1. Member States shall ensure that any failure to meet the parametric values set in accordance with Article 5 ***at the point of compliance referred to in Article 6*** is immediately investigated in order to identify the cause. **[Am. 106]**

2. If, despite the measures taken to meet the obligations imposed in Article 4(1), water intended for human consumption does not meet the parametric values set in accordance with Article 5, the Member State concerned shall ensure that the necessary remedial action is taken as soon as possible to restore its quality and shall give priority to their enforcement action, having regard *inter alia* to the extent to which the relevant parametric value has been exceeded and to the potential danger to human health.

In case of non-compliance with the parametric values set out in Annex I, part C, remedial action shall include the measures set out in ~~points (a) to (f) of~~ Article 10(2***a***). **[Am. 107]**

3. Regardless of whether any failure to meet the parametric values has occurred, Member States shall ensure that any supply of water intended for human consumption which constitutes a potential danger to human health is prohibited or its use restricted and that any other remedial action is taken that is necessary to protect human health.

Member States shall ~~automatically~~ consider ~~any~~ ***a*** failure to meet the minimum requirements for parametric values set out in Annex I, parts A and B, as a potential danger to human health***, except where the competent authorities consider the non-compliance with the parametric value to be trivial***. **[Am. 108]**

4. In the cases described in paragraphs 2 and 3, ***where the non-compliance with the parametric values is considered to be a potential danger to human health,*** Member States shall as soon as possible take all of the following measures: **[Am. 109]**

(a) notify all affected consumers of the potential danger to human health and its cause, of the exceedance of a parametric value and of the remedial actions taken, including prohibition, restriction or other action;

(b) give, and regularly update, the necessary advice to consumers on conditions of consumption and use of the water, taking particular account of potential vulnerable groups;

(c) inform consumers once it has been established that there is no longer a potential danger to human health and inform them that the service has resumed back to normal.

The measures referred to in points (a), (b) and (c) shall be taken in cooperation with the water supplier concerned. **[Am. 110]**

5. ***Where non-compliance is established at the point of compliance,*** the competent authorities or other relevant bodies shall decide what action under paragraph 3 shall be taken, bearing in mind the risks to human health which would be caused by an interruption of the supply or a restriction in the use of water intended for human consumption. **[Am. 111]**

Article 12a

Derogations

1. Member States may provide for derogations from the parametric values set out in Part B of Annex I, or set in accordance with Article 5(2), up to a maximum value to be determined by them, provided that such derogations do not constitute a potential danger to human health and provided that the supply of water intended for human consumption in the area concerned cannot otherwise be maintained by any other reasonable means. Such derogations shall be limited to the following cases:

(a) a new water supply zone;

(b) a new source of pollution detected in a water supply zone or parameters newly searched or detected.

Derogations shall be limited to as short a time as possible and shall not exceed three years in duration, towards the end of which period Member States shall conduct a review to determine whether sufficient progress has been made.

In exceptional circumstances, a Member State may grant a second derogation in respect of points (a) and (b) of the first subparagraph. Where a Member State intends to grant such a second derogation, it shall communicate the review, along with the grounds for its decision on the second derogation, to the Commission. Such second derogation shall not exceed three years in duration.

2. Any derogation granted in accordance with paragraph 1 shall specify the following:

(a) the grounds for the derogation;

(b) the parameter concerned, previous relevant monitoring results, and the maximum permissible value under the derogation;

(c) the geographical area, the quantity of water supplied each day, the population concerned and whether or not any relevant food-production undertaking would be affected;

(d) an appropriate monitoring scheme, with an increased monitoring frequency where necessary;

(e) a summary of the plan for the necessary remedial action, including a timetable for the work and an estimate of the cost and provisions for reviewing; and

(f) the required duration of the derogation.

3. If the competent authorities consider the non-compliance with the parametric value to be trivial, and if action taken in accordance with Article 12(2) is sufficient to remedy the problem within 30 days, the information provided for in paragraph 2 of this Article need not be specified in the derogation.

In that event, only the maximum permissible value for the parameter concerned and the time allowed to remedy the problem shall be set by the competent authorities or other relevant bodies in the derogation.

4. Recourse may no longer be had to paragraph 3, if failure to comply with any one parametric value for a given water supply has occurred on more than 30 days on aggregate during the previous 12 months.

5. Any Member State which has had recourse to the derogations provided for in this Article shall ensure that the population affected by any such derogation is promptly informed in an appropriate manner of the derogation and of the conditions governing it. In addition, the Member State shall, where necessary, ensure that advice is given to particular population groups for which the derogation could present a special risk.

The obligations referred to in the first subparagraph shall not apply in the circumstances described in paragraph 3 unless the competent authorities decide otherwise.

6. With the exception of derogations granted in accordance with paragraph 3, a Member State shall inform the Commission within two months of any derogation concerning an individual supply of water exceeding 1 000 m^3 a day as an average or serving more than 5 000 people, including the information specified in paragraph 2.

7. This Article shall not apply to water intended for human consumption offered for sale in bottles or containers. **[Am. 112]**

Article 13

Access to water intended for human consumption

1. Without prejudice to Article 9 of Directive 2000/60/EC ***and to the principles of subsidiarity and proportionality***, Member States shall***, whilst taking into account the local and regional perspectives and circumstances for water distribution,*** take all necessary measures to improve ***universal*** access for all to water intended for human consumption and promote its use on their territory. ~~This shall include all of the following measures:~~

(a) identifying people without access***, or with limited access,*** to water intended for human consumption***, including vulnerable and marginalised groups,*** and reasons for lack of access ~~(such as belonging to a vulnerable and marginalised group)~~, assessing possibilities ***and taking actions*** to improve access for those people and informing them about possibilities of connecting to the distribution network or about alternative means to have access to such water;

Thursday 28 March 2019

(aa) ensuring the public supply of water intended for human consumption;

(b) setting up and maintaining outdoors and indoors equipment***, including refill points,*** for free access to water intended for human consumption in public spaces***, particularly in areas of high footfall***; ***this shall be done where technically feasible, in a manner that is proportionate to the need for such measures and taking into account specific local conditions, such as climate and geography;***

(c) promoting water intended for human consumption by:

(i) launching campaigns to inform citizens about the ***high*** quality of ~~such~~ ***tap*** water ***and to raise awareness of the nearest designated refill point***;

(ia) launching campaigns to encourage the general public to carry reusable water bottles and launching initiatives to raise awareness of the location of refill points;

(ii) ~~encouraging~~ ***ensuring*** the ***free*** provision of such water in administrations and public buildings***, as well as discouraging the use of water put in single use plastic bottles or containers in such administrations and buildings***;

(iii) encouraging the ~~free~~ provision of such water ***for free or for a low service fee, for customers*** in restaurants, canteens, and catering services. **[Am. 113, 165, 191, 208, 166, 192, 169, 195, 170, 196, 197 and 220]**

2. On the basis of the information gathered under paragraph 1(a), Member States shall take ~~all necessary~~ measures ***that they consider necessary and appropriate*** to ensure access to water intended for human consumption for vulnerable and marginalised groups. **[Am. 114]**

In case those groups do not have access to water intended for human consumption, Member States shall immediately inform them of the quality of the water they are using and of any action that can be taken to avoid adverse effects on human health resulting from any contamination of that water.

2a. Where obligations laid down in this Article are incumbent on local public authorities under national law, Member States shall ensure that such authorities have the means and resources to ensure access to water intended for human consumption and that any measures in that regard are proportionate to the capacities and size of the distribution network concerned. **[Am. 173, 199 and 209]**

2b. Taking into account the data collected under the provisions set out in point (a) of Article 15(1), the Commission shall collaborate with Member States and the European Investment Bank to support municipalities in the Union which lack the necessary capital in order to enable them to access technical assistance, available Union funding and long-term loans at a preferential interest rate, particularly for the purpose of maintaining and renewing water infrastructure in order to ensure the provision of high quality water, and to extend water and sanitation services to vulnerable and marginalised population groups. **[Am. 174, 200 and 210]**

Article 14

Information to the public

1. Member States shall ensure that adequate, ~~and~~ up-to-date ***and accessible*** information on water intended for human consumption is available, online ***or in other user-friendly ways,*** to all persons supplied, in accordance with Annex IV***, while complying with applicable data protection rules***. **[Am. 116]**

2. Member States shall ensure that all persons supplied receive regularly and at least once a year, and in the most appropriate ***and easily accessible*** form (for instance on their invoice or by smart applications) ~~without having to request it,~~ ***as determined by the competent authorities,*** the following information: **[Am. 117]**

(a) ***where costs are recovered through a tariff system,*** information on ~~the cost structure of~~ the tariff charged per cubic metre of water intended for human consumption, including ***the distribution of*** fixed and variable costs~~, presenting at least costs related to the following elements:~~**; [Am. 118]**

~~(i) measures taken by water suppliers for the purposes of the hazard assessment pursuant to Article 8(5);~~ **[Am. 119]**

~~(ii) treatment and distribution of water intended for human consumption;~~ **[Am. 120]**

~~(iii) waste water collection and treatment;~~ **[Am. 121]**

~~(iv) measures taken pursuant to Article 13, in case such measures have been taken by water suppliers;~~ **[Am. 122]**

(aa) information on the quality of water intended for human consumption, including the indicator parameters; **[Am. 123]**

(b) ***where the costs are recovered through a tariff system,*** the price of ***the supply of*** water intended for human consumption ~~supplied~~ per ~~litre and~~ cubic metre***, and the price invoiced per litre; where the costs are not recovered through a tariff system, the total annual costs borne by the water system to ensure compliance with this Directive, accompanied by contextual and relevant information on how water intended for human consumption is supplied to the area***; **[Am. 124]**

(ba) the treatment and distribution of water intended for human consumption; **[Am. 125]**

(c) the volume consumed by the household, at least per year or per billing period, together with yearly trends of ***household*** consumption***, if technically feasible and only if this information is available to the water supplier***; **[Am. 126]**

(d) comparisons of the yearly water consumption of the household with an average consumption for a household ~~in the same category~~***, when applicable in accordance with point (c)***; **[Am. 127]**

(e) a link to the website containing the information set out in Annex IV.

Member States shall set out a clear division of responsibilities with regard to the provision of information under the first subparagraph between water suppliers, stakeholders and competent local bodies. The Commission ~~may~~ ***is empowered to*** adopt ~~implementing~~ ***delegated*** acts ***in accordance with Article 19 supplementing this Directive by*** specifying the format of, and modalities to present, the information to be provided under the first subparagraph. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).~~ **[Am. 128]**

3. Paragraphs 1 and 2 are without prejudice to Directives 2003/4/EC and 2007/2/EC.

Article 15

Information on monitoring of implementation

1. Without prejudice to Directive 2003/4/EC and Directive 2007/2/EC, Member States, assisted by the European Environment Agency, shall:

(a) set up by … [6 years after the end-date for transposition of this Directive], and update every 6 years thereafter, a data set containing information on the measures taken under Article 13, and on the share of their population that has access to water intended for human consumption;

(b) set up by … [3 years after the end-date for transposition of this Directive], and update every 3 years thereafter, a data set containing the hazard and domestic distribution risk assessments performed in accordance with Articles 8 and 10, respectively, including the following elements:

(i) the abstraction points identified under Article 8(1)(a);

(ii) the monitoring results collected in accordance with Article 8(1)(d) and Article 10(1)(b); and

(iii) concise information on measures taken pursuant to Article 8(5) and Article 10(2);

(c) set up, and update annually thereafter, a data set containing monitoring results, in cases of exceedances of the parametric values set in Annex I, parts A and B, collected in accordance with Articles 9 and 11 and information about the remedial actions taken in accordance with Article 12;

(d) set up, and update annually thereafter, a data set containing information on drinking water incidents that have caused potential ~~danger~~ ***risk*** to human health, regardless of whether any failure to meet the parametric values occurred, that lasted for more than 10 consecutive days and that affected at least 1 000 people, including the causes of those incidents and remedial actions taken in accordance with Article 12. **[Am. 129]**

Where possible, spatial data services as defined in Article 3(4) of Directive 2007/2/EC shall be used to present those data sets.

2. Member States shall ensure that the Commission, the European Environment Agency and the European Centre for Disease Prevention and Control have access to the data sets referred to in paragraph 1.

3. The European Environment Agency shall publish and update a Union-wide overview on the basis of the data collected by the Member States on a regular basis or following receipt of a request from the Commission.

The Union-wide overview shall include, as appropriate, indicators for outputs, results and impacts of this Directive, Union-wide overview maps and Member State overview reports.

4. The Commission ~~may~~ ***is empowered to*** adopt ~~implementing~~ ***delegated*** acts ***in accordance with Article 19 supplementing this Directive by*** specifying the format of, and modalities to present, the information to be provided in accordance with paragraphs 1 and 3, including detailed requirements regarding the indicators, the Union-wide overview maps and the Member State overview reports referred to in paragraph 3. **[Am. 130]**

~~The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 20(2).~~ **[Am. 131]**

Article 16

Access to justice

1. Member States shall ensure that, natural or legal persons or their associations, organisations or groups, in accordance with national legislation or practice, have access to a review procedure before a court of law or another independent and impartial body established by law to challenge the substantive or procedural legality of decisions, actions or omissions related to the implementation of Articles 4, 5, 12, 13, and 14, when one of the following conditions is fulfilled:

(a) they have a sufficient interest;

(b) they maintain the impairment of a right, where the administrative procedural law of the relevant Member State requires this as a precondition.

2. Member States shall determine at what stage decisions, acts or omissions may be challenged.

3. What constitutes a sufficient interest and impairment of a right shall be determined by Member States, consistently with the objective of giving the public concerned wide access to justice.

To that end, the interest of any non-governmental organisation promoting environmental protection and meeting the requirements under national law shall be deemed sufficient for the purposes of paragraph 1(a).

Such organisations shall also be deemed to have rights capable of being impaired for the purposes of paragraph 1(b).

4. Paragraphs 1, 2 and 3 shall not exclude the possibility of a preliminary review procedure before an administrative authority and shall not affect the requirement of exhaustion of administrative review procedures prior to recourse to judicial review procedures, where such a requirement exists under national law.

5. Any such review procedure referred to in paragraph 1 and 4 shall be fair, equitable, timely and not prohibitively expensive.

Member States shall ensure that information is made available to the public on access to administrative and judicial review procedures.

Article 17

Evaluation

1. The Commission shall, by [12 years after the end-date for transposition of this Directive], carry out an evaluation of this Directive. The evaluation shall be based, *inter alia*, on the following elements:

(a) the experience gathered with the implementation of this Directive;

(b) the data sets from Member States set up in accordance with Article 15(1) and the Union-wide overviews compiled by the European Environment Agency in accordance with Article 15(3);

(c) relevant scientific, analytical and epidemiological data;

(d) World Health Organisation recommendations, where available.

2. In the context of the evaluation, the Commission shall pay particular regard to the performance of this Directive concerning the following aspects:

(a) the risk-based approach set out in Article 7;

(b) provisions related to access to water set out in Article 13 ***and the share of the population without access to water***; **[Am. 132]**

(c) provisions concerning the information to be provided to the public under Article 14 and Annex IV***, including a user friendly overview at Union level of the information listed in point 7 of Annex IV***. **[Am. 133]**

2a. The Commission shall, no later than … [five years after the final deadline for transposition of this Directive] — and afterwards where appropriate — submit a report to the European Parliament and to the Council on the potential threat to sources of water intended for human consumption from microplastics, medicines and, if necessary, other newly occurring pollutants and on the appropriate associated potential health risks. The Commission is empowered to adopt, if necessary, delegated acts in accordance with Article 19 in order to supplement this Directive by establishing maximum levels for microplastics, medicinal products and other newly occurring pollutants in water intended for human consumption. **[Am. 134]**

Thursday 28 March 2019

Article 18

Review and amendment of Annexes

1. At least every five years, the Commission shall review Annex I in the light of scientific and technical progress .

The Commission shall, on the basis of Member States' hazard and domestic distribution risk assessments contained in the data sets set up pursuant to Article 15, review Annex II and assess whether there is a need to adapt it or to introduce new monitoring specifications for the purposes of those risk assessments.

2. The Commission is empowered to adopt delegated acts in accordance with Article 19 amending Annexes I to IV where necessary, to adapt them to scientific and technical progress or to specify monitoring requirements for the purposes of the hazard and domestic distribution risk assessments pursuant to Article 8(1)(d) and Article 10(1)(b).

2a. By … [five years after the date of entry into force of this Directive], the Commission shall review whether Article 10a has led to a sufficient level of harmonisation of hygienic requirements on materials and products in contact with water intended for human consumption and, if necessary, take further appropriate measures. **[Am. 135]**

Article 19

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 18(2) shall be conferred on the Commission for an indeterminate period of time from [date of entry into force of this Directive].

3. The delegation of power referred to in Article 18(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 on Better Law-Making of 13 April 2016.

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 18(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 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 20

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 5 of Regulation (EU) No 182/2011 shall apply.

Article 21

Penalties

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall, by … [2 years after entry into force of this Directive], notify the Commission of those rules and those measures and shall notify it of any subsequent amendment affecting them.

Article 22

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 and 5 to 21 and Annexes I to IV by … [2 years after entry into force of this Directive] . They shall immediately communicate the text of those measures to the Commission.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directives repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated .

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 23

Repeal

1. Directive 98/83/EC, as amended by the instruments listed in Annex V, Part A, is repealed with effect from [day after the date in the first subparagraph of Article 22(1)], without prejudice to the obligations of the Member States relating to the time-limits for the transposition into national law of the Directives set out in Annex V, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

2. Derogations granted by Member States in accordance with Article 9 of Directive 98/83/EC that are still applicable by [end-date for transposition of this Directive] shall remain applicable until the end of their duration. ~~They may not be renewed further.~~ **[Am. 136]**

Article 24

Entry into force

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

Article 25

Addressees

This Directive is addressed to the Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Thursday 28 March 2019

ANNEX I

MINIMUM REQUIREMENTS FOR PARAMETRIC VALUES USED TO ASSESS THE QUALITY OF WATER INTENDED FOR HUMAN CONSUMPTION

PART A

Microbiological parameters

Parameter	Parametric value	Unit
Clostridium perfringens spores	0	Number/100 ml
~~Coliform bacteria~~	~~0~~	~~Number/100 ml~~
Enterococci	0	Number/100 ml
Escherichia coli (E. coli)	0	Number/100 ml
~~Heterotrophic plate counts (HPC) 22º~~	~~No abnormal change~~	
Somatic coliphages	0	Number/100 ml
~~Turbidity~~	~~<1~~	~~NTU~~
Note	***The parameters set out in this Part shall not apply to spring and mineral waters in accordance with Directive 2009/54/EC.***	

[Am. 179]

PART B

Chemical parameters

Parameter	Parametric value	Unit	Notes
Acrylamide	0,10	µg/l	The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.
Antimony	5,0	µg/l	
Arsenic	10	µg/l	
Benzene	1,0	µg/l	
Benzo(a)pyrene	0,010	µg/l	
Beta-estradiol (50-28-2)	0,001	µg/l	
Bisphenol A	~~0,01~~ ***0,1***	µg/l	

Parameter	Parametric value	Unit	Notes
Boron	~~1,0~~ ***1,5***	mg/l	
Bromate	10	µg/l	
Cadmium	5,0	µg/l	
Chlorate	0,25	mg/l	
Chlorite	0,25	mg/l	
Chromium	25	µg/l	The value shall be met, at the latest, by [10 years after the entry into force of this Directive]. The parametric value for chromium until that date is 50 µg/l.
Copper	2,0	mg/l	
Cyanide	50	µg/l	
1,2-dichloroethane	3,0	µg/l	
Epichlorohydrin	0,10	µg/l	The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.
Fluoride	1,5	mg/l	
Haloacetic acids (HAAs)	80	µg/l	Sum of the following nine representative substances: monochloro-, dichloro-, and trichloro-acetic acid, mono- and dibromo-acetic acid, bromochloroacetic acid, bromodichloroacetic acid, dibromochloroaetic acid and tribromoacetic acid.
Lead	5	µg/l	The value shall be met, at the latest, by [10 years after the entry into force of this Directive]. The parametric value for lead until that date is 10 µg/l.
Mercury	1,0	µg/l	
Microcystin-LR	1,0	µg/l	
Nickel	20	µg/l	
Nitrate	50	mg/l	Member States shall ensure that the condition [nitrate]/50 + [nitrite]/3 ≤ 1, where the square brackets signify the concentrations in mg/l for nitrate (NO_3) and nitrite (NO_2), is complied with and that the value of 0,10 mg/l for nitrites is complied with ex water treatment works.

Thursday 28 March 2019

Parameter	Parametric value	Unit	Notes
Nitrite	0,50	mg/l	Member States shall ensure that the condition [nitrate]/ 50 + [nitrite]/3 ≤ 1, where the square brackets signify the concentrations in mg/l for nitrate (NO_3) and nitrite (NO_2), is complied with and that the value of 0,10 mg/l for nitrites is complied with ex water treatment works.
Nonylphenol	0,3	µg/l	
Pesticides	0,10	µg/l	Pesticides' means: — organic insecticides, — organic herbicides, — organic fungicides, — organic nematocides, — organic acaricides, — organic algicides, — organic rodenticides — organic slimicides, — related products (*inter alia*, growth regulators) and their relevant metabolites as defined in Article 3(32) of Regulation (EC) No 1107/2009 ([1]) . The parametric value applies to each individual pesticide. In the case of aldrin, dieldrin, heptachlor and heptachlor epoxide, the parametric value is 0,030 µg/l.
Pesticides — Total	0,50	µg/l	Pesticides — Total' means the sum of all individual pesticides, as defined in the previous row, detected and quantified in the monitoring procedure.
PFAS	0,10	µg/l	PFAS' means each individual per- and polyfluoroalkyl substance (chemical formula: C_nF_{2n+1}–R). ***The formula shall also introduce a differentiation between 'long-chain' and 'short-chain' PFASs. This Directive shall apply only to 'long-chain' PFASs.*** ***This parametric value for individual PFAS substances shall only apply to those PFAS substances, which are likely to be present and which are hazardous to human health, according to the hazard assessment referred to in Article 8 of this Directive.***

Parameter	Parametric value	Unit	Notes
PFASs — Total	0,50	µg/l	PFASs Total' means the sum of per- and polyfluoroalkyl substances (chemical formula: C_nF_{2n+1}–R). ***This parametric value for PFASs Total shall only apply to those PFAS substances, which are likely to be present and which are hazardous to human health, according to the hazard assessment referred to in Article 8 of this Directive.***
Polycyclic aromatic hydrocarbons	0,10	µg/l	Sum of concentrations of the following specified compounds: benzo(b)fluoranthene, benzo(k)fluoranthene, benzo(ghi)perylene, and indeno(1,2,3-cd)pyrene .
Selenium	10	µg/l	
Tetrachloroethene and Trichloroethene	10	µg/l	Sum of concentrations of specified parameters
Trihalomethanes — Total	100	µg/l	Where possible, without compromising disinfection, Member States shall strive for a lower value. Sum of concentrations of the following specified compounds: chloroform, bromoform, dibromochloromethane, bromodichloromethane.
Uranium	30	µg/l	
Vinyl chloride	0,50	µg/l	The parametric value refers to the residual monomer concentration in the water as calculated according to specifications of the maximum release from the corresponding polymer in contact with the water.

([1]) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

[Am. 138 and 180]

PART Ba

Indicator parameters

Parameter	*Parametric value*	*Unit*	*Notes*
Aluminium	***200***	***µg/l***	
Ammonium	***0,50***	***mg/l***	
Chloride	***250***	***mg/l***	***Note 1***
Colour	***Acceptable to consumers and no abnormal change***		

Thursday 28 March 2019

Indicator parameters			
Parameter	*Parametric value*	*Unit*	*Notes*
Conductivity	*2 500*	*µS cm-1 at 20 °C*	*Note 1*
Hydrogen ion concentration	*≥ 6,5 and ≤ 9,5*	*pH units*	*Notes 1 and 3*
Iron	*200*	*µg/l*	
Manganese	*50*	*µg/l*	
Odour	*Acceptable to consumers and no abnormal change*		
Sulphates	*250*	*mg/l*	*Note 1*
Sodium	*200*	*mg/l*	
Taste	*Acceptable to consumers and no abnormal change*		
Colony count at 22 °C	*No abnormal change*		
Coliform bacteria	*0*	*Number/100 ml*	
Total organic carbon (TOC)	*No abnormal change*		
Turbidity	*Acceptable to consumers and no abnormal change*		

Note 1:

The water should not be aggressive.

Note 2:

This parameter need not be measured unless the water originates from or is influenced by surface water. In the event of non-compliance with this parametric value, the Member State concerned shall investigate the supply to ensure that there is no potential danger to human health arising from the presence of pathogenic micro-organisms, e.g. cryptosporidium.

Note 3:

For still water put into bottles or containers, the minimum value may be reduced to 4,5 pH units.

For water put into bottles or containers which is naturally rich in or artificially enriched with carbon dioxide, the minimum value may be lower.

[Am. 139]

PART C

Parameters relevant for the domestic distribution risk assessment

Parameter	Parametric value	Unit	Notes
Legionella ***pneumophila***	< 1 000	Number/l	~~In case the parametric value <1 000/l is not met for *Legionella*, resampling for *Legionella pneumophila* shall be done. If *Legionella pneumophila* is not present, the parametic value for *Legionella* is <10 000/l~~
Legionella	***<10 000***	***Number/l***	***If Legionella pneumophila, whose parametric value is < 1 000/l, is not present, the parametric value for Legionella shall be <10 000/l.***
Lead	5	µg/l	The value shall be met, at the latest, by [10 years after the entry into force of this Directive]. The parametric value for lead until that date ~~is~~ ***shall be*** 10 µg/l.

[Am. 140]

PART Ca

Emerging parameters under monitoring	
Microplastics	***The monitoring shall be carried out in accordance with the methodology for measuring microplastics laid down in the delegated act referred to in Article 11(5b)***

[Am. 141]

Thursday 28 March 2019

ANNEX II

MONITORING

PART A

General objectives and monitoring programmes for water intended for human consumption

1. Monitoring programmes established pursuant to Article 11(2) for water intended for human consumption shall:

(a) verify that the measures in place to control risks to human health throughout the water supply chain from the abstraction area through treatment and storage to distribution are working effectively and that water at the point of compliance is wholesome and clean;

(b) provide information on the quality of the water supplied for human consumption to demonstrate that the obligations set out in Article 4 and the parametric values set in accordance with Article 5 are being met;

(c) identify the most appropriate means of mitigating the risk to human health.

2. Monitoring programmes established pursuant to Article 11(2) shall include one of the following:

(a) collection and analysis of discrete water samples;

(b) measurements recorded by a continuous monitoring process.

Monitoring programmes shall also include an operational monitoring programme complementary to verification monitoring, providing rapid insight in operational performance and water quality problems, and allowing rapid pre-planned remedial action. Such operational monitoring programmes shall be supply-specific, taking into account the outcomes of the hazard and supply risk assessments, and intended to confirm the effectiveness of all control measures in abstraction, treatment, distribution and storage. The operational monitoring programme shall include the monitoring of the parameter turbidity to regularly control the efficacy of physical removal by filtration processes, in accordance with the parametric values and frequencies indicated in the following table:

Parameter	Parametric value
Turbidity	0,3 NTU (95 %) and not >0,5 NTU for 15 consecutive minutes

Volume (m^3) of water distributed or produced each day within a supply zone	Minimum frequency
≤ 10 000	Daily
>10 000	Online

In addition, monitoring programmes may consist of:

(a) inspections of records of the functionality and maintenance status of equipment;

(b) inspections of the abstraction area, and of the treatment, storage and distribution infrastructure without prejudice to monitoring requirements provided under Article 8(1)(c) and Article 10(1)(b).

3. Member States shall ensure that monitoring programmes are reviewed on a continuous basis and updated or reconfirmed at least every 6 years.

PART B

Core parameters and sampling frequencies

1. Core parameters

Escherichia coli (*E. coli*), ~~*Clostridium perfringens* spores,~~ and ~~somatic coliphages~~ ***enterococci*** are considered 'core parameters' and may not be subject to a supply risk assessment in accordance with part C of this Annex. They shall always be monitored at the frequencies set out in Table 1 of point 2. **[Am. 142]**

2. Sampling frequencies

All parameters set in accordance with Article 5 shall be monitored at least at the frequencies set out in the following Table, unless a different sampling frequency is determined on the basis of a supply risk assessment carried out in accordance with Article 9 and part C of this Annex:

Table 1

Minimum frequency of sampling and analysis for compliance monitoring

		~~**Minimum number of samples per year**~~
~~≤ 100~~		~~10[a]~~
~~> 100~~	~~≤ 1 000~~	~~10[a]~~
~~> 1 000~~	~~≤ 10 000~~	~~50[b]~~
~~>10 000~~	~~≤ 100 000~~	~~365~~
~~>100 000~~		~~365~~

Volume ~~(m³)~~ of water distributed or produced each day within a supply zone ***(See Notes 1 and 2) m³***		***Group A parameter (microbiological parameter) - number of samples per year (See Note 3)***	***Group B parameter (chemical parameter) - number of samples per year***
	≤ 100	***> 0 (See Note 4)***	***> 0 (See Note 4)***
> 100	***≤ 1 000***	***4***	***1***

Thursday 28 March 2019

			~~Minimum number of samples per year~~
> 1 000	***≤ 10 000***	***4*** ***+ 3*** ***For each 1 000 m³/d and part thereof of the total volume***	***1*** ***+ 1*** ***For each 1 000 m³/d and part thereof of the total volume***
> 10 000	***≤ 100 000***		***3*** ***+ 1*** ***for each 10 000 m³/day and part thereof of the total volume***
> 100 000			***12*** ***+ 1*** ***for each 25 000 m³/day and part thereof of the total volume***

~~a: all samples are to be taken during times when the risk of treatment breakthrough of enteric pathogens is high.~~

~~b: at least 10 samples are to be taken during times when the risk of treatment breakthrough of enteric pathogens is high.~~

Note 1: A supply zone is a geographically defined area within which water intended for human consumption comes from one or more sources and water quality may be considered as being approximately uniform.

Note 2: The volumes are calculated as averages taken over a calendar year. The number of inhabitants in a supply zone may be used instead of the volume of water to determine the minimum frequency, assuming water consumption of 200 l/(day**capita*).

Note 3: ***The frequency indicated is calculated as follows: e.g. 4 300 m³/day = 16 samples (four for the first 1 000 m³/day + 12 for additional 3 300 m³/day).***

Note 4: Member States that have decided to exempt individual supplies under Article 3(2)(b) ***of this Directive*** shall apply these frequencies only for supply zones that distribute between 10 and 100 m³ per day. **[Am. 186]**

PART C

Supply risk assessment

1. The supply risk assessment referred to in Article 9 shall be based on the general principles of risk assessment set out in international standards such as standard EN 15975-2 concerning 'security of drinking water supply, guidelines for risk and crisis management'.

2. Following a supply risk assessment, the list of parameters considered in the monitoring shall be extended and the sampling frequencies set out in Part B increased, where any of the following conditions is fulfilled:

   (a) the list of parameters or frequencies set out in this Annex is not sufficient to fulfil the obligations imposed under Article 11(1);

(b) additional monitoring is required for the purposes of Article 11(6);

(c) it is necessary to provide the assurances set out in point (1)(a) of Part A;

(d) increasing the sampling frequencies is necessary pursuant to Article 8(3)(a).

3. Following a supply risk assessment, the list of parameters considered in the monitoring and the sampling frequencies set out in Part B may be reduced provided all of the following conditions are met:

(a) the location and frequency of sampling is determined in relation to the parameter's origin, as well as the variability and long-term trend of its concentration, taking into account Article 6;

(b) for reducing the minimum sampling frequency of a parameter the results obtained from samples collected at regular intervals over a period of at least 3 years from sampling points representative of the whole supply zone are all less than 60 % of the parametric value;

(c) for removing a parameter from the list of parameters to be monitored the results obtained from samples collected at regular intervals over a period of at least 3 years from points representative of the whole supply zone are all less than 30 % of the parametric value;

(d) for removing a parameter from the list of parameters to be monitored, the decision is based on the result of the risk assessment, informed by the results of monitoring of sources of water intended for human consumption and confirming that human health is protected from the adverse effects of any contamination of water intended for human consumption, as laid down in Article 1;

(e) for reducing the sampling frequency of a parameter or for removing a parameter from the list of parameters to be monitored, the risk assessment confirms that no factor that can be reasonably anticipated is likely to cause deterioration of the quality of the water intended for human consumption.

4. Where monitoring results, demonstrating that the conditions set out in paragraph 3, points (b) to (e) are met, are already available by [the date of entry into force of this Directive], those monitoring results may be used to adapt the monitoring following the supply risk assessment from that date.

PART D

Sampling methods and sampling points

1. Sampling points shall be determined so as to ensure compliance with the points of compliance as defined in Article 6. In the case of a distribution network, a Member State may take samples within the supply zone or at the treatment works for particular parameters if it can be demonstrated that there would be no adverse change to the measured value of the parameters concerned. As far as possible, the number of samples shall be distributed equally in time and location.

2. Sampling at the point of compliance shall meet the following requirements:

(a) compliance samples for certain chemical parameters (in particular copper, lead, *Legionella* and nickel) shall be taken at the consumer's tap without prior flushing. A random daytime sample of one litre volume is to be taken. As an alternative, Member States may use fixed stagnation time methods that better reflect their national situation, provided that, at the supply zone level, this does not result in fewer cases of non-compliance than using the random daytime method;

(b) compliance samples for microbiological parameters at the point of compliance shall be taken and handled according to EN ISO 19458, sampling purpose B.

2a. Samples for Legionella in domestic distribution systems shall be taken at risk points for proliferation of and/or exposure to Legionella pneumophila. Member States shall establish guidelines for sampling methods for Legionella. **[Am. 144]**

3. Sampling in the distribution network, with the exception of sampling at the consumers' tap, shall be in accordance with ISO 5667-5. For microbiological parameters, sampling in the distribution network shall be taken and handled according to EN ISO 19458, sampling purpose A.

Thursday 28 March 2019

ANNEX IIa

Minimum hygiene requirements for substances and materials for the manufacture of new products coming into contact with water intended for human consumption:

(a) a list of substances approved for use in the manufacture of materials, including, but not limited to, organic materials, elastomers, silicones, metals, cement, ion exchange resins and composite materials, and products made therefrom.

(b) specific requirements for the use of substances in materials and products made therefrom.

(c) specific restrictions on the migration of certain substances into water intended for human consumption.

(d) hygiene rules regarding other properties required for compliance.

(e) basic rules to verify compliance with points (a) to (d).

(f) rules concerning sampling and analysis methods to verify compliance with points (a) to (d). **[Am. 145]**

Thursday 28 March 2019

ANNEX III

SPECIFICATIONS FOR THE ANALYSIS OF PARAMETERS

Member States shall ensure that the methods of analysis used for the purposes of monitoring and demonstrating compliance with this Directive are validated and documented in accordance with EN ISO/IEC 17025 or other equivalent standards accepted at international level. Member States shall ensure that laboratories or parties contracted by laboratories apply quality management system practices in accordance with EN ISO/IEC 17025 or other equivalent standards accepted at international level.

In the absence of an analytical method meeting the minimum performance criteria set out in Part B, Member States shall ensure that monitoring is carried out using best available techniques not entailing excessive costs.

PART A

Microbiological parameters for which methods of analysis are specified

The methods for microbiological parameters are:

(a) *Escherichia coli* (*E. coli*) and coliform bacteria (EN ISO 9308-1 or EN ISO 9308-2)

(b) *Enterococci* (EN ISO 7899-2)

(c) *Pseudomonas aeruginosa* (EN ISO 16266)

(d) colony count or heterotrophic plate counts at 22 C (EN ISO 6222)

(e) *Clostridium perfringens* including spores (EN ISO 14189)

(f) Turbidity (EN ISO 7027)

(g) *Legionella* (EN ISO 11731)

(h) Somatic coliphages (EN ISO 10705-2)

PART B

Chemical parameters for which performance characteristics are specified

1. Chemical parameters

For the parameters set out in Table 1, the method of analysis used shall, as a minimum, be capable of measuring concentrations equal to the parametric value with a limit of quantification, as defined in Article 2(2) of Commission Directive 2009/90/EC [1], of 30 % or less of the relevant parametric value and an uncertainty of measurement as specified in Table 1. The result shall be expressed using at least the same number of significant figures as for the parametric value considered in Part B of Annex I.

The uncertainty of measurement laid down in Table 1 shall not be used as an additional tolerance to the parametric values set out in Annex I.

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[1] Commission Directive 2009/90/EC of 31 July 2009 laying down, pursuant to Directive 2000/60/EC of the European Parliament and of the Council, technical specifications for chemical analysis and monitoring of water status (OJ L 201, 1.8.2009, p. 36).

Table 1

Minimum performance characteristic 'Uncertainty of measurement'

Parameters	Uncertainty of measurement (See Note 1) % of the parametric value	Notes
Acrylamide	30	
Antimony	40	
Arsenic	30	
Benzo(a)pyrene	50	See Note 2
Benzene	40	
Beta-estradiol (50-28-2)	50	
Bisphenol A	50	
Boron	25	
Bromate	40	
Cadmium	25	
Chlorate	30	
Chlorite	30	
Chromium	30	
Copper	25	
Cyanide	30	See Note 3
1,2-dichloroethane	40	
Epichlorohydrin	30	
Fluoride	20	
HAAs	50	
Lead	25	
Mercury	30	
Microcystin-LR	30	
Nickel	25	
Nitrate	15	

Thursday 28 March 2019

Parameters	Uncertainty of measurement (See Note 1) % of the parametric value	Notes
Nitrite	20	
Nonylphenol	50	
Pesticides	30	See Note 4
PFASs	~~50~~ ***20***	
Polycyclic aromatic hydrocarbons	30	See Note 5
Selenium	40	
Tetrachloroethene	30	See Note 6
Trichloroethene	40	See Note 6
Trihalomethanes — total	40	See Note 5
Uranium	30	
Vinyl chloride	50	

[Am. 177 and 224]

2. Notes to Table 1

Note 1	Uncertainty of measurement is a non-negative parameter characterising the dispersion of the quantity values being attributed to a measurand, based on the information used. The performance criterion for measurement uncertainty (k = 2) is the percentage of the parametric value stated in the table or any stricter value . Measurement uncertainty shall be estimated at the level of the parametric value, unless otherwise specified.
Note 2	If the value of uncertainty of measurement cannot be met, the best available technique should be selected (up to 60 %).
Note 3	The method determines total cyanide in all forms.
Note 4	The performance characteristics for individual pesticides are given as an indication. Values for the uncertainty of measurement as low as 30 % can be achieved for several pesticides, higher values up to 80 % may be allowed for a number of pesticides.
Note 5	The performance characteristics apply to individual substances, specified at 25 % of the parametric value in Part B of Annex I.
Note 6	The performance characteristics apply to individual substances, specified at 50 % of the parametric value in Part B of Annex I.

