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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on specific provisions for the support from the European Regional Development Fund to
the European territorial cooperation goal**

{SEC(2011) 1138}

{SEC(2011) 1139}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On 29 June 2011, the Commission adopted a proposal for the next multi-annual financial framework for the period 2014-2020: a budget for delivering the Europe 2020 strategy. In its proposal, the Commission decided that cohesion policy should remain an essential element of the next financial package and underlined its pivotal role in delivering the Europe 2020 strategy.

The Commission proposed a number of important changes to the way cohesion policy is designed and implemented. Concentrating funding on a smaller number of priorities better linked to the Europe 2020 Strategy, focusing on results, monitoring progress towards agreed objectives, increasing the use of conditionalities and simplifying the delivery are among the major hallmarks of the proposal.

This Regulation sets out the general provisions governing European Territorial Cooperation. It draws on the work undertaken since the publication of the Fourth Cohesion Report in May 2007 which outlined the main challenges facing regions in the next decades and launched the debate on the future cohesion policy. On 9 November 2010, the Commission adopted the Fifth Cohesion Report which provided an analysis of social and economic trends and outlined orientations for the future cohesion policy.

Cohesion policy is the main investment instrument for supporting the main priorities of the Union as enshrined in the Europe 2020 strategy. It does so by focusing on the countries and regions where needs are greater. One of the greatest successes of the EU has been its capacity to raise living standards for all its citizens. It does this not only by helping poorer Member States and regions to develop and grow but also through its role in the integration of the Single Market whose size delivers markets and economies of scale to all parts of the EU, rich and poor, big and small. The Commission's evaluation of past cohesion policy spending has shown many examples of added value and of growth- and job-creating investment that could not have happened without the support of the EU budget. However, the results also show the effects of dispersion and lack of prioritisation. At a time when public money is scarce and when growth-enhancing investment is more needed than ever, the Commission has decided to propose important changes to cohesion policy.

The proposal is part of the cohesion policy legislative package for the 2014-2020 period. European Territorial Cooperation is one of the goals of cohesion policy and provides a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States. This is all the more important given that the challenges faced by Member States and regions increasingly cut across national /regional boundaries and require joint, co-operative action at the appropriate territorial level. European Territorial Cooperation can thus also provide an important contribution to fostering the new Treaty objective of territorial cohesion.

European Territorial Cooperation is of particular value because:

- Transboundary problems can most effectively be solved with the cooperation of all regions concerned to avoid disproportionate costs for some, and free-riding by others (e.g. cross-border environmental pollution).

- Cooperation can provide an effective mechanism for sharing good practice and learning to spread know-how (e.g. enhancing competitiveness).
- Cooperation can ensure that a solution to a specific problem becomes more effective due to economies of scale and the achievement of a critical mass (establishment of clusters to foster research and innovation).
- Governance can improve as a result of coordination of the sector policies, actions and investments on a cross-border and transnational scale.
- Relations with EU neighbours through cooperation programmes on the EU's external borders can contribute to safety and stability, and mutually beneficial relationships.
- In some contexts such as sea basins and coastal regions, cooperation and transnational action are indispensable to support growth, employment and eco-system-based management

The overarching policy orientations for future cohesion policy are also applicable in the context of European Territorial Cooperation. The proposed regulation therefore contains the alignment with the Europe 2020 strategy, elements to increase the effectiveness of Fund interventions and an overall simplified approach to implementation.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

2.1. Consultation and expert advice

This regulation draws on extensive consultation with stakeholders, including Member States, regions and social and economic partners.

The public consultation on the Conclusions of the 5th Cohesion Report was held between 12 November 2010 and 31 January 2011. A total of 444 contributions were received. Respondents included Member States, regional and local authorities, social partners, European interest organisations, non-governmental organisations, citizens and other stakeholders. The public consultation asked a series of questions about the future of cohesion policy. A summary of the results was published on 13 May 2011¹.

The results of the ex-post evaluations carried out on the INTERREG 2000-2006 programmes², the parliamentary "Report on objective 3"³ and a broad range of studies and expert advice for example through the INTERACT programme were used as input. Expert advice was also provided through the High Level Group reflecting on future Cohesion Policy, composed of experts from national administrations, which held two meetings with more specific discussions on European Territorial Cooperation.

¹ "Results of the public consultation on the conclusions of the fifth report on economic, social and territorial cohesion Brussels", Commission Staff Working Paper, SEC(2011) 590 final, 13.5.2011.

² "INTERREG III Community Initiative (2000-2006) Ex Post evaluation", by Panteia and Partners, May 2010.

³ "Report on Objective 3: a challenge for territorial cooperation – the future agenda for cross-border, transnational and interregional cooperation (2010/2155(INI))", adopted on 23 June 2011.

The results of the public consultation on the 5th cohesion report show a broad consensus about the high value added of European Territorial Cooperation. There are, however, calls for a greater standardisation of rules and procedures across Member States⁴. A number of Member State contributions also underline the need for a separate regulation or a separate legal framework for cooperation programmes to better address the multi-national context⁵.

A key point from the ex-post evaluation is that territorial cooperation programmes do not always focus on a limited number of priority topics, but adopt rather broad intervention strategies, making it difficult to achieve clearly-identifiable impacts⁶. Another major recommendation relates to the need to establish more pro-active and ongoing interaction with the Convergence and Competitiveness programmes and other territorial cooperation programmes operating in the programme area, to ensure complementarity, coordination and synergies. The evaluation explicitly recommends a more complementary and integrated approach be developed for the period post-2013⁷.

Likewise, experts underlined in the High Level Group the need for more coordination and strategic focus, both at general policy and individual programme level⁸. They also indicated that there should be strengthened links to the Convergence and Competitiveness programmes and called for specific regulatory provisions on territorial cooperation and overall harmonisation of applicable rules and simplification⁹.

The parliamentary report underlined the need to better integrate European Territorial Cooperation at all levels of strategic planning, better coordinate programming between cooperation and regional programmes and to simplify implementation through a separate regulation for cooperation to better reflect the specificities¹⁰.

2.2. Impact assessment

The options assessed in the impact assessment relate to the improvement of the strategic focus and of the coordination between cooperation and regional programmes. The options considered included the continuation of the status quo (broad priorities, no formal link between cooperation and regional programmes), a scenario focused on thematic concentration and integration of cooperation in overall strategic framework (limited number of thematic objectives that cross-border and transnational programmes can choose, integration of cooperation aspects in Common Strategic Framework and Partnership Contract) and finally a scenario that would fully integrate cooperation aspects in the regional programmes without the need for separate cooperation programmes. The second option was chosen as the preferred one since it will ensure a better focus on European priorities, strengthen the programme intervention logic and ensure a better link and coherence with regional programmes.

⁴ "Results of the public consultation on the conclusions of the fifth report on economic, social and territorial cohesion Brussels", Commission Staff Working Paper, SEC(2011) 590 final, 13.5.2011.

⁵ Contributions from FR, HU, AT, MT, IT, ES, RO.

