

EUROPEAN UNION COHESION POLICY 2014-2020





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EUROPEAN UNION COHESION POLICY 2014-2020

**A COMPREHENSIVE PRESENTATION OF THE LEGISLATIVE PACKAGE AND THE
ROLE OF THE EUROPEAN PARLIAMENT**

*Secretariat of the Committee on Regional Development
Directorate-General for Internal Policies
General Secretariat of the European Parliament*

United in diversity

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FOREWORD

The Interinstitutional negotiations on the European Union Cohesion policy legislative package for the 2014-2020 programming period constituted a challenge for Parliament - now a fully-fledged co-legislator on this policy area -, given its complex nature and impact. A policy aiming to promote the overall harmonious economic, social and territorial development of the Union; a policy which is at the basis of the Union's ambition of reducing disparities between the levels of development of the various regions and Member States and which is, moreover, the main supporting instrument of the strategic economic and social objectives set in the Union strategy for smart, sustainable and inclusive growth ("the EU 2020 strategy").

The EU cohesion policy, to be implemented through the newly established European Structural and Investment Funds, the ESI Funds, provides around EUR 470 billion in investment for the 2014-2020 programming period, i.e. around 40 per cent of the EU Budget for the period. This is by far the most important EU financing tool available to the EU and its Member States in order to promote smart, sustainable and inclusive growth and to contribute to the achievement of the objectives of the European cohesion policy and the Union's strategic socio-economic goals as established in the EU 2020 Strategy.

An agreement on the legal framework supporting such a significant investment and involving so many different approaches in the negotiations was expectedly difficult to achieve. This is particularly so given that there was a clear ambition in the Parliament, the Commission and many Member States to move forward, by going beyond the policy's traditional objectives into a more comprehensive and strategic overarching investment system. There was also a need to ensure greater efficiency and simplification, while providing for a more result-oriented architecture in connection with a closer alignment of the policy with the strategic economic and social goals of the Union, including by establishing the highest standards of monitoring and evaluation. Furthermore, a clear breakthrough in the development of partnership and multilevel governance as fundamental principles integral to the decision-making process in the framework of Cohesion policy was required.

Almost three years of evaluation, pre-legislative and legislative work have resulted in the adoption of the legislation by Parliament in December 2013, which is now in its first stages of implementation through the adoption of the Partnership Agreements.

For the Chair, the rapporteurs and the Secretariat of the Committee, these years of negotiations have been a permanent challenge. We have certainly been a very small team as compared to those of the other institutions involved, but Parliament was successful in defending its positions and decisions. We believe that Parliament can be fully satisfied with the results achieved and with the intensive, dedicated and fruitful work of the Chair, Danuta Huebner, the rapporteurs of the CPR, Lambert van Nistelrooij and Constanze Khrel, and the other Members of the Negotiating Teams, who have spared no efforts to reach the Interinstitutional agreements, while securing most of the Parliament's ambitions and views.

It was the wish of the Committee Secretariat to give in this book thorough account of the Interinstitutional negotiations, to provide a broad overview of the new policy architecture and to review the points and issues where Parliament made a difference. The book is structured in chapters corresponding to each of the regulations part of the legislative package, and, as far as the Common Provisions Regulation is concerned, chapter correspond to the thematic order in which the negotiations were conducted, each chapter including the main points of discussions and achievements.

The negotiation has of course been a collective effort, where the Committee Secretariat has endeavoured to provide the best possible support to the Negotiating Teams. The Parliament's Legal Service, the Directorate for Legislative Acts, the Policy Department, the Co-decision and Conciliations Unit and the Political Groups advisers, coordinated by the Committee secretariat, have closely cooperated in order to provide Members with prompt and accurate counselling, both in procedure and in substance. We believe that we have succeeded in this undertaking.

We hope that this handbook assists the new Members of Parliament, interested in EU Cohesion Policy, in knowing more about the negotiations and the major aspects of the reform, and contributes to the performance of Parliament's tasks of control and scrutiny over the implementation, which are key to ensure that the policy delivers as required.

Miguel Tell Cremades
Head of the Committee Secretariat.

1. Overview of legislative process

The purpose of this book¹ is to provide a comprehensive overview of the process and outcome of the interinstitutional negotiations on the legislative package for cohesion policy for the 2014-2020 programming period.

The legislative process resulting in the regulations governing the 2014-2020 programming period has been distinctive because of several new elements:

- With the entry into force of the Treaty of Lisbon, all regulations constituting the legislative framework of cohesion policy must be adopted under the ordinary legislative procedure, thus making Parliament a fully-fledged co-legislator with the Council;
- Parliament embarked on unprecedented pre-legislative work, carrying out intense preparations with the Commission, the Union's advisory bodies and stakeholders;
- The Commission's legislative proposals put forward a framework proposing a different philosophy for cohesion policy, by expanding the scope of the general regulation of the Funds to become an 'umbrella regulation', setting common rules for five Funds, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Maritime and Fisheries Fund (EMFF), and the European Agricultural Fund for Regional Development (EAFRD)². This gave rise to a new situation as regards Parliament's procedures, whereby the Common Provisions Regulation (CPR) affects fund-specific files falling under the remit of several of Parliament's committees, in particular the Committees on Employment and Social Affairs, Agriculture and Rural Development, and Fisheries, thereby demanding greater collaboration between the parliamentary committees;
- Parliament was, for the first time, able to give its consent to the multiannual financial framework (MFF), and it decided to establish a political link between its consent and the finalisation of the reform of the policies with a strong financial component.

Pre-legislative work

The Committee on Regional Development (REGI), as the lead committee responsible for the EU's cohesion policy³, carried out substantial pre-legislative work before the publication of the Commission proposals in October 2011.

¹ This book has been drafted by the Secretariat of the Committee on Regional Development of the European Parliament. It does not in any way necessarily reflect the views or positions of the institutions of the European Union.

² See details in Chapter 2.1 on Structure.

³ The Committee on Regional development is – as established under Annex VII of Parliament's Rules of Procedure – the committee responsible for regional and cohesion policy and, in particular, the instruments (with the exception of the ESF) of the Union's regional policy, the coordination of these structural instruments and the assessment of the impact of other Union policies on economic, territorial and social cohesion. It is also responsible for urban issues and Parliament's relations with the Committee of the Regions, and local and regional organisations.

The pre-legislative work was conducted as usual through debates in committee, public hearings, exchanges of views with commissioners responsible for cohesion policy, oral questions, non-legislative reports and debates in plenary.

The process included, notably, the creation of the Working Party on the Future of Cohesion Policy (WPoFCP). This important working party consisted of REGI members appointed by each political group – in most cases the coordinators themselves – and chaired by the committee chair⁴. Of course, the adoption by Parliament of several resolutions and own-initiative reports formed an important part of this pre-legislative period.

The establishment of the WPoFCP was decided upon by REGI at its meeting of 3-4 November 2009, so as to create an informal platform with consistent preparatory capacities, but leaving all decision-related powers to the REGI Committee. The working party met regularly and the members debated their views on diverse aspects of policy implementation and potential changes to the future legislative framework. Officials and experts from DG REGIO and the various stakeholders and representatives from the advisory bodies and regional organisations were invited to the WPoFCP meetings. These debates focused initially on the work of the meeting of the High Level Group Reflecting on Future Cohesion Policy⁵, on which the Director-General of DG REGIO, Dirk Ahner, also reported regularly to REGI members in the form of a letter. External experts were invited on different occasions to debate the future of the policy, and DG REGIO experts were asked to provide increasingly detailed insight into specific aspects, such as the urban dimension, simplification, financial management, links to financial regulation, and other aspects of the policy. Once the Commission proposal on the legislative package was adopted, this forum also served the purpose of coordinating rapporteurs to discuss horizontal issues, and facilitating cooperation with the rapporteurs of relevant files in other committees (such as the cooperation with the CONT and BUDG Committees on the financial regulation, and that with the EMPL, AGRI and PECH Committees on the ESF, the EAFRD and the EMFF).

The WPoFCP reported back to the committee on a regular basis. As a concrete result of its work, an informal position paper was drawn up and endorsed at its meeting of 13 July 2010 following several debates by REGI consisting of a non-exhaustive list of points reflecting the committee's position on the future cohesion policy post-2013.

The adoption of this paper was followed by an oral question in plenary addressed to the Commission and the Council, and a draft motion for a resolution on EU cohesion and regional policy after 2013 was tabled by the chair on behalf of the committee, and adopted in the plenary meeting of 7 October 2010⁶ by a very large majority.

The key points contained in Parliament's resolution were that:

- Cohesion policy should be implemented throughout the entire territory of the Union, embracing all regions;

⁴ See Annex 1 for the list of members of the working party and the number of meetings.

⁵ The High Level Group Reflecting on Future Cohesion Policy (HLG) was established by the Commission, and announced during the meeting of 23-24 April 2009 of the Ministers responsible for cohesion policy in Mariánské Lázně, Czech Republic.

⁶ OJ C 271 E, 20.12.2011, p. 39.

- Although cohesion policy is indispensable for the implementation of the EU 2020 strategy, it should remain an independent policy pursuing its Treaty-based objectives;
- Renationalisation of the policy is to be rejected, while the territorial dimension should be enhanced;
- A more focused approach towards the urban dimension is necessary;
- Principles such as multi-level governance, partnership, transparency, and subsidiarity are fundamental, and that an integrated approach should be strengthened;
- Territorial cooperation should be enhanced;
- Spending should be concentrated on the core priorities of European added value;
- There should be a simple, fair and transparent transition regime for regions concerned;
- GDP should remain the main criterion for determining eligibility;
- The ESF should remain part of the policy and that better coordination with rural development is necessary;
- Cohesion policy and its delivery system should be more results-oriented and should aim at increased efficiency and effectiveness;
- Continuing simplification of policy implementation at EU, national and regional level should be pursued while maintaining good financial management;
- The use of financial engineering instruments should be increased;
- Member States should make greater use of the technical assistance resources available to them to enhance the capacities of local and regional authorities and other stakeholders;
- The Commission's role in management and policy design should also be enhanced.

The Commission's reaction to Parliament's position was very positive and showed, for the first time in public, that Parliament and the Commission had a very similar approach to the main lines of the reform.

The most relevant aspect of the pre-legislative work came with the Committee's decision to draw up a set of own-initiative (INI) reports, with the main INI being that on the Commission's 5th Cohesion Report and the strategy for the post-2013 Cohesion Policy (rapporteur: Markus Pieper). The drafting of this set of reports took almost a year and it helped enormously in bringing closer the positions of Parliament and the Commission. Work with the Council presidencies of the time – notably those of Poland and Denmark – was also of particular relevance.

A joint plenary debate took place on EU's cohesion policy post-2013 on 23 June 2011 in Brussels involving five non-legislative reports⁷ tabled by REGI.

Parliament's key resolution as regards the future policy was based on the 'Pieper report' and was adopted in the plenary meeting of 5 July 2011⁸. This resolution represented a detailed and

⁷ The five INI reports are as follows: the aforementioned report on the Commission's 5th Cohesion Report and the strategy for post-2013 cohesion policy; on the Report 2010 on the implementation of cohesion policy programmes for 2007-2013 (rapporteur: Miroslav Mikolášik); on European Urban Agenda and its Future in Cohesion Policy (rapporteur: Oldřich Vlasák); on Objective 3: a challenge for territorial cooperation – the future agenda for cross-border, transnational and interregional cooperation (rapporteur: Marie-Thérèse Sanchez-Schmid); and on the state of play and future synergies for increased effectiveness between the ERDF and other Structural Funds (rapporteur: Georgios Stavrakakis).

⁸ OJ C 33 E, 5.2.2013, p. 21.

thorough political reaction by Parliament to the 'Fifth report on economic, social and territorial cohesion: the future of cohesion policy and its conclusions'. It repeated and synthesised key elements of its position on the future architecture of cohesion policy, and therefore, by means of thorough debate, it created a strong conceptual basis for the upcoming legislative work.

The key points contained in the resolution on 5th Cohesion Report and the strategy for the post-2013 Cohesion Policy, which also feature in the legislative package currently in force, are that:

- Parliament rejected the sectorialisation of the policy;
- The partnership principle should be further strengthened;
- Cohesion policy must cover all regions of the Union, and that special forms of preference should continue to apply in respect of regions that are particularly disadvantaged;
- The policy should continue to focus on those regions lagging furthest behind, with transitional assistance to be provided for regions no longer coming under the convergence objective;
- European territorial cooperation should be enhanced, and that European groupings of territorial cooperation (EGTCs) should play a role in cross-border cooperation;
- Parliament endorsed macro-regional strategies, highlighting the need for greater synergy between actions under macroregional strategies and the territorial cooperation objective;
- The urban dimension of cohesion policy should be further developed;
- Basic infrastructure should continue to receive support from the policy;
- GDP must be retained as the key criterion in the definition of areas eligible for maximum support, but that additional indicators could be used to assess the social, economic, environmental, demographic and geographical challenges;
- Parliament was in favour of greater synergies and better coordination of cohesion policy with sectoral policies, and of the idea of a common strategic framework for the ERDF, the ESF, the Cohesion Fund, the framework programmes, the EAFRD and the European Fisheries Fund (EFF), to be adopted under the ordinary legislative procedure;
- Parliament welcomed the development and investment partnership contracts between the EU and the Member States, with key investment priorities geared at the Europe 2020 strategy and the achievement of other Cohesion Policy objectives already set at this stage;
- Operational programmes should be retained as the most important tool for implementing strategy papers;
- There should be a clear commitment to the appropriate involvement of partners in the development and investment partnership contracts, and furthermore that the involvement of regional and local authorities and associations thereof in all phases of policy implementation should be mandatory;
- Parliament supported the system of thematic priorities, adding that the lower the level of development, the more wide-ranging the list of priorities needs to be;
- Parliament also supported the idea of introducing conditionalities to the policy architecture that are predetermined in a dialogue between the Commission and the Member States;
- The ex-ante establishment of appropriate objectives and indicators was endorsed, and that such indicators must be few in number, clearly defined, measurable and directly related to the impact of the funding;
- The percentage ceiling for co-financing is to be reviewed;
- There should be clear provisions ruling out the granting of any EU funding for the relocation of undertakings within the Union, and placing a 10-year limit on the duration of operations;

- Parliament endorsed and encouraged the use of revolving financial instruments that are to be extended to those areas eligible for funding which prove to be appropriate;
- Greater emphasis is to be placed on self-supporting public-private partnerships;
- Global grants were endorsed, but that quotas and obligations should not be applied in this context;
- The system of seven-year programming periods should be retained, and that cohesion policy should have its own heading within the EU budget;
- Member States and/or public authorities are to designate authorities or entities that will assume exclusive responsibility for the proper administration of Structural Funds;
- The inspection system should be simplified and the number of inspection levels reduced, while clarifying the respective responsibilities of the Commission and the Member States;
- A more general application of standardised procedures was called for, to include higher standardised units of cost and the declaration of overheads on a flat-rate basis where appropriate, and furthermore that greater account should be taken of the principle of proportionality in reporting and auditing requirements;
- There is a need for more efficient e-government solutions (such as harmonised forms) for the entire implementation and monitoring system;
- National authorities should not receive reimbursement until EU funding has been paid out to the beneficiaries.

Legislative work

The publication and presentation of 6 October 2011 of the Commission's proposals on the cohesion policy legislative package to Parliament and the Council heralded very busy times for REGI, with the focus naturally shifting towards legislative work. Here, three distinct phases can be identified: preparation of the negotiating mandate; interinstitutional negotiations with the Council and the Commission (trilogues); and the adoption of agreed texts in committee and plenary.

Following a decision taken by coordinators, the rapporteurs of the legislative package were appointed by REGI at its meeting of 11 July 2011. In light of the major political and budgetary significance of the issues at hand, it was decided, exceptionally, to propose to the Conference of Presidents to allow the appointment of two rapporteurs – from the S&D and EPP groups⁹ – for the Common Provisions Regulation.

Mandate phase: 6 October 2011 to 11 July 2012 and 27 November 2012

The preparation of the negotiation mandate in REGI followed Rule 70 of the Rules of Procedure in force at that time, which certainly gave a great deal of freedom to the committee in choosing its strategy, as compared with the current Rules of Procedure. The committee decided that following thorough debate in committee, the negotiation mandates would be adopted in the form of amendments without, however, the final report being voted in REGI. This allowed for flexibility in updating the mandate and in re-consulting the committee throughout the procedure. The WPoFCP and the rapporteurs also held regular debates on strategic possibilities, so as to present the reports in plenary in time for the legislation to be implemented as from January 2014. Initially, the negotiating teams did not want to exclude any options, even if the

⁹ At its meeting of 7 September 2011 the Conference of Presidents authorised the request made by REGI.

intention was to have just one reading, pending the Council's approval. The likelihood of achieving a quick first reading, clarifying Parliament's positions and without the full agreement of the Council was almost entirely ruled out once the Conference of Presidents linked the negotiations related to specific policy areas to the agreement on the MFF. Nevertheless, the possibility of a first reading without reaching complete agreement with the Council was discussed several times in the later stages of the negotiations, with serious consideration being given to the idea at least once.

The CPR negotiations led the negotiations on the legislative package for the EU's cohesion policy and they also determined all of the other files, not only because of the horizontal nature of the CPR but because it is a legal instrument which covers almost every aspect of the other Funds, excluding only the most specific provisions applicable to the individual Funds, which are set out in the Fund-specific Regulations.

Eleven of Parliament's committees decided to issue an opinion on the CPR mandate of the Committee on Regional Development (REGI). Given the strong synergies developed among Structural Funds, and the umbrella nature of the CPR, cooperation between committees was by no means problem-free, in particular in the cases of the Committee on Transport and Tourism (TRAN), regarding the Connecting Europe Facility¹⁰, and the Committee on Employment and Social Affairs (EMPL), which was the leading committee for the ESF. The working relationship between the Committee on Agriculture and Rural Development (AGRI) and the Committee on Fisheries (PECH) was uncontroversial, with both committees fully accepting REGI's lead on the horizontal aspects of the policy.

EMPL chose a different path, insisting that it be granted exclusive competence for many of the CPR's provisions and requesting that the procedure with joint committee meetings, established under Rule 51 of the Rules of Procedure, be initiated. The EMPL Committee also requested at a later stage that it be granted alternate joint competence on several of the CPR provisions.

The Conference of Committee Chairs (CCC) rejected both requests, upholding REGI's position that the CPR was a cross-cutting regulation which cannot be divided into parts, and that REGI holds exclusive coordinating competences on the Structural Funds¹¹.

At the end of a lengthy and time-consuming debate on competences, the Conference of Presidents (CoP), in a Solomonic decision, granted shared competence to EMPL for Article 81 onwards of the CPR proposal. Although REGI did not agree, it accepted the decision while at the same time expressing its reservations and without accepting it as a precedent for future decisions on the CPR. This view was conveyed by the chair of REGI to the chair of the Conference of Committee Chairs on 8 June 2012. Once the differences as regards competences were overcome collaboration between the two committees was, although at times difficult, exemplary.

The situation was yet again challenged by EMPL upon modification of the original Commission proposal in March 2013, when elements pertaining to the Youth Employment Initiative (YEI) were added to the CPR. EMPL requested exclusive competence for the new elements, including

¹⁰ For details on the Connecting Europe Facility, see Chapters 4.2 and 4.3.

¹¹ EMPL requested on several occasions during the seventh legislature that it be made the associated committee on the general regulation and later again on the CPR, but its requests were always dismissed by the CCC and the CoP. CONT also requested that it be made the associated committee on several provisions of the CPR, but its request was dismissed by the CCC.

the entire Annex IIIter to the proposal. Again, this request was rejected and in his letter of 16 April 2013, President Schulz dismissed EMPL's request for exclusive competence for any part of the CPR, and reiterated the earlier decision on shared competence, as explained above. Furthermore, President Schulz's letter pointed out that 'assurances have been given that the REGI Committee will follow the position of the EMPL Committee as regards the elements contained in the new Annex IIIter to the CPR proposal, including in the context of inter-institutional negotiations'.

It is perhaps worthwhile mentioning that conflicts of competences between Parliament's committees are not an unusual occurrence. As can be imagined, the reason for such conflicts is mostly political and they are difficult to avoid, given that the division of competences under the Rules of Procedure cannot ever be completely free from ambiguities or overlap. The committees have and develop particular political, thematic and sectoral priorities, and these priorities can influence the perspective from which legislation is examined, hence the importance of certain committees leading negotiations on particular subjects.

The legislative work¹² in REGI started immediately upon publication of the proposals for the package, and for more than two and a half years (from October 2011 to December 2013), debates on the package or on the individual regulations were held at each and every REGI meeting, with analysis of the proposal beginning with informal papers presenting the preliminary considerations of the rapporteurs which evolved into more precise working documents and finally draft reports, before the opportunity was afforded to all REGI members to table amendments. Cooperation with the Union's advisory bodies – the Committee of the Regions and the Economic and Social Committee – and the Court of Auditors was close, and included informal exchanges at staff and political level, the transmission of adopted opinions, the presentation of opinions and the holding of debates in REGI. The work of the rapporteurs which led to the final draft reports also included extensive stakeholder consultation through meetings, the analysis of written input, and public hearings.

Once the draft reports on the negotiating mandates had been finalised, the amendment phase in committee began. Despite all the preparatory work (which also sought to limit the number of amendments tabled) a total of 3 096 amendments were received on the whole package, with 2 026 relating to the CPR alone, and including Parliament's own text on the Common Strategic Framework (CSF)¹³. The opinions received from other committees accounted for a total of 781 amendments, from which 420 related to the CPR alone.

Following the methodical and comprehensive analysis of the amendments, and the even-more-exhaustive negotiations on compromise amendments between rapporteurs and shadow rapporteurs, the vote on the negotiating mandate for all draft regulations took place on 11 July 2012¹⁴. The vote lasted nearly six hours, and led to the adoption of 86 compromises and a total of 304 amendments. Following the vote on the amendments, the committee voted them as the basis for the interinstitutional negotiations, and voted on the composition of the negotiating teams for each regulation.

The process was marked by several procedural and substantial challenges, for example:

¹² See Annex 3 on key events.

¹³ See details on the CSF in Chapter 2.4.

¹⁴ The voting list for the CPR alone accounted for 399 pages.

Given that the Commission's CPR proposal proposed the adoption of the CSF as a delegated act, to which Parliament was strongly opposed, the process leading to the adoption of the CSF as an amendment to the basic act, to be included as part of the basic act, deserves special attention, and it is described in detail in Chapter 2.4 on the CSF.

Also, as many as four amending proposals on the CPR were presented by the Commission throughout the legislative procedure. This proved to be an added difficulty, not only politically but also procedurally and in terms of organisation, in particular when the changes came at an advanced stage in the negotiation process where they had almost been finalised.

As regards the CPR, the first modification thereto, which took place in March 2012¹⁵, was merely a corrigendum, but it was followed by three significant modifications. The amending proposal of September 2012¹⁶ included, as a result of extensive negotiations, the CSF as an annex to the CPR proposal. The amending proposal of March 2013¹⁷ followed up on the MFF with regard to the European Council decision to establish the Youth Employment Initiative, and the final amending proposal of April 2013¹⁸ represented a reaction to the developments in the debate linked to the EMFF. Apart from introducing new provisions linked to the EMFF, the final provision also changed the structure of the CPR by modifying the scope of its constituent parts¹⁹.

Finally, it must be noted that the interinstitutional negotiations of the post-2013 EU cohesion reform commenced and progressed in parallel with the negotiations on the Financial Regulation (FR), which had yet to be concluded. During negotiations on the FR, subjects such as accreditation and rolling closure were overridden and replaced by new systems (e.g. designation), which resulted in the need to adapt CPR provisions. Following several delays, the 'new' FR was adopted in October 2012²⁰, but with the consequence that the REGI negotiation mandate had to be adopted in two phases: first at the vote in July 2012, which did not include the articles directly linked to the FR, with these being adopted later on in November 2012.

Interinstitutional negotiations: July 2012 to November 2013

Interinstitutional negotiations between the legislators and the Commission were conducted in the form of tripartite meetings, called trilogues²¹. The trilogues began in July 2012 and ended in

¹⁵ COM(2011)0615.

¹⁶ COM(2012)0496.

¹⁷ COM(2013)0146.

¹⁸ COM(2013)0246.

¹⁹ See details on the structure of the CPR in Chapter 2.1.

²⁰ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

²¹ The practical arrangements for the implementation of the Treaty on the Functioning of the European Union, together with the Rules of Procedure governing Parliament and the Council, are set out in the joint declaration on practical arrangements for the codecision procedure (OJ C 145, 30.06.2007, p. 5). Trilogues are usually conducted in an informal framework (there are no official recordings) and at different levels of representation, depending of the nature of the discussion at hand. During the negotiations for the 2014-2020 legislative package, Parliament was always represented by its negotiating team, while the Council was usually represented by the presidency official who chaired the Structural Actions Working Party. At

November 2013, with the Fund-specific Regulations and the EGTC being concluded in July 2013. Three presidencies were involved directly in the negotiations, namely those of Cyprus, Ireland, and Lithuania. Representing the Commission, the Directorate-General for Regional Policy, acted as *chef de file* in the negotiations, but owing to the horizontal nature of the CPR and the package's interconnections with other Union instruments, several other Commission directorates-general (DG EMPL, DG BUDG, DG MARE, DG AGRI, and DG ECFIN) were present in a number of the trilogues. Parliament's negotiating teams were headed by the REGI chair, and consisted of the rapporteurs and shadow rapporteurs, and in the case of the CPR they also included a draftsman from the EMPL Committee, as provided for under Rule 50 of the Rules of Procedure²².

In total 108 trilogues took place²³, which were complemented by numerous technical meetings or technical trilogues organised by the REGI secretariat²⁴. The trilogues were usually preceded by a meeting of the relevant negotiating team, where positions and Parliament's reactions to other institutions proposals (such as the Commission's 'to-dos') were decided upon following the proposals by the rapporteurs'. Preparatory work was always ongoing in between trilogues and technical meetings.

Aside from the meetings, a great deal of work was done via written procedures, internally through procedures launched by the committee secretariat to gather the views of political groups on compromise proposals by the Commission, on input received from the incumbent presidency, and on the rapporteurs' proposals.

In the case of the CPR, the negotiations were conducted following thematic blocks²⁵, with the articles of the Commission proposals being categorised into coherent groups, and with each four-column table²⁶ including the positions adopted by each institution.

Towards the end of the legislative procedure, as late as September 2013, new relevant texts were produced by the Commission with regard to crisis measures and the so-called SME initiative²⁷, and as a result some of the blocks that had already been closed had to be reopened to draft and make adjustments, and correct mistakes. Aside from these new texts, the

their conclusion, the negotiations were headed by the ambassador or even the minister responsible. The Deputy-Director for Regional Policy usually led the Commission's team, with the commissioner himself participating at certain times.

²² See Annex 2 on the composition of the negotiating teams and on the list of EU officials involved in the negotiations.

²³ CPR: 74 trilogues; ERDF: 13 trilogues; Cohesion Fund: 3 trilogues; European territorial cooperation (ETC): 15 trilogues; EGTC: 3 trilogues (see Annex 4). Trilogues usually last three hours, and meetings of the negotiating teams, which precede trilogues, last thirty minutes. Many of these trilogues were held over two sessions, meaning that they lasted six or seven hours.

²⁴ Technical meetings are tripartite meetings with participants from the Commission, the Council and Parliament without the attendance of MEPs. It was up to each institution to decide on the list of staff and/or experts to attend, depending on the specific agenda of such meetings. Representing Parliament were participants from the Secretariat and political advisers. Technical meetings usually followed up on and prepared for trilogues, but it was only in trilogues, where the political level was represented, that decisions could be taken. In many cases the bulk of the actual drafting of texts was finalised by means of technical meetings (as in the cases of the EAC annexes, the SME initiative, the annex to the CSF, and recitals).

²⁵ See Annex 5 on Thematic blocks.

²⁶ The four-column table is the main document in trilogues, as it reflects the positions of the three institutions and the possible agreement in the fourth column.

²⁷ For further details, see Chapter 2.11 on Financial Instruments.

modifications brought about by April 2012 amending the Commission proposal on the EMFF posed challenges until the very end for negotiators, who tried to align texts that had already been agreed under the framework of the CPR, and who tried to coordinate the CPR negotiation process with negotiations on the EMFF regulation.

It must be pointed out that the MFF negotiations have influenced EU cohesion negotiations both strategically and in terms of substance, although their influence on the substance of EU cohesion negotiations has been much less than that exerted on other policies. Cohesion policy constitutes the major investment block of the MFF, and the MFF had several implications on the design and financing of the policy. In this respect, it is necessary to highlight the fact that from very early on in the procedure the REGI Committee impressed upon the negotiators and Parliament, that a major gap existed as regards the procedure to be followed, which would require different strategies²⁸.

REGI stressed from the beginning²⁹ that the adoption of the legislative package for cohesion policy was conditional upon the adoption of the MFF Regulation, only as far as amounts were concerned. Any other matter related to policy design and which did not pertain exclusively to amounts and categories of expenditure was to be dealt with by the competent committees in the framework of the ordinary legislative procedure. REGI therefore agreed that the co-legislators were to proceed with the ordinary legislative procedure while excluding the financial provisions and amounts, which were to be inserted at the final stage once the MFF Regulation was agreed upon. In fact, REGI made it very clear after the European Council of 7-8 February 2013 that the MFF Regulation should determine only the amounts of the annual ceilings. REGI was the first committee to stress that the conclusions of the European Council served merely as political guidance or instructions addressed to the Council, and that they could not be viewed as binding upon Parliament or restricting the exercise of its prerogatives as regards the ordinary legislative procedure. This position was adopted by Parliament in its resolutions on the MFF, notably that of 13 March 2013.

The above-mentioned European Council included in many of its conclusion issues pertaining to the competences of the co-legislators, such as: macroeconomic conditionality, the Connecting Europe Facility, the performance reserve, and co-financing rates, etc. Parliament's negotiating teams did not believe themselves to be bound by these conclusions, and they denounced the European Council's intervention in legislative matters. It must be pointed out that the European Council's detailed position on very specific points of the EU's cohesion policy, which clearly pertain to the legislative sphere, made the negotiations more difficult as the Council felt compelled to follow the line established by the orders of its superiors.

As regards the amounts foreseen for the policy, REGI's position, upheld by Parliament, was always to denounce cuts to the policy, believing that at the very least the levels of funding available for the 2007-2013 programming period should be maintained. Although the amounts finally agreed represent cuts, the committee felt that the level of funding agreed upon would

²⁸ Parliament gave its consent to the draft Council regulation laying down the multiannual financial framework for the years 2014-2020 on 19 November 2013. The final act was adopted by the Council on 3 December 2013 and published in the Official Journal on 20 December 2013 (OJ L 347, 20.12.2013, p. 884).

²⁹ The chair of the REGI Committee participated in the MFF Contact Group, which was the ad hoc parliamentary body responsible for coordinating actions on the MFF. The group was chaired by the President of the European Parliament, and it gathered together the Chairs of the BUDG, CONT, REGI and EMPL Committees, and other relevant committees with an interest in the MFF.

essentially allow for the policy's proposed structure and priorities to be maintained.

Finally, it is worth mentioning, in connection with the MFF negotiations, Parliament's position contained in its resolution of 3 July 2013, which was maintained throughout the whole process, and in which Parliament set out several conditions before giving its consent to the MFF, namely that 'a political agreement on the sectoral files [must be] reached'. This political link that Parliament decided to make between the MFF Regulation and the achievement of an agreement on sectorial policies was the subject of much debate and it placed considerable pressure on Parliament's negotiators.

Conclusion of the negotiations and adoption of agreed texts in plenary

Trilogues on the Fund-specific Regulations and the EGTC were concluded by 27 May 2013, allowing for the agreements to be voted by REGI on 10 July 2013 and tabled in the form of committee reports to plenary as first-reading agreements under the ordinary legislative procedure.

In the case of the CPR things were much more complicated, and even at the final vote there was a great deal of discussion within the negotiating team on whether or not Parliament should go ahead with a first reading without having reached complete agreement. There were several risks associated with this approach, given that negotiations were usually conducted according to the principle that 'nothing is agreed until everything is agreed'.

Therefore, the CPR report that was voted on 10 July 2013 did not represent full agreement, and heated negotiations on several thematic blocks continued after July. It was only on 23 October 2013 that the final political trilogue took place in Strasbourg.

One of the main obstacles encountered in the later stages was Article 23 on the measures linking the effectiveness of ESI Funds to sound economic governance³⁰, which was considered to be of such importance as to merit the inclusion of a thematic block of its own. The challenge linked to this block was that the approaches adopted by Parliament and the Council (and the Commission) differed widely. The amendment put forward by Parliament deleted the article in its entirety, whereas the Council proposed a method that was even more detailed than that put forward by the Commission. Therefore, the co-legislators expected difficult negotiations from the very beginning.

Given this background and the need to prepare the negotiations properly, Parliament's negotiating team, following proposals by the rapporteurs and the REGI chair, and with the active involvement of the REGI secretariat, the Conciliations and Codecision Unit and Parliament's Legal Service, prepared for scenarios that were considered to be non-negotiable, such as Parliament's further involvement in the process launching the measures and limiting the scope of the article to an extent larger than that which had initially been anticipated, by considering additional elements that could affect macroeconomic stability. The Commission closely followed the debate and provided several versions of possible compromises, while never giving up on the idea that such conditionality brought great benefits.

The negotiations on this last block began in September 2013, owing to the fact that the Council's position was only made available at the end of July 2013. Given the political

³⁰ Former Article 21 on Macroeconomic conditionality.

importance of the issue, both the Commissioner and the Lithuanian Ambassador often participated in the trilogues. In the later stages of the negotiations, where more than 95 % of the package had already been agreed, the issues outstanding proved to be very difficult and highly political, and were regrouped in a new thematic block called ‘outstanding political issues’, which gathered together macroeconomic conditionality, co-financing rates, pre-financing and the performance reserve. The compromise which proved most difficult to achieve was that on macroeconomic conditionality, and given the conflicting positions of the two co-legislators on the matter, trilogues were held up to 23 October 2013.

At that time, the regulation had already been the subject of trilogues for more than one year, and there was increasing pressure as regards time, given that the CPR was to enter into force on 1 January 2014. Pressure also came from many sides in Parliament, as a result of consent on the MFF Regulation having been linked to several policy areas. Negotiations in the REGI Committee represented the final major obstacle.

All but one of the blocks had already been agreed, but in the autumn of 2013, the final agreement on the key regulation was blocked by a topic that the negotiating team understood as not being directly linked to the core of the policy. A high-level trilogue was convened in Strasbourg on Wednesday 23 October 2013. Beginning at 16.00, and without an end time having been set, sustained discussions were held for four hours, with all sides highly determined to find a compromise. Shortly after 20.00 all the sides asked for a break, and an informal discussion took place in the chair’s office. This meeting was supposed to last just a few minutes but it took over two hours. The trilogue resumed at about 23.00 and continued for another two hours. At 01.00 a principle of agreement was reached. The trilogue concluded with the achievement of an agreement on the SME initiative, and after 01.00 the three secretariats began drafting the text of Article 23, as finally agreed during the meeting, with the work thereon finishing in the dawn of 24 October.

All sides involved in the trilogue were now ready to celebrate the achievement of an agreement, considering the fact that the final settlement was close. However, in the days following the final trilogue it became clear that there was no common understanding of the final wording of the final subparagraph of Article 23, paragraph 9, concerning the suspension of payments. Parliament considered that the suspension of payments would occur in cases of ‘persistent non-compliance’. The Council rejected the addition of the word ‘persistent’ to the four-column table³¹, claiming that the document drafted on the night of the last trilogue constituted the wording of the agreement. Parliament’s negotiating team insisted that the political agreement reached included the notion of ‘persistent’. The entire agreement was now at risk of being rejected.

The presidency showed willingness to find a solution, but the situation in the Council proved to be challenging as several delegates believed that too many ‘concessions’ had been made.

At this impasse, the remaining texts (recitals, the drafting of which was pending and which were necessary so as to provide for consistency throughout the regulation) were finalised during a final technical trilogue on 4 November 2013, with several statements³² (‘declarations’) still

³¹ As a result of the negotiations ‘having being held late at night, the document drafted at that time did not include this wording.

³² Statements here are declarations that were made throughout the negotiating process, either unilaterally by one institution (mainly the Commission, and on certain occasions the Council) or jointly by several institutions. The statements were reviewed and some were prepared for publication in the Official Journal

being linked to the finalisation of the agreements after that date.

While there was still no agreement from the Council, the overall agreement on the CPR, including on the word 'persistent', was endorsed by a large majority in REGI at its extraordinary meeting of the 7 November 2013.

In the meantime, two Coreper meetings took place and a new compromise proposal was presented by the presidency to replace 'persistent' with 'significant'. Parliament's negotiating team considered that its position had been preserved in this proposal, and so the final agreement on Article 23 was reached. In order to endorse the final and complete agreement, it was necessary to schedule another REGI meeting for the evening of 18 November 2013 in Strasbourg. During this meeting, the REGI Committee looked into the replacement of the word 'persistent' with 'significant' and, in this connection, it sought to correct the text reflecting the outcome of the interinstitutional negotiations, as had been voted at the REGI meeting of 7 November. The committee agreed on this change with 27 votes in favour, 5 against and 1 abstention.

A joint debate in plenary on Cohesion, Regional Development and Social Funds was held on 19 November 2013. The political vote on the entire cohesion package took place on 20 November 2013, with a sufficient majority endorsing the agreement that had been reached in the interinstitutional negotiations and approving a single-reading agreement. The final and complete approval of the package took place during the December 2013 plenary part-session when all of the language versions were approved³³.

It is necessary to give a brief overview of the verification carried out by the lawyer linguists, whose work saw an enormous effort and a great deal of coordination on the part of the lawyer-linguist services in Parliament and the Council. The legal-linguistic verification of the package took an unusual path as a result of the delays in reaching final agreements, and the volume of text that had to be finalised in all official languages, not to mention the innumerable cross-references and linguistic-technical harmonisation that were necessary within the different regulations of the cohesion package, and across other policy areas such as Horizon 2020, fisheries, and rural development, etc.. As early as the end of summer 2013, the texts that had already been agreed were used as a basis for building the first consolidated version of the regulations (in the case of the CPR, approximately 70 % of the texts were agreed at that stage). Once the consolidated versions were available, verification began in close cooperation with the REGI secretariat.

In the case of the CPR, it was a constant challenge to ensure that the agreement reached in trilogues and confirmed by the Council at Coreper level, reflected in the four-column tables, was integrated properly into the ever-evolving consolidated text, and that the new drafts of the consolidated texts were then sent for verification. The agreements having being drafted in English, whenever the consolidated text in English was updated considerably, translations had to be requested and other language versions verified as well, which created an ongoing cycle of update-verification-translation, with the REGI secretariat constantly making sure that the agreements had been properly adapted to the consolidated text.

either together with the respective regulation (L-series), or as a separate list of statements (C-series). Both co-legislators decided upon their own list of statements.

³³ The package followed Rule 216 (corrigenda) of the Rules of Procedure.

