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### INFORMATION NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption - Outcome of the European Parliament's first reading (Strasbourg, 17 to 20 October 2022)

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### I. INTRODUCTION

On 21 September 2022, the Permanent Representatives Committee confirmed that, should the European Parliament approve the abovementioned Commission's proposal without amendments, the Council would approve the European Parliament's position.

After the plenary approved the request of the Committee on Foreign Affairs (AFET) to proceed according to the Rule 163 (urgent procedure) on 18 October 2022, this Committee tabled the Commission's proposal for a Regulation. No amendments were presented.

## II. VOTE

The Parliament adopted its first-reading position on 20 October 2022 by taking over the Commission proposal. This position is contained in its legislative resolution.

The Council should therefore be in a position to approve the European Parliament's position as set out in the Annex hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

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**P9\_TA(2022)0369**

**Specific provisions for the 2014-2020 cooperation programmes, following programme implementation disruption \*\*\*I**

**European Parliament legislative resolution of 20 October 2022 on the proposal for a regulation of the European Parliament and of the Council laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption (COM(2022)0362 – C9-0289/2022 – 2022/0227(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0362),
  - having regard to Article 294(2) and Article 212 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0289/2022),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the undertaking given by the Council representative by letter of 21 September 2022 to approve Parliament’s position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
  - having regard to Rules 59 and 163 of its Rules of Procedure,
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

**P9\_TC1-COD(2022)0227**

**Position of the European Parliament adopted at first reading on 20 October 2022 with a view to the adoption of Regulation (EU) 2022/... of the European Parliament and of the Council laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption**

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 178, Article 209(1) and Article 212(2) thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure<sup>1</sup>,

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<sup>1</sup> Position of the European Parliament of 20 October 2022.

Whereas:

- (1) In its conclusions of 24 February 2022, the European Council condemned Russia's unprovoked and unjustified military aggression against Ukraine as well as the involvement of Belarus in that aggression. As a result of the aggression, the Commission has suspended the financing agreements for cooperation programmes between the Union and Russia or Belarus respectively, and, where relevant, the Member State hosting the managing authority of the programme concerned. Since the start of Russia's military aggression against Ukraine, the Union has imposed a series of new sanctions against Russia and Belarus.
- (2) The Russian military aggression has disrupted the implementation of thirteen cross-border cooperation programmes supported by the European Neighbourhood Instrument (ENI) established by Regulation (EU) No 232/2014 of the European Parliament and of the Council<sup>1</sup> between nine Member States hosting a programme's managing authority and Ukraine, the Republic of Moldova, Russia and Belarus.
- (3) The fraudulent nature of the August 2020 presidential elections in Belarus and the violent crackdown on peaceful protests already led to the recalibration of the Union's assistance to Belarus following the Council Conclusions of 12 October 2020.

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<sup>1</sup> Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

- (4) As a result of the Russian military aggression against Ukraine, the Union and its eastern regions in particular, as well as the western parts of Ukraine and the Republic of Moldova are facing a substantial inflow of displaced persons. That inflow poses an additional challenge to the Member States and other countries bordering Ukraine, which could spread further to other Member States, especially at a time when their economies are still recovering from the impact of the COVID-19 pandemic.
- (5) Moreover, two transnational cooperation programmes supported by the ENI and the European Regional Development Fund (ERDF) under Regulation (EU) No 1299/2013 of the European Parliament and of the Council<sup>1</sup>, namely the Interreg Baltic Sea Region Programme with the participation of Russia, and the Danube Transnational Programme with the participation of Ukraine and the Republic of Moldova, were considerably disrupted by the Russian military aggression against Ukraine or, with regard to the Republic of Moldova, by the flows of displaced persons from Ukraine resulting directly from that aggression.
- (6) Since the notifications of the suspension of the financing agreements for cooperation programmes with Russia and Belarus, any programme and project implementation with those countries is suspended. It is necessary to lay down specific rules on the continued implementation of the cooperation programmes supported by the ENI and the ERDF, even in the event of a termination of the respective financing agreement.

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<sup>1</sup> 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 (OJ L 347, 20.12.2013, p. 259).

