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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	COM(2018) 382 final
Subject:	European Social Fund Plus (ESF+) Regulation - Analysis of the final compromise text with a view to agreement

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**I. INTRODUCTION**

1. On 30 May 2018, the Commission tabled the proposal for the European Social Fund Plus Regulation (ESF+ Regulation)<sup>1</sup>, which is part of the Cohesion Policy legislative package for 2021-2027. The overarching policy objective of the ESF+ Regulation is to help create a more performing and resilient 'Social Europe' and implement the European Pillar of Social Rights as well as the social and employment priorities endorsed by the European economic governance process.

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<sup>1</sup> Doc. 9573/18 + ADD1-2.

2. The ESF+ Regulation was presented to the Structural Measures Working Party in June 2018 during the Bulgarian Presidency. The detailed examination of the ESF+ Regulation took place under the Austrian and the Romanian Presidencies. The Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament on the ESF+ Regulation on 3 April 2019<sup>2</sup>.
3. On 28 May 2020, following the COVID-19 outbreak, and as part of the revised MFF 2021-27 and of the Recovery Package, the Commission proposed various amendments to the Cohesion policy legislative package 2021-2027, including to the ESF+ Regulation<sup>3</sup>. On 22 July 2020, the Permanent Representatives Committee endorsed a (partial) mandate for negotiations with the European Parliament as regards the amended Commission proposal for the ESF+ Regulation<sup>4</sup>.
4. On 5 October 2020, Coreper endorsed an updated partial mandate for negotiations on the ESF+ Regulation<sup>5</sup>, to take account of the European Council Conclusions adopted in the special meeting of the European Council of 17, 18, 19, 20 and 21 July 2020 and of all related elements included therein.
5. During the German Presidency, a provisional common understanding was reached at trilogue level on most of the provisions, only excluding thematic concentration requirements, governance and budgetary provisions. On 16 December 2020, the Permanent Representatives Committee took note of the progress made and acknowledged the results achieved with a Progress Report<sup>6</sup>

## II. STATE OF PLAY OF INTER-INSTITUTIONAL NEGOTIATIONS

6. Remaining technical and political work was finalised during the months of January and early February 2021 during the Portuguese Presidency.

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<sup>2</sup> Doc. 7982/19.

<sup>3</sup> Doc. 8394/20.

<sup>4</sup> Doc. 9431/20.

<sup>5</sup> Doc. 10881/20.

<sup>6</sup> Doc. 13717/20.

7. A political agreement on the whole ESF+ Regulation was reached at the political trilogue on 28 January 2021.
8. Following the Structural Measures Working Party on 19 February 2021, **the Presidency is of the view that a final and balanced compromise text has emerged which has been supported by the majority of Member States.**

### III. CONCLUSION

9. On this basis, the Permanent Representatives Committee is, therefore, invited to:
  - (a) endorse the final compromise text of the ESF+ Regulation as set out in the Annex to this note;
  - (b) approve in principle the submission, at a later date, of this final compromise text as I/A item (following legal-linguistic review) for its adoption as the Council's first-reading position. This approval would be conditional upon the receipt of an offer letter from the Chair of the European Parliament's Regional Development Committee (REGI) confirming that the text set out in the Annex is acceptable to the Parliament and that, should the Council adopt the agreed text as its first-reading position, the Parliament would not adopt any amendments to it in its second reading.

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on the European Social Fund Plus (ESF+)**

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 46(d), Article 149, Article 153(2)(a), Article 164, Article 175(3) and Article 349 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>7</sup>

Having regard to the opinion of the Committee of the Regions<sup>8</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 17 November 2017, the European Pillar of Social Rights was jointly proclaimed by the European Parliament, the Council and the Commission as a response to social challenges in Europe. The twenty key principles of the pillar are structured around three categories: equal opportunities and access to the labour market; fair working conditions; social protection and inclusion. The twenty principles of the European Pillar of Social Rights should guide the actions under the European Social Fund Plus (ESF+). In order to contribute to the implementation of the European Pillar of Social Rights the ESF+ should support investments in people and systems in the policy areas of employment, education and social inclusion, thereby supporting economic, territorial and social cohesion in accordance with Article 174 TFEU.

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<sup>7</sup> OJ C [...], [...], p. [...].

<sup>8</sup> OJ C [...], [...], p. [...].

- (2) At Union level, the European Semester of economic policy coordination is the framework to identify national reform priorities and monitor their implementation. Member States develop their own national multiannual investment strategies in support of those reform priorities. Those strategies should be presented alongside the yearly National Reform Programmes as a way to outline and coordinate priority investment projects to be supported by national and/or Union funding. They should also serve to use Union funding in a coherent manner and to maximise the added value of the financial support to be received notably from the programmes supported by the Union under the European Regional Development Fund, the Cohesion Fund, the European Social Fund Plus, the European Maritime, Fisheries and Aquaculture Fund and the European Agricultural Fund for Rural Development, the European Investment Stabilisation Function and InvestEU, where relevant.
- (3) The Council of [...] adopted revised guidelines for the employment policies of the Member States to align the text with the principles of the European Pillar of Social Rights, with a view to improving Europe's competitiveness and making it a better place to invest, create jobs and foster social cohesion. In order to ensure the full alignment of the ESF+ with the objectives of these guidelines, particularly as regards employment, education, training and the fight against social exclusion, poverty and discrimination, the ESF+ should support Member States, taking account of the relevant Integrated Guidelines and relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and Article 148(4) TFEU and, where appropriate, at national level, the national reform programmes underpinned by national strategies. The ESF+ should also contribute to relevant aspects of the implementation of key Union initiatives and activities, in particular the "Skills Agenda for Europe" and the European Education Area, relevant Council Recommendations and other initiatives such as the Youth Guarantee, Upskilling Pathways, Integration of the long-term unemployed and the EU Roma strategic framework on equality, inclusion and participation.

- (4) On 20 June 2017, the Council endorsed the Union response to the 'UN 2030 Agenda for Sustainable Development' - a sustainable European future. The Council underlined the importance of achieving sustainable development across the three dimensions (economic, social and environmental), in a balanced and integrated way. It is vital that sustainable development is mainstreamed into all Union internal and external policy areas and that the Union is ambitious in the policies it uses to address global challenges. The Council welcomed the Commission Communication on 'Next steps for a sustainable European future' of 22 November 2016 as a first step in mainstreaming the Sustainable Development Goals and applying sustainable development as an essential guiding principle for all Union policies, including through its financing instruments. The ESF+ should contribute to implementing the Sustainable Development Goals by, inter alia, eradicating extreme forms of poverty (goal 1); promoting quality and inclusive education (goal 4); promoting gender equality (goal 5); promoting sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (goal 8); and reducing inequality (goal 10).
- (5) Recent and ongoing developments have aggravated the structural challenges arising from economic globalisation, social inequalities, the management of migration flows and the increased security threat, clean energy transition, technological change, demographic decline, unemployment in general and youth unemployment and an increasingly ageing workforce as well as stemming from growing mismatches between demand and supply of skills and labour in some sectors and regions, experienced especially by SMEs. The green and digital transitions and the transformation of European industrial ecosystems will entail many new opportunities, if accompanied by the right set of skills, employment and social policies and actions. Taking into account the changing realities of the world of work, the Union should be prepared for the current and future challenges by investing in relevant skills, education, training and lifelong learning making growth more inclusive and by improving employment and social policies, while taking into account economic and industrial sustainability, labour mobility and aiming for a gender balanced labour market.
- (6) Regulation (EU) No [...] establishes the framework for action by the European Regional Development Fund (ERDF), the European Social Fund Plus (ESF+), the Cohesion Fund, the European Maritime, Fisheries and Aquaculture Fund (EMFAF), the Asylum and Migration Fund (AMIF), Internal Security Fund (ISF) and the Border Management and Visa Instrument (BMVI) as a part of the Integrated Border Management Fund (IBMF), and lays down, in particular, the policy objectives and the rules concerning programming, monitoring and evaluation, management and control for Union funds implemented under shared management. It is therefore necessary to specify the general objectives of the ESF+, and to lay down specific provisions concerning the type of activities that may be financed by the ESF+.

- (7) Regulation (EU, Euratom) No [the new FR] (the ‘Financial Regulation’) lays down rules on the implementation of the Union budget, in particular rules on all forms of financial contributions including grants, prizes, procurement, indirect implementation, financial assistance, financial instruments and budgetary guarantees. Co-financing for grants may be provided from beneficiaries’ own resources, income generated by the project or financial or in-kind contributions from third parties. In order to ensure coherence in the implementation of Union funding programmes, the Financial Regulation is to apply to the actions to be implemented in direct or indirect management under the ESF+.
- (8) The types of financing and the methods of implementation under this Regulation should be chosen on the basis of their ability to achieve the specific objectives of the actions and to deliver results, taking into account, in particular, the costs of controls, the administrative burden, and the expected risk of non-compliance. For grants, this should include consideration of the use of lump sums, flat rates and unit costs, as well as financing not linked to costs as envisaged in Article 125(1) of the Financial Regulation. To implement measures linked to the socio-economic integration of third country nationals, and in accordance with Article 88 of the Common Provisions Regulation, the Commission may reimburse Member States using simplified cost options including the use of lump sums.
- (9) In order to streamline and simplify the funding landscape and create additional opportunities for synergies through integrated funding approaches, the actions which were supported by the Fund for European Aid to the Most Deprived (‘FEAD’) and the European Union Programme for Employment and Social Innovation should be integrated into one ESF+. The ESF+ should therefore include two strands: the ESF+ strand under shared management and the Employment and Social Innovation strand implemented under direct and indirect management. This should contribute to reducing the administrative burden linked to the management of different funds, in particular for Member States and beneficiaries, whilst maintaining simpler rules for simpler operations such as the distribution of food and/or basic material assistance
- (10) In view of the wider scope of the ESF+, it is appropriate that the aims to enhance the effectiveness of labour markets, promote equal access to quality employment, improve equal access to and quality of education and training to aid reintegration into education systems, promote social inclusion and access to healthcare for vulnerable persons and contributing to eradicating poverty, are not only implemented through shared management, but also through direct and indirect management under the Employment and Social Innovation strand for actions required at Union level.

*[Recital (11) is deleted]*

- (12) This Regulation lays down a financial envelope for the ESF+. It specifies the allocation for the ESF+ shared management strand and the allocation for actions to be implemented in direct and indirect management under the Employment and Social Innovation strand.

