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

REGULATION (EU) No 1303/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 17 December 2013

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinions of the European Economic and Social Committee[(1)],

Having regard to the opinions of the Committee of the Regions[(2)],

Having regard to the opinions of the Court of Auditors[(3)],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that, in order to strengthen its economic, social and territorial cohesion, the Union is to aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions or islands, and that particular attention is to be paid to rural areas, areas affected by industrial transition, and regions which suffer from severe and permanent natural or demographic handicaps. Article 175 TFEU requires that the Union is to support the achievement of these objectives by the action it takes through the European Agricultural Guidance and Guarantee Fund, Guidance Section, the European Social Fund, the European Regional Development Fund, the European Investment Bank and other instruments.

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(2) In order to improve coordination and harmonise implementation of the Funds providing support under cohesion policy, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund, with the Fund for rural development, namely the European Agricultural Fund for Rural Development (EAFRD), and for the maritime and fisheries sector, namely measures financed under shared management in the European Maritime and Fisheries Fund (EMFF), common provisions should be established for all these Funds (the 'European Structural and Investment Funds' - 'ESI Funds'). In addition this Regulation contains 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 do not apply to the EAFRD. Due to the particularities that exist for each ESI Fund, specific rules applicable to each ESI Fund and to the European territorial cooperation goal under the ERDF should be specified in separate Regulations.

(3) In line with the conclusions of the European Council of 17 June 2010, whereby the Union strategy for smart, sustainable and inclusive growth was adopted, the Union and Member States should implement the delivery of smart, sustainable and inclusive growth, while promoting harmonious development of the Union and reducing regional disparities. The ESI Funds should play a significant role in the achievement of the objectives of the Union strategy for smart, sustainable and inclusive growth.

(4) As regards the Common Agricultural Policy (CAP), significant synergies have already been obtained by harmonising and aligning management and control rules for the first pillar (European Agricultural Guarantee Fund - EAGF) and the second pillar (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.

(5) The outermost regions should benefit from specific measures and from additional funding to offset their structural social and economic situation together with the handicaps resulting from the factors referred to in Article 349 TFEU.

(6) The northern sparsely populated regions should benefit from specific measures and additional funding to offset the severe and natural or demographic handicaps referred to in Article 2 of Protocol No 6 to the 1994 Act of Accession.

(7) To ensure the correct and consistent interpretation of provisions and to contribute to legal certainty for Member States and beneficiaries, it is necessary to define certain terms that are used in this Regulation.

(8) Where a time limit is set for the Commission to adopt or amend a decision, in accordance with this Regulation, the time limit for the adoption or amendment of such a decision should not include the period starting on the date on which the Commission has sent its observations to the Member State and lasting until the Member State has responded to those observations.

(9) This Regulation consists of five parts, of which the first sets out the subject-matter and definitions, the second contains rules applicable to all ESI Funds, the third includes provisions applicable only to the ERDF, the ESF and the Cohesion Fund (the 'Funds'),

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the fourth includes provisions applicable only to the Funds and to the EMFF and the fifth includes the final provisions. In order to ensure consistency in the interpretation of the different parts of this Regulation and between this Regulation and the Fund-specific Regulations, it is important to set out clearly the relationships between them. In addition, specific rules established in the Fund-specific rules can be complementary but should derogate from the corresponding provisions in this Regulation only where such derogation is specifically provided for in this Regulation.

(10) Under Article 317 TFEU, and in the context of shared management, the conditions allowing the Commission to exercise its responsibilities for implementation of the budget of the Union should be specified and the responsibilities of cooperation with the Member States clarified. Those conditions should enable the Commission to obtain assurance that Member States are using the ESI Funds in a legal and regular manner and in accordance with the principle of sound financial management within the meaning of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council[(4)] (the 'Financial Regulation'). Member States at the appropriate territorial level, in accordance with their institutional, legal and financial framework and the bodies designated by them for that purpose should be responsible for preparing and implementing programmes. Those conditions should also ensure that attention is drawn to the need to ensure complementarity and consistency of relevant Union intervention, to respect the principle of proportionality and take into account the overall aim of reducing administrative burden.

(11) For the Partnership Agreement and each programme respectively, each Member State should organise a partnership with the representatives of competent regional, local, urban and other public authorities, economic and social partners and other relevant bodies representing civil society, including environmental partners, non-governmental organisations and bodies responsible for promoting social inclusion, gender equality and non-discrimination, including, where appropriate, the umbrella organisations of such authorities and bodies. The purpose of such a partnership is to ensure respect for the principles of multi-level governance, and also of subsidiarity and proportionality and the specificities of the Member States' different institutional and legal frameworks as well as to ensure the ownership of planned interventions by stakeholders and build on the experience and the know-how of relevant actors. The Member States should identify the most representative relevant partners. Those partners should include institutions, organisations and groups which are capable of influencing the preparation or could be affected by the preparation and implementation of the programmes. In this context it should also be possible for Member States to identify, where appropriate, as relevant partners, umbrella organisations which are the associations, federations or confederations of relevant regional, local and urban authorities or other bodies in accordance with applicable national law and practices.
The Commission should be empowered to adopt a delegated act providing for a European code of conduct on partnership in order to support and facilitate Member States in the organisation of partnership with regard to ensuring the involvement of relevant partners in the preparation, implementation, monitoring and evaluation of Partnership Agreements and programmes in a consistent manner. That adopted

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delegated act should have under no circumstances and in no way of its interpretation retroactive effect or be the basis for establishing irregularities leading to financial corrections. The adopted delegated act should not specify a date of application that is earlier than the date of its adoption. The adopted delegated act should allow Member States to decide on the most appropriate detailed arrangements for implementing the partnership in accordance with their institutional and legal framework as well as their national and regional competences, provided that its objectives, as laid down in this Regulation, are achieved.