⁶ "INTERREG III Community Initiative (2000-2006) Ex Post evaluation", by Panteia and Partners, May 2010, p. 3, 4.

⁷ "INTERREG III Community Initiative (2000-2006) Ex Post evaluation", by Panteia and Partners, May 2010, p. 9.

⁸ "High level Group reflecting on future cohesion policy - report of fourth meeting – 25-26 March 2010", p. 2.

⁹ "High level Group reflecting on future cohesion policy- report of Fifth meeting – 7-8 June 2010", p. 6.

¹⁰ "Report on Objective 3: a challenge for territorial cooperation – the future agenda for cross-border, transnational and interregional cooperation (2010/2155(INI))", adopted on 23 June 2011.

As a result of the consultations and impact assessment carried out and the input received, the legislative proposal for the Common Provisions Regulation foresees a firm integration of European Territorial Cooperation both in the Common Strategic Framework and the Partnership contract as well as in the related reporting procedures. In addition, elements on coherence between the regional and cooperation programmes operating in the same area are part of the programming documents. This will improve coherence of cohesion policy as a whole.

In order to provide a more tailor-made frame for cooperation programmes, a separate regulation for European Territorial cooperation programmes is proposed. This regulation contains provisions on thematic concentration and an increased focus on results as well as a number of simplification elements (see below).

3. LEGAL ELEMENTS OF THE PROPOSAL

Article 174 of the Treaty on the Functioning of the European Union (TFEU) calls for action by the European Union to strengthen its economic, social and territorial cohesion and promote overall harmonious development by reducing disparities between the levels of development of regions and promoting development in least favoured regions.

The goal of economic, social and territorial cohesion is promoted through three EU funds. As stipulated in Article 176 of the TFEU, the aim of the ERDF is promote the development and structural adjustment of lagging regions and of declining industrial regions.

Article 174 of the TFEU states that particular attention shall be paid to rural areas, areas affected by industrial transition, and 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.

Article 349 of the TFEU states that specific measures shall be adopted to take account of the structural social and economic situation of the outermost regions, which is compounded by certain specific features which severely restrain their development. The specific measures shall include conditions of access to the structural funds.

A separate regulation is proposed for European Territorial Cooperation to take better account of multi-country context of the programmes and make more specific provisions for cooperation programmes and operations, as has been requested by a large number of stakeholders. The proposal establishes the scope of the European Regional Development Fund with regard to the European Territorial Cooperation goal. It defines the priority objectives and organisation of the ERDF, eligibility criteria, financial resources available and criteria for their allocation. It also sets the implementation arrangements, including provisions for financial management and control. The Common Provisions Regulation and the ERDF regulation both apply subject to the specific provisions contained in this regulation.

The legislative instrument, and the type of measure (i.e. funding) are both defined in the TFEU, which provides the legal basis for the Structural Funds, and states that the tasks, priority objectives and the organisation of the Structural Funds shall be defined in regulations. As indicated above, the proposal to have a separate regulation is justified given that the general provisions applying to the Funds and the ERDF regulation need to be translated into a cooperation context.

4. BUDGETARY IMPLICATION

The Commission's proposal for the Multi-Annual Financial Framework foresees an amount of EUR 376 billion for economic, social and territorial cohesion for the period 2014-2020.

Proposed budget 2014-2020	EUR billion
Less developed regions	162,6
Transition regions	39
More developed regions	53,1
Territorial cooperation	11,7
Cohesion fund	68,7
Extra allocation for outermost and sparsely populated regions	0,926
Connecting Europe Facility for transport, energy and ICT	EUR 40 billion (with an additional EUR 10 billion ring fenced inside the Cohesion Fund)

**All figures in constant 2011 prices*

The proposed regulation sets out the division of the funding foreseen for Territorial Cooperation between the different cooperation components as follows:

- (a) 73,24 % (i.e., a total of EUR 8 569 000 003) for cross-border cooperation;
- (b) 20,78 % (i.e., a total of EUR 2 431 000 001) for transnational cooperation;
- (c) 5,98 % (i.e., a total of EUR 700 000 000) for interregional cooperation.

5. SUMMARY OF CONTENT OF REGULATION

The aim of a separate regulation for ETC is to allow clearer presentation of the specificities of ETC to facilitate implementation, since terminology can be directly adapted to the multi-country context of cooperation programmes. The proposal thus makes references to third country participation where necessary to better reflect the reality of cooperation. It also contains more systematic references to the role that European Groupings of Territorial Cooperation (EGTC) can play in a cooperation context.

The regulation establishes the scope of the ERDF with regard to the European territorial cooperation goal.

The proposal sets out the financial resources available for each strand and the criteria for their allocation to Member States. This also includes the continuation of the mechanism for the transfer of resources for cooperation activities at the external borders of the Union, to be supported under the European Neighbourhood and Partnership Instrument and the instrument for Pre-Accession Assistance. Synergies and complementarity between programmes under the European Territorial Cooperation goal and programmes financed under external instruments shall be promoted.

A new element in the proposal are the provisions on thematic concentration and investment priorities. This is to be seen in the overall context of improving the strategic focus of programmes and their results orientation. Programmes can choose a limited number of

priorities from a thematic menu with corresponding investment priorities, thus ensuring the focus on European priorities and interventions where cooperation will yield most added value. In addition, selection criteria have been defined more strictly to ensure that funding is given to genuinely joint operations. Programmes will also contain a performance framework defining programme-specific milestones against which progress in implementation can be assessed.

The 2007-2013 programming period has seen the emergence of new forms of territorial cooperation, tailor-made responses to address macro-regional challenges. At the request of the European Council, two macro-regional strategies have been prepared by the Commission for the Baltic Sea and the Danube Regions respectively¹¹. In addition, a significant component of the Integrated Maritime Policy concerns the systematic approach to integrated policy action under maritime and coastal policies in the context of sea-basins and ecosystems. Macro-regional and sea-basin strategies are broad-based integrated instruments covering several Member States and regions focusing on the alignment of policies and funding to increase policy coherence and overall impact of public spending. Given the possible overlap between existing and future macro-regions, sea-basins and transnational programme areas, the proposed regulation explicitly foresees that transnational cooperation can also support the development and implementation of macro-regional strategies and sea-basin programmes (including the ones established on the external borders of the EU).

The implementation modalities have been streamlined for cooperation programmes. The number of authorities involved in programme implementation has been reduced and roles and responsibilities further clarified.. Content requirements for cooperation programmes and implementation reports have been made more precise in order to reduce administrative burden for programme authorities. Common indicators have been defined to better capture the outputs of and increase the overall orientation on results.

The proposal foresees a greater harmonisation of rules. Eligibility rules will be either fixed at EU level or by the Monitoring Committee for the programme as a whole. National rules will only apply in the absence such rules. This will also facilitate a joint approach in carrying out the management verifications and audits by the audit authority and thus contribute to greater harmonisation in this field.

Finally, an extension of the deadline for the de-commitment rule and specific provisions for the application of the rules on state aid and the conversion of foreign currencies into Euro will further facilitate programme implementation.