- (12a) With a view to facilitating the implementation of the specific and operational objectives of the Employment and Social Innovation strand, the ESF+ should support activities related to technical and administrative assistance, such as preparatory, monitoring, control, audit and evaluation activities, while communication and dissemination activities are part of the actions eligible under the Employment and Social Innovation strand.
- (13) The ESF+ should aim to promote employment through active interventions enabling (re)integration into the labour market, notably for youth especially through the implementation of the reinforced Youth Guarantee, the long-term unemployed, disadvantaged groups on the labour market and the inactive, as well as through promoting self-employment and the social economy. The ESF+ should aim to improve the functioning of labour markets by supporting the modernisation of labour market institutions such as the Public Employment Services in order to improve their capacity to provide intensified targeted counselling and guidance during the job search and the transition to employment and to enhance workers' mobility. The ESF+ should promote a gender balanced participation in the labour market through measures aiming to ensure, amongst others, equal working conditions, improved work/life balance and access to childcare, including early childhood education and care. The ESF + should also aim to provide a healthy and well-adapted working environment in order to respond to health risks related to changing forms of work and the needs of the ageing workforce.
- (14) The ESF+ should provide support to improving the quality, inclusiveness, effectiveness, labour market relevance of education and training systems, including through promoting digital learning, validation of non-formal and informal learning, the professional development of teaching staff, in order to facilitate the acquisition of key competences notably as regards basic skills, including health literacy, media literacy, entrepreneurial skills, language skills, digital skills and competences for sustainable development which all individuals need for personal fulfilment and development, employment, social inclusion and active citizenship. The ESF+ should help progression within education and training and transition to work, support lifelong learning and employability with a view to facilitating full participation in society for all, and contribute to competitiveness including through graduate tracking, and to societal and economic innovation by supporting scalable and sustainable initiatives in these fields and adapted to different target groups such as persons with disabilities. This could be achieved for example through online learning, work-based training, traineeships, dual education and training systems, and apprenticeships<sup>9</sup>, lifelong guidance, skills anticipation in close cooperation with industry, up-to-date training materials and delivery methods, forecasting and graduate tracking, training of educators, validation of learning outcomes and recognition of qualifications and industry-based certifications.



- (15) Support through the ESF+ should be used to promote equal access for all, in particular for disadvantaged groups, to quality, non-segregated and inclusive education and training, from early childhood education and care paying special attention to children coming from a socioeconomic disadvantaged background, through general and vocational education and training, notably apprenticeships, and to tertiary level, as well as adult education and learning, and including through sport and cultural activities. The ESF+ should provide targeted support to learners in need and reduce educational inequalities, including the digital divide, prevent and reduce early school leaving, foster permeability between education and training sectors, reinforce links with non-formal and informal learning and facilitate learning mobility for all and accessibility for persons with disabilities. Synergies with the Erasmus programme, notably to facilitate the participation of disadvantaged learners in learning mobility, should be supported within this context.
- (16) The ESF+ should promote flexible opportunities for upgrading of skills and acquiring new and different skills by all, notably entrepreneurial and digital skills, and skills for key enabling technologies as well as skills for the green economy as well as industrial ecosystems in line with the EU Industrial Strategy 10. In line with the Skills Agenda for Europe and the Upskilling Pathways Recommendation 11, the ESF+ should support flexible pathways, including accessible short targeted modular training leading to credentials, with a view to providing people with skills adjusted to labour market and industrial ecosystems needs, green and digital transitions, innovation and social and economic change, facilitating reskilling and upskilling and employability, career transitions, geographic and sectoral mobility and supporting in particular low-skilled, persons with disabilities and/or poorly qualified adults. The ESF+ should also facilitate the provision of integrated skills support to individuals, whether in employment, the unemployed or self-employed through instruments such as individual learning accounts.
- (17) Synergies with the Horizon Europe programme should ensure that the ESF+ can mainstream and scale up innovative curricula supported by Horizon Europe in order to equip people with the skills and competences needed for the jobs of the future.

- (18) The ESF+ should support Member States' efforts to contribute to the eradication of poverty with a view to breaking the cycle of disadvantage across generations and promote social inclusion by ensuring equal opportunities for all, reducing barriers, tackling discrimination and addressing health inequalities. This implies mobilising a range of policies targeting the most disadvantaged people regardless of their sex, sexual orientation, age, religion or belief, racial or ethnic origin, in particular marginalised communities such as the Roma, people with disabilities or chronic diseases, homeless people, children and elderly people. The ESF+ should promote the active inclusion of people far from the labour market with a view to ensuring their socio-economic integration. The ESF+ should be also used to enhance timely and equal access to affordable, sustainable and high quality services that promote the access to housing and person-centred care such as healthcare and long-term care, in particular family and community-based care services. The ESF+ should contribute to the modernisation of social protection systems with a particular focus on children and disadvantaged groups and with a view, in particular, to promoting the accessibility of the systems including for persons with disabilities.
- (19) The ESF+ should contribute to the eradication of poverty by supporting national schemes aiming to alleviate food and material deprivation and promote social integration of people at risk of poverty or social exclusion and the most deprived. With the overall aim that at Union level a minimum of 4% of the resources of the ESF+ strand under shared management support the most deprived, Member States should allocate at least 3% of their national resources of the ESF+ strand under shared management to address the forms of extreme poverty with the greatest social exclusion impact, such as homelessness, child poverty and food deprivation. The provision of food and/or basic material assistance to the most deprived should not replace existing social benefits provided to them under national social systems or according to national legislation. Due to the nature of the operations and the type of end recipients, it is necessary that simpler rules apply to support which addresses material deprivation of the most deprived.
- (20) In light of the persistent need to enhance efforts to address the management of the migration flows in the Union as a whole and in order to ensure a coherent, strong and consistent support to the solidarity and responsibility-sharing efforts, the ESF+ should provide support to promote the socio-economic integration of third country nationals, including migrants, which may include initiatives at local level, complementary to the actions financed under the Asylum [Integration] and Migration Fund, the European Regional Development Fund and other EU funds which can have a positive effect on the inclusion of third-country nationals.
- (20a) Due to the importance of access to healthcare, the ESF+ should ensure synergies and complementarities with the Health Programme, and the ESF+ scope should include access to health care for people in vulnerable situations.

- (21) The ESF+ should support policy and system reforms in the fields of employment, social inclusion, access to healthcare for vulnerable persons, long-term care, education and training, contributing to poverty eradication. In order to strengthen alignment with the European Semester, Member States should allocate an appropriate amount of their resources of the ESF+ strand under shared management to implement relevant country-specific recommendations relating to structural challenges which it is appropriate to address through multiannual investments falling within the scope of the ESF+, taking into account the European Pillar of Social Rights, the Social Scoreboard and regional specificities. The Commission and the Member States should ensure coherence, coordination and complementarity between the shared-management strand of ESF+ and other Union funds, programmes and instruments such as the Just Transition Fund, the European Regional Development Fund, the Health Programme, the Recovery and Resilience Facility, the European Globalisation Adjustment Fund, the European Maritime, Fisheries and Aquaculture Fund, Erasmus+, the Asylum and Migration Fund, Horizon Europe, the European Agricultural Fund for Rural Development, the Digital Europe Programme, InvestEU, Creative Europe, the European Solidarity Corps and the Technical Support Instrument. In particular, the Commission and the Member State should ensure, in all stages of the process, effective coordination in order to safeguard the consistency, coherence, complementarity and synergy among sources of funding, including technical assistance thereof.
- (21a) Through the support to the specific objectives set out in Article 4(1) under policy objective 4 “a more social Europe”, the ESF + will continue to contribute to territorial and local development strategies in order to implement the European Pillar of Social Rights. It will support the tools set out in Article [22] of the CPR and thereby also contribute to the delivery of policy objective 5 “a Europe closer to citizens”, including through poverty reduction and social inclusion measures taking into account the specificities of urban, rural and coastal regions in view of tackling the socioeconomic inequalities in cities and regions.
- (22) To ensure that the social dimension of Europe as set out in the European Pillar of Social Rights is duly put forward and that a minimum amount of resources is targeting those most in need Member States should allocate at least 25% of their national ESF+ resources of the ESF+ strand under shared management to fostering social inclusion.

- (22a) With a view to addressing the persistently high level of child poverty in the Union, and in line with principle 11 of the European Pillar of Social Rights which states that children have the right to protection from poverty, and children from disadvantaged backgrounds have the rights to specific measures to enhance equal opportunities, all Member States should programme an appropriate amount of their ESF+ resources under shared management for the implementation of the [forthcoming] Child Guarantee through activities addressing child poverty in line with the specific objectives of the ESF+ that allow for programming resources towards actions directly supporting children's equal access to childcare, education, healthcare, decent housing and adequate nutrition. Member States having an average rate of children of less than 18 years old at risk of poverty or social exclusion for the period between 2017 and 2019 above the Union average for that period, on the basis of Eurostat data, should allocate at least 5% of their ESF+ resources under shared management to the aforementioned activities. Operations contributing to this thematic concentration requirement should count towards the 25% thematic concentration requirement for social inclusion when programmed under specific objectives (vii) to (x), with the exception of support to the most deprived.
- (23) In order to facilitate an inclusive economic recovery after a major crisis and support youth employment in a changing world of work and in the light of persistently high levels of youth unemployment and inactivity in a number of Member States and regions, it is necessary that all Member States invest an appropriate amount of their ESF+ resources in measures to support youth employment and skills, including through the implementation of Youth Guarantee schemes. Building on the actions supported by the Youth Employment Initiative in the 2014-2020 programming period targeting individual persons and the lessons learnt, Member States should further promote quality employment and education reintegration pathways and invest in early prevention and effective outreach by prioritising, where relevant, long-term unemployed, inactive and disadvantaged young people including through youth work. Member States should also invest in measures aimed at facilitating school-to-work transition as well as adequate capacities of employment services so as to provide tailor-made and holistic support and better targeted offers to young people. By fully integrating the Youth Employment Initiative into the ESF+, the delivery of targeted actions for youth employment will be more effective and efficient and the scope will be extended to structural measures and reforms, thus ensuring a better match between EU funding support and the implementation of the reinforced Youth Guarantee. Upgrading of skills and acquiring new and different skills shall help young people seize the opportunities of growing sectors and prepare them for the changing nature of work, while also harnessing the opportunities arising from the digital and green transitions and the transformation of the European industrial ecosystems. Therefore, Member States having a rate of young people aged 15 to 29 not in employment, education or training for the period between 2017 and 2019 above the Union average for that period on the basis of Eurostat data, should allocate at least 12,5% of their ESF+ resources under shared management to those actions.