Upon review of the English version by Parliament's services, which acted as *chef de file* for the cohesion package in terms of verification and translation, counterparts in the Council also received the texts for review, being obliged to sending them to national experts. The Commission was also involved in the final steps of the linguistic review. The process was closed, as is custom, by a pre-meeting between the three institutions, followed by the so-called expert meetings, where Member State experts (colleagues who also usually also participate in the work of the Structural Actions Working Party) could express their views on the revision and highlight mistakes. Written procedures were followed throughout this stage, often involving the presidency and the rapporteurs/negotiating teams.

The regulations, together with the related statements, were published on 20 December 2013 in the Official Journal, and, as stipulated in the text, entered into force the day after their publication³⁴.

Non-legislative acts in the implementation phase

Adoption of related non-legislative acts

After the adoption of the legislative package the Commission began to transmit to Parliament and the Council acts and measures³⁵ in the framework of the exercise of its delegated and implementing powers, as provided for in each of the regulations that form part of the cohesion package.

The general rules of relevance to the procedures that are applicable to delegated and implementing acts are laid down in each of the regulations in the legislative package³⁶:

- CPR: Article 149 (delegated acts) and Article 150 (implementing acts);
- ERDF: Article 14 (delegated acts);
- European Territorial Cooperation (ECT): Article 29 (delegated acts) and Article 150 of the CPR (implementing acts);
- Cohesion Fund: Article 7 (delegated acts);
- EGTC: Article 17a (delegated acts).

Delegated acts

Delegated acts are non-legislative acts of general application, which are intended to amend or supplement certain non-essential elements of a legislative act. In the case of the legislative package on cohesion policy, Parliament has the option of assessing the act or measure and objecting to it within the deadline of two months from the date of reception by Parliament of the act in all official languages, which can be extended by two months at the initiative of Parliament or the Council (the same deadlines apply to all delegated acts provided for in the entire legislative package). The legislator may object to the act on any grounds. The delegated act may enter into force only if no objection has been raised by Parliament or the Council within the deadline set

³⁴ Regulation (EU) No 1299/2013 (OJ L 347, 20.12.2013, p. 259); Regulation (EU) No 1300/2013 (OJ L 347, 20.12.2013, p. 281); Regulation (EU) No 1301/2013 (OJ L 347, 20.12.2013, p. 289); Regulation (EU) No 1302/2013 (OJ L 347, 20.12.2013, p. 303); Regulation (EU) No 1303/2013 (OJ L 347, 20.12.2013, p. 320 and OJ C 375, 20.12.2013, p. 2).

³⁵ See Annex 6: List of Delegated and Implementing Acts.

³⁶ Implementing acts are provided for only in the context of the CPR and the ETC Regulation.

under the basic act. Parliament and the Council may declare, prior to the expiry of the deadline for objections, that it holds no objections to the act (early non-objection), based on a duly substantiated request by the Commission. Annex 6 contains the list of the delegated and implementing acts that are to be adopted, as well as those that have already been adopted.

Implementing acts

When uniform conditions for the implementation of legally binding Union acts are required, the power to adopt implementing acts can be conferred on the Commission with subsequent control by Member States, or in certain cases, without such control.

Article 11 of Regulation (EU) No 182/2011 provides for the right of scrutiny by Parliament and the Council over draft implementing measures adopted under basic acts, which were themselves adopted under the ordinary legislative procedure. There is no general deadline for the exercise of this right, but Parliament may object to a draft implementing act (i.e. before its adoption by the Commission) solely on the following basic grounds that:

- the draft implementing act goes beyond the implementing powers provided for under the basic legislative act; or
- the draft implementing act is not consistent with Union law in other respects.

Parliament may request that the Commission withdraw the act, amend it in accordance with the objections raised by Parliament, or submit a new legislative proposal. In the case of objection, the Commission must review the draft implementing act, taking account of the positions expressed, and it is obliged to inform Parliament and the Council of whether or not it intends to maintain, amend or withdraw the draft implementing act. In other words, the Commission can adopt the act despite an objection thereto and the act will enter into force if the Commission so decides. However, if an objection is overruled in this manner, Parliament still has the option of bringing the matter before the Court of Justice.

The CPR provides for a number of implementing acts for which no provision is made for a control mechanism, i.e. no reference is made to the examination or advisory procedure. The above-mentioned Regulation (EU) No 182/2011 is therefore not applicable to these acts. In these cases, the Commission takes its decisions in accordance with its discretionary powers, while the legislator does not formally hold the right of scrutiny as provided for under Article 11 of Regulation (EU) No 182/2011. These acts are not formally transmitted to Parliament.

2. COMMON PROVISIONS REGULATION

2.1. Structure

1. General outlook

The specific architecture of cohesion policy for the 2014-2020 programming period is marked by the overarching ('umbrella') nature of the CPR, and it has specific implications from a policy, legal and institutional (organisational) point of view as well.

The cohesion package, in the strict sense, covers the CPR, together with the so-called Fund-specific Regulations, and the EGTC Regulation (the latter having been amended during the negotiations on the regulations governing the 2014-2020 period):

- **CPR** (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);
- **ERDF** (Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006);
- **ETC** (Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal);
- **Cohesion Fund** (Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006);
- **ESF** (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);
- **EGTC** (Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings).

Owing to the umbrella nature of the CPR, the regulations on the EAFRD³⁷ and the EMFF³⁸ are

³⁷ Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) and

now closely linked through common provisions. The EAFRD Regulation states that ‘this Regulation complements the provisions of Part Two of Regulation (EU) No 1303/2013 of the European Parliament and the Council’³⁹.

It must also be noted that further to the regulations governing the European Structural and Investment (ESI) Funds, there are other legislative acts that should be considered to be part of the legislative framework of cohesion policy (some of which were published by the Commission in 2011 as part of the package). Therefore, from the point of view of policy, there are more legislative acts in addition to those which govern the ESI Funds:

- European Globalisation Fund (EGF);
- Programme for Social Change and Innovation;
- European Union Solidarity Fund (EUSF).

From the point of view of Parliament’s internal organisation, the fact that the CPR connects several legislative acts creates the need for coordination among several committees, given that the various instruments fall under the remit of four parliamentary committees:

- REGI (the CPR, the ERDF, ETC, the Cohesion Fund, the EGTC, and the EUSF);
- EMPL (the ESF, the European Globalisation Fund (EGF), the Programme for Social Change and Innovation);
- AGRI (the EAFRD);
- PECH (the EMFF).

II. Specificities - CPR

While reflecting on the simplification of cohesion policy, the harmonisation of rules across several policy areas was a recurrent theme. As a result, and with the overall aim of improving coordination and harmonising the implementation of the three cohesion policy Funds (the ERDF, the ESF and the Cohesion Fund) with the Funds for rural development (the EAFRD) and the maritime and fisheries sector (the EMFF), the CPR establishes common rules applicable to five Funds (Part Two).

Attention should be drawn to the complex structure of the regulation, as the CPR consists of five parts, and further to the common provisions detailed in Part Two, it contains two sets of ‘general provisions’.

The five parts are as follows:

- Part One: Subject matter and definitions;
- Part Two: Common provisions applicable to the ESI Funds;

repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).

³⁸ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.05.2014, p. 1).

³⁹ Article 1 of Regulation (EU) No 1305/2013.

- Part Three: General provisions applicable to the ERDF, the ESF and the Cohesion Fund;
- Part Four: General provisions applicable to the Funds and the EMFF;
- Part Five: Delegation of power, implementing, transitional and final provisions.

Attention should also be drawn to the following terms in this connection:

- **The European Structural and Investment Funds (ESI Funds):** The European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF);
- **The Funds:** The ERDF, the ESF and the Cohesion Fund;
- **Structural Funds:** The ERDF and the ESF;
- **Fund-specific rules:** The provisions laid down in, or established on the basis of, Part Three or Part Four of the CPR or a regulation governing one or more of the ESI Funds listed in the fourth paragraph of Article 1.

Owing to the particularities of each ESI Fund, specific rules, which are applicable to each ESI Fund and to the European territorial cooperation goal under the ERDF, are specified in separate Fund-specific Regulations:

- (1) Regulation (EU) No 1301/2013 (the ‘ERDF Regulation’);
- (2) Regulation (EU) No 1304/2013 (the ‘ESF Regulation’);
- (3) Regulation (EU) No 1300/2013 (the ‘CF Regulation’);
- (4) Regulation (EU) No 1299/2013 (the ‘ETC Regulation’);
- (5) Regulation (EU) No 1305/2013 (the ‘EAFRD Regulation’);
- (6) Regulation (EU) No 508/2014 (the ‘EMFF Regulation’).

The situation with the EAFRD and the EMFF is special in the sense that these regulations are governed not only by the CPR, but also by the respective horizontal regulations of the CAP and the fisheries policies legislative frameworks. In the case of the EAFRD, in particular, synergies have already been secured by harmonising and aligning management and control rules for the first pillar (the European Agricultural Guarantee Fund (EAGF)) and the second pillar (the EAFRD) of the CAP. The strong link between the EAGF and the EAFRD should therefore be maintained and the structures already in place in the Member States preserved. The CPR explicitly states that its rules are without prejudice to the provisions laid down in Regulation (EU) No 1306/2013⁴⁰.

In order to ensure consistency in the interpretation of the various parts of the CPR, and between the CPR and the Fund-specific Regulations, it is important to set out clearly the relationships between them. Specific rules established in the fund-specific rules can be complementary but should derogate from the corresponding provisions in the CPR only where such derogation is specifically provided for in the CPR. The complementary rules in the Fund-specific Regulations must not be inconsistent with Parts Two, Three and Four of the CPR⁴¹.

⁴⁰ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agriculture policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (See OJ L 347, 20.12.2013, p. 549.).

⁴¹ See provisions in Article 1 of the CPR.

It is important to understand that due to the above-mentioned complexity of the CPR and its relationship with the Fund-specific Regulations, certain provisions, laid down in a more global manner in Part Two as common provisions, are set out in greater detail in Parts Three and Four, and in the Fund-specific Regulations. For example, common provisions on programmes are set out in Articles 26-30, covering all five Funds, but specific elements are to be found in Articles 96-99 for the Funds, as well as in Article 8 of the ETC Regulation, Articles, 6-8 and 10-11 of the EAFRD Regulation, Articles 17-22 of the EMFF Regulation and Articles 11 and 18 of the ESF Regulation.

2.2. Strategic Approach and Programming

2.2.1. General and horizontal principles

2.2.1.1. Brief summary

The CPR lays down general and horizontal principles (partnership, multi-level governance, equality between men and women, non-discrimination and sustainable development)⁴² that apply to support for the ESI Funds.

2.2.1.2. Provisions in detail

a) Current programming period 2014-2020

The **general principles** set out⁴³ that the support provided through ESI Funds complements national, regional, and local intervention to deliver the EU 2020 goals, but also to pursue the Treaty-based objectives, taking into account relevant country-specific recommendations and, where appropriate, the National Reform Programme. Moreover, support through the ESI Funds must be:

- consistent with horizontal principles, relevant policies and the Union's priorities;
- implemented with cooperation between the Commission and the Member States;
- implemented while respecting the principle of proportionality and the overall aim of reducing the administrative burden, in particular as regards the financial and administrative resources required;
- implemented while respecting the principle of sound financial management.

Coordination between the individual ESI Funds and between ESI Funds and other relevant Union policies, strategies and instruments must be ensured. The part of the Union budget allocated to ESI Funds is implemented under shared management (with the exception of the elements set out in Article 4(7) of the CPR) with the Commission and the Member States so as to ensure effectiveness while aiming to reduce the administrative burden on beneficiaries.

Partnership and multi-level governance⁴⁴ implies that Member States must organise partnerships. Competent regional and local authorities are given a prominent role in this process, in which other partners are also included. Partners must be involved in the preparation of Partnership Agreements and progress reports, as well as in the preparation and implementation of programmes. The provisions of the basic act are supplemented by a delegated act on the European code of conduct⁴⁵, which aims to support and facilitate Member States in the organisation of partnerships, by setting out a framework for it.

⁴² Articles 4, 5, 7 and 8 of the CPR.

⁴³ Article 4 of the CPR.

⁴⁴ Article 5 of the CPR.

⁴⁵ Article 5(3) of the CPR.

During the preparation and implementation of programmes, Member States and the Commission are to ensure **equality between men and women**, and the integration of the gender perspective. They must also take steps to prevent any **discrimination**, paying attention, in particular, to accessibility for persons with disabilities⁴⁶.

The ESI Funds must be implemented in accordance with the principle of **sustainable development**, and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment. In this connection, based on a common methodology, Member States will provide information on the support made available for climate change from each of the five ESI Funds⁴⁷.

It must be noted that Article 6 of the CPR on compliance with Union and national law states that operations must comply with applicable law.

b) Key changes as compared with the previous programming period 2007-2013

Overall, the general and horizontal principles had already been imbedded in the legislative framework of the previous programming period, but were grouped under the term 'principles of assistance'⁴⁸. These principles included: complementarity, consistency, coordination and compliance, programming, partnership, territory-level implementation, proportional intervention, shared management, additionality, equality between men and women and non-discrimination, and sustainable development. Most of these principles are found under Article 4 of the CPR, with partnership (and multi-level governance) and sustainable development (Articles 5 and 8 of the CPR) having been substantially extended through elements such as the code of conduct and the methodology used for climate-change tracking. Additionality does not form part of the general or horizontal principles in the current programming period, at least insofar as it is not a principle which applies to all five ESI Funds⁴⁹.

With regard to compliance with applicable law (Article 6 of the CPR), in the context of the previous programming period, compliance referred to the Treaty and acts adopted under it, as part of the principle of assistance⁵⁰.

2.2.1.3. Parliament's achievements

A strengthened partnership principle and multi-level governance have long been political priorities for Parliament, and one of Parliament's successes during the CPR negotiations was the reinstatement of the European code of conduct, which originally was deleted by the Council in its partial general approach, and which is accompanied by more consistent references to partners throughout the text of the CPR. Furthermore, the list of partners has been nuanced by attributing a prominent role to local and regional authorities.

With regard to the general principles, Parliament insisted on the reference to National Reform

⁴⁶ Article 7 of the CPR.

⁴⁷ Article 8 of the CPR.

⁴⁸ Articles 9 to 17 of Regulation (EC) No 1083/2006.

⁴⁹ Additionality is described in Article 95 of the CPR and in Annex X thereto (see also Chapter 2.17 on Financial Issues).

⁵⁰ Article 9(5) of Regulation (EC) No 1083/2006.

Programmes (NRPs) beyond relevant country-specific recommendations, claiming that NRPs are more in line with the multiannual nature of cohesion policy programmes. Furthermore, an explicit reference is made to the overall aim of reducing the administrative burden for both beneficiaries and bodies involved in the management and control of the programmes. In the context of non-discrimination, Parliament raised the issue of accessibility for persons with disabilities, which is to be taken into account throughout the preparation and implementation of programmes. Finally, the notion of biodiversity was added to the article on sustainable development.

2.2.2. Partnership Agreement (PA)

2.2.2.1. Brief summary

A Partnership Agreement is a document prepared by individual Member States, with the involvement of partners in line with the multi-level governance approach and in dialogue with the Commission, covering all support provided from ESI Funds to the Member State concerned.

2.2.2.2. Provisions in detail

a) Current programming period 2014-2020⁵¹

PAs translate the elements of the CSF (See Chapter 2.4 on the Common Strategic Framework) into the national context and set out the strategies, priorities and arrangements for the Member State concerned in using the ESI Funds in an effective and efficient way, so as to pursue the Union's strategy for smart, sustainable and inclusive growth.

PAs had to be submitted to the Commission by 22 April 2014. Following submission, the Commission then assesses whether or not the PAs are consistent and it makes observations within three months of submission, which can lead to the revision of the PA by the Member State concerned, if necessary. The so-called essential elements of PAs are subject to approval by the Commission (a decision by means of implementing acts no later than four months after submission), while other elements of PAs are not subject to a Commission decision. Amendments to PAs are made following the same approach. In the case of essential elements, subject to the decision by the Commission, the proposed changes are assessed and approved by the Commission, whereas for other elements the Member State concerned can amend the PA, with its only obligation in this regard being to notify the Commission of the outcome.

Given the fact that the CPR covers five Funds, and that the entry into force of some of the Fund-specific Regulations was expected to be delayed when compared with that of the CPR, specific arrangements have been put in place for the submission of PAs and programmes in case the entry into force of a fund-specific regulation is delayed (this concerns the EMFF only).

A Commission report on the outcome of negotiations concerning the PAs and programmes will be prepared and submitted to Parliament, the Council, the European Economic and Social Committee (EESC) and the Committee of the Regions (CoR) by 31 December 2015.

⁵¹ Articles 14 to 17 of the CPR.

b) Key changes as compared with the previous programming period 2007-2013

The Partnership Agreement has emerged as a concept which goes beyond the National Strategic Reference Frameworks (NSRFs) that were in place in the 2007-2013 programming period. It involves five Funds and represents a stronger commitment on the part of the Member States to achieving the EU's goals.

The aim of linking EU priorities (as set out in the Community Strategic Guidelines (CSGs)) to national priorities (through an NSRF) had already featured in the previous programming period. The NSRFs were drawn up on the basis of the CSGs by the Member States, and they set out a broad spectrum of priorities for the use of the Funds⁵².

Finally, the adoption of PAs enhances the role of the Commission, which, in the case of NSRFs, was only able to make observations on content and therefore did not influence the adoption thereof with a decision⁵³.

2.2.2.3. Parliament's achievements

Parliament's negotiating team placed emphasis on the enhancement of transparency in the preparation of the PA process. The compromise on the content of the PAs included several important elements of Parliament's position, such as a reference to the Treaty-based objectives of the Funds, the alignment of the PAs with the EU 2020 strategy, demographic challenges, addressing the needs of persons with disabilities, the reinforcement of the administrative capacity of authorities and beneficiaries, and more precise details on the arrangements for the partnership principle.

With regard to the structure and adoption of PAs, the final compromise largely took on board the Council's approach, which Parliament was willing to support. This approach involved, in particular, the division of PAs into essential elements, subject to a decision by the Commission, and other elements not covered by this decision.

2.2.3. Programmes

2.2.3.1. Brief summary

The ESI Funds are implemented via programmes which are drawn up by Member States, or any authority designated by them, in cooperation with partners, in accordance with the PAs. In the cases of the ESF, the ERDF, the Cohesion Fund and the EMFF, the term 'programme' refers to an 'operational programme'(OP), while in the case of the EAFRD it refers to a 'rural development programme'. Each programme covers the period from 1 January 2014 to 31 December 2020.

⁵² Article 27 of Regulation (EC) No 1083/2006.

⁵³ Article 28 of Regulation (EC) No 1083/2006.

2.2.3.2. Provisions in detail

a) **Current programming period 2014-2020**

The adoption of programmes and amendments thereto are to be submitted by the Member States to the Commission within three months of the submission of the PA, with the exception of the ETC programmes (the deadline for which is 22 September 2014, as set out in the CPR). Specific provisions are made for the submission of PAs and programmes in case the entry into force of a fund-specific regulation is delayed (this only concerns the EMFF)⁵⁴.

The Commission assesses whether or not the programmes are consistent and it makes observations within three months of the date of submission. The assessments can lead to a revision of the programmes. The Commission must give its approval no later than six months following submission, but not before 1 January 2014 or before the adoption by the Commission of a decision approving the PAs. It is possible for the ETC programmes, dedicated OPs for the YEI, and dedicated programmes for the SME initiative to be approved before the submission of the PAs. A similar process has been established for amendments to programmes whereby the Commission assesses the request by a Member State, along with the accompanying justification, makes observations within one month (which could lead to changes), and approves the request no later than three months after submission. Amendments linked to the reallocation of the performance reserve are to be approved no later than two months after submission (in the case of the EMFF, specific provisions on amendments to OPs may be laid down in the Fund-specific Regulations)⁵⁵.

Further to the above-mentioned general provisions which cover the five ESI Funds, detailed provisions have been laid down for the Funds in Part III of the CPR on programming, including the content, adoption, amendment and geographical scope of programmes under the investment for growth and jobs goal (and the specific provisions for the SME initiative), and joint support from the Funds.

An OP consists of priority axes, whereby each priority axis concerns one fund and one category of region (except in the case of the Cohesion Fund), corresponds to a thematic objective, and deals with one or more of the investment priorities of the thematic objective at hand. However, where appropriate, a priority axis may concern more than one category of region, and may combine investment priorities under specific circumstances, as specified under Article 96(1) of the CPR. Operational programmes for the ERDF and the ESF will be drawn up at least at the level of NUTS 2 (unless otherwise agreed between Member States and the Commission). Operational programmes for the Cohesion Fund are drawn up at national level.

The content of OPs under the growth and jobs goal is set out in great detail under Article 96. The content of the ETC, the EAFRD and the EMFF programmes is set out in the Fund-specific Regulations (Articles 6 to 11 for the EAFRD, Article 18 for the EMFF, and Article 8 for the ETC).

The Commission approves OPs by means of implementing acts, including any future amendments thereto. However, certain elements remain the responsibility of the Member States, with the managing authority being obliged to notify the Commission of any decision which

⁵⁴ Article 26 of the CPR.

⁵⁵ Articles 29 and 30 of the CPR.

amends the elements of the OP that are not covered by the Commission decision, within one month of the date of the adoption of the amending decision⁵⁶.

The Funds may provide joint support for OPs under the Investment for growth and jobs goal (multi-fund OPs). The ERDF and the ESF may finance part of an operation for which the costs are eligible for support from the other fund, subject to a limit of 10 % of Union funding for each priority axis of an OPs (cross-financing)⁵⁷.

b) Key changes as compared with the previous programming period 2007-2013⁵⁸

Programmes are still the key programming documents for the current period, with PAs constituting the basis of the programmes, as was the case with the NSRFs in the previous period. The content of the OPs is similar to the content dealt with in the 2007-2013 period, although it has a more explicit focus on alignment with the EU 2020 strategy, the framework provided for by the CSF and the concept of thematic concentration. Furthermore, provisions for the priority axes which concern technical assistance are far more detailed in the OPs.

In the previous programming period, programmes were approved in their entirety by the Commission, whereas now certain parts remain the responsibility of the Member States. The timeline is more flexible for the new period, given that the Commission now has three months to make observations, compared with just two months in the previous period. Furthermore, the deadline for approval is also longer, with the Commission being obliged to approve OPs no later than six months after formal submission, while it was previously obliged to approve within four months.

OPs for the 2007-2013 programming period were concerned with just one of the three objectives⁵⁹ (with certain exceptions), and they benefited from funding through a single fund (monofund OPs), with the exception of infrastructure and environmental programmes (the ERDF and the Cohesion Fund). In the 2014-2020 period, maximum flexibility has been provided for with regard to combinations of different types of regions, Funds, and investment priorities under one priority axis. Joint support is possible and cross-financing between the ERDF and the ESF has remained at the same level (10 %).

2.2.3.3. Parliament's achievements

The positions of the co-legislators did not show major divergences as regards the general provisions for programmes, although a small number of new elements were introduced into the original Commission proposal. Throughout the relevant articles clearer references to partnership and horizontal principles were introduced. As regards the preparation of programmes, Parliament's views on the transparency of procedures and references to the effective preparation and implementation of programmes including, where appropriate, multi-fund programmes for the Funds covered by Part III were taken on board. The co-legislators also altered the deadlines for the submission of programmes, with the Commission proposing that it take place

⁵⁶ Article 96 of the CPR.

⁵⁷ Article 99 of the CPR.

⁵⁸ Articles 32, 33, 37 and 38 of Regulation (EC) No 1083/2006.

⁵⁹ Article 3 of Regulation (EC) No 1083/2006 on convergence, regional competitiveness and employment, and European territorial cooperation.

simultaneously with the submission of PAs, but that the final compromise should be agreed within three months of the submission of PAs, or by 22 September 2014 in the case of ETC programmes. As regards the content of programmes, Parliament has secured the inclusion of an explicit reference to macroregional strategies (with the political aim of strengthening and clarifying the link between those strategies and cohesion policy architecture).

With regard to the assessment and approval of programmes by the Commission, relevant country-specific recommendations, to which attention must be paid, have been introduced into the process. Parliament's original position showed a preference for NRPs, and the final compromise was that the NRPs bear relevance for the assessment of the PAs, whereas in the case of programmes NRPs were not included in the final text.

With regard to OPs for the Funds, both of the co-legislators wished to introduce flexibility into the original Commission text, which limited the priority axis to just one category of region and one fund. Therefore, the text was altered accordingly, which resulted in a fundamental change being made to the Commission text. With regard to the content of the OPs, Parliament's team succeeded in strengthening the regional dimension, as well as the balance between elements linked to the Treaty-based missions of the Funds and to the EU 2020 alignment. A specific content element linked to the demographic challenges of regions was also introduced into the text.

The co-legislators overrode the Commission proposal that intended to decrease the level of cross-financing to 5 %, thereby maintaining it at 10% as in the previous programming period.

2.2.4. Joint Action Plan (JAP)

2.2.4.1. Brief summary

Joint action plans are a new feature in the 2014-2020 period which provide Member States with the opportunity to implement part of an OPs (JAPs apply only to the Funds) with a result-based approach. A JAP is an operation managed in relation to the outputs and results that are to be achieved, and which comprises a project or group of projects to be carried out by a beneficiary, as part of one or more OPs.

2.2.4.2. Provisions in detail

a) Current programming period 2014-2020

The public expenditure envelope that can be allocated to a JAP stands at a minimum of EUR 10 000 000 or 20 % of the public support available for the operational programme(s). If a JAP is to undertake a pilot project, the minimum public expenditure threshold is lowered to EUR 5 000 000⁶⁰.

JAPs must be submitted by the Member State concerned following a model provided by the Commission in an implementing act. The information submitted is appraised and the JAP is approved (or rejected) by the Commission⁶¹.

⁶⁰ Article 104 of the CPR.

⁶¹ Article 106 of the CPR.

Distinct from the monitoring committee, a steering committee for JAPs is set up by the Member State concerned or the managing authority. This committee is responsible for reviewing progress towards achieving milestones, output and the results of JAPs, as well as for considering and approving any proposals to amend JAPs to take issues affecting its performance into account⁶².

Provisions for the financial management and control of JAPs specify that payments to beneficiaries must be treated as lump sums or on a standard scale of unit costs. The financial management, control and audit of JAPs are limited to verifying whether or not the conditions for payments have been fulfilled. In addition, the beneficiary of a JAP and the bodies acting under its responsibility may apply their accounting practices, which, together with the costs that actually arise, are not subject to an audit by the Audit Authority or the Commission⁶³.

b) Key changes as compared with the previous programming period 2007-2013

Not applicable.

2.2.4.3. Parliament's achievements

In its original negotiating position, Parliament intended to lower the minimum amount of public support for a JAP from EUR 10 million to EUR 5 million. It is specified in the final compromise that this is a possibility for pilot projects alone. With regard to the preparation, content, decision on, and the financial management and control of JAPs, both of the co-legislators largely supported the original Commission proposal. The final text provides for the faster implementation of JAPs as regards the time allowed for the Commission to make observations following submission (just two months instead of the three months proposed by the Commission), and the time for approval of JAPs by the Commission (just four months instead of six).

Parliament intended to establish a clearer flow of information between the steering committee and the monitoring committee of the relevant operational programme(s). This resulted in the steering committee being obliged to report regularly to the managing authority. As a result, the managing authority must inform the relevant monitoring committee on the progress made in implementing a JAP.

⁶² Article 108 of the CPR.

⁶³ Article 109 of the CPR.

2.3. Thematic concentration

2.3.1. Brief summary

In accordance with the concept of thematic concentration, the ESI Funds focus their support on a limited number of common thematic objectives, the aim being to contribute to the Union strategy for smart, sustainable and inclusive growth and to the Fund-specific missions, which include economic, social and territorial cohesion. These thematic objectives are translated into investment priorities in the Fund-specific rules. In addition, the CPR stipulates that the share of the ESF as a percentage of total combined resources for the Structural Funds and the Cohesion Fund at Union level in the Member States shall not be less than 23.1 %, in order to ensure that sufficient investment is targeted at youth employment, labour mobility, knowledge, social inclusion and combating poverty.

2.3.2. Provisions in detail

a) Current programming period 2014-2020

The CPR sets out the following 11 thematic objectives which each ESI Fund has to support:

- (1) strengthening research, technological development and innovation;
- (2) enhancing access to, and use and quality of, ICT;
- (3) enhancing the competitiveness of SMEs, of the agricultural sector (for the EAFRD) and of the fishery and aquaculture sector (for the EMFF);
- (4) supporting the shift towards a low-carbon economy in all sectors;
- (5) promoting climate change adaptation, risk prevention and management;
- (6) preserving and protecting the environment and promoting resource efficiency;
- (7) promoting sustainable transport and removing bottlenecks in key network infrastructures;
- (8) promoting sustainable and quality employment and supporting labour mobility;
- (9) promoting social inclusion, combating poverty and any discrimination;
- (10) investing in education, training and vocational training for skills and lifelong learning;
- (11) enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

These thematic objectives are translated into investment priorities that are specific to each of the ESI Funds in the Fund-specific rules⁶⁴.

Member States have to concentrate support, in accordance with the Fund-specific rules, on interventions that produce the highest levels of added value in the context of the Union strategy for smart, sustainable and inclusive growth⁶⁵. The ERDF regulation lays down the following four thematic objectives as obligatory: research and innovation; Information and Communication Technologies (ICTs); enhancing the competitiveness of SMEs; and supporting

⁶⁴ Article 9 of the CPR.

⁶⁵ Article 18 of the CPR.

the shift towards a low-carbon economy. In the more developed regions, 80 % of ERDF funding has to be invested in two or more of these four objectives whereby at least 20 % of the total ERDF resources have to be allocated to the shift towards a low-carbon economy. Given the existence of ongoing restructuring needs in the regions phasing out from the convergence objective (the ‘transition regions’), the minimum percentages are reduced for those regions to 60 % and 15 % respectively. For the less-developed regions, the quotas are 50 % and 12 % respectively. The ERDF regulation also includes three derogations from these obligations⁶⁶.

The Cohesion Fund supports, in particular, the following thematic objectives, as provided for in Article 4 of the Cohesion Fund Regulation:

- supporting the shift towards a low-carbon economy in all sectors;
- promoting climate change adaptation, risk prevention and management;
- preserving and protecting the environment and promoting resource efficiency;
- promoting sustainable transport and removing bottlenecks in key network infrastructures;
- enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

The ETC Regulation states that at least 80 % of ERDF funding to each cross-border and transnational cooperation programmes should be concentrated on a maximum of four of the thematic objectives⁶⁷. Any of those objectives may be selected for interregional cooperation.

In order to ensure that sufficient investment is targeted at youth employment, labour mobility, knowledge, social inclusion and combating poverty, a special provision applies to the ESF share. The share of Structural Funds resources allocated to the ESF in each Member State may not be lower than the corresponding ESF share available under the Investment for growth and jobs goal for that Member State as laid down for the 2007-2013 programming period. To that share an additional amount is added for each Member State, to be determined in accordance with the method set out in Annex IX (based on employment rates), in order to ensure that the ESF share in the Member States is in no case lower than 23.1 %. The total percentage share for a Member State after that addition may not exceed 52 % of the Structural Funds resources available⁶⁸.

In the context of joint financing, the CPR also establishes the option of the Funds jointly providing support for operational programmes under the ‘Investment for Growth and Jobs’ goal. The ERDF and ESF may each finance, in a complementary fashion and subject to a limit of 10 % of total Union funding, for each priority axis of an operational programme, a part of an operation for which the costs are eligible for support from the other Fund, provided such costs are necessary for the satisfactory implementation of the operation and are directly linked to it⁶⁹.

b) Key changes as compared with the previous programming period 2007-2013

In the previous programming period also, Regulation (EC) No 1083/2006 provided for the concentration of cohesion expenditure on common priorities, in the framework of the so-called Lisbon earmarking exercise stemming from the renewed growth and jobs strategy (the Lisbon

⁶⁶ Article 4 of the ERDF Regulation.

⁶⁷ Article 6 of the ETC Regulation.

⁶⁸ Article 92(4) of the CPR.

⁶⁹ Article 98 of the CPR.

Strategy). This meant that, in order to target the EU priorities of promoting competitiveness and creating jobs, the Commission and the Member States had to ensure that 60 % of expenditure under the convergence objective and 75 % of expenditure under the regional competitiveness and employment objective is dedicated to these priorities in all Member States of the European Union as constituted before 1 May 2004. These targets were based on the following priority themes⁷⁰:

1. Research and technological development (R&TD), innovation and entrepreneurship;
2. Information society;
3. Transport;
4. Energy;
5. Environmental protection and risk prevention;
6. Increasing the adaptability of workers and firms, enterprises and entrepreneurs;
7. Improving access to employment and sustainability;
8. Improving the social inclusion of less-favoured persons;
9. Improving human capital.

Those Member States which acceded to the European Union on or after 1 May 2004 were allowed to decide on their own initiative regarding the application of these provisions.

2.3.3. Parliament's achievements

On the request of Parliament, the following items were added to the thematic objectives:

- Preserving the environment;
- Promoting quality employment;
- Combating discrimination;
- Enhancing institutional capacity of stakeholders.

In addition, in line with Parliament's suggestion, the limit for joint support ERDF/ESF was raised from 5 % to 10 %.

ESF shares

During the pre-legislative phase Parliament's position was that it rejected the use of obligatory quotas, in particular for national allocations under ESF/ERDF programmes, for local and urban development, for rural areas and for other types of spatial agglomerations or functional areas⁷¹. Its position changed in light of the negotiations on the MFF and the evolution of the debate on the legislative package. The original Commission proposal was that at least 25 % of the Structural Funds resources for less developed regions, 40 % of those for transition regions and 52 % of those for more developed regions in each Member State should be allocated to the ESF. In its initial position REGI kept these percentages unchanged, but added that the exact shares should be equal to at least the 2007-2013 allocations, also providing for the option of reducing the minimum level for a category of region if this was compensated by any increase in other categories of region. Contrary to Parliament, the Council suggested - instead of obligatory

⁷⁰ Annex IV of Regulation (EC) No 1083/2006.

⁷¹ European Parliament resolution of 5 July 2011 on the Commission's fifth Cohesion Report and the strategy for post-2013 cohesion policy.

quotas for allocation to the ESF - concentrating resources on thematic objectives 8, 9 and 10 and allocating to those objectives 45-50% of Structural Fund resources in more developed regions, 35-40% in transition regions and 20-25% in less developed regions, while also allowing for the possibility of compensation between categories of regions.

Given the direct relevance of the issue on the European Social Fund, and the modalities of the cooperation between EMPL and REGI under Rule 50⁷², the two committees cooperated closely on the issue (the chair of EMPL participated actively in several trilogues). There were, however, clashes over the final compromise reached, as REGI was more open to altering the 25 % quota.

From the outset it was clear that the common ground between Council and Parliament could lie in the fact that both advocated granting flexibility to Member States as regards obtaining concentration of resources. However, the method proposed by the Council was entirely different in its philosophy, using thematic objectives as a basis. During the negotiations several alternatives were explored: the Council proposed to keep its philosophy but to introduce provisions to ensure that if the resulting allocation is lower than the corresponding ESF share observed in the programmes of the period 2007-2013, the ESF share of 2007-2013 shall be used. Later on the Presidency went further and made proposals that would have combined the two philosophies, by using a lower ESF share (23.1 %), and topping it up using the above-mentioned threshold and the method based on concentrated allocations on ESF-related thematic objectives. The debate also revolved around the additional element of whether the aid for the most deprived should be included or excluded from the ESF share (in the final compromise the FEAD was not included, but the YEI instrument is part of the calculation). Parliament was open to finding a way to combine the two methods, but insisted on a higher threshold of 23.5 %.

Throughout the process the Commission actively assisted the co-legislators by providing alternative scenarios and simulations for the different scenarios.

As a result, the final compromise was constructed around all the above elements, including as a basis the level of allocation of the 2007-2013 period, topped up however by additional percentages as set out in Annex IX to the CPR, and resulting in an ESF share of 23.1 %. The final basis of calculation was the combined resources of the Funds at Union level - excluding support for the FEAD and Cohesion Fund support for the CEF, but including YEI.

⁷² It granted only shared competence to EMPL on all issue from ex article 81 onwards, so including ex article 84.3 on the ESF share.

2.4. Common Strategic Framework (CSF)

2.4.1. Brief summary

The Common Strategic Framework establishes strategic guiding principles to facilitate:

- the programming process (preparation of the PAs and programmes);
- the sectoral and territorial coordination of Union intervention under the ESI Funds and with other relevant Union policies and instruments,

in line with the targets and objectives of the Union strategy for smart, sustainable and inclusive growth, taking into account the key territorial challenges of the various types of territories⁷³.

2.4.2. Provisions in detail

a) Current programming period 2014-2020

The CSF is set out in Annex I to the CPR. The basic act empowers the Commission to supplement or amend the Annex by adopting delegated acts. This possibility is limited to sections 4 (Coordination and Synergies between ESI Funds and Other Union Policies and Instruments) and 7 (Cooperation Activities) of Annex I and to cases where it is necessary to take account of changes in the Union policies or instruments or changes in the cooperation activities or to take account of the introduction of new Union policies, instruments or cooperation activities⁷⁴.

The CSF contains the following⁷⁵:

- a) mechanisms for ensuring the contribution of the ESI Funds to the Union strategy for smart, sustainable and inclusive growth, and the coherence and consistency of the programming of the ESI Funds in relation to the relevant country-specific recommendations adopted in accordance with Article 121(2) TFEU, the relevant Council recommendations adopted in accordance with 148(4) TFEU, and, where appropriate at national level, the National Reform Programme (Section 2 of Annex I);
- b) arrangements to promote an integrated use of the ESI Funds (Section 3 of Annex I);
- c) arrangements for coordination between the ESI Funds and other relevant Union policies and instruments, including external instruments for cooperation (Section 4 of Annex I);
- d) horizontal principles as referred to in Articles 5, 7 and 8, and cross-cutting policy objectives for the implementation of the ESI Funds (Section 5 of Annex I);
- e) arrangements to address the key territorial challenges for urban, rural, coastal and fisheries areas, the demographic challenges of regions or specific needs of geographical areas which suffer from severe and permanent natural or demographic handicaps, and the specific challenges of outermost regions (Section 6 of Annex I);

⁷³ Article 10 of the CPR.

⁷⁴ Article 12 of the CPR.

⁷⁵ Article 11 of the CPR.

- f) priority areas for cooperation activities under the ESI Funds, where appropriate, taking account of macro-regional and sea basin strategies (Section 7 of Annex I).

b) Key changes as compared with the previous programming period 2007-2013

Already in the 2007-2013 period the legislative framework in place brought about a reinforcement of the strategic dimension of Cohesion Policy, with strengthened linkages between objectives and priorities at Union, national and regional levels. The Community Strategic Guidelines (CSGs) (which can be considered a predecessor of the CSF) - established an indicative framework for intervention of the ERDF, CF and ESF based on the EU's growth and jobs objectives. The CSF, as an integrated part of the umbrella regulation, goes beyond the CSGs and provides a binding framework applicable to five Funds, as well as establishing links to instruments of other policy areas.

