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►**B** **COMMISSION IMPLEMENTING REGULATION (EU) No 447/2014**

of 2 May 2014

on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II)

(OJ L 132, 3.5.2014, p. 32)

Corrected by:

►**C1** Corrigendum, OJ L 277, 22.10.2015, p. 60 (447/2014)

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COMMISSION IMPLEMENTING REGULATION (EU) No 447/2014

of 2 May 2014

on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession assistance (IPA II)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II) [1] and in particular Article 12 thereof,

Whereas:

(1) Regulation (EU) No 236/2014 of the European Parliament and of the Council [2] lays down rules and procedures for the implementation of assistance which are common to all nine instruments for external action. Additional specific rules should be laid down for addressing the specific situations in particular for indirect management, for cross-border cooperation programmes financed under the policy area 'regional and territorial cooperation' and rural development programmes financed under the policy area 'agriculture and rural development'.

(2) In order to ensure that pre-accession assistance is implemented in all beneficiaries listed in Annex I to the Regulation (EU) No 231/2014 (hereafter 'the IPA II beneficiaries') in the same way and respecting the principles of sound financial management, the Commission and the IPA II beneficiaries should conclude arrangements in the form of framework and sector-specific agreements laying down the principles for their cooperation under this Regulation.

(3) The Commission should support the IPA II beneficiaries in their efforts to develop their capacity to manage Union funds according to the principles and rules provided for in Union legislation. To this effect and where appropriate, the Commission should entrust budget implementation tasks to the IPA II beneficiaries.

(4) The ownership of the programming and implementation of IPA II assistance should primarily lay with the IPA II beneficiaries which should establish the required structures and authorities and submit requests to the Commission to be entrusted with budget implementation tasks.

[1] OJ L 77, 15.3.2014, p. 11.

[2] 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 (OJ L 77, 15.3.2014, p. 95).

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(5) It is therefore necessary to set out specific rules for entrusting budget implementation tasks to the IPA II beneficiaries in accordance with Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ([1]) and Commission Delegated Regulation (EU) No 1268/2012 ([2]).

(6) The conditions that need to be met by an acceding country are incumbent to ensure an overall quality of public financial management.

(7) It is necessary to define specific rules for establishing financial corrections and the procedure to be applied towards the IPA II beneficiaries when implementing Union assistance under indirect management.

(8) In order to ensure the effectiveness, efficiency, coherence and coordination of the implementation of Union pre-accession financial assistance provided under Regulation (EU) No 231/2014 (hereinafter referred to as 'IPA II assistance'), Regulation (EU) No 236/2014 should be complemented by detailed rules on monitoring and evaluation.

(9) Specific rules for reporting are necessary in order to further detail the reporting requirements to be complied with by the IPA II beneficiary.

(10) Specific rules concerning the transparency and visibility of IPA II assistance should be defined in order to comply effectively with Regulation (EC) No 45/2001 of the European Parliament and of the Council ([3]), Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012.

(11) IPA II assistance should be used, inter alia, to promote cross-border cooperation between IPA II beneficiaries as well as between IPA II beneficiaries and Member States or countries falling within the scope of the European Neighbourhood Instrument established by Regulation (EU) No 232/2014 of the European Parliament and of the Council ([4]). The roles and responsibilities of the intervening actors need to be specified, taking into account the different situations in particular as regards cross-border cooperation between IPA II beneficiaries and Member States.

([1]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

([2]) Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

([3]) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

([4]) Regulation (EU) No 232/2014 of the European Parliament and the Council establishing the European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

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(12) IPA II assistance under rural development programmes in the policy area 'agriculture and rural development' should promote a gradual alignment with the *acquis* on the Common Agricultural Policy. Specific rules are necessary to finance operations of a similar nature to those under the European Agriculture Fund for Rural Development, through management and control systems resembling the respective structures with functions of a similar nature in the Member States.

(13) In order to allow for timely programming and implementation of the IPA II 2014 programmes, this Regulation should enter into force on the third day following its publication in the *Official Journal of the European Union*.

(14) The measures provided for in this Regulation are in accordance with the opinion of the IPA II Committee,

HAS ADOPTED THIS REGULATION:

TITLE I

SUBJECT MATTER AND GENERAL FRAMEWORK FOR IMPLEMENTATION OF IPA ASSISTANCE

CHAPTER I

Subject matter and definitions

Article 1

Subject matter

This Regulation lays down specific rules establishing uniform conditions for implementing Regulation (EU) No 231/2014 and detailed rules implementing Regulation (EU) No 236/2014 with regards to methods of implementation, financial management, monitoring, evaluation and reporting, transparency and visibility of IPA II assistance as well as specific rules for cross-border cooperation in the policy area 'regional and territorial cooperation' and assistance under rural development programmes in the policy area 'agriculture and rural development'.

Article 2

Definitions

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

(a) 'IPA II beneficiary' means one of the beneficiaries listed in Annex I to Regulation (EU) No 231/2014;

(b) 'programme' means an action programme, individual, special or support measures provided for in Articles 2 and 3 of Regulation (EU) No 236/2014;

(c) 'framework agreement' means an arrangement concluded between the Commission and an IPA II beneficiary applying to all IPA II policy areas and laying down the principles of the financial cooperation between the IPA II beneficiary and the Commission under this Regulation;

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(d) ‘sectoral agreement’ means an arrangement concluded between the Commission and an IPA II beneficiary relating to a specific IPA II policy area or programme, setting out the rules and procedures to be respected which are not contained in the framework agreement or financing agreements;

(e) ‘policy area(s)’ means the main areas of cooperation addressed by actions funded by IPA II assistance, as provided for in Article 3(1) of Regulation (EU) No 231/2014;

(f) ‘authorities’ means public entities or bodies of an IPA II beneficiary or a Member State at national, regional or local level;

(g) ‘major project’ means a project comprising of a series of works, activities or services which is intended, in itself, to accomplish a definite and indivisible task of a precise economic or technical nature, which has clearly identified goals and whose total cost exceeds that which is specified in the Framework Agreement;

(h) ‘participating countries’ means the IPA II beneficiaries alone or the IPA II beneficiaries together with the Member State(s) or with the countries falling within the scope of the European Neighbourhood Instrument participating in a multi-annual programme for cross-border cooperation jointly drawn up by the participating countries;

(i) ‘financing agreement’ means an annual or multi-annual agreement concluded between the Commission and an IPA II beneficiary, for implementing the Union's financial assistance through an action falling within the scope of this Regulation.

CHAPTER II

General Framework for Implementation of IPA II Assistance

Article 3

Principles of Union financing

1. IPA II assistance shall support the implementation of the IPA II beneficiaries' reform efforts as referred to in Article 1 of Regulation (EU) No 231/2014. Specific programmes and stand-alone actions may require both IPA II beneficiary and Union financial contributions.

2. An expenditure item financed under Regulation (EU) No 231/2014 shall not be subject to any other financing under the Union budget.