- (24) Member States should ensure coordination and complementarity between the actions supported by these funds.
- (25) In accordance with Article 349 TFEU and Article 2 of Protocol No 6 to the 1994 Act of Accession, the outermost regions and the northern sparsely populated regions are entitled to specific measures under common policies and EU programmes. Due to the permanent constraints such as depopulation these regions require specific support.
- (26) Efficient and effective implementation of actions supported by the ESF+ depends on good governance and partnership between all actors at the relevant territorial levels and the socio-economic actors, in particular the social partners and civil society. It is therefore essential that all Member States should allocate an appropriate amount of their ESF+ resources under shared management to ensure the meaningful participation of social partners and civil society in the implementation of the ESF+ under shared management including relevant bodies representing civil society, such as environmental partners, non-governmental organisations, and bodies responsible for promoting social inclusion, fundamental rights, rights of persons with disabilities, gender equality and non-discrimination. Member States with a country-specific recommendation on capacity building of social partners or civil society should allocate at least 0.25% of ESF+ resources to that purpose due to the specific needs they have in that area.
- (27) With a view to rendering policies more responsive to social change and to encourage and support innovative solutions, support for social innovation is crucial. In particular, testing and evaluating innovative solutions before scaling them up is instrumental in improving the efficiency of the policies and thus justifies specific support from the ESF+. Social economy enterprises can play a key role in delivering on social innovation and in contributing to economic and social resilience. The definition of a social economy enterprise should follow the definitions given in the Member States' social economy law and in the Council Conclusions of 7 December 2015 on the promotion of the social economy as a key driver of economic and social development in Europe. Moreover, with a view to enhancing mutual learning and exchange of knowledge and practices, Member States are encouraged to continue their transnational cooperation activities under shared management in the areas of employment, education and training, and social inclusion in line with the specific objectives of the ESF+.

- (28) The Member States and the Commission should ensure that ESF+ contributes to the promotion of equality between women and men in accordance with Article 8 TFEU to foster equality of treatment and opportunities between women and men in all areas, including regarding participation in the labour market, terms and conditions of employment and career progression. They should also ensure that the ESF+ promotes equal opportunities for all, without discrimination in accordance with Article 10 TFEU and promotes the inclusion in society of persons with disabilities on equal basis with others and contributes to the implementation of the United Nations Convention on the Rights of Persons with Disabilities. The ESF + should contribute to promote accessibility for persons with disabilities with a view to improving integration into employment, education and training and thereby enhancing their inclusion in all spheres of life. These principles should be taken into account in all dimensions and in all stages of the preparation, monitoring, implementation and evaluation of programmes, in a timely and consistent manner while ensuring that specific actions are taken to promote gender equality and equal opportunities. The ESF+ should also promote the transition from residential/institutional care to family and community-based care, in particular for those who face multiple discrimination. The ESF+ should not support any action that contributes to segregation or to social exclusion. Regulation (EU) No [future CPR] provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions for which it is necessary to lay down specific provisions with regard to the ESF+ strand under shared management.
- (28a) All operations should be selected and implemented in respect of the Charter of Fundamental Rights of the European Union. The Commission should do its utmost to ensure that complaints are assessed in a timely manner, including complaints related to infringements of the Charter, and should inform the complainant of the result of its assessment in line with the Commission Communication on EU Law: Better results through better application<sup>9</sup>.
- (29) In order to reduce the administrative burden for the collection of data, reporting requirements should be kept as simple as possible. Member States may, where such data are available in registers, allow managing authorities to collect data from registers.
- (30) With regard to the processing of personal data within the framework of this Regulation, national data controllers should carry out their tasks for the purposes of this Regulation in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council. The dignity and respect of privacy of end recipients of operations under specific objective (xi) should be guaranteed. In order to avoid any stigmatisation, the persons receiving food or basic material assistance should not be required to identify themselves when receiving the support and when taking part in surveys on the most deprived persons that have benefitted from the ESF+ programme.

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<sup>9</sup> C/2016/8600, OJ C 18, 19.1.2017, p. 10–20.

- (31) Social experimentation is a small-scale project testing which allows gathering evidence on the feasibility of social innovations. It should be possible and encouraged for ideas to be tested at local level and for those that are feasible to be pursued on a wider scale - where appropriate - or transferred to other contexts in different regions or Member States with financial support from the ESF+ or in combination with other sources.
- (32) The ESF+ lays down provisions intended to achieve freedom of movement for workers on a non-discriminatory basis by ensuring the close cooperation of the public employment services of Member States, the Commission and the social partners. The European network of employment services should promote a better functioning of the labour markets by facilitating the cross-border mobility of workers, notably through cross-border partnerships, and a greater transparency of information on the labour markets. The ESF+ scope also includes developing and supporting targeted mobility schemes with a view to filling vacancies where labour market shortcomings have been identified.
- (33) Lack of access to finance for microenterprises, social economy and social enterprises is one of the main obstacles to business creation, especially among people furthest from the labour market. Under the EaSI strand, the ESF+ Regulation lays down provisions in order to create a market eco-system to increase the supply of and access to finance for social enterprises as well as to meet demand from those who need it most, and in particular the unemployed, women and vulnerable people who wish to start up or develop a microenterprise. This objective will also be addressed through financial instruments and budgetary guarantee under the social investment and skills policy window of the InvestEU Fund. Social economy enterprises, when defined under national law, should be regarded as social enterprises in the meaning of the EaSI strand, regardless of their legal status, as far as they comply with the definition provided in this Regulation.
- (34) Social investment market players, including philanthropic actors, can play a key role in achieving several ESF+ objectives, as they offer financing as well as innovative and complementary approaches to combatting social exclusion and poverty, reducing unemployment and contributing to the UN Sustainable Development Goals. Therefore, philanthropic actors such as foundations and donors should be involved, as appropriate and as long as they do not have a political or social agenda in conflict with Union ideals, in ESF+ actions in particular in those aimed at developing the social investment market ecosystem.
- (34a) Guidance is needed with regard to the development of social infrastructures and related services, in particular for social housing, childcare and education, healthcare and long-term care, including facilities to assist transitions from institutional to family and community-based care services and taking into account accessibility requirements for persons with disabilities.

*[Recitals (35) to (45) are deleted]*

- (46) Reflecting the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the United Nations Sustainable Development Goals, this Regulation will contribute to mainstream climate action in the Union's policies and to the achievement of an overall target of 30 % of the EU budget expenditures supporting climate objectives. Relevant actions will be identified during the preparation and implementation, and reassessed in the context of the mid-term evaluation.
- (47) Pursuant to Article [94 of Council Decision 2013/755/EU 12 ], persons and entities established in Overseas Countries and Territories (OCTs) are to be eligible for funding subject to the rules and objectives of the Employment and Social Innovation strand and possible arrangements applicable to the Member State to which the relevant OCTs are linked.
- (48) Third countries which are members of the European Economic Area (EEA) may participate in Union programmes in the framework of the cooperation established under the EEA agreement, which provides for the implementation of the programmes by a decision under that agreement. A specific provision should be introduced in this Regulation to grant the necessary rights for and access to the authorising officer responsible, the European Anti-Fraud Office as well as the European Court of Auditors to comprehensively exert their respective competences.
- (48a) It is appropriate to lay down the main indicators for the purposes of reporting under the Employment and Social Innovation strand. Those indicators should be output-based, objective, easy to retrieve, and proportionate to the share of the strand within the entire ESF+ programme. They should cover the operational objectives and funding activities under the strand, without requiring the setting of corresponding targets.



- (49) In accordance with the Financial Regulation, Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council<sup>10</sup>, Council Regulation (EC, Euratom) No 2988/95<sup>11</sup>, Council Regulation (Euratom, EC) No 2185/96<sup>12</sup> and Council Regulation (EU) 2017/1939<sup>13</sup>, the financial interests of the Union are to be protected through proportionate measures in accordance with the Financial Regulation and other applicable rules, including the prevention, detection, correction and investigation of irregularities and fraud, the recovery of funds lost, wrongly paid or incorrectly used and, where appropriate, the imposition of administrative sanctions. In particular, in accordance with Regulation (EU, Euratom) No 883/2013 and Regulation (Euratom, EC) No 2185/96, the European Anti-Fraud Office (OLAF) may carry out administrative investigations, including on-the-spot checks and inspections with a view to establishing whether there has been fraud, corruption or any other criminal offences affecting the financial interests of the Union. In accordance with Regulation (EU) 2017/1939, the European Public Prosecutor's Office (EPPO) may investigate and prosecute EU-fraud and other criminal offences affecting the financial interests of the Union, as provided for in Directive (EU) 2017/1371 of the European Parliament and of the Council<sup>14</sup>. In accordance with the Financial Regulation, any person or entity receiving Union funds is to fully cooperate in the protection of the Union's financial interests, to grant the necessary rights and access to the Commission, OLAF, the EPPO and the European Court of Auditors (ECA) and to ensure that any third parties involved in the implementation of Union funds grant equivalent rights.
- (50) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union apply to this Regulation. These rules are laid down in the Financial Regulation and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation, and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include the general regime of conditionality for the protection of the Union's budget.

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<sup>10</sup> Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

<sup>11</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1).

<sup>12</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities (OJ L 292, 15.11.1996, p. 2).

<sup>13</sup> Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1).

<sup>14</sup> Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law (OJ L 198, 28.7.2017, p. 29).

- (51) Since the objective of this Regulation, namely enhancing the effectiveness of labour markets and promoting equal access to quality employment, improving the access to and the quality of education and training, promoting social inclusion and contributing to the eradication of poverty as well as the actions under the Employment and Social Innovation strand, cannot be sufficiently achieved by the Member States but can rather, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (52) In order to amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending and supplementing the annexes on the indicators. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (53) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. The implementing powers relating to the model for the structured survey of end recipients should be exercised in accordance with the advisory procedure of Article 4 of Regulation (EU) No 182/2011 of European Parliament and of the Council<sup>15</sup> given the nature of this model.

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<sup>15</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (54) In order to allow for a rapid response to exceptional and unusual circumstances as referred to in the Stability and Growth Pact that may arise during the programming period, implementing powers should be conferred to the Commission to adopt temporary measures to facilitate the use of the support from the ESF+ in response to such circumstances, with a maximum time limit of eighteen months. The Commission should adopt the measures that are most appropriate in light of the exceptional or unusual circumstances that a Member State is facing while preserving the objectives of the fund, but this should not include amendments to the thematic concentration requirements. Furthermore, the implementing powers in relation to the temporary measures for the use of the Funds in response to exceptional and unusual circumstances should be adopted without committee procedures given that the scope of application is determined by the Stability and Growth Pact and limited to the measures set out in this Regulation. The Commission should also monitor the implementation and assess the appropriateness of the measures. Where the Commission deems it necessary to amend the Regulation due to the exceptional and unusual circumstances, the scope of the amendment should not include the thematic concentration requirements related to youth employment nor support to the most deprived. This is due to the fact that these groups are often most adversely affected by such crisis situations therefore it is necessary to ensure that these target groups continue to receive an adequate amount of support.
- (55) The Commission should be assisted in the administration of the ESF+ by the Committee provided for in Article 163 TFEU. In order to enable the ESF+ committee to have all the necessary information at its disposal and obtain a wide range of views of relevant stakeholders, the ESF+ Committee should be able to invite representatives without a voting right provided the agenda of the meeting requires their participation, including representatives of the European Investment Bank and the European Investment Fund and relevant civil society organizations.
- (56) In order to ensure that the specificities of each ESF+ strand continue to be addressed, the ESF+ Committee should create working groups for each of the strands. Their composition and tasks are to be established by the ESF+ Committee. The working groups should have the possibility to invite civil society representatives as well as other stakeholders to its meetings. The tasks of the working groups may include ensuring coordination and cooperation between Member State authorities and the Commission on the implementation of the ESF+, including consultation on the EaSI strand work programme, monitoring the implementation of each strand, exchanging experience and good practice within and across the strands and fostering potential synergies with other Union Programmes.
- (57) In order to ensure a greater transparency regarding the implementation of the ESF+ Regulation, the Commission should establish the necessary links with relevant policy committees active in the social and employment field, such as the Employment and **Social Protection Committee** or the Advisory Committee on Health and Safety at Work.

