



Brussels, 19.12.2018
COM(2018) 892 final

2018/0432 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

in order to allow for the continuation of the territorial cooperation programmes PEACE IV (Ireland-United Kingdom) and United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) in the context of the withdrawal of the United Kingdom from the European Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, if the Withdrawal Agreement¹ is not ratified, the Unions' primary and secondary law will cease to apply to the United Kingdom from 30 March 2019 ('the withdrawal date'). The United Kingdom will then become a third country.

The Commission Communication on 'Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan'² states that 'The Commission is also committed to ensuring the continuation of the current PEACE and INTERREG programmes between the border counties of Ireland and Northern Ireland, to which the United Kingdom is a partner'.

The European Council (Article 50) reiterated its call, on 13 December 2018, for work on preparedness at all levels for the consequences of the United Kingdom's withdrawal to be intensified, taking into account all possible outcomes. This act is part of a package of measures which the Commission is adopting in response to this call.

This proposal aims to ensure the continuation of two bilateral cooperation programmes involving Ireland namely the PEACE IV (Ireland-United Kingdom) programme and the United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) programme.

• Consistency with existing policy provisions in the policy area

This proposal aims at the continuation of existing programmes.

• Consistency with other Union policies

This proposal is fully consistent with the Council mandate for the negotiations with the United Kingdom on its withdrawal from the Union³.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Article 178 TFEU• Subsidiarity (for non-exclusive competence)

As the proposed act aims at ensuring the continuation of two cooperation programmes which are governed by Regulation (EU) No 1299/2013, the compliance with the subsidiarity principle of those programmes has already been examined at the time of the adoption of the latter.

¹ https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf.

² COM(2018) 880 final, 13.11.2018.

³ Inspiration drawn from the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1316/2013 with regard to the withdrawal of the United Kingdom from the Union - COM(2018) 568, 1.8.2018.

- **Proportionality**

The proposal is considered proportionate as it provides for the necessary legal change and at the same time does not go beyond what is necessary to achieve the orderly continuation of the two North-South cooperation programmes that involve the territory of Northern Ireland.

- **Choice of the instrument**

Given that the act builds on Regulation (EU) No 1299/2013, proposing a regulation is the only adequate form.

Due to the fact that this Regulation, which shall enter into force on the day following that of its publication in the *Official Journal of the European Union*, will only apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has not entered into force by the date the Treaties cease to apply to and in the United Kingdom, the proposed ad hoc act is more appropriate than a Regulation in the form of an amending act.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

Due to the urgency for preparing the proposal so that it can be adopted by the colegislators on time, a stakeholder consultation could not be carried out.

- **Impact assessment**

Due to the nature of the proposed measure, no impact assessment was carried out, in line with the Better Regulation Guidelines. There are no other materially different policy options available. The envisaged measure represents the only viable policy option to ensure the orderly continuation of two bilateral cooperation programmes involving Ireland, namely the PEACE IV (Ireland-United Kingdom) programme and United Kingdom-Ireland (Ireland-Northern Ireland-Scotland), after the United Kingdom's withdrawal from the Union.

4. BUDGETARY IMPLICATIONS

This proposal aims to ensure, if the Withdrawal Agreement is not ratified, the continuation of two bilateral cooperation programmes involving Ireland, namely the PEACE IV (Ireland-United Kingdom) programme and the United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) programme, without modifying the amounts allocated to them and their financing. The two programmes will continue to be financed from the Union's budget. The possibility to execute the necessary controls and audits in all participating regions will need to be confirmed by an agreement between the Commission and the authorities of the United Kingdom and will constitute a condition for financing.

Proposal for a

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
 Having regard to the Treaty of 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 Committee⁴,
 Having regard to the opinion of the Committee of the Regions⁵,
 Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) The withdrawal occurs during the programming period 2014-2020 in which the United Kingdom is participating in fifteen programmes under the European territorial cooperation goal ('cooperation programmes'). Two of those programmes are programmes involving Northern Ireland and supporting peace and reconciliation and North-South cooperation under the "Good Friday Agreement" that the Union intends to continue even if the United Kingdom withdraws from the Union without a withdrawal agreement having entered into force by the date the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union. Therefore, this Regulation should be limited to those two cooperation programmes.
- (3) The two cooperation programmes concerned are in particular governed by Regulation (EU) No 1299/2013 of the European Parliament and of the Council⁶, Regulation (EU)

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (OJ L 347, 20.12.2013, p. 259).

No 1303/2013 of the European Parliament and of the Council⁷ and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council⁸. This Regulation should lay down provisions in order to allow for the continuation of those two cooperation programmes further to the United Kingdom's withdrawal from the Union in accordance with the said Regulations.

