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from : Presidency
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Subject: Cohesion Policy legislative package
- Presidency compromise on elements of the European Territorial Cooperation

Delegations will find attached a compromise text on outstanding parts of the proposal for the European Territorial Cooperation Regulation.

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

**EUROPEAN TERRITORIAL COOPERATION
THEMATIC BLOC**

European Territorial Cooperation Regulation

Recitals:

- (7) Interregional cooperation should aim to reinforce the effectiveness of cohesion policy by encouraging exchange of experience between regions **on thematic objectives and urban and rural development**, to enhance **territorial evidence as well as to improve implementation of [...] cooperation** programmes [...] **and actions. The exchange of experience on thematic objectives should enhance design and implementation of operational programmes under the** Investment for growth and jobs goal and **the European Territorial Cooperation, including [...] the fostering of** cooperation between innovative research-intensive clusters and exchanges between researchers and research institutions, **taking into consideration the experience of** "Regions of Knowledge" and "Research potential in Convergence and Outermost regions" under the Seventh Framework Programme for Research.
- (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.

[(35 bis) In order to strengthen the better coordination of ERDF financing for cooperation programmes involving the outermost regions with possible complementary financing from EDF, Member States and third countries or territories participating in these cooperation programmes should set out coordination mechanisms in accordance with the respective cooperation programmes, adopted under this Regulation.]¹

¹ To be reviewed at a later stage subject to further information from the Commission regarding coordination issues between ERDF and External Financial Instruments as well as EDF. The text is subject to CLS verification.

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, **monitoring**, 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 **the following components**:

- (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;
- (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[...].
- (3) interregional cooperation to reinforce the effectiveness of cohesion policy by promoting:
 - (a) exchange of experience **focusing** 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 **and the European Territorial Cooperation goal**;
 - (b) exchange of experience concerning the identification, transfer and dissemination of good practice on sustainable urban and rural development, **including urban-rural linkages**;
 - (c) exchange of experience concerning the identification, transfer and dissemination of good practice and innovative approaches in relation to **territorial cooperation actions and programmes** as well as 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.]¹

The Commission shall adopt **a decision**, by means of implementing acts, **on** the list of cross-border areas to receive support, broken down by cooperation programme. 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].

¹ To be reviewed at a later stage depending on the outcome of the MFF negotiations.

When submitting draft cross-border cooperation programmes, Member States, **in duly justified cases, and, in order to ensure the coherence of cross border areas**, may request that additional NUTS level 3 regions [...] are included to those listed in the decision referred to in the second subparagraph [...].

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 equivalent regions.

3. [For transnational cooperation, the Commission shall adopt **a decision, by means of implementing acts, on** 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 [...]. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30(2).]¹

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 [...] equivalent regions.

5. [For interregional cooperation, support from the ERDF shall cover the entire territory of the Union.]¹

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.]¹

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 **(1)** applies to this additional allocation.

3. [...]

The Commission shall communicate to each Member State its share of the global amounts for cross-border and transnational cooperation as referred to in paragraph 1 (a) and (b), broken down by year. Population in the areas referred to in the 2nd sub-paragraph of Article 3(1) and the 1st sub-paragraph of Article 3(3) shall be used as the criterion for this breakdown by Member State.

Based on the amounts communicated, each Member State shall inform the Commission whether and how it has used the transfer possibility provided for in Article 4bis and the resulting distribution of funds among the cross-border and transnational programmes the Member State participates in. The Commission shall, on the basis of the information provided by Member States, adopt a decision setting out a list of all cooperation programmes and indicating the global amount of the total ERDF support for each programme by means of implementing acts. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 30 (2).

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.]¹

9. **[ERDF appropriations for cooperation programmes involving the outermost regions may be complemented by financial resources from the European Development Fund in accordance with Financial Regulation [(EU) No. (EDF)] and/or the Development Cooperation Instrument. The Member States and third countries or territories participating in these cooperation programmes shall set up a coordination mechanism at the appropriate level, as set out in the respective cooperation programmes in accordance with Article 7(2)(c)(i) of this Regulation.]**¹

¹ To be reviewed at a later stage subject to further information from the Commission regarding coordination issues between ERDF and External Financial Instruments as well as EDF. The text is subject to CLS verification.

Article 4 bis

Each Member States may transfer up to 15% of its financial allocation of one of the components referred to in Article 4 paragraph 1 (a) and (b) to the other.

Chapter III

PROGRAMMING

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]. **The monitoring committee may set up a steering committee acting under its responsibility for the selection of operations.**
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 **cross-border or transnational impacts and benefits are identified.**

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.

The above mentioned conditions shall not apply to operations under any cross-border programme between Northern Ireland and the border counties of Ireland in support of peace and reconciliation as referred to in Article 6 (c).

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 and** implementation [...] **of operations. In addition, they shall cooperate in either the** staffing **or the** financing of operations. **By way of derogation, only two of these conditions shall be fulfilled for operations in programmes between outermost regions and third countries or territories.**
5. The managing authority shall provide to the lead or sole beneficiary for each operation a document setting out the conditions for support of 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, **and in accordance with the document provided by the managing authority as stipulated in Article 11(5).**
 - (d) **ensure** that the expenditure presented by other beneficiaries has been **verified** by a controller(s) where this verification is not carried out by the managing authority pursuant to Article 22(3).
3. **If not otherwise specified in the arrangements according to Article 12 (2) 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 [...] **in a Member State-participating in the cooperation programme. Member States and third countries or territories participating in a cooperation programme may agree [on the conditions, laid down in accordance with Article 28] that the lead beneficiary may be located in a third country or territory, participating in that cooperation programme provided that the managing authority is satisfied that the lead beneficiary can carry out the tasks set out in paragraphs 2 and 3 of this Article and that the requirements for management, verifications and audit are fulfilled.**

Sole beneficiaries shall be registered in a Member State participating in the cooperation programme. They may be registered in a Member State not participating in the programme, provided the conditions set in Article 11(3) are respected.

Chapter IV

MONITORING AND EVALUATION

Article 13

Implementation reports

1. By 30 **June** 2016 and by 30 **June** 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) **where appropriate**, 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 **information on the elements set out under (c), (f) and (h) below and may, dependent on the content and objectives of operational programmes, add information on the other elements listed below:**
- (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 **promote non-**discrimination, including accessibility for disabled persons, and the arrangements implemented to ensure the integration of the gender perspective in the operational programme and operations;
 - (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 [...];
 - (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 **examination** procedure referred to in Article 30**(3)**.

Article 14

Annual review

The annual review meeting shall be organised in accordance with Article 45 of Regulation (EU) No [...]/2012 [CPR].

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.

Chapter VIII

FINANCIAL MANAGEMENT

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.]¹

¹ To be reviewed at a later stage subject to further information from the Commission and in particular coordination issues among the concerned EU Funds and the status of the referred Financing Agreement. The text is still under legal examination by the CLS.