(58) In accordance with Article 193(2) of Regulation (EU, Euratom) No 2018/1046, a grant may be awarded for an action which has already begun, provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement. However, the costs incurred prior to the date of submission of the grant application are not eligible, except in duly justified exceptional cases. In order to avoid any disruption in Union support which could be prejudicial to Union's interests, it should be possible to provide in the financing decision, during a limited period of time at the beginning of the multi-annual financial framework 2021-2027, and only in duly justified cases, for eligibility of activities and costs from the beginning of the 2021 financial year, even if they were implemented and incurred before the grant application was submitted.

(59) In order to ensure continuity in providing support in the relevant policy area and to allow implementation as of the beginning of the multi-annual financial framework 2021-2027, it is necessary to provide for the application of this Regulation as regards the Employment and Social Innovation strand from the beginning of the 2021 financial year.

HAVE ADOPTED THIS REGULATION:

## **Part I**

### **General provisions**

#### *Article 1*

##### Subject matter

This Regulation establishes the European Social Fund Plus (ESF+). ESF+ consists of two strands: the strand under shared management and the Employment and Social Innovation strand.

This Regulation lays down the objectives of the ESF+, the budget for the period 2021-2027, the methods of implementation, the forms of Union funding and the rules for providing such funding.

#### *Article 2*

##### Definitions

1. For the purposes of this Regulation, the following definitions shall<sup>16</sup> apply:

(1) 'accompanying measures' means activities provided in addition to the distribution of food and/or basic material assistance with the aim of addressing social exclusion and contributing to eradicating poverty such as referring to and providing social and health services, including psychological support, providing relevant information on public services or advice on managing a household budget;

(2) 'associated country' means a third country which is party to an agreement with the Union allowing for its participation in the Employment and Social Innovation strand of the ESF+ in accordance with Article 30;

(3) 'basic material assistance' means goods which fulfil the basic needs of a person for a life with dignity, such as clothing, hygiene goods, including feminine hygiene products, and school material;

(4) 'blending operation' means actions supported by the Union budget, including within blending facilities pursuant to Article 2(6) of the Financial Regulation, combining non-repayable forms of support and/or financial instruments from the Union budget with repayable forms of support from development or other public finance institutions, as well as from commercial finance institutions and investors;

(5) 'common immediate result indicators' means common result indicators which capture effects within four weeks as from the day the participant leaves the operation (exit date);

(6) 'common longer term result indicators' means common result indicators which capture effects six months after a participant has left the operation;

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<sup>16</sup> Use of 'shall' is referred to lawyer-linguists.

(7) 'costs of purchasing food and/or basic material assistance' means the actual costs linked to the purchase of food and/or basic material assistance by the beneficiary and not limited to the price of the food and/or basic material assistance;

(7a) 'cross-border partnerships' means structures of cooperation between public employment services, civil society or the social partners located in at least two Member States;

(8) 'end recipient' means the most deprived person or persons receiving the support as laid down in point (xi) of Article 4(1);

*[(9) is deleted]*

(10) 'legal entity' means any natural or legal person created and recognised as such under national law, Union law or international law, which has legal personality and which may, acting in its own name, exercise rights and be subject to obligations, or an entity without a legal personality in accordance with Article 197(2)(c) of the Financial Regulation;

(11) 'microfinance' includes guarantees, microcredit, equity and quasi-equity, coupled with accompanying business development services such as in the form of individual counselling, training and mentoring, extended to persons and micro-enterprises that experience difficulties accessing credit for the purpose of professional and/or revenue-generating activities;

(12) 'micro-enterprise' means an enterprise with fewer than 10 employees and an annual turnover or balance sheet below EUR 2 000 000;

(13) 'most deprived persons' means natural persons, whether individuals, families, households or groups composed of such persons, including children in vulnerable situation and homeless people, whose need for assistance has been established according to the objective criteria set by the national competent authorities in consultation with relevant stakeholders, while avoiding conflicts of interest and which are approved by those national competent authorities and which may include elements that allow the targeting of the most deprived persons in certain geographical areas;

(14) 'reference value' means a value to set targets for common and programme specific result indicators which is based on existing or previous similar interventions;

(15) 'social enterprise' means an undertaking, regardless of its legal form, including social economy enterprises, or a natural person which

(a) in accordance with its Articles of Association, Statutes or with any other legal document that may result in liability under the rules of the Member State where it is located, has as its primary social objective the achievement of measurable, positive social impacts, which may include environmental ones, rather than generating profit for other purposes, and which provides services or goods that generate a social return, and/or employs methods of production of goods or services that embodies social objectives;

- (b) uses its profits first and foremost to achieve its primary social objective, and has predefined procedures and rules covering any distribution of profits that ensure that such distribution does not undermine the primary social objective;
- (c) is managed in an entrepreneurial, participatory, accountable and transparent way, in particular by involving workers, customers and stakeholders impacted by its business activities;

(16) 'social innovations' mean activities, that are social both as to their ends and their means and in particular those which relate to the development and implementation of new ideas (concerning products, services, practices and models) that simultaneously meet social needs and create new social relationships or collaborations between public, civil society and/or private organisations, thereby benefiting society and boosting its capacity to act;

(17) 'social experimentations' mean policy interventions that aims to provide an innovative response to social needs, implemented on a small scale and in conditions that enable their impact to be measured, prior to being implemented in other contexts including geographical and sectorial ones, or on a larger scale, if the results prove convincing;

(18) 'key competences' means the knowledge, skills and competences all individuals need, at any stage of their lives, for personal fulfilment and development, employment, social inclusion and active citizenship. The key competences are: literacy; multilingual; mathematics, science, technology, arts and engineering; digital; media; personal, social and learning to learn; citizenship; entrepreneurship; (inter)cultural awareness and expression and critical thinking;

(19) 'third country' means a country that is not member of the European Union.

(19a) 'disadvantaged groups' means people in vulnerable socio-economic situations including people experiencing or at risk of poverty, social exclusion or discrimination in its multiple dimensions.

(19b) 'lifelong learning' means learning in all its forms (formal, non-formal and informal learning) taking place at all stages in life and resulting in an improvement or update in knowledge, skills, competences and attitudes or participation in society in a personal, civic, cultural, social and/or employment-related perspective, including the provision of counselling and guidance services; it includes early childhood education and care, general education, vocational education and training, higher education, adult education, youth work and other learning settings outside formal education and training and it typically promotes cross-sectoral cooperation and flexible learning pathways;

(20) 'third-country national' means any person who is not a citizen of the Union as defined in Article 20(1) of the TFEU. Reference to third-country nationals shall be understood to include stateless persons and persons with undetermined nationality.

2. The definitions in Article [2] of [the future CPR] shall<sup>17</sup> also apply for the ESF+ strand under shared management.

### *Article 3*

#### General objectives and methods of implementation

The ESF+ aims to support Member States and regions to achieve high employment levels, fair social protection and a skilled and resilient workforce ready for the future world of work, as well as inclusive and cohesive societies aiming to eradicating poverty and delivering on the principles set out in the European Pillar of Social Rights proclaimed by the European Parliament, the Council and the Commission on 17 November 2017.

The ESF+ shall support, complement and add value to the policies of the Member States to ensure equal opportunities, equal access to the labour market, fair and quality working conditions, social protection and inclusion in particular focussing on quality and inclusive education and training, life-long learning, investment in children and young people and access to basic services.

It shall be implemented:

- a) under shared management, for the part of the assistance which corresponds to the specific objectives indicated in Article 4(1) (the ‘ESF+ strand under shared management’), and
- (b) under direct and indirect management for the part of the assistance which corresponds to the objectives indicated in Articles 4(1) and 23 (the ‘Employment and Social Innovation strand’).

### *Article 4*

#### Specific objectives

1. The ESF+ shall support the following specific objectives in the policy areas of employment and labour mobility, education, social inclusion, including contributing to poverty eradication, and thereby also contributing to the policy objective for “A more social and inclusive Europe - Implementing the European Pillar of Social Rights” set out in Article [4] of the [CPR]:

- (i) improving access to employment and activation measures of all jobseekers, in particular youth, especially through the implementation of the Youth Guarantee, long-term unemployed and disadvantaged groups on the labour market, and of inactive people, promoting self-employment and the social economy;

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<sup>17</sup> Use of ‘shall’ is referred to lawyer-linguists.



- (ii) modernising labour market institutions and services to assess and anticipate skills needs and ensure timely and tailor-made assistance and support to labour market matching, transitions and mobility;
- (iii) promoting a gender-balanced labour market participation, equal working conditions, and a better work/life balance including through access to affordable childcare, and care for dependent persons;
- (iii bis) promoting the adaptation of workers, enterprises and entrepreneurs to change, active and healthy ageing and a healthy and well-adapted working environment that addresses health risks;
- (iv) improving the quality, inclusiveness, effectiveness and labour market relevance of education and training systems including through validation of non-formal and informal learning, to support acquisition of key competences including entrepreneurial and digital skills, and by promoting the introduction of dual-training systems and apprenticeships;
- (v) promoting equal access to and completion of, quality and inclusive education and training, in particular for disadvantaged groups, from early childhood education and care through general and vocational education and training, and to tertiary level, as well as adult education and learning, including facilitating learning mobility for all and accessibility for persons with disabilities;
- (vi) promoting lifelong learning, notably flexible upskilling and reskilling opportunities for all taking into account entrepreneurial and digital skills, better anticipating change and new skills requirements based on labour market needs, facilitating career transitions and promoting professional mobility;
- (vii) fostering active inclusion with a view to promoting equal opportunities, non-discrimination and active participation, and improving employability, in particular for disadvantaged groups;
- (viii) promoting socio-economic integration of third country nationals, including migrants;
- (viii a) promoting the socio-economic integration of marginalised communities such as Roma;
- (ix) enhancing the equal and timely access to quality, sustainable and affordable services, including services that promote the access to housing and person-centred care including healthcare ; modernising social protection systems, including promoting access to social protection, with a particular focus on children and disadvantaged groups; improving accessibility including for persons with disabilities, effectiveness and resilience of healthcare systems and long-term care services;
- (x) promoting social integration of people at risk of poverty or social exclusion, including the most deprived and children;

(xi) addressing material deprivation through food and/or basic material assistance to the most deprived, including children, and providing accompanying measures supporting their social inclusion.