- (4) As regards the PEACE IV (Ireland-United Kingdom) and the United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) bilateral cooperation programmes, the managing authority is located in the Special EU Programmes Body ('SEUPB') set up under the "Agreement between the Government of Ireland and the Government of the United Kingdom of Great Britain and Northern Ireland establishing Implementation Bodies" signed on 8 March 1999 (the British-Irish Agreement of 8 March 1999). As those two cooperation programmes involve Northern-Ireland, they should continue with the necessary complementing provisions.
- (5) For the purposes of the continuation of those programmes, it should be clarified that, without prejudice to Article 20(2) and (3) of Regulation (EU) No 1299/2013, the cooperation programmes concerned may cover the participating regions in the United Kingdom, which should be equivalent to NUTS level 3 regions.
- (6) For the purposes of the continuation of those programmes with financing from the EU general budget, an administrative agreement should be concluded with effect as from the date in which the Treaties cease to apply to and in the United Kingdom between the Commission and the authorities of the United Kingdom to allow for the controls and audits of the respective programmes. If the necessary controls and audits cannot be carried out, the Commission should have the possibility to interrupt payment deadlines, suspend payments and apply financial corrections as laid down in Articles 83, 142, 144 and 145 of Regulation (EU) No 1303/2013.
- (7) In accordance with article 76 of Regulation (EU) No 1303/2013, the decisions of the Commission approving the PEACE IV IV (Ireland-United Kingdom) programme C(2015) 8564 of 30 November 2015, as amended by Decision C(2018) 5126 of 26 July 2018, and the Interreg VA programme C(2015) 890 of 12 February 2015, as amended by C(2016) 1547 of 10 March 2016, are to continue to constitute a financing decision within the meaning of the Financial Regulation and hence a legal commitment within the meaning of that Regulation. The United Kingdom remains liable for its financial obligations assumed as a Member State which relate to these legal commitments of the Union.
- (8) The United Kingdom will cease, from the date the Treaties cease to apply, to be part of the 'Union part of the programme area' within the meaning of Article 20(1) of Regulation (EU) No 1299/2013. Therefore, the provisions on the eligibility of operations depending on location should be adapted.

⁷ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

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

- (9) In order to allow for prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*. This Regulation should only apply in a situation where no withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by the date the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union,

HAVE ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

This Regulation lays down provisions to address the consequences of the withdrawal of the United Kingdom from the Union in a situation where no withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by the date the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, and with regard to the continuation of the following two cooperation programmes covered by Regulation (EU) No 1299/2013 ('cooperation programmes') with the participation of the United Kingdom ('the cooperation programmes'):

- (1) PEACE IV (Ireland-United Kingdom);
- (2) United Kingdom-Ireland (Ireland-Northern Ireland-Scotland).

Regulation (EU) No 1299/2013 shall continue to apply to the cooperation programmes subject to the provisions of this Regulation.

Article 2
Geographical coverage

Without prejudice to Article 20(2) and (3) of Regulation (EU) No 1299/2013, the cooperation programmes may cover the participating regions in the United Kingdom, which shall be equivalent to NUTS level 3 regions.

Article 3
Programme authorities

By derogation from Article 21(1) of Regulation (EU) No 1299/2013,

- the Special EU Programmes Body (SEUPB) hosting the managing authority and the certifying authority of the PEACE IV (Ireland-United Kingdom) and the United Kingdom-Ireland (Ireland-Northern Ireland-Scotland) Programmes shall continue to exercise its functions;
- the Department of Finance of Northern Ireland shall remain the audit authority of these programmes.

Article 4

Commission competences regarding controls

The application of the rules regarding the controls and audit of the respective programmes shall be agreed between the Commission and the authorities of the United Kingdom. The controls and audits shall cover the entire period of the cooperation programmes.

If the necessary controls and audit of the programmes cannot be executed in all regions concerned, this shall constitute a serious deficiency in the management and control system for the purposes of measures as laid down in Articles 83, 142, 144 and 145 of Regulation (EU) No 1303/2013.

Article 5

Eligibility of operations depending on location

The ceiling set out in Article 20(2)(b) of Regulation (EU) No 1299/2013 shall not apply to the cooperation programmes.

Article 6

Entry into force and application

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

It shall apply from the day following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by that date.

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

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

Proposal for a Regulation of the European Parliament and of the Council on specific provisions for the management of the European territorial cooperation programmes in the context of the withdrawal of the United Kingdom (UK) from the European Union.

1.3. Grounds for the proposal/initiative

1.3.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

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

It shall apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

This Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by that date

1.3.2. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

N/A

1.3.3. Lessons learned from similar experiences in the past

N/A

1.3.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

This Regulation is compatible with the MFF. It has no financial impact.