- (7) The implementation of cooperation programmes supported by the ENI is governed by Commission Implementing Regulation (EU) No 897/2014<sup>1</sup>. However, Implementing Regulation (EU) No 897/2014 cannot be amended as necessary, because its legal basis, Regulation (EU) No 232/2014 is no longer in force since 31 December 2020. Consequently, it is necessary to lay down specific provisions with regard to the continued implementation of the cooperation programmes concerned in a separate legal instrument.
- (8) The financing agreements for cooperation programmes with Ukraine and the Republic of Moldova are not suspended. However, the implementation of those programmes is considerably impacted by Russia's unprovoked and unjustified military aggression against Ukraine and a substantial flow of displaced persons from Ukraine towards the Republic of Moldova. In order to address the challenges for programme partners, programme authorities and project partners, it is necessary to lay down specific rules on the continued implementation of the cooperation programmes concerned.
- (9) With a view to alleviating the burden on public budgets arising from the need to respond to Russia's unprovoked and unjustified military aggression against Ukraine and to a substantial flow of displaced persons from Ukraine, the co-financing rule laid down in Implementing Regulation (EU) No 897/2014 should not apply for the Union contribution.

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<sup>1</sup> 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 (OJ L 244, 19.8.2014, p. 12).

- (10) The modification of the co-financing rate should only require a notification of revised financial tables to the Commission and other procedural arrangements. It is necessary that the rules on adjustments and revisions of programmes be simplified for the programmes directly affected by the military aggression against Ukraine or by a substantial flow of displaced persons from Ukraine. Any potential consequential adjustments, including to the target values of indicators, should be allowed as part of a subsequent programme adjustment after the end of the accounting year.
- (11) Expenditure for projects addressing the migratory challenges as a result of the Russian military aggression against Ukraine should be eligible from the start date of that aggression on 24 February 2022.
- (12) Although the management of projects already selected by the Joint Monitoring Committee is the responsibility of the managing authority, under some programmes certain project amendments are to be approved by the Joint Monitoring Committee. In order to speed up the necessary changes, it is therefore necessary to establish that the responsibility for amending the documents setting out the conditions for support to projects affected by a programme implementation disruption in accordance with the national law of the managing authority lies only with the respective managing authority, without the prior approval of the Joint Monitoring Committee. It should be possible for such amendments to also cover, among others, the replacement of the lead beneficiary or any changes to the financing plan or to the execution deadlines. With regard to new projects, the managing authority should explicitly be allowed to sign contracts other than contracts for large infrastructure projects after 31 December 2022. However, all project activities financed by the programme should end by 31 December 2023.

- (13) The Russian military aggression against Ukraine has caused higher than expected inflation and an unexpected increase in supply and construction prices, which together affect the implementation of large infrastructure projects in the programmes concerned. In order to remedy that situation, the share of the Union contribution allocated to such projects should be allowed to exceed the ceiling set out in Implementing Regulation (EU) No 897/2014, namely 30% at the closure of the programme, provided that the excess is only due to an unexpected increase in supply and construction prices.
- (14) Verifications carried out by the managing authority consist of administrative and on-the-spot project verifications. Due to programme implementation disruption, it could no longer be possible to carry out on-the-spot project verifications in Ukraine. Therefore, it is necessary to provide for the possibility to carry out only administrative verifications. In addition, where an infrastructure component of a project was destroyed before verifications could be carried out, it should be possible for the beneficiary to declare the related expenditure for clearance of accounts on the basis of a declaration of honour from the beneficiary stating that the project before its destruction corresponded to the content set out in invoices or documents of equivalent probative value.
- (15) Pursuant to Implementing Regulation (EU) No 897/2014, projects may receive financial contribution if they meet a set of detailed criteria. Due to programme implementation disruption, one or more of those criteria, in particular the requirement that the project has a clear cross-border or transnational cooperation impact, might not be fulfilled at the start of the disruption or at the closure of a given project. Furthermore, the basic condition to involve beneficiaries from at least one of the participating Member States and at least one of the participating partner countries might not be respected anymore. It is therefore necessary to determine whether expenditure can nevertheless be considered as eligible despite the fact that some conditions for financing might no longer be met due to programme implementation disruption.

- (16) As a result of programme implementation disruption, many projects will *de facto* not have a partner from a partner country. In order to make it possible for the beneficiaries in Member States to finalise their activities, it is appropriate to derogate exceptionally from the obligation for all projects to have at least one beneficiary from a partner country and for all activities to have genuine cross-border or transnational impact and benefits.
- (17) The obligations of a lead beneficiary cover all activities linked to project implementation. As a result of project implementation disruption, lead beneficiaries could be prevented from carrying out their obligations with regard to the partner country. The lead beneficiary's obligations should therefore be adapted and, where necessary, limited to project implementation with regard to the Member States. Lead beneficiaries should also be allowed to amend the written agreement with the other project partners and to suspend certain activities or the participation of certain partners. Finally, the obligation of lead beneficiaries to transfer payments received from the managing authority to other partners should be waived or at least adapted.
- (18) In order for the affected programmes to address the exceptional circumstances, it is necessary to allow projects addressing the migratory challenges to be selected without a prior call for proposals in exceptional and duly substantiated cases.