2. Through the actions implemented under the ESF+ strand under shared management to achieve the specific objectives referred to in paragraph 1, the ESF+ shall aim to contribute to other policy objectives listed in Article [4] of [the future CPR], in particular those related to:

1. a smarter Europe through the development of skills for smart specialisation, skills for key enabling technologies, industrial transition, sectorial cooperation on skills and entrepreneurship, the training of researchers, networking activities and partnerships between higher education institutions, vocational and educational training (VET) institutions, research and technological centres and enterprises and clusters, support to micro, small and medium sized enterprises and the social economy;
2. a greener, low carbon Europe through the improvement of education and training systems necessary for the adaptation of skills and qualifications, the upskilling of all, including the labour force, the creation of new jobs in sectors related to the environment, climate and energy, circular economy and the bioeconomy;

3. In addition, where strictly necessary as a temporary measure to respond to exceptional or unusual circumstances referred to in Article 15a of [Common Provisions Regulation], and limited to a duration of 18 months, the ESF+ supports:

- (i) the financing of short-time work schemes without the requirement that they should be combined with active measures;
- (ii) access to healthcare including for people not in immediate socio-economic vulnerability.

Where, upon a request submitted by the Member States concerned, the Commission finds that the requirements laid down in the first subparagraph are fulfilled, it shall adopt an implementing decision specifying the period during which the temporary additional support from ESF+ is authorised.

The Commission shall monitor the implementation of this paragraph and assess whether the temporary additional support from ESF+ is sufficient to facilitate the use of the fund in response to the exceptional and unusual circumstances. On the basis of its assessment, the Commission shall, where deemed appropriate, make proposals for amendments to this Regulation, including on the thematic concentration requirements in Article 7, except the thematic concentration requirement as specified in Article 7(4) and (5).

## *Article 5*

### Budget

1. The total financial envelope for the ESF+ for the period 2021-2027 shall be EUR 87 995 063 417 in 2018 prices.

2. The part of the financial envelope for the ESF+ strand under shared management under the Investment for jobs and growth goal shall be EUR 87 319 331 843 in 2018 prices of which EUR 175 000 000 shall be allocated for transnational cooperation supporting innovative solutions as referred to in Article 23(i) and EUR 472 980 447 as additional funding to the outermost regions identified in Article 349 TFEU and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession.

3. The financial envelope for the Employment and Social Innovation strand for the period 2021-2027 shall be EUR 675 731 573 in 2018 prices.

*[paragraph 4 is deleted]*

5. The amount referred to in paragraph 3 may also be used for technical and administrative assistance for the implementation of the Employment and Social Innovation strand, such as preparatory, monitoring, control, audit and evaluation activities including corporate information technology systems.

## *Article 6*

### Gender equality, equal opportunities and non-discrimination

The Member States and the Commission shall support specific targeted actions to promote the principles referred to in paragraphs 2 and 3 of Article 6a CPR and Article 29a of this Regulation within any of the objectives of the ESF+. These actions may include actions for ensuring accessibility for persons with disabilities, including in terms of ICT, and promoting the transition from institutional care to family and community-based care.

Through the ESF+, Member States and the Commission shall also aim at increasing the participation of women in employment as well as conciliation between working and personal life, combating the feminisation of poverty and gender discrimination in the labour market and in education and training.

## Part II

### Implementation under the ESF+ strand under shared management

#### Chapter I

#### Common provisions on programming

##### *Article 7*

##### Consistency and thematic concentration

1. Member States shall programme the ESF+ resources under shared management by prioritising interventions that address the challenges identified in the European Semester, including in their national reform programmes as well as in the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and Article 148(4) TFEU, and take into account the principles and rights set out in the European Pillar of Social Rights and the national and regional strategies relevant for ESF+ objectives, thereby contributing to the goals of the Union set out in Article 174 TFEU.

Member States and, where appropriate the Commission, shall foster synergies and ensure coordination, complementarity and coherence between the ESF+ and other Union funds, programmes and instruments, both in the planning phase and during implementation. Member States and, where appropriate the Commission, shall optimise mechanisms for coordination to avoid duplication of effort and ensure close cooperation between those responsible for implementation to deliver coherent and streamlined support actions.

2. Member States shall allocate an appropriate amount of their ESF+ resources under shared management to address challenges identified in relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and Article 148(4) TFEU and in the European Semester falling within the scope of the ESF+ as set out in Article 4.

3. Member States shall allocate at least 25% of their ESF+ resources under shared management to the specific objectives for the social inclusion policy area set out in points (vii) to (x) of Article 4(1), including the promotion of the socio-economic integration of third country nationals.

3a. Member States shall allocate an appropriate amount of ESF+ resources under shared management for the implementation of the [forthcoming] Child Guarantee through targeted actions and structural reforms to tackle child poverty under the specific objectives set out in points (v) and (vii) to (x) of Article 4(1).

Member States having an average rate of children of less than 18 years old at risk of poverty or social exclusion for the period between 2017 and 2019 above the Union average for that period, on the basis of Eurostat data, shall allocate at least 5% of their ESF+ resources under shared management to support targeted actions and structural reforms as set out in the first subparagraph.

4. Member States shall allocate at least 3% of their ESF+ resources under shared management to support the most deprived under the specific objective set out in point (xi) of Article 4(1) and/or, in duly justified cases, in point (x) of Article 4(1).

The resources shall not be taken into account for verifying compliance with the minimum allocations set out in paragraphs 3 and 3a.

5. Member States shall allocate an appropriate amount of ESF+ resources under shared management to targeted actions and structural reforms to support youth employment, vocational education and training, in particular apprenticeships, and school-to-work transition, pathways to reintegrate into education or training and second chance education, in particular in the context of implementing Youth Guarantee schemes.

Member States having an average rate of young people aged 15 to 29 not in employment, education or training for the period between 2017 and 2019 above the Union average for that period, on the basis of Eurostat data, shall allocate at least 12.5% of their ESF+ resources under shared management for the years 2021 to 2027 to support the targeted actions and structural reforms as set out in the first subparagraph.

Outermost regions meeting the conditions set out in the second subparagraph shall allocate at least 12.5% of the ESF+ resources under shared management in their programmes to the targeted actions set out in the first subparagraph. This allocation shall be taken into account for verifying compliance with the minimum percentage at national level set out in the second subparagraph when applicable.

When implementing such actions, Member States shall give priority to inactive and long-term unemployed young people and put in place targeted outreach measures.

6. Paragraphs 2 to 5 shall not apply to the specific additional allocation received by the outermost regions and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession.

7. Paragraphs 1 to 5 shall not apply to technical assistance.

### *Article 7a*

#### Respect for the Charter of Fundamental Rights of the European Union

1. All operations should be selected and implemented in respect of the Charter of Fundamental Rights of the European Union in accordance with the relevant provisions included in the CPR.
2. In accordance with [Article 63(6) CPR], Member States shall ensure the effective examination of complaints. This is without prejudice to the possibility of citizens and stakeholders to address complaints to the Commission, including with regard to infringements of the Charter.
3. Where the Commission finds that there has been an infringement of the Charter, the Commission shall take into account the gravity of the infringement as part of the elements for determining the corrective measures to be applied in line with the relevant provisions of the CPR.

### *Article 8*

#### Partnership

1. Each Member State shall ensure meaningful participation of social partners and civil society organisations in the delivery of employment, education and social inclusion policies supported by the ESF+ strand under shared management.
2. Member States shall allocate an appropriate amount of ESF+ resources under shared management in each programme for the capacity building of social partners and civil society organisations, including in the form of training, networking measures, and strengthening of the social dialogue, and to activities jointly undertaken by the social partners.

When capacity building of social partners and civil society organisations is identified by a relevant country-specific recommendation adopted in accordance with Article 121(2) TFEU and Article 148(4) TFEU, the concerned Member State shall allocate an appropriate amount of at least 0.25% of ESF+ resources for that purpose.

### *Article 9*

#### Support to the most deprived

The resources referred to in Article 7(4) under specific objectives (x) and (xi) of Article 4(1) shall be programmed under a dedicated priority or programme. The co-financing rate for this priority or programme shall be 90%.

### *Article 10*

#### Support to youth employment

Support in accordance with Article 7(5) shall be programmed under a dedicated priority or programme and it shall at least include support to the specific objective set out in point (i) and may include support to the specific objectives set out in points (v) and (x) of Article 4(1).

### *Article 11*

#### Support to relevant country-specific recommendations

The actions addressing the challenges identified in relevant country-specific recommendations and in the European Semester as referred to in Article 7(2) shall be programmed under any of the specific objectives referred to in Article 4(1) of this Regulation in support to the implementation of the European Pillar of Social Rights and under one or more priorities, which can be a multi-fund priority.

## **Chapter II**

### **General support of the ESF+ strand under shared management**

#### *Article 12*

##### Scope

This Chapter applies to ESF+ support under points (i) to (x) of Article 4(1) when implemented under shared management (the ‘general support of the ESF+ strand under shared management’).

#### *Article 13*

##### Social innovative actions

1. Member States shall support actions of social innovation and social experimentations, including those with a socio-cultural component, or strengthen bottom-up approaches based on partnerships involving public authorities, the social partners, social enterprises, the private sector, and civil society.
2. Member States may support the upscaling of innovative approaches tested on a small-scale developed under the Employment and Social Innovation strand and other Union programmes

3. Innovative actions and approaches may be programmed under any of the specific objectives set out in points (i) to (x) of Article 4(1).

4. Each Member State shall dedicate at least one priority to the implementation of paragraphs 1 or 2 or to both. The maximum co-financing rate for these priorities may be increased to 95% for the allocation of maximum 5% of the national ESF+ allocation under shared management to such priorities.

5. Member States shall identify, either in their programmes or at a later stage during implementation, fields for social innovation and social experimentations that correspond to the Member States' specific needs.

6. The Commission shall facilitate capacity building for social innovation, in particular through supporting mutual learning, establishing networks, and disseminating and promoting good practices and methodologies.

### *Article 13a*

#### Transnational cooperation

Member States may support transnational cooperation actions under any of the specific objectives set out in points (i) to (x) of Article 4(1).

### *Article 14*

#### Eligibility

1. In addition to the costs referred to in Article [58] of [the future CPR], the following costs are not eligible under the general support of the ESF+ strand under shared management:

- (a) the purchase of land and real estate, and the purchase of infrastructure, and
- (b) the purchase of furniture, equipment and vehicles except where the purchase is necessary for achieving the objective of the operation, or these items are fully depreciated, or the purchase of these items is the most economic option.