Article 4

Principle of ownership

1. The ownership of the programming and implementation of IPA II assistance lays primarily with the IPA II beneficiary.

2. The IPA II beneficiary shall appoint a National IPA Coordinator (NIPAC), who shall be the main counterpart of the Commission for the

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overall process of: strategic planning, coordination of programming, monitoring of implementation, evaluation and reporting of IPA II assistance.

The NIPAC shall:

(a) ensure coordination within the IPA II beneficiary's administration and with other donors and a close link between the use of IPA II assistance and the general accession process;

(b) coordinate the participation of IPA II beneficiaries in the relevant territorial cooperation programmes, in particular cross-border cooperation programmes referred to in points (a) to (c) of Article 27 and, if appropriate, transnational or interregional cooperation programmes established and implemented under Regulation (EU) No 1299/2013. The NIPAC may delegate this coordination task to a territorial cooperation coordinator or operating structure as appropriate;

(c) ensure that the objectives set out in the actions or programmes proposed by the IPA II beneficiaries are coherent with the objectives in the Country Strategy Papers and take due account of the relevant macro-regional and sea basin strategies;

(d) endeavour that the IPA II beneficiary's administration takes all necessary steps to facilitate the implementation of the related programmes.

The NIPAC shall be a high-ranking representative of the government or the national administration of the IPA II beneficiary with the appropriate authority.

3. To provide a strengthened basis for the management of pre-accession assistance and national funds, the Commission and the IPA II beneficiary shall engage in a dialogue on public financial management. In this respect, the Commission shall assess the level of compliance of the administration of the IPA II beneficiary with the principles of an open and orderly public financial management system. Where the administration complies with those requirements only in part, the IPA II beneficiary and the authorising officer responsible shall agree on the necessary measures to address the identified deficiencies.

Article 5

Framework agreements and sectoral agreements

1. The Commission and the IPA II beneficiary shall conclude a framework agreement setting out specific arrangements for the management, control, supervision, monitoring, evaluation, reporting and audit of IPA II assistance committing the IPA II beneficiary to transpose into its legal order the relevant Union regulatory requirements. The framework agreement may be complemented by sectoral agreements setting out specific provisions for the management and implementation of IPA II assistance in specific policy areas or programmes.

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2. IPA II assistance shall only be granted to the IPA II beneficiary after the framework agreement referred to in paragraph 1 has entered into force. Where sectoral agreements are concluded, IPA II assistance under the policy area or programme concerned shall be granted after the entry into force of both the framework agreement and the applicable sectoral agreement.

3. The framework agreement shall apply to all financing agreements referred to in Article 6. Sectoral agreements, where relevant, shall apply to all financing agreements concluded in relation to the policy area or programme covered by the sectoral agreement.

4. The framework agreement and, where relevant, sectoral agreements shall lay down, in particular, detailed provisions concerning:

(a) the structures and authorities needed for the management, control, supervision, monitoring, evaluation, reporting and audit of IPA II assistance, as well as their functions and responsibilities;

(b) conditions and control requirements for:

(i) the establishment of the required structures and authorities by the IPA II beneficiary in order to allow for entrusting budget implementation tasks of IPA II assistance;

(ii) the monitoring, suspension or termination of the budget implementation tasks entrusted;

(c) programming and implementation of IPA II assistance and in particular provisions concerning aid intensities, rates of Union contribution and eligibility;

(d) procurement, grant and other award procedures, in accordance with Articles 1(3), 8 and 10 of Regulation (EU) No 236/2014;

(e) rules on taxes, customs duties and other fiscal charges in accordance with Article 5 of Regulation (EU) No 236/2014;

(f) requirements for payments, examination and acceptance of accounts and financial corrections procedures and de-commitment of unused funds;

(g) protection of the financial interests of the Union, as provided for in Article 7 of Regulation (EU) No 236/2014, and provisions on the reporting of fraud and other irregularities;

(h) transparency, visibility, information and publicity requirements.

Article 6

Financing decisions and financing agreements

1. The Commission decisions adopting programmes shall meet the requirements necessary to constitute financing decisions in accordance

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with Article 84(3) of Regulation (EU, Euratom) No 966/2012 and Article 94 of Delegated Regulation (EU) No 1268/2012.

2. Where such decisions adopt multi-annual action programmes with split commitments for the policy areas referred to in points (a) to (c) of Article 3 of Regulation (EU) No 231/2014 the programmes shall, where appropriate, include an indicative list of major projects. The Commission shall adopt a decision on the approval of the financial contribution to the selected major project.

3. Financing agreements shall provide, inter alia, the terms on which the IPA II assistance shall be managed, including the applicable methods of implementation, aid intensities, implementation deadlines, as well as rules on the eligibility of expenditure. Where programmes are implemented under indirect management by an IPA II beneficiary, the financing agreement shall include the required provisions of Article 40 of Delegated Regulation (EU) No 1268/2012.

4. Financing agreements for cross-border cooperation programmes as referred to in Title VI, Chapter II may also be signed by the Member State hosting the managing authority of the relevant programme. A single financing agreement for cross-border cooperation programmes as referred to in Title VI, Chapter III, may be signed by all the participating countries in a particular programme.

TITLE II

INDIRECT MANAGEMENT BY IPA II BENEFICIARIES

CHAPTER I

Management and control systems

Article 7

Structures and authorities

1. The IPA II beneficiary shall establish the following structures and authorities needed for the management, control, supervision, monitoring, evaluation, reporting and internal audit of IPA II assistance:

(a) the National IPA Coordinator (NIPAC);

(b) the National Authorising Officer (NAO);

(c) the Operating Structures.

2. The NAO shall establish a management structure composed of a National Fund and a support office for the NAO.

3. The IPA II beneficiary shall provide for an audit authority.

4. The IPA II beneficiary shall ensure adequate segregation of duties between and within the structures and authorities referred to in paragraphs 1 to 3.

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Article 8

Functions and responsibilities of the National IPA Coordinator

In addition to the functions provided for in Article 4(2), the NIPAC shall take measures to ensure that the objectives set out in the actions or programmes for which budget implementation tasks have been entrusted are appropriately addressed during the implementation of IPA II assistance.

Article 9

Functions and responsibilities of the National Authorising Officer

1. The NAO shall bear the overall responsibility for the financial management of IPA II assistance in the IPA II beneficiary and for ensuring the legality and regularity of expenditure.

2. The NAO shall be a high-ranking representative of the government or the national administration of the IPA II beneficiary with the appropriate authority.

3. The NAO shall, in particular, be responsible for:

(a) the management of IPA II accounts and financial operations;

(b) the effective functioning of the internal control systems for the implementation of IPA II assistance;

(c) putting into place effective and proportionate anti-fraud measures taking into account the risks identified;

(d) launching the process provided for in Article 14.

4. The NAO shall follow up the reports of the audit authority referred to in Article 12 and shall provide an annual management declaration to the Commission. The annual management declaration shall be drawn up per programme, in the form specified in the Framework Agreement, based on actual supervision by the NAO of the internal control systems throughout the financial year.