Thursday 28 March 2019

ANNEX IV

INFORMATION TO THE PUBLIC ~~TO BE PROVIDED ONLINE~~ [Am. 146]

The following information shall be accessible to consumers on-line ***or*** in ~~a~~ ***equally*** user-friendly and customized ~~way~~ ***ways***: **[Am. 147]**

(1) identification of the relevant water supplier***, the area and number of people supplied, and the method of water production***; **[Am. 148]**

(2) ***a review of*** the most recent monitoring results ***per water supplier,*** for parameters listed in Annex I, parts A, ~~and~~ B ***and Ba***, including frequency ~~and location of sampling points,~~ relevant to the area of interest to the person supplied, together with the parametric value set in accordance with Article 5. The monitoring results must not be older than: **[Am. 149]**

(a) one month, for very large water suppliers;

(b) six months for ***medium and*** large water suppliers; **[Am. 202]**

(c) one year for ***very small and*** small water suppliers; **[Am. 203]**

(3) in case of ***potential danger to human health as determined by competent authorities following an*** exceedance of the parametric values set in accordance with Article 5, information on the potential danger to human health and the associated health and consumption advice or a hyperlink providing access to such information; **[Am. 150]**

~~(4) a summary of the relevant supply risk assessment;~~ **[Am. 151]**

(5) information on the ~~following~~ indicator parameters ***listed in part Ba of Annex 1*** and associated parametric values:;

~~(a) Colour;~~

~~(b) pH (Hydrogen ion concentration);~~

~~(c) Conductivity;~~

~~(d) Iron;~~

~~(e) Manganese;~~

~~(f) Odour;~~

~~(g) Taste;~~

~~(h) Hardness;~~

~~(i) Minerals, anions/cations dissolved in water:~~

~~— Borate BO_3~~

~~— Carbonate CO_3^{2-}~~

~~— Chloride Cl^-~~

~~— Fluoride F^-~~

~~— Hydrogen Carbonate HCO_3^-~~

~~— Nitrate NO_3^-~~

~~— Nitrite NO_2^-~~

~~— Phosphate PO_4^{3-}~~

~~— Silicate SiO_2~~

~~— Sulphate SO_4^{2-}~~

— ~~Sulphide S_2-~~

— ~~Aluminium Al~~

— ~~Ammonium $NH4^+$~~

— ~~Calcium Ca~~

— ~~Magnesium Mg~~

— ~~Potassium K~~

— ~~Sodium Na~~

~~Those parametric values and other non-ionised compounds and trace elements may be displayed with a reference value and/or an explanation;~~ **[Am. 152]**

(6) advice to consumers including on how to reduce water consumption ***where appropriate and use water responsibly according to local conditions***; **[Am. 153]**

(7) for ***large and*** very large water suppliers, annual information on: **[Am. 154]**

(a) the overall performance of the water system in terms of efficiency, including leakage ~~rates and energy consumption per cubic meter of delivered water~~ ***levels as determined by the Member States***; **[Am. 155]**

(b) information on management ***model*** and ~~governance~~ ***the ownership structure*** of the water ***supply by the water*** supplier~~, including the composition of the board~~; **[Am. 156]**

(c) water quantity supplied yearly and trends;

(d) ***where costs are recovered through a tariff system,*** information on the ~~cost~~ structure of the tariff ~~charged to consumers~~ per cubic meter of water, including fixed and variable costs~~, presenting at least~~ ***as well as*** costs related to ~~energy use per cubic meter of delivered water,~~ measures taken by water suppliers for the purposes of the hazard assessment pursuant to Article 8(4), treatment and distribution of water intended for human consumption~~, waste water collection and treatment,~~ and costs related to measures for the purposes of Article 13, where such measures have been taken by water suppliers; **[Am. 157]**

(e) the amount of investment ~~considered necessary by the supplier to ensure the financial sustainability of the provision of water services (including maintenance of infrastructure) and the amount of investment actually received or recouped~~ ***undertaken, under way and planned, as well as the financing plan***; **[Am. 158]**

(f) types of water treatment and disinfection applied;

(g) summary and statistics of consumer complaints, and ~~of timeliness and adequacy of responses to problems~~ ***how they are resolved***; **[Am. 159]**

(8) access to historical data for information under points (2) and (3), dating back up to 10 years, ***and not earlier than the date of transposition of this Directive*** upon request. **[Am. 160]**

Thursday 28 March 2019

ANNEX V

Part A

Repealed Directive with list of the successive amendments thereto

(referred to in Article 23)

Council Directive 98/83/EC (OJ L 330, 5.12.1998, p. 32)	
Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31.10.2003, p. 1)	Only point 29 of Annex II
Regulation (EC) No 596/2009 of the European Parliament and of the Council (OJ L 188, 18.7.2009, p. 14)	Only point 2.2 of the Annex
Commission Directive (EU) 2015/1787 (OJ L 260, 7.10.2015, p. 6)	

Part B

Time-limits for transposition into national law

(referred to in Article 23)

Directive	Time-limit for transposition	
98/83/EC (EU) 2015/1787	25 December 2000 27 October 2017	

Thursday 28 March 2019

ANNEX VI

CORRELATION TABLE

Directive 98/83/EC	This Directive
Article 1	Article 1
Article 2, introductory wording	Article 2, introductory wording
Article 2 pts. 1 and 2	Article 2 pts. 1 and 2
—	Article 2 pts. 3 to 8
Article 3(1), introductory wording	Article 3(1), introductory wording
Article 3(1)(a) and (b)	Article 3(1)(a) and (b)
Article 3(2) and (3)	Article 3(2) and (3)
Article 4(1), introductory wording	Article 4(1), introductory wording
Article 4(1)(a) and (b)	Article 4(1)(a) and (b)
Article 4(1), 2nd subparagraph	Article 4(1)(c)
Article 4(2)	Article 4(2)
Article 5(1) and (2)	Article 5(1)
Article 5(3)	Article 5(2)
Article 6(1) pts (a) to (c)	Article 6, pts (a) to (c)
Article 6(1), pt (d)	—
Article 6(2)	—
Article 6(3)	—
—	Article 7
—	Article 8
	Article 9
—	Article 10
Article 7(1)	Article 11(1)
Article 7(2)	Article 11(2) introductory wording

Directive 98/83/EC	This Directive
—	Article 11(2), pts (a) to (c)
Article 7(3)	Article 11(3)
Article 7(4)	—
Article 7(5)(a)	Article 11(4) introductory wording
Article 7(5)(b)	Article 11(4)(a)
Article 7(5)(c)	Article 11(4)(b)
Article 7(6)	Article 11(5)
Article 8(1)	Article 12(1)
Article 8(2)	Article 12(2), 1st subparagraph
—	Article 12(2), 2nd subparagraph
Article 8(3)	Article 12(3), 1st subparagraph
—	Article 12(3), 2nd subparagraph
—	Article 12(4), pts (a) to (c)
Article 8(4)	Article 12(5)
Article 8(5) to (7)	—
Article 9	—
Article 10	—
—	Article 13
—	Article 14
—	Article 15
—	Article 16
—	Article 17
Article 11(1)	Article 18(1), 1st subparagraph
—	Article 18(1), 2nd subparagraph
Article 11(2)	—
—	Article 18(2)
—	Article 19

Thursday 28 March 2019

Directive 98/83/EC	This Directive
Article 12(1)	Article 20(1)
Article 12(2), 1st subparagraph	Article 20(1)
Article 12(2), 2nd subparagrah	—
Article 12(3)	—
Article 13	—
Article 14	—
Article 15	—
—	Article 21
Article 17(1) and (2)	Article 22(1) and (2)
Article 16(1)	Article 23(1)
Article 16(2)	—
	Article 23(2)
Article 18	Article 24
Article 19	Article 25
Annex I, part A	Annex I, part A
Annex I, part B	Annex I, part B
Annex I, part C	—
—	Annex I, part C
Annex II, Part A (1)(a) to (c)	Annex II, Part A (1)(a) to (c)
Annex II, Part A (2) 1st subparagraph	Annex II, Part A (2) 1st subparagraph
—	Annex II, Part A (2) 2nd subparagraph and table
Annex II, Part A (2) 2nd subparagraph	Annex II Part A (2) 3rd subparagraph
Annex II, Part A (3)	—
Annex II, Part A (4)	Annex II, Part A (3)
Annex II, Part B (1)	—
Annex II, Part B (2)	Annex II, Part B (1)

Directive 98/83/EC	This Directive
Annex II, Part B (3)	Annex II, Part B (2)
Annex II, Part C (1)	—
Annex II, Part C (2)	Annex II, Part C (1)
Annex II, Part C (3)	—
Annex II, Part C (4)	Annex II, Part C (2)
Annex II, Part C (5)	Annex II, Part C (3)
—	Annex II, Part C (4)
Annex II, Part C (6)	—
Annex II, Part D, pts (1) to (3)	Annex II, Part D, pts (1) to (3)
Annex III, 1st and 2nd subparagraphs	Annex III, 1st and 2nd subparagraphs
Annex III, part A, 1st and 2nd subparagraphs	—
Annex III, part A, 3rd subparagraph, points (a) to (f)	Annex III, part A, 3rd subparagraph points (a) to (h)
Annex III, part B, (1), 1st subparagraph	Annex III, part B, (1), 1st subparagraph
Annex III, part B, (1), 2nd subparagraph	—
Annex III, part B, (1), 3rd subparagraph and Table 1	Annex III, part B, (1), 2nd subparagraph and Table 1
Annex III, part B, (1), Table 2	—
Annex III, part B, (2)	Annex III, part B, (2)
Annex IV	—
Annex V	—
—	Annex IV
—	Annex V
—	Annex VI

Thursday 28 March 2019

P8_TA(2019)0321

Increasing the efficiency of restructuring, insolvency and discharge procedures ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a directive of the European Parliament and of the Council on preventive restructuring frameworks, second chance and measures to increase the efficiency of restructuring, insolvency and discharge procedures and amending Directive 2012/30/EU (COM(2016)0723 — C8-0475/2016 — 2016/0359(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/52)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0723),

— having regard to Article 294(2) and Articles 53 and 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0475/2016),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Dáil Éireann and the Seanad Éireann, asserting that the draft legislative act does not comply with the principle of subsidiarity,

— having regard to the opinion of the European Economic and Social Committee of 29 March 2017 ([1]),

— having regard to the opinion of the Committee of the Regions of 12 July 2017 ([2])

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 19 December 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Employment and Social Affairs (A8-0269/2018),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 209, 30.6.2017, p. 21.
([2]) OJ C 342, 12.10.2017, p. 43.

Thursday 28 March 2019

P8_TC1-COD(2016)0359

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council on preventive restructuring frameworks, on discharge of debt and disqualifications, and on measures to increase the efficiency of procedures concerning restructuring, insolvency and discharge of debt, and amending Directive (EU) 2017/1132 (Directive on restructuring and insolvency)

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/1023.)

Thursday 28 March 2019

P8_TA(2019)0322

Exercise of copyright and related rights applicable to certain online transmissions and retransmissions of television and radio programmes ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (COM(2016)0594 — C8-0384/2016 — 2016/0284(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/53)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2016)0594),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0384/2016),

— having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,

— having regard to Article 294(3) and to Article 53(1) and Article 62 of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 25 January 2017 ([1]),

— after consulting the Committee of the Regions,

— having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 18 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

— having regard to Rules 59 and 39 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinions of the Committee on Culture and Education, the Committee on Industry, Research and Energy and the Committee on the Internal Market and Consumer Protection (A8-0378/2017),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

([1]) OJ C 125, 21.4.2017, p. 27.

Thursday 28 March 2019

P8_TC1-COD(2016)0284

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Directive (EU) 2019/… of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC

(As an agreement was reached between Parliament and Council, Parliament's position corresponds to the final legislative act, Directive (EU) 2019/789.)

Thursday 28 March 2019

P8_TA(2019)0323

Creative Europe programme 2021-2027 ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing the Creative Europe programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 (COM(2018)0366 — C8-0237/2018 — 2018/0190(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/54)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0366),

— having regard to Article 294(2) and Articles 167(5) and 173(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0237/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 12 December 2018 [1],

— having regard to the opinion of the Committee of the Regions of 6 February 2019 [2],

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Culture and Education and the opinion of the Committee on Budgets (A8-0156/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0190

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council establishing the Creative Europe programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013

(Text with EEA relevance)

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 167(5), and Article 173(3) thereof,

Having regard to the proposal from the European Commission,

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[1] OJ C 110, 22.3.2019, p. 87.
[2] Not yet published in the Official Journal.

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) Culture, ***arts,*** cultural heritage, and cultural diversity are of great value to European society from a cultural, ***educational, democratic,*** environmental, social***, human rights*** and economic point of view and should be promoted and supported. The Rome Declaration of 25 March 2017 as well as the European Council in December 2017 stated that education and culture are key to building inclusive and cohesive societies for all, and to sustaining European competitiveness. **[Am. 1]**.

(2) According to Article 2 of the Treaty on European Union (TEU), the Union is founded on the values of respect for human dignity, freedom democracy, equality, the rule of law and the respect for human rights, including the rights of the persons belonging to minorities. These values are common to the Member States in a society where pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. These values are further reaffirmed and articulated in the rights, freedoms and principles enshrined in the Charter of Fundamental Rights of the European Union ***(the Charter)***, which has the same legal value as the Treaties, as referred to in Article 6 of the TEU. ***In particular, the freedom of expression and information is enshrined in Article 11 of the Charter and the freedom of the arts and science is enshrined in Article 13 of the Charter.*** **[Am. 2]**

(3) Article 3 of the TEU further specifies that the Union's aim is to promote peace, its values and the well-being of its people and that, among others, it shall respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

(4) The Commission Communication on a New European Agenda for Culture ([4]) further sets out the objectives of the Union for the cultural and creative sectors. It aims to harness the power of culture and cultural diversity for social cohesion and societal well-being, fostering the cross-border dimension of cultural and creative sectors, supporting their capacity to grow, encouraging culture-based creativity in education and innovation, and for jobs and growth as well as strengthening international cultural relations. Creative Europe, together with other Union programmes, should support the implementation of this New European Agenda for Culture~~. This~~ ***, taking into account the fact that the intrinsic value of culture and of artistic expression should always be preserved and promoted and that artistic creation is at the heart of cooperation projects. Supporting the implementation of this New European Agenda for Culture*** is also in line with the 2005 UNESCO Convention for the Protection and Promotion of the Diversity of Cultural Expressions, which entered into force on 18 March 2007 and to which the Union is a party. **[Am. 3]**

(4a) Union policies will complement and add value to Member States' intervention in the cultural and creative area. The impact of Union policies should be assessed on a regular basis taking account of qualitative and quantitative indicators such as the benefits for citizens, the active participation of citizens, the benefits for the Union economy in terms of growth and jobs and spill-overs in other sectors of the economy, and the skills and competences of people working in the cultural and creative sectors. **[Am. 4]**

([1]) OJ C 110, 22.3.2019, p. 87.
([2]) OJ C […], […], p. […].
([3]) Position of the European Parliament of 28 March 2019.
([4]) COM(2018)0267.

Thursday 28 March 2019

(4b) ***The safeguarding and enhancement of Europe's cultural heritage are objectives of the Programme. Those objectives have also been recognised as being inherent the right to knowledge of cultural heritage and to participate in cultural life enshrined in the Council of Europe Framework Convention on Cultural Heritage for Society (Faro Convention), which entered into force on 1 June 2011. That Convention underlines the role of cultural heritage in the construction of a peaceful and democratic society, and in the processes of sustainable development and the promotion of cultural diversity.*** **[Am. 5]**

(5) The promotion of European cultural diversity ~~depends on~~ ***and of the awareness of common roots is based on the freedom of artistic expression, the capability and competences of artists and cultural operators,*** the existence of flourishing and resilient cultural and creative sectors~~, able~~ ***in the public and private domain and their ability*** to create, ***innovate and*** produce ***their works*** and distribute ~~their works~~ ***them*** to a large and diverse European audience. This thereby enlarges their business potential***, increases access to and the promotion of creative content, artistic research and creativity*** and contributes to sustainable growth and jobs creation. In addition, promotion of creativity ~~contributes~~ ***and new knowledge contribute*** to boosting competitiveness and ~~sparkling~~ ***sparking*** innovation in the industrial value chains. ***A wider approach to arts and culture education and artistic research should be adopted, progressing from a STEM (Science, Technology, Engineering, Mathematics) approach to a STEAM (Science, Technology, Engineering, Arts, Mathematics) approach.*** In spite of recent progress ***regarding assistance for translation and subtitling,*** the European cultural and creative market continues to be fragmented along national and linguistic lines~~, which do not~~ ***. While respecting the specificity of each market, more can be done to*** allow the cultural and creative sectors to fully benefit from the European single market and the digital single market in particular***, including by taking into account intellectual property rights protection***. **[Am. 6]**

(5a) ***The digital shift represents a paradigm change and is one of the biggest challenges for the cultural and creative sectors. Digital innovation has changed habits, relations and production and consumption models at both a personal and social level and it should boost cultural and creative expression and the cultural and creative narrative, respecting the specific value of the cultural and creative sectors within the digital environment.*** **[Am. 7]**

(6) The Programme should take into account the dual nature of the cultural and creative sectors, recognising, on the one hand, the intrinsic and artistic value of culture and, on the other, the economic value of those sectors, including their broader contribution to growth and competitiveness, creativity, ~~and~~ innovation***, intercultural dialogue, social cohesion and knowledge generation***. This requires strong European cultural and creative sectors, ***both in the for-profit and not-for-profit domains*** in particular a vibrant European audiovisual industry, taking into account its capacity to reach large audiences ***at local, national and Union level*** and its economic importance, including for other creative sectors as well as cultural tourism ***and regional, local and urban development***. However, competition in global audiovisual markets has been further intensified by the deepening digital disruption e.g. changes in media production, consumption and the growing position of global platforms in the distribution of content. Therefore, there is a need to step-up the support to the European industry. **[Am. 8]**

(6a) ***Active European citizenship, shared values, creativity and innovation need a solid ground on which they can develop. The Programme should support film and audiovisual education, in particular among minors and young people.*** **[Am. 9]**

(7) To be effective, the Programme should take into account the specific nature ***and challenges*** of the different sectors, their different target groups and their particular needs through tailor-made approaches within a strand dedicated to the audiovisual sector, a strand dedicated to the other cultural and creative sectors and a cross-sectoral strand. ***The Programme should provide equal support to all the cultural and creative sectors through horizontal schemes targeting common needs. Building on pilot projects, preparatory actions and studies, the Programme should also implement the sectoral actions listed in the Annex to this Regulation***. **[Am. 10]**

(7a) ***Music, in all its forms and expressions, and in particular contemporary and live music, is an important component of the cultural, artistic and economic heritage of the Union. It is an element of social cohesion, multicultural integration and youth socialisation and it serves as a key instrument to enhance culture, including cultural tourism. The music sector should therefore be a particular focus of the specific actions pursued as part of the CULTURE strand under this Regulation in terms of financial distribution and targeted actions. Tailor-made calls and instruments should help boost the competitiveness of the music sector and address some of the specific challenges it faces.*** **[Am. 11]**

(7b) ***Union support needs to be reinforced in the field of international cultural relations. The Programme should seek to contribute to the third strategic objective of the new European Agenda for Culture by harnessing culture and intercultural dialogue as engines for sustainable social and economic development. In the Union and throughout the world, cities are driving new cultural policies. A large number of creative communities have gathered in hubs, incubators and dedicated spaces worldwide. The Union should be instrumental in networking those communities from the Union and third countries and in fostering multi-disciplinary collaboration across artistic, creative and digital skills.*** **[Am. 12]**

(8) The cross-sectoral strand aims ***at addressing the common challenges faced by, and*** at exploiting the potential of collaboration among, different cultural and creative sectors. There are benefits in terms of knowledge-transfer and administrative efficiencies to be gained from a joint transversal approach. **[Am. 13]**

(9) Union intervention is needed in the audiovisual sector to accompany the Union's Digital Single Market policies. This concerns notably the modernisation of the copyright framework ~~and the proposed Regulation on online transmissions of broadcasting organisations~~***by Directive (EU) 2019/789 of the European Parliament and of the Council*** ***([5])***, ~~as well as the proposal to amend~~ ***and*** Directive ~~2010/13/EU of the European Parliament and of the Council ([6])~~ ***(EU) 2018/1808 of the European Parliament and of the Council*** ([7]). They seek to strengthen the capacity of European audiovisual players to ***create,*** finance, produce and disseminate works ~~that can be sufficiently visible~~ ***of various formats*** on the different media of communication available (e.g. TV, cinema or Video On Demand) and attractive to audiences in a more open and competitive market within Europe and beyond. Support should be scaled up in order to address recent market developments and notably the stronger position of global platforms of distribution in comparison to national broadcasters traditionally investing in the production of European works. **[Am. 14]**

(10) The special actions under Creative Europe such as the European Heritage Label, the European Heritage Days, the European prizes in the areas of contemporary, rock and pop music, literature, heritage and architecture and the European Capitals of Culture have directly reached millions of European citizens, have demonstrated the social and economic benefits of European cultural policies, and should therefore be continued and whenever possible expanded. ***The Programme should support the networking activities of the European Heritage Label sites.*** **[Am. 15]**

(10a) ***The Creative Europe Programme under Regulation (EU) No 1295/2013 has sparked the creation of innovative and successful projects that generated good practices in terms of transnational European cooperation in the creative and cultural sectors. In turn, this has increased European cultural diversity for audiences and leveraged the social and economic benefits of European cultural policies. To be more efficient, such success stories should be highlighted and, wherever possible, expanded.*** **[Am. 16]**

(10b) ***All levels of actors in the cultural and creative sectors should be actively involved in the achievement of the Programme objectives and its further development. As the experience of the formal engagement of stakeholders in the participatory governance model of the European Year of Cultural Heritage, established by Decision (EU)***

([5]) ***Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82)***.

~~([6])~~ ~~COM(2016)0287~~.

([7]) ***Directive (EU) 2018/1808 of the European Parliament and of the Council of 14 November 2018 amending Directive 2010/13/EU 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) in view of changing market realities (OJ L 303, 28.11.2018, p. 69)***.

2017/864 of the European Parliament and of the Council ([8]), proved to be efficient in mainstreaming culture, it is advisable to apply this model to the Programme as well. This participatory governance model should include a transversal approach with a view to creating synergies between the various Union programmes and initiatives in the field of culture and creativity. **[Am. 17]**

(10c) A flagship cross-sectoral action aiming at showcasing European creativity and cultural diversity to the Member States and third countries should be included as part of the special actions under the Programme. That action should emphasise the excellence of European culture-based creativity in triggering cross-innovation in the wider economy by awarding a special prize. **[Am. 18]**

(11) Culture is key to ~~strengthen~~ ***strengthening*** inclusive, ~~and~~ cohesive ***and reflective*** communities***, to revitalising territories and to promoting social inclusion for people with a disadvantaged background***. In the context of migration ~~pressure~~ ***issues and integration challenges***, culture ~~has an important role~~ ***plays a fundamental role in creating inclusive spaces for intercultural dialogue and*** in the integration of migrants ~~to help them~~ ***and refugees, helping them to*** feel part of host societies ~~and develop~~ ***, and in the development of*** good relations between migrants and new communities. **[Am. 19]**

(11a) Culture provides for and fosters economic, social and environmental sustainability. It should therefore be at the heart of political development strategies. The contribution of culture to the well-being of society as a whole should be highlighted. In accordance with the Davos Declaration of 22 January 2018 entitled 'Towards a high-quality Baukultur for Europe', steps should therefore be taken to promote a new integrated approach to the shaping of the high quality built environment which is anchored in culture, strengthens social cohesion, guarantees a sustainable environment and contributes to the health and well-being of the population as a whole. That approach should not place an emphasis on urban areas only, but should primarily focus on the interconnectivity of peripheral, remote and rural areas. The concept of Baukultur encompasses all factors which have a direct impact on the quality of life of citizens and communities, thereby fostering inclusivity, cohesion and sustainability in a very concrete way. **[Am. 20]**

(11b) It is a matter of priority that culture, including cultural and audiovisual goods and services, be made more accessible to persons with disabilities as tools to foster their complete personal fulfilment and active participation, thereby contributing to a truly inclusive society based on solidarity. The Programme should therefore promote and increase cultural participation across the Union, in particular with regard to people with disabilities and people from disadvantaged backgrounds as well as people who reside in rural and remote areas. **[Am. 21]**

(12) ***Freedom of*** artistic ***and cultural expression,*** freedom ~~is~~ ***of expression and media pluralism are*** at the core of vibrant cultural and creative ~~industries, including~~ ***sectors and*** the news media sector. The programme should promote ~~cross-overs~~ ***crossovers*** and collaboration between the audiovisual sector and the publishing sector ~~to promote~~ ***with the aim of promoting*** a pluralistic ***and independent*** media environment ***in line with Directive 2010/13/EU of the European Parliament and of the Council ([9]). The Programme should provide support for new media professionals and enhance the development of critical thinking among citizens by means of promoting media literacy, in particular for young people.*** **[Am. 22]**

(12a) The mobility of artists and cultural workers as regards skills development, learning, intercultural awareness, co-creation, co-production, circulation and dissemination of artworks and participation in international events such as fairs and festivals is a key prerequisite for a better linked, stronger and more sustainable cultural and creative sectors in the Union. Such mobility is often hampered by the lack of legal status, difficulties in obtaining visas and the duration of permits, the risk of double taxation and precarious and unstable social security conditions. **[Am. 23]**

([8]) Decision (EU) 2017/864 of the European Parliament and of the Council of 17 May 2017 on a European Year of Cultural Heritage (2018) (OJ L 131, 20.5.2017, p. 1).

([9]) 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) In line with Articles 8 and 10 of the Treaty on the Functioning of the European Union (TFEU), the Programme in all its activities should support gender mainstreaming and the mainstreaming of non-discrimination objectives and, where applicable, should define appropriate gender balance ***and diversity*** criteria. ***The Programme should seek to ensure that participation in the Programme and projects carried out under the Programme reach and reflect the diversity of European society. The activities carried out under the Programme should be monitored and reported upon in order to ascertain the performance of the Programme in that respect and enable policy makers to make better-informed decisions as regards future programmes.*** **[Am. 24]**

(13a) Women are very present in the artistic and cultural field in the Union as authors, professionals, teachers, and as an audience with a growing access of the cultural public. However, as evidenced by research and studies such as the European Women's Audiovisual Network for film directors and by the We Must project in the music field, there are gender pay disparities and it is less likely for women to realise their works and occupy decision-making positions in cultural, artistic and creative institutions. Therefore, it is necessary to promote female talents and to circulate their works in order to support women's artistic careers. **[Am. 25]**

(14) In line with the Joint Communication 'Towards an EU strategy for international cultural relations', endorsed by the European Parliament's resolution of 5 July 2017 ([10]), European funding instruments and in particular this programme should recognize the relevance of culture in international relations and its role in promoting European values by dedicated and targeted actions designed to have a clear Union impact on the global scene.

(14a) In line with the conclusions drawn following the European Year of Cultural Heritage 2018, the Programme should enhance the cooperation and advocacy capacity of the sector through support for activities related to the legacy of the European Year of Cultural Heritage 2018 and taking stock of it. In that connection, attention should be drawn to the statement issued by the Council of Culture Ministers in November 2018 and the statements made at the closing ceremony of the Council held on 7 December 2018. The Programme should contribute to the long-term sustainable preservation of European cultural heritage through support actions for the artisans and craftspeople skilled in the traditional trades related to cultural heritage restoration. **[Am. 26]**

(15) In line with the Commission Communication 'Towards an integrated approach to cultural heritage for Europe' of 22 July 2014 ([11]), relevant policies and instruments should draw out the long term and sustainability value of Europe's ***past, present, tangible, intangible and digital*** cultural heritage and develop a more integrated approach to its preservation***, conservation, adaptive re-use, dissemination,*** ~~and~~ valorisation and support ***by supporting a high quality and coordinated sharing of professional knowledge and the development of common high quality standards for the sector and mobility for sector professionals. Cultural heritage is an integral part of European cohesion and supports the link between tradition and innovation. Preserving cultural heritage and supporting artists, creators and craftsmanship should be a priority of the Programme.*** **[Am. 27]**

(15a) The Programme should contribute to the engagement and involvement of citizens and civil society organisations in culture and society, to the promotion of cultural education and to making cultural knowledge and heritage publicly accessible. The Programme should also nurture quality and innovation in creation and conservation, including through synergies among culture, arts, science, research and technology. **[Am. 28]**

(16) In line with the Commission Communication 'Investing in a smart, innovative and sustainable Industry — A renewed Industrial Policy strategy' of 13 September 2017 ([12]), future actions should contribute to the integration of creativity, design and cutting-edge technologies to generate new industrial value chains and revitalise competitiveness of traditional industries.

([10]) JOIN/2016/029
([11]) COM(2014)0477.
([12]) COM(2017)0479.

Thursday 28 March 2019

(16a) In line with the European Parliament resolution of 13 December 2016 on a coherent EU policy for cultural and creative industries, supporting cultural and creative sectors should be a cross-cutting issue. Projects should be integrated throughout the Programme in order to support new business models and skills, traditional savoir-faire as well as translating creative and interdisciplinary solutions into economic and social value. Furthermore, potential synergies that exist between Union policies should be fully exploited so as to effectively use the funding available under Union programmes such as Horizon Europe, the Connecting Europe Facility, Erasmus +, EaSI and InvestEU. **[Am. 29]**

(17) The Programme should be open, subject to certain conditions, to the participation of European Free Trade Association members, acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy as well as countries covered by the European Neighbourhood Policy and Union's strategic partners.

(18) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorizing officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences. ***The contributions of third countries to the Programme should be reported on an annual basis to the budgetary authority.*** **[Am. 30]**

(19) The Programme should foster the cooperation between the Union and international organisations such as the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the Council of Europe, including Eurimages and the European Audiovisual Observatory ('the Observatory'), the Organisation for Economic Co-operation and Development and the World Intellectual Property Organisation. This programme should also support the Union commitments relating to the Sustainable Development Goals, in particular its cultural dimension ([13]). As regards the audiovisual sector, the programme should ensure the Union's contribution to the work of the European Audiovisual Observatory.

(20) 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, this Programme will contribute to mainstream climate actions and to the achievement of an overall target of 25 % of the Union budget expenditures supporting climate objectives. Relevant actions will be identified during the Programme's preparation and implementation, and reassessed in the context of the relevant evaluations and review processes.

(21) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the TFEU apply to this Regulation. These rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ***([14])*** (the 'Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the member States, as the respect for the rule of law is an essential precondition for sound financial management and effective Union funding.

(22) Since its creation, the European Film Academy has ~~developed a unique~~ ***contributed, by means of its special*** expertise and ~~is in a~~ unique position ~~to create~~ ***to the development of*** a pan-European community of film creators and professionals, promoting and disseminating European films beyond their national borders and ~~developing truly European audiences~~ ***fostering the emergence of an international audience of all ages***. Therefore, it should ***exceptionally*** be eligible for direct Union support ***in the context of its cooperation with the European Parliament in organising the LUX Film Prize***. ***However, the direct support must be linked to the negotiation of a cooperation***

([13]) 2030 Agenda for Sustainable Development, adopted by the United Nations in September 2015, A/RES/70/1

([14]) 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).

agreement, with specific missions and objectives, between the two parties and it should only be possible to provide the direct support once that agreement has been concluded. This does not preclude the European Film Academy from applying for funding for other initiatives and projects under the different strands of the Programme. **[Am. 31]**

(23) Since its creation, the European Union Youth Orchestra has developed a unique expertise in promoting ***rich European musical heritage, access to music and*** intercultural dialogue, ***and*** mutual respect and understanding through culture***, as well as in reinforcing the professionalism of young musicians, providing them with the skills necessary for a career in the cultural and creative sector. Member States and Union institutions, including successive Presidents of the Commission and of the European Parliament, have recognised the contribution of the European Union Orchestra***. The particularity of the European Union Youth Orchestra lies in the fact that it is a European orchestra that transcends cultural boundaries and is composed of young musicians selected in accordance with demanding artistic criteria through a rigorous ***and transparent*** annual audition process in all Member States. Therefore, it should ***exceptionally*** be eligible for direct Union support ***on the basis of specific missions and objectives to be established and assessed regularly by the Commission. In order to secure that support, the European Union Youth Orchestra should increase its visibility, strive to achieve a more balanced representation of musicians from all Member States within the orchestra and diversify its revenues by actively seeking financial support from sources other than Union funding.*** **[Am. 32]**

(24) Organisations from the cultural and creative sectors with a large European geographical coverage and whose activities entail delivering cultural services directly to the Union's citizens and that thus have the potential to have direct impact on European identity should be eligible for Union support.

(25) In order to ensure efficient allocation of funds from the general budget of the Union, it is necessary to ensure the European added value of all actions and activities carried out with the Programme, their complementarity to Member States' activities, while consistency, complementarity and synergies should be sought with funding programmes supporting policy areas with close links to each other as well as with horizontal policies such as Union competition policy.

(26) Financial support should be used to address market failures or sub-optimal investment situations, in a proportionate manner and actions should not duplicate or crowd out private financing or distort competition in the Internal market. Actions should have a clear European added value ***and be suitable for the specific projects they support. The Programme should not only take into consideration the economic value of the projects but also their cultural and creative dimension and the specificity of the sectors concerned.*** **[Am. 33]**

(26a) Funding from the programmes established by Regulation …/…[Neighbourhood Development and International Cooperation Instrument ([15]) and Regulation …/… [IPA III ([16])] should also be used to finance actions under the international dimension of the Programme. Those actions should be implemented in accordance with this Regulation. **[Am. 34]**

(27) ~~One of the greatest challenges of~~ The cultural and creative sectors ~~is~~ ***are innovative, resilient and growing sectors in the Union economy, which generate economic and cultural value from intellectual property and individual creativity. However, their fragmentation and the intangible nature of their assets limits their access to private financing. One of the greatest challenges for the cultural and creative sectors is to increase*** their access to finance ~~allowing their activities~~ ***, which is essential*** to grow, maintain or ~~increase~~ ***scale-up*** their competitiveness ~~or internationalise their activities~~ ***at the international level.*** The policy objectives of this Programme should also be addressed through financial instruments and budgetary guarantee***, especially for SMEs,*** under the policy window(s) of the Invest EU Fund ***in line with the practices developed in the framework of the Cultural and Creative Sectors Guarantee Facility set up by Regulation (EU) No 1295/2013.*** **[Am. 35]**

(28) ***Impact, quality and efficiency in implementation of the Project should constitute key evaluation criteria for the selection of the project in question.*** Taking into account the technical expertise required to assess proposals under specific actions of the Programme it should be provided that, where relevant, evaluation committees may be

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([15]) 2018/0243(COD).
([16]) 2018/0247(COD).

composed of external experts ***who should have a professional and management background related to the field of the application being evaluated. Where relevant, the need to ensure the overall coherence with the objectives of audience inclusion and diversity should be taken into account***. **[Am. 36]**

(29) The Programme should include a realistic and manageable system of ***quantitative and qualitative*** performance indicators to accompany its actions and monitor its performance on a continuous basis***, taking into account the intrinsic value of the art and cultural and creative sectors. Such performance indicators should be developed with stakeholders***. This monitoring as well as information and communication actions relating to the Programme and its actions should build on the three strands of the programme. ***The strands should take into account one or more quantitative and qualitative indicators. Those indicators should be assessed in accordance with this Regulation***. **[Am. 37]**

(29a) Considering the complexity and difficulty of finding, analysing and adapting data and of measuring the impact of cultural policies and defining indicators, the Commission should reinforce the cooperation within its services such as the Joint Research Centre and Eurostat with the purpose of gathering appropriate statistical data. The Commission should act in cooperation with centres of excellence in the Union, national statistical institutes and organisations relevant to the cultural and creative sectors in Europe and in collaboration with the Council of Europe, the Organisation for Economic Co-operation and Development (OECD) and Unesco. **[Am. 38]**

(30) This Regulation lays down a financial envelope for the Creative Europe programme which is to constitute the prime reference amount, within the meaning of point 17 of the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ([17]), for the European Parliament and the Council during the annual budgetary procedure.

(31) Regulation (EU, Euratom) No […] (the 'Financial Regulation') applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants including those to third parties, prizes, procurement, financial instruments and budgetary guarantees.

(32) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of ~~their~~ ***the project operator's*** ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular***, the size of the operator and the project***, the costs of controls, the administrative burden, and the expected risk of non-compliance. This 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. **[Am. 39]**

(33) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ([18]), Council Regulation (Euratom, EC) No 2988/95 ([19]), Council Regulation (Euratom, EC) No 2185/96 ([20]) and Council Regulation (EU) 2017/1939 ([21]), the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96 the European Anti-Fraud Office (OLAF) may 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. In accordance with Regulation (EU)

([17]) OJ C 373, 20.12.2013, p. 1.

([18]) 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).

([19]) 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).

([20]) 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).

