EARTO Analysis of EC Proposal for a Regulation laying down common provisions on the ERDF, the ESF+, the CF, and the EMFF

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EARTO welcomes the EC proposal for the next Cohesion Policy post-2020, especially in its simplification efforts on auditing issues compared to the 2014-2020 period, but also for the possibility for Member States to transfer 5% of the ESIF funding to any other Fund which could improve the realization of synergies. EARTO has already prepared several papers on the synergies, on ESIF simplification, on the High-Level Group of ESIF Simplification report, and on EC DG REGIO communication on Smart Specialisation. With the EC proposal for Cohesion Policy, EARTO would like to react on several issues of interest.

Topic	Cohesion Policy 2021-2027 Article (Text & Number)	Analysis	Text Changes (if needed)
Transfer of resources	**Article 10** Member States may allocate, in the Partnership Agreement or in the request for an amendment of a programme, the amount of ERDF, the ESF+, the Cohesion Fund and the EMFF to be contributed to InvestEU and delivered through budgetary guarantees. The amount to be contributed to InvestEU shall not exceed 5 % of the total allocation of each Fund, except in duly justified cases. Such contributions shall not constitute transfers of resources under Article 21	Due to current participation and funding rules, RTOs are not using well the currently available funds under EFSI (under used for RD&I). More funds for EUInvest will not make a difference and may detract from programmes that are working well for RTOs and their ecosystems.	**Add text in Article 10:** Member States may allocate, in the Partnership Agreement or in the request for an amendment of a programme, the amount of ERDF, the ESF+, the Cohesion Fund and the EMFF to be contributed to InvestEU and delivered through budgetary guarantees. The amount to be contributed to InvestEU shall not exceed 5 % of the total allocation of each Fund, except in duly justified cases **i.e. cross-border, transnational cooperation, and the financing of innovative actions or pilot projects that may allow the transfer of the results obtained to other EU territories thus allowing an improvement in the capitalization of the results**. Such contributions shall not constitute transfers of resources under Article 21.
	Article 21 Member States may request the transfer of up to 5 % of programme financial allocations from any of the Funds to any other Fund under shared management or to any instrument under direct or indirect management	Synergies must be achieved between the Funds and directly managed instruments. This new possibility would allow Regions to invest in other instruments, like for example JTIs where their country/region usually do not invest, allowing for actual synergies between funds.	**Important, keep text as is.**

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	Article 105 (1) The Commission may accept a proposal by a Member State in its submission of the Partnership Agreement or in the context of the mid-term review, for a transfer: (a) of not more than 15 % of the total allocations for less developed regions to transition regions or more developed regions and from transition regions to more developed regions	The limitation to 15% hinders the capability to transfer more, when sometimes it can be necessary for specific projects or regions. Where a region could transfer more to a more developed region to achieve a project necessary to the development of the less developed region. It is important to fund innovative projects in key areas that are destined to solve the existing problems that prevent a complete integration between the territories.	**Delete: No need to have a maximum set.**
Thematic objectives	**Title II** Eleven thematic objectives used in 2014-2020 have been simplified to five clear policy objectives in this regulation: 1. A smarter Europe - innovative and smart economic transformation. 2. A greener, low-carbon Europe. 3. A more connected Europe - mobility and regional ICT connectivity. 4. A more social Europe - implementing the European Pillar of Social Rights. 5. Europe closer to citizens – sustainable and integrated development of urban, rural and coastal areas through local initiatives. This is in Article 4 (Title I, Chapter II) and further specified for ERDF and CF in Article 2 of their Regulation, of which point 1 reads "enhancing research and innovation capacities and the uptake of advanced technologies;"	We very much welcome this more innovation focussed thematic priorities. Particularly point 1 of Article 2 of the ERDF Regulation will play an important role in solving the innovation divide and strengthening national innovation systems. In addition, this simplification might enable synergies and flexibility between various strands within a given objective, removing artificial distinctions between different policies contributing to the same objective.	**Important, keep text as is.**
Simplified costs	**Article 48** 1. Grants provided by Member States to beneficiaries may take any of the following forms: a. reimbursement of eligible costs actually incurred by a beneficiary or the private partner of PPP operations and paid in implementing operations, including contributions in kind and depreciation; b. unit costs; c. lump sums; d. flat-rate financing; e. a combination of the forms referred to in points (a) to (d), provided that each form covers different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation.	In theory a very welcome simplification and in line with our attempts to simplify other programmes as well, but implementation is key. Article 48(2)(c) opens the possibility for projects deemed a 'similar type of operation' as the FP projects to benefit from the simplification achieved in the FP. For this to work a clear methodology of establishing if projects fit this definition is necessary. In addition, it is stated earlier in the regulation that flexibility will be kept for the combination of grants with financial instruments. From our experience, using the Repayable Advances scheme (compared to the current Competitive Grants scheme) would negatively impact Technology Transfer best practices and results for non-profit organisations like RTOs. This could for example force beneficiaries to transfer a part of the royalties of the licenses they grant at the end of the projects to the funding agency, the European Commission in this case. Then the funding agency	**Keep text as is, but Commission should engage with stakeholders (including RD&I actors) to work out the details of the implementation.**