At the end of the implementation of a programme, the NAO shall provide a final statement of expenditure.

Article 10

Functions and responsibilities of the operating structures

1. Operating structure(s) shall be established by the IPA II beneficiary to implement and manage the IPA II assistance.

2. The operating structure shall be responsible for the implementation, information and visibility, monitoring and reporting of programmes, and the evaluation thereof whenever relevant, in accordance with the principle of sound financial management, and for ensuring the legality and regularity of the expenditure incurred in the implementation of the programmes under its responsibility.

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Article 11

Functions and responsibilities of the management structure

1. The National Fund shall be located in a national level ministry of the IPA II beneficiary with central budgetary competence. It shall support the NAO in fulfilling his/her tasks in particular those referred to in point (a) of Article 9(3).

2. The NAO support office shall assist the NAO in fulfilling his/her tasks in particular those referred to in point (b) of Article 9(3).

Article 12

Functions and responsibilities of the audit authority

1. In accordance with point (c) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012, the structures and authorities referred to in Article 7(1) established by the IPA II beneficiary and the management structure referred to in Article 7(2) established by the NAO shall be subject to an independent external audit performed by the audit authority referred to in Article 7(3) which shall be independent from the aforementioned structures and authorities. The IPA II beneficiary shall ensure that the Head of the audit authority possesses adequate competence, knowledge and experience in the field of audit.

2. The audit authority shall carry out audits on the management and control system(s), on actions, transactions and on the annual accounts in line with internationally accepted auditing standards and in accordance with an audit strategy prepared on a tri-annual basis. The audit strategy shall be updated annually.

3. The audit authority shall prepare an annual audit activity report and an annual audit opinion drawn up in accordance with internationally accepted auditing standards.

4. At the end of the implementation of a programme, the audit authority shall prepare a final audit activity report and provide an audit opinion on the final statement of expenditure.

CHAPTER II

Specific provisions relating to entrusting budget implementation tasks

Article 13

Conditions for entrusting an IPA II beneficiary with budget implementation tasks

1. The Commission entrusts budget implementation tasks to an IPA II beneficiary by concluding a financing agreement in accordance with the provisions of Articles 60(1) and (2), 61 and point (b) of Article 184(2) of Regulation (EU, Euratom) No 966/2012.

2. The IPA II beneficiary shall guarantee a level of protection of the financial interests of the Union equivalent to that required under

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Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 and shall set up the necessary structures ensuring the effective functioning of internal control systems.

3. The management, control, supervision and audit systems set up in the IPA II beneficiary shall provide for an effective internal control system which includes at least the following five areas:

(a) control environment;

(b) risk management;

(c) control activities;

(d) information and communication;

(e) monitoring activities.

Article 14

Entrusting budget implementation tasks

1. The NAO, on behalf of the IPA II beneficiary, shall be responsible for submitting to the Commission a request for being entrusted with budget implementation tasks in accordance with Article 13.

2. Before submitting the request referred to in paragraph 1, the NAO shall ensure that the management structure and relevant operating structure(s) satisfy the requirements in points (a), (b) and (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012 and those of Article 13(3) of this Regulation.

3. Before the Commission entrusts budget implementation tasks of IPA II assistance, it shall review the request referred to in paragraph 1 and the established structures and authorities referred to in Article 7 and shall, for the purposes of the *ex ante* assessment pursuant to Article 61(1) of Regulation (EU, Euratom) No 966/2012, obtain evidence that the requirements set out in points (a) to (d) of the first subparagraph of Article 60(2) of Regulation (EU, Euratom) No 966/2012 and those of Article 13(3) of this Regulation are fulfilled.

For entrusting budget implementation tasks of IPA II assistance, the Commission may rely on an *ex ante* assessment carried out with regard to an earlier financing agreement with the IPA II beneficiary or an *ex ante* assessment carried out with regard to the conferral of management powers decided under Council Regulation (EC) No 1085/2006 ([1]). The Commission shall request additional evidence if those assessments do not address all the requirements.

4. The NAO shall monitor the continued fulfilment by the management structure and operating structure(s) of the requirements

([1]) Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an instrument for pre-accession assistance (IPA) (OJ L 210, 31.7.2006, p. 82.)

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referred to in paragraph 2. In case of failure to satisfy these requirements, the NAO shall inform the Commission without delay, and take any appropriate safeguard measures regarding payments made or contracts signed.

5. The Commission shall monitor the compliance with Article 60(2) and (3) of Regulation (EU, Euratom) No 966/2012 and may take appropriate remedial measures, including suspension or termination of parts of the financing agreement at any time if the requirements are no longer fulfilled.

TITLE III

FINANCIAL MANAGEMENT

CHAPTER I

Financial contribution by the Union

Article 15

Eligibility of expenditure

1. Prior to the conclusion of the relevant financing agreement in accordance with Article 13, contracts and addenda signed, expenditure incurred and payments made by the IPA II beneficiary, shall not be eligible for funding under Regulation (EU) No 231/2014.

2. The following expenditure shall not be eligible for funding under Regulation (EU) No 231/2014:

(a) purchase of land and existing buildings, except where duly justified by the nature of the action in the financing decision;

(b) other expenditure as may be provided for in the sectoral or financing agreements.

CHAPTER II

Rules relating to indirect management by the IPA II beneficiary

Article 16

Reporting on suspected fraud and other irregularities

The IPA II beneficiary shall report suspected fraud and other irregularities which have been the subject of a primary administrative or judicial finding, without delay, to the Commission and keep the latter informed of the progress of administrative and legal proceedings. Reporting shall be done by electronic means using the module provided by the Commission for this purpose.

Article 17

Financial corrections

1. In order to ensure that the IPA II funds have been used in accordance with the applicable rules, the Commission shall apply financial correction mechanisms.

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2. A financial correction may arise from the following:

(a) identification of a specific error, irregularity or fraud;

(b) identification of a weakness or deficiency in the management and control systems of the IPA II beneficiary.

3. The Commission shall apply the financial corrections on the basis of identification of amounts unduly spent and on the basis of financial implications for the budget. Where such amounts cannot be identified precisely in order to apply individual corrections, the Commission may apply flat-rate corrections or corrections based on an extrapolation of the findings.

4. Financial corrections shall be made as appropriate by compensation.

5. When deciding the amount of a correction, the Commission shall take into account the nature and gravity of the specific error or irregularity and/or the extent and financial implications of the weaknesses or the deficiencies found in the management and control system in the programme concerned.

TITLE IV

MONITORING, EVALUATION AND REPORTING

CHAPTER I

Monitoring

Article 18

IPA monitoring committee

1. The Commission and the IPA II beneficiary shall set up an IPA monitoring committee no later than six months after the entry into force of the first financing agreement.