([21]) 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).

2017/1939, the European Public Prosecutor's Office (EPPO) may 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 ([22]). In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(33a) In order to optimise synergies between Union funds and directly managed instruments, the provision of support for operations that have already received a Seal of Excellence certification should be facilitated. **[Am. 40]**

(34) Pursuant to Article 94 of Council Decision 2013/755/EU ([23]), persons and entities established in overseas countries and territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked. ***The constraints imposed by the remoteness of those countries or territories should be taken into account when implementing the Programme, and their effective participation should be monitored and regularly evaluated.*** **[Am. 41]**

(34a) In accordance with Article 349 TFEU, measures should be taken to increase the outermost regions' participation in all actions. Mobility exchanges for their artists and their works, and cooperation between people and organisations from those regions and their neighbours and third countries should be fostered. It will thus be possible for the people to benefit equally from the competitive advantages that the cultural and creative industries can offer, in particular economic growth and employment. Such measures should be monitored and evaluated regularly. **[Am. 42]**

(35) In order to amend non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of indicators laid down in Article 15 and in Annex II. The Commission should carry out appropriate consultations during its preparatory work, including at expert level. Those consultations should be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(36) In order to ensure ~~smooth implementation of~~ ***the continuity of funding support provided under*** the Programme ***and to cover the increasing funding gaps experienced by beneficiaries***, the costs incurred by the beneficiary before the grant application is submitted, in particular costs related to intellectual property rights, ~~may~~ ***should*** be considered as eligible, provided that they are directly linked to the implementation of the supported actions. **[Am. 43]**

(37) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016, there is a need to evaluate this Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on Member States. These requirements, where appropriate, can include measurable indicators, as a basis for evaluating the effects of the Programme on the ground.

(38) ~~In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt the work programmes. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ([24]).~~ ***The power to adopt acts in accordance with Article 290 of the TFEU should be delegated to the Commission in respect of adopting work programmes.*** It is necessary to ensure the correct closure of the predecessor programme, in particular as regards the continuation of multi-annual arrangements for its management, such as the financing of technical and

([22]) 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).

([23]) 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).

([24]) ~~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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).~~

administrative assistance. As from [1 January 2021], the technical and administrative assistance should ensure, if necessary, the management of actions that have not yet been finalised under the predecessor programme by [31 December 2020]. **[Am. 44]**

(38a) In order to ensure an effective and efficient implementation of the Programme, the Commission should ensure that there is no unnecessary bureaucratic burden on the applicants during the application stage or during the processing stage of the applications. **[Am. 45]**

(38b) Particular attention should be paid to small-scale projects and their added value, given the specificities of the cultural and creative sectors. **[Am. 46]**

(39) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for the right to equality between men and women and the right to non-discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation, and to promote the application of Articles 21 and 23 of the Charter of Fundamental Rights of the European Union. It is also in line with the United Nations Convention on the Rights or Persons with Disabilities.

(40) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of their transnational character, the high volume and wide geographical scope of the mobility and cooperation activities funded, their effects on access to learning mobility and more generally on Union integration, as well as their reinforced international dimension, 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.

(41) Regulation (EU) No 1295/2013 should therefore be repealed with effect from [1 January 2021].

(42) In order to ensure continuity in the funding support provided under the Programme, this Regulation should apply from [1 January 2021].

HAVE ADOPTED THIS REGULATION:

Chapter I

General Provisions

Article 1

Subject matter

This Regulation establishes the Creative Europe programme (the 'Programme').

It lays down the objectives of the Programme, the budget for the period 2021 — 2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

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

(1) 'blending operation' means actions supported by the EU budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and financial instruments from the EU budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;

(2) 'cultural and creative sectors' means all sectors whose activities are based on cultural values or artistic and other individual or collective creative expressions***, and practices, whether those activities are market or non-market oriented***. The activities may include the development, the creation, the production, the dissemination and the preservation of ***practices,*** goods and services which embody cultural, artistic or other creative expressions, as well as

related functions such as education or management. ~~They will~~ ***Many of those*** have a potential to generate innovation and jobs in particular from intellectual property. The sectors include architecture, archives, libraries and museums, artistic crafts, audiovisual (including film, television, video games and multimedia), tangible and intangible cultural heritage, ~~design (including fashion design), festivals,~~ music, literature, performing arts, books and publishing, radio, ~~and~~ visual arts***, festivals, and design, including fashion design***; **[Am. 47]**

(3) 'small and medium enterprises (SMEs)' means micro, small and medium-sized enterprises, as defined in Commission Recommendation 2003/361/EC ([25])

(4) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with [Article 197(2)(c)] of the Financial Regulation;

(5) 'the Seal of Excellence' is the high-quality label awarded to projects submitted to Creative Europe which are deemed to deserve funding but do not receive it due to budget limits. It recognises the value of the proposal and supports the search for alternative funding.

Article 3

Programme objectives

(1) The general objectives of the Programme are:

(-a) to contribute to the recognition and promotion of the intrinsic value of culture and to safeguard and promote the quality of European culture and creativity as a distinctive dimension of personal development, education, social cohesion, freedom of expression and opinion, and the arts, strengthening and enhancing democracy, critical thinking, the sense of belonging and citizenship and as sources for a pluralistic media and cultural landscape; **[Am. 48]**

(a) to promote European cooperation on cultural***, artistic*** and linguistic diversity ~~and~~***, including through enhancing the role of artists and cultural operators, the quality of European cultural and artistic production, and of the common tangible and intangible European cultural*** heritage; **[Am. 49]**

(b) to ~~increase~~ ***foster*** the competitiveness of ~~the~~ ***all*** cultural and creative sectors ***and to increase their economic weight***, in particular the audiovisual sector***, by means of job creation in, and of increasing innovation, creativity of, those sectors***. **[Am. 50]**

(2) The programme has the following specific objectives:

(a) enhancing the economic ***artistic***, ***cultural*** social and external dimension of European level cooperation to develop and promote European cultural diversity and Europe's cultural ***tangible and intangible*** heritage, ~~and~~ strengthening the competitiveness ***and innovation*** of the European cultural and creative sectors and reinforcing international cultural relations; **[Am. 51]**

(aa) promoting the cultural and creative sectors, including the audiovisual sector, supporting artists, operators, craftspeople and audience engagement with a particular focus on gender equality and underrepresented groups; **[Am. 52]**

(b) promoting ~~the~~ ***, innovation,*** competitiveness and scalability of the European ***audiovisual sector, in particular of SMEs, independent production companies and organisations in the cultural and creative sectors and promoting the quality of the activities of the European*** audiovisual ~~industry~~ ***sector in a sustainable way aiming at a balanced sectoral and geographical approach***; **[Am. 53]**

([25]) OJ L 124, 20.5.2003

(c) promoting policy cooperation and innovative actions***, including new business and management models and creative solutions,*** supporting all strands of the programme ***and all cultural and creative sectors***, including ***safeguarding the freedom of artistic expression and*** the promotion of a diverse***, independent*** and pluralistic ~~environment~~***, cultural and*** media ***environments***, media literacy***, digital skills, cultural and artistic education, gender equality, active citizenship, intercultural dialogue, resilience*** and social inclusion***, in particular of persons with disabilities, including through greater accessibility of cultural goods and services;*** **[Am. 54]**

(ca) promoting the mobility of artists and the cultural and creative sectors' operators and the circulation of their works; **[Am. 55]**

(cb) providing the cultural and creative sectors with data, analyses and an adequate set of qualitative and quantitative indicators and developing a coherent system of evaluations and impact assessments, including those with a cross-sectoral dimension. **[Am. 56]**

(3) The Programme shall cover the following strands:

(a) 'CULTURE' covers cultural and creative sectors with the exception of the audiovisual sector;

(b) 'MEDIA' covers the audiovisual sector;

(c) 'CROSS SECTORAL strand' covers activities across all cultural and creative sectors***, including the news media sector***. **[Am. 57]**

Article 3a

European added value

Recognising the intrinsic and economic value of culture and creativity and respecting the quality and plurality of Union values and policies.

The Programme shall support only those actions and activities which deliver potential European added value and which contribute to the achievement of the objectives referred to in Article 3.

The European added value of the actions and activities of the Programme shall be ensured, for example, through:

(a) the transnational character of actions and activities which complement regional, national, international and other Union programmes and policies, and the impact of such actions and activities on citizens' access to culture, the active engagement of citizens, education, social inclusion and intercultural dialogue;

(b) the development and promotion of transnational and international cooperation between cultural and creative players, including artists, audiovisual professionals, cultural and creative organisations and SMEs and audiovisual operators, that are focused on stimulating more comprehensive, rapid, effective and long-term responses to global challenges, in particular to the digital shift;

(c) the economies of scale and growth and jobs which Union support fosters, creating a leverage effect for additional funds;

(d) ensuring a more level playing field in the cultural and creative sectors by taking account of the specificities of different countries, including countries or regions with a particular geographical or linguistic situation, such as the outermost regions recognised in Article 349 TFEU and the overseas countries or territories coming under the authority of a Member State listed in Annex II of the TFEU;

(e) promoting a narrative on European common roots and diversity. **[Am. 58]**

Thursday 28 March 2019

Article 4

Strand CULTURE

In line with the objectives referred to in Article 3, the strand 'CULTURE' shall have the following priorities:

(-a) to promote artistic expression and creation; **[Am. 59]**

(-aa) to nurture talents, competence and skills and to stimulate collaboration and innovation through the whole chain of the cultural and creative sectors, including heritage; **[Am. 60]**

(a) to strengthen the cross-border dimension ~~and~~, circulation ***and visibility*** of European cultural and creative operators and ***their*** works ***including through residency programmes, touring, events, workshops, exhibitions and festivals, as well as facilitating the exchange of best practices and enhancing professional capacities***; **[Am. 61]**

(b) to increase cultural ***access,*** participation ***and awareness, and audience engagement*** across Europe***, especially with regard to people with disabilities or people from disadvantaged backgrounds***; **[Am. 62]**

(c) to promote societal resilience and ***to enhance*** social inclusion***, intercultural and democratic dialogue and cultural exchange*** through ***arts,*** culture and cultural heritage; **[Am. 63]**

(d) to enhance the capacity of European cultural and creative sectors to prosper and ***innovate, to create artistic works,*** to generate ***and to develop key competences, knowledge, skills, new artistic practices and sustainable*** jobs and growth ***and to contribute to local and regional development***; **[Am. 64]**

(da) to foster the professional capacity of persons in the cultural and creative sectors, empowering them through appropriate measures; **[Am. 65]**

(e) to strengthen European identity ~~and~~ ***, active citizenship and the sense of community and democratic*** values through cultural awareness, ~~arts~~ ***cultural heritage, expression, critical thinking, artistic expression, visibility and recognition of creators, arts,*** education and culture-based creativity in ~~education~~ ***formal, non-formal and informal lifelong learning***; **[Am. 66]**

(f) to promote international capacity building of European cultural and creative sectors***, including grass-roots and micro-organisations,*** to be active at the international level; **[Am. 67]**

(g) to contribute to the Union 's global strategy for international ***cultural*** relations ***by aiming to ensure the long-term impact of the strategy*** through ***a people-to-people approach involving*** cultural ~~diplomacy~~ ***networks, civil society and grassroots organisations***. **[Am. 68]**

The priorities are further detailed in Annex I.

As part of the specific actions pursued under the CULTURE strand, the music sector shall be a particular focus in terms of financial distribution and targeted actions. Tailor-made calls and instruments shall help boost the competitiveness of the music sector and address some of the specific challenges it faces. **[Am. 69]**

Thursday 28 March 2019

Article 5

Strand MEDIA

In line with the objectives referred to in Article 3, the strand 'MEDIA' shall have the following priorities:

(a) to nurture talents***, competence,*** ~~and~~ skills ***and the use of digital technologies*** and to stimulate collaboration***, mobility***, and innovation in the creation and production of European audiovisual works***, including across borders***; **[Am. 70]**

(b) to enhance ***the transnational and international circulation and online and offline distribution, in particular*** theatrical ~~and online~~ distribution ~~and provide wider access across borders to~~ ***, of*** European audiovisual works~~, including through innovative business models and the use of new technologies~~ ***in the new digital environment***; **[Am. 71]**

(ba) to provide wider access to Union audiovisual works for international audiences, in particular through promotion, events, film literacy activities and festivals; **[Am. 72]**

(bb) to enhance audiovisual heritage and to facilitate access to, and to support and promote, audiovisual archives and libraries as sources of memory, education, re-use and new business, including through the latest digital technologies; **[Am. 73]**

(c) to promote European ***audiovisual*** works and support ***the engagement of*** audience ~~development~~ ***of all ages, in particular young audiences and people with disabilities, for the proactive and legal use of audiovisual works*** across Europe and beyond ***and for the sharing of user-generated content, including by promoting film and audiovisual education***. **[Am. 74]**

These priorities shall be addressed through support to the creation, promotion, access, and dissemination of European works***, spreading European values and common identity*** with the potential to reach ~~large~~ audiences ***of all ages*** within Europe and beyond, thereby adapting to new market developments and accompanying the Audiovisual Media Services Directive. **[Am. 75]**

The priorities are further detailed in Annex I.

Article 6

CROSS SECTORAL strand

In line with the objectives of the Programme referred to in Article 3, the 'CROSS SECTORAL strand' shall have the following priorities:

(a) to support cross-sectoral transnational policy cooperation including on ***promoting*** the role of culture for social inclusion ~~and~~***, in particular as regards for persons with disabilities and for enhancing democracy and to*** promote the knowledge of the programme and support the transferability of results ***in order to increase the visibility of the Programme***; **[Am. 76]**

(b) to promote innovative approaches to ***artistic*** content creation ***and artistic research***, access, distribution and promotion ***taking into account copyright protection,*** across ***the*** cultural and creative sectors***, covering both market and non-market dimensions***; **[Am. 77]**

(c) to promote cross cutting activities covering several sectors aiming at adjusting to the structural ***and technological*** changes faced by the media sector, including enhancing a free, diverse, and pluralistic media***, artistic and cultural*** environment, ~~quality~~ ***professional ethics in*** journalism***, critical thinking*** and media literacy***, in particular among young people by helping with adapting to new medial tools and formats and countering the spread of disinformation***; **[Am. 78]**

(d) to set up, and support ***the active involvement of,*** programme desks ***in participating countries,*** to promote the Programme in their ~~country~~ ***countries, in a fair and balanced way, including through network activities on the ground, and to support the applicants in relation to the Programme and provide basic information on other relevant support opportunities available under Union funded programmes*** and to stimulate cross-border cooperation ***and the exchange of best practices*** within the cultural and creative sectors. **[Am. 79]**

The priorities are further detailed in Annex I.

Article 7

Budget

1. The financial envelope for the implementation of the Programme for the period 2021 — 2027 shall be EUR ~~1 850 000 000 in current~~ ***2 806 000 000 in constant*** prices. **[Am. 80]**

The programme shall be implemented according to the following indicative financial distribution:

— ~~up to EUR 609 000 000~~ ***not less than 33 %*** for the objective referred to in Article 3 (2)(a) (strand CULTURE); **[Am. 81]**

— ~~up to EUR 1 081 000 000~~ ***not less than 58 %*** for the objective referred to in Article 3(2)(b) (strand MEDIA); **[Am. 82]**

— up to ~~EUR 160 000 000~~ ***9 %*** for the activities referred to in Article 3(2)(c) (CROSS SECTORAL strand) ***ensuring a financial allocation to each national Creative Europe Desk at least at the same level as the financial allocation provided for under Regulation (EU) No 1295/2013***. **[Am. 83]**

2. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

3. In addition to the financial envelope as indicated in paragraph 1, and in order to promote the international dimension of the Programme, additional financial contributions may be made available from the external financing instruments [Neighbourhood, Development and International Cooperation Instrument, the Instrument for Pre-accession Assistance (IPA III)], to support actions implemented and managed in accordance with this Regulation. This contribution shall be financed in accordance with the Regulations establishing those instruments ***and reported every year to the budgetary authority, along with the contributions of third countries to the programme***. **[Am. 84]**

4. Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with [Article 62(1)(a)] of the Financial Regulation or indirectly in accordance with [Article 62(1)(c)] of that Regulation. Where possible those resources shall be used for the benefit of the Member State concerned.

Article 8

Third countries associated to the Programme

1. The Programme shall be open to the following third countries:

(a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;

(b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

Thursday 28 March 2019

(c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

(d) other countries, in accordance with the conditions laid down in a specific single agreement covering the participation of the third country to any Union programme, provided that the agreement:

(a) ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

(b) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];

(c) does not confer to the third country a decisional power on the programme;

(d) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

Third countries may participate in the Programmes' governance structures and stakeholder forums for the purpose of facilitating information exchange. **[Am. 85]**

2. The participation to the MEDIA and CROSS SECTORAL strands by the countries referred to in points (a)~~, (b) and (c)~~ ***to (d)*** of paragraph 1 shall be subject to fulfilment of the conditions set out in Directive 2010/13/EU. **[Am. 151]**

3. The agreements concluded with countries specified in point (c) of paragraph 1 may derogate from the obligations set out in paragraph 2 in duly justified cases.

3a. Agreements with the third countries associated to the Programme under this Regulation shall be facilitated through procedures that are faster than those under Regulation (EU) No 1295/2013. Agreements with new countries shall be proactively promoted. **[Am. 86]**

Article 8a

Other third countries

The Programme may support cooperation with third countries other than those referred to in Article 8 with regard to actions financed through additional contributions from the external financing instruments according to Article 7(3) if it is in the Union's interest.

Article 9

Cooperation with international organisations and the European Audiovisual Observatory

1. Access to the Programme shall be open to international organisations active in the areas covered by the Programme***, such as Unesco, the Council of Europe, by means of a more structured collaboration with Cultural Routes and Euroimages, EUIPO Observatory, the World Intellectual Property Organisation and the OECD, on the basis of joint contributions, for the achievement of the Programme objectives and*** in accordance with the Financial Regulation. **[Am. 87]**

2. The Union shall be a member of the European Audiovisual Observatory for the duration of the Programme. The Union's participation in the Observatory shall contribute to the achievement of the priorities of the MEDIA strand. The Commission shall represent the Union in its dealings with the Observatory. The MEDIA strand shall support the payment of the contribution fee for Union membership of the Observatory ~~to foster~~ ***and*** data collection and analysis in the audiovisual sector. **[Am. 152]**

Thursday 28 March 2019

Article 9a

Data gathering on culture and creative sectors

The Commission shall reinforce the cooperation within its services such as the Joint Research Centre and Eurostat with the purpose of gathering appropriate statistical data to measure and analyse the impact of cultural policies. For that task, the Commission shall act in cooperation with centres of excellence in Europe and national statistical institutes and shall act in collaboration with the Council of Europe, the OECD and Unesco. It shall thereby contribute to the achievement of the objectives of the CULTURE strand and closely follow further cultural policy developments, also by including stakeholders at an early stage in the reflection and adaptation of indicators common to different sectors or specific indicators per domain of activities. The Commission shall report regularly to the European Parliament on those activities. **[Am. 88]**

Article 10

Implementation and forms of EU funding

1. The Programme shall be implemented in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article 62(1)(c) of the Financial Regulation.

2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes, and procurement. It may also provide financing in the form of financial instruments within blending operations.

3. Blending operations under this Programme shall be implemented in accordance with ~~the [InvestEU regulation] and~~ Title X of the Financial Regulation ***and the procedures laid down in [InvestEU Regulation]***. ***The dedicated guarantee facility created under Creative Europe shall be continued under the [InvestEU regulation] and shall take account of the implementation practices developed in the framework of the Cultural and Creative Sectors Guarantee Facility set up by Regulation (EU) No 1295/2013***. **[Am. 89]**

4. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation XXX [successor of the Regulation on the Guarantee Fund]***, built on, and taking into account, the implementation practices already developed,*** shall apply. **[Am. 90]**

4a. In order to promote the international dimension of the Programme, the programmes established by Regulation …/…[Neighbourhood Development and International Cooperation Instrument]and Regulation …/… [IPA III] shall financially contribute to actions established under this Regulation. This Regulation shall apply to the use of those programmes, while ensuring conformity with the Regulations respectively governing them. **[Am. 91]**

Article 11

Protection of Financial Interest of the Union

Where a third country participates in the programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013.

Article 12

Work programmes

1. The Programme shall be implemented by ***annual*** work programmes referred to in Article 110 of the Financial Regulation. ***The adoption of work programmes shall be preceded by consultations with the various stakeholders in order to ensure that the actions planned will support the different sectors involved in the best way possible***. Work programmes shall set out, where applicable, the overall amount reserved for blending operations***, which shall not supplant direct funding in the form of grants***.

The general and specific objectives and corresponding policy priorities and actions of the Programme, as well as the allocated budget per action, shall be specified in detail in the annual work programmes. The annual work programme shall also contain an indicative implementation timetable. **[Am. 92]**

2. The ***Commission shall adopt delegated acts in accordance with Article 19 supplementing this Regulation by establishing annual*** work ~~programme shall be adopted by the Commission by means of an implementing act~~ ***programmes***. **[Am. 93]**

Chapter II

Grants and eligible entities

Article 13

Grants

1. Grants under the Programme shall be awarded and managed in accordance with Title VIII of the Financial Regulation.

1a. The calls for proposal may take into account the necessity of ensuring appropriate support to small-scale projects under the CULTURE strand through measures that may include higher co-financing rates. **[Am. 94]**

1b. The grants shall be awarded taking into account the following features of the project concerned:

(a) quality of the project;

(b) impact;

(c) quality and efficiency in its implementation. **[Am. 95]**

2. The evaluation committee may be composed of external experts. ***It shall meet in the physical presence of its members or remotely***.

The experts shall have a professional background related to the field assessed. The evaluation committee may request the opinion of experts from the country of application. **[Am. 96]**

3. By way of derogation from Article 193(2) of the Financial Regulation, and in duly justified cases, costs incurred by the beneficiary before the submission of the grant application, ~~may~~ ***shall*** be considered eligible, provided that they are directly linked to the implementation of the supported actions and activities. **[Am. 97]**

4. Where applicable, the actions of the Programme shall define appropriate non-discrimination criteria, including on gender balance.

Article 14

Eligible entities

1. The eligibility criteria set out in paragraphs 2 to 4 shall apply in addition to the criteria set out in [Article 197] of the Financial Regulation.

2. The following entities are eligible:

(a) legal entities established in any of the following countries:

(1) a Member State or an overseas country or territory linked to it;

(2) third countries associated to the Programme;

(3) third country listed in the work programme under the conditions specified in paragraphs 3 and 4;

(b) any legal entity created under Union law or any international organisation.

3. Legal entities established in a third country, which is not associated to the Programme are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.

4. Legal entities established in a third country, which is not associated to the programme should in principle bear the cost of their participation. Additional contributions from the external financing instruments according to Article 7(3) may cover the costs of their participation if it is in the Union's interest.

5. The following entities may ***exceptionally*** be awarded grants without a call for proposal***, on the basis of specific missions and objectives to be defined by the Commission and assessed regularly in line with the objectives of the Programme***: **[Am. 98]**

(a) The European Film Academy ***in the context of cooperation with the European Parliament on the LUX Film Prize, following a cooperation agreement negotiated between and signed by the parties and in collaboration with Europa Cinemas***; ***until such time as the cooperation agreement has been concluded, the relevant appropriations shall be placed in the reserve***; **[Am. 99]**

(b) The European Union Youth Orchestra ***for its activities, including the regular selection of, and training for, young musicians from all Member States through residence programmes that offer mobility and the opportunity to perform in festivals and tours within the Union and at the international level and that contribute to the circulation of European culture across borders and to the internationalisation of young musicians' careers, aiming at a geographical balance of participants; the European Union Youth Orchestra shall continuously diversify its revenues by actively seeking financial support from new sources, reducing its dependence on Union funding; the activities of the European Union Youth Orchestra shall be in line with the Programme and the CULTURE strand objectives and priorities, in particular audience engagement***. **[Am. 100]**

Chapter III

Synergies and complementarity

Article 15

Complementarity

The Commission, in cooperation with the Member States, shall ensure the overall consistency and complementarity of the Programme with the relevant policies and programmes, in particular those relating to gender balance, education, ***in particular digital education and media literacy,*** youth and solidarity, employment and social inclusion, ***in particular for marginalised groups and minorities,*** research and ***innovation, including social*** innovation, industry and enterprise, agriculture and rural development, environment and climate action, cohesion, regional and urban policy, ***sustainable tourism,*** State aid***, mobility*** and international cooperation and development***, also in order to promote effective use of public funds;***

The Commission shall ensure that, when the procedures laid down in [InvestEU Programme] are applied for the purposes of the Programme, they take into account the practices developed in the framework of the Cultural and Creative Sectors Guarantee Facility set up by Regulation (EU) No 1295/2013. **[Am. 101]**

Article 16

Cumulative and combined funding

1. An action that has received a contribution under the Programme may also receive a contribution from any other Union programme, including Funds under Regulation (EU) No XX/XXXX [CPR], provided that the contributions do not cover the same costs. The cumulative financing shall not exceed the total eligible costs of the action and the support from different Union programmes may be calculated on a pro-rata basis.

2. A proposal eligible under the Programme may be awarded a Seal of Excellence provided that it complies with the following cumulative conditions:

(a) it has been assessed in a call for proposals under the Programme;

(b) it complies with the ~~minimum~~ ***high*** quality requirements of that call for proposals; **[Am. 102]**

(c) it may not be financed under that call for proposals due to budgetary constraints.

2a. Proposals that have been awarded a Seal of Excellence may receive funding directly from other programmes and from funds under Regulation [CPR Regulation COM(2018)0375] in accordance with Article 67(5) thereof, provided that such proposals are consistent with the objectives of the Programme. The Commission shall ensure that the selection and award criteria for the projects to be awarded the Seal of Excellence are coherent, clear and transparent for the potential beneficiaries. **[Am. 103]**

Article 16a

Cultural and Creative Sectors Guarantee Facility under InvestEU

1. Financial support through the new InvestEU Programme shall build on the objectives and the criteria of the Cultural and Creative Sectors Guarantee Facility taking into account the specificity of the sector.

2. The InvestEU Programme shall provide:

(a) SMEs and micro, small and medium-sized organisations in the cultural and creative sectors with access to finance;

(b) guarantees to participating financial intermediaries from any country participating in the Guarantee Facility;

(c) participating financial intermediaries with additional expertise to evaluate risks associated with SMEs and micro, small and medium-sized organisations and with cultural and creative projects;

(d) the volume of debt financing made available to SMEs and micro, small and medium-sized organisations;

(e) SMEs and micro, small and medium-sized organisations across regions and sectors with the ability to build a diversified loan portfolio and to propose a marketing and promotion plan;

(f) the following types of loans: investment in tangible and intangible assets with the exclusion of personal collateral; business transfer; working capital, such as interim finance, gap finance, cash flow and credit lines. **[Am. 104]**

Chapter IV

Monitoring, Evaluation and Control

Article 17

Monitoring and reporting

1. Indicators to report on progress of the Programme towards the achievement of the objectives laid down in Article 3 are set in Annex II.

1a. The strands shall have a common set of qualitative indicators. Each strand shall have a dedicated set of indicators. **[Am. 105]**

2. To ensure effective assessment of progress of the programme towards the achievement of its objectives, the Commission is empowered to adopt delegated acts in accordance with Article 19 to develop the provisions for a monitoring and evaluation framework, including amendments to Annex II in order to review or supplement the indicators ~~where necessary for monitoring and evaluation~~. ***The Commission shall adopt a delegated act on indicators by 31 December 2022***. **[Am. 106]**

3. The performance reporting system shall ensure that data for monitoring programme implementation and results are collected efficiently, effectively, and in a timely manner. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where relevant, Member States.

Article 18

Evaluation

1. Evaluations shall be carried out in a timely manner to feed into the decision-making process.

1a. The available figures on the amount of commitment and payment appropriations that would have been needed to finance the projects awarded with the Seal of Excellence shall be communicated every year to the two branches of the budgetary authority, at least 3 months prior to the date of the publication of their respective positions on the Union budget for the following year, according to the commonly agreed calendar for the annual budgetary procedure. **[Am. 107]**

2. The ~~interim evaluation~~ ***mid-term review*** of the Programme shall be performed ~~once there is sufficient information available about the implementation of the Programme, but no later than four years after the start of the programme implementation~~ ***by 30 June 2024***.

The Commission shall submit the mid-term evaluation report to the European Parliament and to the Council by 31 December 2024.

The Commission shall submit, where necessary and on the basis of the mid-term review, a legislative proposal to revise this Regulation. **[Am. 108]**

3. At the end of the implementation of the Programme, but no later than two years after the end of the period specified in Article 1, a final evaluation of the Programme shall be ~~carried out~~ ***submitted*** by the Commission. **[Am. 109]**

4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

5. The evaluation reporting system shall ensure that data for programme evaluation are collected efficiently, effectively, in a timely manner and at the appropriate level of granularity. Such data and information shall be communicated to the Commission, in a way that complies with other legal provisions; for instance, when necessary, personal data shall be made anonymous. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds.

Article 19

Exercise of the delegation

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

2. The power to adopt delegated acts referred to in Articles 12(2) and 17 shall be conferred on the Commission until 31 December 2028.

Thursday 28 March 2019

3. The delegation of power referred to in Articles 12(2) and 17 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 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 on Better Law-Making of 13 April 2016.

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 12(2) and 17 shall enter into force 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 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.

Chapter V

Transitional and Final Provisions

Article 20

Information, communication and publicity

1. The recipients of Union funding 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 proportionate targeted information to multiple audiences, including the media and the public***, in particular the name of the Programme and, for actions funded under the MEDIA strand, the MEDIA logo. The Commission shall develop a CULTURE logo which shall be used for actions funded under the CULTURE strand.*** **[Am. 110]**

2. The Commission shall implement information and communication actions relating to the Programme, and its actions and results supported through its strands. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3.

Article 21

Repeal

Regulation (EU) No 1295/2013 is repealed with effect from 1 January 2021.

Article 22

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions concerned, until their closure, under Regulation (EU) No 1295/2013 which shall continue to apply to the actions concerned until their closure.

2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Regulation (EU) No 1295/2013.

3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 7(4), to enable the management of actions not completed by 31 December 2027.

Article 23

Entry into force

This Regulation shall enter into force on the twentieth 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 …,

For the European Parliament	*For the Council*
The President	*The President*

Thursday 28 March 2019

ANNEX I

Complementary information about the activities to be funded

1. CULTURE STRAND

The priorities of the CULTURE strand of the Programme referred to in Article 4 shall be pursued through the following actions:

Horizontal actions:

(a) ***Transnational*** cooperation projects ***with a clear distinction between small, medium and large scale projects and with special attention to micro and small-sized cultural organisations***; **[Am. 111]**

(b) European networks of cultural and creative organisations from different countries;

(c) Cultural and creative pan-European platforms;

(d) Mobility of artists***, artisans*** and cultural and creative operators ***in their transnational activity including covering costs related to artistic activity, circulation of artistic and cultural works***; **[Am. 112]**

(e) Support to cultural and creative organisations to operate at international level ***and to develop their capacity building***; **[Am. 113]**

(f) Policy development, cooperation and implementation in the field of culture, including through the provision of data and exchange of best practices or pilot projects.

Sectorial actions:

(a) Support to the music sector: promoting diversity, creativity and innovation in the field of music, in particular ***live music sector, also through networking,*** the distribution ~~of~~ ***and promotion of a diverse European*** musical ***works and*** repertoire in Europe and beyond, training ~~actions and~~ ***participation in and access to, music,*** audience development ~~for European repertoire~~***, the visibility and recognition of creators, promoters and artists, in particular young and emerging ones***, as well as support for data gathering and analysis; **[Am. 114]**

(b) Support to the book and publishing sector: targeted actions promoting diversity, creativity ~~and~~, innovation, in particular the translation ~~and~~ ***, the adaptation in accessible formats for people with disabilities,*** promotion of European literature across borders in Europe and beyond***, also through libraries***, training and exchanges for sector professionals, authors and translators as well as transnational projects for collaboration, innovation and development in the sector; **[Am. 115]**

(c) Support to ~~architecture and~~ cultural heritage sectors ***and architecture***: targeted actions for the mobility of operators, ***research, establishment of high quality standards,*** capacity-building, ***sharing of the professional knowledge and skills for artisans,*** audience ~~development and internationalization of the cultural heritage and architecture sectors, promotion of Baukultur~~ ***engagement***, support to the safeguarding, conservation ~~and~~ ***, regeneration of life space, adaptive re-use, promotion of Baukultur, sustainability, dissemination,*** enhancement ***and internationalization*** of cultural heritage and its values through awareness-raising, networking ~~and~~ peer-to-peer learning activities; **[Am. 116]**

(d) Support to other sectors: targeted ***promotion*** actions in favour of the development of the creative aspects of ***other sectors, including*** the design and fashion sectors and ***a sustainable*** cultural tourism as well as to their promotion and representation outside the European Union. **[Am. 117]**

Support to all cultural and creative sectors in areas of common need, whereas a sectoral action may be developed as appropriate in cases where the specificities of a sub-sector justify a targeted approach. A horizontal approach shall be taken for transnational projects for collaboration, mobility and internationalisation, including through residency programmes, touring, events, live performances, exhibitions and festivals, as well as for the promotion of diversity, creativity and innovation, training and exchanges for sector professionals, capacity building, networking, skills, audience development and data gathering and analysis. Sectoral actions shall benefit from budgets which are proportionate to the sectors identified as priorities. Sectoral actions should help address the specific challenges faced by the different priority sectors identified in this Annex, building on existing pilot projects, and preparatory actions. **[Am. 118]**

Special actions aiming at rendering visible and tangible European *identity and its* cultural diversity and heritage and nurturing intercultural dialogue: [Am. 119]

(a) European Capitals of Culture ensuring financial support to Decision No 445/2014/EU of the European Parliament and of the Council [1];

(b) European Heritage Label ensuring financial support to Decision No 1194/2011/EU of the European Parliament and of the Council [2] ***and network of the European Heritage Label sites***; **[Am. 120]**

(c) EU cultural prizes***, including the European Theatre Prize***; **[Am. 121]**

(d) European Heritage Days;

(da) actions aiming at interdisciplinary productions relating to Europe and its values; **[Am. 122]**

(e) Support to such European cultural institutions that aim at delivering direct cultural service to European citizens with a large geographical coverage.

2. MEDIA STRAND

The priorities of the MEDIA strand of the Programme referred to in Article 5 shall take into account ***the requirements of Directive 2010/13/EU and*** the differences across countries regarding audiovisual content production, distribution, and access, as well as the size and specificities of the respective markets and shall be pursued through, *inter alia*: **[Am. 123]**

(a) Development of ***European*** audiovisual works***, in particular films and television works such as fiction, short films, documentaries, children's films and animated films, and interactive works such as quality and narrative video games and multimedia, with enhanced cross-border circulation potential by European independent production companies***; **[Am. 124]**

(b) Production of innovative ***and quality*** TV content and serial storytelling***, for all ages, by supporting European independent production companies***; **[Am. 125]**

(ba) Support to initiatives dedicated to the creation and promotion of works related to the history of European integration and to European stories; **[Am. 126]**

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[1] Decision No 445/2014/EU of the European Parliament and of the Council of 16 April 2014 establishing a Union action for the European Capitals of Culture for the years 2020 to 2033 and repealing Decision No 1622/2006/EC (OJ L 132, 3.5.2014, p. 1).

[2] Decision No 1194/2011/EU of the European Parliament and of the Council of 16 November 2011 establishing a European Union action for the European Heritage Label (OJ L 303, 22.11.2011, p. 1).

Thursday 28 March 2019

(c) ***Promotion,*** advertising and marketing tools, including on line and through the use of data analytics, to increase the prominence, visibility, cross-border access, and audience reach of European works; **[Am. 127]**

(d) Support to international sales and circulation of non-national European works ***on all platforms targeting both small and large-sized productions*** on all platforms, including through coordinated distribution strategies covering several countries ***and subtitling, dubbing and audio description***; **[Am. 128]**

(da) Actions aimed at supporting low capacity countries to improve their respective identified shortcomings; **[Am. 129]**

(e) Support to business to business exchanges and networking activities to facilitate European and international co-productions ***and the circulation of European works***; **[Am. 130]**

(ea) Support to European networks of audiovisual creators from different countries aiming at nurturing creative talents in the audiovisual sector; **[Am. 131]**

(eb) Specific measures to contribute to the fair treatment of creative talent in the audiovisual sector; **[Am. 132]**

(f) Promote European works in industry events and fairs in Europe and beyond;

(g) Initiatives promoting audience development and ~~film~~ ***engagement, in particular in cinemas and film and audiovisual*** education addressing in particular young audiences; **[Am. 133]**

(h) Training and mentoring activities to enhance the capacity of audiovisual operators***, including artisans and craftspeople,*** to adapt to new market developments and digital technologies; **[Am. 134]**

(i) ~~A~~ ***One or more*** European Video on Demand (VOD) ***networks of*** operators'~~ network~~, screening a significant proportion of non-national European works; **[Am. 135]**

(j) European festivals'~~ network(s)~~ ***and festivals networks*** screening ***and promoting a variety of European audiovisual works, with*** a significant proportion of non-national European works; **[Am. 136]**

(k) A European cinema operators' network, screening a significant proportion of non-national European films***, contributing to reinforce the role of cinema theatres in the value chain and highlighting public screenings as a social experience***; **[Am. 137]**

(l) Specific measures***, including mentoring and networking activities,*** to contribute to a more balanced gender participation in the audiovisual sector; **[Am. 138]**

(m) Support policy dialogue, innovative policy actions and exchange of best practices — including through analytical activities and the provision of reliable data;

(n) Transnational exchange of experiences and know-how, peer learning activities and networking among the audiovisual sector and policy makers.

