

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

## **PART TWO**

### **COMMON PROVISIONS APPLICABLE TO THE ESI FUNDS**

#### TITLE III

#### **PROGRAMMING**

##### *CHAPTER I*

##### ***General provisions on the ESI Funds***

##### *Article 26*

##### **Preparation of programmes**

1 The ESI Funds shall be implemented through programmes in accordance with the Partnership Agreement. Each programme shall cover the period from 1 January 2014 to 31 December 2020.

2 Programmes shall be drawn up by Member States or any authority designated by them, in cooperation with the partners referred to in Article 5. Member States shall draw up the programmes based on procedures that are transparent for the public, in accordance with their institutional and legal framework.

3 The Member States and the Commission shall cooperate to ensure effective coordination in the preparation and implementation of programmes for the ESI Funds, including, where appropriate, multi-fund programmes for the Funds, taking account of the proportionality principle.

4 Programmes shall be submitted by the Member States to the Commission within three months of the submission of the Partnership Agreement. European territorial cooperation programmes shall be submitted by 22 September 2014. All programmes shall be accompanied by the ex ante evaluation as set out in Article 55.

5 Where one or more of the Fund-specific Regulations for the ESI Funds enters into force between 22 February 2014 and 22 June 2014, the programme or programmes supported by the ESI Fund affected by the delay in the entry into force of the Fund-specific Regulation shall be submitted within three months of the submission of the revised Partnership Agreement referred to in Article 17(1).

*Status: Point in time view as at 31/01/2020.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1303/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

6 Where one or more of the Fund-specific Regulations for the ESI Funds enters into force later than on 22 June 2014, the programme or programmes supported by the ESI Fund affected by the delay in the entry into force of the Fund-specific Regulation shall be submitted within three months of the date of entry into force of the Fund-specific Regulation that was subject to the delay.

## Article 27

### Content of programmes

1 Each programme shall set out a strategy for the programme's contribution to the Union strategy for smart, sustainable and inclusive growth consistent with this Regulation, the Fund-specific rules, and with the content of the Partnership Agreement.

Each programme shall include arrangements to ensure effective, efficient and coordinated implementation of the ESI Funds and actions to achieve a reduction of the administrative burden on beneficiaries.

2 Each programme shall define priorities setting out specific objectives, financial appropriations of support from the ESI Funds and corresponding national co-financing, including amounts related to the performance reserve, which may be public or private in accordance with the Fund-specific rules.

3 Where Member States and regions participate in macro-regional strategies or sea basin strategies, the relevant programme, in accordance with the needs of the programme area as identified by the Member State, shall set out the contribution of the planned interventions to those strategies.

4 Each priority shall set out indicators and corresponding targets expressed in qualitative or quantitative terms, in accordance with the Fund-specific rules, in order to assess progress in programme implementation aimed at achievement of objectives as the basis for monitoring, evaluation and review of performance. Those indicators shall include:

- a financial indicators relating to expenditure allocated;
- b output indicators relating to the operations supported;
- c result indicators relating to the priority concerned.

For each ESI Fund, the Fund-specific rules shall set out common indicators and may set out provisions related to programme-specific indicators.

5 Each programme, except those which cover exclusively technical assistance, shall include a description, in accordance with the Fund-specific rules, of the actions to take into account the principles set out in Articles 5, 7 and 8.

6 Each programme, except those where technical assistance is undertaken under a specific programme, shall set out the indicative amount of support to be used for climate change objectives, based on the methodology referred to in Article 8.

7 Member States shall draft the programme in accordance with the Fund-specific rules.

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## Article 28

### **Specific provisions on the content of programmes dedicated to joint instruments for uncapped guarantees and securitisation providing capital relief implemented by the EIB**

1 By way of derogation from Article 27, the dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) shall include:

- a the elements set out under the first subparagraph of Article 27(1), and under paragraphs 2, 3 and 4 of that Article as regards the principles set out under Article 5;
- b an identification of the bodies referred to under Articles 125, 126 and 127 of this Regulation and Article 65(2) of the EAFRD Regulation as relevant for the Fund concerned;
- c for each ex ante conditionality, established in accordance with Article 19 and Annex XI, which is applicable to the programme, an assessment of whether the ex ante conditionality is fulfilled at the date of submission of the Partnership Agreement and programme, and where ex ante conditionalities are not fulfilled, a description of the actions to fulfil the ex ante conditionality, the bodies responsible and a timetable for such actions in accordance with the summary submitted in the Partnership Agreement.

2 By way of derogation from Article 55, the ex ante assessment referred to in point (a) of the first subparagraph of Article 39(4) shall be considered as the ex ante evaluation of such programmes.