¹¹ Communication "European Union Strategy for the Baltic Sea Region", COM (2009) 248, 10.6.2009 and Communication "European Union Strategy for Danube Region", Brussels, 8.12.2010, COM(2010) 715.

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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 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 Committee¹²,

Having regard to the opinion of the Committee of the Regions¹³,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 176 of the Treaty provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. In accordance with Article 174 of the Treaty, the ERDF contributes to reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions, among which particular attention should be paid to regions which suffer from severe and permanent natural or demographic handicaps such as island, cross-border and mountain regions.
- (2) The provisions common to the ERDF, the European Social Fund (the 'Structural Funds') and the Cohesion Fund (together with the 'Structural Funds': the 'Funds') are set out in Regulation (EU) No [...] /2012 of [...] laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European

¹² OJ C , , p. .

¹³ OJ C , , p. .

Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006¹⁴ [Common Provisions Regulation - CPR]. Specific provisions concerning the type of activities which may be financed by the ERDF under the goals defined in that Regulation (EU) No /2012 of the European Parliament and of the Council on the European Regional Development Fund and repealing Regulation (EC) No 1080/2006¹⁵ [ERDF Regulation] are set out in that Regulation. Those Regulations are not fully adapted to the specific needs of the European territorial cooperation goal, where at least two Member States or one Member State and third countries cooperate. It is therefore necessary to lay down provisions specific to the European territorial cooperation goal concerning scope and geographical coverage, financial resources, investment priorities and concentration, programming, monitoring and review, technical assistance, financial support and eligibility, management, control and accreditation, and financial management.

- (3) To increase the value added of the Union's cohesion policy, the specific provisions should lead to considerable simplification on all levels involved: beneficiaries, programme authorities, participating Member States and third countries, as well as the Commission.
- (4) Under the European territorial cooperation goal, the ERDF supports cross-border, transnational and interregional cooperation.
- (5) Cross-border cooperation should aim to tackle common challenges identified jointly in the border regions (such as poor accessibility, inappropriate business environment, lack of networks among local and regional administrations, research and innovation and take-up of information and communication technologies, environmental pollution, risk prevention, negative attitudes towards neighbouring country citizens) and exploit the untapped potentials in the border area (development of cross-border research and innovation facilities and clusters, cross-border labour market integration, cooperation among universities or health centres), while enhancing the cooperation process for the purpose of the overall harmonious development of the Union. In the case of any cross-border programme between Northern Ireland and the border counties of Ireland in support of peace and reconciliation, the ERDF shall also contribute to promoting social and economic stability in the regions concerned, notably by actions to promote cohesion between communities.
- (6) Transnational cooperation should aim to strengthen cooperation by means of actions conducive to integrated territorial development linked to the Union's cohesion policy priorities.
- (7) Interregional cooperation should aim to reinforce the effectiveness of cohesion policy by encouraging exchange of experience between regions to enhance design and implementation of operational programmes under the Investment for growth and jobs goal. It should, in particular, foster cooperation between innovative research-intensive clusters and exchanges between researchers and research institutions, based on "Regions of Knowledge" and "Research potential in Convergence and Outermost regions" under the Seventh Framework Programme for Research.

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OJ L , , p. .

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See page yy of this Official Journal.

- (8) Objective criteria for designating eligible regions and areas should be fixed. To this 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 of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS)¹⁶.
- (9) Cross-border cooperation should support regions located on land or sea borders. Based on experience from previous programming periods, the Commission should be empowered to define the list of cross-border areas to receive support under cross-border cooperation programmes in a simpler way, by cooperation programme. In drawing up that list, the Commission should take into account adjustments needed to ensure coherence, in particular on land and maritime borders, and continuity of programme areas established for the 2007-2013 programming period. These adjustments may reduce or enlarge existing programme areas or the number of cross-border cooperation programmes, but may allow for geographical overlap.
- (10) Areas for transnational cooperation should be defined having regard to actions needed to promote integrated territorial development. The Commission should be empowered to define transnational cooperation areas.
- (11) Any interregional cooperation programme should cover the whole Union.
- (12) It is necessary to continue supporting or – where needed – to establish cross-border, transnational and interregional cooperation with the Union's neighbouring third countries, as this will benefit the regions of the Member States which border third countries. To that effect, the ERDF will contribute to the cross-border and sea basin programmes established under the European Neighbourhood Instrument (ENI) pursuant to Regulation (EU) No [...]/2012¹⁷ and the Instrument for Pre-Accession (IPA) pursuant to Regulation (EU) No [...]/2012¹⁸.
- (13) For the benefit of the regions of the Union, a mechanism to organise support from the ERDF to external policy instruments such as ENI and IPA should be set up, including where external cooperation programmes cannot be adopted or have to be discontinued.
- (14) Apart from interventions on external borders supported by external policy instruments of the Union covering border regions inside and outside the Union, there may be cooperation programmes supported by the ERDF that cover regions both inside and outside the Union where the regions outside the Union are not covered by external policy instruments, either because they are not a defined beneficiary country or because such external cooperation programmes cannot be set up. The Commission should therefore be empowered, when drawing up the lists of cross-border and transnational programme areas, to cover regions from third countries as well.
- (15) It is necessary to fix the resources allocated to each of the different components of the European territorial cooperation goal, while maintaining a significant concentration on cross-border cooperation and securing sufficient funding levels for outermost regions' cooperation.

¹⁶ OJ L 154, 21.6.2003, p. 1.

¹⁷ OJ L

¹⁸ OJ L

- (16) The selection of thematic objectives should be limited in order to maximise the impact of cohesion policy across the Union. However, the concentration under interregional cooperation should be reflected in the aim of each operation rather than in a limitation of the number of thematic objectives, in order to get the most out of interregional cooperation for the reinforcement of the effectiveness of cohesion policy under the Investment for growth and jobs and the European territorial cooperation goals.
- (17) In order to deliver on the targets and objectives of smart, sustainable and inclusive growth set out in the Europe 2020 strategy¹⁹, the ERDF should contribute under the European territorial cooperation goal to the thematic objectives of developing an economy based on knowledge, research and innovation, promoting a greener, more resource-efficient and competitive economy, fostering high employment that delivers social and territorial cohesion, and developing administrative capacity. However, the list of the investment priorities under the different thematic objectives should be adapted to the specific needs of the European territorial cooperation goal, in particular by allowing for the continuation under cross-border cooperation of legal and administrative cooperation and cooperation between citizens and institutions, of cooperation in the fields of employment, training and social inclusion in a cross-border perspective, by allowing for the continuation under transnational cooperation of maritime cross-border cooperation not covered by cross-border cooperation programmes, and by the development and implementation of macro-regional and sea-basin strategies.
- (18) It is necessary to adapt the content requirements of cooperation programmes under the European territorial cooperation goal to their specific needs. Therefore they also need to cover aspects necessary for effective implementation on the territory of participating Member States, such as the bodies responsible for audit and control, the procedure to set up a joint secretariat, and the allocation of liabilities in case of financial corrections. In addition, due to the horizontal character of interregional cooperation programmes, the content of such cooperation programmes should be adapted, especially as regards the definition of the beneficiary or beneficiaries under the current INTERACT and ESPON programmes.
- (19) Consistent with the goal of smart, sustainable and inclusive growth, the Structural Funds should provide a more integrated and inclusive approach to tackling local problems. In order to strengthen this approach, support from the ERDF support in border regions should be coordinated with support from the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund(EMFF) and should, where appropriate, involve European groupings of territorial cooperation set up under 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)²⁰ where local development figures among their objectives.
- (20) Based on the experience from the 2007-13 programming period, the conditions for the selection of operations should be clarified and strengthened in order to ensure selection of only genuinely joint operations. The notion of sole beneficiaries should be

¹⁹ Communication from the Commission: Europe 2020 - A strategy for smart, sustainable and inclusive growth, COM(2010) 2020 final, 3.3.2010.