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	2. The amounts for the forms of grants referred to under point (b), (c) and (d) of paragraph 1, shall be established in one of the following ways: a. a fair, equitable and verifiable calculation method based on: i. statistical data, other objective information or an expert judgement; ii. the verified historical data of individual beneficiaries; iii. the application of the usual cost accounting practices of individual beneficiaries; b. draft budget established on a case-by-case basis and agreed ex ante by the body selecting the operation, where the total cost of the operation does not exceed EUR 200 000; c. in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applicable in Union policies for a similar type of operation; d. in accordance with the rules for application of corresponding unit costs, lump sums and flat rates applied under schemes for grants funded entirely by the Member State for a similar type of operation;	might be tempted to fund only projects in themes where royalty levels are high, to the detriment of all others, going against the public interest by giving preference to projects that appear to offer the greatest prospects of financial return by royalties to the neglect of others that yield equal or even greater social benefits. Such situation already exists. In France, some public research organisations are involved in some projects at high Technology Readiness Level (TRL) financed by public program agencies with the repayable advances scheme. The results are generally weak and the incentives for the respondents to apply are often low. See **EARTO Background Note on Repayable Advances -** 20 February 2018 - link	
Financing for indirect costs	**Article 49** Where a flat rate is used to cover indirect costs of an operation, it shall be based on one of the following: (a) a flat rate of up to 7 % of eligible direct costs, in which case the Member State shall not be required to perform a calculation to determine the applicable rate; (b) a flat rate of up to 15 % of eligible direct staff costs in which case the Member State shall not be required to perform a calculation to determine the applicable rate; (c) a flat rate of up to 25 % of eligible direct costs, provided that the rate is calculated in accordance with Article 48(2)(a).	The flat rate of 25% is congruent with the RD&I Framework Programme and should be used widely, as stated in the EARTO paper on ESIF Simplification. However, its direct relation with Article 48(2)(a) is not desirable. R&I projects should be allowed to be implemented under HEU financial regulation-based Article 48(2)(c) and at the same time be able to enjoy the 25% flat rate for indirect costs, to ensure the consistency with HEU.	**Add text in Article 49:** (c) a flat rate of up to 25 % of eligible direct costs, provided that the rate is calculated in accordance with Article 48(2)(a) **or 48(2)(c).**
Audits	**Article 74 (1)** When carrying out audits, the Commission and the audit authorities shall take due account of the principles of single audit and proportionality in relation to the level of risk to the budget of the Union. They shall avoid	Efforts seem to have been made regarding the number of controls and audits that will be reduced: extension of single audit principle, fewer controls, proportionate approach based on a well-functioning national system.	**Adapt wording like in the EC proposal for HEU rules for participation, in accordance with article 127 of the Financial Regulation:** "A wider cross-reliance on audits and assessments – including with other Union

	duplication of audits of the same expenditure declared to the Commission with the objective of minimising the cost of management verifications and audits and the administrative burden on beneficiaries		programmes – is envisaged. This should reduce the administrative burden on beneficiaries of Union funds by further aligning the rules. The rules explicitly provide for cross-reliance by considering also other elements of assurance resulting in a need for fewer financial audits on beneficiaries that have positive results on their systems audits. Moreover, cross-reliance can be part of the conditions for lifting the obligation for the beneficiary to submit a certificate on the financial statement.”
State Aid	**Whereas 5** In order to protect the integrity of the internal market, operations benefitting undertakings shall comply with Union State aid rules as set out in Articles 107 and 108 of the TFEU.	As stated in 1 December 2017 Competitiveness Council conclusions, "Regulations for the next FP and the European Structural and Investment Funds, as well as state aid rules and any other relevant EU programmes, … (to) be designed from the very beginning with synergies, coherence, compatibility and complementarity in mind in order to provide a level playing field for similar projects under different management modes and to consider harmonization of funding rules for R&I towards those of the FP". See EARTO views on these conclusions. For this to work, a clear methodology is needed for establishing what type of project is being implemented. This clear methodology could also help determine if Article 48(2)(c) can be applicable to a R&I project which would allow implementation of simplified cost options according to HEU rules. In addition, special exemption should be given to cross-borders RD&I actions: it is important to fund innovative projects in key areas that are destined to solve the existing problems that prevent a complete integration between the territories.	**Add text:** In order to protect the integrity of the internal market, operations benefitting undertakings shall comply with Union State aid rules as set out in Articles 107 and 108 of the TFEU. **Exception to be made in the cases of cross-border, transnational cooperation, and the financing of innovative actions or pilot projects that may allow the transfer of the results obtained to other EU territories thus allowing an improvement in the capitalization of the results for the common interest.**
Interregional innovation investments	**Article 3 (5) ETCG (Interreg)** Under the European territorial cooperation goal (Interreg), the ERDF and, where applicable, external financing instruments of the Union shall support the following components: interregional innovation investments through the commercialisation and scaling up of interregional innovation projects having the potential to encourage the development of European value chains ('component 5').	Article very welcome. In addition to it, cooperation among Vanguard and Lagging Regions should also be encouraged. To allow this, we would offer some text addition.	Add text in Article 3 (5): Under the European territorial cooperation goal (Interreg), the ERDF and, where applicable, external financing instruments of the Union shall support the following components: interregional innovation investments through the commercialisation and scaling up of interregional innovation projects having the potential to encourage the development of European value chains ('component 5'). **In addition to European territorial cooperation, the inclusion of cooperation in Thematic Platforms lead by JRC in Smart Specialization Platform, is recommended.**

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EARTO and its experts remain of course ready to further discuss these recommendations with the European Institutions' representatives.

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EARTO - European Association of Research and Technology Organisations
Founded in 1999, EARTO promotes RTOs and represents their interest in Europe. EARTO network counts over 350 RTOs in more than 20 countries. EARTO members represent 150.000 highly-skilled researchers and engineers managing a wide range of innovation infrastructures.

EARTO Working Group Structural Funds *is composed of 30 experts working within our membership. Established in March 2014, this Working Group has worked on ESIF Regulations, Smart Specialisation Strategies and synergies between ESIF and other EU funds. Our experts contributed to the JRC Policy Brief on RTOs and Smart Specialisation.*

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