2. Contributions in kind in the form of allowances or salaries disbursed by a third party for the benefit of the participants in an operation may be eligible for a contribution from the general support of the ESF+ strand under shared management provided that the contributions in kind are incurred in accordance with national rules, including accountancy rules, and do not exceed the cost borne by the third party.

3. The specific additional allocation received by the outermost regions and the NUTS level 2 regions fulfilling the criteria laid down in Article 2 of Protocol No 6 to the 1994 Act of Accession shall be used to support the achievement of the specific objectives set out in paragraph 1 of Article

4. Direct staff costs shall be eligible for a contribution from the general support of the ESF+ strand under shared management if they are in line with the beneficiary's usual remuneration practice for the category of function concerned or in line with applicable national law, collective agreements or official statistics.

### *Article 15*

#### Indicators and reporting

1. Programmes benefitting from the general support of the ESF+ strand under shared management shall use common output and result indicators, as set out in Annex 1 to this Regulation to monitor progress in implementation. The programmes may also use programme-specific indicators.

1a. Where a Member State allocates its resources to the specific objective set out point (x) of Article 4(1) to target the most deprived, in line with the first subparagraph of Article 7(4), the common indicators as set out in Annex II to this Regulation will apply.

2. The baseline for common and programme-specific output indicators shall be set at zero. Where relevant to the nature of the operations supported, cumulative quantified milestones and target values for those indicators shall be set in absolute numbers. The reported values for the output indicators shall be expressed in absolute numbers.

3. The reference value for common and programme-specific result indicators for which a target value for 2029 have been set, shall be fixed using the latest available data or other relevant sources of information. Targets for common result indicators shall be fixed in absolute numbers or as a percentage. Programme-specific result indicators and related targets may be expressed in quantitative or qualitative terms. The reported values on common result indicators shall be expressed in absolute numbers.

4. Data on the indicators for participants shall only be transmitted when all data required under point (1a) of Annex 1 relating to that participant are available.

5. Member States may, when data are available in registers or equivalent sources, enable the Managing Authorities and other bodies entrusted with data collection necessary for the monitoring and the evaluation of the general support of the ESF+ strand under shared management to obtain those data from data registers or equivalent sources, in accordance with points (c) and (e) of Article 6(1) of Regulation (EU) 2016/679.

6. The Commission is empowered to adopt delegated acts in accordance with Article 38 to amend the indicators in Annex I and II where considered necessary to ensure effective assessment of progress in the implementation of programmes. Amendments shall be proportionate taking into account the administrative burden for Member States and beneficiaries. Delegated acts in accordance with this paragraph shall not change the methodology for data collection as laid down in Annex I and II.

### **Chapter III**

#### **ESF+ support for addressing material deprivation**

##### *Article 16*

##### Scope

This Chapter applies to ESF+ support under point (xi) of Article 4(1).

##### *Article 17*

##### Principles

1. The ESF+ support for addressing material deprivation may only be used to support the distribution of food and goods that are in conformity with the Union law on consumer product safety.

2. Member States and beneficiaries shall choose the food and/or the basic material assistance on the basis of objective criteria related to the needs of the most deprived persons. The selection criteria for the food products, and where appropriate for goods, shall also take into consideration climatic and environmental aspects, in particular with a view to reduction of food waste and single-use plastic. Where appropriate, the choice of the type of food products to be distributed shall be made having considered their contribution to the balanced diet of the most deprived persons.

The food and/or basic material assistance may be provided directly to the most deprived persons or indirectly such as through vouchers or cards, in electronic or other form, provided that they can only be redeemed against food and/or basic material assistance as set out in Article 2(3). The support to the most deprived shall be additional to any social benefit that may be provided to end recipients by national social systems or according to national legislation.

The food provided for the most deprived persons may be obtained from the use, processing or sale of the products disposed of in accordance with Article 16(2) of Regulation (EU) No 1308/2013, provided that this is economically the most favourable option and does not unduly delay the delivery of the food products to the most deprived persons.

Any amount derived from such a transaction shall be used for the benefit of the most deprived persons, in addition to the amounts already available to the programme.

3. The Commission and the Member States shall ensure that aid provided in the framework of the ESF+ support for addressing material deprivation respects the dignity and prevents stigmatisation of the most deprived persons.

4. The Member States shall complement the delivery of food and/or material assistance by a re-orientation towards competent services and other accompanying measures under the specific objective referred to in point (xi) of Article 4(1) or by promoting the social integration of the most deprived persons under the specific objective referred to in point (x) of Article 4(1).

#### Article 18

##### *Content of the priority*

A priority concerning support under point (xi) of Article 4(1) shall set out:

- (a) the type of support;
- (b) the main target groups.
- (c) a description of the national or regional schemes of support

In the case of programmes limited to this type of support and the related technical assistance, the priority shall also include the criteria for the selection of operations.

#### Article 19

##### *Eligibility of operations*

1. The food and/or basic material assistance provided to the most deprived persons may be purchased by or on behalf of the beneficiary or made available free of charge to the beneficiary.
2. The food and/or basic material assistance shall be distributed free of charge to the most deprived persons.

*Article 20*  
Eligibility of expenditure

1. The eligible costs of the ESF+ support for addressing material deprivation shall be:
  - (a) the costs of purchasing food and/or basic material assistance, including costs related to transporting food and/or basic material assistance to the beneficiaries delivering the food and/or basic material assistance to the end recipients;
  - (b) where the transport of the food and/or basic material assistance to the beneficiaries distributing them to the end recipients is not covered by point (a), the costs borne by the purchasing body related to transporting food and/or basic material assistance to the storage depots and/or the beneficiaries and storage costs at a flat-rate of 1% of the costs referred to in point (a) or, in duly justified cases, costs actually incurred and paid;
  - (c) the administrative, transport, storage and preparation costs borne by the beneficiaries involved in the distribution of the food and/or basic material assistance to the most deprived at a flat-rate of 7% of the costs referred to in point (a); or 7% of the costs of the value of the food products disposed of in accordance with Article 16 of Regulation (EU) No 1308/2013;
  - (d) the cost of collection, transport, storage and distribution of food donations and directly related awareness raising activities;
  - (e) the costs of accompanying measures undertaken by or on behalf of beneficiaries and declared by the beneficiaries delivering the food and/or basic material assistance to the most deprived persons at a flat- rate of 7% of the costs referred to in point (a).
- 1a. Costs for the preparation of cards or voucher schemes in electronic or other form, and corresponding operating costs are eligible under technical assistance provided they are borne by the Managing authority or another public body which is not a beneficiary distributing the card or voucher to end recipients (or provided they are not covered by the costs set out in point c) of paragraph 1)).
2. A reduction of the eligible costs referred to in point (a) of paragraph 1 because the body responsible for the purchase of food and/or basic material assistance did not comply with applicable law, shall not lead to a reduction of the eligible costs set out in points (c) and (e) of paragraph 1.
3. The following costs shall not be eligible:
  - (a) interest on debt;
  - (b) purchase of infrastructure;
  - (c) costs of second-hand goods.

*Article 21*  
Indicators and reporting

1. Priorities addressing material deprivation shall use common output and result indicators, as set out in Annex III to this Regulation to monitor progress in implementation. These programmes may also use programme-specific indicators.
2. The reference values for common and programme-specific result indicators shall be established.
3. By 30 June 2025 and 30 June 2028, Managing Authorities shall report to the Commission the results of a structured survey of the end recipients carried out during the previous year and also focusing on their living conditions and the nature of their material deprivation. This survey shall be based on the model which shall be established by the Commission by means of an implementing act.
4. The Commission shall adopt an implementing act establishing the model to be used for the structured survey of end recipients in accordance with the advisory procedure referred to in Article 39(2) in order to ensure uniform conditions for the implementation of this Article.
5. The Commission is empowered to adopt delegated acts in accordance with Article 38 to amend the indicators in Annex III where considered necessary to ensure effective assessment of progress in the implementation of programmes. Amendments shall be proportionate taking into account the administrative burden for Member States and beneficiaries. Delegated acts in accordance with this paragraph shall not change the methodology for data collection as laid down in Annex III.

*Article 22*  
Audit

Audit of operations may cover all stages of its implementation and all levels of the distribution chain, with the sole exception of control of the end recipients, unless a risk assessment establishes a specific risk of irregularity or fraud.

## Part III

### Implementation under direct and indirect management

#### Chapter I

#### Operational objectives

##### *Article 23*

##### Operational objectives

The Employment and Social Innovation strand has the following operational objectives:

- a) to develop high-quality comparative analytical knowledge in order to ensure that policies to achieve the specific objectives referred to in Article 4 are based on sound evidence and are relevant to needs, challenges and local conditions;
- b) to facilitate effective and inclusive information-sharing, mutual learning, peer reviews and dialogue on policies in the fields referred to in Article 4 in order to assist the design of appropriate policy measures;
- c) to support social experimentations in the fields referred to in Article 4 and build up the stakeholders' capacity at national and local levels to prepare, design and implement, transfer or upscale the tested social policy innovations, in particular with regard to the scale-up of projects developed by local stakeholders in the field of the socio-economic integration of third country nationals;
- d) to facilitate the voluntary geographical mobility of workers and increase employment opportunities through developing and providing specific support services to employers and job-seekers with a view to the development of integrated European labour markets, ranging from pre-recruitment preparation to post-placement assistance to fill vacancies in certain sectors, professions, countries, border regions or for particular groups (e.g. people in vulnerable situations);
- e) to support the development of the market eco-system around the provision of microfinance to micro-enterprises in start-up and development phases, in particular those created by or that employ people in vulnerable situations;
- f) to support networking at Union level and dialogue with and among relevant stakeholders in the fields referred to in Article 4 and contribute to build up the institutional capacity of involved stakeholders, including the public employment services (PES), public social security and health insurance institutions, civil society, microfinance institutions and institutions providing finance to social enterprises and social economy;

- g) to support the development of social enterprises and the emergence of a social investment market, facilitating public and private interactions and the participation of foundations and philanthropic actors in that market;
- h) to provide guidance for the development of social infrastructure needed for the implementation of the European Pillar of Social Rights;
- i) to support transnational cooperation to accelerate the transfer of, and to facilitate the scaling of, innovative solutions, in particular for the policy areas referred to in Article 4.1.
- j) to support the implementation of relevant international social and labour standards in the context of harnessing globalisation and the external dimension of Union policies in the fields referred to in Article 4.