2.4.3. Parliament's achievements

The process leading to the adoption of the CSF as part of the basic act deserves special attention. According to the intentions of the Commission (already outlined in the 5th Cohesion Report), the CSF was to become a document replacing the so-called Common Strategic Guidelines (in force in the 2007-2013 programming period) and providing strategic guidance to Member States and regions when drawing up their PAs and OPs and when implementing the policy. The Commission's intention was to draw up the CSF in the form of secondary legislation, thus in a delegated act. However, already in its resolution of 5 July 2011 Parliament had clearly called for a new CSF to be adopted by the Council and Parliament under the ordinary legislative procedure. The Council also examined the idea, and later in the process, upon adoption of its Partial General Approach (PGA) for the CSF, it became clear that both co-legislators wished to decide on the CSF under the ordinary legislative procedure as part of a regulation, rather than letting its content have the status of secondary legislation, since it is an essential element of the policy.

The Commission text published in October 2011 proposed adopting the CSF in a delegated act. On a proposal by the rapporteurs, REGI set out to include in its mandate its own version of the CSF text, intended to be an annex to the CPR, and amended the articles accordingly. REGI subsequently drew up its own version of the text on the basis of the pre-legislative debates and the staff working documents provided by the Commission⁷⁶. Thus the Committee drafted an entire new annex, a strategic document without an underlying Commission proposal. The adoption of a standalone Parliament text and the numerous discussions with the Commission led to the publication of a modified Commission text in September 2012, including the text of the CSF as part of the proposal. The Council's PGA was based on this amended Commission proposal and negotiations were conducted on the basis of three texts, among which, exceptionally, Parliament's annex chronologically preceded those of the Commission and the Council.

Further to the 'victory' of the co-legislators with regard to the legal basis of the CSF, Parliament managed to reach a compromise on the possibility of amending/updating the CSF annex through a delegated act (Article 12), a possibility initially rejected by the Council. Given

⁷⁶ SWD 2012 (61), Part I and Part II.

the extraordinary circumstances of the process, the Annex was finalised on the basis of three separate versions (the Council's PGA was based on the Commission's proposal of September 2012), during several technical trilogues.

The original mandate of Parliament, albeit with some adjustments to the structure of the text, was to a large extent taken on board. Parliament's mandate included sections on horizontal principles and cross-cutting challenges, synergies and coordination of the Funds covered by the CPR with instruments of other Union policies, coordination mechanism for the Funds covered by the CPR, and priorities for territorial cooperation (cross-border, transnational and interregional).

Parliament accepted the inclusion of a chapter on 'Contribution of ESI Funds to the Union Strategy for Smart, Sustainable and Inclusive Growth and Coherence with the Union's Economic Governance'. Putting a great emphasis on coordination and complementarity among ESI Funds, Parliament successfully protected the inclusion of clear provisions on making use of eGovernance solutions, once again aiming at simplification.

In the compromise reached on coordination and synergies with Horizon 2020 and other centrally managed Union programmes in the areas of research and innovation, on Parliament's request emphasis was put on less developed regions and low performing RDI Member States. This was in line with the evolution of the parallel negotiations on Horizon 2020. In the context of the Connecting Europe Facility (CEF), Parliament managed to secure the retention of a clear reference to substantially upgrading existing infrastructure and building new infrastructure. References to EGTCs were introduced in relation to the Instrument for Pre-accession Assistance, the European Neighbourhood Instrument and the European Development Fund.

As regards cooperation activity, the provisions on coordination and complementarity took account of Parliaments' views on stressing the need to overcome barriers to cooperation beyond administrative borders. In particular, a special mention of outermost regions was incorporated in the final compromise, in which Parliament agreed to several additions by the Council on ERDF- and ESF-specific provisions and to a subsection on macro-regional and sea-basin strategies.

In Section 5 on 'Horizontal Principles Referred to in Articles 5, 7 and 8 and Cross-Cutting Policy Objectives', a compromise was reached on partnership principle including strengthening of institutional capacity of partners. Parliament carefully safeguarded the provisions relating to disability, non-discrimination and accessibility, highlighting the need for action to make existing buildings and services accessible to all and the need to consider the special needs of the elderly in the context of a barrier-free environment. Another strong theme throughout Parliament's mandate was that of demographic change and the challenges resulting from it. The original mandate of the Parliament's CSF text was broadly taken on board, with the negotiating team securing a reference to the efficiency of social protection systems.

2.5. Territorial Development

2.5.1. Brief summary

The main objective of the EU Cohesion Policy is to strengthen economic and social cohesion. With the entry into force of the Lisbon Treaty territorial cohesion became the third dimension of cohesion, in recognition of the need to address inter alia the role of cities, functional geographies, and sub-regional areas faced with specific geographical or demographic problems. To this end, and in order to better mobilise potential at a local level, it is necessary to strengthen and facilitate community-led local development by laying down common rules and ensuring close coordination for all relevant ESI Funds.

2.5.2. Provisions in detail

a) Current programming period 2014-2020

The importance of community-led local development and of coordination at the level of the ESI Funds is highlighted in relation to meeting local needs and exploring potential for innovation. In this regard, community-led local development is led by local action groups including representatives of both public and private sectors⁷⁷, and is responsible for the design and implementation of a tailor-made strategy ('community-led local development strategy')⁷⁸.

It is the task of this strategy to define the area to be covered by it, as well as the population (10 000 to 150 000 inhabitants⁷⁹). It is also responsible for providing an analysis of specific development needs and potential, outlining particular objectives, and drafting the action plan and the financial plan. Also to be described is the community involvement process in the design and implementation of the strategy⁸⁰. The criteria for the selection of strategies⁸¹ and the role of the local action groups⁸² are defined by the Member States.

Community-led local development under the new programming period for 2014-2020 is supported by the LEADER local development approach, funded by the EAFRD with the additional option of funding from the ERDF, ESF or EMFF. The ESI Funds concerned have to provide preparatory support for the implementation of the community-led development strategies, in particular for administrative capacity-building and networking, management and control⁸³.

Actions may be carried out in the form of an integrated territorial investment (ITI) where an urban development strategy or other territorial strategy or territorial pact requires an integrated approach involving investments from the ESF, ERDF or Cohesion Fund under more than one

⁷⁷ Article 32(2)(b) of the CPR.

⁷⁸ Article 2(2)(19) of the CPR.

⁷⁹ Article 33(6) of the CPR.

⁸⁰ Article 33(1) of the CPR.

⁸¹ Article 33(2) of the CPR.

⁸² Article 34(1) of the CPR.

⁸³ Article 35(1) of the CPR.

priority axis or operational programme. Actions carried out as an ITI may be complemented with financial support from the EAFRD or the EMFF⁸⁴. The provisions on the use of the ITI instruments are included in the Fund-specific rules. Monitoring and control of an ITI are the responsibility of the Member State or the managing authority⁸⁵.

With respect to the geographical scope of operational programmes under the Investment for Growth and Jobs goal, the ERDF and ESF programmes are to be designed at the appropriate geographical level and at least at NUTS level 2, while the Cohesion Fund programme is to be drawn up at national level⁸⁶.

b) Key changes as compared with the previous programming period 2007-2013

The provisions on community-led local development are based on the LEADER approach. LEADER was launched in 1991 by the Commission as a Community initiative, and the LEADER local development approach has been providing rural communities in the EU with a method for involving local partners in shaping the future development of their area. The LEADER approach has attracted a high level of interest both within the EU and far beyond, not only in rural areas but also in urban and coastal areas.

The early generations of LEADER received funding from the Structural Funds as a separate Community initiative. LEADER reached a ‘maturity’ phase in 2004-2006 and has since 2007 been co-funded under the EAFRD.

However, LEADER has not fulfilled its full potential to comprehensively integrate local needs and solutions into Local Development Strategies. Therefore, in order to allow territories to better take multi-sectoral needs into account, for the current programming period it is now possible for these strategies also to be supported by other EU Funds (multi-funded approach). In this multi-fund context, the LEADER approach is referred to as community-led local development.

2.5.3. Parliament’s achievements

Over the trilogue negotiations, Parliament succeeded in introducing a new definition of community-led local development strategy in which the role of local action groups in designing and implementing the strategy is specified⁸⁷.

Furthermore, Parliament secured the inclusion in the description of the tasks of the local action groups of explicit reference to ‘fostering project management capabilities’ in relation to capacity-building measures enabling local actors to develop and implement operations⁸⁸.

With the argument that participation in community-led local development strategies can be burdensome for certain actors owing to factors such as lack of resources or of administrative

⁸⁴ Article 32(1) of the CPR.

⁸⁵ Article 36 of the CPR.

⁸⁶ Article 99 of the CPR.

⁸⁷ Article 32(2)(b) of the CPR.

⁸⁸ Article 34(3)(a) of the CPR.

capacity, Parliament proposed in its mandate the option of ESI Funds providing preparatory support for local development strategies, including support for local action groups whose local development strategies have not been selected for funding. This proposal was altered, taken on board, albeit in altered form, in the provisions of Article 35.1(a) to the effect that the costs of preparatory support can be covered. This may include training actions, studies, costs relating to the design of the strategy, administrative costs and small pilot projects.

As regards Integrated Territorial Investments, Parliament, in agreement with the Council, altered the Commission proposal by opening up the possibility of actions carried out as an ITI being complemented with financial support from the EAFRD or the EMFF.

2.6. Ex-ante conditionalities

2.6.1 Brief summary

With the aim of ensuring that the necessary prerequisites for the effective and efficient use of Union support are in place, ex-ante conditionalities (a concept introduced in the 2014-2020 programming period) are laid down in the CPR, together with a concise and exhaustive set of objective criteria for their assessment.

For the CPR, an applicable ex ante conditionality⁸⁹ is: a concrete and precisely predefined critical factor which is a prerequisite for and has a direct and genuine link to and a direct impact on the effective and efficient achievement of a specific objective for an investment priority or a Union priority.

2.6.2. Provisions in detail

a) Current programming period 2014-2020⁹⁰

Ex-ante conditionalities apply to all five ESI Funds, with the details being set out in Article 19 and Annex XI. The latter defines a set of criteria for fulfilment for each thematic and general ex-ante conditionality. For the EAFRD and the EMFF, thematic ex-ante conditionalities are set out in the respective annexes to the specific regulations governing those Funds⁹¹.

Annex XI has two parts:

- Part I lays down thematic ex-ante conditionalities linked to thematic objectives and investment priorities of the Structural Funds (ESF and ERDF) and the Cohesion Fund;
- Part II lays down general ex-ante conditionalities applicable to the five ESI Funds.

Part I of the annex consists of 11 subsections, outlining ex-ante conditionalities for each thematic objective laid down in Article 9 of the CPR. Each thematic ex-ante conditionality has a clear link not only to the thematic objectives but also to the investment priorities of the Funds (ESF, ERDF, Cohesion Fund).

Member States assess, in the context of the preparation of the programmes and, where appropriate, the Partnership Agreement, whether the (thematic and general) ex-ante conditionalities are applicable to the specific objectives pursued within the priorities of their programmes, and whether the applicable ex-ante conditionalities are fulfilled. The assessment of applicability of an ex-ante conditionality takes account of the principle of proportionality, having regard to the level of support allocated where appropriate.

⁸⁹ Article 2(33) of the CPR.

⁹⁰ Article 19 and Annex XI of the CPR.

⁹¹ Annex V of the EAFRD Regulation (EU) No 1305/2013 and Annex IV of the EMFF Regulation (EU) No 508/2014.

For each programme, it is specified which of the ex-ante conditionalities are applicable to it and which are fulfilled at the date of submission of the Partnership Agreement and programmes. For the applicable ex-ante conditionalities that are not fulfilled, the programme will contain a description of the actions to be taken, as well as of the bodies responsible and the timetable for their implementation. The deadline for fulfilment of those ex-ante conditionalities is 31 December 2016.

When assessing the PA and/or programmes, the Commission also assesses the information provided by the Member State on applicability and on the fulfilment of applicable ex ante conditionalities.

The Commission may decide, when adopting a programme, to suspend all or part of the interim payments to the relevant priority of that programme pending completion of the actions to be taken towards fulfilment of ex-ante conditionalities. Should these actions not be completed by the deadline of 31 December 2016, interim payments may be suspended. However, the CPR also provides for safeguards insofar as the scope of suspension needs to take account of the actions to be taken and the Funds at risk, while suspension will be lifted where a Member State has completed the required actions or where on amendment of the programme the ex-ante conditionality concerned is no longer applicable.

The provisions regarding ex-ante conditionalities as set out in Article 19 do not apply to programmes relating to the European territorial cooperation goal.

b) Key changes as compared with the previous programming period 2007-2013

Implicit ex-ante conditionalities already existed already in the previous programming period, as a wide range of conditions were in place linked to Union policies and priorities. This was the case with compliance with public procurement law, state aid rules, and the environmental acquis. In addition, in the case of financing of trans-European transport projects, support was conditional on compliance with the transport policy guidelines for the Trans-European Networks⁹². The concept in the form laid down in the CPR is nonetheless a novelty of the 2014-2020 programming period.

2.6.3. Parliament's achievements

The 2007-2013 programming period proved how the efficient disbursement of Funds can be hindered by such factors as missing strategic orientation, transposition of directives, lack of administrative capacity, etc. Given this, Parliament was in favour of introducing ex-ante conditionalities, provided these are factors directly linked to cohesion policy implementation.

Parliament accepted the Council's approach of reinforcing and clarifying this link by tying EACs not only to thematic objectives but also to priorities in the case of thematic EACs. It strongly defended the Commission's proposal to introduce general ex-ante conditionalities. Part of this was deleted in the Council's position (antidiscrimination, gender equality, disability), but in the negotiations Parliament managed to find a compromise in order to reinstate those deleted elements. Regarding the thematic EACs, the obstacles often proved to be more of a technical

⁹² Comparative Study on the Visions and Options for Cohesion Policy after 2013, 31.08.2011.

nature in the quest of trying to ensure consistency with other policy areas, as well as with the evolution of the negotiations on the Funds. Among the achievements of Parliament are the introduction of a smart specialisation strategy among the criteria for fulfilment for EAC (1.1) linked to research and innovation (this was completed by the introduction of a definition of the notions of ‘smart specialisation strategy’ and ‘strategic policy framework’).

The key divergence between the positions of the Council and Parliament concerned the principle of proportionality and how it is to be applied to this concept. The Council insisted that the principle of proportionality should be taken into account for both the assessment of applicability and the assessment of fulfilment of ex-ante conditionalities. Parliament insisted that proportionality is hard to be interpreted when assessing fulfilment, and a compromise was reached by referring to the principle of proportionality in the assessment of applicability carried out by Member States as well as by the Commission. Regarding the assessment of fulfilment (by the Commission), the final text took on board the proposal by the Council that it ‘shall be limited to the criteria laid down in the Fund-specific rules and in Part II of Annex XI, and shall respect national and regional competences to decide on the specific and adequate policy measures including the content of strategies’⁹³.

⁹³ Articles 19(1) and 19(3) of the CPR.

2.7. Performance framework and performance reserve

2.7.1. Brief summary

The Commission and the Member States will review the performance of the programmes in each Member State. This review will be carried out in 2019 on the basis of the information provided in the annual implementation report by each Member State that year. The method for establishing the performance framework is defined in Annex II. The performance reserve already constituted will be allocated to those programmes and priorities which have achieved their milestones.

The rules governing programme performance provide an incentive for achievement of the pre-established milestones through allocation of the performance reserve, and also encourage preventive measures to avoid underachievement.

2.7.2. Provisions in detail

a) Current programming period 2014-2020

The total amount of the performance reserve allocated by ESI Fund and category of region is 6 % of the resources allocated to the ERDF, the ESF and the Cohesion Fund under the Investment for Growth and Jobs goal, as well as to the EAFRD and to measures financed under shared management in accordance with the EMFF regulation. It will constitute between 5 and 7 % of the allocation to each priority within a programme, with the exception of priorities dedicated to technical assistance and programmes dedicated to financial instruments⁹⁴. This amount is calculated excluding the following⁹⁵:

- the entire ERDF allocation under the European Territorial Cooperation goal;
- the ESF allocations for the Youth Employment Initiative and the Fund for European Aid for the Most Deprived;
- the Cohesion Fund allocation for the Connecting Europe Facility;
- Resources transferred from pillar I of the CAP to the EAFRD and transfers to the EAFRD in application of Regulation (EC) No 73/2009 (Articles 10b, 136 and 136b) for 2013 and 2014;
- Resources allocated to technical assistance at the initiative of the Commission;
- Resources allocated for innovative actions for sustainable urban development (Article 92.8).

In 2019 the Commission, together with the Member States, will review the performance of the programmes by examining the degree to which the programme milestones have been achieved, on the basis of the information provided by the Member States in their annual implementation reports submitted in 2019⁹⁶.

⁹⁴ Article 22 of the CPR.

⁹⁵ Article 20 of the CPR.

⁹⁶ Article 21 of the CPR.

The performance framework will be the tool used to review the performance of the programmes. It consists of the milestones established for each priority for 2018 and the targets for 2023⁹⁷.

The milestones related to each priority are intermediate targets directly linked to the achievement of the specific objective of a priority and, in principle, indicate the progress made towards the final targets. These milestones comprise financial indicators, output indicators and, if appropriate, result indicators. They must be realistic, achievable, relevant, transparent and verifiable. Furthermore, they may be revised in duly justified cases, such as significant changes in the economy, environment or labour market of a given Member State or region⁹⁸.

The performance review to be carried out in 2019 will be the basis for the adoption by the Commission of a decision determining, for each ESI Fund and Member State, which programmes and priorities have attained their milestones⁹⁹.

Where priorities have attained their milestones the performance reserve established for them will be considered as definitely allocated. Where the milestones have not been attained, the Member State proposes the reallocation of the performance reserve to the priorities indicated by the Commission in its decision and amends the programme accordingly. In principle, the Member State's proposal must be consistent with the rules governing thematic concentration and minimum allocations.

The Commission may suspend all or part of an interim payment of a priority of a programme in the case of a serious failure to achieve milestones, provided the failure is related only to financial and output indicators and key implementation steps as set out in the performance framework. In addition, the failure must be due to clearly identified implementation weaknesses that were previously communicated by the Commission.

Furthermore, financial corrections may also be adopted by the Commission in the case of a similar failure related to targets.

However, suspension of payments will not be applied automatically merely because the milestones have not been achieved. Member States will be given sufficient opportunity to take corrective measures in response to the Commission's recommendations. The Commission will suspend payments only in cases where the Member State has failed to take corrective measures in good time. Financial corrections will be applied solely on closure of a programme in serious cases of underperformance.

b) Key changes as compared with the previous programming period 2007-2013

In the previous programming period, the creation of a national performance reserve related to the Convergence objective and/or the regional competitiveness and employment objective was a matter to be decided by each Member State on a voluntary basis. The total amount could not exceed 3 %¹⁰⁰.

⁹⁷ Annex II of the CPR.

⁹⁸ Annex II of the CPR.

⁹⁹ Article 22 of the CPR.

¹⁰⁰ Article 50 of Regulation (EC) No 1083/2006.

2.7.3. Parliament's achievements

Parliament has concentrated its efforts on guaranteeing flexibility and on limiting the application of the performance framework.

The Commission's proposal was successfully completed with the compromise based on Parliament's amendment and the Council's PGA, which indicated that the Commission must communicate implementation weaknesses to a given Member State beforehand if it is to proceed to the suspension of all or part of an interim payment. The suspension cannot take place until five months have elapsed since the Commission's communication to the Member State concerned (this period represents a compromise between the six months proposed by the Council and the three months proposed by Parliament). Parliament's team also insisted on more precise formulation of the conditions of non-application of financial corrections (Article 22(7), third subparagraph).

Moreover, the Commission's proposal regarding Annex II was successfully supported, and an agreement was reached on a clear definition of milestones and targets in the wake of the Council's amendments.

2.8. Monitoring and evaluation

2.8.1. Brief summary

Member States have to monitor programmes in order to review their implementation and the progress made towards achieving programme objectives. To this end, monitoring committees are set up by the Member States. In addition, Member States submit annual implementation reports and progress reports on the implementation of their Partnership Agreements to enable the Commission to monitor progress. On the basis of these reports, the Commission has to prepare a strategic report on progress in 2017 and again in 2019. In order to ensure a regular strategic policy debate on the contribution of the ESI Funds to the achievement of the Union's strategy for smart, sustainable and inclusive growth, and to improve the quality of spending and the effectiveness of the policy in line with the European Semester, the strategic reports are debated in Council. On the basis of that debate, the Council provides input for the assessment presented at the spring meeting of the European Council on the role of all Union policies and instruments in delivering sustainable job-creating growth across the Union.

It is also necessary to evaluate the effectiveness, efficiency and impact of assistance from the ESI Funds in order to improve the quality of design and implementation of programmes and to determine their impact. The CPR stipulates the responsibilities of Member States and the Commission in this regard. First of all, an ex ante evaluation of each programme has to be carried out, in order to improve the quality of the design of each programme and verify whether its objectives and targets can be reached. Secondly, during the programming period managing authorities must ensure that evaluations are carried out to assess the effectiveness, efficiency and impact of a programme. Finally, ex post evaluations must be carried out in order to assess the effectiveness and efficiency of the ESI Funds and their impact on the overall goals of the ESI Funds and on the Union's strategy for smart, sustainable and inclusive growth. For each of the ESI Funds, the Commission must prepare a synthesis report outlining the main conclusions of the ex post evaluations.

2.8.2. Provisions in detail

a) Current programming period 2014-2020

According to the provisions on monitoring, as included in the CPR, Member States are to set up the **monitoring committee** within three months of the date of notification to the Member State of the Commission decision adopting a programme¹⁰¹. The monitoring committee consists of representatives of the relevant Member State authorities, intermediate bodies and partners. The composition of the monitoring committee is decided by the Member State. Each member of the monitoring committee has a vote, and the list of its members must be published. The Commission participates in the work of the monitoring committee in an advisory capacity. The committee is chaired by a representative of the Member State or of the managing authority¹⁰².

¹⁰¹ Article 47 of the CPR.

¹⁰² Article 48 of the CPR.

The monitoring committee meets at least once a year and reviews the implementation of the programme and the progress made towards achieving its objectives. It must be consulted on any amendment to the programme proposed by the managing authority, and it may make observations to the managing authority regarding implementation and evaluation of the programme¹⁰³.

For the ERDF, the ESF and the Cohesion Fund, Article 110 of the CPR sets out additional provisions with regard to the monitoring committee.

From 2016 up to and including 2023, each Member State shall submit to the Commission an **annual report on implementation** of the programme in the previous financial year. In addition, each Member State shall submit to the Commission a final report on implementation of the programme for the ERDF, the ESF and the Cohesion Fund, and an annual implementation report for the EAFRD and the EMFF, by the deadline established in the Fund-specific rules. The annual implementation reports set out key information on implementation of the programme and its priorities, with reference to the financial data, common and programme-specific indicators and quantified target values and, beginning from the annual implementation report to be submitted in 2017, the milestones defined in the performance framework. Specific additional requirements relate to the annual implementation reports to be submitted in 2017 and 2019, which have to be more comprehensive.

Article 111 of the CPR sets out additional provisions for the annual implementation reports relating to ERDF, ESF and CF.

The Commission examines the reports (annual implementation report and final implementation report), and informs the Member State of its observations within two months of the date of receipt of the annual implementation report and within five months of the date of receipt of the final implementation report. If the Commission does not provide observations within those deadlines, the reports are deemed accepted.

The annual and final implementation reports, as well as a summary thereof for citizens, must be made available to the public¹⁰⁴.

An **annual review meeting** is to be organised each year from 2016 up to and including 2023 between the Commission and each Member State to examine the performance of each programme, taking account of the annual implementation report and the Commission's observations. However, the Member State and the Commission may agree not to hold an annual review meeting for a programme in years other than 2017 and 2019. The annual review meeting is chaired by the Commission or, if the Member State so requests, co-chaired by the Member State and the Commission. The Member State ensures that appropriate follow-up is given to the comments of the Commission following the annual review meeting, concerning issues which significantly affect the implementation of the programme and informs the Commission, within three months of the meeting, of the measures taken¹⁰⁵.

In addition to the annual implementation reports, the Member State submits to the Commission a **progress report on implementation of the Partnership Agreement**, by 31 August 2017 and

¹⁰³ Article 49 of the CPR.

¹⁰⁴ Article 50 of the CPR.

¹⁰⁵ Article 51 of the CPR.

again by 31 August 2019. This progress report includes, inter alia: information on development needs; an assessment of any changes in those needs; an account of the progress made towards achievement of the Union strategy for smart, sustainable and inclusive growth, as well as of the Fund-specific missions; implementation of the integrated approach to territorial development; actions taken to reinforce the capacity of the Member State authorities and beneficiaries; actions taken and progress made with regard to reducing the administrative burden on beneficiaries and the role of the partners in the implementation of the Partnership Agreement¹⁰⁶.

The Commission compiles each year, starting from 2016, a **summary report** based on the annual implementation reports of the Member States, as well as a synthesis of the findings of the available programme evaluations. In addition, in 2017 and 2019, the Commission prepares a **strategic report** summarising the Member States' progress reports¹⁰⁷. In addition, the Commission prepares a **Cohesion Report** in accordance with Article 175 TFEU¹⁰⁸.

Evaluations have to be carried out to improve the quality of the design and implementation of programmes, as well as to assess their effectiveness, efficiency and impact. They are to be entrusted to internal or external experts who are functionally independent of the authorities responsible for programme implementation. All evaluations must be made available to the public¹⁰⁹.

Ex ante evaluations are carried out under the responsibility of the authority responsible for the preparation of the programmes to improve the quality of the design of each programme. These evaluations have to be submitted to the Commission at the same time as the programme, together with an executive summary¹¹⁰.

During the programming period, the managing authority ensures that evaluations, including evaluations to assess effectiveness, efficiency and impact, are carried out for each programme on the basis of the evaluation plan drawn up by the managing authority or Member State and that each evaluation is subject to appropriate follow-up in accordance with the Fund-specific rules. All evaluations must be examined by the monitoring committee and sent to the Commission. The Commission may carry out, at its own initiative, evaluations of programmes. It informs the managing authority and the results are sent to the managing authority and made available to the monitoring committee concerned¹¹¹.

Ex post evaluations examine the effectiveness and efficiency of the ESI Funds and their contribution to the Union's strategy for smart, sustainable and inclusive growth. They are carried out by the Commission, or by the Member States in close cooperation with the Commission. They have to be completed by 31 December 2024. In the case of the SME initiative, the ex post evaluation is to be carried out by the Commission and completed by 31 December 2019. For each of the ESI Funds, the Commission prepares, by 31 December 2025, a synthesis report outlining the main conclusions of the ex post evaluations¹¹².

¹⁰⁶ Article 51 of the CPR.

¹⁰⁷ Article 53 of the CPR.

¹⁰⁸ Article 113 of the CPR.

¹⁰⁹ Article 54 of the CPR.

¹¹⁰ Article 55 of the CPR.

¹¹¹ Article 56 of the CPR.

¹¹² Article 57 of the CPR.

For the ERDF, the ESF and the Cohesion Fund, the managing authorities submit to the Commission by 31 December 2022, for each operational programme, a report summarising the findings of the evaluations carried out during the programming period and the main outputs and results of the operational programme, providing comments on the information forwarded¹¹³.

b) Key changes as compared with the previous programming period 2007-2013

Compared to Regulation (EC) No 1083/2006 governing the previous programming period, the CPR introduces several novelties. The main tasks and functions of the monitoring committee remain of the same nature, but several new functions are added. These include examination of the implementation of the communication strategy, actions to promote sustainable development, and ex ante conditionalities. Also, for the period 2014-2020 Member States have the option of setting up joint monitoring committees for programmes cofinanced from ESI Funds.

In the new programming period, by contrast with the previous one, the Commission and the Member States may agree not to organise an annual review meeting. This facilitates a more proportionate approach, for example to small operational programmes, and a focus on operational programmes which may have implementation difficulties. In addition, the annual review meetings may cover more than one programme.

Furthermore, new requirements regarding reporting are in force in the current programming period. However, the regular annual reports are significantly lighter than in 2007-2013, providing the Commission with only the essential data on progress made. In the previous period, the preparation and review of annual implementation reports required substantial administrative effort. Despite this, the information presented was not always useful for the purposes of monitoring and assessment of performance. In the new programming period, the first annual report is to be submitted only in 2016. This report consists in large part of data automatically made available by the information system, rather than elaborate text. Only twice during the programming period, and again for the final implementation report, are the managing authorities requested to submit more comprehensive reports.

As a new obligation, the annual and final implementation reports, as well as a summary thereof for citizens, are to be made available to the public. In addition to the 2017 and 2019 reports, Member States are to submit to the Commission a progress report on the implementation of the Partnership Agreement and a report summarising the findings of the evaluations by the end of 2022. Each year starting in 2016, the Commission has to prepare a synthesis of the findings of the available evaluations of the programmes and a synthesis report outlining the main conclusions of the ex post evaluations. A new obligation of the Member States is the transmission of specific financial data three times per year. The CPR also lays down more detailed provisions regarding annual review meetings. A further difference entails that the preparation of an evaluation plan is now obligatory, whereas it was optional in the previous programming period.

2.8.3. Parliament's achievements

In the field of monitoring, Parliament supported the main lines of the original Commission proposal. At the same time Parliament contributed with its suggestions to the improvement of

¹¹³ Article 114 of the CPR.

the provisions , and the final text of this block follows Parliament's position in numerous aspects. Regarding the monitoring committee, Parliament achieved the inclusion of the requirement for a transparent process for delegating the representatives of the partners, involvement of the representatives of EGTCs in the monitoring committees became possible, and the requirement for publication of the list of members of the monitoring committee was introduced. Furthermore, again on a proposal by Parliament, the functions of the monitoring committee were widened concerning the conclusions of the performance reviews. Lastly, the administrative burden on beneficiaries was reduced.

Regarding the implementation reports, the examination of the final implementation report by the Commission became obligatory, again in line with Parliament's position. Moreover, the obligation to publish the annual and final implementation reports was introduced on the request of Parliament.

Parliament also achieved the addition of a deadline for the follow-up of the comments of the Commission, following the annual review meeting. Furthermore, a deadline for the strategic reports to be prepared by the Commission was introduced, on the request of Parliament.

Regarding the content of the annual implementation reports, the following items were added on a proposal by Parliament:

- development of regions facing demographic challenges and permanent or natural handicaps;
- contribution to macro-regional and sea basin strategies;
- progress in the implementation of measures, addressing the specific needs of target groups at highest risk of poverty or social exclusion and with special regard to persons with disabilities, the long-term unemployed and young people not in employment;
- assessment of the role of the partners in the implementation report to be submitted in 2017.

In addition, on the request of Parliament, the Cohesion Report also has to include an indication of future Union measures and policies necessary to strengthen economic, social and territorial cohesion, as well as to deliver the Union's priorities.

Moreover, Parliament achieved the future inclusion in the scope of ex ante evaluations of the following:

- consistency of the selected thematic objectives and priorities with the National Reform Programme;
- accessibility for persons with disabilities;
- measures to reduce the administrative burden on beneficiaries.

Finally, the requirement for the Commission to prepare a synthesis report on the findings of the ex post evaluations was introduced following a suggestion by Parliament.

2.9. Technical assistance

2.9.1. Brief summary

A certain amount of financial resources is available as technical assistance to support the implementation of programmes and projects under the ESI Funds. The Regulation provides two types of technical assistance: on the initiative of the Commission and on the initiative of the Member States.

2.9.2. Provisions in detail

a) Current programming period 2014-2020

Technical assistance following a Commission initiative may be implemented either by the Commission itself or by other entities and persons different from the Member States. The ESI Funds could be used to support inter alia the preparatory, implementation, monitoring and evaluation phases of a project, as well as to improve efficiency of communication, exchange good practices and build administrative and technical capacity¹¹⁴. The Funds may support technical assistance up to a ceiling of 0.35 % of their respective annual allocation.

The second type of technical assistance - at the initiative of the Member States - will continue to provide support inter alia in the areas of preparation, management, monitoring, evaluation, information and communication, control and institutional capacity reinforcement, while also focusing on the newly introduced directions: administrative burden reduction, networking and complaint resolution. The above actions may relate to both the previous and following programming periods¹¹⁵¹¹⁶. Technical assistance following a Member State's initiative may go up to a ceiling of 4 % of the total amount of the Funds allocated to operational programmes in a Member State in each category of region under the investment for growth and jobs goal¹¹⁷.

The crisis in Europe requires a certain flexibility of the ESI Funds allocations: this is reflected in the provisions concerning the management of technical assistance. When a Member State experiences temporary budgetary difficulties, it may request a transfer of resources allocated under technical assistance at its own initiative to the heading of technical assistance following a Commission initiative. The resources transferred shall be used to assist the Member States in strengthening their capacity-building¹¹⁸.

¹¹⁴ Article 58 of the CPR.

¹¹⁵ Article 59 of the CPR.

¹¹⁶ Article 46 of Regulation (EC) No 1083/2006.

¹¹⁷ Article 119 of the CPR.

¹¹⁸ Article 25 of the CPR.

b) Key changes as compared with the previous programming period 2007-2013

Compared to the previous programming period, the focus on institutional strengthening and administrative capacity-building is significantly increased¹¹⁹. In this regard, in the current programming period the amount of assistance provided shall not exceed 0.35 % of the Funds' annual allocation¹²⁰.

This represents an increase of 0.1 % by comparison with the 2007-2013 period, in which technical assistance following a Commission initiative was subject to a limit of 0.25 % of the annual allocation of each Fund¹²¹.

During the previous programming period, technical assistance on the initiative of the Member States was limited to 4 % of the total amount of Funds allocated to programmes under the convergence and regional competitiveness and employment objectives, and 6 % to programmes under the European territorial cooperation objective¹²².

2.9.3. Parliament's achievements

As regards technical assistance on the initiative of the Commission, Parliament, as well as the Council, largely supported the Commission proposal. Parliament successfully introduced into the final compromise a new subparagraph under which dissemination of good practices is provided for in order to assist Member States in strengthening the capacity of the relevant partners referred to in Article 5 and their umbrella organisations.

As regards technical assistance to Member States, along the same lines, the final compromise included Parliament's text stating that the ESI Funds may also be used to support actions to reinforce the capacity of relevant partners and to support exchange of good practices between such partners. The debate on the provisions for the Funds (Article 119 of the CPR) revolved around the degree of flexibility to be introduced into the original Commission proposal. Parliament in principle did not oppose the Council's desire for greater flexibility; however, the final compromise included safeguards to avoid transfer of resources between regions to the detriment of less-developed regions, a concern voiced by the Commission (a pro rata arrangement was introduced in Article 119(4)).

Parliament's team supported the measures included in Article 25 of the CPR (Management of technical assistance for Member States with temporary budgetary difficulties). This text was proposed by the Commission at a very late stage in the negotiations (in September 2013), and was endorsed by the co-legislators without major changes.

¹¹⁹ Article 45 of Regulation (EC) No 1083/2006.

¹²⁰ Article 118 of the CPR.

¹²¹ Article 45 of Regulation (EC) No 1083/2006.

¹²² Article 46 of Regulation (EC) No 1083/2006.

2.10. Management and control

2.10.1. Brief summary

In line with the principle of shared management, both the Member States and the Commission are responsible for the management and control of the programmes. However, the core responsibility lies with the Member State concerned and its management and control systems. The designation of those authorities is made by the Member State, in a formal act at the appropriate level, and is based on a report by an independent audit body. The rules governing management, control and audit obligations are included in the Financial Regulation, the CPR and the Fund-specific rules. Given that the Commission is also responsible for the management and control systems, it is empowered to carry out on-the-spot audits and checks to ensure sound financial management. Furthermore, should the Commission so request Member States are obliged to examine complaints sent to the Commission and to inform the Commission of the results of their examination.

2.10.2. Provisions in detail

a) Current programming period 2014-2020

The management and control systems provide a description of the functions of each body involved and of the allocation of functions within each of those bodies, and systems and procedures to ensure the accuracy of expenditure, report and monitor execution if needed and ensure an adequate audit trail. They also provide for the prevention, detection and correction of irregularities and the recovery of amounts unduly paid. Furthermore, there will be arrangements to audit the functioning of the management and control systems. It should be mentioned that the systems for accounting, storage and transmission of financial data and data on indicators have to be digitalised¹²³.

With regard to responsibilities, as stated above, in line with the principle of shared management both the Member States and the Commission are responsible for the management and control of the programmes¹²⁴.

The Member States are responsible for the management, control and audit obligations as laid down in the Financial Regulation and the Fund-specific rules, on the basis of the effective functioning of the systems. Furthermore, Member States must arrange systems for the examination of complaints concerning the ESI Funds, in accordance with their institutional and legal framework. The Commission may request Member States to examine the complaints sent directly to the Commission and inform it of the results¹²⁵.

To assure the exchange of information between beneficiaries, intermediate bodies and the different authorities, Member States must ensure, for the ERDF, the ESF, the Cohesion Fund and the EMFF, that electronic data exchange systems are in place by 31 December 2015¹²⁶.

¹²³ Article 72 of the CPR.

¹²⁴ Article 73 of the CPR.

¹²⁵ Article 74 of the CPR.

¹²⁶ Article 122 of the CPR.

Moreover, Member States are responsible for the prevention, detection and correction of irregularities and must recover amounts unduly paid, as well as interest on late payments. They are obliged to notify the Commission when irregularities exceed EUR 10 000 in contributions from the Funds. They must also keep the Commission informed of significant progress in related administrative and legal proceedings. However, Member States are not obliged to inform the Commission in cases where the irregularity consists solely of the failure to execute an operation, where the case is indicated by the beneficiary voluntarily and before detection by any authority, or where the case is detected and corrected by the managing authority or the certifying authority before the expenditure is submitted to the Commission.

Where an unduly paid amount has not been recovered by fault or negligence of the Member State, the Member State must reimburse that amount to the Union budget. Member States may decide not to recover an unduly paid amount provided it does not exceed EUR 250 in contributions from the Funds¹²⁷.

In connection with the powers and responsibilities of the Commission, it must be highlighted that it is responsible for ensuring the effective functioning of the different management and control systems set up by the Member States. These systems must comply with both Regulation (EU) No 1303/2013 and the Fund-specific rules. Moreover, Commission officials or authorised Commission representatives are allowed to carry out on-the-spot audits or checks in order to control the systems, in particular, the effective functioning of the management and control systems and assess the sound financial management of operations or programmes. To do so, they must have access to all necessary records, documents and metadata. Member States are obliged to provide all such data.

Finally, it should be indicated that the Commission may require a Member State to take action to ensure the effective functioning of its management and control systems or the correctness of expenditure¹²⁸.

As regards the designation of authorities, for the ERDF, the ESF, the Cohesion Fund and the EMFF, each Member State designates, for each operational programme, a managing authority, a certifying authority and an audit authority. These functions must be performed by a national, regional or local public authority or body, except for the managing authority, which may also be a private body. If the managing authority is a public body it may also carry out the functions of the certifying authority for a given programme. In contrast, the audit authority must be functionally independent of the managing authority or the certifying authority. These authorities may be designated for more than one operational programme.