2. The IPA monitoring committee shall review the overall effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of all actions towards meeting their objectives. For this purpose, it shall, where relevant, base itself on the information provided by the sectoral monitoring committees. It may make recommendations for corrective actions whenever needed.

3. The IPA monitoring committee shall be composed of representatives of the Commission, the NIPAC and other relevant national authorities and bodies of the IPA II beneficiary and, where relevant, international organisations, including international financial institutions and other stakeholders, such as civil society and private sector organisations.

4. A representative of the Commission and the NIPAC shall co-chair the IPA monitoring committee meetings.

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5. The IPA monitoring committee shall adopt its rules of procedure.

6. The IPA monitoring committee shall meet at least once a year. Ad hoc meetings may also be convened at the initiative of the Commission or of the IPA II beneficiary, in particular on a thematic basis.

Article 19

Sectoral monitoring committees

1. Under indirect management by IPA II beneficiaries, sectoral monitoring committees shall be set up by the IPA II beneficiary by policy area or by programme no later than six months after the entry into force of the first financing agreement related to the respective policy area or programme. When appropriate, sectoral monitoring committees may be set up on an ad hoc basis under other implementation methods.

2. Each sectoral monitoring committee shall review the effectiveness, efficiency, quality, coherence, coordination and compliance of the implementation of the actions in the policy area or programme and their consistency with the relevant sector strategies. It shall measure progress in relation to achieving the objectives of the actions and their expected outputs, results and impact by means of indicators related to a baseline situation, as well as progress with regard to financial execution. The sectoral monitoring committee shall report to the IPA monitoring committee and may make proposals on any corrective action to ensure the achievement of the objectives of the actions and enhance the efficiency, effectiveness, impact and sustainability of the assistance provided.

3. The sectoral monitoring committee shall be composed of representatives of relevant national authorities and bodies, other stakeholders such as economic, social and environmental partners and, where relevant, international organisations, including international financial institutions and civil society. The Commission shall participate in the work of the committee. A senior representative of the IPA II beneficiary shall chair the sectoral monitoring committee meetings. Depending on the policy area or programme, the Commission may co-chair the committee meetings.

4. Each sectoral monitoring committee shall adopt its rules of procedure.

5. The sectoral monitoring committees shall meet at least twice a year. Ad hoc meetings may also be convened.

Article 20

Other monitoring activities

Other monitoring platforms may be set up where appropriate. Their activities shall be reported to the IPA monitoring committee.

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CHAPTER II

Evaluation

Article 21

Principles

1. IPA II assistance shall be subject to evaluations, in accordance with Article 30(4) of Regulation (EU, Euratom) No 966/2012 with the aim of improving its relevance, coherence, quality, efficiency, effectiveness, Union added value, consistency and synergy with the relevant policy dialogue.

2. Evaluations may be carried out at policy, strategic, thematic, sectoral, programme and operational level as well as at country or regional level.

3. The results of evaluations shall be taken into account by the IPA monitoring committee and the sectoral monitoring committees.

Article 22

Evaluations by the IPA II beneficiary under indirect management

1. An IPA II beneficiary which has been entrusted budget implementation tasks of IPA II assistance shall be responsible for conducting evaluations of the programmes it manages.

2. The IPA II beneficiary shall draw up an evaluation plan presenting the evaluation activities which it intends to carry out in the different phases of the implementation.

CHAPTER III

Reporting

Article 23

Annual reports on implementation of IPA II assistance by IPA II beneficiaries under indirect management

1. By 15 February of the following financial year, the IPA II beneficiary shall in accordance with points (a) to (c) of the first subparagraph of Article 60(5) of Regulation (EU, Euratom) No 966/2012 provide the Commission with:

(a) an annual report on the implementation of the tasks entrusted;

(b) annual financial reports or statements on accrual basis as specified in the financing agreement, drawn up for the expenditure incurred in the execution of the tasks entrusted;

(c) an annual management declaration, as provided for by Article 9(4);

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(d) a summary of the reports on the audits and controls carried out by the management structure, providing a sound basis for the management declaration. Such summary shall include an analysis of the nature and extent of errors and weaknesses identified in systems, corrective action taken or planned as well as the follow-up given to the reports issued by the audit authority.

2. By 15 March of the following financial year, IPA II beneficiary shall provide the Commission with an audit opinion in accordance with Article 60(5) of Regulation (EU, Euratom) No 966/2012.

3. At the end of the implementation of each programme, the IPA II beneficiary shall submit a final report which shall cover the whole period of implementation and may include the last annual report.

4. Depending on the action or programme under its responsibility, the operating structure may be required to draw up a comprehensive annual report covering the full financial year, to be submitted by the NIPAC to the Commission, after examination by the responsible sectoral monitoring committee.

TITLE V

TRANSPARENCY AND VISIBILITY

Article 24

Information, publicity and transparency

1. Any actor implementing IPA II assistance as defined in points (a) to (c) of Article 58(1) of Regulation (EU, Euratom) No 966/2012 shall fulfil the requirements on information, publicity and transparency in accordance with Article 35(2) of Regulation (EU, Euratom) No 966/2012, and ensure appropriate visibility of the actions.

2. In the case of indirect management by an IPA II beneficiary, the operating structures shall be responsible for publishing information on recipients of Union funds in accordance with Articles 21 and 22 of Delegated Regulation (EU) No 1268/2012. The operating structures shall ensure that the recipient is informed that it will be included in the published list of recipients. Any personal data included in this list shall be processed in accordance with the requirements of Regulation (EC) No 45/2001.

3. The country/multi-country strategy papers and any revision thereof as well as programmes, shall be public documents, where applicable, and shall be made available to the general public and civil society.

Article 25

Visibility and communication

1. The Commission and the IPA II beneficiary shall agree on a coherent plan of communication activities to make available and actively publicise information about IPA II assistance in the IPA II beneficiary.

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2. The IPA II beneficiary shall report on its visibility and communication activities to the IPA monitoring committee and the sectoral monitoring committees.

TITLE VI

CROSS-BORDER COOPERATION

CHAPTER I

General provisions

Article 26

Definitions

1. For the purposes of this Title the following definitions shall apply:

(a) 'operation' means a project, contract, action or group of projects selected by the joint monitoring committee or the contracting authority of the programme concerned, or under its responsibility, that contribute to the objectives, as regards the cross-border cooperation programmes under point (a) of Article 27, of the priority axis or priority axes to which it relates or, as regards cross-border cooperation programmes in points (b) or (c) of Article 27 of a thematic priority or thematic priorities to which it relates;

(b) 'beneficiary' means a public or private body, responsible for initiating or initiating and implementing operations; in the context of State aid schemes (as defined in Article 2(13) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council ([1])), the term 'beneficiary' means the body which receives the aid, as far as cross-border cooperation programmes involving Member States are concerned.

2. For the purposes of Chapters I and II of this Title, as far as cross-border cooperation programmes involving Member States are concerned, 'public expenditure', 'programming', 'Partnership Agreement', and 'document' shall be used in accordance with the definitions given in Article 2 of Regulation (EU) No 1303/2013.