²⁰ OJ L 210, 31.7.2006, p. 19.

defined and it should be clarified that they are permitted to carry out cooperation operations by themselves.

- (21) The responsibilities of lead beneficiaries, retaining overall responsibility for the implementation of an operation, should be specified.
- (22) The requirements for implementation reports should be adapted to the cooperation context and reflect the programme implementation cycle. In the interests of sound management, annual review meetings may be carried out in writing.
- (23) A common set of indicators to assess progress of programme implementation adapted to the specific character of cooperation programmes should be set out before the Member States draft their cooperation programmes. These indicators should be complemented by programme-specific indicators.
- (24) Due to the involvement of more than one Member State and the resulting higher administrative costs, in particular in respect of controls and translation, the ceiling for technical assistance expenditure should be higher than under the Investment for growth and jobs goal. In addition, cooperation programmes with limited ERDF support should receive a certain minimum amount to ensure sufficient funding for effective technical assistance activities.
- (25) Due to the involvement of more than one Member State, the general rule laid down in the Regulation (EU) No [...] /2012 [CPR] that each Member State adopts its national eligibility rules is not appropriate for the European territorial cooperation goal. Based on experience from the 2007-13 programming period, a clear hierarchy of eligibility rules should be established with a strong move towards joint eligibility rules.
- (26) Due to the frequent involvement of staff from more than one Member State in the implementation of operations, and given the number of operations for which staff costs is a significant element, a flat-rate for costs covering staff should be applied to the other direct costs of cooperation operations, thus avoiding individual accounting for the management of such operations.
- (27) The rules on flexibility concerning the location of operations outside the programme area should be simplified. In addition, it is necessary to support effective cross-border, transnational and interregional cooperation with the Union's neighbouring third countries where this is necessary to ensure that the regions of the Member States which border third countries can be effectively assisted in their development. Accordingly, it is appropriate to authorise on an exceptional basis and under certain conditions the financing of assistance from the ERDF for operations located on the territory of third countries where the operations are for the benefit of the regions of the Union.
- (28) Member States should be encouraged to confer the task of the managing authority on an EGTC or to make such a grouping responsible for managing the part of a cooperation programme covering the territory concerned by the EGTC.
- (29) The managing authority should set up a joint secretariat which should provide information to applicants for support, deal with project applications and assist beneficiaries in implementing their operations.

- (30) Managing authorities should be responsible for all functions of the managing authority listed in Article 114 of Regulation (EU) No [...] /2012 [CPR], including for management verifications in order to ensure uniform standards across the whole programme area. However, where an EGTC is designated as managing authority, it should be authorised to carry out such verifications, as all participating Member States are represented in its organs. Even where no EGTC is designated, the managing authority should be authorised by the participating Member States to carry out verifications on the whole programme area.
- (31) A single audit authority should be responsible for carrying out all functions listed in Article 116 of Regulation (EU) No [...] /2012 [CPR] in order to ensure uniform standards across the whole programme area. Where this is not possible, a group of auditors should be able to assist the programme audit authority.
- (32) A clear chain of financial liability in respect of recovery for irregularities should be established, from beneficiaries to lead beneficiary to the managing authority to the Commission. Provision should be made for liability of Member States where no recovery can be obtained.
- (33) Based on the experience from the 2007-2013 programming period, an explicit derogation should be established for the conversion of expenditure incurred in a currency other than the euro, by applying the conversion rate at a date as close to the point in time of the expenditure as possible. Financing plans, reports and accounts concerning joint cooperation operations should in any event only be submitted in euro to the joint secretariat, the programme authorities and the monitoring committee. The correctness of conversion should be verified.
- (34) Having regard to the difficulties and delays experienced in setting up genuinely joint programme structures, the timeframe for justifying payments in respect of budget commitments under the European territorial cooperation goal should be three years following the year of the budget commitment.
- (35) It is necessary to clarify the applicable rules concerning financial management, programming, monitoring, evaluation and control regarding the participation of third countries in transnational and interregional cooperation programmes. Those rules should be established in the relevant cooperation programme and/or the relevant financing agreement between the Commission, each of the third countries and the Member State hosting the managing authority of the relevant cooperation programme.
- (36) In order to set out specific eligibility rules, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the content and scope set out in Article 17. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the lists of cross-border areas and of transnational areas, of the submission of draft cooperation programmes, the nomenclature concerning categories of intervention and of

implementation reports. Those 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 powers²¹.

HAVE ADOPTED THIS REGULATION:

Chapter I

GENERAL PROVISIONS

Article 1

Subject-matter and scope

1. This Regulation establishes the scope of the European Regional Development Fund (ERDF) with regard to the European territorial cooperation goal and lays down specific provisions concerning that goal.
2. This Regulation defines, for the European territorial cooperation goal, the priority objectives and organisation of the ERDF, the criteria for Member States and regions to be eligible for support from the ERDF, the financial resources available for support from the ERDF and the criteria for their allocation.

It also lays down the provisions necessary to ensure effective implementation, financial management and control of operational programmes under the European territorial cooperation goal ('cooperation programmes'), including when third countries participate in such cooperation programmes.

3. Regulation (EU) No [...] /2012 [CPR] and Chapter I of Regulation (EU) No [...] /2012 [ERDF Regulation] shall apply to the European territorial cooperation goal and to cooperation programmes thereunder, except as specifically provided under this Regulation or where such provisions can only apply to the Investment for growth and jobs goal.

Article 2

Components of the European territorial cooperation goal

Under the European territorial cooperation goal, the ERDF shall support:

- (1) cross-border cooperation between adjacent regions to promote integrated regional development between neighbouring land and maritime border regions from two or more Member States or between neighbouring border regions from at least one Member State and one third country on external borders of the Union other than those covered by programmes under the external financial instruments of the Union;

²¹ OJ L 55, 28.2.2011, p. 13.