Furthermore, intermediate bodies may be designated to carry out certain tasks of the managing or certifying authority, as well as the management of part of an operational programme provided the intermediate body guarantees its solvency. In addition, the Member State may decide to create a coordinating body to liaise with the Commission and the other authorities.

Finally, it must be highlighted that the relations between the Member State, the different authorities and the Commission must be indicated in written rules¹²⁹.

¹²⁷ Article 122 of the CPR.

¹²⁸ Article 75 of the CPR.

¹²⁹ Article 123 of the CPR.

Each Member State, on the basis of the information provided by an independent audit body which has to assess the fulfilment by the authorities of the criteria indicated in Annex XIII, must notify to the Commission the designation of the managing authority and the certifying authority. These designations must be made at the appropriate level. However, if the designated authorities are found not to fulfil their role, a period of probation must be fixed by the Member State. If the situation continues, the designation may be ended and a new authority may be designated¹³⁰.

The managing authority is responsible for managing the operational programme in accordance with the principle of sound financial management. In particular, it is responsible for¹³¹:

1. Management of the operational programme

- it supports the work of the monitoring committee;
- it drafts and submits the annual and final implementation reports;
- it supports intermediate bodies and beneficiaries in the execution of their tasks and the implementation of operations;
- it establishes a computerised system to record and store data on each operation;
- it ensures that the data are collected, entered and stored in that system, and broken down if required in the Fund-specific regulations.

2. Selection of operations

- the managing authority draws up and applies appropriate non-discriminatory and transparent selection procedures and criteria to ensure the contribution of operations to the achievement of the specific objectives and results of the relevant priority;
- it ensures the correct attribution of operations;
- it ensures that beneficiaries receive the relevant information on the conditions for support for each operation;
- it controls the ability of beneficiaries to fulfil the operations;
- it determines the categories of intervention.

3. Financial management and control of the operational programme

- it verifies the actual delivery of cofinanced goods and services and checks that expenditure declared by the beneficiaries has been paid and complies with the relevant regulations; in order to do so both administrative and on-the-spot checks may be carried out;
- it ensures that beneficiaries keep an adequate accounting system;
- it enforces anti-fraud measures;
- it establishes procedures to guarantee the existence of an adequate audit trail;
- it drafts the documents referred to in Article 59(5) of the Financial Regulation.

The certifying authority is responsible, among other issues, for:

¹³⁰ Article 124 of the CPR.

¹³¹ Article 125 of the CPR.

- submitting the payment applications to the Commission;
- certifying that the accounting systems are reliable, that the supporting documents are reliable and that the managing authority has verified the documents;
- ensuring that the accounts are complete, accurate and veracious;
- ensuring that a computerised system is in place to record and store data for each operation;
- ensuring that the managing authority provides the certifying authority with the necessary information regarding expenditure checks;
- taking account of all audits carried out;
- keeping computerised accounting records of expenditure and of recoverable and withdrawn amounts¹³².

The main task of the audit authority is:

- to check the proper functioning of the management and control system of each operational programme;
- to ensure that the declared expenditure is audited on the basis of a representative sample and on statistical sampling methods in general; non-statistical sampling methods may be used in duly justified cases;
- to ensure that the auditing is carried out in compliance with international accepted audit standards;
- to prepare an audit strategy for the operational programme;
- to present an audit opinion pursuant to Article 59(5) of the Financial Regulation and a control report indicating the main findings of the audits carried out¹³³.

It should be stressed that the Commission must cooperate with the audit authorities in order to coordinate the audit plans and methods¹³⁴.

Regarding the revision of the designation process, in the current period a proportionate approach to the review of the designation process by the Commission is proposed instead of the systematic examination of the compliance assessment for all programmes, as applied in 2007-2013. Where the total amount of support from the Funds for an operational programme is less than EUR 250 million or that from the EMFF is less than EUR 100 million, the Commission will not review the designation procedure. The Commission may review higher value programmes focusing on those which it assesses as high-risk. In assessing risk, the Commission will take into account whether the management and control systems are similar to those of the previous period, the evidence of how effectively they performed their functions, and whether the managing authority will perform the functions of the certifying authority for the new period. The Commission will have two months as of receipt of the documents to make observations. It will be deemed to have no comments on the designation procedure if it does not react within the two-month period.

When the Commission identifies deficiencies in the designation process in light of its assessment of the fulfilment of the designation criteria, it may require the Member States to take steps to address such deficiencies. If the Member State concerned does not take the necessary

¹³² Article 126 of the CPR.

¹³³ Article 127 of the CPR.

¹³⁴ Article 128 of the CPR.

steps and the Commission considers there is evidence of a serious deficiency in the management and control system for which corrective measures have not been taken, the Commission may initiate a procedure for suspension of payments in accordance with Article 142(1)(a) of the CPR.

b) Key changes as compared with the previous programming period 2007-2013

The general principles of management and control systems remain basically the same over time, and there are therefore almost no changes regarding this aspect between the CPR and the former regulation¹³⁵.

The designation procedure for the 2014-2020 period is, in its objectives and scope and the procedural requirements for Member States, rather similar to the compliance assessment procedure used at the start of the 2007-2013 programming period¹³⁶. The main difference would be that in the previous regulation the proportionate approach as mentioned above was not laid down. Furthermore, Article 124 of the CPR ('Procedure for the designation of the managing authority and the certifying authority') did not exist in the old regulation.

Regarding the functions of the managing authority, certifying authority and audit authority, they remain basically the same, with only minor changes between the two periods¹³⁷.

In connection with the responsibilities of Member States, they remain unchanged for the core issues¹³⁸. However, it must be highlighted that in the CPR some limitations on the Member States' responsibilities were adopted in order to simplify administrative procedures and avoid overburdening the administrative units in charge of implementing the programmes. In this sense, it must be mentioned that Member States may decide not to recover amounts unduly paid and not exceeding EUR 250 in contributions from the Funds. By contrast, some additional information requirements have been included, and in line with the CPR Member States are obliged to inform the Commission of irregularities exceeding EUR 10 000 in contributions from the Funds, as well as significant progress in related administrative and legal proceedings¹³⁹.

Furthermore, for the 2007-2013 period, the regulations did not provide for a subsequent compliance assessment of the systems at national level in case of significant changes in those systems. Resulting system weaknesses could only be detected at a late stage, with consequences which could oblige the Commission to intervene where justified, in the form of interruption or suspension of payments.

In contrast, for 2014-2020, Article 56(2)(b) of the Financial Regulation requires the Member States to supervise the designated bodies throughout the period and end the designation where existing audit and control results show that the designated authority no longer complies with the designation criteria. The Commission foresees, as provided for in Article 64(4) of the CPR, that Member States may fix a probationary period for the necessary remedial action. The end of designation may only take place if the necessary actions are not satisfactorily carried out within the period of probation as set out in Article 56(3) of the Financial Regulation.

¹³⁵ Article 58 of Regulation (EC) No 1083/2006.

¹³⁶ Article 59 of Regulation (EC) No 1083/2006.

¹³⁷ Articles 60, 61, 62 of Regulation (EC) No 1083/2006.

¹³⁸ Article 70 of Regulation (EC) No 1083/2006.

¹³⁹ Article 122 of the CPR.

2.10.3. Parliament's achievements

Parliament has successfully pressed for faster implementation of computerised systems for information exchange and a better definition of the data to be recorded¹⁴⁰, thanks to amendments offering a more detailed description of the purpose of the delegation of powers.

Furthermore, Parliament managed to hold on to a reasonable and adequate timing for carrying out on-the-spot audits. This timing is 12 days instead of the 15 days requested by the Council. In addition, the auditing requirements were kept to the highest possible standard, in line with the Commission's proposal, with clear requirements concerning non-statistical sampling (which has to cover a minimum of 5 % of operations and 10 % of expenditure during an accounting year)¹⁴¹.

Finally, on the request of Parliament the development of the basic legislation will take place on the basis of delegated acts, over which Parliament has some procedural powers, rather than implementing acts as demanded by the Council.

¹⁴⁰ Article 125(8) of the CPR.

¹⁴¹ Article 127 of the CPR.

2.11. Financial instruments

2.11.1. Brief summary

The ESI Funds may be used to support financial instruments that are to support financially viable investments which do not receive sufficient funding from market sources.

The CPR defines financial instruments (FIs) as those ‘defined in the Financial Regulation, save where otherwise provided in this Regulation’¹⁴². Thus, these instruments of cohesion policy are aligned to the overall European framework created for financial instruments. The role of FIs in cohesion policy has grown, thanks to their leverage effect on public investment resources, their capacity to combine different forms of public and private resources, and their longer-term financial sustainability (the latter stemming from their repayable character).

The definitions of the terms ‘beneficiary’ and ‘final recipient’ in the context of FIs require clarification: as opposed to the meaning of ‘beneficiary’ in the context of grants, in the case of FIs the term refers to the body that implements the financial instrument or the fund of Funds as appropriate, whereas ‘final recipient’ means a legal or natural person receiving financial support from a financial instrument¹⁴³.

2.11.2. Provisions in detail

a) Current programming period 2014-2020

For the programming period 2014-2020, the FIs are designed to address specific market needs in accordance with the objectives of the programmes. Their support is based on an ex ante assessment which has established evidence of market failures or sub-optimal investment situations and the estimated level and scope of public investment needs¹⁴⁴.

Support from the ESI Funds cannot be used to finance investments which have already been physically completed or fully implemented. In the case of investments in infrastructure supporting urban development or diversification of non-agricultural activities in rural areas, it is possible to use the support to reorganise a debt portfolio up to a maximum of 20 % of the total amount of support from the financial instrument to the investment.

FIs can be set up: (1) at Union level, in which case they are managed directly or indirectly by the Commission; or (2) at national, regional, transnational or cross-border level, in which case they are managed by or are under the responsibility of the managing authority. To implement the latter class of FIs, the managing authority may: (a) invest in existing or newly- created legal entities dedicated to implementing financial instruments; (b) entrust implementation to the EIB, certain international financial institutions, financial institutions in the Member State or a body

¹⁴² Article 2(11) of the CPR.

¹⁴³ Articles 2(10) and 2(12) of the CPR.

¹⁴⁴ Article 37 of the CPR. The content of the ex ante assessment is set out in Article 37(2) of the CPR.

governed by public or private law; or (c) undertake implementation directly¹⁴⁵.

Where an FI is not implemented directly by the managing authority, a funding agreement must include the terms and conditions for contributions from programmes to financial instruments. Where an FI is implemented directly by the managing authority, this information must be included in a strategy document to be examined by the monitoring committee¹⁴⁶.

Moreover, FIs need to function in accordance with applicable state aid rules. This is particularly relevant in cases of preferential remuneration of private investors or public investors operating under the market economy principle, as well as in cases where financial instruments are combined with grant support.

Support from the ESI Funds provided to final recipients in the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments can cover the entirety of the investments made by final recipients, without distinction of VAT-related costs. Only where financial instruments are combined with grants is VAT to be taken into account at the level of the final recipient (for the purposes of determining eligibility of expenditure).

To avoid an excessive administrative burden for final recipients, programme audits are, in the first instance, carried out at the level of the managing authorities and the bodies implementing financial instruments including Funds of Funds¹⁴⁷, and should only under specific circumstances target final recipients. Moreover, bodies implementing financial instruments are to ensure the availability of supporting documents. Excessive record-keeping should not be imposed upon final recipients¹⁴⁸.

Applications for interim payments are phased subject to several conditions¹⁴⁹. The amount to be paid is subject to a ceiling of 25 % of the total amount of programme contributions as committed to the financial instrument under the relevant funding agreement. Specific rules apply to FIs regarding eligible expenditure at the closure of a programme, in order to ensure that the amounts, including management costs and fees, paid from the ESI Funds to financial instruments are effectively used for investments in final recipients. Flexibility is provided for, especially in the case of support to equity-based instruments for the benefit of enterprises¹⁵⁰. There are also specific rules regarding the reuse of resources until the end of, as well as after, the eligibility period¹⁵¹. Interest and other gains attributable to support from the ESI Funds paid to financial instruments are to be used for the same purposes as the initial support from the ESI Funds, either within the same financial instrument or following the winding-up of the financial instrument, under other financial instruments or forms of support¹⁵².

A specific report, annexed to the annual implementation report, will be used for reporting on

¹⁴⁵ Article 37 of the CPR.

¹⁴⁶ See Annexes III and IV of the CPR Regulation 1303/2013 for further details on these documents.

¹⁴⁷ Article 2(27) of the CPR: 'fund of Funds' means a fund set up with the objective of contributing support from a programme or programmes to several financial instruments. Where financial instruments are implemented through a fund of Funds, the body implementing the fund of Funds shall be considered to be the only beneficiary within the meaning of point 10 of this Article.

¹⁴⁸ Article 40 of the CPR.

¹⁴⁹ As set out in Article 41 of the CPR.

¹⁵⁰ Article 42 of the CPR.

¹⁵¹ Articles 44 and 45 of the CPR.

¹⁵² Article 43 of the CPR.

FIs. This report will contain elements describing the financial instruments, identification of programmes and bodies involved, the amount of the programme contribution, support paid to final recipients, and the performance of the FIs. Each year as from 2016, the Commission will provide summaries of the progress made in financing and implementing the FIs, and forward them to Parliament and the Council¹⁵³.

SME Initiative¹⁵⁴

A specific financial instrument managed indirectly by the Commission, with implementation tasks entrusted to the EIB, is provided for in the CPR. The aim of this ‘EU-wide tool’ is to provide accessible finance for SMEs, especially in areas where access to credit has become difficult, thus creating an insuperable competitive disadvantage for potentially prosperous small and medium-sized enterprises (participation of Member States is voluntary). Member States’ contributions are to be in line with SMEs’ debt financing needs in the Member State concerned and the estimated demand for such financing. The amount may not be higher than 7 % of the allocation from the ERDF and EAFRD to that Member State. The aggregate ERDF and EAFRD contribution of all participating Member States is subject to an overall ceiling of EUR 8 500 000 000 (at 2011 prices).

To ensure the proper implementation of this initiative, specific provisions are foreseen in the CPR, among them: that single dedicated national programmes may be approved by the Commission before the submission of the Partnership Agreement¹⁵⁵; that the ex ante assessment is carried out by the EIB or the Commission on Union level; and that funding agreements are concluded between the participating Member State and the EIB. There are also additional reporting requirements.

In order to ensure the existence of a critical mass of resources allocated to financial instruments in favour of SMEs, it is possible to use those resources in the entire territory of the Member State concerned, regardless of the categories of region therein (unless otherwise provided for in the funding agreement). The setting-up of this instrument starts directly after the entry into force of the CPR, and contributions by Member States will be phased over 2014, 2015 and 2016.

b) Key changes as compared with the previous programming period 2007-2013

A fundamental change in the provisions regarding financial instruments is the considerable expansion of the provisions included in the basic act (10 articles plus 1 annex and numerous provisions on delegated and implementing acts). For the 2007-2013 period, the ‘general regulation’ included two articles¹⁵⁶ on ‘financial engineering instruments’, with the Commission implementing regulation¹⁵⁷ completing these provisions. Moreover, the basic acts were complemented by the so-called COCOF notes (prepared in the context of the work of the COCOF). One of the key novelties is the detailed provisions on ex ante assessment ensuring a thorough analysis underlying the establishment of FIs.

The CPR provisions apply to five Funds: this constitutes another difference from the 2007-2013

¹⁵³ Article 46 of the CPR.

¹⁵⁴ Article 39 of the CPR.

¹⁵⁵ Article 29 of the CPR.

¹⁵⁶ Articles 44 and 44a of Regulation (EC) No 1083/2006.

¹⁵⁷ Section 8 (Articles 43 to 46) of Regulation (EC) No 1828/2006.

period. In addition, the financial instruments for 2014-2020 are characterised by fewer restrictions as regards the type of activities covered. Under Regulation (EC) No 1083/2006, the Structural Funds could only finance financial engineering instruments that support enterprises, urban development activities and investments in energy efficiency and use of renewable energy in buildings, including in existing housing.

2.11.3. Parliament's achievements

The first key achievement of Parliament's negotiating team in this thematic block was that, together with the Council, Parliament overturned the Commission's proposal regarding ex ante assessment. Such assessment became part of the basic act instead of a delegated act, containing details set out in the regulation, so that legal certainty is ensured as of the beginning of the programming period. In general, both co-legislators aimed at ensuring as much legal certainty as possible, through clear definitions of the specific terms used and through incorporation of provisions into the basic act instead of secondary legislation (additionally, this was also the case for funding agreements and strategy documents).

The original Council position aiming to provide unrestricted support to working capital was overturned (Parliament supported the Commission's concerns on the matter)¹⁵⁸. The opening-up of support to completed projects was also rejected by Parliament¹⁵⁹.

Regarding the management and control of financial instruments, the Commission proposal was largely supported by Parliament, with specific conditions introduced for cases where audits are carried out at final recipient level¹⁶⁰. Regarding eligible expenditure at closure, in the case of equity-based instruments Parliament steered the agreement towards a shorter period (six years instead of the seven proposed by the Council), during which capitalised management costs and fees due can be taken into account in the calculation of eligible expenditure¹⁶¹. In the case of equity-based instruments targeting enterprises, Parliament successfully altered the Council's position, which would have led to the retention of a large volume of Funds from the 2014-2020 period in an escrow account to be used for investment over the 2021-2028 period, by reducing the time limit to four years and increasing the minimum level of programme resources committed to 55 %¹⁶².

As regards reporting, Parliament's request for summary information on FIs was taken on board, and thus summaries of the progress made in financing and implementing FIs will be transmitted to the co-legislators on an annual basis by the Commission, and will also be made public.

The proposal on the creation of the SME initiative was presented by the Commission at the end of the negotiation process, after an agreement on the FI block. After thorough reflection and given the urgency of providing support to SMEs, Parliament's negotiating team agreed to incorporate this concept into the final CPR text. However, the ceiling was reduced by EUR 1.5 billion, on the request of Parliament's team. Clearer provisions on the specific funding agreements and ex ante assessment were also introduced into the text for this initiative, thus

¹⁵⁸ Article 37(4) of the CPR.

¹⁵⁹ Article 37(5) of the CPR.

¹⁶⁰ Article 40(3) of the CPR.

¹⁶¹ Article 42(2) of the CPR.

¹⁶² Article 42(3) of the CPR.

making it possible to bring forward the Commission's ex post evaluation and hence enabling policymakers to draw conclusions at an earlier stage regarding implementation of the SME initiative.

2.12. Eligibility

2.12.1. Brief summary

Besides general eligibility rules, this thematic block includes provisions on the forms of support, harmonised conditions for the reimbursement of grants and repayable assistance, flat rate financing, specific eligibility rules for grants and repayable assistance and specific conditions on the eligibility of operations depending on location, with a view to simplifying the use of the ESI Funds and reducing the risk of error, while providing for differentiation where needed to reflect the specificities of policy. Moreover, it also contains provisions guaranteeing that investments in businesses and infrastructure are long-lasting and prevent the ESI Funds from being used to undue advantage, in order to ensure the effectiveness, fairness and sustainable impact of the intervention of the ESI Funds.

2.12.2. Provisions in detail

a) Current programming period 2014-2020

If there are no specific provisions in the CPR or the Fund-specific rules, the eligibility of expenditure is determined by the national rules. The ESI Funds support only those operations which have not been physically completed or fully implemented before the application for funding, as well as those expenditure items which do not receive support from another fund, instrument, or programme¹⁶³.

The forms of support which the ESI Funds can provide include grants, prizes, repayable assistance and financial instruments, or a combination of these¹⁶⁴.

Grants and repayable assistance may take the form of reimbursement of incurred and paid eligible costs, standard scales of unit costs, lump sums not exceeding EUR 100 000 of public contribution, and flat-rate financing¹⁶⁵. The Regulation further includes provisions for flat rates used for calculating the indirect costs and staff costs in relation to grants and repayable assistance¹⁶⁶.

In some cases, contributions in kind, such as provision of works, goods, services, land and real estate may be considered eligible, as may depreciation costs. On the other hand, the interest on debt, the value added tax recoverable under national legislation, and the purchase of land not built on and land built on in the amount exceeding 10 % of the total eligible expenditure for the operation, is not considered eligible¹⁶⁷.

As a general rule, the operations supported by the ESI Funds must be located in the programme area. However, specific derogations may apply subject to the conditions detailed in Article

¹⁶³ Article 65 of the CPR.

¹⁶⁴ Article 66(1) of the CPR.

¹⁶⁵ Article 67(1) of the CPR.

¹⁶⁶ Article 68 of the CPR.

¹⁶⁷ Article 69 of the CPR.

The contribution from the ESI Funds is to be repaid if an investment in infrastructure or productive investment ceases or relocates productive activity outside the programme area, changes the ownership of the infrastructure item in a way that gives an undue advantage to a firm or a public body, or substantially changes its initial objectives within five years of the final payment to the beneficiary or within the period of time set out in state aid rules. CPR also requires repayment of the contribution from the ESI Funds if within 10 years of the final payment to the beneficiary the productive activity has been relocated outside the Union. An exception is made only if the beneficiary is an SME¹⁶⁹.

In the context of proportional control of operational programmes, those operations for which the total eligible expenditure does not exceed EUR 200 000 in the case of the ERDF and the Cohesion Fund, EUR 150 000 in the case of the ESF or EUR 100 000 in the case of the EMFF is not subject to more than one audit by the audit authority or the Commission before the operation is completed. Other operations are not subject to more than one audit per accounting year by the audit authority or by the Commission. If the European Court of Auditors has already audited an operation in a given year, it is not subject to an audit by the Commission or the audit authority in that year. When the most recent audit opinion indicates that there are no significant deficiencies in an operational programme, the level of audit work required may be reduced¹⁷⁰.

b) Key changes as compared with the previous programming period 2007-2013

In the previous programming period many beneficiaries using different Union funding instruments were faced with different eligibility rules, which increased the complexity of management. In the current programming period the basic eligibility rules are harmonised to the extent possible for the ESI Funds in order to reduce the multiplicity of rules applied on the ground and simplify the management of ESI Funds for beneficiaries. These include rules on dealing with revenue generated by operations, application of standard scales, lump sums and flat-rate financing, contributions in kind, depreciation, purchase of land and durability of operations.

Moreover, in the current programming period the intensity of audits of operational programmes is limited compared with the previous programming period.

2.12.3. Parliament's achievements

In its original mandate, the European Parliament largely supported the common provisions laid down in ex-Article 55 of the Commission proposal on CPR. The final compromise took on board proposals from the Council's PGA that completed the Commission text, mainly in relation to operations which generate net revenue during their implementation and to which Article 61 (1)-(6) of the CPR does not apply. The provisions on forms of support and forms of grants and repayable assistance were agreed upon with minor changes to the original Commission proposal.

¹⁶⁸ Article 70 of the CPR.

¹⁶⁹ Article 71 of the CPR.

¹⁷⁰ Article 148 of the CPR.

On flat-rate financing (for indirect costs and staff costs), however, the co-legislators amended the Commission proposal by increasing the ceiling, in agreement from the outset, from 15% to 25% for flat rates of eligible direct costs as laid down in Article 68(1)(a). Parliament did not manage to increase the flat rate for eligible direct staff costs to 20%, but changed the figures used for calculating hourly rates (Article 68(2)), insisting on using as a basis an average of the EU-27, which according to data provided by the Commission led to the figure of 1 720 (instead of the originally proposed 1 650).

An important point in this chapter for the Parliament team was the specific eligibility rules relating to purchase of land not built on and land built on: the final compromise on the type of costs not eligible for a contribution from the ESI Funds (and from the amount transferred to the CEF) includes the original ceiling proposed by the Commission (amount exceeding 10% of the total eligible expenditure for the operation). However, Parliament's request was taken on board in that the limit is increased to 15% in the case of derelict sites and those formerly in industrial use which comprise buildings¹⁷¹.

In the context of the durability of operations, Parliament intended to increase the length of the period to ten years, after which an operation comprising investment in infrastructure or productive investment must repay the contribution from the Funds if it is subject to certain criteria (as set out in Article 71 of the CPR). The extension of this period was not accepted during negotiations, but a provision was introduced as a compromise into Article 71(2), whereby the 10-year limit to operations comprising investment in infrastructure or productive investment Funds is applied if within 10 years from the final payment to the beneficiary the productive activity is subject to relocation outside the Union, except if the beneficiary is an SME, and taking account of state aid rules that might alter this time limit¹⁷². Moreover, cessation or relocation of a productive activity leads to obligations to repay the contribution if it is to outside the programme area, a compromise corresponding to the Council text, but acceptable to Parliament, which originally defined this relocation as relocation outside the region, the Member State or the Union.

The compromise reached on proportional control of operational programmes also represented some victories for the Parliament's NT, as it managed to change the Council's proposal in several respects (Parliament itself fully supported this article of the Commission's proposal with no amendments): first of all, the final compromise on Article 148(1) includes a differentiation of the ceilings set for total eligible expenditure of operations that are not subject to more than one audit. The Council's original position was to raise this limit to EUR 200 000, but the argument against this uniform approach was that the size of operations varies across the Funds and the EMFF. The compromise also nuanced the Council's text with regard to the audit carried out by the ECA: the Council originally proposed that if an ECA audit took place, the same operation should not be subject to another audit by the Commission or the Audit Authority. The final text introduced some additional conditions to safeguard the possibility for the Commission or the Audit Authority to decide to perform extra audits.

Finally, as regards the Commission itself carrying out audits of operations, the original Commission text was changed. For the purpose of assessing the work of the audit authority, the Commission may review the audit trail of the audit authority or take part in the audit authority's on-the-spot audits – in order as far as possible to avoid several audit visits to the same

¹⁷¹ Article 69(3)(b) of the CPR.

¹⁷² Article 71(2) of the CPR.

operation. However, the Commission may carry out audits itself where, in accordance with internationally accepted audit standards, this is necessary in order to obtain assurances regarding the effective functioning of the audit authority. The core of the debate was the desire to avoid excessive audit of operations with a view to simplification of procedures for beneficiaries, an approach fully supported by Parliament, which managed, however, to reach a compromise consisting in reformulating the original Council proposal so as to make the Commission's scope of action clearer¹⁷³.

¹⁷³ Article 148(4) of the CPR.

2.13. Information and Communication

2.13.1. Brief summary

The achievements of the Funds and the objectives of the Cohesion Policy must be brought to the attention of the general public. This responsibility is shared among the actors at different levels of implementation of the policy, from Union level to the level of final beneficiaries, including managing authorities and advisory bodies. Communication must be efficient and contain synergies between the information on EU political priorities and the general objectives of the regulation. It should be noted, however, that the provisions on indicators, information and communication are set out in Part Three of the CPR, so that they are only applicable to the ERDF, the ESF and the Cohesion Fund.

2.13.2. Provisions in detail

a) Current programming period 2014-2020

Member States and managing authorities are responsible for:

- defining communication strategies;
- establishing a single website or web portal, including specific information on public consultation processes and on the period for the implementation of programming;
- informing potential beneficiaries about funding opportunities under operational programmes;
- informing EU citizens about the role and achievements of cohesion policy and the Funds at the level of the Partnership Agreements, operational programmes and operations¹⁷⁴.

The abovementioned website or web portal must provide a list of all operational programmes in the relevant Member State in order to increase the accessibility and transparency of information. Furthermore, a list of operations by operational programme and by Fund must also be accessible and must offer the possibility of sorting, searching for, extracting or comparing data. The list of operations must be updated at least every six months¹⁷⁵. The list of operations must include data referring to the beneficiaries, the operations and the expenditure in the official language of the Member State and another European language¹⁷⁶.

In order to advertise the information about the achievements of the Funds and the role of the Union, as well as to inform any potential beneficiary about funding opportunities, a communication strategy for each operational programme must be drafted by the Member State

¹⁷⁴ Article 115 of the CPR.

¹⁷⁵ Article 115 of the CPR.

¹⁷⁶ Annex XII of the CPR.

or the managing authorities. This strategy must be proportional to the size of the operational programme. It is also possible to draw up a common strategy for several operational programmes. If there are several monitoring committees concerned, one of them may be appointed to be responsible for the approval of the communication strategy, in coordination with the other committees¹⁷⁷.

During the programming period, the communication strategy may have to be revised either by the Member State or the managing authority. In this case, the managing authority will present the revised strategy in order to obtain the approval of the monitoring committee. Regarding the implementation of the communication strategy, the managing authority must inform the relevant monitoring committee(s) about the implementation of the communication strategy, the analysis of the results and the plans for the following year, at least once a year. The monitoring committee may issue an opinion on the last of these¹⁷⁸.

Each Member State must appoint an information and communication officer. He/she is responsible for the coordination of information and communication actions regarding one or more Funds, the creation and maintenance of the website or web portal, the provision of an overview of communication measures at Member State level and, where it exists, coordination of the national network of communicators of Funds. At programme level, one person is responsible for information and communication. In addition, Union networks are set up to exchange the results of implementation, communication strategies, experience in implementing the information and communication measures, and good practice¹⁷⁹.

The responsibility of informing the general public on general programmes lies with the Member State, the managing authority and the beneficiaries. In practical terms, the Member State and the managing authority are responsible for ensuring that measures on information and communication are set in accordance with the communication strategy, that different forms of communication are used and that as many media as possible are covered. In addition, at least the following measures must be organised or implemented:

- a major information activity publicising the launch of the operational programme(s);
- a yearly major information activity to promote the funding opportunities and the strategies pursued and to present the achievements of the operational programme(s);
- the publication of an electronic list of operations;
- examples of operations to be provided by operational programme, on the single website or on the operational programme's website, which must be accessible through the single website portal, in a widely spoken EU language different from the official language(s) of the Member State concerned;
- information on the implementation of the operational programme must also be updated on the single website;

¹⁷⁷ Article 116 of the CPR.

¹⁷⁸ Article 116 of the CPR.

¹⁷⁹ Article 117 of the CPR.

- the managing authorities must display the EU's emblem at their premises¹⁸⁰.

In accordance with national law and practices, the managing authority must, where appropriate, involve the following bodies in information and communication activities: the partners referred to in Article 5, European Union information centres, Commission representation offices, the European Parliament's information offices, and education and research institutions¹⁸¹.

Beneficiaries are responsible for acknowledging the support from the Funds. They must display the EU emblem, alongside a reference to the EU and a reference to the Fund or Funds supporting the operation. Moreover, during the implementation of an operation, beneficiaries are required to publish a short description of the operation on their websites, if any. Furthermore, in the case of operations not financed by the ERDF or the Cohesion Fund, beneficiaries must place at least one poster with information about the project in a visible place. During implementation of an ERDF or Cohesion Fund operation, when the total public support for an infrastructure or building operation exceeds EUR 500 000, a temporary billboard must be placed in a readily visible location. If an operation exceeds EUR 500 000 and consists in purchasing a physical object or financing infrastructure or construction, a permanent plaque or billboard must be put up after its completion. In the case of operations financed by the ESF, and in the appropriate cases under the ERDF or the Cohesion Fund, the beneficiary must ensure that those taking part in the operation have been informed of this funding¹⁸².

As regards potential beneficiaries, the managing authority must ensure that the operational programme's strategy and objectives, and funding opportunities offered by joint support from the European Union and the Member State are disseminated widely to them and other interested parties. Moreover, the managing authority must ensure that potential beneficiaries have access to the relevant information detailed in Annex XII¹⁸³.

In addition, the managing authority is required to inform beneficiaries that acceptance of funding constitutes acceptance of their inclusion in the list of operations published, as referred to in Article 105(2). Moreover, beneficiaries may receive from the managing authority information and communication tools, including templates in electronic format, to help them meet their obligations.

Finally, the communication strategy must contain the following elements:

- a description of the approach taken, including the main information and communication measures to be taken by the Member State or the managing authority aimed at potential beneficiaries, beneficiaries, multipliers and the wider public;
- a description of materials that will be made available in formats accessible to people with disabilities;
- a description of how beneficiaries will be supported in their communication activities; the indicative budget for implementation of the strategy;

¹⁸⁰ Annex XII of the CPR.

¹⁸¹ Annex XII of the CPR.

¹⁸² Annex XII of the CPR.

¹⁸³ Annex XII of the CPR.

- a description of the administrative bodies, including the staff resources, responsible for implementing the information and communication measures;
- the arrangements for the information and communication measures referred to in section 2, including the website or website portal where such data may be found;
- an indication of how the information and communication measures will be assessed in terms of visibility and awareness of policy, operational programmes and operations, and of the role played by the Funds and the European Union;
- where appropriate, a description of the use of the main results of the previous operational programme;
- an annual update setting out the information and communication activities to be carried out in the following year.

b) Key changes compared with the previous programming period 2007-2013

In the previous regulation the content relating to this issue is quite concise in the articles¹⁸⁴. The entities responsible for information and communication are the Member State and the managing authority. The obligations are restricted to informing European Union citizens and beneficiaries of the role of the Union and ensuring that assistance from the Funds is transparent.

However, Regulation (EC) No 1828/2006, which complements Regulation (EC) No 1083/2006, develops the information and communication rules further. Taken overall, the two periods present clear similarities and a few differences. In terms of similarities, in both periods there are detailed arrangements on the information and communication measures that are the public responsibility of either the Managing Authority or the beneficiaries, there are Managing Authority information responsibilities for potential beneficiaries and beneficiaries, and there is a definition of the elements of the communication strategy (as it is called in the CPR) or communication plan (as it is called in Regulation (EC) No 1083/2006). These elements are similar in both regulations, with minor drafting differences to achieve a clearer text.

As regards differences, in the current regulation there is the obligation to publish a list of the operations of every operational programme, in order to ensure transparency. Also, in the current period the information and communication obligations make explicit reference to web pages. Finally, in Annex XII of the CPR it is laid down that part of the information on operations must be provided in an official EU language other than the official language(s) of the Member State concerned.

2.13.3. Parliament's achievements

The European Parliament has succeeded in retaining the main points of the Commission's proposal and even in adding some information requirements to enhance knowledge of the policy among beneficiaries.

Parliament focused its efforts on increasing the information details that must be provided, in

¹⁸⁴ Article 69 of the CPR.

order to facilitate participation of the relevant partners and other beneficiaries. For instance, an obligation was introduced to provide information on the timing of implementation of the programmes and of public consultation processes.

Another successfully negotiated aspect was that managing authorities must adopt a special approach for potential beneficiaries who may experience difficulty in accessing information.¹⁸⁵

In terms of planning the information and communication strategy, Parliament's approach of forcing planning by retaining the obligation to set out annually the information activities for the following year was maintained. The deadline for submitting the strategy to the monitoring committee was shortened: no more than six months after adoption of the OP, as opposed to the Council's original idea of one year.

Finally, Parliament succeeded in involving its information offices in the information activities.

¹⁸⁵ Annex XII of the CPR.

2.14. Major Projects

2.14.1. Brief summary

Major projects represent a substantial share of Union spending and are frequently of strategic importance in terms of achieving the Union's strategy on smart, sustainable and inclusive growth. Operations above certain thresholds therefore continue to be subject to specific approval procedures. Where independent experts are able to provide clear statements on a major project's feasibility and economic viability, the Commission may only refuse approval of the financial contribution if it establishes a significant weakness in the independent quality review. In cases where an independent quality review of a major project has not been undertaken, the Member State is required to submit all the necessary information. The Commission will then appraise the major project to determine whether the financial contribution requested is justified. For the sake of continuity of implementation and in order to avoid an unnecessary administrative burden, there is a fast-track procedure for notification and approval of a second or subsequent phase of a major project for which the preceding phase or phases were approved by the Commission under the 2007-2013 programming period. Each individual phase of the phased operation which serves the same overall objective must be implemented in accordance with the rules of the relevant programming period.

2.14.2 Provisions in detail

a) Current programming period 2014-2020

A major project is an operation supported by the ERDF or the Cohesion Fund, comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and for which the total eligible cost exceeds EUR 50 000 000 and, in the case of operations contributing to the thematic objective of sustainable transport, where the total eligible cost exceeds EUR 75 000 000. Financial instruments are not considered to be major projects¹⁸⁶.

Before a major project is approved, detailed information must be available, such as details concerning the body to be responsible for implementation of the major project, and its capacity, a description of the investment and its location, the total cost and total eligible cost, feasibility studies carried out, a cost-benefit analysis, an analysis of the environmental impact, consistency of the major project with the relevant priority axes, the financing plan together with physical and financial indicators for monitoring progress and the timetable for implementing the major project. This information may be assessed by independent experts ('quality review')¹⁸⁷. After a positive quality review, the managing authority must notify the Commission of the major project selected. The Commission will refuse the financial contribution only on the grounds of significant weaknesses in the independent quality review. If the Commission does not refuse the financial contribution within three months of the date of notification, the financial contribution to the major project is deemed to be approved.

¹⁸⁶ Article 100 of the CPR.

¹⁸⁷ Article 101 of the CPR.

In cases where no quality review took place, the Commission appraises the major project on the basis of the information submitted by the Member State. The Commission is required to adopt a decision on the approval of the financial contribution to the selected major project no later than three months after the date of submission of the necessary information.

If a major project is subject to phased implementation, the managing authority may proceed with the selection of the major project and submit the notification if the conditions set out in Article 103(1) of the CPR are fulfilled. A quality review of the information by independent experts is not required. The Commission will only refuse the financial contribution on grounds of substantial changes in the information or inconsistency of the project with the relevant priority axis. The financial contribution to a major project subject to phased implementation is deemed to be approved by the Commission in the absence of a decision refusing the financial contribution to the major project within three months of the date of the notification¹⁸⁸.

The approval by the Commission is conditional on the first works contract being concluded, or on the signing of the PPP agreement between the public body and the private sector body taking place, within three years of the date of approval. At the duly motivated request of the Member State, the Commission may adopt a decision on an extension of the period by not more than two years.

Major projects notified to the Commission or submitted for approval are contained in the list of major projects in an operational programme. Expenditure relating to a major project may be included in a request for payment after notification or submission for approval¹⁸⁹.

b) Key changes as compared with the previous programming period 2007-2013

Compared with Regulation (EC) No 1083/2006 governing the previous programming period, the definition of major project remained the same. However, the CPR introduces a higher threshold for transport projects – EUR 75 000 000. Another novelty introduced by the CPR is the simplified approval procedure in cases where a quality review took place before notification of the major project to the Commission. Furthermore, in the previous programming period major projects subject to phased implementation were not explicitly mentioned in the regulation, so that no specific provision applied to them.

2.14.3. Parliament's achievements

In this thematic block the European Parliament supported the main lines of the original Commission proposal and, at the same time, the majority of the suggestions put forward by the Council, such as the introduction of a simplified approval procedure where an independent quality review was carried out or the specific provisions on major projects subject to phased implementation.

Following the proposal of Parliament and the Council, a higher threshold for transport projects was established in view of the typically larger size of investments in that sector. As regards the information necessary for the approval of major projects, Parliament's negotiating team fought successfully for an extension of the list to include the expected contribution of the major project

¹⁸⁸ Article 103 of the CPR.