1.3.5. Assessment of the different available financing options, including scope for redeployment

This Regulation has no financial impact. The Union contribution to the programmes will be financed via the general budget of the Union.

1.4. Duration and financial impact of the proposal/initiative

- no financial impact

1.5. Management mode(s) planned⁹

Direct management by the Commission

- by its departments, including by its staff in the Union delegations;

- by the executive agencies

Shared management with the Member States

Indirect management by entrusting budget implementation tasks to:

- third countries or the bodies they have designated;

- international organisations and their agencies (to be specified);

- the EIB and the European Investment Fund;

- bodies referred to in Articles 70 and 71 of the Financial Regulation;

- public law bodies;

- bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

- bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

- persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

- *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

N/A

⁹

Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

N/A

2.2. Management and control system(s)

2.2.1. *Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed*

N/A

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

N/A

2.2.3. *Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)*

N/A

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

N/A

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff. ¹⁰	from EFTA countries ¹¹	from candidate countries ¹²	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
13	13.03.64.01 - European Regional Development Fund (ERDF) – European Territorial Cooperation (ETC)	Diff	NO	NO	NO	NO

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– **X This Regulation has no financial impact.**

The proposal/initiative requires the use of operational appropriations, as explained below:

EUR

¹⁰ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

¹¹ EFTA: European Free Trade Association.

¹² Candidate countries and, where applicable, potential candidates from the Western Balkans.

Heading of multiannual financial framework	13	
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			2019	2020	2021	2022	2023	Subsequent years	TOTAL
• Cancellation of operational appropriations									
13.03.64.01 - European Regional Development Fund (ERDF) – European Territorial Cooperation (ETC)	Commitments	(1a)							
	Payments	(2a)							
TOTAL appropriations	Commitments	=1a+1b +3							
	Payments	=2a+2b +3							

• TOTAL operational appropriations	Commitments	(4)							
	Payments	(5)							
• TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)							
TOTAL appropriations under HEADING 13 of the multiannual financial framework	Commitments	=4+ 6							
	Payments	=5+ 6							

If more than one operational heading is affected by the proposal / initiative, repeat the section above:

• TOTAL operational appropriations (all	Commitments	(4)							
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operational headings)	Payments	(5)								
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)								
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

Heading of multiannual financial framework	5	‘Administrative expenditure’
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This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the [Annex to the Legislative Financial Statement](#) (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG: <.....>									
• Human resources									
• Other administrative expenditure									
TOTAL DG <.....>	Appropriations								

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)								
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EUR million (to three decimal places)

		Year N ¹³	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments								
	Payments								

¹³ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

3.2.2. *Estimated output funded with operational appropriations*

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ↓			Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)										TOTAL	
	OUTPUTS																	
	Type ¹⁴	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ¹⁵ ...																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTALS																		

¹⁴ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

¹⁵ As described in point 1.4.2. 'Specific objective(s)...'

3.2.3. Summary of estimated impact on administrative appropriations

- The proposal/initiative does not require the use of appropriations of an administrative nature
- The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year N ¹⁶	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources								
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework								

Outside HEADING 5¹⁷ of the multiannual financial framework								
Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								

TOTAL								
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

¹⁶ Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

¹⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

- The proposal/initiative does not require the use of human resources.
- The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
• Establishment plan posts (officials and temporary staff)							
XX 01 01 01 (Headquarters and Commission's Representation Offices)							
XX 01 01 02 (Delegations)							
XX 01 05 01/11/21 (Indirect research)							
10 01 05 01/11 (Direct research)							
• External staff (in Full Time Equivalent unit: FTE)¹⁸							
XX 01 02 01 (AC, END, INT from the 'global envelope')							
XX 01 02 02 (AC, AL, END, INT and JPD in the delegations)							
XX 01 04 yy¹⁹	- at Headquarters						
	- in Delegations						
XX 01 05 02/12/22 (AC, END, INT - Indirect research)							
10 01 05 02/12 (AC, END, INT - Direct research)							
Other budget lines (specify)							
TOTAL							

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	
External staff	

¹⁸ AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

¹⁹ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

- can be fully financed twithin the relevant heading of the Multiannual Financial Framework (MFF).
- requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

- requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

The proposal/initiative:

- does not provide for co-financing by third parties
- provides for the co-financing by third parties estimated below:

Appropriations in EUR

3.3. Estimated impact on revenue

- The proposal/initiative has no financial impact on revenue.
- The proposal/initiative has the following financial impact:
 - on own resources
 - on other revenue
 - please indicate, if the revenue is assigned to expenditure lines X

EUR

For assigned revenue, specify the budget expenditure line(s) affected.

N/A

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).