- (19) Following the suspension of the financing agreements with partner countries, payments related to the Russian or Belarusian participation have been suspended. Moreover, in Ukraine the extraordinary measures taken by the National Bank and the security situation resulting from the Russian military aggression against it inhibit the transfer of money abroad. It is therefore appropriate to allow for direct payment of the grants from the managing authority to the project beneficiaries in Member States and in partner countries whose financing agreements are not suspended.
- (20) Cooperation programmes supported by the ENI are required to set out the method of converting expenditure incurred in a currency other than the euro. That method is to apply throughout the programme duration. Due to the financial and economic consequences of the Russian military aggression against Ukraine, there are unexpected fluctuations of exchange rates. It is therefore necessary to provide for the possibility to change that method.
- (21) Due to programme implementation disruption, managing authorities could be unable to receive bank transfers from certain partner countries, resulting in the impossibility to recover debts from project beneficiaries located in such countries. In the case of a partner country which has transferred part of its national contribution to the managing authority, those amounts should be used to off-set such debts. In the case of other partner countries, recovery orders regarding irrecoverable debts should be waived or handled by the Commission.

- (22) In accordance with Regulation (EU) No 1299/2013, the applicable programme implementation conditions governing the financial management as well as the programming, monitoring, evaluation and control aspects of the participation of third countries, through a contribution of ENI resources to transnational cooperation programmes, are to be established in the relevant cooperation programme and also, where necessary, in the financing agreement between the Commission, the governments of the third countries concerned and the Member State hosting the managing authority of the relevant cooperation programme. Although the applicable programme implementation conditions governing such aspects could be adapted by an adjustment of the cooperation programme, it is necessary to provide for some derogations from certain provisions of Regulation (EU) No 1299/2013 in order to allow for the application of the provisions established for the cooperation programmes supported by the ENI also to the Interreg Baltic Sea Region Programme and the Danube Transnational Programme.
- (23) Since the objectives of this Regulation, namely to establish specific provisions regarding the implementation of the cooperation programmes affected by the Russian military aggression against Ukraine, cannot be sufficiently achieved by the Member States alone and can therefore, by reason of the scale and effects of the proposed action, 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 (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.

- (24) The funding provided in the context of this Regulation is to comply with the conditions and procedures set out by the restrictive measures adopted pursuant to Article 215 of the Treaty on the Functioning of the European Union (TFEU).
- (25) In view of the urgency to address the migratory challenges resulting from the Russian military aggression against Ukraine and the continued public health crisis stemming from the COVID-19 pandemic, it is considered to be appropriate to invoke the exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community.
- (26) In order to allow Member States to adjust their programmes in time to benefit from the application of the option of no co-financing to the Union contribution for the accounting year 2021/2022, 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*

### *Subject matter and scope*

1. This Regulation lays down specific provisions for thirteen cross-border cooperation programmes governed by Regulation (EU) No 232/2014 and two transnational cooperation programmes governed by Regulation (EU) No 1299/2013 listed in the Annex to this Regulation with regard to programme implementation disruption following Russia's military aggression against Ukraine and the involvement of Belarus in that aggression.
2. Articles 3 to 14 of this Regulation apply to the cross-border cooperation programmes governed by Regulation (EU) No 232/2014, which are listed in part 1 of the Annex to this Regulation.
3. Article 15 of this Regulation applies to the transnational cooperation programmes governed by Regulation (EU) No 1299/2013, which are listed in part 2 of the Annex to this Regulation.

## *Article 2*

### *Definitions*

1. For the purposes of this Regulation, the following definitions apply:
  - (1) 'partner country' means any of the third countries participating in a cooperation programme listed in the Annex;
  - (2) 'programme implementation disruption' means problems with regard to the implementation of programmes as a result of either of the following situations or a combination of both:
    - (a) the suspension in part or in full or the termination of a financing agreement concluded with a partner country as a consequence of restrictive measures adopted in accordance with Article 215 TFEU;
    - (b) a military aggression against a partner country or substantial flows of displaced persons into such a country.

2. For the purposes of Articles 3 to 14 of this Regulation, the definitions set out in Article 2 of Implementing Regulation (EU) No 897/2014 shall also apply.

