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

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

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 Articles 178 and 349 thereof,

Having regard to the proposal from the European Commission,

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

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

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Article 176 of the Treaty on the Functioning of the European Union (TFEU) provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Union. Under that Article and the second and third paragraphs of Article 174 TFEU, the ERDF is to contribute to reducing disparities between the levels of development of the various regions and to reducing the backwardness of the least favoured regions, among which particular attention is to be paid to regions which suffer from severe and permanent natural or demographic handicaps such as the northernmost regions with very low population density and island, cross-border and mountain regions.

(2) Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(3)] sets out the provisions common to the ERDF, the European Social Fund (ESF), the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund.

(3) Specific provisions concerning the type of activities which can be supported by the ERDF, in order to contribute to the investment priorities within the thematic objectives set out in Regulation (EU) No 1303/2013, should be laid down. At the same time, activities outside the scope of the ERDF should be defined and clarified, including investment to achieve the reduction of greenhouse gas emissions from activities listed

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in Annex I to Directive 2003/87/EC of the European Parliament and of the Council[(4)]. In order to avoid excessive financing, such investment should not be eligible for support from the ERDF as it already benefits financially from the application of Directive 2003/87/EC. That exclusion should not restrict the possibility of using the ERDF to support activities that are not listed in Annex I to Directive 2003/87/EC even if those activities are implemented by the same economic operators, and include activities such as energy efficiency investments in district heating networks, smart energy distribution, storage and transmission systems and measures aimed at reducing air pollution, even if one of the indirect effects of such activities is the reduction of greenhouse gas emissions, or if they are listed in the national plan referred to in Directive 2003/87/EC.

(4) It is necessary to specify what additional activities can be supported by the ERDF under the European territorial cooperation goal.

(5) The ERDF should contribute to the Union strategy for smart, sustainable and inclusive growth, thus ensuring greater concentration of ERDF support on the priorities of the Union. Depending on which category of regions is supported, the support from the ERDF under the Investment for growth and jobs goal should be concentrated on research and innovation, information and communication technologies (ICT), small and medium-sized enterprises (SMEs) and promoting a low-carbon economy. That thematic concentration should be attained at national level while allowing for flexibility at the level of operational programmes and between different categories of regions. The thematic concentration should be adjusted, where appropriate, to take into account Cohesion Fund resources allocated to supporting the investment priorities relating to the shift towards a low-carbon economy and referred to in Regulation (EU) No 1300/2013 of the European Parliament and of the Council[(5)]. The degree of thematic concentration should take into account the level of development of the region, the contribution of Cohesion Fund resources where applicable, as well as the specific needs of regions whose GDP per capita used as an eligibility criterion for the 2007-2013 programming period was less than 75 % of the average GDP of the EU-25 for the reference period, regions designated with phasing-out status in the 2007-2013 programming period and certain NUTS level 2 regions consisting solely of island Member States or of islands.

(6) It should be possible for support from the ERDF under the investment priority 'community-led local development' to contribute to all of the thematic objectives referred to in this Regulation.

(7) In order to address the specific needs of the ERDF, and in line with the Union strategy for smart, sustainable and inclusive growth, it is necessary to set out within each thematic objective laid down in Regulation (EU) No 1303/2013, the ERDF-specific actions as 'investment priorities'. Those investment priorities should set out detailed objectives, which are not mutually exclusive, to which the ERDF is to contribute. Such investment priorities should form the basis for the definition of specific objectives within programmes that take into account the needs and characteristics of the programme area.

(8) It is necessary to promote innovation and the development of SMEs, in emerging fields linked to European and regional challenges such as creative and cultural industries and

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innovative services, reflecting new societal demands, or to products and services linked to an ageing population, care and health, eco-innovation, the low-carbon economy and resource efficiency.

(9) In accordance with Regulation (EU) No 1303/2013, in order to optimise the added value from investments funded wholly or in part through the Union budget in the field of research and innovation, synergies will be sought in particular between the operation of the ERDF and Horizon 2020 - the Framework Programme for Research and Innovation whilst respecting their distinct objectives.

(10) It is important to ensure that, in promoting risk management investments, specific risks at regional, cross-border and transnational level are taken into account.

(11) In order to maximise their contribution to the objective of supporting employment-friendly growth, activities supporting sustainable tourism, culture and natural heritage should be part of a territorial strategy for specific areas, including the conversion of declining industrial regions. Support for such activities should also contribute to strengthening innovation and the use of ICT, SMEs, environment and resource efficiency or the promotion of social inclusion.

(12) In order to promote sustainable regional or local mobility or to reduce air and noise pollution, it is necessary to promote healthy, sustainable and safe modes of transport. Investments in airport infrastructure supported by the ERDF should promote environmentally sustainable air transport when, inter alia, enhancing regional mobility by connecting secondary and tertiary nodes to trans-European transport network (TEN-T) infrastructure, including through multimodal nodes.

(13) In order to promote the achievement of the energy and climate targets set by the Union as part of the Union strategy for smart, sustainable and inclusive growth, the ERDF should support investment to promote energy efficiency and security of supply in Member States through, inter alia, the development of smart energy distribution, storage and transmission systems, including through the integration of distributed generation from renewable sources. In order to meet their security of supply requirements in a manner that is consistent with their targets under the Union strategy for smart, sustainable and inclusive growth, Member States should be able to invest in energy infrastructure that is consistent with their chosen energy mix.