(na) Support to the circulation of, and multilingual access to, cultural television content online and offline, including through subtitling, in order to promote the richness and diversity of European cultural heritage, contemporary creations and languages. **[Am. 139]**

3. CROSS SECTORAL STRAND

The priorities of the CROSS SECTORAL strand of the Programme referred to in Article 6 shall be pursued through, in particular:

Policy Cooperation and outreach:

(a) Policy development, transnational exchange of experiences and know-how, peer learning activities***, including peer mentoring for newcomers to the Programme, awareness raising*** and networking among cultural and creative organisations and policy makers of a cross-sectoral nature ***also through a permanent structural dialogue with stakeholders, and with a Forum of Culture and Creative Sectors for strengthening dialogue and the orientation of sector policies***; **[Am. 140]**

(b) Analytical cross-sectoral activities;

(c) Support actions that aim at fostering trans-border policy cooperation and policy development on the role of social inclusion through culture;

(d) Enhance knowledge of the programme and the topics it covers, foster citizen outreach, and help the transferability of results beyond Member State level.

The Creative Innovation Lab:

(a) Encourage new forms of creation at the cross roads between different cultural and creative sectors, ***and with operators of other sectors,*** for instance through the use of, ***and mentoring in the use of,*** innovative technologies ***within cultural organisations and collaboration through digital hubs***; **[Am. 141]**

(b) Foster innovative cross sectoral approaches and tools to facilitate access, distribution, promotion and monetisation of culture and creativity, including cultural heritage.

(ba) Actions aiming at interdisciplinary productions relating to Europe and its values; **[Am. 142]**

Programme Desks:

(a) Promote the programme at national level and provide ***relevant*** information on the various types of financial support available under union policy ***and on the evaluation criteria, procedure and results***; **[Am. 143]**

(b) ***Support potential beneficiaries in application processes,*** stimulate cross border cooperation ***and the exchange of best practices*** between professionals, institutions, platforms and networks within and across the policy areas and sectors covered by the programme; **[Am. 144]**

(c) Support the Commission in ensuring a ***bottom-up and top-down*** proper communication and dissemination of the results of the programme to the citizens ***and to the operators***. **[Am. 145]**

Cross cutting activities supporting the news media sector:

(a) Addressing the structural ***and technological*** changes faced by the ***news*** media sector by promoting ~~and monitoring a diverse~~ ***an independent*** and pluralistic media environment ***and supporting independent monitoring for assessing risks and challenges to media pluralism and freedom***; **[Am. 146]**

(b) Supporting high media production standards by fostering cooperation, ***digital skills,*** cross-border collaborative journalism, and quality content ***and sustainable media economic models to ensure professional ethics in journalism***; **[Am. 147]**

Thursday 28 March 2019

(c) Promoting media literacy to allow citizens***, in particular young people,*** to develop a critical understanding of the media ***and supporting the creation of a Union platform to share media literacy practices and policies among all the Member States, including through university networks of radio and media which deal with Europe and providing news media professionals with training programmes in order to recognise and tackle disinformation***. [Am. 148]**

***(ca) Fostering and safeguarding political and civil society dialogue on threats to media freedom and media pluralism in Europe;* [Am. 149]**

Thursday 28 March 2019

ANNEX II

COMMON QUALITATIVE AND QUANTITATIVE IMPACT INDICATORS OF THE PROGRAMME

(1) Benefit for citizens and communities;

(2) Benefit for the strengthening of European cultural diversity and cultural heritage;

(3) Benefit for the Union economy and jobs, in particular cultural and creative sectors and SMEs;

(4) Mainstreaming of Union policies, including international cultural relations;

(5) European added value of projects;

(6) Quality of partnerships and cultural projects;

(7) Number of people accessing European cultural and creative works supported by the Programme;

(8) Number of employment positions linked to the funded projects;

(9) Gender balance, where needed, mobility and empowerment of the operators in the cultural and creative sectors. **[Am. 150]**

Indicators

CULTURE STRAND:

Number and scale of transnational partnerships created with the support of the Programme
Number of artists & cultural &/or creative players (geographically) mobile beyond national borders due to Programme support, by country of origin
Number of people accessing European cultural and creative works generated by the Programme, including works from countries other than their own
The number of projects supported by the Programme addressed to disadvantaged groups, namely unemployed youth and migrants
The number of projects supported by the Programme involving third countries organisations

MEDIA STRAND:

The number of people accessing European audiovisual works from countries other than their own and supported by the Programme
Number of participants in learning activities supported by the Programme who assess they have improved their competences and increased their employability
Number and budget of co-productions developed and created with the support of the Programme
Number of people reached by Business to Business promotional activities in major markets

Thursday 28 March 2019

CROSS-SECTORAL STRAND:

Number and scale of transnational partnerships formed (composite indicator for creative innovation labs and news media actions)
Number of events promoting the Programme organised by the programme desks

Thursday 28 March 2019

P8_TA(2019)0324

‘Erasmus’: the Union programme for education, training, youth and sport ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a regulation of the European Parliament and of the Council establishing ‘Erasmus’: the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013 (COM(2018)0367 — C8-0233/2018 — 2018/0191(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/55)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0367),

— having regard to Article 294(2) and Articles 165(4) and 166(4) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0233/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 6 February 2019 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the report of the Committee on Culture and Education and the opinions of the Committee on Development, the Committee on Budgets and the Committee on Employment and Social Affairs (A8-0111/2019),

1. Adopts its position at first reading hereinafter set out;

2. Approves its statement annexed to this resolution;

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0191

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council establishing ~~‘Erasmus’~~ ‘*Erasmus+*’: the Union programme for education, training, youth and sport and repealing Regulation (EU) No 1288/2013 [Am. 1 This amendment applies throughout the text]

(Text with EEA relevance)

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 Articles 165(4) and 166(4) thereof,

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([1]) OJ C 62, 15.2.2019, p. 194.
([2]) OJ C 168, 16.5.2019, p. 49.

Thursday 28 March 2019

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) ~~In a context of rapid and profound changes induced by technological revolution and globalisation,~~ Investing in learning mobility ***for all, regardless of social or cultural background and irrespective of means***, ***as well as in*** cooperation and innovative policy development in the fields of education, training, youth and sport is key to building inclusive***, democratic***, cohesive and resilient societies and sustaining the competitiveness of the Union, while contributing to strengthening European identity***, principles and values*** and to a more democratic Union. **[Am. 2]**

(2) In its Communication on Strengthening European Identity through Education and Culture of 14 November 2017, the Commission put forward its vision to work towards a European Education Area by 2025, in which learning would not be hampered by borders; a Union, where spending time in another Member State for purposes of studying and learning in any form or setting would become the standard and where, in addition to one's mother tongue, speaking two other languages would become the norm; a Union in which people would have a strong sense of their identity as Europeans, of Europe's cultural heritage and its diversity. In this context, the Commission emphasised the need to boost the tried-and-tested Erasmus+ programme in all categories of learners that it already covers and reaching out to learners with fewer opportunities.

(3) The importance of education, training and youth for the future of the Union is reflected in the Commission's Communication of 14 February 2018 entitled 'A new, modern Multiannual Financial Framework for a European Union that delivers efficiently on its priorities post-2020' ([4]), which stresses the need to deliver on the commitments made by the Member States at the Gothenburg Social Summit, including through the full implementation of the European Pillar of Social Rights ([5]) and its first principle on education, training and lifelong learning. The Communication stresses the need to step up mobility and exchanges, including through a substantially strengthened, inclusive and extended programme, as had been called for by the European Council in its conclusions of 14 December 2017.

(4) The European Pillar of Social Rights, solemnly proclaimed and signed on 17 November 2017 by the European Parliament, the Council and the Commission, lays down, as its first key principle, that everyone has the right to quality and inclusive education, training and lifelong learning in order to maintain and acquire skills that enable them to participate fully in society and manage successfully transitions in the labour market. ***The European Pillar of Social Rights also makes clear the importance of good quality early childhood education and of ensuring equal opportunities for all.*** **[Am. 3]**

(5) On 16 September 2016 in Bratislava, leaders of twenty-seven Member States stressed their determination to provide better opportunities for youth. In the Rome Declaration signed on 25 March 2017, leaders of twenty-seven Member States and of the European Council, the European Parliament and the European Commission pledged to work towards a Union where young people receive the best education and training and can study and find jobs across the ~~Union~~ ***continent***; a Union which preserves our cultural heritage and promotes cultural diversity***; a Union which fights unemployment, discrimination, social exclusion and poverty***. **[Am. 4]**

([1]) OJ C , , p. .
([2]) OJ C , , p. .
([3]) Position of the European Parliament of 28 March 2019.
([4]) COM(2018)0098.
([5]) OJ C 428, 13.12.2017, p. 10.

(6) The mid-term evaluation report of the 2014-2020 Erasmus+ programme confirmed that the creation of a single programme on education, training, youth and sport resulted in significant simplification, rationalisation and synergies in the management of the Programme while further improvements are necessary to further consolidate the efficiency gains of the 2014-2020 Programme. In the consultations for the mid-term evaluation and on the future Programme, Member States and stakeholders made a strong call for continuity in the Programme's scope, architecture and delivery mechanisms, while calling for a number of improvements, such as making the Programme more inclusive***, simpler and more manageable for smaller beneficiaries and smaller projects***. They also expressed their full support for keeping the Programme integrated and underpinned by the lifelong learning paradigm. The European Parliament, in its Resolution of 2 February 2017 on the implementation of Erasmus+, welcomed the integrated structure of the programme and called on the Commission to exploit fully the lifelong learning dimension of the programme by fostering and encouraging cross-sectoral cooperation in the future programme. ***The Commission's Impact Assessment,*** Member States and stakeholders also highlighted the need to ~~keep a strong~~ ***further strengthen the*** international dimension in the Programme and to extend it to other sectors of education and training***, as well as to youth and sport***. **[Am. 5]**

(7) The open public consultation on Union funding in the areas of values and mobility confirmed these key findings and emphasised the need to make the future programme a more inclusive programme and to continue to focus priorities on modernising education and training systems as well as strengthening priorities on fostering European identity, active citizenship and participation in democratic life.

(7a) The European Court of Auditors, in its Special Report No. 22/2018 of 3 July 2018 on Erasmus+ ([6]), underlined that the Programme has delivered demonstrable European added value, but that not all dimensions of that added value, such as a greater sense of European identity or enhanced multilingualism, are being adequately taken into account or measured. The Court considered that the next Programme should ensure that indicators are better aligned with the objectives of the Programme to ensure proper performance assessment. The Court's report also noted that, despite simplification efforts in the 2014-2020 Programme, administrative burdens remain too high and therefore recommended that the Commission further simplify Programme procedures, in particular application procedures and reporting requirements, and that it improve IT tools. **[Am. 6]**

(8) In its Communication on 'A modern budget for a Union that protects, empowers and defends — the multiannual financial framework for 2021-2027' ([7]) adopted on 2 May 2018, the Commission called for ***greater investment in people and*** a stronger 'youth' focus in the next financial framework~~, notably by more than doubling the size of the 2014-2020~~ ***and recognised that the*** Erasmus+ Programme, ***has been*** one of the Union's most visible success stories. ~~The focus of the new~~ ***Despite that overall success, the 2014-2020*** Programme ~~should be on inclusiveness, and to reach more young~~ ***remained unable to meet the high demand for funding and suffered from low project success rates. To remedy those shortcomings, it is necessary to increase the multiannual budget for the successor Programme to the 2014-2020 Programme. Moreover, the successor Programme aims to be more inclusive by reaching more*** people with fewer opportunities~~. This should allow more young people to move to another country to learn or work~~***, and incorporates a number of new and ambitious initiatives. Therefore, as underlined by the European Parliament in its resolution of 14 March 2018 on the next multiannual financial framework, it is necessary to triple the budget, in constant prices, for the successor Programme as compared to the multiannual financial framework for the 2014-2020 period.*** **[Am. 7]**

([6]) Special Report No. 22/2018 of the European Court of Auditors of 3 July 2018 entitled 'Mobility under Erasmus+: Millions of Participants and multi-faceted European Added Value, however performance measurement needs to be further improved'.

([7]) COM(2018)0321.

Thursday 28 March 2019

(9) In this context, it is necessary to establish the successor programme for education, training, youth and sport (the 'Programme') of the 2014-2020 Erasmus + programme established by Regulation (EU) No 1288/2013 of the European Parliament and the Council ([8]). The integrated nature of the 2014-2020 programme covering learning in all contexts — formal, non-formal and informal, and at all stages of life — should be ~~maintained~~ ***reinforced in order to ensure a lifelong learning approach and*** to boost flexible learning paths allowing ~~individuals to develop those~~ ***people to acquire and improve the knowledge, skills and*** competences that are necessary to ***develop as individuals and to*** face the challenges ***and make the most of the opportunities*** of the twenty-first century. ***Such an approach should also recognise the value of non-formal and informal education activities and the links between them.*** **[Am. 8]**

(10) The Programme should be equipped to become an even greater contributor to the implementation of the Union's policy objectives and priorities in the field of education, training, youth and sport. A coherent lifelong learning approach is central to managing the different transitions that people will face over the course of their life cycle***, in particular older people who need to learn new life skills or skills for an evolving labour market. Such an approach should be encouraged through effective cross-sectoral cooperation and through greater interaction among different forms of education***. In taking this approach forward, the next Programme should maintain a close relationship with the overall strategic framework for Union policy cooperation in the field of education, training and youth, including the policy agendas for schools, higher education, vocational education and training and adult learning, while reinforcing and developing new synergies with other related Union programmes and policy areas. **[Am. 9]**

(10a) Organisations operating in a cross-border context provide an important contribution to the transnational and international dimension of the Programme. Therefore, where applicable, the Programme should provide support to relevant Union-level networks and European and international organisations whose activities relate to and contribute to the objectives of the Programme. **[Am. 10]**

(11) The Programme is a key component of building a European Education Area ***and of developing the key competences for lifelong learning, as set out in the Council Recommendation of 22 May 2018 on key competences for lifelong learning*** ([9]), ***by 2025***. It should be equipped to contribute to the successor of the strategic framework for cooperation in education and training and the Skills Agenda for Europe ([10]) with a shared commitment to the strategic importance of skills, ~~and~~ competences ***and knowledge*** for sustaining ***and creating*** jobs, growth ~~and~~, competitiveness***, innovation and social cohesion***. It should support Member States in reaching the goals of the Paris Declaration on promoting citizenship and the common values of freedom, tolerance and non-discrimination through education ([11]). **[Am. 11]**

(12) The Programme should be coherent with the new European Union youth strategy ([12]), the framework for European cooperation in the youth field for 2019-2027, based on the Commission's Communication of 22 May 2018 on 'Engaging, connecting and empowering young people: a new EU Youth Strategy' ([13])***, including the Strategy's aim of supporting high-quality youth work and non-formal learning***. **[Am. 12]**

([8]) Regulation (EU) No 1288/2013 of the European Parliament and the Council of 11 December 2013 establishing 'Erasmus+': the Union programme for education, training, youth and sport and repealing Decisions No 1719/2006/EC, No 1720/2006/EC and No 1298/2008/EC (OJ L 347, 20.12.2013, p. 50).

([9]) ***OJ C 189, 4.6.2018, p. 1.***

([10]) COM(2016)0381.

([11]) [Reference].

([12]) [Reference - *to be adopted by the Council by the end of 2018*].

([13]) COM(2018)0269.

(13) The Programme should take into account the Union work plan for sport which is the cooperation framework at Union level in the field of sport for the years […] ([14]). Coherence and complementarity should be ensured between the Union work plan and actions supported under the Programme in the field of sport. There is a need to focus in particular on grassroots sports, taking into account the important role that sports play in promoting physical activity and ***a*** healthy lifestyle***, interpersonal relations***, social inclusion and equality. The Programme should ***support mobility actions only in the context of grassroots sport, both for young people practising organised sport on a regular basis and sport staff. It is also important to recognise that sport staff can be professionals, in the sense that they earn a living through sport, and yet still be engaged in grassroots sport. Mobility actions should therefore also be open to this group. The Programme should*** contribute to ~~promote~~ ***promoting common*** European ~~common~~ values through sport, good governance and integrity in sport, ***sustainability and good environmental practices in sport,*** as well as education, training and skills in and through sport. ***It should be possible for all relevant stakeholders, including education and training institutions, to participate in partnerships, cooperation and policy dialogue in the field of sport.*** **[Am. 13]**

(14) The Programme should contribute to strengthening the Union's innovation capacity notably by supporting mobility and cooperation activities that foster the development of ***skills and*** competences in forward-looking study fields or disciplines such as science, technology, ***arts,*** engineering and mathematics ***(STEAM)***, climate change, ~~the environment~~ ***environmental protection, sustainable development***, clean energy, artificial intelligence, robotics, data analysis ~~and arts/design~~***, design and architecture, and digital and media literacy***, to help people develop knowledge, skills and competences needed for the future. **[Am. 14]**

(14a) In line with its mission to drive innovation in education and training, the Programme should support the development of educational and learning strategies targeted at gifted and talented children, irrespective of their nationality, socio-economic status or gender. **[Am. 15]**

(14b) The Programme should contribute to the follow-up of the European Year of Cultural Heritage by supporting activities designed to develop skills needed to protect and preserve European cultural heritage and to exploit fully the educational opportunities the cultural and creative sector offers. **[Am. 16]**

(15) Synergies with Horizon Europe should ensure that combined resources from the Programme and the Horizon Europe Programme ([15]) are used to support activities dedicated to strengthening and modernising European higher education institutions. Horizon Europe will~~, where appropriate,~~ complement the Programme's support for ***actions and initiatives that demonstrate a research dimension, such as*** the European Universities initiative, ~~in particular its research dimension~~ as part of developing new joint and integrated ~~long-term~~ ***long-term*** and sustainable strategies on education, research and innovation. Synergies with Horizon Europe will help to foster the integration of education and research***, in particular*** in higher education institutions. **[Am. 17]**

(16) The Programme should be more inclusive by improving ~~its outreach to those~~ ***participation rates among people*** with fewer opportunities***. It is important to recognise that low levels of participation among people with fewer opportunities could stem from different causes and depend on different national contexts. Therefore, within a Union-wide framework, national agencies should develop inclusion strategies with measures to improve outreach, simplify procedures, offer training and support and monitor effectiveness. Other mechanisms for enhancing inclusion should be used***, including ~~through~~ ***by providing*** more flexible learning mobility formats ***in line with the needs of people with fewer opportunities***, and ~~by~~ fostering ***the*** participation of small ***and local*** organisations, in particular newcomers and community-based grassroots organisations that work directly with disadvantaged learners of all ages. ~~Virtual formats, such as virtual cooperation, blended and virtual mobility, should~~

([14]) [Reference].
([15]) COM(2018) [].

~~be promoted to reach more participants, in particular those with fewer opportunities and those for whom moving physically to a country other than their country of residence would be an obstacle.~~ **[Am. 18]**

(16a) Where people with fewer opportunities are unable to participate in the Programme for financial reasons, whether because of their economic situation or because of the higher Programme participation costs that their specific situation generates, as is often the case for people with disabilities, the Commission and the Member States should ensure that adequate financial support measures are put in place. Such measures can include other Union instruments, such as the European Social Fund Plus, national schemes or grant adjustments or top-ups through the Programme. In assessing whether people with fewer opportunities are unable to participate in the Programme for financial reasons and the level of support they require, objective criteria should be used. The additional costs of measures to facilitate inclusion should never constitute grounds for rejection of an application. **[Am. 19]**

(16b) The Programme should continue to focus its support on physical learning mobility and should open up greater opportunities for people with fewer opportunities to benefit from physical learning mobility actions. At the same time, it should be recognised that virtual formats, such as virtual cooperation, blended learning and virtual learning, can effectively complement physical learning mobility and maximise its effectiveness. In exceptional cases, where people are unable to participate in mobility actions and activities, virtual formats may enable them to enjoy many of the benefits of the Programme in a cost-effective and innovative way. Therefore, the Programme should also provide support for such virtual formats and tools. Such formats and tools, in particular those used for language learning, should be made as widely available as possible to the public. **[Am. 20]**

(16c) In line with the obligations of the Union and the Member States under the United Nations Convention on the Rights of Persons with Disabilities, in particular Article 9 thereof on accessibility and Article 24 thereof on education, special attention should be given to ensuring that people with disabilities enjoy non-discriminatory and barrier-free access to the Programme. To that end, additional support, including financial support, should be provided, where required. **[Am. 21]**

(16d) Legal and administrative obstacles, such as difficulties in obtaining visas and residence permits and in accessing support services, in particular health services, can impede access to the Programme. Therefore, Member States should adopt all necessary measures to remove such obstacles, in full compliance with Union law, and to facilitate cross-border exchanges, for example by issuing the European Health Insurance Card. **[Am. 22]**

(17) In its Communication on Strengthening European identity through education and culture, the Commission highlighted the pivotal role of education, culture and sport in promoting active citizenship, ~~and~~ common values ***and a sense of solidarity*** amongst the youngest generations. Strengthening European identity and fostering the active participation of individuals ***and civil society*** in the democratic processes is crucial for the future of Europe and our democratic societies. Going abroad to study, learn, train and work or to participate in youth and sport activities contributes to strengthening this European identity in all its diversity and the sense of being part of a cultural community as well as to fostering such active citizenship, ***social cohesion and critical thinking*** among people of all ages. Those taking part in mobility activities should get involved in their local communities as well as ~~engage~~ ***engaging*** in their host country local communities to share their experience. Activities linked to reinforcing all aspects of creativity in education, training and youth and enhancing individual key ~~competencies~~ ***competences*** should be supported. **[Am. 23]**

(17a) It is important that the Programme deliver European added value. Therefore, actions and activities should only be eligible for funding under the Programme if they can demonstrate potential European added value. It should be possible to demonstrate European added value in a number of ways, for example through the transnational character of the actions, their complementarity and synergies with other Union programmes and policies, their contribution to the effective use of Union transparency and recognition tools, their contribution to the development of Union-wide quality assurance standards, their contribution to the development of Union-wide

common standards in education and training programmes, their promotion of multilingualism and intercultural and interfaith dialogue, their fostering of a European sense of belonging and their strengthening of European citizenship. **[Am. 24]**

(18) The international dimension of the Programme should be boosted ~~aiming at~~ ***by*** offering a greater number of opportunities ***for both individuals and organisations*** for mobility, cooperation and policy dialogue with third countries not associated to the Programme***, in particular developing countries. The international dimension should support skills development and people-to-people exchanges and, for nationals of developing countries in particular, should support the transfer of knowledge back to their countries of origin at the end of their periods of study. It should also strengthen capacity-building of education systems in developing countries***. Building on the successful implementation of international higher education and youth activities under the predecessor programmes in the fields of education, training and youth, the international mobility activities should be extended to other sectors, such as in vocational education and training ***and sport***. **[Am. 25]**

(18a) To enhance the impact of activities in developing countries, it is important to enhance synergies between Erasmus + and instruments for Union external action, such as the Neighbourhood, Development and the International Cooperation Instrument and the Instrument for Pre-Accession Assistance. **[Am. 26]**

(19) The basic architecture of the 2014-2020 programme in three chapters — education and training, youth and sport — structured around three key actions has proved successful and should be maintained. Improvements to streamline and rationalise the actions supported by the Programme should be introduced.

(20) The Programme should reinforce existing learning mobility opportunities, notably in those sectors where the Programme could have the biggest efficiency gains, to broaden its reach and meet the high unmet demand. This should be done notably by increasing and facilitating mobility activities for higher education students ***and staff***, school pupils and ***staff, including pre-school teachers and early-years education and care staff and*** learners ~~in~~ ***and staff in vocational education with targeted measures that take into account the specific educational needs of the intended beneficiaries. Mobility opportunities for*** vocational education and training ~~. Mobility of low-skilled adult~~ learners ***in border regions*** should be ~~embedded in partnerships for cooperation~~ ***further promoted in order to prepare them for the specific cross-border labour market context. The Programme should also offer mobility opportunities for adult education learners and staff. The main objectives of adult education are the transfer of knowledge, competences and skills and the promotion of social inclusion, active citizenship, personal development and well-being***. Mobility opportunities for youth participating in non-formal learning activities should also be extended to reach more young people***, especially newcomers, those with fewer opportunities and hard-to-reach population groups***. Mobility of staff in education, training, youth and sport should also be reinforced, considering its leverage effect***, with a particular focus on reskilling and upskilling and promoting skills development for the labour market***. In line with the vision of a true European Education Area, the Programme should also boost mobility and exchanges and promote student participation in educational and cultural ***and sport*** activities by ~~supporting digitalisation of~~ ***digitalising*** processes ***to facilitate application procedures and participation in the Programme, by developing user-friendly online systems based on best practice and by creating new tools***, such as the European Student Card. This initiative can be an important step in making mobility for all a reality first by enabling higher education institutions to send and receive more exchange students while still enhancing quality in student mobility and also by facilitating students' access to various services (library, transport, accommodation) before arriving at the institution abroad. **[Am. 27]**

Thursday 28 March 2019

(20a) ***The Programme should ensure quality mobility experiences based on the principles laid down in the Recommendation of the European Parliament and of the Council of 18 December 2006 on transnational mobility within the Community for education and training purposes: European Quality Charter for Mobility ([16]), which makes clear that the quality of information, preparation, support and recognition of experience and qualifications, as well as clear learning plans and learning outcomes drawn up in advance, have a demonstrable impact on the benefits of mobility. Mobility activities should be properly prepared in advance. Such preparation can frequently be done efficiently with the use of information and communication technologies. Where appropriate, it should also be possible for the Programme to provide support for preparatory visits for mobility activities.*** **[Am. 28]**

(20b) ***The Programme should support and encourage the mobility of teachers and educational staff at all levels in order to enhance working practices and contribute to professional development. Given the vital role that pre-school and early-years education plays in preventing social and economic inequalities, it is important that teachers and staff at this level can participate in learning mobility under the Programme. With respect to teaching, the Programme should also encourage the piloting of policy innovations to address some of the common challenges facing education systems in the Union, such as attracting new talent into teaching for the most marginalised children and developing teacher training to help them in teaching disadvantaged learners. In order to maximise the benefits of Programme participation for teachers and educational staff, every effort should be made to ensure that they enjoy a supportive environment for mobility whereby it is part of their work programme and regular workload, they have access to proper training opportunities and they receive appropriate financial support based on the country and, where relevant, region in which the learning mobility is to take place.*** **[Am. 29]**

(20c) ***In recognition of the vital role that vocational education and training plays in improving job prospects and promoting social inclusion, the Programme should help to reinforce the inclusiveness, quality and relevance of vocational education and training in line with the communication of the Commission of 10 June 2016 on a New Skills Agenda for Europe: Working together to strengthen human capital, employability and competitiveness ([17]). The Programme should promote stronger links between vocational education and training providers and employers, both private and public. It should also help to address vocational education and training sector-specific issues, such as language training, the fostering of high-quality mobility partnerships and competence recognition and certification, and encourage vocational education and training providers to apply for the Vocational Education and Training Mobility Charter as a mark of quality.*** **[Am. 30]**

(21) The Programme should encourage youth participation in Europe's democratic life, including by supporting participation projects for young people to engage and learn to participate in civic society, raising awareness about European common values including fundamental rights, ***European history, culture and citizenship***, bringing together young people and ~~decision-makers~~ ***decision-makers*** at local, national and Union level, as well as contributing to the European integration process. ***The Programme should raise awareness about e-democracy tools, including the European Citizens' Initiative. It should also promote intergenerational exchange between younger and older people. In light of the key role played by youth organisations and youth work in achieving those objectives, the Programme should support the development of the youth sector in the Union.*** **[Am. 31]**

(22) The Programme should offer young people more opportunities to discover Europe through learning experiences abroad ***under the new initiative entitled DiscoverEU***. ~~Eighteen year olds~~ ***Young people aged between 18 and 20***, in particular those with fewer opportunities, should be given the chance to have a first-time, short-term individual or group experience travelling throughout Europe ~~in the frame of an~~ ***as part of a non-formal or*** informal educational

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([16]) OJ L 394, 30.12.2006, p. 5.
([17]) COM(2016)0381.

activity aimed at fostering their sense of belonging to the European Union and discovering its cultural ***and linguistic*** diversity. ***The initiative should have a robust and verifiable learning component and should ensure that experiences are properly disseminated and lessons shared in order to assess and improve the initiative on an ongoing basis***. The Programme should identify bodies in charge of reaching out and selecting the participants ***with due regard for geographical balance*** and support activities to foster the learning dimension of the experience. ***Those bodies should also be involved, where appropriate, in providing pre- and post-mobility training and support, including with respect to language and intercultural skills. The DiscoverEU initiative should build links with the European Capitals of Culture, the European Youth Capitals, the European Volunteering Capitals and the European Green Capitals.*** **[Am. 32]**

(23) ***The learning of languages contributes to mutual understanding and mobility within and outside the Union. At the same time, language competences are essential life and job skills. Therefore,*** the Programme should also enhance the learning of languages~~, in particular~~ ***through on-site language courses and*** through widened use of ***accessible*** online tools, as e-learning ~~offers~~ ***can offer*** additional advantages for language learning in terms of access and flexibility. ***The language learning support provided through the Programme should pay attention to the needs of users, with a focus on the languages used in the receiving country and, in border regions, on the languages of neighbouring countries. Language learning support should also cover national sign languages. The Erasmus+ Online Linguistic Support tool should be tailored to the specific needs of Programme participants and open to everybody.*** **[Am. 33]**

(23a) The Programme should make use of language technologies, such as automatic translation technologies, with the aim of facilitating exchanges between authorities and improving intercultural dialogue. **[Am. 34]**

(24) The Programme should support measures that enhance the cooperation between institutions and organisations active in education, training, youth and sport, recognising their fundamental role in equipping individuals with the knowledge, skills and competences needed in a changing world as well as to adequately fulfil the potential for innovation, creativity and entrepreneurship, in particular within the digital economy. ***To that end, effective cooperation between all relevant stakeholders at all levels of the Programme's implementation should be ensured.*** **[Am. 35]**

(25) In its Conclusions of 14 December 2017, the European Council called on Member States, the Council and the Commission to take forward a number of initiatives to elevate European cooperation in education and training to a new level, including by encouraging the emergence by 2024 of 'European Universities', consisting in bottom-up networks of universities across the Union. The Programme should support these European Universities***, which should be excellence-driven and are intended to increase the attractiveness of higher education institutions in the Union and to improve cooperation between research, innovation and education. The notion of 'excellence' is to be understood broadly, for example also in relation to the ability to enhance inclusion. Programme support should aim for wide geographical coverage of 'European Universities'***. **[Am. 36]**

(26) The 2010 Bruges Communiqué called for support of vocational excellence for smart and sustainable growth. The 2017 Communication on Strengthening Innovation in Europe's Regions points to linking vocational education and training to innovation systems, as part of smart specialisation strategies at regional level. The Programme should provide the means to respond to these calls and support the development of transnational platforms of Centres of vocational excellence closely integrated in local and regional strategies for growth, innovation, ~~and~~ competitiveness***, sustainable development and social inclusion***. These centres of excellence should act as drivers of quality vocational skills in a context of sectorial challenges, while supporting overall structural changes and socio-economic policies in the Union. **[Am. 37]**

(27) To increase the use of virtual cooperation activities, the Programme should support ~~a~~ more systematic use of ~~the~~ ***existing*** online platforms such as eTwinning, the School Education Gateway, the Electronic Platform for Adult Learning in Europe, the European Youth Portal and the online platform for higher education. ***The Programme should also encourage, where appropriate, the development of new online platforms to strengthen and modernise***

the delivery of education, training, sport and youth policy at European level. Such platforms should be user-friendly and accessible within the meaning of Directive (EU) 2016/2102 of the European Parliament and of the Council ([18]). **[Am. 38]**

(28) The Programme should contribute to facilitating transparency and ***automatic mutual*** recognition of skills, ~~and~~ ***competences,*** qualifications ***and diplomas***, as well as the transfer of credits or ~~units~~ ***other proof*** of learning outcomes, to foster quality assurance and to support validation of non-formal and informal learning, skills management and guidance. In this regard, the Programme should also provide support to contact points and networks at national and Union level that ~~facilitate~~ ***provide information and assistance to prospective participants, thus facilitating*** cross-European exchanges as well as the development of flexible learning pathways between different fields of education, training and youth and across formal and non-formal settings. **[Am. 39]**

(29) The Programme should mobilise the potential of former Erasmus+ participants and support activities in particular of Alumni networks, ambassadors and Europeers, by encouraging them to act as multipliers of the Programme.

(29a) The Programme should put special emphasis on the validation and recognition of education and training periods abroad, including in secondary school education. In that regard, the award of grants should be linked to quality assessment procedures and to a description of the learning outcomes and to the full application of the Council Recommendation of 15 March 2018 on European Framework for Quality and Effective Apprenticeships ([19]), the Council Recommendation of 20 December 2012 on Validation of Informal and Non-Formal learning ([20]) and European tools which contribute to the recognition of learning abroad and ensure quality learning, such as the European Qualifications Framework (EQF), the European Quality Assurance Register for Higher Education (EQAR), the European Credit System for Vocational Education and Training (ECVET) and the European Quality Assurance Reference Framework for Vocational Education and Training (EQAVET). **[Am. 40]**

(30) As a way to ensure cooperation with other Union instruments and support to other policies of the Union, mobility opportunities should be offered to people in various sectors of activity, such as the public ***and private*** sector, agriculture and enterprise, to have a ***training, internship or*** learning experience abroad allowing them, at any stage of their life, to grow and develop ~~professionally but also~~ personally, in particular by developing an awareness of their European identity and an understanding of European cultural diversity***, and professionally, in particular by acquiring labour market-relevant skills***. The Programme should offer an entry point for Union transnational mobility schemes with a strong learning dimension, simplifying the offer of such schemes for beneficiaries and those taking part in these activities. The scaling-up of ~~Erasmus~~ ***Erasmus+*** projects should be facilitated; specific measures should be put in place to help promoters of ~~Erasmus~~ ***Erasmus+*** projects to apply for grants or develop synergies through the support of the European Structural and Investment Funds and the programmes relating to migration, security, justice and citizenship, health***, media*** and culture***, as well as the European Solidarity Corps***. **[Am. 41]**

(31) It is important to stimulate teaching, learning and research in European integration matters ***and the Union's future challenges and opportunities***, as well as to promote ~~debates~~ ***debate*** on these matters through the support of Jean Monnet actions ~~in the fields of higher education but also in other~~ ***across all*** fields of education and training.

([18]) Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

([19]) OJ C 153, 2.5.2018, p. 1.

([20]) OJ C 398, 22.12.2012, p. 1.

Fostering a ***European*** sense of ~~European identity~~ ***belonging*** and commitment is particularly important ~~at times when~~ ***given the challenges to*** the common values on which the Union is founded, and which form part of ~~our~~ ***a common*** European identity, ~~are put to the test, and when~~ ***and considering that*** citizens ~~show~~ ***are showing*** low levels of engagement. The Programme should continue to contribute to the development of excellence in European integration studies ***and, at the same time, to enhance the engagement of the wider learning community and the general public with European integration***. **[Am. 42]**

(32) ~~Reflecting the importance of tackling~~ ***The Programme should be in line with the central aim of the Paris Agreement to strengthen the global response to*** climate change. In line with the Union's commitments to implement the Paris Agreement and ***to*** achieve the United Nations' Sustainable Development Goals, this Programme will contribute to ~~mainstream~~ ***mainstreaming*** climate action ***and sustainable development*** in the Union's policies and to the achievement of an overall target of 25 % of the Union budget ~~expenditures~~ ***expenditure*** supporting climate objectives ***over the period covered by the 2021-2027 Multiannual Financial Framework, and an annual target of 30 % to be introduced as quickly as possible, and at the latest in 2027***. Relevant actions will be identified during the Programme's preparation and implementation and reassessed in the context of the relevant evaluations and review process. **[Am. 43]**

(32a) Given the Union's role as a global actor and in line with the United Nations 2030 Agenda for Sustainable Development and commitments made by Member States at the Rio+20 Conference, the Programme should mainstream inclusive, equitable and quality education and lifelong learning, including in recognition of the vital role that education plays in tackling poverty. The Programme should also contribute to the sustainable development agenda by supporting efforts to develop the necessary skills for sustainable development and to educate people about sustainability, environmental protection and climate change through formal, non-formal and informal education. **[Am. 44]**

(33) This Regulation lays down a financial envelope for ***the entire duration of*** the Programme which is to constitute the prime reference amount, within the meaning of [*reference to be updated as appropriate* Point 17 of the Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ([21])], for the European Parliament and the Council during the annual budgetary procedure. ***It should be ensured that, from 2021, there is a significant increase in the annual budget for the Programme, in comparison to the final year of the 2014-2020 multiannual financial framework, followed by linear and gradual growth in annual allocations. Such a budgetary profile would help to ensure wider access from the very beginning of the 2021-2027 multiannual financial framework period and avoid disproportionate increases in the final years that might be difficult to absorb.*** **[Am. 45]**

(34) Within a basic envelope for actions to be managed by the national agencies in the field of education and training, a breakdown of minimum allocation per sector (higher education, school education, vocational education and training and adult education) should be defined in order to guarantee a critical mass of appropriations to reach the intended output and results in each of these sectors. ***The exact budget allocation by action and initiative should be laid down in the work programme.*** **[Am. 46]**

(35) Regulation (EU, Euratom) No [the new FR] (the 'Financial Regulation') ([22]) applies to this Programme. It lays down rules on the implementation of the Union budget, including the rules on grants, prizes, procurement and indirect implementation.

(36) 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, the administrative burden, and the expected risk of non-compliance. This 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. ***The principles of transparency, equal treatment and non–discrimination as set out in the Financial Regulation should be respected in the implementation of the Programme.*** **[Am. 47]**

([21]) OJ L […], […], p. […].
([22]) OJ L […], […], p. […].