Article 27

Form of assistance

Assistance shall be provided to one of the following forms of cross-border cooperation:

(a) cross-border cooperation between one or more Member States and one or more IPA II beneficiaries as provided for in Chapter II;

([1]) 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 (OJ L 347, 20.12.2013, p. 320).

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(b) cross-border cooperation between two or more IPA II beneficiaries as provided for in Chapter III;

(c) cross-border cooperation between an IPA II beneficiary and countries under the European Neighbourhood Instrument as provided for in Chapter III.

Article 28

Aid intensity and rate of IPA II assistance

1. The Commission decision adopting a cross-border cooperation programme for the forms of cooperation referred to in Article 27 shall fix the co-financing rate and the maximum amount of IPA II assistance, based either on:

(a) total eligible expenditure, including public and private expenditure; or

(b) public eligible expenditure.

2. For cross- border cooperation programmes under point (a) of Article 27, the Union co-financing rate at the level of each priority axis of a cross-border cooperation programme as referred to in Article 34(2) shall not be less than 20 % and not higher than 85 % of the eligible expenditure.

3. For cross-border cooperation programmes under points (b) and (c) of Article 27, the Union co-financing rate at the level of each thematic priority shall not be less than 20 % and not higher than 85 % of the eligible expenditure. For technical assistance the co-financing rate shall be 100 %.

Article 29

Thematic priorities and concentration of IPA II assistance

1. Thematic priorities of IPA II assistance shall be those defined in Annex III to Regulation (EU) No 231/2014.

2. A maximum of 4 thematic priorities shall be selected for each cross-border cooperation programme.

Article 30

Geographical coverage

The list of eligible regions shall be included in the relevant cross-border cooperation programme which shall be as follows:

(a) for cross-border cooperation programmes referred to in point (a) of Article 27, Nomenclature of Territorial Units for Statistics (NUTS) level 3 regions or, in the absence of NUTS classification, equivalent areas along land borders or along maritime borders separated by a maximum of 150 km, without prejudice to potential adjustments needed to ensure the coherence and continuity of cross-border programmes established for the 2007-2013 programming period;

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(b) for cross-border cooperation programmes referred to in points (b) and (c) of Article 27, the eligible regions shall be established in the relevant cross-border cooperation programme, as appropriate.

Article 31

Preparation, assessment, approval and amendment of cross-border cooperation programmes

1. Thematic priorities for each cross-border cooperation programme shall be agreed between the participating countries for each border or group of borders based on the thematic priorities as defined in Annex III to Regulation (EU) No 231/2014.

2. The Commission shall assess the consistency of cross-border cooperation programmes with this Regulation, their effective contribution to the selected thematic priorities in Annex III to Regulation (EU) No 231/2014, and also, as far as participating Member States are concerned, the relevant Partnership Agreement.

3. The Commission shall make observations within three months of the date of submission of the cross-border cooperation programme. The participating countries shall provide to the Commission all necessary additional information and, where appropriate, revise the proposed cross-border cooperation programme.

4. When approving each cross-border cooperation programme following its formal submission, the Commission has to ensure that any of its observations have been adequately taken into account.

5. Requests for amendment of cross-border cooperation programmes submitted by the participating countries shall be duly substantiated and shall in particular set out the expected impact of the changes to the cross-border cooperation programme on achieving its objectives. These requests shall be accompanied by the revised programme. Paragraphs 2 and 3 shall apply to amendments of cross-border cooperation programmes.

Article 32

Technical assistance

1. Each cross-border cooperation programme shall include a specific budget allocation for technical assistance operations, including preparation, management, monitoring, evaluation, information, communication, networking, complaint resolution, control and audit activities related to the implementation of the programme and activities to reinforce the administrative capacity for implementing the programme. IPA II assistance may also be used by the participating countries to support actions for the reduction of administrative burden for beneficiaries, including electronic data exchange systems, and actions to reinforce the capacity of, and exchange best practices between, authorities in the participating countries and of beneficiaries to administer and use the IPA II assistance. These actions may concern preceding and subsequent programming periods.

2. By way of derogation from Article 15(1), the expenditure for technical assistance to support the preparation of a cross-border cooperation programme and the setting-up of management and control

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systems may be eligible before the date of adoption of the Commission decision for the approval of the a cross-border cooperation programme, but not earlier than 1 January 2014.

CHAPTER II

Cross-border cooperation between Member States and IPA II beneficiaries

Article 33

Applicable provisions

1. As far as the Member State(s) participating in a cross-border cooperation programme under this Chapter are concerned, in particular the Member State where the managing authority shall be located, the rules applicable to the European territorial cooperation goal provided for in Regulation (EU) No 1303/2013 and Regulation (EU) No 1299/2013 of the European Parliament and of the Council [1] shall apply, as provided for in this Chapter. Where such rules refer to the European Structural and Investment Funds as defined in Article 1 of Regulation (EU) No 1303/2013, for the purposes of this Chapter, IPA II assistance is also considered to be covered.

2. As far as the IPA II beneficiaries participating in a cross-border cooperation programme under this Chapter are concerned, the rules applicable to the European territorial cooperation apply, as provided for in this Chapter, without prejudice to reasoned derogations set out in the relevant financing agreement.

Article 34

Programming

1. Cross-border cooperation programmes shall be drawn up in accordance with the partnership principle as set out in Article 5(1) and (2) of Regulation (EU) No 1303/2013 and in accordance with Article 8(2) to (4), (7), (9) and (10) of Regulation (EU) No 1299/2013.

2. Cross-border cooperation programmes shall consist of priority axes. Without prejudice to Article 32, a priority axis shall correspond to a thematic priority referred to in Article 29. Within a priority axis, where appropriate and in order to increase its impact and effectiveness through a coherent integrated approach, elements of other thematic priorities may be added.

3. Cross-border cooperation programmes may carry out actions of community-led local development in the meaning of Articles 32 to 35 of Regulation (EU) No 1303/2013, of joint action plans in the meaning of Articles 104 to 109 of that Regulation and of integrated territorial investments in the meaning of Article 36 of that Regulation, taking into account the underlying principles of these instruments and Articles 9 to

[1] 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).

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11 of Regulation (EU) No 1299/2013. The specific rules and conditions shall be agreed between the Commission and the participating countries for each cross-border cooperation programme.

4. Cross-border cooperation programmes shall be submitted electronically to the Commission by the Member State where the programme's managing authority shall be located.

5. The European Investment Bank (EIB) may, at the request of participating countries, participate in the preparation of, as well as in activities relating to the preparation of operations, in particular major projects.

The Commission may consult the EIB before the adoption of cross-border cooperation programmes.

Article 35

Technical assistance

The amount of IPA II assistance to be allocated to technical assistance shall be limited to 10 % of the total amount allocated to the cross-border cooperation programme, but shall not be less than EUR 1 500 000.