3 For the purposes of programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation, Article 6(2) and Article 59(5) and (6) of the EAFRD Regulation shall not apply. In addition to the elements referred to in paragraph 1 of this Article, only the provisions set out in points (c)(i), (f), (h), (i) and (m)(i) to (iii) of Article 8(1) of the EAFRD Regulation shall apply for programmes under the EAFRD.

## Article 29

### **Procedure for the adoption of programmes**

1 The Commission shall assess the consistency of programmes with this Regulation and with the Fund-specific rules, their effective contribution to the selected thematic objectives and to the Union priorities specific to each ESI Fund, and also the consistency with the Partnership Agreement, taking account of the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU and relevant Council recommendations adopted in accordance with Article 148(4) TFEU as well as of the ex ante evaluation. The assessment shall address, in particular, the adequacy of the programme strategy, the corresponding objectives, indicators, targets and the allocation of budgetary resources.

2 By way of derogation from paragraph 1, the Commission shall not need to assess the consistency of the dedicated operational programmes for the YEI referred to in point (a) of the second paragraph of Article 18 of the ESF Regulation and dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation with the Partnership Agreement in the absence of the submission by the Member State of its Partnership Agreement at the date of submission of such dedicated programmes.

3 The Commission shall make observations within three months of the date of submission of the programme. The Member State shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed programme.

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4 In accordance with the Fund-specific rules, the Commission shall approve each programme no later than six months following its submission by the Member State concerned, provided that any observations made by the Commission have been adequately taken into account, but not before 1 January 2014 or before adoption by the Commission of a decision approving the Partnership Agreement.

By way of derogation from the requirement referred to in the first subparagraph, programmes under the European territorial cooperation goal may be approved by the Commission before the adoption of the decision approving the Partnership Agreement and dedicated operational programmes for the YEI referred to in point (a) of the second paragraph of Article 18 of the ESF Regulation and dedicated programmes referred to in point (b) of the first subparagraph of Article 39(4) of this Regulation may be approved by the Commission before the submission of the Partnership Agreement.

### Article 30

#### Amendment of programmes

1 Requests for amendment of programmes submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on achieving the Union strategy for smart, sustainable and inclusive growth and the specific objectives defined in the programme, taking account of this Regulation and the Fund-specific rules, the horizontal principles referred to in Articles 5, 7 and 8, as well as of the Partnership Agreement. They shall be accompanied by the revised programme.

2 The Commission shall assess the information provided in accordance with paragraph 1, taking account of the justification provided by the Member State. The Commission may make observations within one month of the submission of the revised programme and the Member State shall provide to the Commission all necessary additional information. In accordance with the Fund-specific rules, the Commission shall approve requests for amendment of a programme as soon as possible but no later than three months after their submission by the Member State provided that any observations made by the Commission have been adequately taken into account.

[<sup>F1</sup>Where the amendment of a programme affects the information provided in the Partnership Agreement, the procedure set out in Article 16(4a) shall apply.]

3 By way of derogation from paragraph 2, where the request for amendment is submitted to the Commission in order to reallocate the performance reserve following the performance review, the Commission shall make observations only where it considers that the allocation proposed is not in compliance with applicable rules, is not consistent with the development needs of the Member State or the region, or entails a significant risk that the objectives and targets included in the proposal cannot be achieved. The Commission shall approve the request for amendment of a programme as soon as possible and no later than two months after the submission of the request by the Member State provided that any observations made by the Commission have been adequately taken into account. [<sup>F2</sup> The approval of the amendment of the programme by the Commission shall at the same time constitute an approval for the consequential revision of the information in the Partnership Agreement.]

4 By way of derogation from paragraph 2, specific procedures for the amendment of operational programmes may be established in the EMFF Regulation.

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### **Textual Amendments**

- F1** Substituted by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.
- F2** Deleted by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.

### *Article 31*

#### **Participation of the EIB**

1 The EIB may, at the request of Member States, participate in the preparation of the Partnership Agreement, as well as in activities relating to the preparation of operations, in particular major projects, financial instruments and PPPs.

2 The Commission may consult the EIB before the adoption of the Partnership Agreement or the programmes.

3 The Commission may request the EIB to examine the technical quality, economic and financial sustainability, and the viability of major projects and to assist it as regards the financial instruments to be implemented or developed.

4 The Commission, in implementing the provisions of this Regulation, may award grants or service contracts to the EIB covering initiatives implemented on a multi-annual basis. The commitment of the contributions of the budget of the Union in respect of such grants or service contracts shall be effected annually.

**Status:**

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