Thursday 28 March 2019

(37) Third countries which are members of the European Economic Area (EEA) may participate in the Programme in the framework of the cooperation established under the European Economic Area (EEA) agreement, which provides for the implementation of Union programmes by a decision under that agreement. Third countries may also participate on the basis of other legal instruments. This Regulation should grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office (OLAF) as well as the European Court of Auditors to comprehensively exert their respective competences. The full participation of third countries in the Programme should be subject to the conditions laid down in specific agreements covering the participation of the third country concerned to the Programme. Full participation entails, moreover, the obligation to set up a national agency and managing some of the actions of the Programme at decentralised level. Individuals and entities from third countries that are not associated to the Programme should be able to participate in ~~some of the~~ actions of the Programme, as defined in the work programme and the calls for proposals published by the Commission. When implementing the Programme, specific arrangements could be taken into account with regard to individuals and entities from European microstates. **[Am. 48]**

(38) In line with ***Article 349 of the Treaty on the Functioning of the European Union (TFEU) and*** the Commission's communication on 'A stronger and renewed strategic partnership with the Union's outermost regions' ([23]) ***(the 'strategic partnership communication')***, the Programme should take into account the specific situation of these regions. Measures will be taken to increase the outermost regions' participation in all actions. Mobility exchanges and cooperation between people and organisations from these regions and third countries, in particular their neighbours, should be fostered. Such measures will be monitored and evaluated regularly. **[Am. 49]**

(38a) In the strategic partnership communication, the Commission recognised that increased mobility of learners and staff in education and training, in particular under the Erasmus+ programme, would be highly beneficial for the outermost regions and undertook to further adjust financial support to participants travelling from and to the outermost regions by maintaining specific funding rules for those regions under Erasmus+, to explore the possibilities of extending regional Erasmus+ cooperation to further stimulate mobility between the outermost regions and neighbouring third countries, and to use the European Social Fund+ as a complement to Erasmus+ . **[Am. 50]**

(39) Pursuant to [*reference to be updated as appropriate according to a new Decision on OCTs* Article 94 of the Council Decision 2013/755/EC ([24])], individuals and entities established in overseas countries or territories are eligible for funding subject to the rules and objectives of the Programme and possible arrangements applicable to the Member State to which the relevant overseas country or territory is linked. The constraints imposed by the remoteness of these countries or territories should be taken into account when implementing the Programme, and their participation in the Programme monitored and regularly evaluated.

(40) ***The Programme should maintain continuity in terms of its objectives and priorities. Nevertheless, given that it is to be implemented over a seven-year period, it is necessary to provide for a certain degree of flexibility in order to enable it to adapt to changing realities and political priorities within the field of education, training, youth and sport. Therefore, this Regulation does not define in detail how specific initiatives are to be designed and it does not prejudge all political priorities and respective budgetary priorities for the next seven years. Instead, the secondary policy choices and priorities, including details of specific new initiatives, should be determined by means of work programmes*** in compliance with the Financial Regulation~~, the Commission~~ ***. The design of the new initiatives*** should ~~adopt work programmes and inform the~~ ***draw lessons from past and ongoing pilot initiatives in this field and should take due account of*** European ~~Parliament and the Council thereof~~ ***added value both in the substance and structure of the initiative***. The work programme should ***also*** set out the measures needed for their implementation in line with the general and specific objectives of the Programme, the selection and award criteria for grants, as well as all other elements required. Work programmes and any amendments to them should be

([23]) COM(2017)0623.

([24]) 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).

adopted by ~~implementing acts~~ ***means of a delegated act. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and in consultation with national agencies and stakeholders, and that those consultations be conducted*** in accordance with the ~~examination procedure~~ ***principles laid down in the Interinstitutional Agreement 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***. **[Am. 51]**

(40a) The Commission, in conjunction with the national agencies, should monitor and report on the implementation of the Programme, both during the Programme's lifetime and after its completion. The final evaluation of the Programme should be carried out in a timely fashion such that it can feed into the mid-term review of the successor programme as relevant. In particular, the Commission should carry out a mid-term review of the Programme accompanied, where appropriate, by a legislative proposal to amend this Regulation. **[Am. 52]**

(41) Pursuant to paragraph 22 and 23 of the Inter-institutional agreement for Better Law-Making of 13 April 2016 ([25]), there is a need to evaluate the Programme on the basis of information collected through specific monitoring requirements, while avoiding overregulation and administrative burdens, in particular on ~~Member States~~ ***beneficiaries***. Such requirements should include specific, measurable and realistic indicators which can be measured over time as a basis for evaluating the effects of the Programme on the ground. **[Am. 53]**

(42) Appropriate outreach, publicity and dissemination of the opportunities and results of the actions supported by the Programme should be ensured at European, national and local level. The outreach, publicity and dissemination activities should rely on all the implementing bodies of the Programme, including, ~~when relevant~~ ***where applicable***, with the support of other ~~key~~ ***relevant*** stakeholders. **[Am. 54]**

~~(43) In order to ensure greater efficiency in communication to the public at large and stronger synergies between the communication activities undertaken at the initiative of the Commission, the resources allocated to communication under this Regulation should also contribute to covering the corporate communication of the political priorities of the Union, provided that these are related to the general objective of this Regulation.~~ **[Am. 55]**

(44) In order to ensure efficient and effective implementation of this Regulation, the Programme should make maximum use of delivery mechanisms already in place. The implementation of the Programme should therefore be entrusted to the Commission, and to national agencies***, which should ensure consistent and straightforward application of the Programme rules across the Union and over time. To that end and in order to ensure effective Programme implementation, the Commission and the national agencies should work together, and in consultation with stakeholders, to develop consistent, simple and high-quality procedures and to facilitate the exchange of good practices that can improve the quality of projects under the Programme***. Where feasible, and in order to maximise efficiency, the national agencies should be the same as the one designated for the management of the predecessor programme. The scope of the ex-ante compliance assessment should be limited to the requirements that are new and specific to the Programme, unless justified, such as in case of serious shortcomings or underperformance on the part of the national agency concerned. **[Am. 56]**

(44a) In order to encourage project organisers with no experience of Union funding programmes to apply for funding, the Commission and the national agencies should provide advice and support and should ensure that application procedures are as clear and simple as possible. The Programme guide should be further improved to make it user-friendly and clear and application forms should be simple and made available in a timely manner. In order to further modernise and harmonise the application process, a common, multilingual, one-stop-shop tool should be developed for Programme beneficiaries and those involved in the management of the Programme. **[Am. 57]**

(44b) As a general rule, grant requests and project applications should be submitted to, and managed by, the national agency of the country where the applicant is based. However, by way of derogation, grant requests and project applications for activities organised by Union-wide networks and European and international organisations should be submitted to, and directly managed by, the Commission. **[Am. 58]**

([25]) Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016 (OJ L 123, 12.5.2016, p. 1).

Thursday 28 March 2019

(45) In order to ensure sound financial management and legal certainty in each participating country, each national authority should designate an independent audit body. Where feasible, and in order to maximise efficiency, the independent audit body should be the same as the one designated for the actions referred to in the previous programme.

(46) Member States should ~~endeavour to~~ adopt all appropriate measures to remove legal and administrative obstacles ~~to~~ ***that could prevent access to, or impede*** the proper functioning of the Programme. This includes resolving, where possible, and without prejudice to Union law on the entry and residence of third-country nationals issues that create difficulties in obtaining visas and residence permits. In line with Directive (EU) 2016/801 of the European Parliament and of the Council ([26]), Member States are encouraged to establish fast-track admission procedures. **[Am. 59]**

(47) The performance reporting system should ensure that data for monitoring programme implementation and evaluation are collected efficiently, effectively and in a timely manner, and at the appropriate level of granularity. Such data should be communicated to the Commission in a way that complies with relevant data protection rules.

~~(48) In order to ensure uniform conditions for the implementation of this Regulation, 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 ([27]).~~ **[Am. 60]**

(49) In order to simplify requirements for beneficiaries, simplified grants in the form of lump-sums, unit-costs and flat-rate funding should be used to the maximum possible extent. ***In accordance with the principle of sound financial management and in order to simplify the Programme's administration, flat-rate payments based on the relevant project should be used for mobility activities across all sectors.*** The simplified grants to support the mobility actions of the Programme, as defined by the Commission, should ~~take into account~~ ***be regularly reviewed and adjusted to*** the living and subsistence costs of the host country ***and region***. The Commission and national agencies of the sending countries should have the possibility to adjust these simplified grants on the basis of objective criteria, in particular to ensure access to people with fewer opportunities. In accordance with national law, Member States should also be encouraged to exempt those grants from any taxes and social levies. The same exemption should apply to public or private entities awarding such financial support to the individuals concerned. **[Am. 61]**

(50) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and the Council ([28]), Council Regulation (Euratom, EC) No 2185/96 ([29]) and Council Regulation (EU) 2017/1939 ([30]), the financial interests of the Union are to be protected through proportionate measures, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with the Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out 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. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may

([26]) Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

~~([27]) 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).~~

([28]) Regulation (EU, Euratom) No 883/2013 of the European Parliament and the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OJ L 248 (18.9.2013, p. 1).

([29]) 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).

([30]) 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).

investigate and prosecute Union fraud and other illegal activities affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council ([31]). In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests and grant the necessary rights and access to the Commission, the European Anti-Fraud Office, the European Public Prosecutor's Office and the European Court of Auditors, and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.

(51) It is necessary to ensure the complementarity of the actions carried out within the Programme with activities undertaken by the Member States and with other Union activities, in particular those in the fields of education, culture and the media, youth and solidarity, employment and social inclusion, research and innovation, industry and enterprise, agriculture and rural development with a focus on young farmers, cohesion, regional policy and international cooperation and development.

(52) While the regulatory framework already allowed Member States and regions to establish synergies in the previous programming period between Erasmus+ and other Union instruments, such as the European structural and investment funds, which also support the qualitative development of education, training and youth systems in the Union, this potential has so far been underexploited, thus limiting the systemic effects of projects and impact on policy. Effective communication and cooperation should take place at national level between the national bodies in charge of managing these various instruments to maximise their respective impact. The Programme should allow for active cooperation with these instruments***, in particular by ensuring that a high-quality application that cannot be financed under the Programme, owing to insufficient funds, can be considered for financing, through a simplified procedure, under the European structural and investment funds. In order to simplify the procedure for such actions, it should be possible to award them with a 'Seal of Excellence' in recognition of their high quality. Such cross-programme complementarity should enable increased overall project success rates.*** **[Am. 62]**

(52a) In order to maximise the effectiveness of Union funding and policy support, it is important to foster synergies and complementarity across all relevant programmes in a coherent manner. Such synergies and complementarity should not lead to funds allocated to the Erasmus+ Programme being managed outside the Programme structure, nor should they lead to funds being used to pursue objectives other than those set out in this Regulation. Any synergies and complementarity should result in simplified application procedures at the implementation level. **[Am. 63]**

(53) In order to review or complement the performance indicators of the Programme, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of the Annex. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should 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) It is appropriate to ensure the correct closure of the predecessor programme, in particular as regards to the continuation of multi-annual arrangements for its management, such as the financing of technical and administrative assistance. As from 1 January 2021, the technical and administrative assistance should ensure, if necessary, the management of actions that have not yet been finalised under the predecessor programme by 31 December 2020.

(55) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular, this Regulation seeks to ensure full respect for the right to equality between men and women and the right to non-discrimination based on sex, racial or ethnic origin,

([31]) 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).

religion or belief, disability, age or sexual orientation, and to promote the application of Articles 21 and 23 of the Charter of Fundamental Rights of the European Union. ***Therefore, the Programme should actively support initiatives that seek to raise awareness and promote positive perceptions of any of the groups that might be subject to discrimination and to foster gender equality. It should also support efforts to tackle the educational gap and specific difficulties facing Roma by facilitating their full and active participation in the Programme. Respect for the rights and principles recognised in particular by the Charter of Fundamental Rights should be mainstreamed throughout the Programme's planning, implementation, monitoring and evaluation process.*** **[Am. 64]**

(56) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 TFEU apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes and indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also concern the protection of the Union's budget in case of generalised deficiencies as regards the rule of law in the Member States, as the respect for the rule of law is an essential precondition for sound financial management and effective Union funding.

(57) Since the objective of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of its transnational character, the high volume and wide geographical scope of the mobility and cooperation activities funded, its effects on access to learning mobility and more generally on Union integration, as well as its reinforced international dimension, 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.

(58) Regulation (EU) No 1288/2013 should be repealed with effect from 1 January 2021.

(59) In order to ensure continuity in the funding support provided under the Programme, this Regulation should apply from 1 January 2021,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation establishes ~~Erasmus~~ ***Erasmus+***, the programme for Union action in the field of education, training, youth and sport ('Programme').

It lays down the objectives of the Programme, the budget for the period 2021-2027, the forms of Union funding and the rules for providing such funding.

Article 2

Definitions

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

(1) 'lifelong learning' means learning in all its forms (formal, non-formal and informal learning) taking place at all stages in life, including early childhood education and care, general education, vocational education and training, higher education, and adult education, and resulting in an improvement ***or update*** in knowledge, skills***, competences*** and attitudes or participation in society in a personal, civic, cultural, social and/or employment-related perspective, including the provision of counselling and guidance services; **[Am. 65]**

(2) 'learning mobility' means moving physically to a country other than the country of residence, in order to undertake study, training***, including reskilling or upskilling,*** or non-formal or informal learning; ***it may take the form of traineeships, apprenticeships, youth exchanges, teaching or participation in a professional development activity;*** it may be accompanied by measures such as language support***, including for national sign languages,*** and training and/or be complemented by ***accessible*** online learning and virtual cooperation~~. In some specific cases, it may take the form of learning through the use of information technology and communications tools~~; **[Am. 66]**

(2a) 'virtual learning' means the acquisition of skills and knowledge through the use of accessible information and communication tools; **[Am. 67]**

(2b) 'blended learning' means the acquisition of skills and knowledge through a combination of virtual education and training tools and traditional education and training methods; **[Am. 68]**

(3) 'non-formal learning' means voluntary learning which takes place outside formal education and training through purposive activities (in terms of objectives, methods and time) and with some form of learning support;

(4) 'informal learning' means learning resulting from daily activities and experiences which is not organised or structured in terms of objectives, time or learning support. It may be unintentional from the learner's perspective;

(5) 'young people' means individuals aged between 13 and 30;

(6) 'grassroots sport' means organised sport practised ~~at local level~~ ***regularly*** by amateur ~~sports people, and sport for all~~ ***sportspeople of all ages for health, educational or social purposes***; **[Am. 69]**

(7) 'higher education student' means any person enrolled at a higher education institution, including at short-cycle, bachelor, master or doctoral level or equivalent~~. It also covers recent graduates~~ ***or any person who has graduated from such an institution within the previous 24 months***; **[Am. 70]**

(8) 'staff' means any person who, on either a professional or a voluntary basis, is involved in education ***at all levels***, training or non-formal learning, and may include professors, teachers, trainers, ***researchers,*** school leaders, youth workers~~, sport coaches~~, non-educational staff and other practitioners involved in promoting learning; **[Am. 71]**

(8a) 'sport staff' means persons involved in the management, instruction or training of a sports team or of several individual sportspeople, either on a paid basis or on a voluntary basis; **[Am. 72]**

(9) 'vocational education and training learner' means any person enrolled in an initial or continuous vocational education or training programme at any level from secondary up to post-secondary level~~. It includes the participation of individuals who have recently~~ ***or any person who has*** graduated from such ~~programmes~~ ***a programme within the previous 24 months***; **[Am. 73]**

(10) 'school pupil' means any person enrolled in a learning capacity at an institution providing general education at any level from early childhood education and care to upper secondary education, ***or any person schooled outside an institutional setting*** considered by the ~~national~~ ***competent*** authorities as eligible to participate in the Programme, in their respective territories; **[Am. 74]**

(11) 'adult education' means any form of non-vocational education for adults after initial education, whether of a formal, non-formal or informal nature;

~~(12) 'third country not associated to the Programme' means a third country which does not participate fully in the Programme but whose legal entities may exceptionally benefit from the Programme in duly justified cases in the Union's interest;~~ **[Am. 75]**

Thursday 28 March 2019

(13) 'third country' means a country that is not a Member State;

(14) 'partnership' means an agreement between a group of institutions and/or organisations to carry out joint activities and projects;

(15) 'joint master ***or doctoral*** degree' means an integrated study programme offered by at least two higher education institutions resulting in a single degree certificate issued and signed by all the participating institutions jointly and recognised officially in the countries where the participating institutions are located; **[Am. 76]**

(16) 'international' relates to any action involving at least one third country not associated to the Programme;

(17) 'virtual cooperation' means any form of cooperation using information technology and communications tools;

(18) 'higher education institution' means any ~~type of higher education institution~~ ***entity*** which, in accordance with national law or practice, offers recognised degrees or other recognised tertiary level qualifications, whatever such establishment may be called as well as any other ~~type of higher education institution~~ ***comparable entity*** which is considered by the national authorities as eligible to participate in the Programme, in their respective territories; **[Am. 77]**

(19) 'transnational' relates to any action involving at least two countries which are either Member States or third countries associated to the Programme;

(20) 'youth participation activity' means an out-of-school activity carried out by informal groups of young people and/or youth organisations, ~~and~~ characterised by a non-formal ***or informal*** learning approach ***and by support for accessibility and inclusion***; **[Am. 78]**

(21) 'youth worker' means a professional or a volunteer involved in non-formal ***or informal*** learning who supports young people in their personal ***development, including their*** socio-educational and professional development ***and the development of their competences***; **[Am. 79]**

(22) 'EU Youth dialogue' means the dialogue ~~with~~ ***between policy-makers, decision-makers, experts, researchers or civil society stakeholders, as appropriate, and*** young people and youth organisations ~~which~~***; it*** serves as a forum for continuous joint reflection on the priorities, implementation and follow-up of European cooperation in ~~the youth field~~ ***all fields of relevance to young people***; **[Am. 80]**

~~(23) 'third country associated to the Programme' means a third country which is party to an agreement with the Union allowing for its participation in the Programme and which fulfils all the obligations laid down in this Regulation in relation to Member States;~~ **[Am. 81]**

(24) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without legal personality in accordance with Article [197(2)(c)] of the Financial Regulation;

(25) 'people with fewer opportunities' means people ~~facing obstacles that prevent them from having effective~~ ***who are disadvantaged in their*** access to ~~opportunities under~~ the Programme ~~for economic, social, cultural, geographical or health reasons, a migrant background or for reasons such as~~ ***because of various obstacles arising from, for example,*** disability ~~and~~***, health problems,*** educational difficulties***, their migrant background, cultural differences, their economic, social and geographical situation, including people from marginalised communities or at risk of facing discrimination based on any of the grounds enshrined in Article 21 of the Charter of Fundamental Rights of the European Union***; **[Am. 82]**

(26) 'national authority' means the authority in charge, at national level, of monitoring and supervising the management of the Programme in a Member State or in a third country associated to the Programme;

(27) 'national agency' means one or more bodies in a given Member State or third country associated to the Programme in charge of managing the implementation of the Programme at national level. There may be more than one national agency in a given Member State or third country associated to the Programme;

(27a) 'Seal of Excellence' means the high-quality label awarded to projects submitted to the Programme, which are deemed to deserve funding but do not receive it due to budget limits; it recognises the value of the proposal and supports the search for alternative funding. **[Am. 83]**

Article 3

Programme objectives

1. The general objective of the Programme is to support the educational, professional and personal development of people in education, training, youth ***activities*** and sport ***through lifelong learning***, in Europe and beyond, thereby contributing to sustainable growth, ~~jobs and~~ ***quality jobs,*** social cohesion ***and inclusion, to promoting active citizenship*** and to strengthening European identity. As such, the Programme shall be a key instrument for building a European education area***, for driving innovation in education and training***, supporting the implementation of the European strategic cooperation in the field of education and training, with its underlying sectoral agendas, advancing youth policy cooperation under the Union Youth Strategy 2019-2027 and developing the European dimension in sport. **[Am. 84]**

2. The Programme has the following specific objectives:

(a) promote learning mobility of individuals, as well as cooperation, inclusion***, equity***, excellence, creativity and innovation at the level of organisations and policies in the field of education and training; **[Am. 85]**

(b) promote non-formal ***and informal*** learning mobility***, intercultural learning, critical thinking*** and active participation among young people, as well as cooperation, inclusion***, quality***, creativity and innovation at the level of organisations and policies in the field of youth; **[Am. 86]**

(c) promote learning mobility***, within grassroots sport,*** of sport ~~coaches and~~ staff ***and young people regularly practising a sport in an organised setting***, as well as cooperation, inclusion, creativity and innovation at the level of sport organisations and sport policies; **[Am. 87]**

(ca) promote lifelong learning through a cross-sectoral approach across formal, non-formal and informal settings and by supporting flexible learning pathways. **[Am. 88]**

2a. The Programme shall include a reinforced international dimension aimed at supporting the Union's external action and development objectives through cooperation between the Union and third countries. **[Am. 89]**

3. The objectives of the Programme shall be pursued through the following three key actions:

(a) learning mobility ('key action 1');

(b) cooperation among organisations and institutions ('key action 2'); and

(c) support to policy development and cooperation ('key action 3');

The objectives shall also be pursued through Jean Monnet actions as set out in Article 7.

All Programme actions shall contain a strong learning component that contributes to the fulfilment of the objectives of the Programme laid down in this Article. The description of the actions supported under each key action is set out in Chapter II (education and training), Chapter III (youth) and Chapter IV (sport). ***The operational objectives and corresponding policy priorities for each action shall be specified in detail in the work programme referred to in Article 19.*** **[Am. 90]**

Article 3 a

European added value

1. The Programme shall support only those actions and activities which deliver potential European added value and which contribute to the achievement of the objectives referred to in Article 3.

2. The European added value of the actions and activities of the Programme shall be ensured, for example, through their:

(a) transnational character, particularly with regard to mobility and cooperation aimed at achieving a sustainable systemic impact;

(b) complementarity and synergies with other programmes and policies at national, Union and international level;

(c) contribution to the effective use of Union transparency and recognition tools;

(d) contribution to the development of Union-wide quality assurance standards, including charters;

(e) contribution to the development of Union-wide common standards in education and training programmes;

(f) fostering of intercultural and interfaith dialogue across the Union;

(g) fostering of multilingualism across the Union; or

(h) promotion of a European sense of belonging and strengthening a common European citizenship. **[Am. 91]**

CHAPTER II

EDUCATION AND TRAINING

Article 4

Key action 1

Learning mobility

In the field of education and training, the Programme shall support the following actions under key action 1:

(a) the mobility of higher education students and staff;

(b) the mobility of vocational education and training learners and staff;

(c) the mobility of school pupils and staff***, including pre-school teachers and early-years education and care staff***; **[Am. 92]**

(d) the mobility of adult education staff ***and adult learners***; **[Am. 93]**

(e) language learning opportunities, including those supporting mobility activities.

The Programme shall support virtual learning and blended learning measures to accompany the mobility activities set out in paragraph 1. It shall also support such measures for those persons who are unable to participate in such mobility activities.

The Commission shall ensure, where appropriate, that virtual and blended learning tools developed under the Programme are made available to the wider public. **[Am. 94]**

Support may be awarded for the preparation of the mobility activities set out in this Article, including, as required, for preparatory visits. **[Am. 95]**

Article 5

Key action 2

Cooperation among organisations and institutions

In the field of education and training, the Programme shall support the following actions under key action 2:

(a) ***strategic*** partnerships for cooperation and exchanges of practices, including small-scale partnerships to foster a wider and more inclusive access to the Programme; **[Am. 96]**

(b) partnerships for excellence, in particular European universities, Centres of vocational excellence and ***Erasmus Mundus*** joint master ***or doctoral*** degrees***; European universities and Centres of vocational excellence shall involve at least one entity established in a Member State***; **[Am. 97]**

(c) partnerships for innovation***, such as adult education alliances,*** to strengthen Europe's innovation capacity; **[Am. 98]**

(d) ***accessible and user-friendly*** online platforms and tools for virtual cooperation, including the support services for eTwinning and for the electronic platform for adult learning in Europe***, tools to promote the use of Universal Design for Learning methods, as well as tools to facilitate mobility, such as the European Student Card referred to in Article 25(7c);*** **[Am. 99]**

(da) targeted capacity-building in the field of higher education in third countries not associated to the Programme. **[Am. 100]**

Article 6

Key Action 3

Support to policy development and cooperation

In the field of education and training, the Programme shall support the following actions under key action 3:

(a) the preparation and implementation of the Union general and sectoral policy agendas in education and training, including with the support of the Eurydice network or activities of other relevant organisations;

(b) the support to Union tools and measures that foster the quality, transparency ~~and~~, recognition ***and update*** of competences, skills and qualifications ([32]); **[Am. 101]**

(c) policy dialogue and cooperation with ~~key~~***, and support for, relevant*** stakeholders, including Union-wide networks, European ~~non-governmental organisations~~ and international organisations in the field of education and training; **[Am. 102]**

(d) ***targeted*** measures that contribute to the ~~qualitative~~ ***high-quality*** and inclusive implementation of the Programme; **[Am. 103]**

(e) cooperation with other Union instruments and support to other Union policies;

(f) dissemination and awareness-raising activities about European policy outcomes and priorities as well as on the Programme.

([32]) In particular ***Europass*** - the single Union framework for the transparency of qualifications and competences; the European Qualifications Framework; the European Quality Assurance Reference Framework for Vocational Education and Training; the European Credit System for Vocational Education and Training; the European Credit Transfer and Accumulation System; the European Quality Assurance Register for Higher Education; the European Association for Quality Assurance in Higher Education; the European Network of Information Centres in the European Region and National Academic Recognition Information Centres in the European Union; and the Euroguidance networks.

Article 7

Jean Monnet actions

The Programme shall support teaching, learning, research and debates on European integration matters ***and on the Union's future challenges and opportunities*** through the following actions: **[Am. 104]**

~~(a) Jean Monnet action in the field of higher education;~~ **[Am. 105]**

(b) Jean Monnet action in ~~other~~ ***all*** fields of education and training; **[Am. 106]**

(c) support to the following institutions pursuing an aim of European interest: the European University Institute, Florence, including its School of Transnational Governance; the College of Europe (Bruges and Natolin campuses); the European Institute of Public Administration, Maastricht; the Academy of European Law, Trier; the European Agency for Special Needs and Inclusive Education, Odense and the International Centre for European Training, Nice.

CHAPTER III

YOUTH

Article 8

Key action 1

Learning mobility

In the field of youth, the Programme shall support the following actions under key action 1:

(a) the mobility of young people;

(b) youth participation activities;

(c) DiscoverEU activities;

(d) the mobility of youth workers.

Article 9

Key action 2

Cooperation among organisations and institutions

In the field of youth, the Programme shall support the following actions under key action 2:

(a) ***strategic*** partnerships for cooperation and exchanges of practices, including small-scale partnerships to foster a wider and more inclusive access to the Programme; **[Am. 107]**

(b) partnerships for innovation to strengthen Europe's innovation capacity;

(c) ***accessible and user-friendly*** online platforms and tools for virtual cooperation. **[Am. 108]**

Article 10

Key action 3

Support to policy development and cooperation

In the field of youth, the Programme shall support the following actions under key action 3:

(a) the preparation and implementation of the Union policy agenda on youth, with the support***, as relevant,*** of the Youth Wiki network; **[Am. 109]**

(b) Union tools and measures that foster the quality, transparency and recognition of competences and skills, in particular through Youthpass;

(c) policy dialogue and cooperation with***, and support for,*** relevant ~~key~~ stakeholders, including Union-wide networks, European ~~non-governmental organisations,~~ and international organisations in the field of youth, the EU Youth dialogue as well as support to the European Youth Forum; **[Am. 110]**

(d) measures that contribute to the ~~qualitative~~ ***high-quality*** and inclusive implementation of the Programme; **[Am. 111]**

(e) cooperation with other Union instruments and support to other Union policies;

(f) dissemination and awareness-raising activities about European policy outcomes and priorities as well as on the Programme.

CHAPTER IV

SPORT

Article 11

Key action 1

Learning mobility

In the field of sport, the Programme shall support, under key action 1, the mobility of ***young people practising, and*** sport ~~coaches and~~ staff ***engaged in, grassroots sport***. **[Am. 112]**

Article 12

Key action 2

Cooperation among organisations and institutions

In the field of sport, the Programme shall support the following actions under key action 2:

(a) partnerships for cooperation and exchanges of practices, including small-scale partnerships to foster a wider and more inclusive access to the Programme;

(b) ~~not for profit~~ ***not-for-profit grassroots*** sport events ~~aiming~~***, including small-scale events, aimed*** at further developing the European dimension of sport. **[Am. 113]**

Article 13

Key action 3

Support to policy development and cooperation

In the field of sport, the Programme shall support the following actions under key action 3:

(a) the preparation and implementation of the Union policy agenda on sport and physical activity;

(b) policy dialogue and cooperation with relevant ~~key~~ stakeholders, including European ~~non-governmental organisations~~ and international organisations in the field of sport; **[Am. 114]**

(ba) measures that contribute to the high-quality and inclusive implementation of the Programme; **[Am. 115]**

(bb) cooperation with other Union instruments and support to other Union policies; **[Am. 116]**

(c) dissemination and awareness-raising activities about European policy outcomes and priorities and about the Programme, including sport prizes and awards.

CHAPTER IVA

INCLUSION [Am. 117]

Article 13a

Inclusion strategy

1. The Commission shall, by 31 March 2021, develop a framework of inclusion measures, as well as guidance for their implementation. Based on that framework and with particular attention to the specific Programme access challenges within the national context, the national agencies shall develop a multiannual national inclusion strategy. That strategy shall be made public by 30 June 2021 and its implementation shall be monitored on a regular basis.

2. The framework and strategy referred to in paragraph 1 shall pay particular attention to the following elements:

(a) cooperation with social partners, national and local authorities and civil society;

(b) support for grassroots, community-based organisations working directly with the target groups;

(c) outreach and communication to the target groups, including through the dissemination of user-friendly information;

(d) the simplification of application procedures;

(e) the provision of specific advice, training and support services to the target groups, both prior to their applications and to prepare them for their actual participation in the Programme;

(f) best practices in accessibility and support services for people with disabilities;

(g) the collection of appropriate qualitative and quantitative data to evaluate the effectiveness of the strategy;

(h) the application of financial support measures in accordance with Article 13b. **[Am. 118]**

Article 13b

Financial support measures for inclusion

1. The Commission and the Member States shall cooperate to ensure that adequate financial support measures, including pre-financing, where relevant, are put in place to support people with fewer opportunities for whom participation in the Programme is impeded for financial reasons, either because they suffer economic disadvantage or because the additional costs of Programme participation owing to their specific situation represent a significant obstacle. The assessment of the financial reasons and of the level of support shall be based on objective criteria.

2. The financial support measures referred to in paragraph 1 may include:

(a) support available from other Union instruments, such as the European Social Fund+;

(b) support available under national schemes;

(c) adjustment and top-up of support for mobility actions available under the Programme.

3. In order to comply with point (c) of paragraph 2 of this Article, the Commission shall, where necessary, adjust or authorise the national agencies to adjust the grants to support mobility actions under the Programme. The Commission shall also establish, in compliance with the provisions set out in Article 14, a dedicated budget to finance additional financial support measures under the Programme.

4. The costs of measures to facilitate or support inclusion shall not, under any circumstances, justify the rejection of an application under the Programme. **[Am. 119]**

CHAPTER V

FINANCIAL PROVISIONS

Article 14

Budget

1. The financial envelope for the implementation of the Programme for the period 2021-2027 shall be EUR ~~30 000 000 000~~ ***41 097 000 000 in constant 2018 prices (EUR 46 758 000 000*** in current prices). **[Am. 120]**

The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework. **[Am. 121]**

2. The Programme shall be implemented according to the following indicative distribution:

(a) ~~EUR 24 940 000 000~~ ***83 % of the amount referred to in paragraph 1*** for actions in the field of education and training, ~~from~~ ***of*** which: **[Am. 122]**

(1) at least ~~EUR 8 640 000 000 should~~ ***34,66 % shall*** be allocated to higher education actions referred to in point (a) of Article 4 and point (a) of Article 5; **[Am. 123]**

(2) at least ~~EUR 5 230 000 000~~ ***23 % shall be allocated*** to actions in vocational education and training referred to in point (b) of Article 4 and point (a) of Article 5; **[Am. 124]**

(3) at least ~~EUR 3 790 000 000~~ ***15,63 % shall be allocated*** to school***, including pre-school and early-years*** education, actions referred to in point (c) of Article 4 and point (a) of Article 5; **[Am. 125]**

(4) at least ~~EUR 1 190 000 000~~ ***6 % shall be allocated*** to adult education actions referred to in point (d) of Article 4 and point (a) of Article 5; **[Am. 126]**

(5) ~~EUR 450 000 000 for~~ ***1,8 % shall be allocated to*** Jean Monnet actions referred to in Article 7; **[Am. 127]**

(5a) 13,91 % of the amount referred to in point (a) of this paragraph shall be allocated to actions that are primarily directly managed, including those set out in point (e) of Article 4, points (b) to (d) of Article 5 and points (a) to (f) of Article 6; **[Am. 128]**

(5b) the remaining 5 % may be used to finance any actions within Chapter II; **[Am. 129]**

(b) ~~EUR 3 100 000 000~~ ***10,3 % of the amount referred to in paragraph 1*** for actions in the field of youth referred to in Articles 8 to 10; **[Am. 130]**

(c) ~~EUR 550 000 000~~ ***2 % of the amount referred to in paragraph 1*** for actions in the field of sport referred to in Articles 11 to 13; and **[Am. 131]**

(d) at least ~~EUR 960 000 000~~ ***3,2 % of the amount referred to in paragraph 1*** as a contribution to the operational costs of the national agencies. **[Am. 132]**

The remaining 1,5 % that is not allocated under the indicative distribution set out in the first subparagraph may be used for programme support. **[Am. 133]**

3. In addition to the financial envelope as indicated in paragraph 1, and in order to promote the international dimension of the Programme, ~~an additional financial contribution shall be made available from~~ Regulation …/… [Neighbourhood Development and International Cooperation Instrument] ([33]) and ~~from~~ Regulation …/… [IPA III] ([34]), ***shall provide financial contributions*** to support actions ***established and*** implemented ~~and managed in accordance with~~ ***under*** this Regulation. This ~~contribution~~ ***Regulation*** shall ~~be financed in accordance~~ ***apply to the use of those funds, while ensuring conformity*** with the Regulations ~~establishing those instruments~~ ***governing respectively the NDICI and IPA III***. **[Am. 134]**

4. The amount referred to in paragraph 1 may be used for technical and administrative assistance for the implementation of the Programme such as preparatory, monitoring, control, audit and evaluation activities, including corporate information technology systems ***and accessibility advice and training***. **[Am. 135]**

5. Without prejudice to the Financial Regulation, expenditure for actions resulting from projects included in the first work programme may be eligible as from 1 January 2021.

6. Resources allocated to Member States under shared management may, at their request, be transferred to the Programme. The Commission shall implement those resources directly in accordance with [point (a) of Article 62(1)] of the Financial Regulation or indirectly in accordance with [point (c)] of that Article. Where possible those resources shall be used for the benefit of the Member State concerned.

6a. The priorities for budgetary allocation by action provided for in paragraph 2 shall be determined in the work programme referred to in Article 19. **[Am. 136]**

Article 15

Forms of EU funding and methods of implementation

1. The Programme shall be implemented, in a consistent manner, in direct management in accordance with the Financial Regulation or in indirect management with bodies referred to in Article [61(1)(c)] of the Financial Regulation.

2. The Programme may provide funding in any of the forms laid down in the Financial Regulation, in particular grants, prizes and procurement.

3. Contributions to a mutual insurance mechanism may cover the risk associated with the recovery of funds due by recipients and shall be considered a sufficient guarantee under the Financial Regulation. The provisions laid down in [Article X of] Regulation X [*successor of the Regulation on the Guarantee Fund*] shall apply.

CHAPTER VI

PARTICIPATION IN THE PROGRAMME

Article 16

Third countries associated to the Programme

1. The Programme shall be open to the participation of the following third countries:

(a) members of the European Free Trade Association, which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the European Economic Area agreement;

(b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

([33]) [Reference].
([34]) [Reference].

(c) countries covered by the European Neighbourhood Policy, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;

(d) other third countries, in accordance with the conditions laid down in a specific agreement covering the participation of the third country to any Union programme, provided that the agreement:

— ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;

— lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of the Financial Regulation;

— does not confer to the third country a decisional power on the programme;

— guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

2. The countries referred to in paragraph 1 shall fully take part in the Programme only insofar as they fulfil all the obligations which this Regulation imposes on Member States.

Article 17

Third countries not associated to the Programme

As regards the actions referred to in Articles 4 to 6, points (a) and (b) of Article 7, and Articles 8 to ~~10, 12 and~~ 13, the Programme may be open to the participation of ~~the following~~ ***legal entities from any*** third ~~countries:~~ ***country in duly justified cases in the Union's interest.***

~~(a) third countries referred to in Article 16 which do not fulfil the condition set out in paragraph 2 of that Article;~~

~~(b) any other third country.~~ **[Am. 137]**

Article 18

Rules applicable to direct and indirect management

1. The Programme shall be open to public and private legal entities active in the fields of education, training, youth and sport.

~~2. When implementing the Programme, inter alia in the selection of participants and the award of grants, the Commission and the Member States shall ensure that efforts are made to promote social inclusion and improve outreach to people with fewer opportunities.~~ **[Am. 138]**

3. For selections under both direct and indirect management, the evaluation committee referred to in Article [145(3), third indent] of the Financial Regulation may be composed of external experts.

4. Public entities, as well as institutions and organisations in the fields of education, training, youth and sport that have received over fifty percent of their annual revenue from public sources over the last two years shall be considered as having the necessary financial, professional and administrative capacity to carry out activities under the Programme. They shall not be required to present further documentation to demonstrate that capacity.