Article 36

Implementation mode and designation of programme authorities

1. Cross-border cooperation programmes under this Chapter shall be implemented under shared management. Consequently, Member States and the Commission shall be responsible for the management and control of programmes in accordance with their respective responsibilities as provided for in Regulation (EU, Euratom) No 966/2012 and Delegated Regulation (EU) No 1268/2012 and in this Regulation.

Articles 73 and 74 of Regulation (EU) No 1303/2013 concerning the responsibilities of the Member States under shared management shall apply to the Member State where the managing authority is located.

Article 75 of Regulation (EU) No 1303/2013 concerning the powers and responsibilities of the Commission under shared management shall apply.

2. The participating countries in a cross-border cooperation programme shall designate, for the purposes of Article 123(1) of Regulation (EU) No 1303/2013, a single managing authority; for the purpose of Article 123(2) of that Regulation, a single certifying authority; and for the purpose of Article 123(4) of that Regulation, a single audit authority.

3. The managing authority and the audit authority shall be situated in the same Member State. The participating countries in a cross-border cooperation programme may designate the single managing authority to carry out the functions of the certifying authority.

The procedure for the designation of the managing authority and, where appropriate, of the certifying authority, set out in Article 124 of Regulation (EU) No 1303/2013, shall be carried out by the Member State in which the authority is located.

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Designations provided for in this Article shall be without prejudice to the apportionment of liabilities in relation to the application of financial corrections among the participating countries as provided for in the cross-border cooperation programme.

Article 37

Functions of the programme authorities

1. Article 125 of Regulation (EU) No 1303/2013 and Article 23(1), (2), (4) and (5) of Regulation (EU) No 1299/2013 concerning the functions of the managing authority shall apply.

2. Article 126 of Regulation (EU) No 1303/2013 and Article 24 of Regulation (EU) No 1299/2013 concerning the functions of the certifying authority shall apply.

The certifying authority shall receive the payments made by the Commission and shall, as a general rule, make payments to the lead beneficiary in accordance with Article 132 of Regulation (EU) No 1303/2013.

3. Article 127 of Regulation (EU) No 1303/2013 and Article 25 of Regulation (EU) No 1299/2013 concerning the functions of the audit authority shall apply.

Article 38

Joint monitoring committee

1. Within three months of the date of notification to the Member State of the decision approving cross-border cooperation programme, the participating countries shall set up a Joint monitoring committee (hereinafter referred to as 'JMC').

2. The JMC shall be composed of representatives of the Commission, the NIPAC and other relevant national authorities and bodies of the IPA II beneficiary], the participating Member State(s) and, where relevant, international financial institutions and other stakeholders, including civil society and private sector organisations.

3. The JMC shall be chaired by a representative of one of the participating countries or of the managing authority.

4. The Commission shall participate in the work of the JMC in an advisory capacity.

5. If the EIB contributes to a programme, it may participate in the work of the JMC in an advisory capacity.

6. The JMC shall review the overall effectiveness, quality and coherence of the implementation of all actions towards meeting the objectives set out in the cross-border programme, the financing agreements and the relevant strategy paper(s). It may make recommendations for corrective actions whenever needed.

Articles 49 and 110 of Regulation (EU) No 1303/2013 concerning its functions shall also apply.

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The JMC and the managing authority shall carry out monitoring by reference to indicators laid down in the relevant cross-border cooperation programme, in accordance with Article 16 of Regulation (EU) No 1299/2013.

7. The JMC shall adopt its rules of procedure.

8. The JMC shall meet at least once a year. Additional meetings may also be convened at the initiative of one of the participating countries or of the Commission, in particular on a thematic basis.

Article 39

Selection of operations

1. Operations under cross-border cooperation programmes shall be selected by the JMC.

The JMC may set up a steering committee acting under its responsibility for the selection of operations.

2. Selected operations shall involve beneficiaries from at least two participating countries, at least one of which shall be from a Member State. An operation may be implemented in a single participating country, provided that cross-border impacts and benefits are identified.

3. Beneficiaries shall cooperate in the development and implementation of operations. In addition, they shall cooperate in either the staffing or the financing of operations.

Article 40

Beneficiaries

1. Where there are two or more beneficiaries for an operation in a cross-border cooperation programme, one of them shall be designated by all the beneficiaries as the lead beneficiary.

2. The lead beneficiary shall carry out the following tasks:

(a) lay down the arrangements with other beneficiaries in an agreement comprising provisions that, inter alia, guarantee the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid;

(b) assume responsibility for ensuring implementation of the entire operation;

(c) ensure that expenditure presented by all beneficiaries has been incurred in implementing the operation and corresponds to the activities agreed between all the beneficiaries, and in accordance with the document provided by the managing authority as provided for in paragraph 6;

(d) ensure that the expenditure presented by other beneficiaries has been verified by a controller(s) where this verification is not carried out by the managing authority in accordance with Article 23(1) of Regulation (EU) No 1299/2013.

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3. If not otherwise specified in the arrangements referred to in point (a) of paragraph (2), the lead beneficiary shall ensure that the other beneficiaries receive the total amount of the public support as quickly as possible and in full. No amount shall be deducted or withheld and no specific charge or other charge with equivalent effect shall be levied that would reduce those amounts for the other beneficiaries.

4. Lead or sole beneficiaries shall be located in a participating country.

5. Notwithstanding Article 39(2) of this Regulation, an European grouping of territorial cooperation set up in accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council [1] or another legal body established under the laws of one of the participating countries may apply as sole beneficiary for an operation provided that it is set up by public authorities and bodies from at least two participating countries.

6. The managing authority shall provide to the lead or sole beneficiary for each operation a document setting out the conditions for support of the operation, including the specific requirements concerning the products or services to be delivered under the operation, the financing plan and the time-limit for execution.

Article 41

Evaluation

1. Evaluations shall be carried out by internal or external experts that are functionally independent of the authorities responsible for programme implementation. All evaluations shall be made public.

2. The participating countries shall jointly carry out an *ex ante* evaluation in accordance with Article 55 of Regulation (EU) No 1303/2013.

3. Article 56 of Regulation (EU) No 1303/2013 concerning evaluation during the programming period shall apply.

4. Article 57 of Regulation (EU) No 1303/2013 concerning evaluation *ex post* shall apply.

Article 42

Reporting, information and communication

1. Article 14 of Regulation (EU) No 1299/2013 concerning implementation reports shall apply.

2. The annual review meeting shall be organised in accordance with Article 15 of Regulation (EU) No 1299/2013.

3. By 31 January, 31 July and 31 October of each year, the managing authority shall transmit electronically to the Commission for monitoring purposes, for each cross-border programme and by priority axis:

[1] Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) (OJ L 210, 31.7.2006, p. 19).

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(a) the total and public eligible cost of the operations and the number of operations selected for support;

(b) the total eligible expenditure declared by beneficiaries to the managing authority.