- (2) transnational cooperation over larger transnational territories, involving national, regional and local authorities and also covering maritime cross-border cooperation in cases not covered by cross-border cooperation, with a view to achieving a higher degree of territorial integration of those territories, thus contributing to territorial cohesion across the Union;
- (3) interregional cooperation to reinforce the effectiveness of cohesion policy by promoting:
 - (a) exchange of experience on thematic objectives among partners throughout the Union on the identification and dissemination of good practice with a view to its transfer to operational programmes under the Investment for growth and jobs goal;
 - (b) exchange of experience concerning the identification, transfer and dissemination of good practice on sustainable urban and rural development;
 - (c) exchange of experience concerning the identification, transfer and dissemination of good practice and innovative approaches in relation to actions concerning territorial cooperation and to the use of EGTCs;
 - (d) analysis of development trends in relation to the aims of territorial cohesion and harmonious development of the European territory through studies, data collection and other measures.

Article 3

Geographical coverage

1. For cross-border cooperation, the regions to be supported shall be the NUTS level 3 regions of the Union along all internal and external land borders other than those covered by programmes under the external financial instruments of the Union, and all NUTS level 3 regions of the Union along maritime borders separated by a maximum of 150 km, without prejudice to potential adjustments needed to ensure the coherence and continuity of cooperation programme areas established for the 2007-2013 programming period.

The Commission shall adopt the list of cross-border areas to receive support, broken down by cooperation programme, by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

That list shall also specify those NUTS level 3 regions in the Union taken into account for the ERDF allocation to cross-border cooperation on all internal and those external borders covered by the external financial instruments of the Union, such as ENI pursuant to Regulation (EU) No [...]/2012 [the ENI Regulation] and IPA pursuant to Regulation (EU) No [...]/2012 the IPA Regulation].

When submitting draft cross-border cooperation programmes, Member States may request that additional NUTS level 3 regions adjacent to those listed in the decision referred to in the second subparagraph are added to a given cross-border area and shall give reasons for the request.

2. Without prejudice to Article 19(2) and (3), cross-border cooperation programmes may cover regions from Norway, Switzerland, Liechtenstein, Andorra, Monaco and San Marino and third countries or territories neighbouring outermost regions.

Such regions shall be NUTS level 3 regions or equivalent regions.

3. For transnational cooperation, the Commission shall adopt the list of transnational areas to receive support, broken down by cooperation programme and covering NUTS level 2 regions while ensuring the continuity of such cooperation in larger coherent areas based on previous programmes, by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

When submitting draft transnational cooperation programmes, Member States may request that additional NUTS level 2 regions adjacent to those listed in the decision referred to in the first subparagraph are added to a given transnational cooperation area and shall give reasons for the request.

4. Without prejudice to Article 19(2) and (3), transnational cooperation programmes may cover regions from the following third countries or territories:

- (a) the third countries or territories listed or referred to in paragraph 2; and
- (b) the Faroe Islands and Greenland.

Without prejudice to Article 19(2) and (3), transnational cooperation programmes may also cover regions from third countries covered by the external financial instruments of the Union, such as ENI pursuant to Regulation (EU) No [...] /2012, including the relevant regions of the Russian Federation, and IPA pursuant to Regulation (EU) No [...] /2012. Annual appropriations corresponding to the support of the ENI and IPA to these programmes will be made available, provided that the programmes adequately address the relevant external cooperation objectives.

Such regions shall be NUTS level 2 regions or equivalent regions.

5. For interregional cooperation, support from the ERDF shall cover the entire territory of the Union.

Without prejudice to Article 19(2) and (3), interregional cooperation programmes may cover the whole or part of the territory of third countries referred to in paragraph 4(a) and (b).

6. For information purposes, regions of third countries or territories referred to in paragraphs 2 and 4 shall be mentioned in the lists referred to in paragraphs 1 and 3.

Article 4

Resources for European territorial cooperation

1. Resources for the European territorial cooperation goal shall amount to 3,48 % of the global resources available for budgetary commitment from the Funds for the period

2014 to 2020 and set out in Article 83(1) of Regulation (EU) No [...]/2012 [CPR] (i.e., a total of EUR 11 700 000 004) and shall be allocated as follows:

- (a) 73,24 % (i.e., a total of EUR 8 569 000 003) for cross-border cooperation;
- (b) 20,78 % (i.e., a total of EUR 2 431 000 001) for transnational cooperation;
- (c) 5,98 % (i.e., a total of EUR 700 000 000) for interregional cooperation.

- 2. Cooperation programmes involving the outermost regions shall receive not less than 150% of the ERDF support they received in the 2007-2013 period. In addition, EUR 50 000 000 from the allocation for interregional cooperation shall be set aside for outermost regions' cooperation. Concerning thematic concentration, Article 5 (b) applies to this additional allocation.
- 3. The Commission shall adopt a single decision setting out the list of all cooperation programmes and indicating the amounts of the total ERDF support per programme and of the 2014 allocation per programme by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

Population in the areas referred to in the 3rd sub-paragraph of Article 3(1) and the first sub-paragraph of Article (3)(3) shall be used as the criterion for the annual breakdown by Member State.

- 4. The support from the ERDF to cross-border and sea-basin programmes under ENI and to the cross-border programmes under IPA shall be established by the Commission and the Member States concerned.
- 5. Support from the ERDF to each cross-border and sea-basin programme under ENI and IPA shall be granted provided that at least equivalent amounts are provided by ENI and IPA. This equivalence shall be subject to a maximum amount set out in the ENI Regulation or the IPA Regulation].
- 6. The annual appropriations corresponding to the support from the ERDF to programmes under ENI and IPA shall be entered in the relevant budget lines of those instruments with the 2014 budgetary exercise.
- 7. In 2015 and 2016, the annual contribution from the ERDF to the programmes under ENI and IPA for which no programme has been submitted to the Commission by 30 June under the cross-border and sea-basin programmes under ENI and IPA shall be allocated to the internal cross-border cooperation programmes under paragraph 1(a) in which the Member State concerned participates.

If by 30 June 2017, there are still programmes under the cross-border and sea-basin programmes under ENI and IPA which have not been submitted to the Commission, the entire support from the ERDF mentioned in paragraph 4 for the remaining years up to 2020 shall be allocated to the internal cross-border cooperation programmes under paragraph 1(a) in which the Member State concerned participates.

- 8. Cross-border and sea basin programmes referred to in paragraph 4 that have been adopted by the Commission shall be discontinued if:

- (a) none of the partner countries covered by the programme have signed the relevant financing agreement by the deadline established in Regulation (EU) No./2012 [the ENI regulation] or Regulation (EU) No. /2012 [IPA]; or
- (b) the programme cannot be implemented owing to problems arising in relations between the participating countries.

In such event, the support from the ERDF mentioned in paragraph 4 corresponding to annual instalments not yet committed shall be allocated to the internal cross-border cooperation programmes under paragraph 1(a) in which the Member State concerned participates, at its request.

CHAPTER II

THEMATIC CONCENTRATION AND INVESTMENT PRIORITIES

Article 5

Thematic concentration

The thematic objectives referred to in Article 9 of Regulation (EU) No [...] /2012 [the CPR] shall be concentrated as follows:

- (a) up to 4 thematic objectives shall be selected for each cross-border cooperation programme;
- (b) up to 4 thematic objectives shall be selected for each transnational cooperation programme;
- (c) all thematic objectives may be selected for interregional cooperation programmes pursuant to Article 2(3)(a).

