Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument

COMMISSION IMPLEMENTING REGULATION (EU) No 897/2014

of 18 August 2014

laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 291 thereof,

Having regard to Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument[(1)], and in particular Article 12 thereof,

Having regard to the Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action[(2)], and in particular Article 6(2) thereof,

Whereas:

(1) One of the strands of Regulation (EU) No 232/2014 involves cooperation between on the one hand one or more Member States of the European Union and, on the other hand, one or more partner countries as defined in its Annex I and/or the Russian Federation taking place along their shared part of the external border of the Union with a view to enhance cross-border cooperation (‘CBC’).

(2) Regulation (EU) No 236/2014 lays down rules for implementation of assistance which are common to all instruments for external action.

(3) Regulation (EU) No 232/2014 stipulates that implementing rules laying down specific provisions for the implementation of cross-border cooperation programmes shall be adopted. Those rules shall include provisions on, inter alia, the rate and methods of co-financing; the content, preparation, modification and closure of joint operational programmes; the role and function of the programme structures, including their standing, effective identification, accountability and responsibility, description of management and control systems, and conditions on the technical and financial management of Union support; recovery procedures in all participating countries; monitoring and evaluation; visibility and information activities; shared and indirect management.

(4) The programming document provided for in Article 9(1) of Regulation (EU) No 232/2014 establishes the strategic objectives to be pursued by cross-border cooperation

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 897/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

and the thematic objectives and expected indicative results of that cooperation and contains the list of joint operational programmes to be established.

(5) Cross-border cooperation should be implemented through multi-annual joint operational programmes covering cooperation for a border or a group of borders and comprising multi-annual priorities that pursue a consistent set of thematic objectives and that may be implemented with the Union support.

(6) It is necessary to draw up implementing rules which lay down detailed provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014, while allowing participating countries a certain amount of flexibility as to the detailed arrangements regarding organisation and implementation of specific programmes taking account of the particular features of each programme. On the basis of this principle and in accordance with this Regulation, the participating countries should jointly submit proposals for joint operational programmes to the Commission for adoption in accordance with Article 10(4) of Regulation (EU) No 232/2014.

(7) Taking into account that all participating countries are to be involved in the decision-making structures of the programme while implementation tasks are usually entrusted to a managing authority based in a Member State, there is a need for rules governing the organisational structure covering the functions of managing authority and the division of functions between and within each body being part of the programme structures.

(8) Based on lessons learnt from the 2007-2013 programming period, the Commission will not automatically bear the final responsibility for recoveries in partner countries. Therefore new provisions have been set out in the implementing rules giving more responsibilities to the participating countries in terms of management, control and audit. The programmes will have to define their own management and control systems based on these rules. The partner countries will have to assist the managing authorities in the implementation of the programmes by setting up national authorities, control contact points and group of auditors.

(9) In accordance with Article 10(8) of Regulation (EU) No 232/2014 where necessary, agreements shall be signed between the participating countries and the managing authority to set out provisions not included in the financing agreements signed with partner countries or the Russian Federation.

(10) Based on lessons learnt from the 2007-2013 programming period, grant award procedures and rules developed by the Commission for external actions will not anymore be compulsory. The programmes should be allowed to apply procedures developed by the participating countries provided certain standards set out in this Regulation are met.

(11) In accordance with Article 7(7) of Regulation (EU) No 232/2014 funding under this Regulation can be pooled with funding under other relevant Union Regulations. This will allow a transfer of funding from Regulation (EU) No 232/2014 to programmes financed under Regulation (EU) No 1299/2013 of the European Parliament and of the Council[(3)]. The equivalent rule exists in Regulation (EU) No 231/2014 of the European Parliament and of the Council[(4)] for funding to be transferred to Regulation (EU) No

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 897/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

232/2014 to cover the participation of the latter's beneficiaries in the cross-border cooperation programmes subject to this Regulation. These new rules will simplify the management procedures for these countries' participation in the programmes.

(12) Since programmes are usually to be implemented through shared management, management and control systems should be in line with Union rules, in particular Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(5)] and Commission Delegated Regulation (EU) No 1268/2012[(6)], as well as with Council Regulation (EC, Euratom) No 2988/95[(7)]. The Commission should ensure that Union funds are used in accordance with the applicable rules during the implementation of the programmes.

(13) These measures are in line with the opinion of the Committee established by Regulation (EU) No 232/2014.