In addition, the transmission made by 31 January shall contain the data referred to in points (a) and (b) broken down by category of intervention. This transmission shall be considered to fulfil the requirement for the submission of financial data referred to in Article 50(2) of Regulation (EU) No 1303/2013.

A forecast of the amount for which the managing authority expects to submit payment applications for the current financial year and the subsequent financial year shall accompany the transmissions to be made by 31 January and 31 July.

The cut-off date for the data submitted under this paragraph shall be the end of the month preceding the month of submission.

4. The managing authority shall coordinate the tasks linked to the requirements on information, publicity and transparency under Article 24(1) and (3) of this Regulation.

By way of derogation from Article 25 of this Regulation, the managing authority shall be responsible for the information and communication activities as set out in Articles 115 and 116 of Regulation (EU) No 1303/2013.

Article 43

Eligibility and durability

1. By way of derogation from Article 15(1) of this Regulation, expenditure shall be eligible for funding under IPA II cross-border cooperation assistance:

(a) ►C1 if it has been incurred by a beneficiary from a Member State and paid between 1 January 2014 and 31 December 2023; or ◄

(b) if it has been incurred by a beneficiary from an IPA II beneficiary and paid after the submission of the cross-border cooperation programme.

2. In addition to the rules set out in Article 15(2) of this Regulation, IPA II cross-border cooperation assistance shall not support:

(a) interest on debt;

(b) value added tax (VAT) except where it is non-recoverable under national VAT legislation;

(c) the decommissioning and the construction of nuclear power stations;

(d) investment to achieve the reduction of greenhouse gas emissions from activities falling under Annex I to Directive 2003/87/EC of the European Parliament and of the Council [1];

[1] Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

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(e) the manufacturing, processing and marketing of tobacco and tobacco products;

(f) undertakings in difficulties as defined under Union State aid rules;

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

By way of derogation from Article 15(2) of this Regulation, the purchase of land not built on and land built on in the amount up to 10 % of the total eligible expenditure for the operation concerned shall be eligible for funding under IPA II cross-border cooperation assistance. For derelict sites and for those formerly in industrial use which comprise buildings, this limit shall be increased to 15 %. In exceptional and duly justified cases, this limit may be raised above the respective preceding percentages for operations concerning environmental conservation.

3. Operations shall not be selected for IPA II assistance where they have been physically completed or fully implemented before the application for funding under the cross-border cooperation programme is submitted by the beneficiary to the managing authority, irrespective of whether all related payments have been made by the beneficiary.

4. Articles 61, 65(4) and (6) to (9) and (11), 66to 68, 69(1) and (2) and 71 of Regulation (EU) No 1303/2013 concerning grants shall apply.

5. In addition to Article 6(2) of this Regulation, the financing agreements for cross-border cooperation programmes under this Chapter shall establish the hierarchy of eligibility rules applicable to the cross-border cooperation programme concerned in accordance with the principles set out in Article 18 of Regulation (EU) No 1299/2013.

6. Article 19 of Regulation (EU) No 1299/2013 concerning staff costs shall also apply.

Article 44

Eligibility depending on location

1. Operations, subject to the derogations referred to in paragraphs 2 and 3, shall be located in the programme area comprising the part of the territory of the participating countries as defined in the relevant cross-border cooperation programme (the ‘programme area’).

2. The managing authority may accept that all or part of an operation is implemented outside the programme area, provided that all the following conditions are satisfied:

(a) the operation is for the benefit of the programme area;

(b) the total amount allocated under the cross-border cooperation programme to operations located outside the programme area does not exceed 20 % of the support from the Union at programme level;

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(c) the obligations of the managing and audit authorities in relation to management, control and audit concerning the operation are fulfilled by the cross-border cooperation programme authorities or they enter into agreements with authorities in the Member State or third country in which the operation is implemented.

3. For operations concerning technical assistance, promotional activities and capacity-building, expenditure may be incurred outside the programme area provided that the conditions in points (a) and (c) of paragraph 2 are fulfilled.

Article 45

Procurement

1. For the award of service, supply and work contracts, by beneficiaries the procurement procedures shall follow the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012 which apply in the whole programme area, both on the Member State and on the IPA II beneficiary/ies' territory.

2. For the award of service, supply and work contracts by the managing authority under the specific budget allocation for technical assistance operations, the procurement procedures applied by the managing authority may either be those referred to in paragraph 1 or those of its national law.

Article 46

Financial management, decommitment, examination and acceptance of accounts, closure and financial corrections

1. Article 76 of Regulation (EU) No 1303/2013 concerning budget commitments shall apply.

2. Articles 77 to 80, 82 to 83, 129 to 132, 134 to 135 and 142 of Regulation (EU) No 1303/2013 concerning payments shall apply. In addition, Article 27(1) of Regulation (EU) No 1299/2013 concerning payments into a single account shall apply. Article 28 of Regulation (EU) No 1299/2013 concerning the use of the euro shall apply.

3. Concerning pre-financing, following the Commission decision adopting the cross-border cooperation programme, a single pre-financing amount shall be paid by the Commission.

The pre-financing shall amount to 50 % of the first three budgetary commitments to the programme.

The pre-financing amount may be paid in two instalments, where necessary, according to budgetary needs.

The total amount paid as pre-financing shall be reimbursed to the Commission if no payments application under the cross-border cooperation programme is sent within 24 months of the date on which the Commission pays the first instalment of the pre-financing amount.

4. Articles 86 to 88 and 136 of Regulation (EU) No 1303/2013 concerning decommitment shall apply.

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5. Articles 84 and 137 to 141 of Regulation (EU) No 1303/2013 concerning the examination and acceptance of accounts as well as closure shall apply.

6. Articles 85, 122(2) and 143 to 147 of Regulation (EU) No 1303/2013 concerning financial corrections and recoveries shall apply. Article 27(2) and (3) of Regulation (EU) No 1299/2013 shall also apply.

Article 47

Management and control systems and audit

1. Articles 72 and 122(1) and (3) of Regulation (EU) No 1303/2013 concerning the general principles of management and control systems shall apply.

2. Article 128 of Regulation (EU) No 1303/2013 concerning the cooperation between the Commission and the audit authorities shall apply.

3. Article 148 of Regulation (EU) No 1303/2013 concerning the proportional control of cross-border cooperation programmes shall apply.

Article 48

Discontinuation of cross-border cooperation programmes

1. Where none of the participating IPA II beneficiaries has concluded the financing agreement by the end of the year following the year of the adoption of the programme, the Commission shall discontinue the cross-border cooperation programme.

European Regional Development Fund annual instalments already committed shall remain available for their normal lifetime but may be used only for activities which take place exclusively in the Member States concerned and contracted before the Commission discontinuation decision. The managing authority shall transmit the final report within three months of the closure of the contracts to the Commission which shall proceed in conformity with paragraphs 2 and 3.