4a. The levels of financial support, such as grants, lump sums, flat rates and unit costs, shall be regularly reviewed and adjusted to the living and subsistence costs of the host country or region based on Eurostat figures. The adjustment of living and subsistence costs shall duly take into account the travel costs to and from the host country or region. **[Am. 139]**

~~5. To improve access to people with fewer opportunities and ensure the smooth implementation of the Programme, the Commission may adjust or may authorise the national agencies referred to in Article 23 to adjust, on the basis of objective criteria, the grants to support mobility actions of the Programme.~~ **[Am. 140]**

6. The Commission may launch joint calls with third countries not associated to the Programme or their organisations and agencies to finance projects on the basis of matching funds. Projects may be evaluated and selected through joint evaluation and selection procedures to be agreed upon by the funding organisations or agencies involved, in compliance with the principles set out in the Financial Regulation.

CHAPTER VII

PROGRAMMING, MONITORING AND EVALUATION

Article 19

Work programme

The ***secondary policies and priorities, including details of the specific initiatives outlined in Articles 4 to 13, shall be determined by means of a work*** programme ~~shall be implemented by work programmes~~ ***as*** referred to in Article ~~[108]~~ ***110*** of the Financial Regulation***. The work programme shall also set out how the Programme is to be implemented***. In addition, the work programme shall give an indication of the amount allocated to each action and of the distribution of funds between the Member States and third countries associated to the Programme for the actions to be managed through the national agency. The ~~work programme shall be adopted by the~~ Commission ~~by means of an implementing act. Those implementing acts shall be adopted~~ ***is empowered to adopt delegated acts*** in accordance with ~~the examination procedure referred to in~~ Article ~~31~~ ***30 in order to supplement this Regulation by adopting the work programme***. **[Am. 141]**

Article 20

Monitoring and reporting

1. Indicators to report on the progress of the Programme towards the achievement of the general and specific objectives laid down in Article 3 are set out in the Annex.

2. To ensure effective assessment of the Programme towards the achievement of its objectives, the Commission shall be empowered to adopt delegated acts in accordance with Article 30 to amend the Annex to review or complement the indicators where considered necessary and to supplement this Regulation with provisions on the establishment of a monitoring and evaluation framework.

3. The performance reporting system shall ensure that data for monitoring Programme implementation and evaluation are collected efficiently, effectively, in a timely manner and at the appropriate level of detail by beneficiaries of Union funds within the meaning of Article [2(5)] of the Financial Regulation. To that end, proportionate reporting requirements shall be imposed on beneficiaries of Union funds and Member States.

Article 21

~~*Evaluation*~~ *Evaluations, mid-term review and revision* **[Am. 142]**

1. ***Any*** evaluations shall be carried out in a timely manner to feed into the decision-making process. **[Am. 143]**

2. ~~The interim evaluation~~ ***The mid-term review*** of the Programme shall be performed once there is sufficient information available about the implementation of the Programme, but ***in any event*** no later than ~~four years after the start of the programme implementation~~ ***31 December 2024***. It shall also be accompanied by a final evaluation of the predecessor programme***, which shall feed into the mid-term review***. ***The mid-term review, in addition to assessing the overall effectiveness and performance of the Programme, shall evaluate, in particular, the delivery of the inclusion measures laid down in Chapter IVa, efforts made to simplify the Programme for beneficiaries and the implementation of the new initiatives referred to in point (b) of Article 5 and in point (c) of Article 8. In so doing, it shall examine the breakdown of Programme participation, in particular with respect to people with fewer opportunities***. **[Am. 144]**

3. Without prejudice to the requirements set out in Chapter IX and the obligations of national agencies as referred to in Article 24, Member States shall submit to the Commission, by 30 April 2024, a report on the implementation and the impact of the Programme in their respective territories. ***The EEAS shall submit a similar report on the implementation and the impact of the Programme in participating developing countries.*** **[Am. 145]**

3a. The Commission shall, where necessary and on the basis of the mid-term review, put forward appropriate legislative proposals to amend this Regulation. The Commission shall appear before the competent committee of the European Parliament and the competent body of the Council to report on the mid-term review, including with respect to its decision on whether an amendment of this Regulation is required. **[Am. 146]**

4. At the end of the implementation period, but no later than ~~four~~ ***three*** years after the end of the period specified in Article 1, a final evaluation of the Programme shall be carried out by the Commission. **[Am. 147]**

5. The Commission shall ~~communicate the conclusions of the~~ ***transmit any*** evaluations ***and the mid-term review*** accompanied by its observations to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. **[Am. 148]**

CHAPTER VIII

INFORMATION, COMMUNICATION AND DISSEMINATION

Article 22

Information, communication and dissemination

1. ***In cooperation with the Commission and on the basis of a Union-wide framework, the*** national agencies referred to in Article 24 shall develop a consistent strategy with regard to ~~the~~ effective outreach, as well as dissemination and exploitation of results of activities supported under the actions they manage within the Programme, ***and*** shall assist the Commission in its general task of disseminating information concerning the Programme, including information in respect of actions and activities managed at national and Union level, and its results~~, and~~***. National agencies*** shall inform relevant target groups about the actions and activities undertaken in their country***, with a view to improving cooperation among stakeholders and supporting a cross-sectoral approach to the Programme's implementation. In carrying out communication and outreach activities and in disseminating information, the Commission and national agencies shall, in accordance with Chapter IVa, pay particular attention to people with fewer opportunities with a view to increasing their participation in the Programme***. **[Am. 149]**

1a. All essential Programme documents for beneficiaries, including application forms, instructions and essential information, shall be made available at least in all the official languages of the Union. **[Am. 150]**

2. The recipients of Union funds 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 proportionate targeted information to multiple audiences, including the media and the public.

3. The legal entities within the sectors covered by the Programme shall use the brand name ~~'Erasmus'~~ ***'Erasmus+'*** for the purpose of communication and dissemination of information relating to the Programme.

4. The Commission shall implement information and communication actions relating to the Programme, and its actions and results~~. Financial resources allocated to the Programme shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Article 3~~ ***in an accessible way***. **[Am. 151]**

4a. National agencies shall also disseminate information on the Programme to career guidance services in education and training institutions and to employment services. **[Am. 152]**

CHAPTER IX

MANAGEMENT AND AUDIT SYSTEM

Article 23

National authority

1. By […], the Member States shall notify the Commission, by way of a formal notification transmitted by their Permanent Representation, of the person(s) legally authorised to act on their behalf as the national authority for the purposes of this Regulation. In the event of replacement of the national authority during the course of the Programme's lifetime, the Member State concerned shall notify the Commission thereof immediately, in accordance with the same procedure.

2. The Member States shall take all necessary and appropriate measures to remove any legal and administrative obstacles to the proper functioning of the Programme, including, where possible, measures aimed at ***avoiding the taxation of grants, ensuring portability of rights among Union social systems and*** resolving issues that give rise to difficulties in obtaining visas ***or residence permits***. **[Am. 153]**

3. By […], the national authority shall designate a national agency or national agencies. In cases where there is more than one national agency, Member States shall establish an appropriate mechanism to coordinate the management of the implementation of the Programme at national level, particularly with a view to ensuring coherent and cost-efficient implementation of the Programme and effective contact with the Commission in this respect, and to facilitating the possible transfer of funds between agencies, thereby allowing for flexibility and better use of funds allocated to Member States. Each Member State shall determine how it organises the relationship between its national authority and the national agency, including tasks such as the establishment of the national agency's work programme.

The national authority shall provide the Commission with an appropriate ex-ante compliance assessment that the national agency complies with points (c)(v) and (vi) of Article [58(1)] and Article [60(1), (2) and (3)] of the Financial Regulation, and with the Union requirements for internal control standards for national agencies and rules for the management of programme funds for grant support.

4. The national authority shall designate an independent audit body as referred to in Article 26.

5. The national authority shall base its ex-ante compliance assessment on its own controls and audits, and/or on controls and audits undertaken by the independent audit body referred to in Article 26. Where the national agency designated for the Programme is the same as the national agency designated for the predecessor Programme, the scope of the ex-ante compliance assessment shall be limited to the requirements that are new and specific to the Programme.

6. In the event that the Commission rejects the designation of the national agency based on its evaluation of the ex-ante compliance assessment, or if the national agency does not comply with the minimum requirements set by the Commission, the national authority shall ensure that the necessary remedial steps are taken to ensure that the national agency complies with the minimum requirements, or shall designate another body as national agency.

7. The national authority shall monitor and supervise the management of the Programme at national level. It shall inform and consult the Commission in due time prior to taking any decision that may have a significant impact on the management of the Programme, in particular regarding its national agency.

8. The national authority shall provide adequate co-financing for the operations of its national agency to ensure that the Programme is managed in compliance with the applicable Union rules.

9. Based on the national agency's yearly management declaration, the independent audit opinion thereon and the Commission's analysis of the national agency's compliance and performance, the national authority shall, each year, provide the Commission, with information concerning its monitoring and supervision activities in relation to the Programme. ***Where possible, such information shall be made available to the public.*** **[Am. 154]**

10. The national authority shall take responsibility for the proper management of the Union funds transferred by the Commission to the national agency in the framework of the Programme.

11. In the event of any irregularity, negligence or fraud attributable to the national agency, or any serious shortcomings or underperformance on the part of the national agency, where this gives rise to claims by the Commission against the national agency, the national authority shall be liable to reimburse to the Commission the funds not recovered.

12. In the circumstances referred to in paragraph 11, the national authority may, on its own initiative or upon request from the Commission, revoke the mandate of the national agency. Where the national authority wishes to revoke that mandate for any other justified reason, it shall notify the Commission of the revocation at least six months before the envisaged date of termination of the mandate of the national agency. In such cases, the national authority and the Commission shall formally agree on specific and timed transition measures.

13. In the event of revocation, the national authority shall carry out the necessary controls regarding the Union funds entrusted to the national agency whose mandate has been revoked, and shall ensure an unimpeded transfer to the new national agency of those funds and of all documents and management tools required for the management of the Programme. The national authority shall provide the national agency whose mandate has been revoked with the necessary financial support to continue to meet its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

14. If so requested by the Commission, the national authority shall designate the institutions or organisations, or the types of such institutions and organisations, to be considered eligible to participate in specific Programme actions in their respective territories.

Article 24

National agency

1. The national agency shall:

(a) have legal personality or be part of an entity having legal personality, and be governed by the law of the Member State concerned; a ministry may not be designated as a national agency;

(b) have the adequate management capacity, staff and infrastructure to fulfil its tasks satisfactorily, ensuring efficient and effective management of the Programme and sound financial management of Union funds;

(ba) have the requisite expertise to cover all sectors of the Programme; **[Am. 155]**

(c) have the operational and legal means to apply the administrative, contractual and financial management rules laid down at Union level;

(d) offer adequate financial guarantees, issued preferably by a public authority, corresponding to the level of Union funds it shall be called upon to manage;

(e) be designated for the duration of the Programme.

2. The national agency shall be responsible for managing all stages of the project lifecycle of the actions that shall be described in the work programme referred to in Article [19], in conformity with [points (c)(v) and (vi) of Article 58(1)] of the Financial Regulation.

Thursday 28 March 2019

3. The national agency shall issue grant support to beneficiaries within the meaning of Article [2(5)] of the Financial Regulation by way of a grant agreement as specified by the Commission for the Programme action concerned.

4. The national agency shall report each year to the Commission and to its national authority in accordance with Article [60(5)] of the Financial Regulation. The national agency shall be in charge of implementing the observations issued by the Commission following its analysis of the yearly management declaration and of the independent audit opinion thereon.

5. The national agency may not without prior written authorisation from the national authority and the Commission delegate to a third party any task of Programme or budget implementation conferred on it. The national agency shall retain sole responsibility for any tasks delegated to a third party.

6. Where the mandate of a national agency is revoked, that national agency shall remain legally responsible for meeting its contractual obligations vis-à-vis the beneficiaries of the Programme and the Commission pending the transfer of those obligations to a new national agency.

7. The national agency shall be in charge of managing and winding up the financial agreements relating to the predecessor programme that are still open at the beginning of the Programme.

7a. In cooperation with the Commission, the national agencies shall ensure that procedures put in place to implement the Regulation are consistent and simple and that information is of high quality, including by developing common standards for project applications and evaluation. The national agencies shall regularly consult Programme beneficiaries to ensure compliance with this requirement. **[Am. 156]**

Article 25

European Commission

1. On the basis of the compliance requirements for national agencies referred to in Article 23(3), the Commission shall review the national management and control systems, in particular on the basis of the ex-ante compliance assessment provided to it by the national authority, the national agency's yearly management declaration and the opinion of the independent audit body thereon, taking due account of the yearly information provided by the national authority on its monitoring and supervision activities with regard to the Programme.

2. Within two months of receipt from the national authority of the ex-ante compliance assessment referred to in Article 23(3), the Commission shall accept, conditionally accept or reject the designation of the national agency. The Commission shall not enter into a contractual relationship with the national agency until it has accepted the ex-ante compliance assessment. In the event of conditional acceptance, the Commission may apply proportionate precautionary measures to its contractual relationship with the national agency.

3. The Commission shall each year make the following Programme funds available to the national agency:

(a) funds for grant support in the Member State concerned for the actions of the Programme the management of which is entrusted to the national agency;

(b) a financial contribution in support of the Programme management tasks of the national agency which shall be established on the basis of the amount of Union funds for grant support entrusted to the national agency;

(c) if relevant, additional funds for measures under point (d) of Article 6, ~~and~~ point (d) of Article 10 ***and point (ba) of Article 13***. **[Am. 157]**

3a. The Commission shall be responsible for the implementation of actions it manages directly. It shall therefore manage all stages of grant and project applications for Programme actions listed in Chapters II, III and IV when they are submitted by Union-wide networks, European and international organisations. **[Am. 158]**

4. The Commission shall set the requirements for the national agency work programme. The Commission shall not make Programme funds available to the national agency until the Commission has formally approved the national agency's work programme.

5. After assessing the yearly management declaration and the opinion of the independent audit body thereon, the Commission shall address its opinion and observations thereon to the national agency and the national authority.

6. In the event that the Commission cannot accept the yearly management declaration or the independent audit opinion thereon, or in the event of unsatisfactory implementation by the national agency of the Commission's observations, the Commission may implement any precautionary and corrective measures necessary to safeguard the Union's financial interests in accordance with Article [60(4)] of the Financial Regulation.

7. Regular meetings shall be organised with the network of national agencies in order to ensure ~~coherent~~ ***consistent*** implementation of the Programme across all Member States and all third countries referred to in Article 17 ***and to ensure the exchange of best practice. External experts, including representatives of civil society, of social partners and of third countries associated to the Programme, shall be invited to participate in such meetings. The European Parliament shall be invited as an observer to such meetings.*** **[Am. 159]**

7a. In order to simplify and harmonise the application process, the Commission shall, by 30 June 2024, provide a common, multilingual, one-stop-shop tool for the Programme. That tool shall be made available, both online and on mobile devices, to any entity either benefiting from the Programme or involved in the management of the Programme. The tool shall also provide information about possible partners for prospective beneficiaries. **[Am. 160]**

7b. The Commission shall ensure that project results are publicly available and widely disseminated in order to promote the exchange of best practice among national agencies, stakeholders and Programme beneficiaries. **[Am. 161]**

7c. By 31 December 2021, the Commission shall develop a European Student Card for all students participating in the Programme. By 31 December 2025, the Commission shall make the European Student Card available to all students in the Union. **[Am. 162]**

Article 26

Independent audit body

1. The independent audit body shall issue an audit opinion on the yearly management declaration as referred to in Article [60(5)] of the Financial Regulation. It shall form the basis of the overall assurance pursuant to Article [123] of the Financial Regulation.

2. The independent audit body shall:

(a) have the necessary professional competence to carry out public sector audits;

(b) ensure that its audits take account of internationally accepted audit standards;

(c) not be in a position of conflict of interest with regard to the legal entity of which the national agency forms part. In particular, it shall be independent, in terms of its functions, of the legal entity of which the national agency forms part.

3. The independent audit body shall give the Commission and its representatives, as well as the Court of Auditors, full access to all documents and reports in support of the audit opinion that it issues on the national agency's yearly management declaration.

CHAPTER X

CONTROL SYSTEM

Article 27

Principles of the control system

1. The Commission shall take appropriate measures ensuring that, when actions financed under this Regulation are implemented, the financial interests of the Union are protected by the application of measures to prevent fraud, corruption and any other illegal activities, by effective controls and, if irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive penalties.

2. The Commission shall be responsible for the supervisory controls with regard to the Programme actions and activities managed by the national agencies. It shall set the minimum requirements for the controls by the national agency and the independent audit body***, taking account of the internal control systems for national public finances***. **[Am. 163]**

3. The national agency shall be responsible for the primary controls of grant beneficiaries for the Programme actions referred to in Article 24(2). Those controls shall give reasonable assurance that the grants awarded are used as intended and in compliance with the applicable Union rules.

4. With regard to the Programme funds transferred to the national agencies, the Commission shall ensure proper coordination of its controls with the national authorities and the national agencies, on the basis of the single audit principle and following a risk-based analysis. This provision shall not apply to investigations carried out by the European Anti-Fraud Office (OLAF).

Article 28

Protection of the financial interests of the Union

Where a third country participates in the Programme by a decision under an international agreement or by virtue of any other legal instrument, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of the European Anti-Fraud Office, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013.

CHAPTER XI

COMPLEMENTARITY

Article 29

Complementarity with other Union policies, programmes and funds

1. The Programme shall be implemented so as to ensure its overall consistency and complementarity with other relevant Union policies, programmes and funds, in particular those relating to education and training, culture and the media, youth and solidarity, employment and social inclusion, research and innovation, industry and enterprise, digital policy, agriculture and rural development, environment and climate, cohesion, regional policy, migration, security and international cooperation and development.

2. An action that has received a contribution from the Programme may also receive a contribution from any other Union programme, provided that the contributions do not cover the same costs. ***The cumulative financing shall not exceed the total eligible costs of the action.*** **[Am. 164]**

3. Where the Programme and the European Structural and Investment (ESI) Funds referred to in Article 1 of Regulation (EU)XX [CPR] provide jointly financial support to a single action, that action shall be implemented in accordance with the rules set out in this Regulation, including rules on recovery of amounts unduly paid.

4. Actions eligible under the Programme, which ***comply with the following cumulative, comparative conditions:***

— ***they*** have been assessed in a call for proposals under the Programme ~~and which~~;

— ***they*** comply with the minimum quality requirements of that call for proposals~~, but which are not~~;

— ***they cannot be*** financed ***under that call for proposals*** due to budgetary constraints,;

may be ~~selected~~ ***awarded a Seal of Excellence in recognition of their high quality, thereby facilitating their application for funding from other sources or enabling their selection*** for funding by the European Structural and Investment (ESI) funds ***without a new application process***. In this case the co-financing rates and the eligibility rules based on this Regulation shall apply. These actions shall be implemented by the managing authority referred to in Article [65] of Regulation (EU)XX [CPR] in accordance with the rules set out in that Regulation and fund specific regulations, including rules on financial corrections. **[Am. 165]**

CHAPTER XII

TRANSITIONAL AND FINAL PROVISIONS

Article 30

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~~ ***Articles 19 and*** 20 shall be conferred on the Commission until 31 December 2028. **[Am. 166]**

3. The delegation of power referred to in ~~Article~~ ***Articles 19 and*** 20 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. **[Am. 167]**

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 on Better Law-Making of 13 April 2016.

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 20 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 31*~~

~~*Committee procedure*~~

~~1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011.~~

~~2. The committee may meet in specific configurations to deal with sectoral issues. Where appropriate, in accordance with its rules of procedure and on an ad hoc basis, external experts, including representatives of the social partners, may be invited to participate in its meetings as observers.~~

~~3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.~~ **[Am. 168]**

Article 32

Repeal

Regulation (EU) No 1288/2013 is repealed with effect from 1 January 2021.

Article 33

Transitional provisions

1. This Regulation shall not affect the continuation or modification of the actions initiated under Regulation (EU) No 1288/2013, which shall continue to apply to the actions concerned until their closure.

2. The financial envelope for the Programme may also cover technical and administrative assistance expenses necessary to ensure the transition between the Programme and the measures adopted under Regulation (EU) No 1288/2013.

3. By way of derogation from Article [130(2)] of the Financial Regulation, and in duly justified cases, the Commission may consider the costs directly linked to the implementation of the supported activities and incurred during the first six months of 2021 as eligible for financing from 1 January 2021, even if they were incurred by the beneficiary before the grant application was submitted.

4. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 14(5), to enable the management of actions and activities not completed by [31 December 2027].

5. Member States shall ensure at national level the unimpeded transition between the actions carried out in the context of the Erasmus+ programme (2014-2020) and those to be implemented under this Programme.

Article 34

Entry into force

This Regulation shall enter into force on the […] [twentieth] 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 …,

For the European Parliament	*For the Council*
The President	*The President*

~~ANNEX~~

~~Indicators~~

~~(1) High-quality learning mobility for people from diverse backgrounds~~

~~(2) Europeanisation and internationalisation of organisations and institutions~~

~~What to measure?~~

~~(3) Number of people taking part in mobility activities under the Programme~~

~~(4) Number of people with fewer opportunities taking part in learning mobility activities under the Programme~~

~~(5) Share of participants that consider having benefitted from their participation in learning mobility activities under the Programme~~

~~(6) Number of institutions and organisations supported by the Programme under key action 1 (learning mobility) and key action 2 (cooperation)~~

~~(7) Number of newcomer organisations supported by the Programme under the key action 1 (learning mobility) and key action 2 (cooperation)~~

~~(8) Share of institutions and organisations supported by the Programme who have developed high quality practices as a result of their participation in the Programme~~ **[Am. 169]**

Thursday 28 March 2019

ANNEX IA

All quantitative indicators shall be disaggregated at least according to Member State and to gender.

Objective to measure: Key Action 1 — Learning mobility

Indicators:

Number of people taking part in mobility actions and activities under the Programme;

Number of individuals using virtual or blended learning tools in support of mobility under the Programme;

Number of individuals using blended or virtual learning tools because they are unable to participate in mobility activities;

Number of organisations/institutions taking part in mobility actions and activities under the Programme;

Number of organisations/institutions using virtual or blended learning tools in support of mobility under the Programme;

Number of organisations/institutions using blended or virtual learning tools because they are unable to participate in mobility activities;

Share of participants that consider they have benefited from their participation in Key Action 1 activities;

Share of participants that consider they have an increased European sense of belonging after participation in the Programme;

Share of participants that consider they have improved foreign language proficiency after participation in the Programme;

Objective to measure: Key Action 2 — Cooperation among organisations and institutions

Indicators:

Number of organisations/institutions supported by the Programme under Key Action 2;

Share of organisations/institutions that consider they have benefited from their participation in Key Action 2 activities;

Number of organisations/institutions making use of Union tools and platforms for cooperation;

Objective to measure: Key Action 3 — Support to policy development and cooperation

Indicators:

Number of individuals or organisations/institutions benefiting from actions under Key Action 3;

Objective to measure: Inclusion

Indicators:

Number of people with fewer opportunities taking part in mobility actions and activities;

Number of people with fewer opportunities using virtual or blended learning tools in support of mobility under the Programme;

Number of people with fewer opportunities using blended or virtual learning tools because they are unable to participate in mobility activities;

Number of newcomer organisations supported by the Programme under Key Action 1 and Key Action 2;

Share of people with fewer opportunities that consider they have benefited from their participation in the Programme;

Objective to measure: Simplification

Indicators:

Number of small-scale partnerships supported under Key Action 2;

Share of participants that consider that the application, participation and evaluation procedures are proportionate and simple;

Average time taken to complete each application by action compared to the previous programme. **[Am. 170]**

Thursday 28 March 2019

ANNEX TO THE LEGISLATIVE RESOLUTION

STATEMENT OF THE EUROPEAN PARLIAMENT

The position of the European Parliament adopted at first reading is to be understood as a package. Should the financial envelope for the 2021-2027 Programme be lower than the amount laid down in Article 14 paragraph 1 of the Parliament's position, the European Parliament reserves the right to re-examine its support for any of the actions in the Programme to ensure that the core activities of the Programme and its enhanced support for inclusion measures can be effectively delivered.

Furthermore, the European Parliament makes clear that its support for the new initiatives contained in its position — notably European Universities, Centres of vocational excellence and DiscoverEU — is contingent on (a) the evaluation of the pilot phases currently underway and (b) the further definition of each initiative. In the absence of the above, the European Parliament will use its prerogatives under the annual budgetary procedure to place relevant funds into the reserve until such time as these conditions have been fulfilled.

Thursday 28 March 2019

P8_TA (2019)0325

Establishment of a framework to facilitate sustainable investment ***I

European Parliament legislative resolution of 28 March 2019 on the proposal for a regulation of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment (COM(2018)0353 — C8-0207/2018 — 2018/0178(COD))

(Ordinary legislative procedure: first reading)

(2021/C 108/56)

The European Parliament,

— having regard to the Commission proposal to Parliament and the Council (COM(2018)0353),

— having regard to Article 294(2) and Article 114 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0207/2018),

— having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 October 2018 ([1]),

— having regard to the opinion of the Committee of the Regions of 5 December 2018 ([2]),

— having regard to Rule 59 of its Rules of Procedure,

— having regard to the joint deliberations of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Food Safety under Rule 55 of the Rules of Procedure,

— having regard to the report of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Food Safety (A8-0175/2019),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0178

Position of the European Parliament adopted at first reading on 28 March 2019 with a view to the adoption of Regulation (EU) …/… of the European Parliament and of the Council on the establishment of a framework to facilitate sustainable investment

(Text with EEA relevance)

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 114 thereof,

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([1]) OJ C 62, 15.2.2019, p. 103.
([2]) OJ C 86, 7.3.2019, p. 24.

Thursday 28 March 2019

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 3(3) of the Treaty on European Union aims to establish an internal market that works for the sustainable development of Europe, based among others on balanced economic growth and a high level of protection and improvement of the quality of the environment.

(2) On 25 September 2015, the UN General Assembly adopted a new global sustainable development framework: the 2030 Agenda for Sustainable Development ([4]) having at its core the Sustainable Development Goals (SDGs) covering three pillars of sustainability: environmental, social and economic/governance. The Commission's Communication of 2016 on the next steps for a sustainable European future ([5]) links the SDGs to the Union policy framework to ensure that all Union actions and policy initiatives, within the Union and globally, take the SDGs on board at the outset. The European Council conclusions of 20 June 2017 ([6]) confirmed the commitment of the Union and the Member States to the implementation of the 2030 Agenda in a full, coherent, comprehensive, integrated and effective manner and in close cooperation with partners and other stakeholders.

(3) In 2016, the Council concluded on behalf of the Union the Paris Climate Agreement ([7]). Article 2(1)(c) of the Paris Climate Agreement sets the objective to strengthen the response to climate change, among other means by making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

(4) Sustainability and the transition to a low-carbon and climate resilient, more resource-efficient and circular economy are key in ensuring long-term competitiveness of the Union's economy. Sustainability has long been at the heart of the European Union project and the Treaties give recognition to its social and environmental dimensions.

(5) In December 2016, the Commission mandated a High-Level Expert Group to develop an overarching and comprehensive Union strategy on sustainable finance. The report of the High-Level Expert Group published on 31 January 2018 ([8]) calls for the creation of a technically robust classification system at Union level to establish clarity on which activities are 'green' or 'sustainable', starting with climate change mitigation.

(6) In March 2018, the Commission published its Action Plan 'Financing Sustainable Growth' ([9]) setting up an ambitious and comprehensive strategy on sustainable finance. One of the objectives set out in that Action Plan is to reorient capital flows towards sustainable investment in order to achieve sustainable and inclusive growth. The establishment of a unified classification system ~~for sustainable~~ ***and of indicators for identifying the degree of sustainability of*** activities ~~is~~ ***are*** the most important and urgent action envisaged by the Action Plan. The Action Plan recognises that

([1]) OJ C 62, 15.2.2019, p. 103.
([2]) OJ C 86, 7.3.2019, p. 24.
([3]) European Parliament position of 28 March 2019.
([4]) Transforming our World: The 2030 Agenda for Sustainable Development (UN 2015) available at https://sustainabledevelopment.un.org/post2015/transformingourworld.
([5]) COM(2016)0739.
([6]) CO EUR 17, CONCL 5.
([7]) Council Decision (EU) 2016/1841 of 5 October 2016 on the conclusion, on behalf of the European Union, of the Paris Agreement adopted under the United Nations Framework Convention on Climate Change (OJ L 282, 19.10.2016, p. 4).
([8]) EU High-Level Expert Group on Sustainable Finance Final Report, Financing a Sustainable European Economy, available at: https://ec.europa.eu/info/sites/info/files/180131-sustainable-finance-final-report_en.pdf.
([9]) COM(2018)0097.

the shift of capital flows towards more sustainable activities has to be underpinned by a shared***, holistic*** understanding of ~~what 'sustainable' means~~ ***the impact of economic activities and investments on environmental sustainability and resource efficiency***. As a first step, clear guidance on activities qualifying as contributing to environmental objectives, should help inform investors about the investments that fund ~~environmentally sustainable~~ economic activities ***according to their degree of sustainability. Recognising the UN Sustainability Goals and the European Council conclusions of 20 June 2017,*** further guidance on the activities contributing to other sustainability objectives, including social ***and governance*** objectives, ~~may~~ ***should also*** be developed ~~at a later stage~~ ***thereby implementing the 2030 Agenda in full, coherent, comprehensive, integrated and effective manner***. **[Am. 80]**

(6a) While acknowledging the urgency of addressing climate change, a narrow focus on carbon exposure could have negative spill-overs by redirecting investment flows to targets that carry other environmental risks. Hence, adequate safeguards need to be put in place to ensure that the economic activities are not harming other environmental objectives, such as biodiversity and energy efficiency. Investors need comparable and holistic information regarding environmental risks and their impact, in order to assess their portfolios beyond carbon exposure. **[Am. 2]**

(6b) Given the urgency in several interlinked fields of environmental degradation and resource overconsumption, there is a need to take a systemic approach to exponentially growing negative trends, such as the loss of biodiversity, the global overconsumption of resources, the appearance of new threats including hazardous chemicals and their cocktails, nutrition scarcity, climate change, ozone depletion, ocean acidification, fresh water depletion, and land system change. Hence, it is necessary that the actions to be taken are forward-looking and up-to-scale to the upcoming challenges. The scale of those challenges requires a holistic and ambitious approach and the application of a stringent precautionary principle. **[Am. 3]**

(7) Decision No. 1386/2013/EU of the European Parliament and of the Council ([10]) called for an increase in private sector funding for environmental and climate-related expenditure, notably through putting in place incentives and methodologies that stimulate companies to measure the environmental costs of their business and profits derived from using environmental services.

(7a) The European Parliament Own Initiative Report on Sustainable Finance of 29 May 2018 lays down essential elements of sustainability indicators and taxonomy as an incentive for sustainable investment. Consistency should be ensured among relevant legislation. **[Am. 4]**

(8) Achieving SDGs in the Union requires the channelling of capital flows towards sustainable investments. It is important to exploit fully the potential of the internal market for the achievement of those goals. It is also important to ensure that capital flows channelled towards sustainable investment are not disrupted in the internal market.

(8a) The scale of the challenge entails gradually moving the entire financial system to support the economy to function on a sustainable basis. To that end, sustainable finance needs to be brought into the mainstream, and consideration needs to be made of sustainability impact in respect of financial products and services. **[Am. 5]**

(9) Offering financial products which pursue environmentally sustainable objectives is an effective way of ~~channelling~~ ***gradually shifting*** private investments ~~into~~ ***from activities with negative environmental impact and towards more*** sustainable activities. National requirements for marketing as sustainable investments financial products***, services*** and corporate bonds***, as defined in this Regulation***, in particular requirements set out to allow the relevant market actors to use a national label, aim to enhance investor confidence ***and awareness of risks***, to create visibility and to address concerns about 'greenwashing'. Greenwashing refers to the practice of gaining an unfair competitive advantage by marketing a financial product as environment-friendly, when in fact it does not meet basic environmental standards. Currently a few Member States have in place labelling schemes. They build on different taxonomies classifying environmentally sustainable economic activities. Given the political commitments under the Paris Agreement and at Union level, it is likely that more and more Member States will set up labelling schemes or

([10]) Decision No. 1386/2013/EU of the European Parliament and of the Council of 20 November 2013 on a General Union Environment Action Programme to 2020 'Living well, within the limits of our planet' (OJ L 354 28.12.2013, p. 171).

other requirements on market actors in respect of financial products or corporate bonds marketed as environmentally sustainable. In doing so, Member States would be using their own national taxonomies for the purposes of determining which investments qualify as sustainable. If such national requirements are based on different criteria ***and indicators*** as to which economic activities qualify as environmentally sustainable, investors will be discouraged from investing across borders, due to difficulties in comparing the different investment opportunities. In addition, economic operators wishing to attract investment from across the Union would have to meet different criteria in the various Member States in order for their activities to qualify as environmentally sustainable for the purposes of the different labels. The absence of uniform criteria ***and indicators*** will ~~thus increase~~ ***direct investments in an environmentally ineffective, and in some cases counterproductive, manner and lead to unmet environmental and sustainability targets. That absence thus increases*** costs and ~~create~~ ***creates*** a significant disincentive for economic operators, amounting to an impediment to access cross-border capital markets for sustainable investments. The barriers to access to cross-border capital markets for the purposes of raising funds for sustainable projects are expected to grow further. The criteria ***and indicators*** for determining ~~whether an~~ ***the degree of sustainability of*** an economic activity ~~is environmentally sustainable~~ should therefore be ***gradually*** harmonised at Union level, in order to remove obstacles to the functioning of the internal market and prevent their future emergence. With such harmonisation ***of information, of metrics and of criteria,*** economic operators will find it easier to raise funding for their ~~green~~ ***environmentally sustainable*** activities across borders, as their economic activities can be compared against uniform criteria ***and indicators*** in order to be selected as underlying assets for environmentally sustainable investments. It will therefore facilitate attracting investment across borders within the Union. **[Am. 6]**

(9a) In order for the Union to reach its environmental and climate commitments, private investments need to be mobilised. Achieving this requires long-term planning as well as regulatory stability and predictability for investors. In order to guarantee a coherent policy framework for sustainable investments, it is therefore important that the provisions of this Regulation build upon existing Union legislation. **[Am. 7]**

(10) Moreover if market participants do not ~~provide any explanation to investors of~~ ***disclose*** how the activities they invest in contribute ***negatively or positively*** to environmental objectives, or if they use different ~~concepts~~ ***metrics and criteria for determining the impact*** in their explanation of ~~what is a 'sustainable'~~ ***the degree of environmental sustainability of an*** economic activity, investors will find it disproportionately burdensome to check and compare ~~these~~ different financial products. It has been found that this discourages investors from investing into ~~green~~ ***sustainable*** financial products. Furthermore, the lack of investor confidence has major detrimental effects on the market for sustainable investment. It has further been shown that national rules or market-based initiatives taken to tackle this issue within national borders will lead to fragmenting the internal market. If financial market participants disclose how the financial products they claim are environment-friendly meet environmental objectives, and they use for such disclosures common criteria across the Union of what is an environmentally sustainable economic activity, this will help investors compare ~~environment-friendly~~ ***the environmental impact of*** investment opportunities across borders ***and will incentivise investee companies to make their business models more sustainable***. Investors will invest in green financial products with higher confidence across the Union, improving the functioning of the internal market. **[Am. 8]**

(10a) In order to deliver a meaningful environmental and broader sustainability impact, to decrease unnecessary administrative burden on financial market participants and other stakeholders and to facilitate the growth of European financial markets funding sustainable economic activities, the taxonomy should be based on harmonised, comparable and uniform criteria and indicators, including at least the circular economy indicators. Those indicators should be made consistent with the unified life cycle assessment methodology and be applied across Union regulatory initiatives. They should be the basis for the assessment of economic activities and investments risk and impact on the environment. Any overlap in regulation must be avoided which would not be in line with the principles of better regulation and would not be applied in a proportionate manner and the aim to create a consistent terminology and a clear regulatory framework. Any unnecessary burdening of both, authorities and financial institutions should also be avoided. In the same perspective, the scope and use of the technical screening criteria as well as the link to other initiatives should be clearly defined before the taxonomy and pertaining criteria enter into force. Setting harmonised criteria for environmentally sustainable economic

activities should take into account the competence of the Member States in different policy areas. The requirements of this Regulation should apply in a proportionate manner to small and non-complex institutions as defined under this Regulation. **[Am. 9]**

(10b) The indicators should be harmonised based on existing undertakings, such as the work of the Commission, the European Environmental Agency, and the OECD, among others, and should capture environmental impact on CO2 and other emissions, biodiversity, production of waste, the use of energy and renewable energy, raw materials, water, and direct and indirect land use, as laid out in the Commission monitoring framework on the circular economy (COM(2018)0029), the EU action plan for the Circular Economy (COM(2015)0614) and in the European Parliament's resolution of 9 July 2015 on resource efficiency: moving towards a circular economy (2014/2208(INI)). Furthermore, the indicators should be designed also taking into account the recommendations of the Support to Circular Economy Financing Expert Group of the European Commission. The Commission should evaluate how to integrate the work of this expert group with the TEG. Indicators should take into account internationally recognised sustainable standards. **[Am. 10]**

(11) To address existing obstacles to the functioning of the internal market and to prevent the emergence of such obstacles in the future, Member States ***and the Union*** should be required to use a common concept ~~of environmentally sustainable investment~~ ***regarding the degree of environmental sustainability of investments*** when setting up requirements for market actors for the purpose of labelling financial products***, services*** or corporate bonds marketed as environmentally sustainable at national level. For the same reasons, fund managers and institutional investors that hold themselves out as pursuing environmental objectives should use the same concept of environmentally sustainable investment ***and the same indicators, metrics and criteria for calculating the environmental impact*** when disclosing how they pursue those objectives. **[Am. 11]**

(12) ~~Establishing criteria for environmentally sustainable economic activities may encourage firms to disclose on their websites, on a voluntary basis, information on the environmentally sustainable economic activities they carry out. This~~ ***The*** information ***on the environmental impact of activities*** will ~~not only~~ help relevant actors in the financial markets to easily identify ~~which firms carry out environmentally sustainable~~ ***and determine the degree of environmental sustainability of the*** economic activities ***carried out by firms***, but it will also facilitate for these firms to raise funding ~~for their green activities~~. **[Am. 12]**

(13) ~~A Union classification of environmentally sustainable~~ ***Union-wide indicators relevant for the determination of the environmental impact of*** economic activities should enable the development of future Union policies ***and strategies***, including Union-wide standards for environmentally sustainable financial products and eventually the establishment of labels that formally recognise compliance with those standards across the Union***, as well as to be the basis for other economic, regulatory and prudential measures***. Uniform legal requirements for considering i~~nvestments as environmentally sustainable~~ ***the degree of environmental sustainability of*** investments, based on uniform criteria for ~~environmentally sustainable~~ ***determining the degree of environmental sustainability of*** economic activities ***and common indicators for assessing the environmental impact of investments***, are necessary as a reference for future Union legislation aiming at ~~enabling those~~ ***facilitating the shift from*** investments ***with a negative environmental impact to investments with a positive impact***. **[Am. 13]**

(14) In the context of achieving SDGs in the Union, policy choices such as the creation of a European Fund for Strategic Investment, ~~have proven to~~ ***could*** be effective in contributing to ***mobilise and*** channel private investment alongside public spending towards sustainable investments. Regulation (EU) 2015/1017 of the European Parliament and of the Council ([11]) specifies a 40 % ***horizontal*** climate investment target for infrastructure and innovation projects under the European Fund for Strategic Investment. Common criteria for the sustainability of economic activities ~~could~~ ***and***

([11]) Regulation (EU) 2017/2396 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1316/2013 and (EU) 2015/1017 as regards the extension of the duration of the European Fund for Strategic Investments as well as the introduction of technical enhancements for that Fund and the European Investment Advisory Hub (OJ L 345, 27.12.2017, p. 34).