¹⁸⁹ Article 102 of the CPR.

to socio-economic development. During negotiations the co-legislators shared the view that the Commission needed to adopt a model for the format in which the information on major projects would be submitted. However, they were divided as regards the procedure: Parliament supported the Commission's original proposal to adopt an implementing act, in accordance with the advisory procedure, while the Council insisted on the examination procedure. Finally, Parliament successfully defended its position, limiting the power of the Council. In addition, in line with Parliament's position, the deadline for the first work contracts was extended from two to three years, with the possibility of an extension of a further two years. Also, in the case of operations implemented under PPP structures, the approval decision by the Commission became conditional on the signing of the PPP agreement within three years of the date of approval.

2.15. Revenue-Generating Operations and PPPs

2.15.1. Brief summary

In order to ensure effective use of Union resources and avoid over-financing of operations generating net revenue after completion, different methods can be used to determine the net revenue generated by such operations, including a simplified approach based on flat rates for sectors or subsectors. However, in order to ensure that the principle of proportionality is applied, certain exemptions from these rules are set out. In addition, in the case of revenue-generating operations which are also subject to state aid rules, the provisions requiring the calculation of net revenue do not apply, with a view to avoiding duplication of the verification of financing needs. Nevertheless, it is possible for Member States to apply the methods for calculating net revenue where this is provided for in national rules.

Public Private Partnerships ('PPPs') can be an effective means of delivering operations that contribute to the achievement of public policy objectives, by bringing together different forms of public and private resources. In order to facilitate the use of ESI Funds to support PPPs, the CPR takes account of certain characteristics specific to PPPs by adapting some of the common provisions on the ESI Funds.

2.15.2. Provisions in detail

a) Current programming period 2014-2020

In the case of revenue-generating operations, the eligible expenditure for the operation has to be reduced in advance, taking into account its potential to generate net revenue over a specific reference period. Net revenue means cash inflows paid directly by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period.

The potential net revenue of the operation has to be determined in advance, either by application of a flat-rate net revenue percentage for the sector or subsector¹⁹⁰ or by calculation of the discounted net revenue of the operation. Where the method of the flat-rate net revenue percentage is applied, all net revenue generated during implementation and after completion of the operation is considered to have been taken into account by the application of the flat rate and is therefore not deducted subsequently from the eligible expenditure of the operations.

Where it is objectively not possible to determine the revenue in advance, the net revenue generated within three years of the completion of an operation or by the deadline for the submission of documents for programme closure, whichever is the earlier, has to be deducted from the expenditure declared to the Commission.

¹⁹⁰ Flat rates as defined in Annex V CPR: road 30%, rail 20%, urban transport 20%, water 25%, solid waste 20%.

In order to ensure that the principle of proportionality is applied, the above rules do not apply to, *inter alia*, operations or parts of operations supported solely by the ESF, operations whose total eligible cost does not exceed EUR 1 000 000, repayable assistance subject to an obligation for full repayment and prizes, technical assistance, support to or from financial instruments, operations for which public support takes the form of lump sums or standard scale unit costs, and operations implemented under a joint action plan.

In addition, the rules in question do not apply to operations for which support under the programme constitutes de minimis aid, compatible state aid to SMEs, where an aid intensity or an aid amount limit is applied in relation to state aid and compatible state aid, or where an individual verification of financing needs in accordance with the applicable state aid rules has been carried out¹⁹¹.

The ESI Funds may also be used to support Public Private Partnership (PPP) operations¹⁹². In relation to a PPP operation a beneficiary may be either the public-law body initiating the operation or a body governed by the private law of a Member State (the 'private partner') selected for the implementation of the operation. In the case of the latter, the selected private partner must fulfil and assume all the obligations of a beneficiary under CPR. The private partner may be replaced as beneficiary during implementation. The replacement of a beneficiary is not considered to be a change of ownership¹⁹³.

In the case of a PPP operation where the beneficiary is a public law body, expenditure under a PPP operation incurred and paid by the private partner may be considered to be incurred and paid by a beneficiary and included in a request for payment to the Commission under certain conditions. Such payments have to be paid into an escrow account set up for that purpose in the name of the beneficiary. The Funds paid into the escrow account must be used for payments in accordance with the PPP agreement, including any payments to be made in the event of termination of the PPP agreement¹⁹⁴.

b) Key changes as compared with the previous programming period 2007-2013

The previous framework on revenue-generating projects required amendment and detailed guidance to ensure consistency in the approach taken. Compared with Regulation (EC) No 1083/2006, which governed the previous programming period, CPR includes more detailed provisions on revenue-generating operations. It sets out the method to be applied for the determination of the potential net revenue and introduces the flat-rate option as an alternative to the funding gap analysis. In addition, in the current programming period a shorter period must be taken into account after the completion of an operation when determining the net revenue to be deducted where it was objectively not possible to estimate it in advance. A further difference between the two regulations is that the range of exemptions from the rules on revenue-generating operations is wider in the CPR.

2.15.3. Parliament's achievements

¹⁹¹ Article 61 of the CPR.

¹⁹² Article 62 of the CPR.

¹⁹³ Article 63 of the CPR.

¹⁹⁴ Article 64 of the CPR.

In this thematic block the European Parliament supported the main lines of the Commission's original proposal, together with the majority of the suggestions put forward by the Council with a view to clarifying the provisions, especially by adding the definition of 'PPP' and 'net revenue', as well as providing for a new chapter on PPPs. Thanks to Parliament's negotiating team, moreover, the methodology for calculation of the discounted net revenue of the operations is adopted by means of a delegated act rather than an implementing act, as originally proposed.

Further to a proposal from the Council amending the Commission's proposal, Parliament supported the inclusion of concrete flat-rate percentages for certain sectors or subsectors as contained in Annex V of the CPR. This solution was considered to provide more certainty for Member States, and the compromise included several delegated acts providing for the possibility of amending Annex V to establish flat rates for ICT, RDI and energy efficiency sectors or subsectors. The latter was considered to be a matter of urgency. Therefore the deadline of 30 June 2015 was set, and the Commission issued a statement to the effect that it would launch a study that would collect and analyse the necessary data from all over the EU without waiting for the adoption of the legislative package, and would, on the basis of its results, adopt a delegated act setting out the flat rates for these sectors or subsectors at the earliest possible opportunity, and by 30 June 2015 at the latest.

2.16. Financial Management

2.16.1. Brief summary

This thematic block lays down common rules on, *inter alia*, pre-financing, interim requests for payment and the final balance. In addition, specific measures limited in time allow the authorising officer by delegation to interrupt payments where there is clear evidence of a significant deficiency in the functioning of the management and control system or where there is evidence of irregularities linked to a request for payment or a failure to submit documents for the purpose of examination and acceptance of accounts. Furthermore, the CPR defines the circumstances under which breaches of applicable Union law or national law related to its application can lead to financial corrections by the Member State or the Commission. To safeguard proportionality, it is important that the Commission consider the nature and gravity of the breach and the related financial implications for the budget of the Union when deciding on a financial correction.

Applications for interim payments are reimbursed at a rate of 90% of the amount laid down in the decision adopting the operational programme. The outstanding amounts due are paid to the Member States upon acceptance of accounts, provided the Commission is able to conclude that the accounts are complete, accurate and true.

Beneficiaries must receive the support in full no later than 90 days from the date of submission of the payment claim by the beneficiary, subject to the availability of funding from initial and annual pre-financing and interim payments. The managing authority interrupts the deadline where supporting documents are incomplete or there is evidence of irregularity requiring further investigation.

In order to reduce the administrative burden on beneficiaries, specific time limits are laid down during which the managing authorities are obliged to ensure the availability of documents. As accounts are verified and accepted every year, the closure procedure could be significantly simplified. The final closure of the programme is based solely on the documents relating to the final accounting year and the final implementation report or the last annual implementation report, without any need to provide any additional documents.

2.16.2. Provisions in detail

a) Current programming period 2014-2020

The CPR stipulates that the budget commitments are to be made in annual instalments for each Fund during the period between 1 January 2014 and 31 December 2020. The budget commitments for the first instalment follow the adoption of the programme by the Commission. The budget commitments for subsequent instalments are made by the Commission before 1 May of each year¹⁹⁵.

Payments by the Commission to each programme are made in accordance with budget appropriations and are subject to available funding. Payments take the form of pre-financing,

¹⁹⁵ Article 76 of the CPR.

interim payments and payment of the final balance¹⁹⁶. The Fund-specific rules include rules for the calculation of the amount to be reimbursed as interim payments, and of the final balance¹⁹⁷. Initial and annual pre-financing are provided so as to ensure that Member States have sufficient means to implement programmes. Following the Commission decision adopting the programme, an initial pre-financing amount for the whole programming period is paid by the Commission¹⁹⁸. The initial pre-financing has to be totally cleared from the Commission accounts no later than when the programme is closed, while annual pre-financing must be cleared each year with the acceptance of accounts.

The payment deadline for an interim payment claim may be interrupted by the authorising officer for a maximum period of six months under the conditions defined in Article 83, such as clear evidence of significant deficiency in the functioning of the management and control system. In the case of the ERDF, ESF and CF, all or part of the interim payments at the level of priorities or operational programmes may be suspended by the Commission under the conditions set out in Article 142 of the CPR, such as a serious deficiency in the effective functioning of the management and control system or an irregularity having serious financial consequences. The Commission must end suspension of all or part of interim payments once the Member State has taken the necessary measures to resolve the situation¹⁹⁹.

As regards the ERDF, the ESF and the CF, the certifying authority must submit, on a regular basis, an application for interim payment covering amounts entered in its accounting system in the accounting year. Payment applications must include the total amount of eligible expenditure incurred by beneficiaries and paid in implementing operations, as well as the total amount of public expenditure incurred in implementing operations. Eligible expenditure included in a payment application must be supported by receipted invoices or accounting documents²⁰⁰. Interim payments will not be made for an operational programme unless the annual implementation report has been sent to the Commission. Subject to available funding, the Commission makes the interim payment no later than 60 days from the date of the registration of the payment application with the Commission²⁰¹.

Subject to the availability of funding from initial and annual pre-financing and interim payments, the managing authority ensures that a beneficiary receives the total amount of eligible public expenditure due in full and no later than 90 days from the date of submission of the payment claim by the beneficiary²⁰².

By 31 May of the year following the end of the accounting period, the Commission examines the accounts and informs the Member State whether it accepts that the accounts are complete, accurate and true in accordance with the Fund-specific rules²⁰³. As regards the ERDF, the ESF and the CF, each year, as of 2016 and up to and including 2025, Member States must submit the accounts, the management declaration and the annual summary, the audit opinion and the control report for the preceding accounting year²⁰⁴. The Commission accepts the accounts if it

¹⁹⁶ Article 77 of the CPR.

¹⁹⁷ Article 78 of the CPR.

¹⁹⁸ Article 81 of the CPR.

¹⁹⁹ Article 142 of the CPR.

²⁰⁰ Article 131 of the CPR.

²⁰¹ Article 135 of the CPR.

²⁰² Article 132 of the CPR.

²⁰³ Article 84 of the CPR.

²⁰⁴ Article 138 of the CPR.

concludes that the accounts are complete, accurate and true. The procedure for examination and acceptance of the accounts does not interrupt the treatment of applications for interim payments and does not lead to suspension of payments. On the basis of the accepted accounts, the Commission calculates the amount chargeable to the ERDF, the ESF, the CF and the EMFF for the accounting year and the consequent adjustments in relation to the payments to the Member State. A possible recovery from the Member State does not constitute a financial correction and does not reduce support from the Funds to the operational programme²⁰⁵.

The final balance must be paid no later than three months after the date of acceptance of accounts of the final accounting year or one month after the date of acceptance of the final implementation report, whichever date is the later²⁰⁶.

As regards the ERDF, the ESF and the CF, the Member States are in the first instance responsible for investigating irregularities and for making the financial corrections required and pursuing recoveries. Financial corrections consist in cancelling all or part of the public contribution to an operation or operational programme. Member States must take into account the nature and gravity of the irregularities and the financial loss to the Funds or the EMFF and must apply a proportionate correction. The contribution from the Funds or the EMFF that is cancelled may be reused by the Member State within the operational programme concerned, except for the operation that was the subject of the correction or for any operation affected by systemic irregularity²⁰⁷.

The Commission makes financial corrections by cancelling all or part of the Union contribution to an operational programme if there is a serious deficiency in the effective functioning of the management and control system of the operational programme or if the Member State has not complied with its abovementioned obligations regarding financial corrections or if expenditure contained in a payment application is irregular and has not been corrected²⁰⁸. When deciding on a financial correction, the Commission must respect the principle of proportionality by taking account of the nature and gravity of the breach of applicable law and its financial implications for the Union's budget. The Commission is required to keep the European Parliament informed of its decisions on financial corrections²⁰⁹. The procedure for the financial corrections by the Commission is laid down in detail in Article 145 of the CPR.

Amounts linked to a commitment that are not covered by pre-financing or a request for payment within a defined period are decommitted²¹⁰. The Commission informs the Member State and the managing authority in due time whenever there is a risk of application of the decommitment rule²¹¹. In relation to the ERDF, ESF and CF, the Commission decommits any part of the amount that has not been used for payment of the initial and annual pre-financing and interim payments by 31 December of the third financial year following the year of budget commitment under the operational programme or for which a payment application has not been submitted by the deadline²¹².

²⁰⁵ Article 139 of the CPR.

²⁰⁶ Article 141 of the CPR.

²⁰⁷ Article 143 of the CPR.

²⁰⁸ Article 144 of the CPR.

²⁰⁹ Article 85 of the CPR.

²¹⁰ Article 86 of the CPR.

²¹¹ Article 88 of the CPR.

²¹² Article 136 of the CPR.

The managing authority ensures that all supporting documents regarding expenditure supported by the Funds on operations for which the total eligible expenditure is less than EUR 1 000 000 are made available to the Commission, as well as to the European Court of Auditors upon request, for a period of three years from 31 December following the submission of the accounts in which the expenditure of the operation is included. In the case of other operations, all supporting documents have to be made available for a two-year period from 31 December following the submission of the accounts in which the final expenditure of the completed operation is included²¹³.

b) Key changes as compared with the previous programming period 2007-2013

The Commission continuously assesses the way it manages EU Funds, taking into account lessons learnt from the past and feedback from various stakeholders, in order to ensure simpler and more accountable, effective and efficient use of EU Funds. This process led to the most recent reform of the Financial Regulation²¹⁴ and consequently to the adaptation of the provisions on financial management of the Funds. In line with the changes in the Financial Regulation in the new programming period, Member States must submit by 15 February of each year the accounts, the management declaration, the annual summary, the audit opinion and the control report for the preceding accounting year. However, this obligation will apply as of 2016, taking into account the experience of previous programming periods where payments carried out in the first year were very low.

Further changes involve the general application of the 'n+3 rule' in the new programming period, whereby amounts not used for payment of pre-financing and interim payments by 31 December of the third financial year following the year of budget commitment will be decommitted. In the previous programming period the general rule was 'n+2', with specific exceptions.

As a novelty in the new programming period, annual pre-financing is provided in addition to the initial pre-financing. The CPR also requires the submission on a regular basis of applications for interim payment, as well as the final application for an interim payment by 31 July following the end of the previous accounting year, while in the previous programming period requests for interim payments had to be grouped together and sent to the Commission, if possible, on three separate occasions each year.

Regarding payments to beneficiaries, the CPR lays down a concrete deadline of 90 days from the date of submission of the payment claim by the beneficiary, while in the previous programming period beneficiaries had to receive the public contribution as quickly as possible, without an exact deadline being stipulated.

Moreover, the provisions on availability of documents changed, as did the manner of document preservation, and the period during which documents are to be kept. The rules on suspension of payments became more detailed in the CPR. Finally, in the context of financial corrections in the current programming period the Commission is to make financial corrections under certain conditions, while in the previous programming period the

²¹³ Article 140 of the CPR.

²¹⁴ Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002, OJ L 298, 26.10.2012, p. 1.

Commission could make financial corrections under more or less the same conditions.

2.16.3. Parliament's achievements

The definition of public expenditure (originally public support) was drawn up in line with the European Parliament's suggestion. Moreover, Parliament supported the Council's suggestions on the introduction of new definitions of 'irregularity', 'systemic irregularity' and 'serious deficiency'. In addition, as a result of a proposal from Parliament and the Council, the period during which the payment deadline for an interim payment claim may be interrupted by the authorising officer was reduced from 9 months to 6 months.

Other changes include the Commission's obligation regarding transmission of information. At Parliament's request, an obligation was added whereby the Commission must inform the Member State whether it agrees that the accounts are complete, accurate and true. Furthermore, also based on Parliament's suggestion, the Commission must keep Parliament informed of decisions to apply financial corrections.

Changes were also introduced with regard to accounts. In line with the position of Parliament, the certified accounts also cover the amounts of pre-financing paid to financial instruments. Furthermore, the Commission is required to set out the model for the accounts by means of an implementing act. Parliament likewise attached great importance to the procedure for examination and acceptance of accounts, which was consequently made more detailed and precise.

In the previous programming period payment to beneficiaries was not linked to an exact deadline, resulting in delays and financing problems. Therefore Parliament insisted on (and achieved) the introduction of a deadline in the new programming period. Moreover, one of Parliament's longstanding aims was to simplify the rules governing Cohesion Policy. In line with this objective, the provisions on availability of documents were modified during the negotiations. As for the interruption of the time period concerning availability of documents, Parliament insisted on an obligation of interruption in the event of legal proceedings or following a duly justified request by the Commission, while the Council suggested keeping interruption as a possibility. Finally, Parliament's request was taken on board.

Parliament also contributed to clarifying and making more specific the requirements regarding submission of information by the Member States. Finally, as a consequence of the new Financial Regulations, the article on rolling closure was deleted, in line with Parliament's position.

2.17. Financial Issues

Brief summary

The Financial Issues block amalgamates all the issues relating to the financing of Member States and regions and the flow of Funds, such as *Performance Reserve*²¹⁵, Increase in interim payments for Member States with temporary budget difficulties, Co-financing rates, Mission and Goals, Investment for Growth and Jobs, Financial Framework, Additionality, Pre financing, Decommittment and Allocation.

2.17.1. Co-financing rates

2.17.1.1. Provisions in detail

a) Current programming period 2014-2020

The underlying philosophy of the regional policy consists in the fact that EU funding must be additional to national funding. The principle is that the Union budget multiplier effect must also be assisted by national resources.

The rate of EU co-financing for every programme will be defined when adopting the programme in accordance with Fund-specific rules. However, technical assistance at the initiative of the Commission may be financed at 100%²¹⁶.

As regards the investment-for-growth-and jobs goal, the rate is defined for each priority axis and, where necessary, for each category of region and Fund.

The co-financing rate may not exceed²¹⁷:

- 85% for the Cohesion Fund;
- 85% for the less developed regions²¹⁸ of Member States whose average GDP per capita for the 2007-2009 period was below 85% of the EU-27 average;
- 85% for the outermost regions, including the additional allocation in accordance with Article 92.1 of the CPR and with the ETC Regulation;
- 80% for the less developed regions of Member States other than the above;
- 80% for regions with a GDP between 75% of EU-25 average and 75% of EU-27 average used as the eligibility criterion for the 2007-2013 period;
- 80% for regions receiving transitional support for the 2007-2013 programming period;
- 60% for transition regions if not included in any of the above points;
- 50% for more developed regions if not included in any of the above points.

For the European Territorial Cooperation goal, the maximum co-financing rate may not exceed 85%.

²¹⁵ Performance reserve is described in detail in Chapter 2.7 on Performance Framework.

²¹⁶ Article 60 of the CPR.

²¹⁷ Article 120 of the CPR.

²¹⁸ For details on categories of regions, see subchapter 2.17.4 on Investment for Growth and Jobs.

Several exceptions to these rules are in force. Co-financing rates may be increased if the YEI is implemented, where a priority axis is dedicated to social innovation or transnational cooperation or if a priority axis is delivered fully via financial instruments or through community-led local development. Regarding Member States, Cyprus will enjoy a co-financing rate no higher than 85% from 1 January 2014 to 30 June 2017.

In any event, the Funds will contribute to each priority axis with at least 20% of the eligible public expenditure.

The final co-financing rates are defined taking a number of criteria into account²¹⁹:

- The relevance of the priority axis for the Europe 2020 strategy results;
- The protection and improvement of the environment;
- The rate of private Funds involved;
- The coverage of areas with severe and permanent natural or demographic handicaps such as islands, mountainous areas, sparsely populated areas and outermost regions.

b) Key changes as compared with the previous programming period 2007-2013

In the previous regulations different provisions applied to the calculation of co-financing rates²²⁰. The ceilings for the Convergence, Regional Competitiveness and Employment objective were set on a national basis depending on the particular objective, varying between 50% and 85%.

Regarding outermost regions, depending on whether or not they were included in Annex II of the Treaty they also enjoyed two different co-financing rates, respectively either 50% or 85%.

Regarding the European Territorial Cooperation objective, if at least one participant belonged to a Member State whose GDP per capita for the period 2001-2003 was below 85% of the EU-25 average, the ceiling was 85%, otherwise 75%.

In contrast, as in this period, Funds contributed to each priority axis representing at least 20% of the total financing and technical assistance at the initiative of the Commission were co-financed at a rate of 100%.

2.17.1.2 Parliament's achievements

Parliament has successfully defended the principle that outermost regions should have differentiated treatment regarding co-financing. These regions now enjoy a loosened budgetary framework. In addition, a special mention of outermost regions is made in Article 121 in connection with modulation of the co-financing rates. Parliament also proposed several amendments regarding the addition of references to 'demographic vulnerability' and territorial development, which are included in the text as finally adopted.

²¹⁹ Article 121 of the CPR.

²²⁰ Articles 52, 53 and 54 of Regulation (EC) No 1083/2006.

Furthermore, Parliament and the Council achieved a rise of five percentage points in the co-financing rate for regions as defined in Article 8(1) of Regulation (EC) No 1083/2006 receiving transitional support for the 2007-2013 programming period. The ETC goal was reinforced thanks to the agreement between Parliament and the Council on the increase in the co-financing rate from 75%, as in the original Commission proposal, to 85% in the final agreement. Moreover, an interinstitutional agreement was reached on support to Cyprus during trilogues, including a temporary co-financing rate of 85% on the grounds of the financial strains being experienced.

2.17.2. Increase in interim payments for Member States with temporary budget difficulties²²¹

2.17.2.1. Provisions in detail

a) Current programming period 2014-2020

It may happen that, owing to internal macroeconomic imbalances, a Member State has no budgetary capability to co-finance the projects under the CPR. This situation is deemed to have arisen if the Member State is receiving a loan from the Union under Council Regulation (EU) No 407/2010 or if the Member State is receiving financial assistance under Council Regulation (EC) No 332/2002 conditional upon the implementation of a macroeconomic adjustment programme, or under Regulation (EU) No 472/2013, also conditional upon the implementation of a macroeconomic adjustment programme.

Given any of the situations described above and subject to a formal request from the Member State, interim payments will be increased by 10 percentage points above the co-financing rate applicable to each priority for the ERDF, ESF and CF or each measure for the EARFD or the EMFF, with the exception of programmes under the ETC regulation. However, under no circumstances will Union support be higher than the maximum amount of support from the ESI Funds.

This measure can apply to requests for payments until 30 June 2016. By 30 June 2016 the Commission will have examined the application of this principle and will inform the European Parliament and the Council on its conclusions and, if this is deemed appropriate, will also present a legislative proposal.

b) Key changes as compared to the previous programming period 2007-2013

In the previous regulation there were no equivalent provisions at the time of adoption. However, in December 2011 the previous regulation was amended by the addition of a new Article 77 on 'Common rules for calculating the interim payments and payment of the final balance'. This new article allowed an increase of 10 percentage points above the co-financing rate (not exceeding 100%) of interim payments and payments of the final balance if the macroeconomic and fiscal situation of a given Member State was under strain, so that the Member State was

²²¹ Article 24 of the CPR.

receiving financial assistance under Council Regulation (EU) No 407/2010, if it had no resources to counterpart, if the increase in payments was needed to guarantee the continuation of the programmes or if problems persisted even if the maximum ceilings applicable to co-financing rates were used.

2.17.2.2. Parliament's achievements

Given the political importance of the situation of Member States with temporary budget difficulties and with a view to helping them absorb the allocations provided by the ESI Funds, Parliament supported the Commission proposal in principle and agreed to the adjustments suggested by the Council. Parliament was also in favour of the new requirement on the revision of this principle but insisted that the provisions must be well defined and more clear-cut.

2.17.3. Mission and Goals²²²

2.17.3.1. Provisions in detail

a) Current programming period 2014-2020

The mission of the Funds is to strengthen the Union's economic, social and territorial cohesion, on the basis of Article 174 of the Treaty on the Functioning of the European Union. Moreover, the actions financed by the Funds will also support the Union strategy for smart, sustainable and inclusive growth.

More particularly, two main goals are defined in the CPR: Investment for Growth and Jobs in Member States and Regions, supported by all the Funds, and European Territorial Cooperation, supported only by the ERDF.

The Fund-specific regulations describe in more detail the specific functioning and design of each Fund to increase its added value with a view to the achievement of the abovementioned objectives.

b) Key changes as compared to the previous programming period 2007-2013

Comparing the current regulation with the previous one, in the latter there were three different objectives, with differing support from the Funds. The Convergence objective was supported by the ERDF, the ESF and the Cohesion Fund; the Regional Competitiveness and Employment objective was supported by the ERDF and the ESF; finally, the European Territorial Cooperation objective was supported by the ERDF²²³. Regions received support from either the Convergence objective or the Regional Competitiveness and Employment objective, depending on their level of economic development. The European Territorial Cooperation objective sought to reinforce transnational and cross-border cooperation, so was only applicable to border

²²² Article 89 of the CPR.

²²³ Article 4 of Regulation (EC) No 1083/2006.

regions.

By contrast, in the current regulation the European Territorial Cooperation goal remains the same but the two previously separated objectives are now merged in the Investment for Growth and Jobs goal. This new goal supports all regions and is financed by both the ERDF and the ESF in different proportions depending on the GDP per capita in relation to the EU-27 average.

2.17.3.2. Parliament's achievements

The European Parliament successfully defended the inclusion of 'also' in the last subparagraph of Article 89(1), making it clear, and sending the political message, that the core mission of the policy – strengthening economic, social and territorial cohesion – is Treaty-based and, in addition, that the policy contributes to the delivery of the Union strategy for smart, sustainable and inclusive growth.

2.17.4. *Investment for Growth and Jobs*²²⁴

2.17.4.1. Provisions in detail

a) Current programming period 2014-2020

The regional basis for the application of the Funds is the so-called NUTS level 2 regions, as defined by Regulation (EC) No 1059/2003. For the purposes of this policy, the NUTS level 2 regions are classified depending on their GDP per capita measured in Purchasing Power Parity for the period 2007-2009. Regions fall within one of three possible categories:

- Less developed: regions with a GDP per capita less than 75% of the average GDP for EU-27
- Transition: regions with a GDP per capita between 75% and 90% of the average GDP for EU-27
- More developed: regions with a GDP per capita exceeding 90% of the average GDP for EU-27.

The ERDF and the ESF benefit all regions, in different proportions depending on their level of development. The Cohesion Fund exclusively supports Member States whose GNI per capita for the period 2008-2010 is lower than the 90% of the EU-27 average.

Member States funded by the Cohesion Fund in 2013 but currently no longer eligible receive support from this fund transitionally. In 2016 the Commission will review the eligibility of Member States regarding support from the Cohesion Fund on the basis of the 2012-2014 data.

b) Key changes as compared to the previous programming period 2007-2013

In the previous regulation²²⁵ the division between regions was based on their level of GDP. The

²²⁴ Article 90 of the CPR.

²²⁵ Articles 5, 6 and 8 of the CPR.

Convergence Regions were those whose GDP per capita, measured in purchasing power parity, was less than 75% of the EU-25 average for the period 2000-2002. Furthermore, transitional support was established for the regions formerly under the Convergence objective that had lost their support following the enlargement of the EU. Finally, the regions not covered by the Convergence objective or receiving transitional support as defined in Article 8(2) of Regulation (EC) No 1083/2006 were included under the Regional Competitiveness and Employment goal²²⁶.

2.17.4.2. Parliament's achievements

Parliament successfully defended the clear differentiation between three categories of region and the principle that this classification is made on the basis of the most recent possible data, so as to reflect in the most accurate way possible the real economic and social situation of every region.

2.17.5. Financial Framework

2.17.5.1. Provisions in detail

a) Current programming period 2014-2020

The financial framework contains the allocation of financial resources between goals and among regions. Regarding the goals²²⁷:

- 96.33% of the budget is allocated to the Investment for Growth and Jobs goal;
- 2.75% goes to the European Territorial Cooperation goal;
- 0.35% of global resources, after deduction of the CEF and Aid for the Most Deprived, finances technical assistance on the initiative of the Commission;
- the Connecting Europe Facility (Article 92(6)) receives EUR 10 billion from the Cohesion Fund²²⁸;
- Youth unemployment is tackled by the Youth Unemployment Initiative (YEI), and is financed with the amount of EUR 3 billion;
- European Aid for the Most Deprived receives EUR 2.5 billion;
- EUR 330 million is allocated to innovative actions in the area of sustainable urban development.

The resources of the Investment for Growth and Jobs goal are allocated as follows:

- 52.45% for less developed regions (i.e. a total of EUR 164 279 015 916);
- 10.24% for transition regions (i.e. a total of EUR 32 084 931 311);
- 15.67% for more developed regions (i.e. a total of EUR 49 084 308 755);
- 21.19% for the Cohesion Fund (i.e. a total of EUR 66 362 384 703);

²²⁶ Article 6 of the CPR.

²²⁷ Article 92 of the CPR.

²²⁸ For more details on the Connecting Europe Facility see Chapter 4.2.

- 0.44% for the outermost regions as defined in Article 349 TFEU and the NUTS level 2 regions to which Article 2 of Protocol 6 to the 1994 Act of Accession is applicable (i.e. a total of EUR 1 386 794 724).

Annex VII contains detailed provisions on allocation methodology, including inter alia the allocation method for less developed regions, transition regions, more developed regions, the Cohesion Fund and the European Territorial Cooperation goal. It stipulates that in order to guarantee the long-term sustainability of investment from the Structural Funds, two safeguard measures are in force²²⁹:

- Regions whose GDP per capita for the 2007-2013 period was less than 75% of the average of the EU 25, but is now higher than 75% of the EU 27 average, receive in the 2014-2020 period at least 60% of their average annual allocation in the 2007-2013 period;
- The total allocation in the current period from the ERDF, the ESF and the Cohesion Fund for any given Member State must be at least equal to 55% of its 2007-2013 allocation.

In 2016 the Commission is to review total allocations for the period 2017-2020 on the basis of the method established in Annex VII.

It must be stressed that the ESF share for each Member State cannot be lower in the current period than its share for the 2007-2013 period. Furthermore, the share of the ESF as a percentage of the total combined resources for the Funds at Union level, excluding CEF and Aid for the Most Deprived, may not be less than 23.1%. The YEI resources are regarded as part of the ESF %²³⁰.

The annual budget from the Funds for any given Member State is limited to a ceiling dependent on the GDP of each Member State. Moreover, no Member State may receive an allocation in 2014-2020 that is greater than 110% of their level in 2007-2013²³¹.

In order to guarantee an appropriate allocation of financial resources to each category of region, resources cannot be transferred between the different categories of region except in duly justified circumstances and subject to a ceiling of 3% of the total budget for that category of region²³². In addition, resources allocated to each goal within a Member State cannot be transferred between goals unless there are duly justified circumstances and particular conditions are met.²³³

b) Key changes as compared to the previous programming period 2007-2013

In the previous regulation the financial resources were divided among objectives as follows:

- 81.54% for the Convergence objective;
- 15.95% for the Regional Competitiveness and Employment objective;
- 2.52% for the European Territorial Cooperation objective.

²²⁹ Annex VII CPR.

²³⁰ Article 92(4), see details in Chapter 2.3 on Thematic concentration.

²³¹ Annex VII point 13 of the CPR.

²³² Article 93 of the CPR.

²³³ Article 94 of the CPR.

2.17.5.2. Parliament's achievements

Parliament successfully defended the minimum funding for outermost regions and the ETC goal, as well as keeping a minimum ESF share²³⁴ providing it offered enough flexibility to Member States and regions to adapt better to their particular circumstances. Regarding the European Aid for the Most Deprived goal, Parliament looks upon it as a basic tool to guarantee social cohesion in the Union, and hence promoted the possibility for Member States to increase the financial support allocated to this fund²³⁵.

Regarding the non-transferability of resources, Parliament and the Council achieved an increase in the ceiling from 2% to 3%, against the wishes of the Commission. It should also be mentioned that some amendments tabled to the articles on the Financial Framework were successfully transferred to Annex VII on Allocation Methodology.

2.17.6. *Additionality*

2.17.6.1. Provisions in detail

a) **Current programming period 2014-2020**

Under the additionality principle, EU resources for the Investment for Growth and Jobs goal do not replace any national effort made to achieve similar objectives. On the contrary, the EU funding is an additional resource. In the 2014-2020 period Member States must maintain an annual average expenditure in this field at least equal to the reference level set in the Partnership Agreement.

Verification of the level will take place in all Member States in which at least 15% of the population live in a less developed region. This verification will be made ex ante at the time of the submission of the Partnership Agreement, in 2018 and in 2022, in different ways depending on the total percentage of population living in a less developed region. In the event of non-compliance, the Commission may impose a financial correction. The details on verification are set out in Annex X²³⁶.

b) **Key changes as compared to the previous programming period 2007-2013**

The additionality principle was also present in the previous regulation²³⁷, but the verification provided for was slightly lighter (only applicable mid-term (2011) and ex-post (2016) for the Convergence objective).

2.17.6.2. Parliament's achievements

²³⁴ See details in Chapter 2.3 on Thematic concentration.

²³⁵ The European Aid for the Most Deprived was not subject to REGI trilogues, it concerns the competence of the Committee on Employment and Social Affairs.

²³⁶ Article 95 of the CPR.

²³⁷ Article 15 of Regulation (EC) No 1083/2006.

Parliament successfully defended the principle of additionality and accepted the adjustments made by the Council.

2.17.7. Pre-financing

2.17.7.1. Provisions in detail

a) Current programming period 2014-2020

In order for beneficiaries to start their project, they need the necessary finances. The European Union will therefore pay an initial amount on an annual basis, from 2014 to 2023. This amount varies from year to year. It is calculated as a percentage of the amount of the support from the Funds and the EMFF for the whole programming period, excluding the performance reserve allocated to each operational programme²³⁸. The instalments for 2014, 2015 and 2016 are the initial pre-financing, whereas the instalments from 2016 to 2023, to be received by 1 July, are annual pre-financing. The instalments for 2014 and 2015 may be increased by 50% if a Member State has been receiving financial assistance since 2010.

b) Key changes as compared to the previous programming period 2007-2013

The previous regulation provided for a different method. The pre-financing method was established on the basis of the date of accession of the Member State and the objective. The main difference, however, was that the pre-financing was on average higher than in the current period but was only applicable during the first three years. In the current period, pre-financing is received annually until the end of the eligibility period²³⁹.

2.17.7.2. Parliament's achievements

Parliament placed great emphasis on a sufficient level of pre-financing and it achieved an increase in the annual pre-financing rate that will rise gradually from the initial level of 2% in 2016 to 3% in the period 2020-2023 instead of the standard rate of 2% for each year that was originally foreseen.

2.17.8. Decommithment

2.17.8.1. Provisions in detail

a) Current programming period 2014-2020

Member States have three years to use the budget commitments for payment of initial and annual pre-financing and interim payments or to submit a payment application in accordance with Article 135. Otherwise the Commission will decommit the Funds not used. The same principle will apply to commitments still open on 31 December 2023 if any of the closure

²³⁸ Article 134 of the CPR.

²³⁹ Article 82 of Regulation (EC) No 1083/2006.

documents have not been submitted as indicated in Article 141²⁴⁰.

b) Key changes as compared to the previous programming period 2007-2013

There is one outstanding **difference between the two periods**. While the decommitment principle previously existed²⁴¹ almost as established in the current regulation, the time frame was only two years instead of three. Nevertheless, Member States whose GDP from 2001 to 2003 was below 85% of the EU-25 for the same period were entitled to a decommitment time window of three years instead of two.

2.17.8.2. Parliament's achievements

The European Parliament achieved a simplified decommitment procedure, together with the Council, so the agreement was to delete some of the financial calculations proposed by the Commission, and in agreement with the Council supported the N+3 rule (three financial years lapse before decommitment can occur).

²⁴⁰ Article 136 of the CPR.

²⁴¹ Article 93 of Regulation (EC) No 1083/2006.

2.18 Measures linked to sound economic governance

2.18.1. Brief summary

The objective of the measures linked to sound economic governance is that the Cohesion Policy should contribute to wider macro-economic governance objectives in the EU and to increased compliance with macro-economic rules. In the Common Provisions Regulation the measures linked to sound economic governance have been reinforced, and extended to all ESI Funds.

Hence the link between the economic governance of the Union and the Cohesion Policy is now stronger. As a consequence, investment under the ESI Funds is reinforced by sound economic policies. These financial resources may moreover be used to tackle a given Member State's financial strains.

The measures linked to sound economic governance also incorporate the provisions on increase in payments for Member States with temporary difficulties²⁴²; however, as the relevant article was part of the thematic block on Financial Issues, those provisions are outlined in Chapter 2.17.2. Similarly, the provisions on management of technical assistance for Member States with temporary budgetary difficulties²⁴³ are presented in Chapter 2.9 on Technical Assistance.

2.18.2. Provisions in detail

a) Current programming period 2014-2020

In the regulation in force the measures targeting better economic governance have been reinforced and developed in comparison with the previous period, with the aim not only of overcoming problems encountered in the previous period (see details in subchapter 2.18.2.b) but also of providing procedural guarantees for Member States.

The current system defines measures divided into two strands. Under the first strand the Commission is entitled to ask a Member State to amend the Partnership Agreement and the programmes in order to support the implementation of related Council recommendations or to improve the impact of ESI Funds in the field of economic growth and competitiveness where a Member State is receiving relevant financial assistance. Reprogramming must be restricted to those cases where a clear impact on the correction of the macro-economic imbalances can be achieved.

Under the second strand, where a Member State fails to succeed in its actions in the economic governance process, the Commission must make a proposal to the Council to suspend part or all of the commitments or payments for that Member State's programmes. The procedures for the suspension of commitments or payments vary.

There are two scenarios in which commitments and/or payments may be suspended.

²⁴² Article 24 of the CPR.

²⁴³ Article 25 of the CPR.

1. On the initiative of the Commission, Member States receiving financial assistance are required to propose revisions to Partnership Agreements and Operational Programmes to support Council recommendations or to maximise the growth and competitiveness impact of the ESI Funds. If the Member State in question fails to take effective action, the Commission **may** propose to the Council a partial or total suspension of **payments**. The Council decides by means of an implementing act²⁴⁴. The suspension of payments may not exceed 50% of the payments under each of the programmes concerned, although this level may be increased up to 100% if the Member State fails to take effective action within three months of the suspension of payments.
2. If a Member State does not comply with the Council decisions or recommendations regarding the economic governance procedures, the Commission **must** propose to the Council a suspension of **commitments or payments**. Priority has to be given to the suspension of commitments. Payments will only be suspended when immediate action is sought and in the event of significant non-compliance²⁴⁵. Suspension of commitments is automatic, unless the Council rejects it. However, suspension of payments is decided by the Council by means of an implementing act²⁴⁶.