## **Chapter II**

### **Eligibility**

#### *Article 24*

#### Eligible actions

1. Only actions pursuing the objectives referred to in Article 3 and 4 and 23 shall be eligible for funding.

2. The Employment and Social Innovation strand may support the following actions:

- (a) Analytical activities, including in relation to third countries, in particular:
  - (i) surveys, studies, statistical data, methodologies, classifications, micro-simulations, indicators, support to European-level observatories and benchmarks;
  - (ii) social experimentations evaluating social innovations;
  - (iii) monitoring and assessment of the transposition and application of Union law;
- (b) Policy implementation, in particular:
  - (i) Cross-border partnerships, in particular between public employment services, civil society and the social partners, and support services in cross-border regions;
  - (ii) an EU-wide labour targeted mobility scheme at Union level to fill job vacancies where labour market shortcomings have been identified;

- (iii) support to microfinance and social enterprises, including through blending operations such as asymmetric risk sharing or reducing transaction costs, as well as support to the development of social infrastructure and skills;
  - (iv) support to transnational cooperation and partnership with a view to transferring and upscaling innovative solutions;
- (c) Capacity building, in particular:
- (i) of networks at Union level related to the fields referred to in Article 4(1);
  - (ii) of national contact points providing guidance, information and assistance related to the implementation of the strand;
  - (iii) of participating countries administrations, social security institutions and employment services responsible for promoting labour mobility, of microfinance institutions and of institutions providing finance to social enterprises or other social investment actors, as well as networking;
  - (iv) of stakeholders, including social partners and civil society organisations, in view of transnational cooperation;
- (d) Communication and dissemination activities, in particular:
- (i) mutual learning through exchange of good practices, innovative approaches, results of analytical activities, peer reviews, and benchmarking;
  - (ii) guides, reports, informative material and media coverage of initiatives related to the fields referred to in Article 4(1);
  - (iii) information systems disseminating evidence related to the fields referred to in Article 4(1);
  - (iv) Council Presidency events, conferences, seminars and awareness-raising activities.

#### *Article 25*

#### Eligible entities

1. In addition to the criteria set out in Article [197] of the Financial Regulation, the following criteria shall apply for entities to be eligible:

- (a) Legal entities established in any of the following countries:



- (i) a Member State or an overseas country or territory linked to it;
  - (ii) an associated country ;
  - (iii) a third country listed in the work programme under the conditions specified in paragraphs 2 and 3;
- (b) Any legal entity created under Union law or any international organisation.
2. Legal entities established in a third country which is not an associated country are exceptionally eligible to participate where this is necessary for the achievement of the objectives of a given action.
3. Legal entities established in a third country which is not an associated country should in principle bear the cost of their participation.

*[Chapter II – Specific provisions for the Health strand (Articles 26 -29) is deleted]*

*Article 29a*  
Horizontal principles

1. The Commission shall ensure that gender equality, gender mainstreaming and the integration of gender perspective are taken into account and promoted throughout the preparation, implementation, monitoring reporting and evaluation of the operations supported by the Employment and Social Innovation Strand.
2. The Commission shall take appropriate steps to prevent any discrimination based on gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the preparation, implementation, monitoring, reporting and evaluation of the operations supported by the Employment and Social Innovation Strand. In particular, accessibility for persons with disabilities shall be taken into account throughout the preparation and implementation of the Employment and Social Innovation Strand.

### *Article 30*

#### Participation of third countries

1. The Employment and Social Innovation strand shall be open to the following associated countries:

- (a) European Free Trade Association (EFTA) members which are members of the European Economic Area (EEA), in accordance with the conditions laid down in the EEA agreement;
- (b) acceding countries, candidate countries and potential candidates, in accordance with the general principles and general terms and conditions for the participation of those countries in Union programmes established in the respective framework agreements and Association Council decisions, or similar agreements, and in accordance with the specific conditions laid down in agreements between the Union and those countries;
- (c) third countries, in accordance with the conditions laid down in a specific agreement covering its participation to the strand, provided that the agreement
  - (1) ensures a fair balance as regards the contributions and benefits of the third country participating in the Union programmes;
  - (2) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes or strands of programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];
  - (3) does not confer to the third country a decisional power on the strand;
  - (4) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

*[paragraph 2 is deleted]*

## **Chapter III**

### **General Provisions**

#### *Article 31*

#### Forms of EU funding and methods of implementation

1. The Employment and Social Innovation strand may provide funding in any of the forms laid down in the Financial Regulation for financial contributions, in particular grants, prizes, procurement and voluntary payments to International Organisations of which the Union is a member or in whose work it participates.

2. The Employment and Social Innovation strand shall be implemented directly as provided for by Article [62(1)(a)] of the Financial Regulation or indirectly with bodies referred to in Article [62(1)(c)] of the Financial Regulation.

When awarding grants, the evaluation committee referred to in article [150] of the Financial Regulation may be composed of external experts.

3. Blending operations under the Employment and Social Innovation strand shall be implemented in accordance with the [InvestEU regulation] and Title X of the Financial Regulation.

*[paragraphs 4 and 5 are deleted]*

### *Article 32*

#### Work programme

The Employment and Social Innovation strand shall be implemented by work programmes referred to in Article [110] of Financial Regulation. The content of work programmes shall be defined in line with the operational objectives set out in Article 23 and along the eligible actions set out in Article 24. Work programmes shall set out, where applicable, the overall amount reserved for blending operations.

The Commission shall gather expertise on the preparation of the work programmes by consulting the working group referred to in Article 40(6).

The Commission shall foster synergies and ensure effective coordination between ESF+ and other relevant EU instruments as well as among the ESF+ strands.

### *Article 33*

#### Monitoring and reporting

1. Indicators to monitor implementation and progress of the strand towards the achievement of the specific objectives set out in Article 4 and the operational objectives set out in Article 23 shall be set.

2. The performance reporting system shall ensure that data for monitoring implementation of the strands and results are collected efficiently, effectively and in a timely fashion. To that end, proportionate reporting requirements shall be imposed on recipients of Union funds and, where relevant, Member States.

*[paragraph 3 is deleted]*

### *Article 34*

#### Protection of the financial interests of the Union

Where a third country participates in the programme by a decision under an international agreement, the third country shall grant the necessary rights and access required for the authorizing officer responsible, the European Anti-Fraud Office (OLAF), the European Court of Auditors to comprehensively exert their respective competences. In the case of OLAF, such rights shall include the right to carry out investigations, including on-the-spot checks and inspections, provided for in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).

### *Article 35*

#### Evaluation

1. Evaluations shall be carried out in a sufficiently timely manner to feed into the decision-making process.

2. The Commission shall carry out a mid-term evaluation of the strand once there is sufficient information available about its implementation, but not later than 31 December 2024.

It shall assess the performance of the programme, pursuant to Article 34 of the Financial Regulation, and in particular its effectiveness, efficiency, coherence, relevance and EU added value, including vis-a-vis the horizontal principles referred to in Article 29a, and measure, on a qualitative and quantitative basis, progress made in meeting the objectives of the strand.

The mid-term evaluation shall be based on the information generated by the monitoring arrangements and indicators established pursuant to Article 33, with a view to making any adjustments needed to the policy and funding priorities.

3. At the end of the implementation period, but no later than four years after the end of the period specified in Article 5, a final evaluation of the strands shall be carried out by the Commission.

4. The Commission shall communicate the conclusions of the evaluations accompanied by its observations, to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.

### *Article 36*

#### Audits

Audits on the use of the Union contribution carried out by persons or entities, including by other than those mandated by the Union Institutions or bodies, shall form the basis of the overall assurance pursuant to Article 127 of the Financial Regulation.

### *Article 37*

#### Information, communication and publicity

1. The recipients of Union funding shall acknowledge the origin and ensure the visibility of the Union funding (in particular when promoting the actions and their results), by providing coherent, effective and targeted information to multiple audiences, including the media and the public.
2. The Commission shall implement information and communication actions relating to the Employment and Social Innovation strand, and their actions and results. Financial resources allocated to the Employment and Social Innovation strand shall also contribute to the corporate communication of the political priorities of the Union, as far as they are related to the objectives referred to in Articles 4 and 23.

## Part IV

### Final Provisions

*[Article 37a is deleted]*

#### *Article 38*

#### 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 15(6) and Article 21(5) shall be conferred on the Commission for an indeterminate period of time from date of entry into force of this Regulation.
3. The delegation of power referred to in Article 15(6) and Article 21(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016<sup>18</sup>.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 15(6) and Article 21(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

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<sup>18</sup> OJ L 123, 12.5.2016, p. 13.

*Article 39*

Committee Procedure for the ESF+ strand under shared management

1. The Commission shall be assisted by the committee referred to in Article [109(1)] of [the future CPR].
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

*Article 40*

Committee under Article 163 TFEU

1. The Commission shall be assisted by the Committee set up under Article 163 TFEU (the ‘ESF+ Committee’).
2. Each Member State shall appoint one government representative, one representative of the workers' organisations, one representative of the employers' organisations and one alternate for each member for a maximum period of seven years. In the absence of a member, the alternate shall be automatically entitled to take part in the proceedings.
3. The ESF+ Committee shall include one representative from each of the organisations representing workers' organisations and employers' organisations at Union level.
  - 3a. The ESF+ Committee, including its working groups referred to in paragraph 6, may invite non-voting representatives of stakeholders to attend its meetings. This may include representatives of the European Investment Bank and the European Investment Fund as well as relevant civil society organizations.
4. The ESF+ Committee shall be consulted on the planned use of technical assistance referred to in article 29 of [the future CPR] in the case of support from the ESF+ strand under shared management, as well as on other issues having an impact on the implementation of strategies at Union level relevant to the ESF+;
5. The ESF+ Committee may deliver opinions on:
  - (a) questions related to the ESF+ contribution to the implementation of the European Pillar of Social Rights, including country-specific recommendations and semester-related priorities (national reform programmes, etc.);
  - (b) issues concerning the [future CPR] relevant for the ESF+;
  - (c) questions related to the ESF+ referred to it by the Commission other than those referred to in paragraph 4.

The opinions of the ESF+ Committee shall be adopted by an absolute majority of the votes validly cast, and shall be communicated to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, for information. The Commission shall inform the ESF+ Committee in writing of the manner in which it has taken account of its opinions.

6. The ESF+ Committee shall set up working groups for each of the strands of the ESF+.

6a. The Commission shall consult the working group dealing with the EaSI strand on the work programme. It shall inform the working group of the manner in which it has taken account of the results of this consultation. The working group shall ensure that a consultation of the work programme with stakeholders, including with representatives of civil society, takes place.

#### *Article 41*

##### Transitional provisions for the ESF+ under shared management

Regulation (EU) No 1304/2013 of the European Parliament and of the Council<sup>19</sup>, Regulation (EU) No 223/2014 of the European Parliament and of the Council<sup>20</sup> or any act adopted thereunder shall continue to apply to programmes and operations supported by the European Social Fund and the Fund for European Aid to the Most Deprived under the 2014-2020 programming period.