Thursday 28 March 2019

common indicators for the assessment of environmental impact may underpin future similar initiatives of the Union ~~supporting~~ ***mobilising*** investment pursuing climate-related or other environmental objectives. **[Am. 14]**

(15) To avoid market fragmentation as well as harm to consumer interests due to divergent notions ~~of environmentally sustainable~~ ***regarding the degree of environmental sustainability of*** economic activities, national requirements that market actors should comply with when they wish to market financial products or corporate bonds ***as defined in this Regulation*** as being environmentally sustainable, should build on the uniform criteria for environmentally sustainable economic activities. Those market actors include financial market participants offering ~~'green'~~ ***sustainable*** financial products ***or services*** and non-financial companies issuing ~~'green'~~ ***sustainable*** corporate bonds. **[Am. 15]**

(16) To avoid harming consumer interests, fund managers and institutional investors offering financial products as environmentally sustainable, should disclose how and to what extent the criteria for environmentally sustainable economic activities are used to determine the environmental sustainability of the investments. The information disclosed should enable investors to understand the share of the investment funding environmentally sustainable economic activities as a percentage of all economic activities and thus the degree of environmental sustainability of the investment. The Commission should specify the information that needs to be disclosed for that purpose. That information should enable national competent authorities to verify compliance with the disclosure obligation easily, and to enforce that obligation in accordance with applicable national law.

(17) To avoid circumvention of the disclosure obligation, that obligation should also apply ~~where~~ ***to all*** financial products are offered as having similar characteristics as environmentally sustainable investments, including those having as their target environmental protection in a broad sense. Financial market participants should not be required to invest only in environmentally sustainable economic activities determined in accordance with the technical screening criteria set out in this Regulation. ~~They~~ ***Financial market participants and other actors*** should be encouraged to inform the Commission if they consider that ~~an economic activity that does not meet the~~ technical screening ~~criteria, or for which such~~ criteria ***relevant for the activities they finance*** have not been established yet, ***and thereby that their financial products*** should be considered environmentally sustainable, to help the Commission to evaluate the appropriateness of complementing or updating the technical screening criteria. **[Am. 16]**

(18) For the purposes of determining ~~whether~~ ***the degree of environmental sustainability of*** an economic activity ~~is environmentally sustainable~~, an exhaustive list of environmental objectives ***based on indicators measuring the environmental impact*** should be laid down***, taking into account its impact on the entire industrial value chain and ensuring coherence with existing Union legislation such as the Clean Energy package***. **[Am. 17]**

(19) The environmental objective of protection of healthy ecosystems should be interpreted taking into account relevant legislative and non-legislative instruments of the Union, including Directive 2009/147/EC of the European Parliament and of the Council ([12]), Council Directive 92/43/EEC ([13]), Regulation (EU) No 1143/2014 of the European Parliament and of the Council ([14]), the EU Biodiversity Strategy to 2020 ([15]), the EU Green Infrastructure Strategy, Council Directive 91/676 ([16]), Regulation (EU) No 511/2014 of the European Parliament and of the Council ([17]),

([12]) Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 020, 26.1.2010, p. 7).

([13]) Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

([14]) Regulation (EU) No 1143/2014 of the European Parliament and of the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJ L 317, 4.11.2014, p. 35).

([15]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — Our life insurance, our natural capital: an EU biodiversity strategy to 2020 (COM(2011)0244).

([16]) Council Directive 91/676 of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1).

([17]) Regulation (EU) No 511/2014 of the European Parliament and of the Council of 16 April 2014 on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (OJ L 150, 20.5.2014, p. 59).

Regulation (EU) No 995/2010 of the European Parliament and of the Council [18], the Forest Law Enforcement, Governance and Trade Action Plan [19], and the Wildlife Trafficking Action Plan [20].

(20) For each environmental objective, uniform criteria ***based on information provided by means of harmonised indicators*** for considering economic activities to be substantially contributing to that objective should be laid down. One element of the uniform criteria should be to avoid significant harm to any of the environmental objectives set out in this Regulation. This is in order to avoid that investments are considered environmentally sustainable although the economic activities benefitting from those investments cause harm to the environment to an extent outweighing their contribution to an environmental objective. The conditions for substantial contribution and for not causing significant harm should enable investments into environmentally sustainable economic activities to make a real contribution to the environmental objectives. **[Am. 18]**

(21) Recalling the joint commitment of the European Parliament, the Council and the Commission to pursue the principles enshrined in the European Pillar of Social Rights in support of sustainable and inclusive growth and recognising the relevance of international minimum human and labour rights and standards, compliance with minimum safeguards should be a condition for economic activities to qualify as environmentally sustainable. For that reason economic activities should only qualify as environmentally sustainable where they are carried out observing the International Labour Organisation's ('ILO') declaration on Fundamental Rights and Principles at Work and the eight ILO core conventions. The ILO core conventions define human and labour rights that companies are due to respect. Several of these international standards are also enshrined the Charter of Fundamental Rights of the European Union, in particular the prohibition of slavery and forced labour and the principle of non-discrimination. Those minimum safeguards are without prejudice to the application of more stringent requirements on environment, health and safety and social sustainability set out in Union law, where applicable.

(22) Given the specific technical details needed to assess the environmental impact of an economic activity and the fast-changing nature of both science and technology, the criteria ~~of environmentally sustainable~~ ***relevant for determining the degree of environmental sustainability of*** economic activities should be adapted regularly to those changes. For the criteria ***and indicators*** to be up to date, based on scientific evidence and input from experts as well as relevant stakeholders, the conditions for substantial contribution and significant harm should be specified with more granularity for different economic activities and should be updated regularly. To that purpose, granular and calibrated technical screening criteria ***and a set of harmonised indicators*** for the different economic activities should be laid down by the Commission, on the basis of the technical input of a multi-stakeholders Platform on Sustainable Finance. **[Am. 19]**

(23) Some economic activities have a negative impact on the environment, and a substantial contribution to one or more environmental objectives can be achieved by reducing that negative impact. For those economic activities, it is appropriate to set out technical screening criteria that require a substantial improvement in environmental performance compared to, inter alia, the industry average ***in order to consider whether that the activity may deliver a substantial contribution to one or more environmental objectives***. Those criteria should consider also the long term impact ***(i.e. more than 3 years)*** of a specific economic activity ***in particular the environmental benefits of products and services and the contribution of intermediate products, and thus provide an assessment of the impact of all the phases of manufacturing and use throughout the value chain and life cycle***. **[Am. 20]**

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[18] Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJ L 295, 12.11.2010, p. 23).

[19] Communication from the Commission to the Council and the European Parliament — Forest Law Enforcement, Governance and Trade (FLEGT) — Proposal for an EU Action Plan (COM(2003)0251).

[20] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — EU Action Plan against Wildlife Trafficking (COM(2016)0087).

Thursday 28 March 2019

(24) An economic activity should not be considered environmentally sustainable if it ~~causes more harm~~ ***does not bring about a net benefit*** to the environment ~~than the benefits it brings~~. The technical screening criteria should identify the minimum requirements necessary to avoid a significant harm to other objectives. When establishing and updating the technical screening criteria, the Commission should ensure that those criteria are ***reasonable, proportionate and*** based on available scientific evidence and ***take account of the whole value chain and the life cycle of technologies. It should also ensure that they*** are updated regularly. Where scientific evaluation does not allow for the risk to be determined with sufficient certainty, the precautionary principle should apply, in line with Article 191 TFEU. **[Am. 21]**

(25) When establishing and updating the technical screening criteria ***and a set of harmonised indicators*** the Commission should take into account the relevant Union law, as well as non-legislative instruments of the Union already in place, including the Regulation (EC) 66/2010 of the European Parliament and the Council ([21]), the EU Eco-Management and Audit Scheme ([22]), the EU Green Public Procurement criteria ([23])***, the Commission Circular Economy Platform, the European Platform on Life Cycle Assessment,*** and the on-going work on Product and Organisation Environmental Footprint rules ([24]). To avoid unnecessary inconsistencies with classifications of economic activities that already exist for other purposes, the Commission should also take into account the statistical classifications relating to the Environmental Goods and Services Sector, namely the Classification of Environmental Protection Activities and Expenditure (CEPA) and the Classification of Resource Management Activities (CReMA) ([25]). **[Am. 22]**

(26) When establishing and updating the technical screening criteria ***and harmonised indicators*** the Commission should also take into account the specificities of the ~~infrastructure sector~~ ***different sectors*** and take into account environmental, social and economic externalities within a cost-benefit analysis. In that regard, the Commission should consider the work of international organisations, such as the OECD, relevant Union legislation and standards, including Directive 2001/42/EC of the European Parliament and of the Council ([26]), Directive 2011/92/EU of the European Parliament and of the Council ([27]) Directive 2014/23/EU of the European Parliament and of the Council ([28]), Directive 2014/24/EU of the European Parliament and of the Council ([29]), Directive 2014/25/EU of the European Parliament and of the Council ([30]), and current methodology. In that context, the technical screening criteria ***and indicators*** should promote appropriate governance frameworks integrating environmental, social and governance factors, as referred to in the United Nations-supported Principles for Responsible Investment ([31]), at all stages of a project's lifecycle. **[Am. 23]**

(26a) In defining the technical screening criteria, the Commission should also take into account transitional measures towards activities that support the transition to a more sustainable, low-carbon economy. For companies that are currently engaged in economic activities that are highly damaging to the environment there should be incentives

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([21]) Regulation (EC) 66/2010 of the European Parliament and the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1).

([22]) 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).

([23]) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Public procurement for a better environment {SEC(2008)2124} {SEC(2008)2125} {SEC(2008)2126} COM(2008)0400.

([24]) 2013/179/EU: Commission Recommendation of 9 April 2013 on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations (OJ L 124, 4.5.2013, p. 1).

([25]) Annex 4 and 5 of Regulation (EU) No 538/2014 of the European Parliament and of the Council of 16 April 2014 amending Regulation (EU) No 691/2011 on European environmental economic accounts (OJ L 158, 27.5.2014, p. 113).

([26]) 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).

([27]) 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).

([28]) Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

([29]) 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).

([30]) 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).

([31]) https://www.unpri.org/pri/what-are-the-principles-for-responsible-investment.

to make a rapid transition to environmentally sustainable, or at least environmentally unproblematic status. The technical screening criteria should encourage such transition processes where they are happening. If the major part of the undertakings that conduct a particular harmful activity are demonstrably engaged in such a transition, the screening criteria may take this into account. The existence of serious transition efforts can be demonstrated through, among other things, sustained research and development efforts, large investment capital expenditure projects in new and more environmentally sustainable technologies, or concrete transition plans in at least the early stages of implementation. **[Am. 24]**

(27) To ***encourage environmentally sustainable innovation and to*** avoid distorting competition when raising financing for environmentally sustainable economic activities, the technical screening criteria should ensure that all relevant economic activities within ~~a specific sector~~ ***macro-sectors (i.e. NACE sectors such as agriculture, forestry and fishing, manufacturing, electricity, gas, steam and air conditioning supply, construction, transportation and storage services)*** can qualify as environmentally sustainable and are treated equally if they contribute equally towards one or more of the environmental objectives laid out in this Regulation***, while not significant harming any other environmental objectives under Articles 3 and 12***. The potential capacity to contribute towards those environmental objectives may however vary across sectors, which should be reflected in the ***screening*** criteria. However, within each ***economic macro-***sector, those criteria should not unfairly disadvantage certain economic activities over others if the former contribute towards the environmental objectives to the same extent as the latter, ***while not significantly harming any other environmental objectives referred to in Articles 3 and 12***. **[Am. 25]**

(27a) Environmentally sustainable activities are the result of technologies and products developed all along the value-chain. For this reason, the technical screening criteria should consider the role of the whole value-chain, from the processing of raw materials to the final product and its waste phase, in the final delivery of environmentally sustainable activities. **[Am. 26]**

(27b) To avoid disrupting well-functioning value-chains, the technical screening criteria should consider that environmentally sustainable activities are enabled by technologies and products developed by multiple economic actors. **[Am. 27]**

(28) When establishing technical screening criteria, the Commission should assess ***potential transition risks,*** whether ***the pace of the*** adoption of those criteria for environmentally sustainable activities would give rise to stranded assets or deliver inconsistent incentives~~, and whether it would have any negative impact on liquidity in financial markets~~. **[Am. 28]**

(29) To avoid overly burdensome compliance costs on economic operators, the Commission should establish technical screening criteria that provide for sufficient legal clarity, are practicable, easy to apply and with which compliance can be verified within reasonable cost-of-compliance boundaries.

(30) To ensure that investments are channelled towards economic activities that make the biggest positive impact on the environmental objectives, the Commission should give priority to the establishment of technical screening criteria for the economic activities that potentially contribute most to the environmental objectives. ***Screening criteria should take into account the outcomes of projects to facilitate the identification and development of new technologies as well as to take into account of the scalability of these technologies.*** **[Am. 29]**

(31) Appropriate technical screening criteria should be established for the transport sector, including for mobile assets, which should take into account ***the entire life cycle of technologies and*** that the transport sector, including international shipping, contributes close to 26 % of total greenhouse gas emissions in the Union. As evidenced in the Action Plan on Financing Sustainable Growth ([32]) the transport sector represents about 30 % of additional annual investment needs for sustainable development in the Union, including by increasing electrification or transition to cleaner modes of transport by promoting modal shift and traffic management. **[Am. 30]**

([32]) COM(2018)0097.

Thursday 28 March 2019

(32) It is of particular importance that the Commission when preparing the development of the technical screening criteria, carry out appropriate consultations in line with Better Regulation requirements. The process for the establishment and the update of the technical screening criteria ***and the harmonised indicators*** should also involve relevant stakeholders and build on ***scientific evidence, socio-economic impact, best practice and existing work and entities, notably, the European Commission Circular Economy Platform, and*** the advice of experts with proven knowledge and ***global*** experience in the relevant areas. For that purpose, the Commission should set up a Platform on sustainable finance. This Platform should be composed of ***a wide range of*** experts representing both the public and the private sector ***to ensure that the specificities of all relevant sectors are duly taken into account***. Public sector representatives should include experts from the European Environmental Agency ***and national environment protection agencies***, the European Supervisory Authorities ***the European Financial Reporting Advisory Group,*** and the European Investment Bank. Private sector experts should include representatives of relevant stakeholders, including financial ***and non-financial*** market actors, ***representatives of the real economy representing a wide range of industries***, universities, research institutes, associations and organisations. ***Where necessary the Platform should be allowed to request advice from non-members***. The Platform should advise the Commission on the development, analysis and review of technical screening criteria ***and harmonised indicators***, including their potential impact on the valuation of assets that until the adoption of the technical screening criteria were considered ~~as green assets~~ ***sustainable*** under existing market practices. The Platform should also advise the Commission on whether the technical screening criteria ***and indicators*** are suitable for further uses in future Union policy initiatives aimed at facilitating sustainable investment. ***The Platform should advise the Commission on the development of sustainability accounting standards and integrated reporting standards for corporates and financial market participants, including through the revision of Directive 2013/34/EU.*** **[Am. 31]**

(33) In order to specify the requirements set out in this Regulation, and particularly to establish and update granular and calibrated technical screening criteria ***and indicators*** for different economic activities as to what constitutes a substantial contribution and significant harm to the environmental objectives, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the information required to comply with the disclosure obligation set out in Article 4 (3), and the technical screening criteria mentioned in Article 6(2), Article 7(2), Article 8(2), Article 9(2), Article 10(2) and Article 11(2). It is of particular importance that the Commission carry out appropriate ***public*** 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 on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member States' experts, and the experts of the European Parliament and the Council should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts. **[Am. 32]**

(34) To give sufficient time to the relevant actors to familiarise themselves with the criteria for environmentally sustainable economic activities set out in this Regulation and to prepare for their application, the obligations set out in this Regulation should become applicable, for each environmental objective, six months after the relevant technical screening criteria have been adopted.

(35) The application of this Regulation should be reviewed regularly ***and at least after two years*** in order to assess the progress on the development of technical screening criteria ***and harmonised indicators*** for environmentally sustainable ***and environmentally harmful*** activities, the use of the definition of environmentally sustainable investment ***or investments having a negative environmental impact,*** and whether compliance with the obligations requires the establishment of ***further*** verification mechanism. The review should include also an assessment of ~~whether~~ ***the provisions required for extending*** the scope of this Regulation ~~should be extended~~ to cover social sustainability objectives. ***By 31 March 2020, the Commission should, where appropriate, publish further legislative proposals on the establishment of a verification mechanism of compliance.*** **[Am. 33]**

(36) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States, but can be better achieved at Union level, by reason of the need to introduce at Union level uniform criteria ***and indicators*** for environmentally sustainable economic activities, 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 those objectives. **[Am. 34]**

HAVE ADOPTED THIS REGULATION:

Chapter I

Subject matter, scope and definitions

Article 1

Subject matter and scope

1. This Regulation establishes the criteria for determining ***the degree of environmental impact and sustainability of*** whether an economic activity ~~is environmentally sustainable~~ for the purposes of establishing the degree of environmental sustainability of an investment.

2. This Regulation applies to the following:

(a) measures adopted by Member States or by the Union setting out any requirements on ***financial*** market ~~actors~~ ***participants*** in respect of financial products or corporate bonds that are marketed ***within the Union*** as environmentally sustainable;

(b) financial market participants offering ***within the Union*** financial products as environmentally sustainable investments or as investments having similar characteristics***; and***

(ba) financial market participants offering other financial products except where:

i. they provide explanations, supported by reasonable proof to the satisfaction of the relevant competent authorities, that the economic activities funded by its financial products do not have any significant sustainability impact according to the technical screening criteria referred to in Art 3 and 3a, in which case the provisions of Chapter II and III shall not apply. Such information shall be provided in its prospectus, or

ii. the financial market participant declares in its prospectus that the financial product in question does not pursue sustainability objectives and that the product is at an increased risk of supporting economic activities that are not considered sustainable under this regulation.

2a. The criteria referred to in Article 1(1) shall be applied in a proportionate manner, avoiding excessive administrative burden, and taking into account the nature, scale and complexity of the financial market participant and credit institutions by means of simplified provisions for small and non-complex entities in conformity with the provisions of Article 4 paragraph 2d.

2b. The criteria referred to in the first paragraph of this Article may be used for the purpose mentioned in that paragraph by undertakings not covered by Article 1(2) or with respect to other financial instruments than those defined in Article 2 on a voluntary basis.

2c. The Commission shall adopt a delegated act for the purpose of specifying the information that financial market participants shall submit to the relevant competent authorities for the purpose of point (a) of paragraph 2 of this Article. **[Ams. 35, 55, 59, 87 and 96]**

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

(a) 'environmentally sustainable investment' means an investment that funds one or several economic activities that qualify under this Regulation as environmentally sustainable;

Thursday 28 March 2019

(b) 'financial market participants' means ~~financial market participants~~ ***any of the following,*** as defined in Article 2 (a) of [Commission proposal for a Regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341]:

(i) a credit institution as defined in point (1) of Article 4 (1) of Regulation (EU) No 575/2013 defined under [PO insert reference to relevant Article] of Regulation (EU) No 575/2013];

(ba) 'issuer' means a listed issuer as defined in point (h) of Article 2(1) of Directive 2003/71/EC of the European Parliament and of the Council [33] and point (h) of Article 2 of Regulation (EU) 2017/1129 of the European Parliament and of the Council [34];

(c) 'financial products' ~~mean financial products~~ ***means a portfolio management, an AIF, an IBIP, a pension product, a pension scheme or a UCITS, a corporate bond,*** as defined in Article 2 (j) of [Commission proposal for a Regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341]***, as well as issuances referred to in Directive 2003/71/EC and Regulation (EU) 2017/1129)***;

(ca) 'environmental indicators' means, at minimum, the measurement of consumption of recourses, such as raw materials, energy, renewable energy, water, impact on ecosystem services, emissions including CO_2, impact on biodiversity and land use and production of waste, based on scientific evidence, the Commission Life Cycle Assessment methodology and as laid out in the Commission's monitoring framework on the circular economy (COM(2018)0029);

(cb) 'relevant national competent authority' means the competent or supervisory authority, or authorities, in the Member States as specified in the Union acts referred to in Article 1(2) of Regulation (EU) No 1095/2010, of Regulation (EU) No 1093/2010 and of Regulation (EU) No 1094/2010, which cover in their scope the category of financial market participant subject to the disclosure requirement referred to in Article 4 of this Regulation;

(cc) 'relevant ESA' means the European Supervisory Authority, or European Supervisory Authorities, specified in the Union acts referred to in Article 1(2) of Regulation (EU) No 1093/2010, of Regulation (EU) No 1094/2010 and/or of Regulation (EU) No 1095/2010, which cover in their scope the category of financial market participant subject to the disclosure requirement referred to in Article 4 of this Regulation;

(d) 'climate change mitigation' means the ~~process of~~ ***processes***, ***including transitional measures***, ***required for*** holding the increase in the global average temperature to well below 2 °C ~~above pre-industrial levels~~ and ~~limiting the temperature increase~~ ***pursuing efforts to limit it*** to 1,5 °C above pre-industrial levels***, as laid down the Paris Agreement***;

(e) 'climate change adaptation' means the process of adjustment to actual and expected climate ***change*** and its effects;

(f) 'greenhouse gas' means a greenhouse gas listed in Annex I to Regulation (EU) No 525/2013 of the European Parliament and of the Council [35];

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[33] Directive 2003/71/EC of the European Parliament and of the Council of 4 November 2003 on the prospectus to be published when securities are offered to the public or admitted to trading and amending Directive 2001/34/EC (OJ L 345, 31.12.2003, p. 64).

[34] Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12).

[35] Regulation (EU) No 525/2013 of the European Parliament and of the Council on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change and repealing Decision 280/2004/EC (OJ L 165, 18.6.2013, p. 13).

(g) 'circular economy' means maintaining the value ***and usage*** of products, materials and ***all other*** resources in the economy ***at their highest level*** for as long as possible, ***and thus reducing environmental impact*** and minimising waste, including through the application of the waste hierarchy as laid down in Article 4 of Directive 2008/98/EC of the European Parliament and of the Council ([36]) ***and minimising the use of resources based on key circular economy indicators as set out in the monitoring framework on progress towards a circular economy, covering different stages of production, consumption, waste management***;

(h) 'pollution' means:

(i) the direct or indirect introduction, as a result of human activity, of substances, vibrations, heat, noise***, light*** or other pollutants into air, water or land which may be harmful to human health or the quality of the environment, may result in damage to material property, or may impair or interfere with amenities and other legitimate uses of the environment;

(ii) in the context of marine environment, pollution as defined in Article 3(8) of Directive 2008/56/EC of the European Parliament and of the Council ([37]);

(iia) in the context of water environment, pollution as defined in Article 2 (33) of Directive 2000/60/EC;

(i) 'healthy ecosystem' means an ecosystem that is in a good physical, chemical and biological condition or of a good physical, chemical and biological quality ***and that is capable of self-reproduction or self-restoration to equilibrium and that preserves biodiversity***;

(j) 'energy efficiency' means using energy more efficiently at all the stages of the energy chain from production to final consumption;

(k) 'good environmental status' means good environmental status as defined in Article 3(5) of Directive 2008/56/EC;

(l) 'marine waters' means marine waters as defined in Article 3(1) of Directive 2008/56/EC;

(m) 'surface water', 'inland water', 'transitional waters' and 'coastal water' shall have the same meaning as in points (1), (3), (6) and (7) of Article 2 of Directive 2000/60/EC ([38]);

(n) 'sustainable forest management' means using forests and forest land in ~~a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfil, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems~~ ***accordance with applicable legislation***. **[Ams. 36, 88 and 89]**

Chapter II

Environmentally sustainable economic activities

Article 3

Criteria for environmentally sustainable economic activities

For the purposes of establishing the degree of environmental sustainability of an investment, an economic activity shall be environmentally sustainable where that activity complies with all of the following criteria:

([36]) Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

([37]) Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

([38]) 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 (OJ L 327, 22.12.2000, p. 1).

Thursday 28 March 2019

(a) the economic activity contributes substantially to one or more of the environmental objectives set out in Article 5 in accordance with Articles 6 to 11;

(b) the economic activity does not significantly harm any of the environmental objectives set out in Article 5 in accordance with Article 12;

(c) the economic activity is carried out in compliance with the minimum safeguards laid down in Article 13;

(d) the economic activity complies with technical screening criteria, where the Commission has specified those ***on the basis of harmonised measuring sustainability impact at company or plan levels belonging to the economic activity and*** in accordance with Articles 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2). **[Am. 37]**

Article 3a

Criteria for economic activities with a significant negative environmental impact

By 31 December 2021, the Commission shall conduct an impact assessment on the consequences of revising this Regulation to expand the framework for sustainable investments with a framework that is used to define criteria for when and how an economic activity has a significant negative impact on sustainability. **[Am. 38]**

Article 4

~~Use of~~ ***Application of and compliance with*** the criteria for ~~environmentally sustainable~~ ***determining the degree of environmental sustainability of*** economic activities

1. Member States ***and the Union*** shall apply the criteria for determining ~~environmentally sustainable~~ ***the degree of environmental sustainability of*** economic activities set out in Article 3 for the purposes of any measures setting out ***sustainability*** requirements on market actors in respect of financial products or corporate bonds ~~that are marketed as 'environmentally sustainable'~~.

2. Financial market participants offering financial products ***or corporate bonds shall disclose the relevant information allowing them to establish whether the products they offer qualify*** as environmentally sustainable investments~~, or as investments having similar characteristics, shall disclose information on how and to what extent the criteria for environmentally sustainable economic activities set out in Article 3 are used to determine the environmental sustainability of the investment~~ ***pursuant to the criteria of Article 3***. Where financial market participants consider that an economic activity ~~which does not comply with the technical screening criteria set out in accordance with this Regulation or~~ for which ~~those~~ technical screening criteria have not been established yet, should be considered environmentally sustainable, they ~~may~~ ***shall*** inform the Commission. ***The Commission shall, if appropriate, notify the Platform on sustainable Finance referred to in Article 15 of such requests by the financial market participants. Financial market participants shall not offer financial products as environmentally sustainable investments, or as investments having similar characteristics, if those products do not qualify as environmentally sustainable.***

2a. Member States, in close cooperation with the relevant ESA, shall monitor the information referred to in paragraph 2. Financial market participants shall report it to the relevant national competent authority which shall communicate it to the relevant ESA without delay. Whenever the relevant national competent authority or the relevant ESA disagree with the information reported as referred to in paragraphs 2 and 2a, financial market participants shall review and correct the information disclosed.

2b. The disclosure of information referred to in Article 4 shall be consistent with the principles of fair, clear and none misleading information included in Directive (EU) 2014/65/EU and in Directive (EU) 2016/97 and intervention powers referred to in Article 4 paragraph 2c consistent with those included in Regulation No 600/2014.

2c. No disclosure requirements under the [PO please insert reference to Regulation on disclosures relating to sustainable investments and sustainability risks and amending Directive (EU) 2016/2341] shall be required in this Regulation;

2d. Small and non-complex undertakings referred to in Article 2.2b and 2.2c shall be subject to simplified provisions.

3. The Commission shall adopt delegated acts in accordance with Article 16 to supplement paragraph 2***, 2a and 2b*** to specify the information required to comply with ~~that paragraph~~ ***these paragraphs, including a list of investments having similar characteristics as sustainable investments and the relevant qualification thresholds for the purpose of paragraph 2***, taking into account ***the availability of relevant information and*** the technical screening criteria set out in accordance with this Regulation. That information shall enable investors to identify:

(a) the percentage of holdings ~~pertaining to~~ ***in different*** companies carrying out environmentally sustainable economic activities;

(b) the share of the investment funding environmentally sustainable economic activities as a percentage of all economic activities.

(ba) the relevant definitions of small and non-complex undertakings referred to in Article 2 b as well the simplified provisions that apply to these entities.

3a. Financial market participants shall publish the information referred to in points (a) and (b) of paragraph 3.

4. The Commission shall adopt the delegated act in accordance with paragraph 3 by 31 December 2019 with a view to ensure its entry into application on 1 July 2020. The Commission may amend that delegated act, in particular in the light of amendments to the delegated acts adopted in accordance with Article 6(2), Article 7(2), Article 8(2), Article 9(2), Article 10 (2) and Article 11(2). **[Am. 39]**

Article 4a

Market monitoring

1. In accordance with Article 9(2) of Regulation (EU) No 1093/2010, Regulation (EU) No 1094/2010, Regulation (EU) No 1095/2010, the relevant ESA shall monitor the market for financial products referred to in Article 1 of this Regulation, which are marketed, distributed or sold in the Union.

2. Competent authorities shall monitor the market for financial products which are marketed, distributed or sold in or from their Member State.

3. In accordance with Article 9(5) of Regulations (EU) No 1093/2010, No 1094/2010, No 1095/2010, the relevant ESA may, where there is a breach of this Regulation by the entities referred to in Article 1, temporarily prohibit or restrict in the Union the marketing, distribution or sale of the financial products referred to in Article 1;

A prohibition or restriction referred to in Art 3 may apply in circumstances, or be subject to exceptions, specified by the relevant ESA.

4. When taking action under this Article, the relevant ESA shall ensure that the action:

(a) does not have a detrimental effect on the efficiency of financial markets or on investors that is disproportionate to the benefits of the action, and

(b) does not create a risk of regulatory arbitrage;

Where a competent authority or competent authorities have taken a measure under this Article, the relevant ESA may take any of the measures referred to in paragraph 1.

5. Before deciding to take any action under this Article, the relevant ESA shall notify competent authorities of the action it proposes.

6. The relevant ESA shall review a prohibition or restriction imposed under paragraph 1 at appropriate intervals and at least every three months. If the prohibition or restriction is not renewed after that three-month period it shall expire.

7. Action adopted by the relevant ESA under this Article shall prevail over any previous action taken by a competent authority. *[Am. 40]*

Article 5

~~Environmental~~ ***Sustainability*** objectives

1. For the purposes of this Regulation, the following shall be environmental objectives:

(1) climate change mitigation;

(2) climate change adaptation;

(3) sustainable use and protection of water and marine resources;

(4) transition to a circular economy, ***including*** waste prevention ~~and recycling~~ ***and increasing the uptake of secondary raw materials***;

(5) pollution prevention and control;

(6) protection of ***biodiversity and*** healthy ecosystems***, and restoration of degraded ecosystems***.

1a. The objectives set out in the first paragraph shall be measured by harmonised indicators, life cycle analysis and scientific criteria, and be fulfilled ensuring they are up to scale to the upcoming environmental challenges. **[Am. 41]**

Article 6

Substantial contribution to climate change mitigation

1. An economic activity shall be considered to contribute substantially to climate change mitigation where that activity substantially contributes to the stabilization of greenhouse gas concentrations in the atmosphere at a level which prevents dangerous anthropogenic interference with the climate system by avoiding or reducing greenhouse gas emissions or enhancing greenhouse gas removals through any of the following means, including through process or product innovation:

(a) generating, storing***, distributing*** or using renewable energy ~~or climate-neutral energy (including carbon-neutral energy)~~ ***in line with the Renewable Energy Directive***, including through using innovative technology with a potential for significant future savings or through necessary reinforcement of the grid;

(b) improving energy efficiency ***in all sectors, except energy generation using solid fossil fuels, and at all stages of the energy chain, in order to reduce primary and final energy consumption***;

(c) increasing clean or climate-neutral mobility;

(d) switching to ***or increasing*** the use of ***environmentally sustainable*** renewable materials ***based on a full life cycle assessment and substituting particularly fossil-based materials, which delivers near term greenhouse gas emissions savings***;

(e) increasing ***the use of environmentally safe carbon capture and utilisation (CCU) and*** carbon capture and storage ~~use~~ ***(CCS) technologies that deliver a net reduction in emissions***;

(f) phasing out anthropogenic emissions of greenhouse gases~~, including from fossil fuels~~;

(fa) increasing the removal of CO_2 from the atmosphere and its storage in natural ecosystems, for example through afforestation, the restoration of forests and regenerative agriculture;

(g) establishing energy infrastructure required for enabling decarbonisation of energy systems;

(h) producing clean and efficient fuels from renewable or carbon-neutral sources.

2. The Commission shall adopt delegated acts in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria ***based on indicators*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to climate change mitigation***. Those technical screening criteria shall include thresholds for mitigation activities in line with the objective to limit global warming to well below 2 °C and pursuing efforts to limit it to 1,5 °C above pre-industrial levels, as laid down the Paris Agreement***;

(b) supplement Article 12 to establish technical screening criteria ***based on indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria ***based on indicators*** are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria ***based on indicators*** referred to in paragraph 2 in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2019, with a view to ensure its entry into application on 1 July 2020. **[Am. 42, 66 and 99]**

Article 7

Substantial contribution to climate change adaptation

1. An economic activity shall be considered to contribute substantially to climate change adaptation where that activity contributes substantially to reducing the negative effects of the current and expected future climate or preventing an increase or shifting of negative effects of climate change, through the following means:

(a) preventing or reducing the location- and context-specific negative effects of climate change, which shall be assessed and prioritised using available climate projections, on the economic activity;

(b) preventing or reducing the negative effects that climate change may pose to the natural and built environment within which the economic activity takes place, which shall be assessed and prioritised using available climate projections ***and studies on the human impact on climate change***.

2. The Commission shall adopt a delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria ***based on indicators*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to climate change adaptation;

(b) supplement Article 12 to establish technical screening criteria ***based on indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria ***based on indicators*** are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

Thursday 28 March 2019

3. The Commission shall establish the technical screening criteria ***based on indicators*** referred to in paragraph 2 together in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 31 December 2019, with a view to ensure its entry into application on 1 July 2020. **[Am. 43]**

Article 8

Substantial contribution to sustainable use and protection of water and marine resources

1. An economic activity shall be considered to be contributing substantially to sustainable use and protection of water ***bodies*** and marine ~~resources~~ ***waters*** where that activity substantially contributes to the good status of waters, including ~~freshwater, transitional~~ ***inland surface*** waters***, estuaries*** and coastal waters, or to the good environmental status of marine waters, ***where that activity takes adequate measures to restore, protect or maintain the biological diversity, productivity, resilience, value and the overall health of marine ecosystem, as well of the livelihoods of communities dependent upon them,*** through any of the following means:

(a) protecting the aquatic environment***, including bathing water (riparian and sea water),*** from the adverse effects of urban and industrial waste water discharges***, including plastics,*** by ensuring adequate collection and treatment of urban and industrial waste waters in accordance with Articles 3, 4, 5 and 11 of Council Directive 91/271/EEC ([39]) ***or in accordance with the best available technique set out in the Directive 2010/75/EU***;

(aa) protecting the aquatic environment from the adverse effects of at sea emissions and discharges in accordance with IMO based conventions such as MARPOL, as well as conventions not covered under MARPOL such as the Ballast Water Management Convention and the Regional Seas Conventions;

(b) protecting human health from the adverse effects of any contamination of drinking water by ensuring that it is free from any micro-organisms, parasites and a substances that constitute a potential danger to human health, and ***verifying*** that it meets the minimum requirements set out in Annex I, Parts A and B, to Council Directive 98/83/EC ([40]), and increasing citizens' access to clean drinking water;

(c) abstracting water in keeping with the objective of good quantitative status as defined in table 2.1.2 in Annex V to Directive 2000/60/EC;

(d) improving water ***management and*** efficiency, facilitating water reuse, ***systems of rainwater management*** or any other activity that protects or improves quality ***and quantity*** of ***the*** Union's water bodies in accordance with Directive 2000/60/EC;

(e) ensuring the sustainable use of marine ecosystem services or contributing to good environmental status of marine waters, as determined on the basis of the qualitative descriptors set out in Annex I to Directive 2008/56/EC and as further specified in Commission Decision (EU) 2017/848 ([41]).

2. The Commission shall adopt a delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria ***based on indicators*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to sustainable use and protection of water and marine resources;

([39]) Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.5.1991, p. 40).

([40]) Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption (OJ L 330, 5.12.1998, p. 32).

([41]) Commission Decision (EU) 2017/848 of 17 May 2017 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and repealing Decision 2010/477/EU (OJ L 125, 18.5.2017, p. 43).