In both cases the scope and level of the suspension of payments imposed must be proportionate and effective and must respect the principle of equality of treatment among Member States²⁴⁷.

The suspensions based on point 2 above are subject to different capping levels depending on the circumstances. The suspension of commitments is subject to the lower of the following ceilings:

- (a) A maximum of 50% of the commitments relating to the next financial year for the ESI Funds in the first case of non-compliance with an excessive deficit procedure as referred to in point (a) of the first subparagraph of paragraph 9 and a maximum of 25% of the commitments relating to the next financial year for the ESI Funds in the first case of non-compliance relating to a corrective action plan under an excessive imbalances procedure as referred to in point (b) of the first subparagraph of paragraph 9 or non-compliance with the recommended corrective action pursuant to an excessive imbalance procedure as referred to in point (c) of the first subparagraph of paragraph 9.

The level of suspension will increase gradually, up to a maximum of 100% of the commitments relating to the next financial year for the ESI Funds, in the case of an excessive deficit procedure, and up to 50 % of the commitments relating to the next financial year for the ESI Funds in the case of an excessive imbalance procedure, in line with the seriousness of the non-compliance;

- (b) a maximum of 0.5% of nominal GDP, applying in the first case of non-compliance, with an excessive deficit procedure as referred to in point (a) of the first subparagraph of paragraph 9 and a maximum of 0.25% of nominal GDP, applying in the first case of non-compliance, relating to a corrective action plan

²⁴⁴ Article 23(6) of the CPR.

²⁴⁵ Article 23(9) of the CPR.

²⁴⁶ Article 23(10) of the CPR.

²⁴⁷ Articles 23(7) and 23(11) of the CPR.

under an excessive imbalances procedure as referred to in point (b) of the first subparagraph of paragraph 9 or, in the event of non-compliance with recommended corrective action under an excessive imbalance procedure, as referred to in point (c) of the first subparagraph of paragraph 9.

If non-compliance relating to corrective actions referred to in points (a), (b) and (c) of the first subparagraph of paragraph 9 persists, the percentage of that GDP cap will be gradually increased up to:

- a maximum of 1% of nominal GDP applying in the event of persistent non-compliance with an excessive deficit procedure in accordance with point (a) of the first subparagraph of paragraph 9; and
 - a maximum of 0.5% of nominal GDP applying in the event of persistent non-compliance with an excessive imbalance procedure in accordance with point (b) or (c) of the first subparagraph of paragraph 9, in line with the seriousness of the non-compliance.
- (c) a maximum of 50% of the commitments relating to the next financial year for the ESI Funds or a maximum of 0.5% of nominal GDP in the first case of non-compliance as referred to in points (d) and (e) of the first subparagraph of paragraph 9.

In determining the level of the suspension and whether to suspend commitments or payments, the stage of the programme cycle is taken into account, having regard in particular to the period remaining for using the Funds following the re-budgeting of suspended commitments²⁴⁸.

Furthermore, some reductions must also be considered when calculating the total level of suspension of commitments²⁴⁹.

The level of suspension will be reduced by 15%, 25% or 50% if the unemployment level of the Member State is respectively 2, 5 or 8 percentage points higher than the EU average. The level of suspension will be reduced by 20% if the proportion of people at risk of poverty or social exclusion in the Member State exceeds the EU average by 10 percentage points for the year preceding the trigger event mentioned in Article 23(9) or if real GDP is contracted for two or more consecutive years preceding the trigger event mentioned in article 23(9).

Furthermore, if the suspension affects commitments for the years 2018, 2019 or 2020, the level of suspension is reduced by 15%, 25% and 50% respectively.

Regarding the timing of the situations described above, if simultaneously the Member State affected presents an unemployment rate five percentage points higher than the EU average, and the social exclusion level and GDP contraction are at the abovementioned levels, the suspension will be postponed by one year.

However, there is a limit on reduction of the level of suspension when applying these mitigating circumstances. The reduction cannot exceed 50% of the payments for programmes and

²⁴⁸ Article 23(11) of the CPR.

²⁴⁹ Annex III of the CPR.

priorities.

b) Key changes as compared to the previous programming period 2007-2013

Although more limited, this principle already existed in previous periods. The Cohesion Fund, whose beneficiaries were Member States with a GNP per capita lower than 90% of the Community average, was created in 1992. Its rules led to compliance with the Union's economic governance conditions on public deficits: financial suspensions for new projects were provided for if excessive-deficit rules were breached.

The results of this principle in the case of the previous regulation²⁵⁰ are controversial, since some of the countries did not comply with the deficit requirements throughout the entire period, mostly because of the current financial crisis. Furthermore, the improvement in fiscal performance was closely related to the greater conditionality brought about by European Monetary Union convergence criteria leading up to the single currency in 1999. However, macroeconomic conditionality has arguably had a reinforcing role. Another criticism is that sanctions linked to deficits would make the fiscal situation worse.

Moreover, from a political point of view, the fact that the sanctions are discretionarily enacted by the Commission and the Council has raised the issue of double standards. Some countries not fulfilling the criteria received no sanctions, whereas Hungary suffered from a decision to suspend commitments under the Cohesion Fund.

2.18.3. Parliament's achievements.

As an initial approach, the European Parliament showed its opposition to the idea of linking ESI Funds to economic governance. The grounds for this view were the understanding that ESI Funds are the main investment source in the European Union and a basic tool for reinforcing social and economic convergence between regions. Thus, if a country is suffering from macroeconomic imbalances, and in addition the public financing of development investments is cut, it was realised that it would be even more difficult to reinstate a macroeconomic balance in the country.

However, given the reluctance on the part of the Council and Commission significantly to alter the approach to this issue, the strategy followed successfully by the Parliament was to weaken the application of the article through changes in both strands, including procedural guarantees built into the process and moderate suspension of commitments or payments referred to in Article 23(11) by introducing socio-economic indicators and ceilings into the provisions for determining the scope and level of suspensions²⁵¹.

Parliament's argument in fighting for a limitation of suspension of payments was that it would jeopardise the implementation of the programmes, whereas suspension of commitments would only slow down the application of the policy. Parliament successfully defended the position that where suspension was applied, initially only commitments should be affected. In addition, to prevent payments from being suspended, it supported, and achieved, the inclusion of the word

²⁵⁰ Article 4 of Regulation (EC) No 1084/2006.

²⁵¹ Annex III of the CPR.

‘significant’ in the last subparagraph of Article 23(9) on suspension of payments²⁵². As a consequence, suspension of payments in the current regulation becomes more difficult than in the initial proposal.

As far as involvement of Parliament is concerned, it should be noted that during the negotiations Parliament secured the right to be immediately informed of the implementation of this article. Parliament is also entitled to invite the Commission to participate in a structured dialogue on the application of this article.

Finally, it should be pointed out that, at the insistence of Parliament, a provision was added to Article 23 on measures linked to sound economic governance, in order to provide the possibility for the application of the article to be reviewed by the Commission in the event of major changes in the social and economic situation in the Union. Both Parliament and the Council are entitled to call on the Commission to submit such a proposal.

²⁵² See details in Chapter 1 on Overlook of legislative process.

2.19. Transitional and Final Provisions

2.19.1. Brief summary

The Commission is empowered to adopt delegated acts, in accordance with Article 290 TFEU, on several provisions of the CPR in order to supplement and amend certain non-essential elements of the regulation. When doing so, the Commission is required to carry out appropriate consultations during its preparatory work, including at expert level. When preparing and drawing up delegated acts, the Commission must ensure simultaneous, timely and appropriate forwarding of relevant documents to Parliament and the Council. In addition, the Commission is empowered to adopt implementing acts in cases defined in detail in the CPR. In order to ensure the necessary input and greater involvement of Member States when the Commission exercises its implementing powers, certain implementing acts are to be adopted in accordance with the examination procedure, as established in Article 5 of Regulation (EU) No 182/2011.

In the case of certain implementing acts, to be adopted in accordance with the examination procedure laid down in that article, the potential impact and implications are of such significance to Member States that an exception to the general rule is justified. Accordingly, in these cases, where no opinion is delivered by the committee, the Commission is not empowered to adopt the draft implementing act ('no opinion – no action' clause). Such implementing acts relate, among other things, to setting out the methodology for providing information on the support for climate change objectives, determining the methodology for milestones and targets with regard to the performance framework or to establishing the standard terms and conditions in relation to financial instruments.

As the CPR replaces Regulation (EC) No 1083/2006, the latter is repealed. Nevertheless, the CPR does not affect either the continuation or the modification of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance as of 31 December 2013. In order to allow the prompt application of the measures provided for in the CPR, it entered into force on the day following that of its publication in the Official Journal of the European Union, i.e. 21 December 2013.

2.19.2. Provisions in detail

a) Current programming period 2014-2020

Article 149(2) of the CPR lists all the provisions of the regulation under which the power to adopt delegated acts is conferred on the Commission from 21 December 2013 until 31 December 2020. The delegation of power may be revoked at any time by Parliament or the Council. A decision to revoke puts an end to the delegation of the power specified in that decision. However, it does not affect the validity of any delegated acts already in force.

As soon as it adopts a delegated act, the Commission simultaneously notifies Parliament and the Council thereof. A delegated act enters into force only if no objection has been expressed either by Parliament or by the Council within two months of the notification of that act to Parliament and the Council or if, before the expiry of that period, Parliament and the Council have both informed the Commission that they will not object. That period is extended by two months if

Parliament or the Council so requests²⁵³.

The CPR also stipulates that, in the application of the CPR, the ERDF Regulation, the ETC Regulation, the ESF Regulation and the CF Regulation, the Commission is to be assisted by a Coordination Committee for the ESIF²⁵⁴ within the meaning of Regulation (EU) No 182/2011. Article 150(3) lists the provisions of the CPR under which the Commission is not empowered to adopt a draft implementing act, where the committee delivers no opinion.

Parliament and the Council are required to review the CPR by 31 December 2020²⁵⁵. Regulation (EC) No 1083/2006 is repealed with effect from 1 January 2014²⁵⁶. However, the CPR does not affect either the continuation or the modification of assistance approved by the Commission on the basis of Regulation (EC) No 1083/2006 or any other legislation applying to that assistance on 31 December 2013. That regulation or such other applicable legislation continued to apply after 31 December 2013 to that assistance or the operations concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1083/2006 remain valid²⁵⁷.

The CPR entered into force on the day following that of its publication in the Official Journal of the European Union, i.e. 21 December 2013. Several articles listed in Article 154 apply with effect from 1 January 2014, while the date of application of two other provisions is linked to the amendment to the Financial Regulation. The CPR is binding in its entirety and directly applicable in all Member States²⁵⁸.

b) Key changes as compared with the previous programming period 2007-2013

Not applicable.

2.19.3 Parliament's achievements

In this thematic block Parliament's main achievements concern the delegation of power and transitional rules. The indeterminate period during which the Commission may adopt delegated acts was changed to a period with an exact end date, in line with Parliament's position. The co-legislators had the most diverging views on the 'no opinion – no action' clause (Article 150(3)). Parliament and the Commission wanted to remove this clause from the CPR, while the Council insisted on applying it to each examination procedure. After a thorough analysis of each empowerment the institutions reached a compromise, significantly reducing the number of cases in which the 'no opinion – no action' clause is to be applied.

As regards the transitional rules, Parliament supported the introduction of special transitional

²⁵³ Article 149 of the CPR.

²⁵⁴ The Coordination Committee for the ESI Funds (COESIF) is composed of representatives of Member States and chaired by the representative of the Commission. Parliament cannot take part in its meetings. Its main purpose is to supervise the Commission's exercise of implementing powers and it covers all ESI Funds. It held its first meeting on 15 January 2014. In the previous programming period COCOF (Coordination Committee of the Funds) had a similar function.

²⁵⁵ Article 151 of the CPR.

²⁵⁶ Article 153 of the CPR.

²⁵⁷ Article 152 of the CPR.

²⁵⁸ Article 154 of the CPR.

rules specifying when a managing authority can carry out the functions of the certifying authority for operational programmes implemented under the previous legislative framework. Finally, Parliament's proposals contributed to more clarity and transparency throughout Part V.

3. ERDF

3.1. Brief summary

The European Regional Development Fund is designed to strengthen economic, social and territorial cohesion in the European Union by correcting imbalances between its regions. The new ERDF Regulation determines the scope of the fund's interventions, defines investment priorities, sets out the concentration of thematic objectives, provides a list of common indicators and underlines the sustainable urban development to be supported by the ERDF.

3.2. Provisions in detail

a) Current programming period 2014-2020

The new ERDF Regulation is divided into three chapters. The first chapter, entitled 'Common provisions', includes articles on the 'Subject matter'²⁵⁹ and the 'Tasks of the ERDF'²⁶⁰. The next article – on the 'Scope of support from the ERDF'²⁶¹ – provides a list of the activities eligible for ERDF support, together with a negative list of activities that are not eligible for support. The following article²⁶² includes provisions establishing rules on thematic concentration. Due to their particular relevance to growth and the role they play in the Europe 2020 strategy, four thematic objectives are obligatory: research and innovation, information and communication technologies (ICT), enhancing the competitiveness of SMEs and supporting the shift towards a low-carbon economy. In more developed regions²⁶³, 80% of ERDF funding is to be invested in two or more of these four objectives and at least 20 % of the total ERDF resources should be allocated to the shift towards a low-carbon economy. Given the ongoing restructuring needs in the transition regions, the minimum amount to be allocated in such regions is to be reduced to 60 % and 15 %, respectively. In less developed regions the quotas amount to 50 % and 12 %, respectively.

This article also includes three derogations from this obligation: a derogation for regions whose GDP per capita for the 2007-2013 programming period was less than 75 % of the average GDP of the EU-25 and regions designated with phasing-out status in the 2007-2013 programming period, which are eligible under the more developed regions category, to be considered as transition regions. The second derogation concerns NUTS level 2 regions consisting solely of island Member States or of islands which are situated in Member States which receive support from the Cohesion Fund, or which are outermost regions, which are to be considered as less developed regions. Furthermore, a compensation mechanism has been introduced allowing for summing up the obligatory levels set out in the regulation at national level and flexible

²⁵⁹ Article 1 of Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006. (ERDF Regulation)

²⁶⁰ Article 2 of the ERDF Regulation.

²⁶¹ Article 3 of the ERDF Regulation.

²⁶² Article 4 of the ERDF Regulation.

²⁶³ For details on categories of regions see Chapter 2.17 on Financial issues.

adjustments between different categories of regions. Finally, the Cohesion Fund allocations in less developed regions may be counted towards achieving the minimum shares for a contribution to the shift towards a low-carbon economy, provided that this share has been increased from 12 to 15%.

The next article²⁶⁴ defines investment priorities for each of the thematic objectives. The following article²⁶⁵ introduces common indicators, given that the regulation is aimed at contributing to an increased orientation on the results of funding. The common output indicators are listed in Annex I²⁶⁶ to this regulation. A provision for amending the list of common output indicators set out in the annex is envisaged in order to ensure effective assessment of progress in the implementation of operation programmes.

The second chapter of the ERDF Regulation sets out specific provisions on the treatment of particular territorial features. The first three articles are devoted to sustainable urban development and provide for an increased focus on this dimension of cohesion policy. The first of these²⁶⁷ establishes the earmarking of a minimum of 5 % of the national ERDF allocation for integrated actions for sustainable urban development which can be implemented through Integrated Territorial Investments²⁶⁸, a specific operational programme or a specific priority axis. Urban authorities are to be responsible for tasks relating at least to the selection of operations, with the possibility of full delegation of powers, which would give cities more responsibilities and opportunities. The regulation provides for a stronger focus on urban development at strategic level as the Member States will have to establish in their Partnership Agreements ‘the principles for the selection of urban areas where integrated actions for sustainable urban development are to be implemented and an indicative allocation for these actions at national level’. The CPR²⁶⁹ earmarks EUR 330 million of the Structural Fund resources for innovative actions in the area of sustainable urban development²⁷⁰, to be managed directly or indirectly by the Commission. The Commission has been empowered to adopt delegated acts laying down detailed rules concerning the principles for the selection and management of innovative actions. And finally, ‘Urban Development Network’²⁷¹ will be established by the Commission to promote capacity building, networking and exchanges of experience at Union level, which shall be complementary to the activities undertaken under interregional cooperation.

The next article²⁷² provides that, in operational programmes concerning areas with severe and permanent natural or demographic handicaps, particular attention must be paid to addressing the specific difficulties of those areas. The following two articles specify derogations from the provisions concerning thematic concentration, together with separate provisions for the specific additional allocations for the northernmost regions with very low population density²⁷³ and the outermost regions²⁷⁴ including Mayotte. The latter of these two articles also stipulates, by way

²⁶⁴ Article 5 of the ERDF Regulation.

²⁶⁵ Article 6 of the ERDF Regulation.

²⁶⁶ Annex I of the ERDF Regulation.

²⁶⁷ Article 7 ERDF Regulation.

²⁶⁸ See details in Chapter 2.5 on Territorial Development.

²⁶⁹ Article 92(8) of the CPR.

²⁷⁰ Article 8 of the ERDF Regulation.

²⁷¹ Article 9 of the ERDF Regulation.

²⁷² Article 10 of the ERDF Regulation.

²⁷³ Article 11 of the ERDF Regulation.

²⁷⁴ Article 12 of the ERDF Regulation.

of derogation from the general provisions for the scope of the ERDF support, that productive investment in enterprises may be supported in the outermost regions, irrespective of the size of those enterprises. The last chapter, entitled ‘Final provisions’, establishes transitional provisions²⁷⁵, and provisions on the exercise of the delegation²⁷⁶, repeal²⁷⁷, review²⁷⁸, and entry into force²⁷⁹.

b) Key changes as compared with previous programming period 2007-2013

Compared with the ERDF Regulation governing the programming period 2007-2013, specific provisions on the European Territorial Cooperation Objective have been included in the new ETC regulation. The new ERDF Regulation puts special emphasis on the ERDF’s contribution to the Europe 2020 strategy objectives, which is to be achieved by focusing support on a limited number of thematic objectives, further detailed in investment priorities.

Simplification was another purpose of the new regulation, and the new rules included in the CPR and ERDF Regulation establish a clearer and more simplified framework, which ensures better coordination with other Fund-specific Regulations by creating linkages with and through thematic objectives and investment priorities.

‘Thematic concentration’ is the major element of the new regulation, setting out of a list of investment priorities in the context of the thematic objectives laid down in the CPR, which will form the basis for the definition of specific objectives within operational programmes that take into account the needs and characteristics of the programme area.

This is a major breakthrough in terms of improved coordination and stronger synergies of and among the Funds and their implementation in view of delivering smart, sustainable and inclusive growth in line with the Europe 2020 strategy. The new ERDF Regulation also includes references to Horizon 2020, which should increase synergies between European funding in the fields of research and innovation.

The regulation also places a stronger focus on urban development at a strategic level and, as the result of the negotiations, the Member States have to set out in their Partnership Agreements ‘the principles for the selection of urban areas where integrated actions for sustainable urban development are to be implemented and an indicative allocation for these actions at national level’.

3.3. Parliament’s achievements

The Commission proposal for the 2014-2020 ERDF Regulation included a new feature, namely greater thematic concentration and enhanced territorial cohesion, to be achieved by focusing on a limited number of thematic objectives, further detailed in investment priorities. This mechanism should contribute to the Europe 2020 strategy objectives. All these provisions have been maintained by the co-legislators. However, during negotiations they have been slightly

²⁷⁵ Article 13 of the ERDF Regulation.

²⁷⁶ Article 14 of the ERDF Regulation.

²⁷⁷ Article 15 of the ERDF Regulation.

²⁷⁸ Article 16 of the ERDF Regulation.

²⁷⁹ Article 17 of the ERDF Regulation.

modified, providing for several derogations mentioned earlier. This improvement should result in more effective support for European regions through ERDF financing.

During negotiations, Parliament's negotiating team (NT) defended its mandate, and the vast majority of amendments improving the distribution of ERDF support for the next programming period are included in the new regulation. As far as the scope of support is concerned, Parliament's negotiating team introduced the inclusion of 'cultural and sustainable tourism infrastructure' and the element of cooperation between large enterprises and SMEs for productive investment, with a view to supporting larger enterprises in the ICT area. Parliament's amendment adding environmentally sustainable air transport systems to the list of investment priorities was the source of the introduction of airport infrastructure among investment priorities, which was accompanied by the introduction of a negative eligibility provision. This means that, contrary to the previous period, airport infrastructure projects will be eligible for ERDF support only if related to environmental protection investments.

As far as thematic concentration is concerned, the final provisions include several amendments from Parliament's negotiating mandate, which called for more flexibility in this area. The most important is the introduction of specific percentages relating to thematic concentration for transition regions. Parliament's derogations concerning the specific needs of regions designated with phasing-out status in the 2007-2013 period and NUTS 2 level regions consisting solely of islands have also been included in the final regulation, as has the derogation for the northernmost regions with very low population density. The new ERDF Regulation also includes an important provision stemming from Parliament's mandate, relating to a derogation for productive investments in enterprises in outermost regions, irrespective of their size.

Parliament's negotiators introduced several new elements in the investment priorities, based on its mandate, that have extended the scope of future investments. The most controversial during the negotiations was the addition of eco-innovation to the thematic objective on strengthening research, technological development and innovation and the addition of 'promoting social inclusion through improved access to social, cultural and recreational services', which will allow important investments where they contribute to social inclusion and a reduction in poverty, particularly for marginalised groups.

A common approach with mainstream programmes concerning indicators was agreed in order to gain a clearer picture of the output of programmes and make them more result-oriented across the board. Parliament agreed to follow the Council's partial general approach with regard to the indicators listed in the annex, as these indicators resulted from extensive consultations between the Member States and the Commission. Nevertheless, a provision was inserted for a delegated act to be adopted in order to amend the list of indicators, with a view to ensuring effective assessment of progress in programme implementation.

The Commission's proposal included specific support from the ERDF to cities and urban development aimed at fostering integrated urban policies and strengthening the role of cities in the context of cohesion policy. Following the negotiations, this area can be considered as the greatest success achieved by Parliament's NT, as the compromise text on integrated sustainable urban development has been mostly based on the Parliament's mandate including the most controversial provision on the delegation of powers to urban authorities.

From the outset, Parliament welcomed the Commission's proposal to strengthen the urban dimension of cohesion policy: we supported the ring-fencing of 5 % of the national ERDF

allocation for cities where integrated actions for sustainable urban development are prepared, thus the main element of the new policy. However, from the very beginning, we questioned the 'list of cities' to be drawn up by each Member State, and this provision was deleted by Parliament quite early in the negotiations. We had some discussions about the Urban Development Platform proposed for cities where ring-fencing applies, and where 0.2 % of the total ERDF expenditure is implemented under the Commission's supervision. And, at the beginning, we also proposed in our mandate to delete this provision. Our main concern was the relationship between the platform and the URBACT and whether the new structure was necessary. After lengthy discussions in the trilogue meetings, Parliament agreed to maintain this provision but to replace the 'Urban Development Platform' with an 'Urban Development Network' and to include a provision stating that its activities should be complementary to those undertaken under interregional cooperation. The main argument for agreeing to the Urban Development Network was that the Commission needed a structure to manage Urban Innovative Actions which Parliament supported, as it should follow the concept initiated by the pilot project in the financing period 2000-2006.

As regards the implementation of sustainable urban development, the negotiations changed the Commission's proposal, adding two other options in respect of integrated territorial investments, namely that action could also be taken through a specific operational programme or a specific priority axis, similarly to the present period. Urban authorities are to be responsible for tasks relating at least to the selection of operations and, with regard to this provision, Parliament negotiated the addition of a full delegation of powers option, which would give cities more responsibilities and opportunities for cities (a 'global grant').

4. COHESION FUND

4.1. Brief summary

The Cohesion Fund was first introduced by the Treaty of Maastricht and established by Council Regulation (EC) 1164/94 of 16 May 1994²⁸⁰ in order to provide the less prosperous Member States with the means of increasing their capacity for growth, with a view to ensuring the good functioning of the single market and assisting less favoured areas complying with EU standards (the ‘*acquis*’), while at the same time allowing Member States to keep public finances and public debt under control.

The new Cohesion Fund Regulation²⁸¹ is the outcome of a lengthy effort to establish a high degree of coordination and synergies between the Structural Funds and with other instruments of the Union, in the framework of the strategic and implementation systems and structures as established by the Common Provision Regulation (CPR) for Cohesion Policy in the programming period of 2014-2020.

4.2. Provisions in detail

a) Current programming period 2014-2020

Scope of support

The Commission proposal on the Cohesion Fund Regulation²⁸², while simplifying further the provisions on the scope of support from this Fund, kept the Fund’s original scope of support largely unchanged as compared with the past programming periods – investments in the environment and trans-European networks, as provided for in the Treaty on the Functioning of the European Union (TFEU), and in particular in Article 177, second paragraph –, while adding a specific reference to technical assistance and specifying some exclusions of support²⁸³.

In the final regulation the Fund’s scope of investment was nevertheless broadened as compared with the Commission proposal, by including investments in energy efficiency and renewable energy use, and in particular in the housing sector, as already foreseen for public infrastructures and enterprises, although housing remains excluded from support²⁸⁴.

²⁸⁰ OJ L 130, 25.5.1994, p. 1.

²⁸¹ Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006.

²⁸² European Commission proposal of 6 October 2011 for a Regulation of the European Parliament and of the Council on the Cohesion Fund and repealing Council Regulation (EC) No 1084/2006 (COM(2011)0612).

²⁸³ See Article 2 of the Commission proposal.

²⁸⁴ See Article 2(2)(c) of Regulation (EU) No 1300/2013 of the European Parliament and of the Council of 17 December 2013 on the Cohesion Fund (‘the Cohesion Fund Regulation’) (OJ L 347, 20.12.2013, p. 281).

The exclusions of support have, furthermore, been completely aligned with those of the European Regional Development Fund (ERDF), with the regulations for both Funds establishing an identical list of areas where the respective Funds will not intervene²⁸⁵.

Within the new framework of the Common Provisions Regulation (CPR), cohesion policy is subject to a unified structure of general principles, strategic guiding principles, thematic objectives and investment priorities for all the European Structural and Investment (ESI) Funds.

The Cohesion Fund, the ERDF and the European Social Fund (ESF), in particular, pursue the same general aims of contributing to economic, social and territorial cohesion and of providing support to the Union strategy for smart, sustainable and inclusive growth, for the purposes of which these Funds will pursue the goals of investment for growth and jobs and European territorial cooperation, the latter being supported by the ERDF only²⁸⁶. The Cohesion Fund is fully integrated in this structure and logic of missions and goals²⁸⁷.

Although the scope of support and specific investment priorities are defined in the regulations specific to each Fund, the basic rules regarding the financial resources for support and the corresponding allocation rules are defined in the *general provisions*²⁸⁸ applicable to the ERDF, the ESF and the Cohesion Fund.

The resources for the ‘investment for growth and jobs’ goal allocated to the Cohesion Fund for the years 2014-2020 amount to EUR 66.3 billion, including the EUR 10 billion ring-fenced for the Connecting Europe Facility²⁸⁹ (in 2011 prices).

The Cohesion Fund has maintained basically unchanged its mission of supporting Member States whose gross national income (GNI) per capita is less than 90 % of the average GNI per capita of the EU-27. Moreover, Member States eligible for funding from the Cohesion Fund in

²⁸⁵ See Article 2(2) of the Cohesion Fund Regulation and Article 3(2) of Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal (‘the ERDF Regulation’) (OJ L 347, 20.12.2013, p. 289).

²⁸⁶ See Article 89 of 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 (‘the Common Provisions Regulation’ or ‘the CPR’) (OJ L 347, 20.12.2013, p. 320).

²⁸⁷ See Article 92(1) of the CPR.

²⁸⁸ As clarified in recital 2 and stipulated in Article 1 of the CPR, in order to improve coordination and harmonise implementation of the Funds providing support under cohesion policy, namely the ERDF, the ESF and the Cohesion Fund, with the European Agricultural Fund for Rural Development (EAFRD), and the European Maritime and Fisheries Fund (EMFF), *common provisions* are established for all these Funds (the ‘European Structural and Investment Funds’ or the ‘ESI Funds’). Apart from these, the CPR also contains the *general provisions* which apply to the ERDF, the ESF and the Cohesion Fund, but do not apply to the EAFRD and the EMFF, as well as general provisions applicable to the ERDF, the ESF, the Cohesion Fund and the EMFF, but which do not apply to the EAFRD. Moreover, due to the particularities of each ESI Fund, specific rules applicable to each Fund and to the European territorial cooperation goal under the ERDF are also laid down in separate regulations. Thus, Part Three of the CPR contains the general provisions applicable to the ERDF, the ESF and the Cohesion Fund. These provisions and those of each separate regulation constitute the ‘Fund-specific rules’, as defined in Article 2 (4) of the CPR.

²⁸⁹ Article 92(1)(d) and Article 92(6) of the CPR.

2013, but whose nominal GNI per capita exceeds 90 % of the EU-27 average, will receive support from the Cohesion Fund on a transitional and specific basis²⁹⁰²⁹¹.

In 2016, the Commission is due to review the eligibility of Member States for support from the Cohesion Fund on the basis of Union GNI figures for the period 2012-2014 for the EU-27. On that occasion, those Member States whose nominal GNI per capita falls below 90 % of the average GNI per capita of the EU-27 will become newly eligible for support from the Cohesion Fund and those Member States which were eligible for the Cohesion Fund and whose nominal GNI per capita exceeds 90 %, will only be eligible to receive support from the Cohesion Fund on a transitional and specific basis²⁹².

Thus, the Member States eligible for Cohesion Fund support in the current programming period are Bulgaria, Croatia, the Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Cyprus, in respect of which Cohesion Fund is being phased out²⁹³.

Connecting Europe Facility (CEF)

A very important new feature of the general framework of investment on trans-European networks, and one which is closely related to the Cohesion Fund, is the Connecting Europe Facility²⁹⁴.

The CEF, which is aimed at accelerating investment in the field of trans-European networks, creating synergies between the transport, telecommunications and energy sectors, while enabling the optimisation of costs, provides financial assistance to projects of common interest in those areas.

Part of the amount allocated to projects in the transport sector in the framework of the CEF is to be transferred from the Cohesion Fund, i.e. EUR 10 billion²⁹⁵, to be spent under direct management²⁹⁶ in transport infrastructure projects implementing core networks or for projects and horizontal activities identified in Part I of the Annex to the CEF Regulation²⁹⁷, exclusively in Member States eligible for funding from the Cohesion Fund²⁹⁸.

Although Article 10 of the CEF Regulation provides for specific funding rates, the amount to be transferred from the Cohesion Fund will be subject to the same co-financing rates as provided

²⁹⁰ See Article 90(3) of the CPR.

²⁹¹ The co-financing rate has also been kept unchanged as compared to the last programming period - 85% for the Cohesion Fund [Article 120(3)(a) CPR, as compared to Annex III to Regulation (EC) No 1083/2006 (the General Regulation, applicable in the previous programming period)].

²⁹² See Article 90(5) of the CPR.

²⁹³ Source: European Commission, DG REGIO website,

http://ec.europa.eu/regional_policy/what/future/img/elig_1420_Mar12_CF_0810_A4P20_M.pdf

²⁹⁴ Established by Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility ('the CEF Regulation') (OJ L 348, 20.12.2013, p. 129).

²⁹⁵ As mentioned above, this amount is expressed in 2011 constant prices (see, in this connection, Article 91(1) of the CPR).

²⁹⁶ See for this purpose Article 4(7) of the CPR.

²⁹⁷ See recital 80 of the CPR.

²⁹⁸ See Article 92(6) of the CPR and Article 11(1) of the CEF Regulation.

for in Article 120 of the CPR as regards the actions listed in Article 11(5) of the CEF Regulation.

Given that Parliament has insisted that the Structural Funds and the Cohesion Fund should be run in close coordination with the CEF²⁹⁹, on the one hand, and that the amount transferred from the Cohesion Fund to the CEF should be spent – during the first years – in full accordance with the national allocations under this Fund³⁰⁰, on the other, the CPR and the CEF Regulation provide that, until 31 December 2016, the selection of projects eligible for financing must respect the national allocations under the Cohesion Fund, and that, from 1 January 2017, resources transferred to the CEF which have not been committed to a project will be made available to all Member States eligible for funding from the Cohesion Fund to finance transport infrastructure projects in accordance with the CEF Regulation³⁰¹.

Furthermore, the Cohesion Fund Regulation makes explicit reference to the support from the Cohesion Fund to transport infrastructure projects under the CEF in Member States that are beneficiaries of the Cohesion Fund, for reasons of clarity³⁰².

In this context it is worth noting that the CEF Regulation, acknowledging the need for strong institutional and administrative capacity in the beneficiary Member States in the preparation and implementation of quality projects with sufficient added value for the Union, provides specifically for support to be granted to actions aimed at strengthening institutional capacity and the efficiency of public administrations and public services in those Member States eligible for funding from the Cohesion Fund and which may experience difficulties in designing such projects³⁰³.

Investment priorities

In line with the thematic concentration provided for in Article 18 of the CPR, Cohesion Fund support is subject to a list of investment priorities³⁰⁴ within a limited number of thematic objectives³⁰⁵ from the list provided in Article 9 of the CPR, which will form the basis for the definition of specific objectives within operational programmes that take into account the needs and characteristics of the programme area. The Cohesion Fund supports, in particular, the following thematic objectives, as set out in Article 4 of the Cohesion Fund Regulation:

- supporting the shift towards a low-carbon economy in all sectors;
- promoting climate change adaptation, risk prevention and management;
- preserving and protecting the environment and promoting resource efficiency;

²⁹⁹ The Common Strategic Framework (CSF), as established in Annex I of the CPR, stipulates (point 4.8 on the CEF) that '*[t]o maximise European added value in the fields of transport, telecommunication and energy, Member States and the Commission shall ensure that ERDF and Cohesion Fund interventions are planned in close cooperation with the support provided from the CEF, so as to ensure complementarity, avoid duplication of efforts and ensure the optimal linkage of different types of infrastructure at local, regional and national levels, and across the Union.*'

³⁰⁰ European Parliament resolution of 23 October 2012 in the interests of achieving a positive outcome of the Multiannual Financial Framework 2014-2020 approval procedure (P7_TA(2012)0360).

³⁰¹ See Article 92(6), fifth paragraph of the CPR, and Article 11(2) of the CEF Regulation.

³⁰² Reference contained in Article 3 of the Cohesion Fund Regulation.

³⁰³ See Article 92(6), sixth subparagraph of the CPR, and Article 11(3) of the CEF Regulation.

³⁰⁴ Investment priorities contribute to specific objectives within the meaning of Article 2(34) of the CPR.

³⁰⁵ See also recital 15 of the CPR.

- promoting sustainable transport and removing bottlenecks in key network infrastructures; and
- enhancing institutional capacity of public authorities and stakeholders and efficient public administration.

Each of these thematic objectives is materialised through a number of investment priorities, in accordance with Article 9, second paragraph, of the CPR. In this context, it is worth noting that the Cohesion Fund investment priorities are identical to some of the investment priorities under the same thematic objectives which are part of the list provided for in the ERDF Regulation³⁰⁶.

As regards investment priorities, an important change concerns the enterprises to be made eligible for support for energy efficiency and renewable energy projects, as an agreement has been reached making it possible also for enterprises other than SMEs to receive support.

Stemming from the above-mentioned modification regarding the broadening of the scope of support to energy efficiency and renewable energy use in the housing sector, the investment priority related to the support to energy efficiency, smart energy management and renewable use in public infrastructures, was also broadened in order to include the housing sector.

A similar observation can be made concerning high-efficiency district heating and cogeneration of heat and power, which are elements of great importance to Member States that are beneficiaries of the Cohesion Fund, and which can have a highly positive impact on the environment through increased energy efficiency and use of renewable energies, while contributing to emissions reduction and energy security.

In the context of investment priorities in general, particular attention was paid to environmental aspects, and indeed in addition to the above issues, important agreements were reached regarding the development of smart distribution systems at both low and medium voltage levels³⁰⁷, the promotion of sustainable multi-modal urban mobility³⁰⁸, the consideration of ecosystem based approaches in the support for adaptation to climate change³⁰⁹, the development of measures for the reduction of noise³¹⁰, and the waste and water sectors, where investments will be possible with a view to meeting the requirements of the Union's environmental *acquis* and also to going beyond that and addressing other needs as identified by Member States³¹¹. The support for Natura 2000³¹² and for environment-friendly transport is also a result of this approach.

Moreover, in the framework of the promotion of sustainable transport, more clarity has been brought in areas covered by investments in the development of environment-friendly and low-carbon transport systems, which include inland waterways and maritime transport, ports, multimodal links and airport infrastructure, and the scope of the promotion of sustainable mobility has been broadened to the regional and local levels, whereas only urban mobility was considered in the Commission's proposal³¹³.

³⁰⁶ See Article 5 of the ERDF Regulation.

³⁰⁷ See Article 4(a)(iv) of the Cohesion Fund Regulation.

³⁰⁸ See Article 4(a)(v) of the Cohesion Fund Regulation.

³⁰⁹ See Article 4(b)(i) of the Cohesion Fund Regulation.

³¹⁰ See Article 4(c)(iv) and 4(d)(iii) of the Cohesion Fund Regulation.

³¹¹ See Article 4(c)(ii) of the Cohesion Fund Regulation.

³¹² See Article 4(c)(iii) of the Cohesion Fund Regulation.

³¹³ See Article 4(d)(ii) of the Cohesion Fund Regulation.

Regarding railway systems, an important development in the context of the Cohesion Fund negotiations was the inclusion of both the development and rehabilitation aspects in the relevant investment priority³¹⁴.

Under the last thematic objective, the Cohesion Fund will also support actions to strengthen institutional capacity and the efficiency of public administrations and public services related to the implementation of the Cohesion Fund, which are essential in the context of the Cohesion Fund due to the dimension and relevance of the actions supported by this Fund. This is particularly relevant in the case of major projects, where institutional capacity is indeed crucial³¹⁵.

Common indicators

A new and important element in the Commission proposal on the Cohesion Fund Regulation was the definition of a common set of indicators to assess the progress of programme implementation.

Indeed, aiming at a results-oriented programming process, at a reinforced intervention logic and thus at a more effective implementation of the Funds, the Commission proposed to introduce common indicators for the Cohesion Fund in order to assess the progress of programme implementation towards the achievement of objectives, in line with the programming provisions contained in the CPR³¹⁶.

The common output indicators are defined in Annex I to the Cohesion Fund Regulation³¹⁷, with the possibility of them being amended through a delegated act where adjustments are deemed necessary to ensure an effective assessment of implementation progress³¹⁸.

However, in the light of the Joint Statement of the European Parliament and of the Council concerning the application of Article 6 of the ERDF Regulation, Article 15 of the ETC Regulation and Article 4 of the Cohesion Fund Regulation³¹⁹, it is acknowledged that the common indicators as listed in the relevant annexes to the Cohesion Fund, the ERDF and the ETC Regulations are the outcome of a lengthy preparatory process and are therefore ‘*expected to remain stable*’.

b) Key changes as compared with the previous programming period 2007-2013

³¹⁴ See Article 4(d)(iii) of the Cohesion Fund Regulation.