2. Where the cross-border cooperation programme cannot be implemented owing to problems arising in relations between participating countries and in other duly justified cases, the Commission may decide to discontinue the programme before the expiry date of the period of execution, at the request of the JMC or on its own initiative after having consulted the JMC.

Where the programme is discontinued, the managing authority shall transmit the final report within six months following the Commission's decision. After clearing the previous pre-financing payments, the Commission shall pay the final balance or, where appropriate, issue the recovery order. The Commission shall also decommit the balance of commitments.

As an alternative, it may be decided to reduce the programme's allocation to the programme scope in accordance with Article 31(5).

3. In the cases referred to in paragraphs 1 and 2, non-committed support from European Regional Development Fund corresponding to annual instalments not yet committed or annual instalments committed and decommitted totally or partially during the same budgetary year, which have not been re-allocated to another programme of the same

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category of external cooperation programmes shall be allocated to the internal cross-border cooperation programmes in accordance with Article 4 of Regulation (EU) No 1299/2013.

IPA II assistance corresponding to annual instalments not yet committed or annual instalments committed and decommitted totally or partially during the same budgetary year shall be used to finance other programmes or projects eligible for IPA II assistance.

CHAPTER III

Cross-border cooperation between IPA II beneficiaries or between IPA II beneficiaries and countries under the European Neighbourhood Instrument

Article 49

Programming

1. Cross-border cooperation programmes shall be drawn up in accordance with the model programme provided by the Commission and shall be prepared jointly by the participating countries and submitted to the Commission by electronic means.

2. A cross-border cooperation programme shall consist of thematic priorities in accordance with Article 29.

Article 50

Technical assistance

The amount of IPA II assistance to be allocated to technical assistance shall be limited to 10 % of the total amount allocated to the cross-border cooperation programme.

Article 51

Implementation modes

1. Cross-border cooperation programmes referred to in points (b) and (c) of Article 27, shall be implemented under direct or indirect management.

2. Cross-border cooperation programmes shall be managed by one contracting authority as defined in the Commission implementing decision approving the relevant cross-border cooperation programme.

Article 52

Structures and authorities

1. The following structures shall be involved in the management of cross-border cooperation programmes in the IPA II beneficiaries:

(a) the NIPACs of the countries participating in the cross-border cooperation programme as referred to in Article 4 and, where applicable, the territorial cooperation coordinators;

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(b) the NAO and the management structure as referred to in Article 7 of the participating IPA II beneficiary in which the contracting authority is located when the cross-border programme is implemented in indirect management;

(c) the operating structures in all the participating countries which shall cooperate closely in the programming and implementation of the relevant cross-border cooperation programme. In case of indirect management the operating structure shall include a contracting authority;

(d) the audit authority as referred to in Article 7(3) when the cross-border programme is implemented in indirect management. Where it does not have the authorisation to carry out the functions provided for in Article 12, it shall be assisted by a group of auditors comprising a representative of each country participating in the cross-border cooperation programme.

2. The IPA II beneficiaries and countries under the European Neighbourhood Instrument participating in a cross-border cooperation programme shall establish a JMC which shall also fulfil the role of the sectoral monitoring committee referred to in Article 19.

3. A Joint Technical Secretariat shall be set up to assist the Commission, the operating structures and the JMC.

4. The roles and responsibilities of these structures shall be defined in the Framework Agreement referred to in Article 5.

5. Under indirect management, the participating countries shall conclude a bilateral arrangement setting out their respective responsibilities for implementing the relevant cross-border cooperation programme. The minimum requirements for such bilateral arrangement shall be defined in the Framework Agreement referred to in Article 5.

Article 53

Selection of operations

1. Operations selected under a cross-border cooperation programme shall deliver clear cross-border impacts and benefits.

2. Operations under cross-border cooperation programmes shall be selected by the contracting authority through calls for proposals covering the whole eligible area.

3. Participating countries may also identify operations outside call for proposals. In that event, the operations shall be specifically mentioned in the cross-border cooperation programme referred to in Article 49.

4. Operations selected for cross-border cooperation shall involve beneficiaries from at least two participating countries. Beneficiaries shall cooperate in the development and implementation of operations. In addition, they shall cooperate in either the staffing or the financing of operations or both.

5. An operation may be implemented in a single participating country, provided that cross-border impacts and benefits are identified.

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Article 54

Beneficiaries

1. For cross-border cooperation programmes referred to in point (b) of Article 27, the beneficiaries shall be established in an IPA II beneficiary. For cross-border cooperation programmes referred to in point (c) of Article 27, the beneficiary shall be established in an IPA II beneficiary or in a European Neighbourhood Instrument country.

2. One of the beneficiaries participating in a given operation shall be designated by all the beneficiaries as the lead beneficiary.

3. The lead beneficiary shall assume responsibility for ensuring the financial implementation of the entire operation, monitor that the operation is implemented in accordance with the conditions set out in the contract and lay down the arrangements with other beneficiaries to guarantee the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid.

TITLE VII

AGRICULTURE AND RURAL DEVELOPMENT

Article 55

Specific provisions on rural development programmes

1. As part of the policy area 'agriculture and rural development', rural development programmes shall be drawn up at national level, prepared by the relevant authorities designated by the IPA II beneficiary and submitted to the Commission after consulting the appropriate interested parties.

2. Rural development programmes shall be implemented by the IPA II beneficiaries on the basis of indirect management in accordance with Article 58(1) of Regulation (EU, Euratom) No 966/2012 and shall finance selected types of actions as provided for under Regulation (EU) No 1305/2013 of the European Parliament and of the Council ([1]).

3. The operating structure to be established in accordance with Article 10 shall, for rural development programmes, consist of the following separate authorities operating in close cooperation:

(a) the Managing Authority, being a public body acting at national level, to be in charge of preparing and implementing the programmes, including selection of measures and publicity, coordination, evaluation, monitoring and reporting of the programme concerned and managed by a senior official with exclusive responsibilities; and

(b) the IPA Rural Development Agency with functions of a similar nature as a paying agency in the Member States being in charge

([1]) Regulation EU No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Funds for Rural Development. (EAFRD) and repealing Council Regulation (EC) No 1698/2005, (OJ L 347, 20.12.2013, p. 487).

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of publicity, selection of projects as well as authorisation, control and accounting of commitments and payments and execution of payments.

4. By way of derogation from Article 15(1) expenditure for technical assistance to support the preparation of rural development programmes and the setting up of management and control systems may be eligible before the date of adoption of the Commission decision for the approval of the rural development programme, but not earlier than 1 January 2014.

5. In determining the share of public expenditure as a percentage of total eligible cost of investment, account shall not be taken of national aid to facilitate access to loans granted without any Union contribution provided under Regulation (EU) No 231/2014.

6. Investment projects under rural development programmes shall remain eligible for Union financing provided they do not, within five years from the final payment by the operating structure, undergo a substantial modification.

TITLE VIII

FINAL PROVISIONS

Article 56

Entry into force and application

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

It shall apply from 1 January 2014.

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