### *Article 3*

#### *Co-financing*

In the situation referred to in Article 2(1), point (2)(b), no co-financing of the Union contribution from Member States or partner countries shall be required for expenditure incurred and paid and included in the annual accounts for the accounting years starting 1 July 2021, 1 July 2022 and 1 July 2023 respectively.

### *Article 4*

#### *Programming*

1. The application of Article 3 shall not require a Commission decision approving a programme adjustment. The managing authority shall notify the revised financial tables to the Commission before the submission of the annual accounts for the accounting year 2021/2022 following the prior approval of the Joint Monitoring Committee.
2. Adjustments to the programme consisting of cumulative changes that do not exceed 30% of the originally allocated Union contribution to each thematic objective or to technical assistance involving transfer between thematic objectives or from technical assistance to thematic objectives or involving transfer from thematic objectives to technical assistance shall be considered as non-substantial and may therefore be directly made by the managing authority, with the prior approval of the Joint Monitoring Committee. Such adjustments shall not require a Commission decision.
3. The cumulative changes referred to in paragraph 2 shall not require any further justification beyond invoking programme implementation disruption and shall, where possible, reflect the expected impact of the adjustments to the programme.

*Article 5*

*Eligibility of expenditure for projects addressing the migratory challenges*

Expenditure for projects addressing the migratory challenges as a result of programme implementation disruption shall be eligible as of 24 February 2022.

*Article 6*

*Projects*

1. Following the start of programme implementation disruption, the managing authority may amend the documents setting out the conditions for support to projects affected by that disruption in accordance with the national law of the managing authority and without the prior approval of the Joint Monitoring Committee.

Those amendments may also cover the replacement of the lead beneficiary or changes to the financing plan or to the execution deadlines.

2. The managing authority may sign contracts, other than contracts for large infrastructure projects, after 31 December 2022, provided all project activities financed by the programme end by 31 December 2023.
3. The share of the Union contribution allocated to large infrastructure projects may exceed 30 % at the closure of the programme, provided that the excess is only due to an unexpected increase in supply and construction prices following higher than expected inflation.

## *Article 7*

### *Functioning of the managing authority*

1. Verifications carried out by the managing authority may be limited to administrative verifications, where on-the-spot project verifications are not possible. Where it is not possible to carry out any verifications, the related expenditure shall not be declared for clearance of accounts.
2. Notwithstanding paragraph 1, where an infrastructure component of a project was destroyed before verifications could be carried out, the related expenditure may be declared for clearance of accounts on the basis of a declaration of honour from the beneficiary stating that before its destruction the project corresponded to the content set out in invoices or documents of equivalent probative value.

## *Article 8*

### *Cross-border cooperation impact of projects*

1. In the context of the implementation of projects affected by a programme implementation disruption, the cross-border cooperation impact and benefits of projects shall be assessed in three phases:
  - (a) a first phase up to the date on which the programme implementation disruption started;
  - (b) a second phase as of the date referred to in point (a);
  - (c) a third phase after the programme implementation disruption has ended.

With regard to the first and third phases, the indicators and related target values used for that assessment shall be those achieved by the beneficiaries in the Member States and in the partner countries, provided that the beneficiaries in the partner countries have been able to provide the relevant information to the managing authority.

With regard to the second phase, the indicators and related target values used for that assessment shall be those achieved by the beneficiaries in the Member States and in those partner countries whose financing agreements are not suspended and which are not in a situation under Article 2(1), point (2)(b).

2. The eligibility of expenditure in projects shall be assessed in accordance with paragraph 1, as regards the cross-border cooperation impact and benefits thereof.
3. In the situation referred to in Article 2(1), point (2)(b), projects including an infrastructure component located in a partner country shall not be required to repay the Union contribution where it is not possible to satisfy the obligation not to be subject to substantial changes within five years of the project closure or within the period of time set out in State aid rules.

#### *Article 9*

##### *Participation in projects*

1. As of the date on which the programme implementation disruption started, ongoing projects may continue even where none of the beneficiaries of a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b) are able to participate.
2. As of the date on which the programme implementation disruption started, the Joint Monitoring Committee may select new projects even where no beneficiary of a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b), is able to participate at the moment of selection.
3. As of the date on which the programme implementation disruption ends, the managing authority may amend the document setting out the conditions for support to projects in order to cover beneficiaries of a partner country included in the project application without the prior approval of the Joint Monitoring Committee.