³¹⁵ Article 100 of the CPR provides for the possibility of the ERDF and the Cohesion Fund supporting major projects.

³¹⁶ The common indicators are defined in Article 5 of the Cohesion Fund Regulation, in line with Article 27(4) of the CPR.

³¹⁷ The general rules in this context are identical in the Cohesion Fund Regulation, the ERDF Regulation and in Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (‘the ETC Regulation’) (OJ L 347, 20.12.2013, p. 259), although the respective lists of common indicators are not identical.

³¹⁸ See, in this connection, recital 13 and Article 5 of the Regulation on the Cohesion Fund, and Annex I to the Regulation, which contains the list of common output indicators for the Cohesion Fund.

³¹⁹ Published in the Official Journal after each of these regulations and, in the case of the Cohesion Fund Regulation, in OJ L 347, 20.12.2013, p. 288.

The original beneficiaries of the Cohesion Fund were Greece, Ireland, Portugal and Spain, and the fund provided for financial contributions to projects in the fields of the environment and trans-European networks in the area of transport infrastructure.

On 1 May 2004, ten new Member States became eligible for Cohesion Fund support, and the importance of this Fund has thus increased significantly.

The 2007-2013 period brought several innovations and simplifications to Cohesion Policy, including to the Cohesion Fund, with multi-annual programming being applied and the Cohesion Fund rules being brought closer to those of the Structural Funds. The field of action of the Fund was broadened to include energy efficiency, renewable energy, intermodal transport and urban and collective transport³²⁰.

The Member States eligible for Cohesion Fund support in the 2007-2013 programming period were Bulgaria, Croatia, Cyprus, the Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia³²¹.

As far as eligibility is concerned, the rules on the Cohesion Fund have been kept stable over time, given that financial assistance from this fund has always had a national scope without internal regional distinctions and that it has been directed at Member States whose gross national product is lower than 90 % of the EU average within a reference period as defined in the regulations.

With reference to 2014-2020, the EU budget review³²² called for a new reinforced strategic programming approach to Cohesion Policy with a view to closer integration of EU policies in order to deliver the Europe 2020 Strategy³²³ and the Integrated Guidelines³²⁴, proposing the adoption of a common strategic framework by the Commission translating the Europe 2020 targets and objectives into investment priorities. This framework would replace the previous approach of separate sets of strategic guidelines for policies and would ensure greater coordination between them. It would not only encompass the actions covered by the Cohesion Fund, the ERDF, the ESF, the European Maritime and Fisheries Fund (EMFF) and the European Agricultural Fund for Rural Development (EAFRD), but would also identify linkages and coordination mechanisms with other EU instruments in the areas of research, innovation, lifelong learning and networks.

³²⁰ See Article 2(1)(b) of the Cohesion Fund Regulation in force in the 2007-2013 programming period [Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94 (OJ L 210, 31.7.2006, p. 79)].

³²¹ In this context, it should be mentioned that the Commission's 2003 mid-term review considered Ireland (GNP average of 101 %) to be ineligible for Cohesion Fund support as of 1 January 2004. In 2007-2013, Spain was granted transitional support (phasing-out) under Article 8(3) of Council Regulation (EC) No 1083/2006 of 11 July 2006 (the General Regulation), with a degressive allocation until and including 2013, in accordance with Annex II, Section 6(c) of the General Regulation.

³²² Communication from the Commission on the EU Budget Review, of 19 October 2010 (COM(2010)0700).

³²³ Communication from the Commission, entitled 'EUROPE 2020 - A strategy for smart, sustainable and inclusive growth', of 3 March 2010 [COM(2010)2020].

³²⁴ Council Decision 2010/707/EU of 21 October 2010 on guidelines for the employment policies of the Member States (OJ L 308, 24.11.2010, p. 46), and Council Recommendation 2010/410/EU of 13 July 2010 on broad guidelines for the economic policies of the Member States and of the Union (OJ L 191, 23.7.2010, p. 28).

Although the principles applicable to the Cohesion Fund have remained broadly unchanged since the very beginning as regards its national focus³²⁵, its distinctive objectives and its link to macroeconomic conditionality, which was specific to the Cohesion Fund until the 2007-2013 programming period, improvements have been introduced in every programming period and the strategic approach to its intervention and programming and its coordination with the Structural Funds has gradually been reinforced.

The implementation of the Cohesion Fund was gradually brought under a common set of rules, bringing it closer to and aligning it with the implementation of the Structural Funds, in particular as regards coordination at programme level, financial management and control and, especially for the current programming period, thematic focus.

These developments are also in line with the consistent demands of Parliament in this regard for a simplified and harmonised approach and for a joint framework regulation³²⁶.

This approximation process culminated in the adoption of the new legislative package for 2014-2020, which made the Cohesion Fund, the ERDF, the ESF, the EAFRD and the EMFF subject to a set of common provisions, with a view to improving coordination and combining and harmonising as much as possible the implementation of all these Funds.

Overall, a clearer and more simplified framework is provided, on the basis of similar structures and terminology for all regulations that form part of the legislative framework, thus improving coordination with the regulations specific to the other Funds, and placing all the Funds, in particular the Cohesion Fund, the ERDF and the ESF, within the same system and structure as set out in the CPR, and within the same integrated approach to territorial development³²⁷.

This results in clearer and better identified linkages within the thematic objectives and/or investment priorities, which also allow a better combination of investment priorities from the various Funds under the operational programmes and from the uniform rules on basic principles, programming, financial management, monitoring and evaluation.

As regards the specific alignment between the Cohesion Fund and the ERDF, this is now explicitly conveyed in both regulations currently in force, which share a significant number of similarities in terms of investment priorities in the context of the thematic objectives, the

³²⁵ See, in this connection, Article 99 CPR, on the geographical scope of operational programmes.

³²⁶ See in this regard, in particular, Parliament's resolutions of 20 May 2010 on the contribution of the Cohesion policy to the achievement of Lisbon and the EU2020 objectives, of 23 June 2011 on the Report 2010 on the implementation of the cohesion policy programmes for 2007-2013, and of 5 July 2011 on the Commission's fifth Cohesion Report and the strategy for post-2013 cohesion policy.

³²⁷ In this sense, see Article 36(1) CPR, which provides that '*where an urban development strategy or other territorial strategy, or a territorial pact referred to in Article 12(1) of the ESF Regulation, requires an integrated approach involving investments from the ESF, ERDF or Cohesion Fund under more than one priority axis of one or more operational programmes, actions may be carried out as an integrated territorial investment (an 'ITI').*' See also the Common Strategic Framework (Annex I, CPR), and in particular point 3.3, on integrated approaches, which stipulates that '*Member States shall, where appropriate, combine the ESI Funds into integrated packages at local, regional or national level, which are tailor-made to address specific territorial challenges in order to support the achievement of the objectives set out in the Partnership Agreement and programmes. This can be done using ITIs, Integrated operations, Joint Action Plans and community-led local development.*' (paragraph 1), and that '*to achieve integrated use of thematic objectives, funding from different priority axes or operational programmes supported by the ESF, ERDF and Cohesion Fund may be combined under an ITP*' (paragraph 2).

exclusions of support, as well as the common indicators, thus ensuring simpler rules and easier interpretation and application on the ground. A high degree of coordination increases flexibility and reduces the administrative burden through joint implementation, and covers the investment priorities under the corresponding thematic objectives³²⁸.

These features constitute major breakthroughs in terms of improved complementarity, coordination and stronger synergies within the ESI Funds, and between these and other EU instruments, in particular the CEF³²⁹, and their implementation with a view to delivering smart, sustainable and inclusive growth in line with the Europe 2020 strategy.

As regards its scope of intervention, the new Cohesion Fund Regulation clarifies and streamlines significantly the operation of the Cohesion Fund as compared with the previous programming period, very clearly putting a stronger emphasis on the environmental objectives, in line with Articles 11 and 191 TFEU, namely energy and resource efficiency and renewable energy, not only in public infrastructure but also in enterprises regardless of their size and in the housing sector, thus explicitly gearing all investments towards sustainability and the protection of the environment, including the urban environment.

As for macroeconomic conditionality, this was a provision specific to the Cohesion Fund until the last programming period, and was indeed part of its provisions since the initial Cohesion Fund Regulation, on the grounds that beneficiary countries had to keep their public finances under tight control while at the same time increasing the necessary investments³³⁰.

For the programming period 2014-2020, after looking at different options on how to make funding conditional on a sound macro-fiscal framework, the Commission considered that further development of the system existing in the previous programming period was the best way of ensuring sound fiscal policies and alignment with the budgetary surveillance rules of the Stability and Growth Pact³³¹, and of addressing the preconditions necessary for the effective use of the Funds and providing incentives to attain predefined objectives and targets³³².

The Commission thus considered that a more transparent and systematic application of conditionalities was justified, proposing therefore *‘to reinforce the rules governing the Funds on macro-fiscal conditionality and align them with the new Stability and Growth Pact enforcement measures to be adopted as part of the Sixth Economic Governance Package’*³³³.

This issue was highly controversial in Parliament and the initial position of the Committee on Regional Development (REGI) on the Commission proposals on the Common Provisions

³²⁸ See in this connection recital 12 of the Cohesion Fund Regulation and recital 17 of the ERDF Regulation.

³²⁹ See in this connection recital 11 of the Cohesion Fund Regulation.

³³⁰ See in this regard the sixth recital of Regulation (EC) No 1164/94 of 16 May 1994 establishing a Cohesion Fund, which states that *‘meeting the convergence criteria which are a precondition for moving to the third stage of economic and monetary union calls for a determined effort from the Member States concerned; (...) in this context, all of the beneficiary Member States are to submit to the Council a convergence programme designed for that purpose and to avoid excessive government deficits;’*

³³¹ See Commission proposal on the Cohesion Fund Regulation, explanatory memorandum, section 2.2, *Impact assessment*.

³³² See Commission proposal on the Common Provisions Regulation, of 14 March 2012 (COM(2011)0615/2), section 2.2.2., *Increasing the performance of the policy*.

³³³ See the Explanatory Memorandum of the Commission’s proposal on the Common Provisions Regulation, of 14 March 2012 [COM(2011)0615/2], section 5.1.3, *Conditionalities and performance*.

Regulation and on the Cohesion Fund was to maintain the status quo, by reserving macroeconomic conditionality to the operation of the Cohesion Fund only.

An amendment to this end was adopted and was indeed part of the initial negotiating mandate on the Cohesion Fund. During the negotiations, however, it was agreed that any solution on this issue was to be found and designed in the context of the negotiations on the CPR, and thus no provision on macroeconomic conditionality was finally included in the Cohesion Fund Regulation.

A solution meeting the need to establish a ‘closer link between cohesion policy and the economic governance of the Union (...) in order to ensure that the effectiveness of expenditure under the ESI Funds is underpinned by sound economic policies’³³⁴ was found in the context of the CPR, in particular Article 23 thereof, which provides for measures linking effectiveness of the ESI Funds to sound economic governance.

4.3. Parliament’s achievements

Parliament has always considered the Cohesion Fund to be of great importance in the context of Cohesion Policy and has sought, with a great degree of success, to broaden the Fund’s scope of investment as compared with the initial Commission proposal, by including investments in energy efficiency and renewable energy use, and in particular in the housing sector, as already foreseen for public infrastructures and enterprises, although housing as such remains excluded from support, as explained above.

As regards investment priorities, Parliament has brought about an important change regarding the enterprises to be made eligible for support for energy efficiency and renewable energy projects, as an agreement has been reached making it possible also for enterprises other than SMEs to receive support.

A similar observation can be made with regard to high-efficiency district heating and cogeneration of heat and power, which was indeed a very important point for Parliament, bearing in mind the importance of those issues in the Member States that are beneficiaries of the Cohesion Fund, and the highly positive impact which increased energy efficiency and the use of renewable energies can have on the environment, while contributing to emissions reduction and energy security.

As regards the CEF, in its mandate adopted in July 2012, the intention of REGI was clearly to ensure that the EUR 10 billion transferred from the Cohesion Fund to the CEF remained under shared management and was implemented in accordance with the provisions of the Cohesion Fund Regulation. This position turned out to be in contradiction with the views of the lead committees on the CEF Regulation (TRAN and ITRE), which advocated that the CEF and the EUR 10 billion from the Cohesion Fund should be brought under direct management under the CEF Regulation, but with a clear intention to safeguard national allocations. As the vote in REGI preceded the vote in the other committees, REGI took the lead in trying to ensure a compromise acceptable to all the actors involved inside Parliament. Following extensive consultations between the three committees and all the rapporteurs and draftspersons concerned, a compromise was found that was then incorporated into the mandate on the CEF, and also

³³⁴ See recital 24 of the CPR.

resulted in an update of the mandate of the CPR (the latter being adopted in November 2012). The harmonised position stated that the resources transferred to the CEF for transport infrastructure projects of European added value fell under the provisions of the regulation. However the support is available only for those Member States eligible for funding from the Cohesion Fund on the basis of the co-financing rates applicable to that Fund, and national allocations are to be respected until the end of 2016. Provisions ensuring safeguards for Member States in need of institutional capacity building (linked to project implementation) were also incorporated into the text.

Accordingly, as already described above, the CPR and the CEF Regulation provide for differentiated schemes for the selection of projects until 31 December 2016 and from 1 January 2017.

Parliament has also ensured the insertion in the Cohesion Fund Regulation of a reference to Cohesion Fund support for transport infrastructure projects under the CEF in Cohesion Member States, for reasons of clarity, as previously mentioned.

Responding to another particular concern conveyed by Parliament in the context of the Connecting Europe Facility, the CEF Regulation provides specifically for support to be given to actions aimed at strengthening institutional capacity and the efficiency of public administrations and public services in those Member States eligible for funding from the Cohesion Fund and which may experience difficulties in designing projects.

Regarding the common indicators, Parliament has supported the approach put forward by the Commission in its legislative proposals on the Cohesion Fund, the ERDF and the ETC Regulations, despite initially considering that the common indicators themselves should not be defined in any of the Fund-specific rules, but should instead be defined in agreement with Member States by an implementing act.

The negotiations have evolved and resulted in a combined solution whereby the common output indicators are indeed defined in Annex I to the Cohesion Fund Regulation (identically to the ERDF and the ETC Regulations), with the possibility of being amended through delegated act where adjustments are deemed necessary to ensure an effective assessment of implementation progress.

Overall, the outcome of negotiations is fairly balanced and Parliament has succeeded in defending some important points, as mentioned above, while concurring with the other institutions in setting up a clearer and more simplified framework for the Cohesion Fund, and in particular by ensuring further improved coordination with the other regulations specific to the other Funds and in the framework of the Common Provisions Regulation.

5. ETC

5.1. Brief summary

With the entry into force of the Lisbon Treaty, the objective of territorial cohesion became the third objective in addition to the objectives of social cohesion and economic cohesion, and is thus one of the three pillars of the EU's cohesion policy.

European Territorial Cooperation is central to the construction of a common European space and is a cornerstone of European integration. European Territorial Cooperation encourages cooperation across borders that would not happen without help from the cohesion policy. It has clear European added value: helping to ensure that borders are not barriers, bringing Europeans closer together, helping to solve common problems, facilitating the sharing of ideas and assets, and encouraging strategic work towards common goals.

Territorial cooperation seeks to do away with existing physical, administrative and regulatory barriers between territories and regions, enabling them to work together in tackling their common challenges, whether these be territorial (services, infrastructure, urbanism and regional development), global, economic or societal.

In the current programming period, for the first time in the history of the Cohesion Policy, a comprehensive, separate and specific regulation was adopted to take account of the specific approach of European Territorial Cooperation and to allow for more tailor-made provisions, while providing authorities implementing European Territorial Cooperation programmes with a clear overview of applicable rules. In former programming periods the provisions were included in the regulation on the ERDF. The new regulation will make the setting up of more cross-border projects easier and will ensure that macro-regional strategies such as the Danube or Baltic Sea strategies are supported by national and regional programmes.

5.2. Provisions in detail

a) Current programming period 2014-2020

The **general provisions (Chapter 1)** of the regulation state that the ERDF should support cross-border, transnational and interregional cooperation under the European territorial cooperation goal. Chapter 1 also defines the geographical coverage and the resources for the European territorial cooperation goal, as set out in Article 91(1) of the CPR – a total of EUR 8 948 259 330. It lays down the allocation of the total amount for the three components as follows:

- 74.05 % for cross-border cooperation;
- 20.36 % for transnational cooperation;
- 5.59 % for interregional cooperation.

Chapter 2 defines thematic concentration and investment priorities. It sets out that in order to maximise the impact of cohesion policy across the Union at least 80 % of the ERDF funding to each cross-border and transnational cooperation programme should be concentrated on a

maximum of four of the thematic objectives³³⁵. The concentration on thematic objectives under the interregional cooperation programme should be reflected in the aim of each operation. In the case of other interregional cooperation programmes, the thematic concentration should derive from their specific scope. The list of the different investment priorities under the different thematic objectives has been adapted to the specific needs of the European territorial cooperation goal, by providing additional investment priorities, allowing in particular for the continuation under cross-border cooperation of legal and administrative cooperation, between citizens and institutions, and of cooperation in the fields of employment, training, integration of communities, social inclusion in a cross border perspective and by the development and coordination of macro-regional and sea-basin strategies under transnational cooperation. To reflect the specific activities of certain interregional cooperation programmes additional investment priorities have been set out.

Chapter 3 – Programming covers the content requirements of cooperation programmes to adapt them to the specific needs under the European territorial cooperation goal. These requirements cover aspects necessary for effective implementation on the territory of participating Member States and the allocation of liabilities in the case of financial corrections. Special procedures are established for the involvement of third countries or territories in the preparatory process of cooperation programmes, where they have accepted the invitation to participate in such programmes.

Chapter 4 lays down the rules for monitoring and evaluation. The managing authority has the obligation to submit to the Commission an annual implementation report. The requirements of implementation are adapted to the cooperation context and reflect the programme cycle. The Managing Authority has to ensure that evaluations of cooperation programmes are carried out on the basis of the evaluation plan. To facilitate the assessment of the progress of programme implementation, a common set of output indicators has been set out in an Annex to the regulation. In addition this chapter also sets out specific rules for technical assistance in order to adapt to the generally smaller size of those cooperation programmes.

Chapter V defines the rules on the eligibility of expenditure. Due to the involvement of more than one Member State, and the resulting higher administrative costs, the ceiling for technical assistance expenditure has been fixed at a higher rate than under the ‘investment for growth and jobs’ goal. Also due to the involvement of more than one Member State, the rule that each Member State is to adopt national rules on eligibility of expenditure is not appropriate for the European territorial cooperation goal. A clear hierarchy of rules on eligibility of expenditure therefore has to be established. For this purpose the Commission is empowered to adopt delegated acts to lay down specific rules on eligibility of expenditure for cost categories defined in Article 18 of the regulation.

The rules on **management, control and designation** of the different kinds of authorities are set out in **Chapter VI**. Member States participating in a cooperation programme have to designate a single managing authority. In addition, the managing and audit authorities have to be located in the same Member State. The Member States may make use of a European Grouping of Territorial Cooperation for managing the cooperation programme or part thereof. The functions of the managing authority, the certifying authority and the audit authority are defined to ensure uniform standards across the whole programme area.

³³⁵ For more details on thematic objectives see Chapter 2.3 on Thematic concentration.

Chapter VII lays down the implementation conditions for the **participation of third countries** in transnational and interregional cooperation programmes.

Chapter VIII on financial management regulates that a clear chain of financial liabilities in respect of recovery for irregularities has to be established from beneficiaries to lead beneficiaries to the managing authority and to the Commission. Financing plans, reports and accounts concerning joint cooperation operations should only be submitted in euro to the joint secretariat.

The **final provisions in Chapter IX** lay down the conditions on which the power to adopt delegated acts is conferred on the Commission. The chapter also establishes the transitional provisions, provisions for a review of the regulation and its entry into force.

b) Key changes as compared with the previous programming period 2007-2013

The main difference compared with the previous programming period lies in the fact that a comprehensive, separate and specific regulation was adopted to take account of the specific approach of European Territorial Cooperation, allow for more tailor-made provisions and provide the authorities implementing European Territorial Cooperation programmes with a clear overview of applicable rules. In previous programming periods the provisions were included in the regulation on the ERDF.

The components of European territorial cooperation as provided for in the ERDF regulation in previous programming periods have been maintained in the three different types of programmes³³⁶:

- **component a:** cross-border cooperation for projects involving regions and local authorities on either side of a common border to tackle common challenges identified jointly in the border regions;
- **component b:** transnational cooperation should be aimed at strengthening cooperation by means of actions conducive to integrated territorial development linked to the Union's cohesion policy priorities; it is conducted through projects between national, regional and local entities in larger geographical areas, such as EU countries and regions around the Baltic Sea or the Alps;
- **component c:** interregional cooperation to enhance the effectiveness of cohesion policy by encouraging exchanges of experience between regions on thematic objectives and urban development, including urban-rural linkages, to improve implementation of territorial cooperation programmes and actions and promote analysis of development trends in the area of territorial cohesion through studies, data collection and other measures.

Compared with the previous programming period, programme partners will, in the current period, have to agree more precisely on the kind of projects they wish to carry out and have to set clear deliverables. Projects will have to be in line with EU policy priorities and closely

³³⁶ Article 2 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal (the 'ETC Regulation').

linked to strategies pursued by the regions and EU countries concerned to optimise synergies³³⁷. Moreover, the new regulation is tailor-made to support multi-country cooperation. It has also simplified the rules to reduce the administrative burden both for programme and project managers.

The ETC regulation allows greater flexibility in organising operational programmes to better reflect the nature and geography of development processes. In some cases geographical or demographic features could intensify development problems. This is particularly true for the outermost regions but also for northernmost regions with very low population density and island, cross-border and mountain regions, as explicitly recognised by the Lisbon Treaty. Targeted provisions now ensure that these specificities are reflected.

5.3. Parliament's achievements

Subject matter and scope

From the beginning of the drafting of the new regulation Parliament advocated that the structure of European territorial cooperation in the programming period 2007-2013, with its three different types of programmes, should be maintained. Accordingly, *Article 2* kept the three components: component a – cross-border cooperation for projects involving regions and local authorities on either side of a common border; component b – transnational cooperation for projects between national, regional and local entities in larger geographical areas, such as EU countries and regions around the Baltic Sea or the Alps; component c – interregional cooperation to reinforce the effectiveness of cohesion policy.

The trilogue negotiations made it possible to firm up the details of the draft and ensure the continuation of the existing programmes. Parliament ensured that these programmes were a success as regards:

- Innovation and environment, through the Interreg programme,
- Urban development, through the Urbact programme,
- Sharing of good practice on the management of territorial cooperation programmes, through the Interact programme,
- Analysis of development trends in relation to the aims of territorial cohesion and harmonious development of the European territory, through Espon programme. The European Parliament managed for this task to add an explicit reference to the economic and social aspects of territorial cohesion³³⁸.

As regards geographical coverage, nearly all external and internal EU land borders are covered by a cooperation programme. In this context Parliament managed to introduce more flexibility with regard to the 150 km limit rule. Consequently, at the request of the Member States concerned, in order to facilitate cross-border cooperation on maritime borders for outermost regions, NUTS level 3 regions along maritime borders which are separated by more than 150 km may be covered³³⁹.

³³⁷ Article 8 of the ETC Regulation.

³³⁸ Article 2(3)(d) of the ETC Regulation.

³³⁹ Article 3 of the ETC Regulation.

With regard to transnational cooperation, Parliament introduced and strongly defended a provision during the trilogue requiring the Commission to take account of existing and future macro-regional and sea-basin strategies when deciding on the list of transnational areas to receive support³⁴⁰.

Furthermore, on the initiative of Parliament, the outermost regions may combine in a single programme for territorial cooperation the amounts of the ERDF allocated for cross-border and transnational cooperation³⁴¹.

Parliament supported a clear definition of the criteria for the allocation of financial resources to Member States³⁴². The population of the areas concerned is used as the criterion for the breakdown by Member States. The provisions also include the continuation of the mechanism for the transfer of resources for cooperation activities at the external borders of the Union, to be supported under the European Neighbourhood and Partnership Instrument and the Instrument for Pre-Accession Assistance. Parliament also strongly supported the promotion of synergies and complementarity between programmes under the ETC goal and programmes financed under external instruments.

Thematic concentration and investment priorities

The ETC Regulation supports the strategic focus of programmes and their results orientation.

Parliament succeeded in introducing more flexibility on thematic concentration in two directions:

- by allocating 80 % of the Funds to four thematic objectives and leaving the remaining 20 % open³⁴³ – and by introducing a degree of flexibility (15 %) to allow Funds to be transferred between the cross-border and transnational strands³⁴⁴.

Parliament supported the decision to adapt the list of the different investment priorities to the specific needs of the European territorial goal by specifying the investment priorities and providing for additional investment priorities. The specific investment priorities for cross-border cooperation now allow, in particular, the continuation under cross-border cooperation of legal and administrative cooperation, cooperation between citizens and institutions, and cooperation in the fields of employment, training, integration of communities and social inclusion in a cross-border perspective³⁴⁵.

In particular, the investment priorities for interregional cooperation are now detailed in the regulation. Parliament ensured consistency with the investment priorities set out in the ERDF Regulation³⁴⁶.

Programming

³⁴⁰ Article 3(3) of the ETC Regulation.

³⁴¹ Article 3(6) of the ETC Regulation.

³⁴² Article 4(3) of the ETC Regulation.

³⁴³ Article 6 of the ETC Regulation.

³⁴⁴ Article 5 of the ETC Regulation.

³⁴⁵ Article 7(1)(a) of the ETC Regulation.

³⁴⁶ Article 7(1)(c) of the ETC Regulation.

Parliament took care to ensure that the programming rules³⁴⁷ for cooperation programmes were formulated to implement the objective of simplification and alignment with mainstream programmes, notably in the case of urban matters, so as to enable an alignment with the ERDF programming rules, while maintaining some important specificities of the cooperation programmes, such as:

- specific rules for technical assistance, with simplified requirements for smaller programmes,
- specific rules when cooperating with third countries, in particular when programmes involve the outermost regions.

A cooperation programme must consist of priority axes. Parliament supported the fact that a priority axis may combine one or more complementary investment priorities from different thematic objectives in order to achieve the maximum contribution to that priority axis³⁴⁸.

In order to strengthen the coordination of ERDF support for cooperation programmes involving the outermost regions with possible complementary financing from other Union and national financing instruments, Member States and third countries or overseas countries or territories participating in such cooperation programmes have to set out rules for coordination mechanisms in those programmes. In this context, Parliament succeeded in ensuring that the Connecting Europe Facility, the ENI, the EDF and the IPA II were explicitly added to the financing instruments which should be included in the coordination mechanisms and could be combined with the other financing instruments³⁴⁹.

From the beginning of the process of designing the regulation, Parliament successfully promoted the idea that new concepts applying to all programmes, such as joint action plans³⁵⁰, community-led local development³⁵¹, and integrated territorial investment³⁵² were to be inserted into the ETC Regulation.

On the selection of operations, Parliament managed to add a number of specific rules regarding outermost regions cooperating with third countries³⁵³.

With Parliament's support, it was possible to ensure that operations under any cross-border programme between Northern Ireland and the border counties of Ireland in support of peace and reconciliation do not have to fulfil the condition that operations selected under cross-border and transnational cooperation must involve beneficiaries from at least two participating countries³⁵⁴.

Monitoring and evaluation

In line with Parliament's position, the implementation modalities have been streamlined for cooperation programmes. The number of authorities involved in programme implementation has been reduced and roles and responsibilities further clarified. Content requirements for

³⁴⁷ Article 8 of the ETC Regulation.

³⁴⁸ Article 8(1) of the ETC Regulation.

³⁴⁹ Article 8(5)(a) of the ETC Regulation.

³⁵⁰ Article 9 of the ETC Regulation.

³⁵¹ Article 10 of the ETC Regulation.

³⁵² Article 11 of the ETC Regulation.

³⁵³ Article 12 of the ETC Regulation.

³⁵⁴ Article 12(2) of the ETC Regulation.

cooperation programmes and implementation reports have been made more precise in order to reduce administrative burdens for programme authorities.

A common approach to indicators

A common approach with mainstream programmes concerning indicators was agreed in order to gain a clearer picture of the output of programmes and make them more result-oriented. As these indicators resulted from extensive consultations between the Member States and the Commission, Parliament agreed to follow the Council Partial General Approach concerning the list of indicators set out in the annex. For the European territorial cooperation goal, this was agreed in line with the provisions for the ERDF, while programme-specific result indicators and programme-specific output indicators were added to take account of the special nature of the cross-border or transnational programmes. Nevertheless a provision was inserted for a delegated act to be adopted in order to amend the list of indicators, with a view to ensuring effective assessment of progress in programme implementation³⁵⁵.

In line with Parliament's position, specific rules for technical assistance were agreed in order to adapt to the generally smaller size of those cooperation programmes.

Harmonising eligibility rules, management and control rules

The original proposal envisaged a greater harmonisation of eligibility rules which, in agreement with the Council and Parliament, have been set out in detail to adapt them to the cooperation programmes, while respecting the horizontal approach of having them adopted through delegated acts³⁵⁶. Parliament also managed to adapt the rules on designation of the authorities to the requirements of European territorial cooperation while maintaining compliance with the rules of the mainstream programmes: the description of the functions of the managing authority has been adapted accordingly³⁵⁷. This will facilitate a joint approach and thus contribute to greater harmonisation in this field³⁵⁸.

Adapting financial management rules to facilitate cooperation with third countries

In the trilogue Parliament supported the complete redrafting of the implementation conditions for the participation of third countries in order to take into account the rules of the other Funds involved in cooperation with third countries³⁵⁹.

Finally, in line with Parliament's position, the rules on de-commitment were adapted to comply with the agreement reached on mainstream programmes, and specific provisions for the application of the rules on state aid and the conversion of foreign currencies into euro will further facilitate programme implementation³⁶⁰.

Conclusion

Overall, during the interinstitutional negotiations, Parliament strongly and successfully

³⁵⁵ Article 15 of the ETC Regulation.

³⁵⁶ Articles 18 to 20 of the ETC Regulation.

³⁵⁷ Article 23 of the ETC Regulation.

³⁵⁸ Articles 21 to 25 of the ETC Regulation.

³⁵⁹ Article 26 of the ETC Regulation.

³⁶⁰ Articles 25 to 27 of the ETC Regulation.

defended its mandate in order to strengthen European territorial cooperation and achieve three important political goals:

- first, reinforcing ETC as a full objective of cohesion policy and securing the ETC programmes through solid funding;
- secondly, a concentration of thematic and investment priorities strong enough to be in line with EU 2020 objectives, but also flexible enough to adapt to the specific needs of cross-border and transnational cooperation programmes;
- finally, further improvement of the management of programmes to ensure the delivery of tangible results for EU citizens.

6. EGTC

6.1. Brief summary

In the light of the problems experienced by Member States in the field of cross-border cooperation, the EGTC Regulation³⁶¹ was adopted in 2006 and introduced a new cooperation instrument at Community level as part of the reform of the regional policy for the period 2007-2013.

The EGTC is the first European cooperation structure with a legal personality defined by European Law that is designed to facilitate and promote territorial cooperation (cross-border, transnational and interregional cooperation) with a view to strengthening the economic and social cohesion of the EU territory.

By mid-2013 the EGTC Regulation allowed the setting-up of at least 35 EGTCs, covering 19 Member States, involving more than 650 local and regional authorities/bodies, and having an impact on the lives of some 30 million European citizens in border regions. However, on 29 July 2011, the Commission forwarded a report on the application of the regulation. The report identified areas that could be improved and the amending regulation³⁶² on EGTC embodies the specific changes that effect those improvements.

The philosophy behind the changes included in the amending regulation can be expressed in three keywords: continuity; clarity; flexibility.

- **Continuity:** because the basic nature of an EGTC has not been changed and no existing EGTC should need to change its statutes or ways of operating;
- **Clarity:** because the regulation has been modified (a) to take account of the Lisbon Treaty, (b) to simplify and clarify certain aspects that have been shown to cause confusion and (c) to ensure more visibility and communication on the formation and operation of EGTCs;
- **Flexibility:** by opening up EGTCs to any aspect of territorial cooperation (and not 'primarily' the managing of ERDF-funded programmes and projects) and by providing legal bases for the participation of authorities and regions from third countries to participate as members.

³⁶¹ Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation.

³⁶² Regulation (EU) No 1302/2013 of the European Parliament and of the Council of 17 December 2013 amending Regulation (EC) No 1082/2006 on a European grouping of territorial cooperation (EGTC) as regards the clarification, simplification and improvement of the establishment and functioning of such groupings (the 'EGTC Regulation').

6.2. Provisions in detail

a) Main characteristics of EGTCs remaining stable over time

The objective of EGTCs is to facilitate and promote cross-border, transnational and interregional cooperation between their members. An EGTC is made up of Member States, regional authorities, local authorities and/or bodies governed by public law, as the case may be.

The competencies of an EGTC are laid down in a binding cooperation convention established on the initiative of its members. The members also decide whether their EGTC should be a separate legal entity, or whether its tasks should be delegated to one of the members. Powers of public authority and police and regulatory powers are excluded from any convention.

Within the bounds of its remit, an EGTC acts on behalf of its members. EGTCs thus enjoy the legal capacity accorded to legal entities by national law.

An EGTC may carry out territorial cooperation actions, with or without a financial contribution from the EU. Specifically, the EGTC is dedicated to the management and implementation of territorial cooperation programmes or projects co-financed by the Community through the European Regional Development Fund (ERDF), the European Social Fund (ESF) or/and the Cohesion Fund, but it can use all the other EU financial instruments, or can simply implement tasks without European co-funding. It must have members in at least two Member States.

The convention specifies an EGTC's activities and lifespan and the conditions for dissolving it. Its scope is limited to the field of cooperation chosen by its members, and it sets out their responsibilities. The law to be applied for interpreting and enforcing the convention is that of the Member State in which the EGTC has its registered office.

The statutes of an EGTC are adopted on the basis of its convention. They constitute its internal rules and contain detailed operational provisions.

The members adopt an annual budget estimate, for which an annual activity report is produced and certified by independent experts. Members are financially liable for any debts on a pro-rata basis according to their contribution to the budget.

b) Changes introduced by the amending Regulation

Cooperation with third countries at the external borders of the EU³⁶³

The starting point for the EGTC Regulation is simple: what sub-national bodies are normally allowed to do within a national context, they should also be allowed to do across borders inside the European Union. Such cooperation should be normal in a Union and 20 years after the introduction of the Single Market. In 1980 the Council of Europe proposed an Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities. However, many Member States have not ratified the Convention or the three additional protocols thereto, or concluded bi/trilateral agreements with their neighbours. The revision of

³⁶³ Article 1(4) of the EGTC Regulation.

the EGTC Regulation made such cooperation explicitly possible across the external borders of the EU: for example, between France and Switzerland, between outermost regions and their neighbours (third countries or overseas countries and territories), and between Poland, Lithuania and Kaliningrad.

Simplified approval procedures³⁶⁴

Nevertheless, some Member States consider such cooperation as foreign policy, even inside the Union, and insisted on a heavy approval procedure³⁶⁵. During the previous programming period, the three-month period for approving the participation of an authority/body in an EGTC and the convention and statutes was far exceeded. The revision allows for a period of six months and, if a Member State has not sent reasoned observations by the end of this period, tacit approval is considered to have been given. However, this does not apply to the Member State in which the EGTC is to be registered as a legal body.

Statutes of EGTCs³⁶⁶

Another important clarification concerns the statutes, i.e. the document setting out the practical internal working arrangements. Previously, Member States were allowed to assess the statutes completely alongside the convention³⁶⁷. Now, they are only allowed to assess whether the statutes are in line with the convention (the founding document). A lighter approval procedure has been established, under certain conditions, when the only amendment to an already approved convention concerns the accession of new members.

Broader scope for EGTC tasks

The revision makes it clearer that the EGTC instrument can facilitate and promote territorial cooperation and carry out specific territorial cooperation actions primarily – but not exclusively – under the European territorial cooperation (ETC) goal³⁶⁸. In the future, EGTCs may also implement only part of a programme, whether under ETC or interregional cooperation under the ‘investment for growth and jobs’ (IGJ) goal, or even both (e.g. to implement an Integrated Territorial Investment or a Joint Action Plan drawing from ETC for the governance and from the IGJ for the investments in infrastructure and people)³⁶⁹.

Another breakthrough change is that, under the revised regulation, EGTCs are allowed to set up and manage infrastructure and services. In this context, the EGTC’s assembly may define the terms and conditions of the use of the infrastructure or a service of general economic interest including the tariffs and fees to be paid by the users³⁷⁰. National rules applicable to these activities are to be listed in the convention, ensuring greater legal transparency for users.

Clearer rules for implementation

In the previous programming period the setting-up of some EGTCs was delayed by legal issues

³⁶⁴ Article 1(5)(a) of the EGTC Regulation.

³⁶⁵ Article 4(3) of Regulation (EC) No 1082/2006.

³⁶⁶ Article 1(11) of the EGTC Regulation.

³⁶⁷ Article 9 of Regulation (EC) No 1082/2006.

³⁶⁸ Article 1(9)(a) of the EGTC Regulation.

³⁶⁹ Article 1(9)(a) of the EGTC Regulation.

³⁷⁰ Article 1(9)(b) of the EGTC Regulation.

applicable to their staff and some EGTCs were set up without their own staff. A joint declaration of the European Parliament, the Council and the Commission attached to the amending regulation clarifies the interpretation of what EGTCs are allowed to establish in their convention³⁷¹. The starting point is the choice of the EGTC itself. On the basis of the options laid down in the Convention, the individual EGTC staff member will still be free to choose one of the options offered: private law or public law which in principle shall be of the country where he or she actually works, regardless of where the EGTC is registered.

Besides the above changes it must be pointed out that EGTCs are also given a more prominent role in the whole legislative package and specific provisions are covered both in the Common Provisions Regulations and the ETC Regulations, thus encouraging this instrument, which will prove its added value and maturity in the current programming period.

The common belief is that the amended Regulation gives a very positive signal for the use of this instrument in the context of territorial cooperation, not only within the EU, but also with our neighbours.

6.3. Parliament's achievements

In its mandate for opening inter-institutional negotiations with the Council, adopted in July 2012, Parliament's REGI Committee added a number of elements to the Commission's initial proposal.

The REGI Committee's position stipulated that EGTCs should, far more than hitherto and at all levels, be regarded and recognised as a priority instrument for the implementation of territorial cooperation not only within the EU, but also with third countries. Thus, the rapporteur's position indicated that it would be not only conceivable but desirable specifically to include provisions concerning EGTCs in the EU's association and Partnership Agreements.

Furthermore, in all fields of both European and national legislation, the existence of EGTCs should be taken into account more fully than hitherto.

Parliament also considered the EGTC Platform set up by the Committee of the Regions as a centre of expertise and experience to be exchanged and provided in support and advice for new EGTCs.