(12) The activities of the ESI Funds and the operations which they support should comply with applicable Union and the related national law which directly or indirectly implements this Regulation and the Fund-specific rules.

(13) In the context of its effort to increase economic, territorial and social cohesion, the Union should, at all stages of implementation of the ESI Funds, aim at eliminating inequalities and at promoting equality between men and women and integrating the gender perspective, as well as at combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation as set out in Article 2 of the Treaty on the European Union (TEU), Article 10 TFEU and Article 21 of the Charter of Fundamental Rights of the European Union, taking into account in particular accessibility for persons with disabilities, as well as Article 5(2) of the Charter of Fundamental Rights stating that no one is to be required to perform forced or compulsory labour.

(14) The objectives of the ESI Funds should be pursued in the framework of sustainable development and the Union's promotion of the aim of preserving, protecting and improving the quality of the environment as set out in Articles 11 and 191(1) TFEU, taking into account the polluter pays principle. To this end, the Member States should provide information on the support for climate change objectives, in line with the ambition to devote at least 20 % of the budget of the Union to those objectives, using a methodology based on the categories of intervention, focus areas or measures adopted by the Commission by means of an implementing act reflecting the principle of proportionality.

(15) In order to contribute to the Union strategy for smart, sustainable and inclusive growth and to the Fund-specific missions pursuant to their Treaty-based objectives, including economic, social and territorial cohesion, the ESI Funds should focus their support on a limited number of common thematic objectives. The precise scope of each of the ESI Funds should be set out in Fund-specific rules. It should be possible to limit that scope to only some of the thematic objectives defined in this Regulation.

(16) In order to maximise the contribution of the ESI Funds and to establish strategic guiding principles to facilitate the programming process at the level of Member States and the regions, a Common Strategic Framework ('CSF') should be established. The CSF should facilitate 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 territories.

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(17) The CSF should set out how the ESI Funds are to contribute to the Union strategy for smart, sustainable and inclusive growth, the arrangements to promote an integrated use of the ESI Funds, the arrangements for coordination between the ESI Funds and other relevant Union policies and instruments, horizontal principles and cross-cutting policy objectives for the implementation of the ESI Funds, the arrangements to address key territorial challenges and priority areas for cooperation activities under the ESI Funds.

(18) Member States and regions increasingly face challenges that relate to the impact of globalisation, environmental and energy concerns, population ageing and demographic shifts, technological transformation and innovation demands, and social inequality. Due to the complex and interrelated nature of such challenges, the solutions supported by the ESI Funds should be of an integrated nature, multi-sectoral and multi-dimensional. In this context, and in order to increase the effectiveness and efficiency of the policies, it should be possible for the ESI Funds to be combined into integrated packages which are tailor-made to fit the specific territorial needs.

(19) The combination of a shrinking working population and an increasing proportion of retired people in the general population as well as the problems associated with population dispersion, are expected to continue to place strains, inter alia, on Member States' education and social support structures and thus on the Union's economic competitiveness. Adapting to such demographic changes constitutes one of the core challenges that Member States and regions are to face in the years to come, and as such should be given a particularly high level of consideration for the regions most affected by demographic change.

(20) On the basis of the CSF, each Member State should prepare, in cooperation with its partners, and in dialogue with the Commission, a Partnership Agreement. The Partnership Agreement should translate the elements set out in the CSF into the national context and set out firm commitments to the achievement of Union objectives through the programming of the ESI Funds. The Partnership Agreement should set out arrangements to ensure alignment with the Union strategy for smart, sustainable and inclusive growth as well as with the Fund-specific missions pursuant to their Treaty-based objectives, arrangements to ensure effective and efficient implementation of the ESI Funds and arrangements for the partnership principle and an integrated approach to territorial development. A distinction should be made between the essential elements of the Partnership Agreement which are subject to a Commission decision and other elements which are not subject to the Commission decision and can be amended by the Member State. It is necessary to envisage specific arrangements for the submission and adoption of the Partnership Agreement and the programmes should the entry into force of one or more Fund-specific Regulations be delayed or be expected to be delayed. This entails establishing provisions which allow for the submission and adoption of the Partnership Agreement even in the absence of certain elements in relation to the ESI Fund or Funds affected by the delay, and the later submission of a revised Partnership Agreement after the entry into force of the delayed Fund-specific Regulation or Regulations. Since the programmes co-financed by the ESI Fund affected by the delay should in this case be submitted and adopted only after the entry into force