*Article 10*

*Lead beneficiaries' obligations*

1. Following the start of programme implementation disruption and for as long as such a disruption persists, the lead beneficiary in a Member State shall not be required to:
  - (a) assume responsibility for the non-implementation of the part of the project affected by the disruption;
  - (b) ensure that the expenditure presented by the beneficiaries affected by the disruption has been incurred for the purpose of implementing the project and corresponds to activities set out in the contract and agreed between all beneficiaries;
  - (c) verify that the expenditure presented by the beneficiaries affected by the disruption has been examined by an auditor or by a competent public officer.
  
2. Following the start of programme implementation disruption, the lead beneficiary in a Member State shall have the right to amend and adapt unilaterally the partnership agreement with the other beneficiaries.

That right shall include the possibility to suspend the activities of a beneficiary from a partner country in full or in part, for as long as the programme implementation disruption persists.
  
3. The lead beneficiary in a Member State may propose to the managing authority the necessary changes to be made to the project including the redistribution of project activities among the remaining beneficiaries.

4. Following the start of programme implementation disruption, the lead beneficiary in a Member State may request the managing authority not to receive the financial contribution for the implementation of project activities in full or in part.

The lead beneficiary in a Member State shall not be required to ensure that beneficiaries in partner countries receive the total amount of the grant as quickly as possible and in full.

5. In the situation referred to in Article 2(1), point (2)(b), the lead beneficiary in a Member State and the managing authority, in agreement with the audit authority, may verify and accept a payment request without a prior verification by an auditor or by a competent public officer of the expenditure declared by a beneficiary located in a partner country.
6. Paragraphs 1 to 5 of this Article shall also apply to lead beneficiaries in a partner country which is not in the situation referred to in Article 2(1), point (2)(a).

In addition, and for the duration of the programme implementation disruption, such a lead beneficiary may also request the managing authority to identify another beneficiary as lead beneficiary and to make direct payments to other beneficiaries of the project concerned.

#### *Article 11*

##### *Direct award*

Following the start of programme implementation disruption, and for the duration of the disruption, projects addressing migratory challenges as a result of military aggression against a participating country may be selected by the Joint Monitoring Committee without a prior call for proposals in exceptional and duly substantiated cases.

*Article 12*

*Payments*

Following the start of programme implementation disruption and without prejudice to Article 6(1), the managing authority may transfer a financial contribution for the implementation of the project activities directly to project beneficiaries other than the lead beneficiary.

*Article 13*

*Use of the euro*

The method chosen to convert expenditure incurred in a currency other than the euro into euro as set out in the programme, may be changed retroactively as of the start date of a programme implementation disruption, using the monthly accounting exchange rate of the Commission of one of the following months:

- (a) the month during which the expenditure was incurred;
- (b) the month during which the expenditure was submitted for examination by an auditor or by a competent public officer;
- (c) the month during which the expenditure was reported to the lead beneficiary.

## *Article 14*

### *Financial responsibilities, recoveries and repayment to the managing authority*

1. Following the start of programme implementation disruption and for the duration of the disruption, the managing authority shall be required to follow all the steps necessary for pursuing the recovery of amounts unduly paid from beneficiaries in partner countries or from lead beneficiaries in Member States or partner countries in accordance with the procedure set out in paragraphs 2 to 5.
2. The managing authority may decide to recover amounts unduly paid directly from a beneficiary in a Member State without prior recovery through the lead beneficiary in a partner country.
3. The managing authority shall prepare and send out recovery letters in order to recover amounts unduly paid.

However, in the case of a negative response or in the absence of a reaction from beneficiaries in partner countries or from the partner country in which the beneficiary is established, the managing authority shall not be required to pursue an administrative procedure or to attempt a recovery from a respective partner country or to launch a legal redress procedure in the partner country concerned.

The managing authority shall document its decision not to pursue a first attempt of recovery. That document shall be considered as sufficient proof of due diligence exercised by the managing authority.

4. Where the recovery relates to a claim against a beneficiary established in a partner country in the situation referred to in Article 2(1), point (2)(a), and whose co-financing is transferred to the managing authority, the managing authority may offset the claim to be recovered with the non-used funds previously transferred by the partner country to the managing authority.
5. Where the recovery relates to a claim against a beneficiary established in a partner country in the situation referred to in Article 2(1), point (2)(a), and where the managing authority is unable to offset that claim in accordance with paragraph 4 of this Article, the managing authority may request that the Commission takes over the task of recovering the amounts.