Article 6

Investment priorities

In addition to Article 5 of Regulation (EU) No [...] /2012 [the ERDF Regulation], the ERDF shall support the sharing of human resources, facilities and infrastructures across borders under the different investment priorities, as well as the following investment priorities within the thematic objectives:

- (a) under cross-border cooperation:
 - (i) integrating cross-border labour markets, including cross-border mobility, joint local employment initiatives and joint training (within the thematic objective of promoting employment and supporting labour mobility);

- (ii) promoting gender equality and equal opportunities across borders, as well as promoting social inclusion across borders (within the thematic objective of promoting social inclusion and combating poverty);
 - (iii) developing and implementing joint education and training schemes (within the thematic objective of investing in skills, education and lifelong learning);
 - (iv) promoting legal and administrative cooperation and cooperation between citizens and institutions (within the thematic objective of enhancing institutional capacity and an efficient public administration);
- (b) under transnational cooperation: development and implementation of macro-regional and sea-basin strategies (within the thematic objective of enhancing institutional capacity and an efficient public administration).

CHAPTER III

PROGRAMMING

Article 7

Content of cooperation programmes

1. A cooperation programme shall consist of priority axes. A priority axis shall concern one Fund, shall correspond to a thematic objective and comprise one or more investment priorities of that thematic objective in line with Articles 5 and 6 of this Regulation.
2. A cooperation programme shall set out:
 - (a) a strategy for the cooperation programme's contribution to the Union strategy of smart, sustainable and inclusive growth including:
 - (i) an identification of the needs addressing the challenges as regards the programme area as a whole;
 - (ii) a justification of the choice of thematic objectives and corresponding investment priorities, having regard to the Common Strategic Framework and the results of the *ex ante* evaluation;
 - (b) for each priority axis:
 - (i) the investment priorities and corresponding specific objectives;
 - (ii) the common and specific output and result indicators, with where appropriate a baseline value and a quantified target value, in line with the Fund-specific rules;

- (iii) a description of actions to be supported including the identification of the main target groups, specific territories targeted and types of beneficiaries where appropriate and the planned use of financial instruments;
 - (iv) the corresponding categories of intervention based on a nomenclature adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 30(3) and an indicative breakdown of the programmed resources;
- (c) the contribution to the integrated strategy for territorial development set out in the partnership contract including:
 - (i) the mechanisms that ensure coordination between the Funds, the EAFRD, the EMFF and other Union and national funding instruments and with the European Investment Bank (EIB);
 - (ii) where appropriate, a planned integrated approach to the territorial development of urban, rural, coastal areas and areas with particular territorial features, in particular the implementation arrangements for Articles 28 and 29 of Regulation (EU) No./2012 [CPR];
 - (iii) where appropriate, the list of cities where integrated actions for sustainable urban development will be implemented; the indicative annual allocation of the ERDF support for these actions, including the resources delegated to cities for management under Article 7(2) of Regulation (EU) No./2012 [ERDF];
 - (iv) the identification of the areas in which community-led local development will be implemented;
 - (v) where appropriate, the contribution of the planned interventions towards macro regional strategies and sea basin strategies;
- (d) arrangements to ensure the effective implementation of the funds including:
 - (i) a performance framework in accordance with Article 19(1) of Regulation (EU) No./2012 [CPR];
 - (ii) the actions taken to involve the partners in the preparation of the cooperation programme, and the role of the partners in the implementation, monitoring and evaluation of the cooperation programme;
- (e) arrangements to ensure the efficient implementation of the funds including:
 - (i) the planned use of technical assistance including actions to reinforce the administrative capacity of authorities and beneficiaries with the relevant information referred to in paragraph 2(b) for the priority axis concerned;
 - (ii) an assessment of the administrative burden for beneficiaries and the actions planned to achieve a reduction accompanied by targets;

- (iii) a list of major projects for which the estimated start date for the execution of the main works is before 1 January 2018;
- (f) a financing plan containing two tables (without any division per participating Member State):
 - (i) a table specifying for each year, in accordance with Articles 53, 110 and 111 of Regulation (EU) No./2012 [CPR], the amount of the total financial appropriation envisaged for the support from the ERDF;
 - (ii) a table specifying, for the whole programming period, for the cooperation programme and for each priority axis, the amount of the total financial appropriation of the support from the ERDF and the national co-financing. Where the national co-financing is made up of public and private co-financing, the table shall give the indicative breakdown between the public and the private components. It shall show, for information purposes, the envisaged participation from the EIB;
- (g) the implementing provisions for the cooperation programme containing:
 - (i) identification of the accreditation body, the managing authority and the audit authority;
 - (ii) the body or bodies designated to carry out control tasks;
 - (iii) the body or bodies designated to be responsible for carrying out audit tasks;
 - (iv) the procedure for setting up the joint secretariat;
 - (v) a summary description of the management and control arrangements;
 - (vi) the apportionment of liabilities among the participating Member States in case of financial corrections imposed by the managing authority or the Commission.

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

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

3. Each cooperation programme shall include:

- (i) a description of specific actions to take into account environmental protection requirements, resource efficiency, climate change mitigation and adaptation, and risk prevention and risk management in the selection of operations;
- (ii) a description of the specific actions to promote equal opportunities and prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, design and implementation of the cooperation programme and in particular in relation to

access to funding taking account of the needs of the various target groups at risk of such discrimination and in particular the requirements of ensuring accessibility for disabled persons;

- (iii) a description of its contribution to the promotion of equality between men and women and where appropriate the arrangements to ensure the integration of gender perspective at programme and operation level.

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

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

4. Cooperation programmes under Article 2(3)(c) and (d) shall define the beneficiary or beneficiaries for such a cooperation programme and may specify the granting procedure.
5. The participating Member States and third countries or territories, where applicable, shall confirm in writing their agreement to the contents of a cooperation programme prior to its submission to the Commission. This agreement shall also include a commitment of all participating Member States to provide the co-financing necessary to implement the cooperation programme.
6. Member States shall draft the cooperation programmes according to the model adopted by the Commission.
7. The Commission shall adopt that model by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

Article 8 **Joint Action Plan**

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

Article 9 **Community-led local development**

Community-led local development under Article 28 of Regulation (EU) No./2012 [CPR] may be implemented in cross-border cooperation programmes, provided that the local development group is composed of representatives of at least two countries, of which one is a Member State.

Article 10
Integrated territorial investment

For cooperation programmes, the intermediate body to carry out the management and implementation of an Integrated territorial investment referred to in Article 99(3) of Regulation (EU) No./2012 [CPR] shall be an EGTC or other legal body established under the laws of one of the participating countries provided that it is set up by public authorities from at least two participating countries.