(14) In order to allow for timely programming and implementation of programmes, this Regulation should enter into force on the third day following its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

PART ONE

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down detailed provisions for the implementation of cross-border cooperation programmes as set out in Article 12 of Regulation (EU) No 232/2014 and Article 6(2) of Regulation (EU) No 236/2014.

Article 2

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) ‘programme’ means a joint operational programme within the meaning of Article 10 of Regulation (EU) No 232/2014;

(b) ‘participating countries’ means all Member States, CBC partner countries and any European Economic Area country taking part in a programme;

(c) ‘programming document’ means the document which is referred to Article 9(1) of Regulation (EU) No 232/2014 and which establishes the strategic objectives, the list of programmes, their indicative multiannual allocation and geographical eligibility;

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 897/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(d) 'programme area' means core regions, adjoining regions, the major social, economic or cultural centres and territorial units referred to in Article 8(3) and (4) of Regulation (EU) No 232/2014 respectively

(e) 'core regions' means the territorial units referred to in Article 8(1) of Regulation (EU) No 232/2014 and border areas in Instrument for Pre-Accession Assistance geographic entities and in European Economic Area countries as set out in the programming document;

(f) 'adjoining regions' means the territorial units referred to in Article 8(2) of Regulation (EU) No 232/2014 and those adjoining to core regions in Instrument for Pre-Accession Assistance geographic entities and in European Economic Area countries;

(g) 'Joint Monitoring Committee' means the joint committee responsible for monitoring the implementation of the programme;

(h) 'Managing Authority' means the authority or body appointed by the participating countries as responsible for managing the programme;

(i) 'national authority' means the entity appointed by each participating country bearing the ultimate responsibility for supporting the Managing Authority in the implementation of the programme on its own territory;

(j) 'Joint Technical Secretariat' means the body set up by the participating countries to assist the programme bodies;

(k) 'financial instruments' means Union measures of financial support provided on a complementary basis in order to address one or more specific policy objectives of the Union. Such instruments may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and may, where appropriate, be combined with grants;

(l) 'CBC partner countries' means countries and territories listed in Annex I to Regulation (EU) No 232/2014, the Russian Federation and beneficiaries listed in Annex I to Regulation (EU) No 231/2014 when there is co-financing under the latter;

(m) 'irregularities' means any infringement of a financing agreement, a contract or of applicable law resulting from an act or omission by an economic operator involved in the implementation of the programme, which has, or would have, the effect of prejudicing the budget of the Union by charging an unjustified item of expenditure to the budget of the Union;

(n) 'Union contribution' means the part of the eligible expenditure of the programme or project which is financed by the Union;

(o) 'contract' means any procurement or grant contract concluded in the framework of a programme;

(p) 'large infrastructure projects' means projects comprising a set of works, activities or services intended to fulfil an indivisible function of a precise nature pursuing clearly identified objectives of common interest for the purposes of implementing investments delivering a cross-border impact and benefits and where a budget share of at least EUR 2,5 million is allocated to acquisition of infrastructure;

(q) 'intermediate body' means any public or private body which acts under the responsibility of a Managing Authority, or which carries out duties on behalf of such an in relation to beneficiaries implementing projects;

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) No 897/2014. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(r) 'contractor' means a natural or legal person with whom a procurement contract has been concluded;

(s) 'beneficiary' means a natural or legal person with whom a grant contract has been signed;

(t) 'accounting year' means the period from 1 July to 30 June, except for the first accounting year, in respect of which it means the period from the start date for eligibility of expenditure until 30 June 2015. The final accounting year shall be from 1 July 2023 to 30 September 2024. In case of indirect management with an international organisation in the sense of Article 80, the accounting year shall be the financial year;

(u) 'financial year' means the period from 1 January to 31 December.

PART TWO

COMMON PROVISIONS

TITLE I

GENERAL FRAMEWORK FOR IMPLEMENTATION

CHAPTER 1

Programmes

Article 3

Preparation

Each programme shall be prepared by a common agreement of all the participating countries, in accordance with Regulation (EU) No 232/2014, the programming document and this Regulation.

Article 4

Content

Each programme shall contain in particular the following information:

1. Introduction: a short description of the programme preparation steps including information on consultations and actions taken to involve the participating countries and other stakeholders in the preparation of the programme.

2. Description of the programme area:

   (a) core regions: a list of eligible territorial units as set out in the programming document and, where relevant, any extension in accordance with Article 8(4) of Regulation (EU) No 232/2014 and in line with the requirements set out in the programming document;