(b) supplement Article 12 to establish technical screening criteria ***based on indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria ***based on indicators*** are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 together in one delegated, and taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 1 July 2022, with a view to ensure its entry into application on 31 December 2022. **[Am. 44]**

Article 9

Substantial contribution to the circular economy, ~~and~~ ***including*** waste prevention and ~~recycling~~ ***increasing the uptake of secondary raw materials***

1. An economic activity shall be considered to contribute substantially to the transition to a circular economy, ~~and~~ ***including*** waste prevention ***re-use*** and recycling***, covering the entire life cycle of a product or economic activity in different stages of production, consumption and end of use,*** where that activity***, in line with the EU acquis,*** contributes substantially to that environmental objective through any of the following means:

(a) improving the efficient use of raw materials ***and resources*** in production, including through reducing the use of primary raw materials and increasing the use of by-products and ***secondary raw materials, thus supporting end of*** waste ***operations***;

(b) ***designing, manufacturing and*** increasing the ~~durability, reparability, upgradability or reusability~~ ***use*** of products ***that are resource-efficient, durable (including in terms of life span and absence of planned obsolescence), repairable, re-usable and upgradable***;

(c) ***designing out of waste products and*** increasing the ***reusability and*** recyclability of products, including of individual materials contained in products, inter alia through substitution or reduced use of products and materials that are not recyclable;

(d) reducing the content of hazardous substances ***and substituting substances of very high concern*** in materials and products***, in line with the harmonised legal requirements laid down at Union level, particularly, with the provisions laid down by EU legislation ensuring safe management of substances, materials and products and waste***;

(e) prolonging the use of products including through increasing reuse, remanufacturing, upgrading, repair and sharing of products by consumers;

(f) increasing the use of secondary raw materials and their quality, including through high-quality recycling of waste;

(g) reducing waste generation ***including waste generation in processes related to industrial production, extraction of minerals, manufacturing, construction and demolition***;

(h) increasing preparing for re-use and recycling of waste ***in accordance with the waste hierarchy***;

(ha) increasing the development of waste management infrastructure needed for prevention, re-use and recycling;

(i) avoiding incineration, ~~and~~ disposal ***and landfilling*** of waste ***in line with the waste hierarchy***;

(j) avoiding***, reducing*** and cleaning-up of litter and other pollution ***including prevention and reduction of marine litter,*** caused by improper waste management;

Thursday 28 March 2019

(ja) reducing the generation of food waste in primary production, in processing and manufacturing, in retail and other distribution of food, in restaurants and food services as well as in households;

(k) using natural energy resources***, raw materials, water and land*** efficiently.

(ka) fostering bio-economy through the sustainable use of renewable sources for the production of materials and commodities.

2. The Commission shall adopt a delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria***, based on the Commission's circular economy indicators,*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to the circular economy and waste prevention and recycling;

(b) supplement Article 12 to establish technical screening criteria***, based on the Commission's circular economy indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria ***based on the Commission's circular economy indicators*** referred to in paragraph 2 together in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 1 July 2021, with a view to ensure its entry into application on 31 December 2021. **[Am. 45]**

Article 10

Substantial contribution to pollution prevention and control

1. An economic activity shall be considered to contribute substantially to pollution prevention and control where that activity contributes ~~to a high level of~~ ***substantially to*** environmental protection from pollution through any of the following means:

(a) reducing air, water and soil pollutant emissions other than greenhouse gasses;

(b) improving levels of air, water or soil quality in the areas in which the economic activity takes place whilst minimizing negative impacts on, and risks to, human health and the environment;

(c) minimising significant adverse effects on human health and the environment of the production and use of chemicals.

2. The Commission shall adopt a delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria ***based on indicators*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to pollution prevention and control;

(b) supplement Article 12 to establish technical screening criteria ***based on indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 together in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 1 July 2021, with a view to ensure its entry into application on 31 December 2021. **[Am. 46]**

Article 11

Substantial contribution to protection of ***biodiversity and*** healthy ecosystems ***or to restoration of degraded ecosystems***

1. For the purposes of this Regulation, an economic activity shall be considered to contribute substantially to ***biodiversity and*** healthy ***ecosystems or the restoration of degraded*** healthy ecosystems where that activity contributes substantially to protecting, conserving and enhancing ***or restoring*** biodiversity and ecosystem services in line with the relevant legislative and non-legislative Union instruments, through any of the following means:

(a) nature conservation ***measures to maintain or restore natural*** (habitats, ***and*** species); ~~protecting, restoring and enhancing~~ ***of wild fauna and flora at favourable conservation status to reach adequate populations of naturally occurring species and measures to protect, restore and enhance*** the condition of ecosystems and their capacity to provide services;

(b) sustainable land management, including adequate protection of soil biodiversity; land degradation neutrality; and the remediation of contaminated sites;

(c) sustainable agricultural practices, including those that contribute to halting or preventing deforestation and habitat loss;

(d) sustainable forest management***, taking into account the EU Timber Regulation, the EU LULUCF Regulation, the EU Renewable Energy Directive (RED) and applicable national legislation, that is in line with these and the conclusions from the Ministerial Conference on the Protection of Forests in Europe (MCPFE)***.

2. The Commission shall adopt a delegated act in accordance with Article 16 to:

(a) supplement paragraph 1 to establish technical screening criteria ***based on indicators*** for determining under which conditions a specific economic activity is considered, for the purposes of this Regulation, to contribute substantially to the protection of ***biodiversity and*** healthy ecosystems ***or restoration of degraded ecosystems***;

(b) supplement Article 12 to establish technical screening criteria ***based on indicators***, for each relevant environmental objective, for determining whether an economic activity in respect of which screening criteria ***based on indicators*** are established pursuant to point (a) of this paragraph is considered, for the purposes of this Regulation, to cause significant harm to one or more of those objectives.

3. The Commission shall establish the technical screening criteria referred to in paragraph 2 together in one delegated act, taking into account the requirements laid down in Article 14.

4. The Commission shall adopt the delegated act referred to in paragraph 2 by 1 July 2022, with a view to ensure its entry into application on 31 December 2022. **[Am. 47]**

Article 12

Significant harm to environmental objectives

1. For the purposes of Article 3(b), ***taking into account its full life cycle,*** an economic activity shall be considered as significantly harming:

(a) climate change mitigation, where that activity leads to significant greenhouse gas emissions;

Thursday 28 March 2019

(b) climate change adaptation, where that activity leads to increased negative effect of current and expected climate, for and beyond the natural and built environment within which that activity takes place;

(c) sustainable use and protection of water and marine resources, where that activity is detrimental to a significant extent to good status of Union waters, including freshwater, transitional waters and coastal waters, or to good environmental status of marine waters of the Union, ***in line with Directives 2000/60/EC and 2008/56/EC establishing a framework for Community action in the field of water policy***;

(d) circular economy and waste prevention and recycling, where that activity leads to significant inefficiencies in the use of materials ~~in one or more~~ ***and resources, such as non-renewable energy, raw materials, water and land, directly or indirectly in different*** stages of the life-cycle of products, ***including inefficiencies related to features designed to limit the lifetime of products and*** including in terms of durability, reparability, upgradability, reusability or recyclability of products; or where that activity leads to a significant increase in the generation, incineration or disposal of waste;

(e) pollution prevention and control where that activity leads to significant increase in emissions of pollutants to air, water and land, as compared to the situation before this activity started;

(f) healthy ecosystems, where that activity is detrimental to a significant extent to the good condition ***and resilience*** of ecosystems***, including biodiversity and land use***.

1a. When assessing an economic activity against the criteria (a) to (f), the environmental impacts of the activity itself, as well as of the products and services provided by that activity throughout their entire life cycle and, if necessary, throughout the value chain, shall be taken into consideration. **[Ams. 48 and 101]**

Article 13

Minimum safeguards

The minimum safeguards referred to in Article 3(c) shall be procedures implemented by the undertaking that is carrying out an economic activity to ensure ~~that~~ ***the observation of the OECD Guidelines for Multinational Enterprises and UN Guiding Principles on Business and Human Rights, including*** the principles and rights set out in the eight fundamental conventions identified in the International Labour Organisation's declaration on Fundamental Rights and Principles at Work~~, namely: the right not to be subjected to forced labour, the freedom of association, workers' right to organise, the right to collective bargaining, equal remuneration for men and women workers for work of equal value, non-discrimination in opportunity and treatment with respect to employment and occupation, as well as the right not to be subjected to child labour, are observed~~ ***and the International Bill of Human Rights***.

By 31 December 2021, the Commission shall conduct an impact assessment on the consequences and appropriateness of revising this Regulation to include compliance with other minimum safeguards that the undertaking that is carrying out an economic activity has to observe in order to establish that economic activity as environmentally sustainable.

The Commission shall be empowered to supplement this article by a delegated act specifying the criteria to determine whether the requirements of this Article are adhered to. When drawing up the delegated act referred to in this Article, the Commission shall consider the principles listed in paragraph 1 and 2. The Commission shall adopt that delegated act by 31 December 2020. **[Ams. 49, 70, 72 and 93]**

Article 14

Requirements for technical screening criteria

1. The technical screening criteria adopted in accordance with Articles 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2) shall:

(-a) be based on harmonised indicators that measure environmental impact using a harmonised life cycle assessment;

(a) identify the most relevant potential contributions to the given environmental objective, considering not only the short-term but also the longer term impacts of a specific economic activity;

(b) specify the minimum requirements that need to be met to avoid significant harm to any of the relevant environmental objectives;

(c) be qualitative or quantitative, or both, and contain thresholds where possible;

(d) where appropriate, build upon Union labelling and certification schemes, Union methodologies for assessing environmental footprint, and Union statistical classification systems, and take into account any relevant existing Union legislation; ***acknowledging the competence of the Member States;***

(e) be based on conclusive scientific evidence and ~~take into account, where relevant,~~ ***and adhere*** the precautionary principle enshrined in article 191 TFEU;

(f) take into account the environmental impacts of the economic activity itself, as well as of the products and services provided by that economic activity ***throughout their entire life cycle and, if necessary, throughout the value chain***, ~~notably~~ by considering their production ***from the processing of raw materials to the final product,*** use, end-of-life ***and recycling***;

(fa) take into account the cost of non-action, based on the Sendai Framework for Disaster Risk Reduction 2015-2030;

(g) take into account the nature and the scale of the economic activity***, and taking into account if an activity is in transition to a sustainable configuration and/or operation, through research and innovation projects, specific timelines and pathways of this transition***;

(h) take into account ~~the potential impact on liquidity in the market,~~ the risk of certain assets becoming stranded as a result of losing value due to the transition to a more sustainable economy, as well as the risk of creating inconsistent incentives;

(ha) are easy to apply and avoid unnecessary administrative burden from a compliance perspective;

(i) cover all relevant economic activities within ~~a specific~~ ***an economic macro-***sector and ensure that those activities are treated equally ***in terms of their sustainability risks*** if they contribute equally towards one or more environmental objectives ***and do not harm significantly any of the other environmental objectives under Articles 3 and 12***, to avoid distorting competition in the market;

(j) be set as to facilitate the verification of compliance with those criteria whenever possible.

2. The technical screening criteria referred to in paragraph 1 shall also include criteria ***based on indicators*** for activities related to the clean energy transition ***towards net-zero greenhouse gas emissions***, in particular energy efficiency and renewable energy, to the extent that those are substantially contributing to any of the environmental objectives.

2a. The technical screening criteria referred to in paragraph 1 shall ensure that power generation activities that use solid fossil fuels are not considered environmentally sustainable economic activities.

2b. That technical screening criteria shall ensure that economic activities that contribute to carbon intensive lock-in effects are not considered environmentally sustainable economic activities.

2c. The technical screening criteria shall ensure that power generation activities that produce non-renewable waste are not considered environmentally sustainable economic activities.

Thursday 28 March 2019

3. The technical screening criteria referred to in paragraph 1 shall also include criteria for activities related to the switch to clean or climate-neutral mobility, including through modal shift, efficiency measures and alternative fuels, to the extent that those are substantially contributing to any of the environmental objectives.

3a. If the major part of the undertakings that conduct a specific economic activity are evidently engaged in a trajectory towards transforming this activity sustainable, the screening criteria may take this into account. Such a trajectory can be demonstrated through sustained research and development efforts, large investment projects in new and more sustainable technologies, or concrete transition plans in at least the early stages of implementation.

4. The Commission shall regularly review the screening criteria referred to in paragraph 1 and, if appropriate, amend the delegated acts adopted in accordance with this Regulation in line with scientific and technological developments. **[Ams. 50, 73, 74, 75 and 104]**

Article 15

Platform on Sustainable Finance

1. The Commission shall establish a Platform on sustainable finance ***whose composition shall ensure balance, a wide range of views, and gender equality. It shall be*** composed, ***in balanced manner,*** of ***representatives from the following groups***:

(a) representatives of ***the following***:

(i) the European Environment Agency;

(ii) the European Supervisory Authorities;

(iii) the European Investment Bank and the European Investment Fund;

(iiia) the European Union Agency for Fundamental Rights;

(iiib) the European Financial Reporting Advisory Group (EFRAG);

(b) experts representing relevant private stakeholders***, including the financial and non-financial market actors and business sectors, representing relevant industries***;

(ba) experts representing civil society, including with expertise in the field of environmental, social, labour and governance issues;

(c) experts ~~appointed in a personal capacity, with proven knowledge and experience in the areas covered by this Regulation~~ ***representing academia, including universities, research institutes and think tanks, including with global expertise***.

1a. Experts referred to in points (b) and (c) shall be appointed in accordance with Article 237 of the Financial Regulation, and shall possess proven knowledge and experience in the areas covered by this Regulation, especially sustainability in the financial sector.

1b. The Europan Parliament and the Council shall be duly informed in a timely manner of the selection procedure of experts for the Platform.

2. The Platform on Sustainable Finance shall:

(-a) advise the Commission on the establishment of harmonised indicators referred to in Article 14, paragraph 1(-a) and the possible need to update them; in so doing it shall draw on the work of relevant Union entities and intiatives, notably the Circular Economy Monitoring Framework.

(a) advise the Commission on the technical screening criteria referred to in Article 14, and the possible need to update those criteria;

(b) analyse the impact of the technical screening criteria ***based on data and scientific research whenever available*** in terms of potential costs and benefits of their application;

(c) assist the Commission to analyse requests from stakeholders to develop or revise technical screening criteria for a given economic activity ***based on data and scientific research whenever available***; ***the conclusions of these analyses shall be published on the Commission's website in a timely manner***;

(d) ***upon request from the Commission or the European Parliament,*** advise the Commission ***or the European Parliament*** on the suitability of the technical screening criteria for possible further uses;

(da) advise, in cooperation with EFRAG, the Commission on the development of sustainability accounting standards and integrated reporting standards for corporates and financial market participants, including through the revision of the Directive 2013/34/EU;

(e) monitor and report regularly to the Commission on ***EU and Member State level trends regarding*** capital flows ***from economic activities with a negative impact on environmental sustainability*** towards sustainable investment ***based on data and scientific research whenever available***;

(f) advise the Commission on the possible need to amend this Regulation***., particularly in regard to data relevance and quality, and ways to reduce the administrative burden;***

(fa) contribute to the evaluation and development of sustainable finance regulations and policies, including policy coherence issues;

(fb) assist the Commission in defining possible social objectives.

2a. The Platform shall duly consider appropriate data and relevant scientific research in the discharge of these tasks. It may conduct public consultations in order to gather stakeholder views on specific matters within its mandate.

3. The Platform on Sustainable Finance shall be chaired by the Commission ***and constituted in accordance with the Commission's horizontal rules for expert groups. The Commission shall publish the analyses, deliberations, reports and minutes of the Platform on its website***. **[Am. 51]**

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 Articles 4(3), 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2) shall be conferred on the Commission for an indeterminate period from [Date of entry into force of this Regulation].

3. The delegation of powers referred to in paragraph 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.

Thursday 28 March 2019

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. ***As part of the preparation of the delegated acts, the Commission shall carry out appropriate consultations and assessments of the proposed policy options.***

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 4(3), 6(2), 7(2), 8(2), 9(2), 10(2) and 11(2)***, 12 (2) and 13(3)*** 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. **[Am. 52]**

Chapter III

Final provisions

Article 17

Review clause

1. By 31 December 2021, and subsequently every three years thereafter, the Commission shall publish a report on the application ***and impact*** of this Regulation. That report shall evaluate the following:

(a) the progress on the implementation of this Regulation with regard to the development of technical screening criteria ***based on indicators*** for environmentally sustainable economic activities;

(b) the possible need to revise the criteria ***and the list of indicators*** set out in this Regulation for considering an economic activity environmentally sustainable ***to facilitate innovation and the sustainable transition***;

(c) the appropriateness of extending the scope of this Regulation to cover other sustainability objectives, in particular social objectives;

(d) the use of the definition of environmentally sustainable investment ***and investments with negative environmental impact*** in Union law, and at Member State level, including the appropriateness of ***reviewing or*** setting up ***additional*** verification mechanism of compliance with the criteria ***based on indicators*** set out in this Regulation.

(da) the effectiveness of the taxonomy in channelling private investments into sustainable activities.

1a. By 31 December 2021, and subsequently every three years thereafter, the Commission shall review the scope of this Regulation if it creates excessive administrative burden or if the necessary data for financial market participants is insufficiently available.

2. The ~~report~~ ***reports*** shall be sent to the European Parliament and to the Council. The Commission shall make accompanying ***legislative*** proposals where appropriate. **[Ams. 53 and 105]**

Article 18

Entry into force and application

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

2. Articles 3 to 13 of this Regulation shall apply:

(a) in respect of the environmental objectives referred to in points (1) and (2) of Article 5, from 1 July 2020;

(b) in respect of the environmental objectives referred to in points (4) and (5) of Article 5, from 31 December 2021;

(c) in respect of the environmental objectives referred to in points (3) and (6) of Article 5, from 31 December 2022.

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

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

Thursday 28 March 2019

P8_TA(2019)0326

Estimates of revenue and expenditure for the financial year 2020 — Section I — European Parliament

European Parliament resolution of 28 March 2019 on Parliament's estimates of revenue and expenditure for the financial year 2020 (2019/2003(BUD))

(2021/C 108/57)

The European Parliament,

— having regard to Article 314 of the Treaty on the Functioning of the European Union,

— having regard to 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 ([1]),

— having regard to Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 ([2]),

— having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management ([3]) (IIA of 2 December 2013),

— having regard to Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union ([4]),

— having regard to its resolution of 26 October 2017 on combatting sexual harassment and abuse in the EU ([5]),

— having regard to its resolution of 19 April 2018 on Parliament's estimates of revenue and expenditure for the financial year 2019 ([6]),

— having regard to its resolution of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at the workplace, in public spaces, and in political life in the EU ([7]),

— having regard to its resolution of 24 October 2018 on the Council position on the draft general budget of the European Union for the financial year 2019 ([8]),

— having regard to its resolution of 12 December 2018 on the Council position on the second draft general budget of the European Union for the financial year 2019 ([9]),

— having regard to its resolution of 15 January 2019 on gender mainstreaming in the European Parliament ([10]),

— having regard to the Secretary-General's report to the Bureau on drawing up Parliament's preliminary draft estimates for the financial year 2020,

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([1]) OJ L 193, 30.7.2018, p. 1.
([2]) OJ L 347, 20.12.2013, p. 884.
([3]) OJ C 373, 20.12.2013, p. 1.
([4]) OJ L 287, 29.10.2013, p. 15.
([5]) Texts adopted, P8_TA(2017)0417.
([6]) Texts adopted, P8_TA(2018)0182.
([7]) Texts adopted, P8_TA(2018)0331.
([8]) Texts adopted, P8_TA(2018)0404.
([9]) Texts adopted, P8_TA(2018)0503.
([10]) Texts adopted, P8_TA(2019)0010.

— having regard to the preliminary draft estimates drawn up by the Bureau on 25 March 2019 pursuant to Rules 25(7) and 96(1) of Parliament's Rules of Procedure,

— having regard to the draft estimates drawn up by the Committee on Budgets pursuant to Rule 96(2) of Parliament's Rules of Procedure,

— having regard to Rule 96 of its Rules of Procedure,

— having regard to the report of the Committee on Budgets (A8-0182/2019),

A. whereas this procedure is the fifth full budgetary procedure conducted in the new legislature and the seventh year of the 2014-2020 multiannual financial framework;

B. whereas the 2020 budget, as proposed in the Secretary-General's report, is being prepared against the backdrop of a yearly increase (inflation and real increase) in the ceiling for heading V, allowing more room for growth and investment as well as continuing to implement policies of achieving savings and seeking to improve efficiency;

C. whereas among the priority objectives that have been proposed by the Secretary-General for the 2020 budget there are: providing the necessary resources for the first full year after the election of a new Parliament and Commission and providing the resources for priority projects on engaging with citizens, multiannual building projects, security and IT developments;

D. whereas a budget of EUR 2 068 530 000 has been proposed by the Secretary-General for Parliament's preliminary draft estimates for 2020, representing an overall increase of 3,58 % on the 2019 budget and a share of 18,38 % of heading V of the 2014-2020 MFF;

E. whereas almost two thirds of the budget is index-bound expenditure, which relates mainly to remunerations, pensions, medical expenses and allowances for serving and retired Members (21 %) and staff (35 %), as well as to buildings (13 %), and which is adjusted according to the Staff Regulations and Statute for Members, to sector-specific indexation, or to the inflation rate;

F. whereas Parliament already stressed in its resolution of 29 April 2015 on Parliament's estimates of revenue and expenditure for the financial year 2016 ([1]) that its budget should be set on a realistic basis and should be in line with the principles of budgetary discipline and sound financial management; notes that lump sums are a useful and widely recognised tool to add flexibility and transparency;

G. whereas Parliament's budget should guarantee its full legislative competence and allow its proper functioning;

H. whereas the credibility of Parliament as one arm of the budgetary authority depends to an extent on its ability to manage its own spending and on its ability to develop democracy at the Union level;

I. whereas 2020 will be the first full year after the elections and there will therefore be a return to the normal pace of core political and support activities;

J. whereas the voluntary pension fund was established in 1990 by the Bureau's Rules governing the additional (voluntary) pension scheme ([2]);

K. whereas the Court of Auditors issued an opinion No 5/99 on 16 June 1999 entitled 'Pension Fund and Scheme for Members of the European Parliament';

General framework

1. Stresses that the share of Parliament's budget in 2020 should be maintained under 20 % of the heading V ceiling; notes that the level of estimates for 2020 corresponds to 18,22 %, which is lower than that achieved in 2019 (18,51 %) and the lowest part of heading V in more than 15 years;

([1]) Texts adopted, P8_TA(2015)0172.
([2]) Texts adopted by the Bureau, PE 113.116/BUR./rev. XXVI/01-04-2009.

Thursday 28 March 2019

2. Emphasises that the largest part of Parliament's budget is fixed by statutory or contractual obligations and is subject to annual indexation;

3. Demands that the Secretary General and the Bureau, as a matter of principle, present to the BUDG committee the next EP estimates closer to, if not at the level of, the inflation rate as forecasted by the European Commission;

4. Endorses the agreement reached in the conciliation between the Bureau and the Committee on Budgets on 19 March 2019 to set the increase over the budget 2019 at 2,68 %, corresponding to the overall level of its estimates for 2020 to EUR 2 050 430 000, to decrease the level of expenditure of the preliminary draft estimates approved by the Bureau on 11 March 2019 by EUR 18,1 million and to reduce accordingly the appropriations proposed on the following budget lines: 1004 — Ordinary travel expenses; 1200 — Remuneration and allowances; 1402 Other staff — Drivers in the Secretariat; 2007 — Construction of buildings and fitting-out of premises; 2022 — Building maintenance, upkeep, operation and cleaning; 2024 — Energy consumption; 2101 — Computing and telecommunications — business-as-usual operations — infrastructure; 212 — Furniture; 214 — Technical equipment and installations; 300 — Expenses for staff missions and duty travel between the three places of work; 302 — Reception and representation expenses; 3040 — Miscellaneous expenditure on internal meetings; 3042 — Meetings, congresses, conferences and delegations; 422 — Expenditure relating to parliamentary assistance; decides to provide Item 1650 — Medical service with EUR 140 000, Item 320 — Acquisition of expertise with EUR 160 000 and Item 3211 — Science media hub with appropriations amounting to EUR 400 000; welcomes that those changes have been adopted by the Bureau on 25 March 2019;

5. Recommends that Parliament's services put in place the modification of the remarks in Item 1650 — 'Medical service', since the additional appropriations of EUR 140 000 are intended to cover expenses related to mediator and psychologist for prevention and fight against psychological and sexual harassment, and in Item 320 — 'Acquisition of expertise', since the additional appropriations of EUR 160 000 are intended to cover expenses related to expertise and experts in the field of prevention, investigation, and fight against psychological and sexual harassment;

6. Notes that the situation regarding the withdrawal of the United Kingdom from the Union is based on an orderly withdrawal with a deal, on the endorsement of the Brexit withdrawal agreement, and on the approval of the political declaration by the European Council of 25 November 2018, according to which the UK would contribute to the Union budget until 2020; notes that most of the savings resulting from the withdrawal have already been incorporated into the 2019 budget and that for 2020 there would be only a slight decrease in certain expenditure due to having 46 less Members;

7. Notes that, in the event that the United Kingdom does not withdraw from the Union or withdraws without a deal, the proposed appropriations can be adjusted throughout the budgetary procedure, by the Bureau, the Committee on Budgets or the Plenary;

8. Underlines that Parliament's key functions are to co-legislate with Council and to decide on the Union budget, represent citizens and scrutinise the work of other Union institutions;

9. Highlights Parliament's role in building European political awareness and promoting Union values;

10. Stresses that savings as compared to the proposal of the Secretary-General are required to bring closer the rise of this proposal to the expected general inflation rate for 2020 and that all efforts to strive for a more efficient and transparent use of public money are strongly encouraged;

Transparency and accuracy

11. Notes the increased transparency in the preparation of the Secretary-General's report, such as the provision of additional information on medium- and long-term planning, investments, statutory obligations, administrative expenditure and methodology, as requested by Parliament and the Council;

12. Demands Parliament's 2020 budget to be realistic and accurate regarding the matching of needs and their costs, to avoid over-budgeting;

13. Emphasises that maximum care should be taken to ensure that the overall budgetary and staffing resources at Parliament's disposal are used in the most cost-efficient way possible to enable the institution and its Members to fulfil their ultimate mission on legislation successfully; reiterates that this implies careful planning and organisation of its working methods and, whenever possible, the pooling of functions and structures to avoid unnecessary bureaucracy, functional overlaps and duplication of effort and resources;

Engaging with citizens

14. Welcomes the inauguration of the Europa Experience centres, that is exhibition spaces, reproducing the successful concept of the Brussels Parlamentarium on a smaller scale; observes that the installation of five new Europa Experience centres is planned in Liaison Offices by 2020;

15. Notes that the amount budgeted for the installation of five new Europa Experience centres in Liaison Offices covers the exhibition infrastructure itself, managed by DG COMM, but not the exhibition areas; asks for further details on an order of magnitude of the entire expected costs before Parliament's reading of the budget in autumn 2019;

16. Notes the creation of a series of mobile installations, which would tour Member States to bring the Union closer to citizens;

17. Demands from the Secretary General a detailed, factual and in-depth report on the added-value of the 51 posts in DG COMM; demands that such report be presented publically in the BUDG committee before the end of July 2019;

Building and Transport policy

18. Reiterates its call for a transparent decision-making process in the field of buildings policy based on early information, having due regard to Article 266 of the Financial Regulation;

19. Disagrees with the ongoing practice of the year-end 'mopping up transfer' to contribute to current building projects; highlights that such 'mopping up transfer' takes place systematically on the same chapters, titles and, often, exactly on the same budgetary lines and wonders whether there is a programmed over-evaluation of these, in order to generate funds for the financing of Parliament's building policy; considers that the building policy should be financed in a transparent manner from the budgetary lines dedicated to it;

20. Recommends that the annual budget planning for all buildings earmark an allocation for maintenance and renovation costs corresponding to 3 % of the total new building costs, as part of a regular and anticipatory building policy; underlines the need for a building strategy that ensures cost-effectiveness and highlights potential benefits resulting from the proximity of buildings such as synergies through the sharing of back office functions, office space and room allocations;

21. Observes that the reception and the occupation of the entire Konrad Adenauer East wing of the new building is foreseen for 2020 and notes that works will commence on the new West wing directly thereafter; notes that expenditure is to be foreseen for the project management in the final stages of the construction, such as significant removal operations, the first furnishing and the security surveillance of the construction site;

22. Takes note that the rent and maintenance of all existing Luxembourg buildings are still budgeted for the entire year, considering that the removal from existing buildings can only be made gradually; asks the Secretary-General to provide details concerning the gradual removal and to explain why no savings are possible already in 2020;

Thursday 28 March 2019

23. Asks for further details on preparatory technical works including the relocation of functionalities, such as for those situated in the PHS building, to other buildings; requests to provide the Committee on Budgets with detailed estimations and cost breakdown in this regard before Parliament's reading of the budget in autumn 2019;

24. Questions the very high costs of certain proposed developments, namely: the installation of the visitors' seminar rooms in the Atrium building (EUR 8,720 million), the multifunctional space in the Esplanade area (EUR 2,610 million), the creation of a self-service canteen in the SDM building in Strasbourg (EUR 1,9 million); calls on the Secretary-General to provide the Committee on Budgets with any information relating to these decisions before Parliament's reading of the budget in autumn 2019;

25. Considers that further savings should be achieved as regards the expenditure on furniture for the offices of Members and their assistants, given the complete refurbishment of those offices at the start of the mandate in 2019;

26. Is concerned by Parliament's intention to expand its activity and diplomatic presence in Indonesia (Jakarta), Ethiopia (Addis Ababa) and the United States (New York); regrets that despite the absence of a comprehensive cost-benefit analysis and further elaboration on the underlying arguments for the choice of these specific locations, the Bureau agreed with the proposal, as well as with the appointment of the current head of Parliament's office in Washington D.C. as the new head of office in Jakarta; urges, therefore, the Secretary-General to identify the affected budget lines and to clarify this non-transparent state of affairs through the explanation of the decision-making process regarding these different locations and the appointment of the new head of office in Jakarta; considers, meanwhile, that this decision must be suspended;

27. Considers that potential savings to Parliament's budget can be achieved with a single seat; recalls the 2014 ECA analysis which estimated the costs of the geographic dispersion of Parliament to be EUR 114 million per year; recalls furthermore that due to that geographic dispersion results in 78 % of all missions by Parliament staff and that the environmental impact is between 11 000 and 19 000 tonnes of CO_2 emissions; calls therefore for a roadmap to a single seat;

Security

28. Notes that the 2020 budget will include final instalments of substantial investments started back in 2016 with a view to significantly improve Parliament's security; points out that those projects covered various domains, mainly relating to buildings, equipment and staff, but also improvements in the field of cyber-security and communication security;

29. Underlines that the iPACS project will provide Parliament with modern and integrated security technology in order to remove remaining weaknesses in buildings' security, and in 2020 will be in the fifth and final year of implementation; invites the Secretary-General to summarise in detail all expenses linked to the buildings security from 2016;

30. Considers that IT tools are important instruments for Members and staff to carry out their work, but may be vulnerable to cyber-attacks; welcomes, therefore, the upgrading in the last two years of the team for cyber-security activities and in particular the fact that, having reached the cruising speed stage and continuing the implementation of its Cyber-security Action Plan, the relevant budget will only increase to cover inflation;

31. Welcomes the efforts to improve services for Members by investing continuously into the development of IT applications, continuing the e-Parliament program, the research and development on Machine Learning with translation memories program and the multiannual project on technical management for conference rooms; asks for more information on the total amount spent in the last years on those programs; notes the long term gradual implementation of those projects in order to split the costs in different financial years;

Issues related to Members and Accredited Parliamentary Assistants

32. Asks the Bureau to work on a technical solution to allow Members to exercise their right to vote while benefitting from their maternity, paternity or sickness leave;

33. Considers that the social and pension rights of Accredited Parliamentary Assistants (APAs) should be respected; in this regard, reiterates its call to find a workable solution for those APAs who, having worked for two parliamentary terms without interruption in the end of the current term, will not be entitled to access the European pension rights scheme when they reach pension age, since they will be lacking some time out of ten years' service needed as set out in the Staff Regulations, due to early elections in 2014 and the delays in the validation of the APAs new contracts because of heavy workload during the period after the elections of 2009; calls, therefore, on the Secretary-General to submit new practical and credible proposals aimed at resolving this problem definitively;

34. Notes the revision of allowance rates for APAs incurred in respect of their duty travel between Parliament's three places of work; recalls however its repeatedly adopted request to the Bureau to take action for the full alignment of the allowances rates incurred in respect of duty travel between Parliament's three places of work between officials, others servants and APAs as from the next legislative term;

35. Welcomes the decision on Members' trainees taken by the Bureau on 10 December 2018 which will enter into force on 2 July 2019; stresses that a binding minimum remuneration of trainees should guarantee them a decent revenue as is the case for trainees within the EU institutions' administrations;

36. Expects Parliament's translation services to live up to their core function of supporting Union legislation and Members in performing their duties by providing high quality translated documents within the framework of a sustainable strategy for the future;

37. Reiterates its concern about the additional expenditure on interpretation of the oral explanation of votes during plenary sessions; urges the Secretary-General to present a detailed cost breakdown related to the oral explanation of votes; recalls that alternatives, such as a written explanation of votes as well as various public communication facilities, are available to Members wishing to explain their voting positions or raise issues pertinent to the concerns of their electorate; in that context, considers that in order to achieve significant savings, the oral explanation of votes could be abolished;

38. Recalls Article 27(1) and (2) of the Statute for Members which states that 'the voluntary pension fund set up by Parliament shall be maintained after the entry into force of this Statute for Members or former Members who have already acquired rights or future entitlements in that fund' and that 'acquired rights and future entitlements shall be maintained in full'; calls upon the Secretary-General and the Bureau to fully respect the Statute for Members and to urgently establish with the pension fund a clear plan for Parliament assuming and taking over its obligations and responsibilities for its Members' voluntary pension scheme; reiterates its request for an examination of the voluntary Members' Pension Fund by the European Court of Auditors and asks to investigate the ways to ensure a sustainable financing of the Voluntary Pension Fund in accordance with the provisions of the Statute for Members while ensuring full transparency;

39. Reiterates its appeal for transparency regarding the General Expenditure Allowance (GEA) for Members; regrets that the Bureau has failed to introduce more transparency and accountability in this regard; calls for Members to be fully accountable for their spending under this allowance;

Staff-related issues

40. Believes that, in a period in which the financial and personnel resources available to Union institutions are likely to be increasingly constrained, it is important to identify areas, including but not limited to IT services and security, interpretation and translation services or driver service, in which synergies between the back office functions could be increased using the experience of Parliament and the other Union institutions and taking fully into account the governance difficulties and the differences in terms of scale to build up fair cooperation agreements;

41. Calls for the introduction of a requirement for Members to have their accounts in relation to the GEA checked by an external accountant at least at the end of a Member's mandate; calls furthermore for the publication of the expenditure by placing a link to these data on the personal pages of the Members on the website of the European Parliament;

42. Welcomes the existing cooperation agreements between Parliament, the Committee of the Regions and the European Economic and Social Committee, with a view to identifying other areas in which back office functions could be shared; invites the Secretary-General to evaluate existing cooperation among Union institutions in order to identify further potential synergies and savings;

43. Upholds the principle of accessibility for all citizens; in line with the requests adopted by the Plenary for international sign language interpretation for all plenary debates, calls on the Secretary-General to analyse its feasibility;

44. Recalls the recommendations of Parliament's resolutions of 26 October 2017, 11 September 2018 and 15 January 2019 on combating sexual harassment and abuse in the Union as well as measures to prevent and combat mobbing and sexual harassment; demands support to cover the cost of the external expertise needed to widen the external audit to the 'Staff advisory committee for Parliament staff' on harassment prevention; asks for appropriations to cover the full implementation of the reformatory steps for Parliament mentioned in the resolution on combatting harassment, including frequent mandatory anti-harassment trainings for all staff, APAs and Members; furthermore is of the opinion that appropriations are needed to cover the cost of mediators and other experts competent to prevent and manage the harassment cases within Parliament together with the network of confidential counsellors and current structures;

45. Recommends the greater use of videoconferences and other technologies in order to protect the environment and save resources, in particular by reducing staff duty travel between the three places of work;

Other issues

46. Considers that the procedure for the adoption of Parliament's estimates should be revised, taking into account the work-in-progress document elaborated by the Working Group on Parliament's internal budgetary procedure, respecting the wish of the political groups to simplify the current procedure, make it more efficient by reducing the workload for Members and staff, as well as to increase its transparency and clarify responsibilities between the actors involved; recalls that in the current procedure, the Committee on Budgets performs the same tasks twice, during the spring phase (conciliation with the Bureau for the adoption of Parliament's estimates) and during the autumn phase (tabling of budgetary amendments), which leads to a higher number of meetings, production of documents and related expenses (translations, interpreters, etc.);

47. Asks to maintain adequate funding of the European Science Media-Hub, for a cooperation with television stations, social media and further partners in order to establish training purposes for young journalists, especially in relation to new scientific and technological developments and to fact-based, peer-reviewed news;

48. Calls upon the Secretary-General and the Bureau to instil a culture of performance-based budgeting and environmental sustainability across Parliament's administration, and a lean management approach in order to enhance efficiency, reduce paperwork and diminish bureaucracy in the institution's internal work; stresses that the experience of lean management is the continuous improvement of the work procedure thanks to simplification and to the experience of the administrative staff;

49. Requests full transparency on the use and management of the funding made available to European political parties and European foundations; requests a thorough evaluation and control of the budget spending by European political parties and foundations; draws attention to the conflict of interest stemming from the sponsorship of European political parties' activities by private companies; calls therefore for a ban on donations and sponsorships of any kind from private companies to European political parties and European foundations;

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50. Adopts the estimates for the financial year 2020;

51. Instructs its President to forward this resolution and the estimates to the Council and the Commission.

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