Article 11
Selection of operations

1. Operations under cooperation programmes shall be selected by the monitoring committee referred to in Article 41 of Regulation (EU) No [...] /2012 [CPR].
2. Operations selected under cross-border and transnational cooperation shall involve beneficiaries from at least two participating countries, at least one of which shall be from a Member State. An operation may be implemented in a single country, provided that it is for the benefit of the programme area.

Operations concerning interregional cooperation under Article 2(3)(a) and (b) shall involve beneficiaries from at least three countries, at least two of which shall be Member States.

3. Notwithstanding paragraph 2, an EGTC or other legal body established under the laws of one of the participating countries may apply as sole beneficiary for an operation provided that it is set up by public authorities and bodies from at least two participating countries, for cross-border and transnational cooperation, and from at least three participating countries, for interregional cooperation.
4. Beneficiaries shall cooperate in the development, implementation, staffing and financing of operations.
5. The managing authority shall provide to the lead or sole beneficiary for each operation a document setting out the conditions for support the operation, including the specific requirements concerning the products or services to be delivered under the operation, the financing plan, and the time-limit for execution.

Article 12
Beneficiaries

1. Where there are two or more beneficiaries for an operation in a cooperation programme, one of them shall be designated by all the beneficiaries as the lead beneficiary.
2. The lead beneficiary shall carry out the following tasks:
 - (a) lay down the arrangements with other beneficiaries in an agreement comprising provisions that, *inter alia*, guarantee the sound financial management of the

funds allocated to the operation, including the arrangements for recovering amounts unduly paid;

- (b) assume responsibility for ensuring implementation of the entire operation;
 - (c) ensure that expenditure presented by all beneficiaries has been incurred in implementing the operation and corresponds to the activities agreed between all the beneficiaries;
 - (d) verify that the expenditure presented by other beneficiaries has been validated by a controller(s) where this verification is not carried out by the managing authority pursuant to Article 22(3).
3. The lead beneficiary shall ensure that the other beneficiaries receive the total amount of the public support as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce those amounts for the other beneficiaries.
4. Lead beneficiaries shall be located, and sole beneficiaries shall be registered, in a Member State.

CHAPTER IV

MONITORING AND EVALUATION

Article 13

Implementation reports

1. By 30 April 2016 and by 30 April of each subsequent year until and including 2022, the managing authority shall submit to the Commission an annual report in accordance with Article 44(1) of Regulation (EU) No [...]/2012 [CPR]. The report submitted in 2016 shall cover the financial years 2014 and 2015, as well as the period between the starting date for eligibility of expenditure and 31 December 2013.
2. Annual implementation reports shall set out information on:
- (a) implementation of the cooperation programme in accordance with Article 44(2) of Regulation (EU) No [...]/2012 [CPR];
 - (b) progress in preparation and implementation of major projects and joint action plans.
3. The annual implementation reports submitted in 2017 and 2019 shall set out and assess the information required under Articles 44(3) and (4) of Regulation (EU) No [...]/2012 [CPR] respectively and the information set out in paragraph 2 together with:

- (a) progress in implementation of the integrated approach to territorial development, including sustainable urban development, and community-led local development under the operational programme;
 - (b) progress in implementation of actions to reinforce the capacity of authorities and beneficiaries to administer and to use the ERDF;
 - (c) progress in implementation of the evaluation plan and the follow-up given to the findings of evaluations;
 - (d) the specific actions taken to promote equality between men and women and to prevent discrimination, including accessibility for disabled persons, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;
 - (e) actions taken to promote sustainable development;
 - (f) the results of the information and publicity measures carried out under the communication strategy;
 - (g) progress in the implementation of actions in the field of social innovation, where appropriate;
 - (h) the involvement of the partners in the implementation, monitoring and evaluation of the cooperation programme.
4. The annual and final implementation reports shall be drawn up following models adopted by the Commission by means of implementing acts. These implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).

Article 14 **Annual review**

Where an annual review meeting is not organised pursuant to Article 45(3) of Regulation (EU) No [...] /2012 [CPR], the annual review may be carried out in writing.

Article 15 **Indicators for the European territorial cooperation goal**

Common indicators, as set out in the Annex to this Regulation, shall be used where relevant and in accordance with Article 24(3) of Regulation (EU) No. /2012 [CPR]. Their baselines shall be set at zero and cumulative targets shall be fixed for 2022.

For programme-specific output indicators, baselines shall be set at zero and cumulative targets shall be fixed for 2022.

For programme-specific result indicators, baselines shall be set using the latest available data and targets shall be fixed for 2022, but may be expressed in quantitative or qualitative terms.

Article 16
Technical assistance

The amount of the ERDF allocated to technical assistance shall be limited to 6% of the total amount allocated to a cooperation programmes, but shall not be less than EUR 1 500 000.

CHAPTER VI

ELIGIBILITY

Article 17
General rules on eligibility of expenditure

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 29 to set additional specific rules on eligibility of expenditure for cooperation programmes.
2. Without prejudice to the eligibility rules laid down in or on the basis of Articles 55 to 61 of Regulation (EU) No [...]/2012 [CPR], Regulation (EU) No [...]/2012 [ERDF] or this Regulation, the monitoring committee shall establish eligibility rules for the cooperation programme as a whole.
3. For matters not covered by eligibility rules laid down in or on the basis of Articles 55 to 61 of Regulation (EU) No [...]/2012 [CPR], Regulation (EU) No [...]/2012 [ERDF] or this Regulation or by the monitoring committee, the national rules of the country in which the expenditure is incurred shall apply.

Article 18
Staff costs

Staff costs of an operation may be calculated as a flat rate of up to 15 % of the direct costs other than the staff costs of that operation.

Article 19
Eligibility of operations in cooperation programmes depending on location

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

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

CHAPTER VII

MANAGEMENT, CONTROL AND ACCREDITATION

Article 20

Designation of authorities

1. For the purposes of Articles 113(1) and (2) of Regulation (EU) No [...] /2012 [CPR], Member States participating in a cooperation programme shall appoint a single managing authority and, for the purpose of Article 113(4) of that Regulation, a single audit authority, which shall be situated in the same Member State.
2. The managing authority shall receive the payments made by the Commission and shall make payments to the lead beneficiary in accordance with Article 122 of Regulation (EU) No [...] /2012 [CPR].

Article 21

European grouping of territorial cooperation

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

Article 22

Functions of the managing authority

1. The managing authority of a cooperation programme shall carry out the functions of the managing authority and of the certifying authority laid down in Articles 114 and 115 of Regulation (EU) No [...] /2012 [CPR].

2. The managing authority, after consultation with the Member States and any third countries participating in a cooperation programme, shall set up a joint secretariat.

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

3. Verifications under Article 114(4)(a) of Regulation (EU) No [...] /2012 [CPR] shall be carried out by the managing authority for the whole programme area where the managing authority is an EGTC.

4. Where the managing authority cannot carry out verifications under Article 114(4)(a) of Regulation (EU) No [...] /2012 [CPR] throughout the whole programme area, each Member State or third country shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory ('controller(s)').