Additionally, certain issues which are legally controversial, such as the enforcement of the contractual obligations³⁷² of an EGTC in another Member State, still needed to be clarified.

Last but not least, the REGI Committee reiterated that EGTCs needed to be better grounded in the EU's sector-specific fields of policy. To this end, it was first necessary to cultivate greater awareness within the Commission (mainstreaming) and outside the services of DG REGIO.

During the trilogues, Parliament's negotiating team had a very strong stance on the establishment and authorisation procedures for new EGTCs. Until the last moment, Parliament

³⁷¹ Joint statement of the European Parliament, the Council and the Commission relating to Article 1(9) of the EGTC Regulation; OJ L 347, 20. 12. 2013.

³⁷² Article 1(13) of the EGTC Regulation.

backed clearer and simplified procedures which would provide authorities wishing to engage in an EGTC with greater clarity and legal certainty. Thus, Parliament managed to guarantee a higher level of transparency and clarity with regard to the procedures employed for the establishment of new EGTCs, with a tacit approval of new EGTCs if certain conditions were fulfilled.

Another important issue put forward by the negotiating team was the expansion of the scope of EGTCs. United in its efforts, the negotiating team managed to convince the Council to expand the competences of EGTCs to cover the facilitation and promotion of territorial cooperation in general, including strategic planning and the management of regional and local concerns in line with Cohesion and other Union policies, thus contributing to the Europe 2020 strategy, but also to the implementation of macro-regional strategies. EGTCs could thus implement programmes and projects receiving financial support from a wide variety of sources going well beyond ESI Funds.

The accession of potential EGTC members from third countries or overseas countries and territories was another cornerstone of Parliament's mandate. It was the conviction of the rapporteur and the negotiating team that EGTCs could greatly contribute to territorial cooperation between regions of EU Member States, but also with neighbouring third countries. The inclusion of this provision in the new regulation is a real breakthrough. In brief, it allows for EU regions to develop territorial cooperation projects with, for example, Mediterranean countries or any European Neighbourhood Policy country.

List of abbreviations

Abbreviation	Definition
AGRI	Committee on Agriculture and Rural Development (European Parliament)
BUDG	Committee on Budgets (European Parliament)
CAP	Common Agriculture Policy
CEF	Connecting Europe Facility
CF	Cohesion Fund
COCOF	Coordination Committee of the Funds
CONT	Committee on Budgetary Control (European Parliament)
CoR	Committee of the Regions
COREPER	Committee of Permanent Representatives to the European Communities
CSG	Community Strategic Guidelines
CSF	Common Strategic Framework
DG	Directorate General
EAC	Ex-ante Conditionalities
EAFRD	European Agricultural Fund for Rural Development
ECA	European Court of Auditors
ECFIN (DG)	Directorate General for Economic and Financial Affairs (European Commission)
EDF	European Development Fund
EFF	European Fisheries Fund
EGF	European Globalisation Fund
EGTC	European Grouping of Territorial Cooperation
EIB	European Investment Bank
EMFF	European Maritime and Fisheries Fund
EMPL	Committee on Employment and Social Affairs (European Parliament)
ENI	European Neighbourhood Instrument
EP	European Parliament
EPP	European People's Party
ERDF	European Regional and Development Fund
ESI Funds	European Structural and Investments Funds
ESF	European Social Fund
ETC	European Territorial Cooperation
EU	European Union
EUSF	European Union Solidarity Fund
FEAD	Fund for European Aid to the Most Deprived
FI	Financial Instruments
GNI	Gross National Income
ICT	Information and Communication Technologies
INI	Own-Initiative report
IPA	Instrument for Pre-Accession Assistance
ITI	Integrated Territorial Investment
JAP	Joint Action Plan
LEADER	Links between the rural economy and development actions (local development method)
MARE (DG)	Directorate General for Maritime Affairs and Fisheries (European Commission)

	Commission)
MFF	Multiannual Financial Framework
NSRF	National Strategic Reference Framework
NUTS	Nomenclature of Territorial Units for Statistics
NT	Negotiating Team
OJ	Official Journal (of the European Union)
OP	Operational Programme
PA	Partnership agreement
PECH	Committee on Fisheries (European Parliament)
PGA	Partial General Approach (political agreement of the Council pending the first-reading position of the European Parliament)
PPPs	Public Private Partnerships
REGI	Committee on Regional Development (European Parliament)
(DG) REGIO	Directorate General for Regional and Urban Policy (European Commission)
RDI	Research, Development and Innovation
R&TD	Research and Technological development
S&D	Socialists & Democrats party
SME	Small and Medium Enterprises
TFEU	Treaty on the Functioning of the European Union
TM	Technical meeting
YEI	Youth Employment Initiative
URBACT	The Urban Development Network Programme
WPoFCP	Working Party on the Future of Cohesion Policy

Annexes

ANNEX 1

Working Party on Cohesion Policy

I. Working Party on the Future of Cohesion Policy (before the Negotiating for the legislative package on Cohesion policy)

- **List of Members**

Members	Substitutes	Political Groups
Danuta Hübner Lambert van Nistelrooij Jan Olbrycht Joachim Zeller Andrey Kovatchev	Markus Pieper Marie-Thérèse Sanchez Schmid	EPP
Victor Boştinaru Constanze Angela Krehl María Irigoyen Pérez		S&D
Riikka Manner Ramona Nicole Mănescu	Ivars Godmanis	ALDE
Elisabeth Schroedter		Greens/ALE
Oldřich Vlasák	Tomasz Piotr Poręba	ECR
Younous Omarjee	Cornelia Ernst	GUE/NGL
John Bufton		EFD

- **List of meetings**

2010	
Date	Topic
4/2/2010	Decisions taken as regards the workings of the WPoFCP
23/2/2010	Decisions taken as regards the workings of the WPoFCP
24/3/2010	Decisions taken as regards the workings of the Working Party on the future of Cohesion Policy
27/4/2010	EC High Level Group Reflecting on Future Cohesion Policy
3/6/2010	Discussion the draft position paper drawn up by the Secretariat
13/7/2010	EC High Level Group Reflecting on Future Cohesion Policy
28/9/2010	Future of urban dimension in Cohesion Policy
27/10/2010	Forward planning of the work of REGI Committee with respect to pre-legislative work
9/12/2010	EC High Level Group Reflecting on Future Cohesion Policy and strengthening policy performance through conditionality and incentives
2011	
Date	Topic
27/1/2011	EC High Level Group Reflecting on Future Cohesion Policy and strengthening policy performance through conditionality and incentives

1/3/2011	Improving evaluation, performance and results in cohesion policy, Implications of the financial regulation reform for cohesion policy
22/3/2011	Financial regulation reform for cohesion policy
11/4/2011	Transition measures and a new category of intermediate regions, Simplification of cohesion policy architecture
26/5/2011	Outcome of the Conditionality Task Force and of the EC's High Level Group
22/6/2011	EGTC, future of Objective 3
12/7/2011	Multiannual Financial Framework 2014-2020, 'Connecting Europe' Facility

II. Working Party on Cohesion Policy (Negotiating for the legislative package on Cohesion policy)

- **List of Members**

Common Provisions Regulation (CPR)			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Lambert van Nistelrooij	Rapporteur	NL	EPP
Constanze A. Krehl	Rapporteur	DE	S&D
Ivars Godmanis	Shadow rapporteur	LV	ALDE
Elisabeth Schroedter	Shadow rapporteur	DE	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NGL
Adam Kósa	Draft person - opinion to CPR (EMPL Committee - Rule 50)	HU	EPP
ERDF			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Jan Olbrycht	Rapporteur	PL	EPP
Kerstin Westphal	Shadow rapporteur	DE	S&D
Riikka Manner	Shadow rapporteur	FI	ALDE
Karima Delli	Shadow rapporteur	FR	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Cornelia Ernst	Shadow rapporteur	DE	GUE/NGL
Cohesion Fund			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Victor Boştinaru	Rapporteur	RO	S&D
Erminia Mazzoni	Shadow rapporteur	IT	EPP
Ramona N. Manescu	Shadow rapporteur	RO	ALDE

Nikos Chrysogelos	Shadow rapporteur	EL	Greens/E FA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Cornelia Ernst	Shadow rapporteur	DE	GUE/NG L
ETC			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Riikka Manner	Rapporteur	FI	ALDE
Marie-Thérèse Sanchez-Schmid	Shadow rapporteur	FR	EPP
Francesco de Angelis	Shadow rapporteur	IT	S&D
François Alfonsi	Shadow rapporteur	FR	Greens/E FA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NG L
EGTC			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Joachim Zeller	Rapporteur	DE	EPP
Monika Smolková	Shadow rapporteur	SK	S&D
Filiz H. Hyusmenova	Shadow rapporteur	BG	ALDE
Catherine Grèze	Shadow rapporteur	FR	Greens/E FA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NG L
John Bufton	Shadow rapporteur	UK	EFD

- **List of meetings**

2011	
Date	Topic
22/11/2011	Coordination meeting among Rapporteurs
2012	
Date	Topic
12/1/2012	EU 2020 - thematic concentration versus territorial dimension - flexibility
28/2/2012	Simplification
21/3/2012	Financial Regulation, Financial instruments
25/4/2012	Territorial Dimension of future cohesion policy
8/5/2012	Briefing of the European Commission about their reaction to the Council GAC text
20/6/2012	Discussion on the content of the proposed new Annex to the CPR on the Common Strategic Framework
8/11/2012	Depth discussion on the implications of the Financial Regulation reform on the CPR

2013	
Date	Topic
22/1/2013	Coordination of the Funds covered by the Common Provisions Regulation
2014	
Date	Topic
18/2/2014	Exchange of views on Delegated Acts relating to the Cohesion Package

ANNEX 2

Members of the Negotiating Teams and Staff of the Administrative Teams

1. European Parliament

EP Negotiating teams

General Regulation (CPR)			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Lambert van Nistelrooij	Rapporteur	NL	EPP
Constanze A. Krehl	Rapporteur	DE	S&D
Ivars Godmanis	Shadow rapporteur	LV	ALDE
Elisabeth Schroedter	Shadow rapporteur	DE	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NGL
Adam Kósa	Draft person - opinion to CPR (EMPL Committee - Rule 50)	HU	EPP
ERDF			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Jan Olbrycht	Rapporteur	PL	EPP
Kerstin Westphal	Shadow rapporteur	DE	S&D
Riikka Manner	Shadow rapporteur	FI	ALDE
Karima Delli	Shadow rapporteur	FR	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Cornelia Ernst	Shadow rapporteur	DE	GUE/NGL
Cohesion Fund			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Victor Boştinaru	Rapporteur	RO	S&D
Erminia Mazzoni	Shadow rapporteur	IT	EPP
Ramona N. Manescu	Shadow rapporteur	RO	ALDE
Nikos Chrysogelos	Shadow rapporteur	EL	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Cornelia Ernst	Shadow rapporteur	DE	GUE/NGL
ETC			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Riikka Manner	Rapporteur	FI	ALDE
Marie-Thérèse Sanchez-Schmid	Shadow rapporteur	FR	EPP
Francesco de Angelis	Shadow rapporteur	IT	S&D
François Alfonsi	Shadow rapporteur	FR	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NGL

EGTC			
MEP	Function	Nationality	Pol. group
Danuta M. Hübner	Chair of the REGI Committee	PL	EPP
Joachim Zeller	Rapporteur	DE	EPP
Monika Smolková	Shadow rapporteur	SK	S&D
Filiz H. Hyusmenova	Shadow rapporteur	BG	ALDE
Catherine Grèze	Shadow rapporteur	FR	Greens/EFA
Oldřich Vlasák	Shadow rapporteur	CZ	ECR
Younous Omarjee	Shadow rapporteur	FR	GUE/NGL
John Bufton	Shadow rapporteur	UK	EFD

EP staff

Name	Function
REGI secretariat	
Miguel Tell Cremades	Head of the Committee Secretariat
CPR Project Team (REGI and other services)	
Diana Haase	Administrator - Project Team coordinator
Monika Makay	Administrator
Gabriel Alvarez Recarte	Administrator
Ana Maria Dobre	Administrator
Joao Rodrigues	Lawyer - Legal Service
Catalina Alexandra Ionescu Dima	Lawyer - Legal Service
Peter O’Sullivan	Lawyer-linguist - Legislative Acts
Ioannis Gerochristos	Administrator - Conciliation and Codecision Unit
Vaclav Lebeda	Press Officer
Egle Juriene	Liaison officer - DG TRAD
Katerina Hanzlikova	Assistant
ERDF	
Dagmara Stoerring	Administrator
Stefan Donea	Administrator
Denise Wejmelka	Assistant
Cohesion Fund	
Carla Carvalho	Administrator
Ivan Borg	Assistant
ETC	
Franck Ricaud	Administrator
Susanne Pillath	Administrator
Eivyda Budvytyte	Assistant
EGTC	
Stefan Manev	Administrator
Inna Dolgovskaja	Assistant
Group Advisors	
Madalina Stoian	EPP Group
Pawel Kaleta	EPP Group
Alena Carna	EPP Group
Ioannis Latoudis	S&D Group

Rasa Rudzkyte	S&D Group
Petros Koupegkos	S&D Group
Bogdan Rogin	ALDE Group
Mirena Pancheva	ALDE Group
Frank Ingelaere	Greens/EFA
Simone Reinhart	Greens/EFA
Zuzana Milackova	ECR
Michaela Krizkova	ECR
Antoine Bazantay	GUE/NGL
EMPL secretariat	
Moirá Andreanelli	Administrator
Conciliation and Codecision Unit	
Ioannis Gerochristos	Administrator
Hans-Joachim Hauck	Administrator
Edwin Koekkoeck	Administrator
Legal Service	
Lisbeth Knudsen	Head of Unit
Catalina Alexandra Ionescu Dima	Administrator - lawyer
João Rodrigues	Administrator - lawyer
Legislative Acts	
Peter Vavrik	Head of Unit
Vaia Vaena	Administrator - lawyer-linguist
Peter O'Sullivan	Administrator - lawyer-linguist
Pamela Laas	Administrator - lawyer-linguist
Vilija Ceilitkaite	Administrator - lawyer-linguist

2. Council of the European Union

Presidencies

CYPRUS PRESIDENCY	
Name	Function
Adonis Constantinides	Minister Counsellor MFF-Cohesion Policy
Angela Droussiottou	Regional Policy Counsellor
Helena Hadjiyanni	Cohesion Policy Attaché

IRISH PRESIDENCY	
Name	Function
Frank Maughan	Chair
Ben Sweeney	Cohesion Policy Officer
Gearoid O'Keeffe	Regional Policy Counsellor
Jim Deane	Regional Policy Counsellor
Michael McGrath	Regional Policy Counsellor

LITHUANIAN PRESIDENCY	
Name	Function
Darius Trakelis	Structural and Cohesion Policy Attaché
Vaida Vilimaite-Zubrickiene	Structural and Cohesion Policy Attaché

Secretariat

Name	Function
Elisabeth Alteköster	Director DG G 2 Budget, Tax and Regional Policy
Andreas Strub	Head of Unit DGG 2B Tax Policy, Export Credits and Regional Policy
Uwe Harms	Regional policy team - Political Administrator (until August 2013)
Valentin Ivanov	Regional policy team - Political Administrator
Ana Maria Dobre	Regional policy team - Political Administrator (as from September 2013)
Jerome Guichard	Codecision Unit
Jeno Czuczai	Legal Service
Christian Froik	Legal service - Political Administrator (until December 2013)
Nicholas Donnelly	Legal service
Nadia Perdieu	Legal service - Assistant
Conny Hansen	Regional policy team - Assistant

3. European Commission

Name	Function
Nicholas Martyn	Deputy Director General for Policy, Performance and Compliance, DG REGIO
Peter Berkowitz	Head of Unit - Policy and legislation 2014-2020, Inter-institutional relations, DG REGIO
Hubert Gambs	Head of Commissioner Hahn's Cabinet
Nicola De Michelis	Deputy Head of Commissioner's Hahn's cabinet
Ann-Kerstin Myleus	Deputy Head of Unit - Policy and legislation 2014-2020, Inter-institutional relations, DG REGIO
Eric Von Breska	Head of Unit - Economic analysis, DG REGIO
Gordon Mackenzie	Legal Affairs, DG REGIO
Núria Tello-Clusella	Interinstitutional team, DG REGIO
Hélène Laurière	Interinstitutional team, DG REGIO
Katri Seier	Policy Analyst, DG REGIO
Eveline Petrat	Policy Analyst, DG REGIO
Dirk Peters	Legal Affairs, DG REGIO
Yiorgos Korkovelos	Policy Coordinator, Secretariat General
Vicente Damian Lluna-Taberner	Coordinator for Inter-institutional relations, Secretariat General
Audrone Steiblyte	Member of the Legal Service, SJ
John Watson	Adviser - Commission representative to Coreper I, SJ
Jone Mugica	Assistant Policy Officer, DG ENTR
Andriana Sukova Tosheva	Director - Employment, Social Affairs and Equal Opportunities, DG EMPL
Manuela Geleng	Head of Unit - Employment, Social Affairs and Equal Opportunities, DG EMPL

Stefan De Keersmaecker	Deputy Head of Unit - Employment, Social Affairs and Equal Opportunities, DG EMPL
Serge Le Gal	Interinstitutional team, DG EMPL
Josefine Loriz-Hoffmann	Head of Unit - Environment, forestry and climate changes, DG AGRI
Michael Pielke	Head of Unit - Rural Development Programmes-DK, BG, PL, DG AGRI
Magdalena Wlodyka	Interinstitutional team, DG AGRI
Christine Mason	Policy Officer - Horizontal Coordinator , DG AGRI
Elisa Roller	Head of Unit - Structural policy and economic analysis, DG MARE
Dominique Philippe Levieil	Deputy Head of Unit- Structural policy and economic analysis, DG MARE
Ilze Murina	Policy Analyst, DG MARE
Magdalena Mihordea	Interinstitutional team, DG MARE
Paraskevi Gilchrist	Principal Advisor, DG BUDG
Jennifer Brown	Interinstitutional team, DG BUDG

Note: On specific topics (for example Macro conditionality or Financial Instruments) also other Units and DGs were involved to support the negotiations.

ANNEX 3

ESI Funds - Key events

REGI meetings - 2011		
Date	Fund concerned	Subject
21/6/2011	Cohesion legislative package	Exchange of views with Johannes Hahn, Commissioner on Regional Policy on the post 2013 legislation and the implementation of the ongoing programming period
10/10/2011	Cohesion legislative package	OPEN DAYS 2011: Investing in Europe's future: Regions and cities delivering smart, sustainable and inclusive growth
11/10/2011	Cohesion legislative package	REGI-COTER: Territorial dimension of Cohesion Policy after 2013
22/11/2011	CPR	Exchange of views, Consideration of informal working paper
22/11/2011	ERDF, Cohesion Fund, ETC, EGTC	Exchange of views
19/12/2011	CPR	Exchange of views

REGI meetings - 2012		
Date	Fund concerned	Subject
25/1/2012	Cohesion legislative package	Exchange of views with Johannes Hahn, Commissioner on Regional Policy on the Post 2013 EU Cohesion Package
25/1/2012	CPR	Consideration of working document
25/1/2012	ERDF	Consideration of working paper
25/1/2012	Cohesion Fund, ETC, EGTC	Exchange of views
27/2/2012	CPR	Opinion of the Court of Auditors on Common provisions on European Funds and repealing Regulation (EC) No 1083/2006
27/2/2012	CPR	Exchange of views
27/2/2012	Cohesion Fund	Consideration of working document
27/2/2012	ETC	Exchange of views
27/2/2012	EGTC	Consideration of working document
19/3/2012	CPR	Exchange of views with Catiuscia Marini, Rapporteur of the Committee of the Regions, Consideration of working document
20/3/2012	ERDF	Exchange of views with Michael Schneider, rapporteur of the Committee of the Regions, Consideration of an working paper
20/3/2012	Cohesion Fund	Exchange of views with Romeo Stavarache, rapporteur of the Committee of the Regions
20/3/2012	ETC	Exchange of views with Petr Osvald, rapporteur of the Committee of the Regions, Consideration of working document
20/3/2012	Cohesion legislative package	Public Hearing on Legislative Package on Cohesion Policy
20/3/2012	EGTC	Exchange of views with Michel Delebarre, rapporteur of the Committee of the Regions, Consideration of working document

20/3/2012	ERDF	Exchange of views with the European Commission on implementation of housing issues in the ERDF
26/4/2012	CPR	Consideration of draft report I
26/4/2012	Cohesion Fund	Consideration of draft report
8/5/2012	Cohesion legislative package	Exchange of views on the Cohesion Policy Legislative Package with the representatives of the Major EU Regional Organisations
8/5/2012	CPR	Consideration of draft report II
8/5/2012	ERDF	Exchange of views
8/5/2012	ETC	Consideration of draft report, Exchange of views with Petr Osvald, rapporteur of the Committee of the Regions
29/5/2012	ERDF, EGTC	Consideration of draft reports
29/5/2012	Cohesion legislative package	Exchange of views with Johannes Hahn, Commissioner on Regional Policy, on latest developments in Cohesion Policy Legislative Package
29/5/2012	CPR	Exchange of views
30/5/2012	Cohesion Fund, ETC	Consideration of draft reports
20/6/2012	CPR	Consideration of amendments with the participation of Mr Marek Woźniak, rapporteur of the Committee of the Regions on the Common Strategic Framework
21/6/2012	ERDF	Exchange of views with Alexandros Tsolakis, Policy coordinator at European Commission, DG REGIO, on implementation of housing issues in the ERDF
21/6/2012	ERDF, Cohesion Fund, ETC, EGTC	Consideration of amendments
11/7/2012	CPR, ERDF, Cohesion Fund, ETC, EGTC	Consideration and adoption of amendments as a mandate (vote in REGI)
18/9/2012	Cohesion legislative package	Exchange of views with Johannes Hahn, Commissioner on Regional Policy on Connecting Europe Facility and the Legislative Package on Cohesion Policy following the adoption of a negotiation mandate
8/10/2012	Cohesion legislative package	OPEN DAYS 2012: Europe's regions and cities: Making a difference
10/10/2012	Cohesion legislative package	REGI-COTER: The legislative package for Cohesion Policy after 2013
26/11/2012	CPR, ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
27/11/2012	CPR	Consideration and adoption of amendments to modify and complete the mandate adopted 11 July 2012 (vote in REGI)
18/12/2012	CPR, ERDF, Cohesion Fund, ETC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations

REGI meetings - 2013		
Date	Fund concerned	Subject
23/1/2013	CPR	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
24/1/2013	ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
19/2/2013	Post 2014 EU Cohesion Policy	Exchange of views with Ramón Luis Valcárcel Siso, President of the Committee of the Regions on the post 2014 EU Cohesion Policy
19/2/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
19/3/2013	Post 2014 EU Cohesion Policy	Exchange of views with Johannes Hahn, Commissioner on Regional Policy on Multiannual Financial Framework and the ongoing Interinstitutional negotiations on the post 2014 EU Cohesion Policy
19/3/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
23/4/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
29/5/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
19/6/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Consideration of draft reports
10/7/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Adoption of draft reports (vote in REGI)
17/7/2013	ERDF	Report tabled for Plenary
18/7/2013	Cohesion Fund	Report tabled for Plenary
22/7/2013	CPR	Report tabled for Plenary
24/7/2013	ETC	Report tabled for Plenary
24/9/2013	CPR	Exchange of views with the rapporteurs on the ongoing interinstitutional negotiations
27/9/2013	EGTC	Report tabled for Plenary
14/10/2013	CPR, ERDF,	Consideration of a possible compromise with the Council
7/11/2013	CPR	Consideration of a possible compromise with the Council and vote (the outcome of the interinstitutional negotiations in the form of a consolidated text was adopted)
19/11/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Debate in Plenary
20/11/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Plenary - 1st reading

17/12/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Final Acts signed
18/12/2013	Cohesion legislative package	Exchange of views with Nicholas Martyn, Deputy Director General for Policy, Performance and Compliance at European Commission DG REGIO, on the Delegated and Implementing Acts following the adoption of the legislative package on EU Cohesion Policy
20/12/2013	CPR, ERDF, Cohesion Fund, ETC, EGTC	Publication in OJ, OJ L 347

ANNEX 4

Cohesion Legislative Package

Overview of the total number of the Trilogues and Negotiating team meetings

	CPR	ERDF	Cohesion Fund	ETC	EGT
TRILOGUES	74*	13	3	15	3
Negotiating team meetings	90**	15	4	26	3

* (55 Trilogues (out of which 8 Trilogues took place whole day - 1 morning and 1 afternoon session))

+ 19 Technical Trilogues)

** approximate number (CPR NT meetings usually took place 30 min before the Trilogue and on Wednesdays in Strasbourg (some of them cancelled last moment))

CPR Trilogues overview

2012	
1.	12 July
2.	17 September
3.	2 October
4.	8 October
5.	19 October
6.	31 October
7.	13 November
8.	28 November
1.	4 December (Technical)
9.	6 December
10.	7 December
11.	12 December
2.	14 December (Technical)
12.	18 December
2013	
13.	8 January
14.	21 January
15.	29 January
16.	31 January
3.	1 February (Technical)
4.	13 February (Technical)
17.	18 February
18.	20 February
19.	27 February
20.	5 March am
	5 March pm

21.	6 March
22.	20 March am
	20 March pm
23.	21 March
5.	25 March (Technical)
24.	26 March am
	26 March pm
25.	27 March
26.	8 April
27.	10 April
28.	17 April
29.	18 April
30.	24 April
31.	25 April
32.	7 May am
	7 May pm
33.	8 May am
	8 May pm
34.	15 May am
	15 May pm
35.	16 May
36.	21 May
37.	22 May
38.	28 May am
	28 May pm
39.	6 June
40.	10 June
6.	10 June evening (Technical)
41.	11 June am
	11 June pm
7.	19 June am (Technical)
8.	19 June pm (Technical)
9.	2 July am (Technical)
42.	2 July pm
43.	3 July
44.	11 July
10.	2 September (Technical)
45.	4 September
11.	9 September (Technical)
46.	10 September
12.	11 September (Technical)
13.	16 September (Technical)
47.	17 September
48.	18 September
14.	23 September (Technical)
49.	24 September
15.	30 September (Technical)
50.	2 October

16.	3 October (Technical)
51.	10 October
52.	14 October
17.	15 October (Technical)
53.	17 October
54.	21 October
18.	23 October (Technical)
55.	23 October
19.	4 November (Technical)

ANNEX 5

Common Provisions Regulation

Thematic blocks for trilogues

Regulatory Block		Relevant Articles (Commission amended proposal COM(2013)246 final)	Relevant Articles (Regulation (EU) No 1303/2013)
1.	Strategic Approach and Programming	Definitions and general principles: 1, 2, 3, 4, 5, 6, 7, 8 Strategic programming: 13, 14, 15, 23, 24, 25, 26, 87 Joint Action Plans: 93, 94, 95, 96, 97, 98	Definitions and general principles: 1, 2, -, 4, 5, 6, 7, 8 Strategic programming: 14, 15, 16, 26, 27, 29, 30, 96 Joint Action Plans: 104, 105, 106, 107, 108, 109
2.	Thematic concentration	9, 16, 84, 88	9, 18, 92, 98
3.	CSF	2(2), 2(3), 2(4), 10, 11, 12, Annex I	-, -, -, 10, 11, 12, Annex I
4.	Territorial Development	2(18), 28, 29, 30, 31, 89, 99	-, 32, 33, 34, 35, 99, 36
5.	Ex-ante Conditionality	2(new definition), 17, Annex IV	2(33), 19, Annex X
6.	Performance framework	19, 20, Annex I	21, 22, Annex I
7.	Monitoring & Evaluation	41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 100, 101, 102, 103, 104	47, 48, 49, 50, 51, 52, 54, 55, 56, 57, 110, 111, 112, 113, 114
8.	Technical Assistance	51, 52, 108, 109	58, 59, 118, 119
9.	Management and control	2(9), 2(15), 2(17), 62, 63, 64, 65, 112, 113, 114, 115, 116, 117, 118	2(9), 2(16), 2(18), 72, 74, -, 75, 122, 123, 125, 126, 127, -, 128
10.	Financial Instruments	2(12), 2(23), 2(26), 27, 32, 33, 34, 35, 36, 37, 38, 39, 40	2(13), 2(23), 2(30), 31, 37, 38, 40, 41, 42, 43, 44, 45, 46
11.	Eligibility	2(10), 2(13), 2(14), 55, 56, 57, 58, 59, 60, 61, 140	2(10), 2(14), -, 65, 66, 67, 68, 69, 70, 71, 148
12.	Indicators, Information and Communication	105, 106, 107, Annex V	115, 116, 117, Annex XI
13.	Major Projects	Articles 90, 91, 92	100, 101, 102
14.	Revenue Generating Operations and PPPs	2(25), 54, 55	2(29), 61, 65, Annex V
15.	Financial Management	2(4), 2(6), 2(8), 2(17), 2(22), 2(new definitions), 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 119, 120, 121, 122, 123, 125, 126, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139	-, 2(5), 2(8), 2(18), 2(22), 2(29), 2(30), 2(36), 2(38), 2(39), 76, 77, 78, 79, -, 80, 81, 82, 83, -84, 85, 86, 87, 88, 129, 130, 131, 132, -, 133, 135, 137, 138, 139, -, 140, 141, 142, 143, 144, 145, 146, 147
16.	Financial issues	18, 22, 53, 81, 82, 83, 84, 85, 86, 110, 111, 124, 127, Annex II, Annex IIbis, Annex IIIter	20, 24, 60, 89, 90, 91, 92, 93, 95, 120, 121, 134, 136, Annex II, Annex VII, Annex VIII

17.	Macroeconomic conditionality	21	23
18.	Transitional & Final Provisions	141, 142, 143, 144, 145, 146, 147	-, 149, 150, 151, 152, 153, 154
19.	Pending provisions	An auxiliary lock covering all pending issues from other thematic blocks: a single document is used to record the texts agreed on pending issues after closure of the respective blocks	

ANNEX 6

Delegated and Implementing Acts

1. Delegated Acts

Type of Act	Empowerments	State of Play
Delegated Act - Code of conduct on Partnership	CPR Art. 5 - Code of conduct on Partnership	Commission Delegated Regulation (EU) No 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds OJ L 74, 14/03/2014, p.1–7 Entry into force: 15/03/2014
Delegated Act on CPR (most part of empowerments)	<ol style="list-style-type: none"> 1. CPR Art. 22 (7) subpar 4 - Allocation performance reserve 2. CPR Art. 37(13) - FI, rules on purchase of land and on combination of TA 3. CPR Art. 38(4) subpar 3 - FI, Selection criteria of bodies implementing FI 4. CPR Art. 40(4) - FI, Management and Control of FI 5. CPR Art.41(3) - FI, Rules for withdrawal of payments 6. CPR Art. 42 (1) subpar 2 - FI, Eligible expenditure at closure 7. CPR Art. 42(6) - FI, Criteria for determining Management costs and fees 8. CPR Art. 61(3) subpar 7 - Revenue-generating operations, methodology under point (b) 9. CPR Art. 68(1) subpar 2 - Flat rate financing for indirect costs, other Union policies 10. CPR Art. 101 subpar 4 - Major projects, methodology of quality review 11. CPR Art. 125(8) subpar 1 - Functions of the Managing Authority; system to record and store data on each operation - information 12. CPR Art. 125(9) - Functions of the Managing Authority, minimum requirements for audit trail 13. CPR Art. 127(7) - Functions of the AA, scope and content of audits, methodology for selection of samples 	<p>Commission Delegated Regulation (EU) No 480/2014 of 3.3.2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council 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</p> <p>OJ L 138, 13/05/2014, p.5 Entry into force: 14/05/2014</p>

Type of Act	Empowerments	State of Play
	14. CPR Art. 127(8) – Functions of the AA, use of data collected during audits carried out by Commission 15. CPR Art. 144(6) – Criteria financial corrections (serious deficiencies, level of correction, flat rates)	
Delegated Act on ETC eligibility rules	ETC Art. 18(1) – Eligibility rules	Commission Delegated Regulation (EU) No 481/2014 of 4.3.2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes OJ L 138, 13/05/2014, p.45 Entry into force: 14/05/2014
Delegated Act	ERDF Art. 8(3) - Innovative actions Sustainable Urban Development	Commission Delegated Regulation (EU) No 522/2014 of 11.3.2014 supplementing Regulation (EU) No 1301/2013 of the European Parliament and of the Council with regard to the detailed rules concerning the principles for the selection and management of innovative actions in the area of sustainable urban development to be supported by the European Regional Development Fund OJ L 148, 20/05/2014, p.1 Entry into force: 09/06/2014
Delegated Act	1. CPR Art. 63(4) - Beneficiary under PPP operations 2. CPR Art. 64(4) - Support for PPP operations	Notification to European Parliament and Council foreseen for second half 2014
Delegated Act	CPR Art 122(2) subpar 5 - Responsibilities of Member States, criteria for determining the	Notification to European Parliament and Council

Type of Act	Empowerments	State of Play
	cases of irregularities to be reported and data to be provided (OLAF)	foreseen for second half 2014 (OLAF)
Delegated Act	CPR Art. 122(2) subpar 5 - Responsibilities of Member States, conditions and procedures to determine whether amounts which are irrecoverable shall be reimbursed (REGIO)	Notification to European Parliament and Council foreseen for second half 2014 (REGIO)
Delegated Act	EGTC Art. 17 - List of indicators: effectiveness, efficiency, relevance, European added value, scope for simplification	Notification to European Parliament and Council only foreseen for after 2014
Delegated Act	CPR Art. 61(3) subpar 3 - Revenue-generating operations, flat rates for ICT, RDI and energy efficiency; deadline 30/06/2015	Notification to European Parliament and Council only foreseen for after 2014
Delegated Act	ESF Art. 14(1) - Simplified cost options	Only upon request by a Member State

2. Implementing Acts - Comitology

Type of Act	Empowerments	State of Play
IA - Regulation - Models for OP & cooperation programmes	1. CPR Art. 96(9) - Models for the operational programme IGJ goal 2. ETC Art. 8(11) - Model for the cooperation programme ETC goal	Adopted by Commission on 25/02 OJ L 87, 22.03.2014, p. 1
IA - Regulation	1. CPR Art. 74(4) - Data exchange; SFC 2014-2020 2. ETC Art. 8(2) - Nomenclature of categories of intervention (ETC goal)	Adopted by Commission on 25/02 OJ L 57, 27.02.2014, p. 7
IA - Regulation	1. CPR Art. 8 - Climate change tracking methodologies 2. CPR Art. 22(7) - Performance framework 3. CPR Art. 96(2) - Nomenclature of categories of intervention (IGJ goal)	Adopted by Commission on 07/03 OJ L 69, 08.03.2014, p. 65
IA - Decision - Resources for ETC	ETC Art. 4(3) - list of all cooperation programmes and global amount	Draft IA transmitted to EP on 13/05/2014
IA - Decision - ETC Geographical coverage	ETC Art. 3(1) and (3) - Geographical coverage, list of areas CBC and TN	Draft IA transmitted to EP on 13/05/2014
IA - Regulation	CPR Art. 39(4) subpar 2 – SME Initiative model funding agreement	Draft IA transmitted to EP on 28/05/2014
IA - Regulation	1. CPR Art. 38(10) – FI, Modalities transfer&management of resources 2. CPR Art 46(3) - Information and communication 3. CPR Art 115(4) 4. CPR Art. 125(8) subpar 2 – system to record and store data on each operation	Draft IA transmitted to EP on 26/05/2014
IA - Regulation	1. CPR Art. 41(4) - FI, payment application 2. CPR Art. 102(1) subpar 3 - Format for notification of MP 3. CPR Art.112(5) - model for submission of financial data (monitoring) 4. CPR Art. 122(3) subpar 2 - Exchange benef- Member States; E-cohesion 5. CPR Art. 124(7) - Model for report & opinion of AA and description of functions & procedures MA & CA 6. CPR Art. 131(6) - Model for Payment applications 7. CPR Art.137(3) - Model for the accounts	under preparation, presentation to COESIF foreseen for June
IA - Regulation	1. CPR: Art. 52(4) - Model for progress report 2. CPR Art.101 subpar 2 - MP methodology cost-benefit analysis 3. CPR Art. 101 subpar 5 - MP Format submission of information 4. CPR Art. 106 subpar 2 - Model for content of JAP 5. CPR Art. 111(5) - Model for annual and final implementation reports (AIR)	under preparation, presentation to COESIF foreseen for 2nd half of June

Type of Act	Empowerments	State of Play
	6. CPR Art. 125(10) - Model for the management declaration (MA) 7. CPR Art. 127(6) - Models audit strategy, audit opinion, control report 8. ETC Art 14(5) - Model for annual and final implementation reports (AIR), ETC	
IA - Regulation	CPR Art. 122(2) subpar 6 – Responsibilities of Member States, reporting irregularities, frequency and format	COM adoption foreseen for second half 2014 (OLAF)
IA - Regulation	CPR Art. 38(3) – FI standard terms and conditions	

3. Commission Implementing Decisions (no comitology)

Type of Act	Empowerments	State of Play
IA - Decision - List of regions and Member States eligible for support	CPR Art. 90(4) - List of regions and Member States eligible for support	Adopted on 18/02/2014 OJ L 50, 20.02.2014, p. 22
IA - Decision - Resources	CPR Art. 91(2) - Annual breakdown of the global resources for the Funds by Member States and the annual breakdown of the resources from the specific allocation for the YEI by Member States together with the list of eligible regions CPR Art. 91(2) - Annual breakdown of global resources per Member State under IGJ and ETC and the annual breakdown of resources from the specific allocation for the YEI by MS together with the list of eligible regions CPR Art. 92(6) subpar 2 - Transfer from CF to CEF	Adopted on 03/04/2014 OJ L 104, 08.04.2014, p.13

THE PURPOSE OF THIS BOOK IS TO PROVIDE A
COMPREHENSIVE OVERVIEW OF THE PROCESS
AND OUTCOME OF THE INTERINSTITUTIONAL
NEGOTIATIONS ON THE LEGISLATIVE
PACKAGE FOR COHESION POLICY FOR
THE 2014-2020 PROGRAMMING PERIOD.



ЕВРОПЕЙСКИ ПАРЛАМЕНТ PARLAMENTO EUROPEO
EVROPSKÝ PARLAMENT EUROPA-PARLAMENTET
EUROPÄISCHES PARLAMENT
EUROOPA PARLAMENT ΕΥΡΩΠΑΪΚΟ ΚΟΙΝΟΒΟΥΛΙΟ
EUROPEAN PARLIAMENT
PARLEMENT EUROPÉEN PARLAIMINT NA HEORPA
EUROPSKI PARLAMENT PARLAMENTO EUROPEO
EIROPAS PARLAMENTS EUROPOS PARLAMENTAS
EURÓPAI PARLAMENT
IL-PARLAMENT EWROPEW EUROPEES PARLEMENT
PARLAMENT EUROPEJSKI
PARLAMENTO EUROPEU PARLAMENTUL EUROPEAN
EURÓPSKY PARLAMENT
EVROPSKI PARLAMENT EUROOPAN PARLAMENTTI
EUROPAPARLAMENTET