#### *Article 42*

##### Transitional provisions for the Employment and Social Innovation strand

1. Regulation (EU) No 1296/2013 of the European Parliament and of the Council<sup>21</sup> is repealed with effect from 1 January 2021.

2. The financial envelope for the Employment and Social Innovation strand may also cover technical and administrative assistance expenses necessary to ensure the transition between the ESF+ and the measures adopted under its predecessor: the Employment and Social Innovation programme.

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<sup>19</sup> Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, p. 470).

<sup>20</sup> Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

<sup>21</sup> Regulation (EU) No 1296/2013 of the European Parliament and of the Council of 11 December 2013 on a European Union Programme for Employment and Social Innovation ("EaSI") and amending Decision No 283/2010/EU establishing a European Progress Microfinance Facility for employment and social inclusion (OJ L 347, 20.12.2013, p. 238).



3. If necessary, appropriations may be entered in the budget beyond 2027 to cover the expenses provided for in Article 5(5) technical and administrative assistance, to enable the management of actions not completed by 31 December 2027.

4. Repayments from financial instruments established by Employment and Social Innovation programme (EaSI 2014-2020) shall be invested in the financial instruments of the “social window” of the InvestEU Fund established under Regulation XXX.

5. In accordance with point (a) of the second subparagraph of Article 193(2) of Regulation (EU, Euratom) No 2018/1046, in duly justified cases specified in the financing decision and for a limited period, activities supported under this Regulation and the underlying costs may be considered eligible as of 1 January 2021, even if they were implemented and incurred before the grant application was submitted.

#### *Article 43*

#### Entry into force

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

It shall apply from 1 January 2021 with regards to the Employment and Social Innovation strand.

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

## ANNEX I<sup>22</sup>

### Common indicators for the general support of the ESF+ strand under shared management

All personal data are to be broken down by gender (women, men, 'non binary'<sup>23</sup>). If certain results are not possible, data for those result indicators do not have to be collected and reported. Where appropriate, common output indicators can be reported based on the target group of the operation.

#### (1) Common output indicators related to operations targeting people:

##### (1a) Common output indicators for participants<sup>24, 25</sup>

The common output indicators for participants are:

- unemployed, including long-term unemployed\*,
- long-term unemployed\*,
- inactive\*,
- employed, including self-employed\*,
- number of children below 18 years of age\*,
- young people aged 18-29 years\*,
- number of participants 55 years of age and above\*,
- with lower secondary education or less (ISCED 0-2)\*,
- with upper secondary (ISCED 3) or post-secondary education (ISCED 4)\*,
- with tertiary education (ISCED 5 to 8)\*,
- total number of participants<sup>26</sup>.

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<sup>22</sup> Data reported under the indicators marked with \* are personal data according to Article 4(1) of Regulation (EU) 2016/679. Data reported under the indicators marked with \*\* are a special category of data according to Article 9 of Regulation (EU) 2016/679.

<sup>23</sup> According to national legislation.

<sup>24</sup> These indicators do not apply to ESF+ support under specific objective (x) of Article 4(1), except the 'number of children below 18 years of age', 'young people aged 18-29 years' and 'number of participants 55 years of age and above' and the 'total number of participants'.

<sup>25</sup> When data are collected from registers, Member States do not have to align with commonly agreed definitions and may use national definitions.

<sup>26</sup> To be calculated automatically on the basis of the common output indicators relating to employment status except for ESF+ support under specific objective (x) of Article 4(1), in which case the total number of participants is to be reported.

### (1b) Other common output indicators<sup>27</sup>

Data collection is only necessary when applicable and in relevant cases. Values on these indicators can be determined based on informed estimates by the beneficiary.

- participants with disabilities\*\*,
- third country nationals\*,
- participants with a foreign background\*,
- minorities (including marginalised communities such as the Roma)\*\*,
- homeless or affected by housing exclusion\*,
- participants from rural areas\*<sup>28</sup>.

### (2) Common output indicators for entities<sup>29</sup> are:

- number of supported public administrations or public services at national, regional or local level,
- number of supported micro, small and medium-sized enterprises (including cooperative enterprises, social enterprises).

### (3) The common immediate result indicators for participants are<sup>30,31</sup>:

- participants engaged in job searching upon leaving\*,
- participants in education or training upon leaving\*,
- participants gaining a qualification upon leaving\*,
- participants in employment, including self-employment, upon leaving\*.

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<sup>27</sup> National definitions may be used for these indicators, except for the indicators 'third-country nationals' and 'from rural areas'.

<sup>28</sup> This indicator does not apply to ESF+ support under specific objective (x) of Article 4(1).

<sup>29</sup> When data are collected from registers, Member States do not have to align with commonly agreed definitions and may use national definitions.

<sup>30</sup> These indicators do not apply to ESF+ support under specific objective (x) of Article 4(1).

<sup>31</sup> When data are collected from registers, Member States do not have to align with commonly agreed definitions and may use national definitions.

**(4) Common longer-term result indicators for participants<sup>32, 33</sup>:**

- participants in employment, including self-employment, six months after leaving\*,
- participants with an improved labour market situation six months after leaving\*.

Common longer-term result indicators shall be reported by the 31st January 2026 in accordance with Article 37(1) [of the future CPR] and in the final performance report referred to in Article 38 [of the future CPR].

As a minimum requirement, common longer-term indicators shall be based on a representative sample of participants within the specific objectives (i) to (ix) of Article 4(1). Internal validity of the sample is to be ensured in such a way that the data can be generalised at the level of the specific objective.



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<sup>32</sup> These indicators do not apply to ESF+ support under specific objective (x) of Article 4(1).

<sup>33</sup> When data are collected from registers, Member States do not have to align with commonly agreed definitions and may use national definitions.

## ANNEX II<sup>34</sup>

### **Common indicators for the ESF+ actions targeting social inclusion of the most deprived within specific objective (x) of Article 4(1), in line with the first subparagraph of Article 7(4) ESF+**

All personal data are to be broken down by gender (women, men, 'non binary'<sup>35</sup>).

#### **(1) Common output indicators related to operations targeting people:**

##### (1a) Common output indicators for participants<sup>36</sup>

- total number of participants,
- number of children below 18 years of age\*,
- number of young people aged 18-29 years\*,
- number of participants 65 years of age and above\*.

##### (1b) Other common output indicators

Data collection is only necessary when applicable and in relevant cases. Values on these indicators can be determined based on informed estimates by the beneficiary.

- participants with disabilities\*\*,
- third country nationals\*,
- number of participants with a foreign background,\* minorities (including marginalised communities such as the Roma)\*\*,
- homeless or affected by housing exclusion\*.

*[Former ANNEX III (Indicators for the Health Strand) is deleted]*

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<sup>34</sup> Data reported under the indicators marked with \* are personal data according to Article 4(1) of Regulation (EU) 2016/679. Data reported under the indicators marked with \*\* are a special category of data according to Article 9 of Regulation (EU) 2016/679.

<sup>35</sup> According to national legislation.

<sup>36</sup> Values on these estimates shall be determined based on the informed estimation by the beneficiaries.

## ANNEX III

### Common indicators for ESF+ support for addressing material deprivation

#### (1) Output indicators

(a) Total monetary value of distributed food and goods

(i) total value of the food support<sup>37</sup>;

*[point (ia) is deleted]*

(ib) total monetary value of food for the homeless;

(ic) total monetary value of food for other target groups.

(ii) total value of goods distributed<sup>38</sup>;

(iia) total monetary value of goods for children;

(iib) total monetary value of goods for the homeless;

(iic) total monetary value of goods for other target groups.

(b) Total quantity of food support distributed (tons)<sup>39</sup>

Thereof<sup>40</sup>:

(a) share of food for which only transport, distribution and storage were paid for by the programme (in %);

(b) proportion of the ESF+ co-financed food products in the total volume of food distributed the beneficiaries (in %).

#### (2) Common result indicators<sup>41</sup>

##### Number of the end recipients receiving food support

- Number of children below 18 years of age,

- Number of young people aged 18-29 years,

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<sup>37</sup> These indicators do not apply to food assistance provided indirectly through electronic vouchers or cards.

<sup>38</sup> These indicators do not apply to goods provided indirectly through electronic vouchers or cards.

<sup>39</sup> These indicators do not apply to food assistance provided indirectly through electronic vouchers or cards.

<sup>40</sup> Values on these estimates shall be determined based on the informed estimation by the beneficiaries.

<sup>41</sup> Ibid.

- Number of women,
- Number of end recipients 65 years of age and above,
- Number of end recipients with disabilities<sup>42</sup>,
- Number of third country nationals<sup>43</sup>,
- Number of end recipients with a foreign background and minorities (including marginalised communities such as the Roma)<sup>44</sup>,
- Number of homeless end recipients or end-recipients affected by housing exclusion<sup>45</sup>.

### **Number of the end recipients receiving material support**

- Number of children below 18 years of age,
- Number of young people aged 18-29 years,
- Number of women,
- Number of end recipients 65 years of age and above,
- Number of end recipients with disabilities<sup>46</sup>,
- Number of third country nationals<sup>47</sup>,
- Number of end recipients with a foreign background and minorities (including marginalised communities such as the Roma)<sup>48</sup>,
- Number of homeless end recipients or end-recipients affected by housing exclusion<sup>49</sup>.

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<sup>42</sup> National definitions may be used for this indicator.

<sup>43</sup> National definitions may be used for this indicator.

<sup>44</sup> National definitions may be used for this indicator.

<sup>45</sup> National definitions may be used for this indicator.

<sup>46</sup> National definitions may be used for this indicator.

<sup>47</sup> National definitions may be used for this indicator.

<sup>48</sup> National definitions may be used for this indicator.

<sup>49</sup> National definitions may be used for this indicator.

## Number of the end recipients benefiting from electronic vouchers/cards

- Number of children below 18 years of age,
- Number of young people aged 18-29 years,
- Number of end recipients 65 years of age and above,
- Number of women,
- Number of end recipients with disabilities<sup>50</sup>,
- Number of third country nationals<sup>51</sup>,
- Number of end recipients with a foreign background and minorities (including marginalised communities such as the Roma)<sup>52</sup>,
- Number of homeless end recipients or end recipients affected by housing exclusion<sup>53</sup>.

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<sup>50</sup> National definitions may be used for this indicator.

<sup>51</sup> National definitions may be used for this indicator.

<sup>52</sup> National definitions may be used for this indicator.

<sup>53</sup> National definitions may be used for this indicator.



## ANNEX IV

### Indicators for the Employment and Social Innovation Strand

1. Number of analytical activities
2. Number of information-sharing and mutual learning activities
3. Number of social experimentations
4. Number of capacity building and networking activities
5. Number of job placements under Targeted Mobility Schemes.

Data for the last indicator shall only be collected every other year.

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