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

Each Member State or third country shall be responsible for verifications carried out on its territory.

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

Article 23

Functions of the audit authority

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

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

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

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

Article 24 **Accreditation**

The managing authority shall be accredited by the accrediting body of the Member State in which the managing authority is located.

CHAPTER VIII

FINANCIAL MANAGEMENT

Article 25 **Budget commitments, payments and recoveries**

1. The ERDF support to cooperation programmes shall be paid into a single account with no national sub-accounts.
2. The managing authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead or sole beneficiary. Beneficiaries shall repay the lead beneficiary any amounts unduly paid.
3. If the lead beneficiary does not succeed in securing repayment from other beneficiaries or if the managing authority does not succeed in securing repayment from the lead or sole beneficiary, the Member State or third country on whose territory the lead or sole beneficiary concerned is located or, in the case of an EGTC, is registered shall reimburse the managing authority the amount unduly paid to that beneficiary. 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 as laid down in the cooperation programme.

Article 26 **Use of the euro**

By way of derogation from Article 123 of Regulation (EU) No [...] /2012 [CPR], expenditure incurred in a currency other than the euro shall be converted into euro by the beneficiaries in the month during which expenditure was incurred.

The conversion shall be verified by the managing authority or by the controller in the Member State or third country in which the beneficiary is located.

Article 27
Decommitment

By way of derogation from the first subparagraph of Article 127(1), but without prejudice to Article 127(4), of Regulation (EU) No [...] /2012 [CPR], the Commission shall de-commit any part of the amount calculated in accordance with the second subparagraph of that Article in a cooperation programme that has not been used for payment of the initial and annual pre-financing, interim payments and annual balance by 31 December of the third financial year following the year of budget commitment under the cooperation programme or for which a payment application has not been sent in accordance with Article 126(1) of Regulation (EU) No [...] /2012 [CPR].

Article 28
Participation of third countries

Detailed rules concerning financial management as well as programming, monitoring, evaluation and control of the participation of third countries in transnational and interregional cooperation programmes as referred to in Article 3(4), second sub-paragraph, and (5) shall be established in the relevant cooperation programme and/or the relevant financing agreement between the Commission, each of the third countries and the Member State hosting the managing authority of the relevant cooperation programme, as appropriate.

CHAPTER X

FINAL PROVISIONS

Article 29
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 17(1) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Regulation.
3. The delegation of power referred to in Article 17(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 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 17(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.

Article 30

Committee procedure

1. The Commission shall be assisted by the Coordination Committee of the Funds. 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.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 31

Transitional provisions

1. As far as the European territorial cooperation objective is concerned, this Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of support approved by the Commission on the basis of Council Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013, which shall consequently apply thereafter to that assistance or the projects concerned until their closure.
2. Applications concerning the European territorial cooperation objective in the 2007-2013 period to receive support made under Regulation (EC) No 1080/2006 before 1 January 2014 shall remain valid.

Article 32

Review

The European Parliament and the Council shall review this Regulation by 31 December 2022, in accordance with Article 178 of the Treaty.

Article 33

Entry into force

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

ANNEX

Common indicators for the European territorial cooperation goal (referred to in Article 15)

	UNIT	NAME
Productive investment		
	enterprises	Number of enterprises receiving grants
	enterprises	Number of enterprises receiving financial support other than grants
	enterprises	Number of enterprises receiving non-financial support
	enterprises	Number of new enterprises supported
	EUR	Private investment matching public support to SMEs (grants)
	EUR	Private investment matching public support to SMEs (non-grants)
	full time equivalents	Number of jobs created in assisted SMEs
Tourism	visits	Number of visits to supported attractions
ICT Infrastructure	persons	Population covered by broadband access of at least 30 Mbps
Transport		
Railway	km	Total length of new railway line
		of which: TEN-T
	km	Total length of reconstructed or upgraded railway line
		of which: TEN-T
Roads	km	Total length of newly built roads
		of which: TEN-T
	km	Total length of reconstructed or upgraded roads

		of which: TEN-T
Urban transport	passenger trips	Increase of passenger trips using supported urban transport service
Inland waterways	tonne-km	Increase of cargo transported on improved inland waterways
Environment		
Solid waste	tonnes	Additional waste recycling capacity
Water supply	persons	Additional population served by improved water supply
	m ³	Estimated reduction of leakage in water distribution network
Wastewater treatment	population equivalent	Additional population served by improved wastewater treatment
Risk prevention and management	persons	Population benefiting from flood protection measures
	persons	Population benefiting from forest fire protection and other protection measures
Land rehabilitation	hectares	Total surface area of rehabilitated land
Soil sealing	hectares	Change in land sealed due to development
Nature and biodiversity	hectares	Surface area of habitats in better conservation status
Research, Innovation		
	Persons	Number of R&D personnel/researchers working in newly built or equipped research infrastructures
	Enterprises	Number of enterprises cooperating with assisted research institutions
	Full time equivalents	Number of posts for R&D personnel/researchers created in assisted entities
	EUR	Private investment matching public support in innovation or R&D projects

	Enterprises	Number of enterprises that introduced new or significantly improved products, new to the market as a result of supported innovation or R&D projects
	Enterprises	Number of enterprises that introduced new or significantly improved products, new to the firm as a result of supported innovation or R&D projects
Energy and Climate change		
Renewables	MW	Additional capacity of renewable energy production
Energy efficiency	households	Number of households with improved energy consumption classification
	kWh/year	Decrease of primary energy consumption of public buildings
	users	Number of additional energy users connected to smart grids
GHG reduction	tonnes of CO ₂ eq	Estimated decrease of GHG in CO ₂ equivalents
Social infrastructure		
Childcare & education	persons	Service capacity of supported childcare or education infrastructure
Health	persons	Capacity of supported health services
Housing	households	Number of households benefiting from improved housing conditions
Tourism	visits	Number of visits to supported attraction
Cultural heritage	visits	Number of visits at supported sites
Urban development	Persons	Population living in areas with integrated urban development strategies
	square metres	New open space in urban areas
	square metres	New public or commercial buildings in urban areas

	square metres	New housing in urban areas
Labour Market and Training²²		
	persons	Number of participants in cross-border mobility initiatives
	persons	Number of participants in joint local employment initiatives and joint training
	persons	Number of participants in projects promoting gender equality, equal opportunities and social inclusion across borders
	persons	Number of participants in joint education and training schemes to support youth employment, educational opportunities and higher and vocational education across borders
Institutional and Administrative Capacity		
	number	Number of projects promoting legal and administrative cooperation and cooperation between citizens and institutions
	number	Number of projects developed and implemented to support the implementation of macro-regional strategies and sea basin strategies
	number	Number of projects in interregional cooperation developed to reinforce the effectiveness of cohesion policy
	number	Number of projects in interregional cooperation developed and implemented to reinforce the effectiveness of cohesion policy

²²

Where relevant, the information on participants shall be broken down by their labour market status, indicating whether they are "employed", "unemployed", "long-term unemployed", "inactive" or "inactive and not in education or training".