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

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

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 the second paragraph of 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 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) The first paragraph of Article 174 of the Treaty on the Functioning of the European Union (TFEU) provides that the Union is to develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion. The Cohesion Fund which is established by this Regulation should, therefore, provide a financial contribution to projects in the fields of environment and trans-European networks in the area of transport infrastructure.

(2) Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(3)] sets out provisions common to the European Regional Development Fund (ERDF), the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund. That Regulation constitutes a new framework for the European Structural and Investment Funds including the Cohesion Fund. It is necessary, therefore, to specify the tasks of the Cohesion Fund in relation to that framework and in relation to the purpose assigned to the Cohesion Fund in the TFEU.

(3) Specific provisions concerning the type of activities which can be supported by the Cohesion Fund, in order to contribute to the investment priorities within the thematic objectives set out in Regulation (EU) No 1303/2013, should be laid down.

(4) The Union should be able to contribute, through the Cohesion Fund, to actions in pursuit of its environmental objectives, in accordance with Articles 11 and 191 TFEU, namely energy efficiency and renewable energy and, in the transport sector outside the trans-

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1300/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

European networks, rail, river and sea transport, intermodal transport systems and their interoperability, management of road, sea and air traffic, clean urban transport and public transport.

(5) It should be recalled that where measures based on Article 192(1) TFEU involve costs deemed disproportionate for the public authorities of a Member State and financial support from the Cohesion Fund is provided in accordance with Article 192(5) TFEU, the polluter pays principle is nevertheless to apply.

(6) Trans-European transport network (TEN-T) projects supported by the Cohesion Fund are to comply with the guidelines established in Regulation (EU) No 1315/2013 of the European Parliament and of the Council[(4)]. In order to concentrate efforts in that regard, priority should be given to projects of common interest as defined in that Regulation.

(7) Investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC of the European Parliament and of the Council[(5)] should not be eligible for support from the Cohesion Fund as it already benefits financially from the application of that Directive. That exclusion should not restrict the possibility of using the Cohesion Fund 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 investment in the co-generation of heat and power and 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.

(8) It is not possible for investment in housing, other than that related to the promotion of energy efficiency or renewable energy use, to be eligible for support from the Cohesion Fund as it falls outside the scope of support from the Cohesion Fund as defined in the TFEU.

(9) In order to accelerate the development of transport infrastructure across the Union, the Cohesion Fund should support transport infrastructure projects of European added value provided for in Regulation (EU) No 1316/2013 of the European Parliament and of the Council[(6)] for a total amount of EUR 10 000 000 000. The allocation of support from the Cohesion Fund to those projects should comply with the rules established under Article 92(6) of Regulation (EU) No 1303/2013. In accordance with Regulation (EU) No 1316/2013, support should be available only to Member States eligible for funding from the Cohesion Fund, with the co-financing rates applicable to that Fund.

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

(11) Complementarity and synergies between interventions supported by the Cohesion Fund, the ERDF, the European territorial cooperation goal and the Connecting Europe Facility should be ensured, in order to avoid duplication of efforts and to guarantee the optimal linkage of different types of infrastructure at local, regional and national level, and throughout the Union.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1300/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(12) In order to address the specific needs of the Cohesion Fund, 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 Cohesion Fund-specific actions as 'investment priorities'. Those investment priorities should set out detailed objectives, which are not mutually exclusive, to which the Cohesion Fund is to contribute. Such investment priorities should form the basis for the definition of specific objectives within operational programmes that take into account the needs and characteristics of the programme area. 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.

(13) A common set of output indicators to assess the aggregated progress at Union level of the implementation of operational 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.

(14) In order to amend this Regulation with regard to certain non-essential elements, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the amendment of the list of common output indicators set out in Annex I to this Regulation. 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 the Council.

(15) Since the objective of this Regulation, namely to strengthen the economic, social and territorial cohesion of the Union in the interests of promoting sustainable development, 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.

(16) Since this Regulation replaces Council Regulation (EC) No 1084/2006[(7)], that Regulation should 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 1084/2006 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 concerned until their closure. Applications to receive assistance made or approved under Regulation (EC) No 1084/2006 should remain valid.

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1300/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(17) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

Establishment of the Cohesion Fund and subject matter

1 A Cohesion Fund is hereby established for the purpose of strengthening the economic, social and territorial cohesion of the Union in the interests of promoting sustainable development.

2 This Regulation establishes the tasks of the Cohesion Fund and the scope of its support with regard to the Investment for growth and jobs goal referred to in Article 89 of Regulation (EU) No 1303/2013.

Article 2

Scope of support from the Cohesion Fund

1 The Cohesion Fund shall, while ensuring an appropriate balance and according to the investment and infrastructure needs specific to each Member State, support:

a investment in the environment, including areas related to sustainable development and energy which present environmental benefits;

b TEN-T, in compliance with the guidelines adopted by Regulation (EU) No 1315/2013;

c technical assistance.

2 The Cohesion Fund shall not support:

a the decommissioning or the construction of nuclear power stations;

b investment to achieve the reduction of greenhouse gas emissions from activities listed in Annex I to Directive 2003/87/EC;

c investment in housing unless related to the promotion of energy efficiency or renewable energy use;

d the manufacturing, processing and marketing of tobacco and tobacco products;

e undertakings in difficulty, as defined under Union State aid rules;

f investment in airport infrastructure unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact.

Article 3

Cohesion Fund support for transport infrastructure projects under the Connecting Europe Facility

The Cohesion Fund shall support transport infrastructure projects of European added value provided for in Regulation (EU) No 1316/2013 for an amount of EUR 10 000 000 000 in accordance with Article 92(6) of Regulation (EU) No 1303/2013.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) No 1300/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 4

Investment priorities

The Cohesion Fund shall support the following investment priorities within the thematic objectives set out in the first paragraph of Article 9 of Regulation (EU) No 1303/2013, in accordance with the development needs and growth potential referred to in point (a)(i) of Article 15(1) of that Regulation and set out in the Partnership Agreement:

(a) supporting the shift towards a low-carbon economy in all sectors by:

(i) promoting the production and distribution of energy derived from renewable sources;

(ii) promoting energy efficiency and renewable energy use in enterprises;

(iii) supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings, and in the housing sector;

(iv) developing and implementing smart distribution systems that operate at low and medium voltage levels;

(v) promoting low-carbon strategies for all types of territories, in particular for urban areas, including the promotion of sustainable multimodal urban mobility and mitigation-relevant adaptation measures;

(vi) promoting the use of high-efficiency co-generation of heat and power based on useful heat demand;

(b) promoting climate change adaptation, risk prevention and management by:

(i) supporting investment for adaptation to climate change, including ecosystem-based approaches;

(ii) promoting investment to address specific risks, ensuring disaster resilience and developing disaster management systems;

(c) preserving and protecting the environment and promoting resource efficiency by:

(i) investing in the waste sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;

(ii) investing in the water sector to meet the requirements of the Union's environmental acquis and to address needs, identified by the Member States, for investment that goes beyond those requirements;

(iii) protecting and restoring biodiversity and soil and promoting ecosystem services, including through Natura 2000, and green infrastructure;

(iv) taking action to improve the urban environment, to revitalise cities, regenerate and decontaminate brownfield sites (including conversion areas), reduce air pollution and promote noise-reduction measures;

(d) promoting sustainable transport and removing bottlenecks in key network infrastructures by: