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#### **'I' ITEM NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)
No. Cion doc.:	COM(2018) 892 final
No. prev. doc.:	15847/18 + COR 1
Subject:	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 - Mandate for negotiations with the European Parliament

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#### **I. INTRODUCTION**

1. On 20 December 2018, the Commission transmitted to the Council the 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 (doc. 15847/18 + COR 1).

2. 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.

The Commission Communication on ‘Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan 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 European Union is adopting in response to this call.

The objective of the proposal is 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.

## II. PRESIDENCY COMPROMISE PROPOSAL

3. The Working Party on Structural Measures examined the Commission proposal at its meeting on 24 January 2019. Delegations gave support to the proposal, including preference for a speedy adoption of the legal act.
4. The Working Party did not object to the Presidency's approach of proceeding by taking over the Commission's proposal, as set out in the Annex to this note. Ireland strongly welcomed the Commission proposal, which it saw as bringing legal certainty to these programmes.
5. The United Kingdom entered a parliamentary scrutiny reserve.

### III. SUBMISSION TO COREPER

6. On that basis, the Permanent Representatives Committee is invited to:

- confirm the agreement reached in favour of the compromise package concerning the 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 (doc. 15847/18 + COR 1).
- authorise the Presidency to send a letter to the Chair of the European Parliament's Committee on Regional Development confirming that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty, in the form set out in the compromise package contained in the Annex (subject to revision by the legal linguists of both institutions), the Council would, in accordance with Article 294, paragraph 4 of the Treaty, approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

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**

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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (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 Council<sup>3</sup>, Regulation (EU) No 1303/2013 of the European Parliament and of the Council<sup>4</sup> and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>. 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.

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<sup>3</sup> 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).

<sup>4</sup> 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).

<sup>5</sup> 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).

- (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 (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.
- (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*