(14) SMEs, which can include social economy enterprises, should be understood, in accordance with the definition laid down in Regulation (EU) No 1303/2013, as covering micro, small and medium-sized enterprises within the meaning of Commission Recommendation 2003/361/EC[(6)].

(15) In order to promote social inclusion and combat poverty, particularly among marginalised communities, it is necessary to improve access to social, cultural and recreational services, through the provision of small-scale infrastructure, taking account of the specific needs of persons with disabilities and the elderly.

(16) Community-based services should cover all forms of in-home, family-based, residential and other community services which support the right of all persons to live in the

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community, with an equality of choices, and which seek to prevent isolation or segregation from the community.

(17) In order to increase flexibility and reduce the administrative burden through joint implementation, the ERDF and the Cohesion Fund investment priorities under the corresponding thematic objectives should be aligned.

(18) A common set of output indicators to assess the aggregated progress at Union level of the implementation of programmes should be set out in an Annex to this Regulation. Those indicators should correspond to the investment priority and type of action supported in accordance with this Regulation and the relevant provisions of Regulation (EU) No 1303/2013. The common output indicators should be complemented by programme-specific result indicators and, where relevant, by programme-specific output indicators.

(19) Within the framework of sustainable urban development, it is considered necessary to support integrated actions to tackle the economic, environmental, climate, demographic and social challenges affecting urban areas, including functional urban areas, while taking into account the need to promote urban-rural linkages. The principles for selecting the urban areas where integrated actions for sustainable urban development are to be implemented, and the indicative amounts for those actions, should be set out in the Partnership Agreement with a minimum of 5 % of the ERDF resources allocated at national level for that purpose. The scope of any delegation of tasks to urban authorities should be decided upon by the managing authority in consultation with the urban authority.

(20) In order to identify or test new solutions which address issues that are related to sustainable urban development and are of relevance at Union level, the ERDF should support innovative actions in the area of sustainable urban development.

(21) In order to reinforce capacity-building, networking and exchange of experience between programmes and bodies responsible for implementing sustainable urban development strategies and innovative actions in the area of sustainable urban development and to complement existing programmes and bodies, it is necessary to establish an urban development network at Union level.

(22) The ERDF should address the problems of accessibility to, and remoteness from, large markets, faced by areas with an extremely low population density, as referred to in Protocol No 6 on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden to the 1994 Act of Accession. The ERDF should also address the specific difficulties encountered by certain islands, border regions, mountain regions and sparsely populated areas, the geographical situation of which slows down their development, with a view to supporting their sustainable development.

(23) Specific attention should be paid to the outermost regions, namely by adopting measures under Article 349 TFEU extending, on an exceptional basis, the scope of support from the ERDF to the financing of operating aid linked to the offsetting of the additional costs resulting from the specific economic and social situation of those regions which

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is compounded by the handicaps resulting from the factors referred to in Article 349 TFEU, namely remoteness, insularity, small size, difficult topography and climate, economic dependence on a few products, the permanence and combination of which severely restrain their development. Operating aid granted by Member States in that context is exempt from the notification obligation laid down in Article 108(3) TFEU, if, at the time it is granted, it fulfils the conditions laid down by a Regulation declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 TFEU, and adopted pursuant to Council Regulation (EC) No 994/98[(7)].

(24) In line with the conclusions of the European Council of 7-8 February 2013, and taking into account the special objectives laid down in the TFEU concerning the outermost regions referred to in Article 349 TFEU, the status of Mayotte was changed as a result of European Council Decision 2012/419/EU[(8)] to become a new outermost region from 1 January 2014. In order to facilitate and to promote focused and rapid infrastructural development of Mayotte, it should be possible on an exceptional basis that at least 50 % of the ERDF part of Mayotte's envelope be allocated to five of the thematic objectives laid down in Regulation (EU) No 1303/2013.

(25) In order to supplement this Regulation with certain non-essential elements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of detailed rules for the criteria for the selection and management of innovative actions. Such power should also be delegated to the Commission in respect of amendments to Annex I to this Regulation where justified to ensure the effective assessment of progress in implementation of operational programmes. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(26) Since the objective of this Regulation, namely to reinforce economic, social and territorial cohesion by redressing the main regional imbalances in the Union, cannot be sufficiently achieved by the Member States but can rather, by reason of the extent of the disparities between the levels of development of the various regions and the backwardness of the least favoured regions and the limit on the financial resources of the Member States and regions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(27) This Regulation replaces Regulation (EC) No 1080/2006 of the European Parliament and the Council[(9)]. In the interests of clarity, Regulation (EC) No 1080/2006 should therefore be repealed. However, this Regulation should not affect either the continuation or modification of assistance approved by the Commission on the basis of Regulation (EC) No 1080/2006 or any other legislation applying to that assistance on 31 December 2013. That Regulation or such other applicable legislation should consequently continue to apply after 31 December 2013 to that assistance or the operations