Where the beneficiary concerned is subject to an asset freeze or a prohibition to make funds or economic resources available to it, or for its benefit, either directly or indirectly, pursuant to restrictive measures adopted in accordance with Article 215 TFEU, the managing authority shall be obliged to request that the Commission takes over the task of recovering the amounts. The managing authority shall cede its rights vis-à-vis the beneficiary to the Commission to that end.

The managing authority shall inform the Joint Monitoring Committee about any recovery procedure taken over by the Commission.

*Article 15*

*Derogations from Regulation (EU) No 1299/2013 applicable to transnational programmes*

1. By way of derogation from Article 12(1) and (2) of Regulation (EU) No 1299/2013, the monitoring committee or a steering committee set up by the monitoring committee and acting under its responsibility may select new operations even without any beneficiary from a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b) of this Regulation, provided that transnational impacts and benefits are identified.

The monitoring or steering committee may also select new projects even where no beneficiary of a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b), is able to participate at the moment of the selection.

2. By way of derogation from Article 12(2) and (4) of Regulation (EU) No 1299/2013, ongoing operations may continue even where none of the beneficiaries from a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b) of this Regulation, are able to participate in the project implementation.

In the context of the implementation of operations affected by a programme implementation disruption, the transnational cooperation impact and benefits thereof shall be assessed in accordance with Article 8(1) and (3) of this Regulation.

3. By way of derogation from Article 12(5) of Regulation (EU) No 1299/2013, the managing authority may amend the documents setting out the conditions for support of the operations affected by a programme implementation disruption in accordance with its national law.

Those amendments may also cover the replacement of the lead beneficiary or changes to the financing plan or to the execution deadlines.

As of the date when a programme implementation disruption ends, the managing authority may amend the document setting out the conditions for support of the operations in order to cover the beneficiaries of a partner country facing a situation referred to in Article 2(1), point (2)(a) or (b), included in the application document.

4. By way of derogation from Article 13(2) of Regulation (EU) No 1299/2013, Article 10 of this Regulation shall apply to the rights and obligations of the lead beneficiaries.
5. By way of derogation from Article 21(2) of Regulation (EU) No 1299/2013 and without prejudice to paragraph 3 of this Article, the certifying authority may make payments directly to beneficiaries other than the lead beneficiary.
6. By way of derogation from Article 23(4) of Regulation (EU) No 1299/2013, Article 7 of this Regulation shall apply to the management verifications carried out by the managing authority and the controllers.

7. By way of derogation from Article 27(2) and (3) of Regulation (EU) No 1299/2013, Article 14 of this Regulation shall apply as regards the recovery of amounts unduly paid and repayments to the managing authority.
8. By way of derogation from Article 28 of Regulation (EU) No 1299/2013, Article 13 of this Regulation shall apply as regards the method chosen to convert expenditure incurred in a currency other than the euro into euro.
9. The derogations provided for in paragraphs 1 to 8 shall apply as of the date when the transnational programmes concerned face a programme implementation disruption and for as long as that disruption persists.

*Article 16*  
*Entry into force*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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## ANNEX

### List of concerned 2014-2020 cooperation programmes

#### **PART 1: LIST OF CROSS-BORDER COOPERATION PROGRAMMES UNDER REGULATION (EU) NO 232/2014**

1. 2014TC16M5CB001 – ENI-CBC Kolarectic
2. 2014TC16M5CB002 – ENI-CBC Karelia-Russia
3. 2014TC16M5CB003 – ENI-CBC South East Finland-Russia
4. 2014TC16M5CB004 – ENI-CBC Estonia-Russia
5. 2014TC16M5CB005 – ENI-CBC Latvia-Russia
6. 2014TC16M5CB006 – ENI-CBC Lithuania-Russia
7. 2014TC16M5CB007 – ENI-CBC Poland-Russia
8. 2014TC16M5CB008 – ENI-CBC Latvia-Lithuania-Belarus
9. 2014TC16M5CB009 – ENI-CBC Poland-Belarus-Ukraine
10. 2014TC16M5CB010 – ENI-CBC Hungary-Slovakia-Romania-Ukraine
11. 2014TC16M5CB011 – ENI-CBC Romania-Moldova
12. 2014TC16M5CB012 – ENI-CBC Romania-Ukraine
13. 2014TC16M6CB001 – ENI-CBC Black Sea Basin

#### **PART 2: LIST OF TRANSNATIONAL COOPERATION PROGRAMMES UNDER REGULATION (EU) NO 1299/2013**

1. 2014TC16M5TN001 – the Interreg Baltic Sea Region Programme
2. 2014TC16M6TN001 – the Danube Transnational Programme