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#### COVER NOTE

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From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 7 February 2019

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: C(2019) 769 final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 7.2.2019  
amending Commission Delegated Regulation (EU) No 481/2014  
supplementing Regulation (EU) No 1299/2013 of the European Parliament  
and of the Council with regard to specific rules on eligibility of expenditure  
for cooperation programmes

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Delegations will find attached document C(2019) 769 final.

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Encl.: C(2019) 769 final



Brussels, 7.2.2019  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 7.2.2019**

**amending Commission Delegated Regulation (EU) No 481/2014 supplementing  
Regulation (EU) No 1299/2013 of the European Parliament and of the Council with  
regard to specific rules on eligibility of expenditure for cooperation programmes**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018<sup>1</sup> amended 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<sup>2</sup>.

The proposal is a consequential amendment stemming from changes in the basic act and contains also a clarification of an existing provision. The alignment is necessary to ensure legal consistency between the basic act and the corresponding rules in Commission Delegated Regulation (EU) No 481/2014<sup>3</sup>.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Consultation of experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making<sup>4</sup>, in accordance with Article 149(3a) of Regulation (EU) No 1303/2013 has been carried out on 22 November 2018.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Provisions on simplified cost options were restructured and amended. In particular, Articles 67 and 68 of Regulation (EU) No 1303/2013 were restructured and Articles 68a and 68b were introduced. Article 3 of Delegated Regulation (EU) No 481/2014 should reflect these changes.

The opportunity is taken also to clarify point (i) of Article 3(6) of Delegated Regulation (EU) No 481/2014 on one of the two methods to calculate an hourly rate for part-time assignments of staff with a flexible number of hours worked per month, as previous drafting made its implementation difficult to apply in practice.

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<sup>1</sup> Regulation (EU) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>2</sup> OJ L 347, 20.12.2013, p. 320.

<sup>3</sup> Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45).

<sup>4</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

# COMMISSION DELEGATED REGULATION (EU) .../...

of 7.2.2019

## amending Commission Delegated Regulation (EU) No 481/2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes

THE EUROPEAN COMMISSION,

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

Having regard to 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<sup>5</sup>, and in particular Article 18(1) thereof,

Whereas:

- (1) Article 3 of Commission Delegated Regulation (EU) No 481/2014<sup>6</sup> sets out specific rules on eligibility of staff costs for cooperation programmes. That provision refers to Articles 67 and 68 of Regulation (EU) No 1303/2013 on eligibility and simplified cost options. Those Articles, as amended by Regulation (EU, Euratom) 2018/1046<sup>7</sup>, as well as Article 68a of Regulation (EU) No 1303/2013, as introduced by Regulation (EU, Euratom) 2018/1046, were restructured. The references to the provisions of Regulation (EU) No 1303/2013 and the structure of Article 3(3) to (5) of Delegated Regulation (EU) No 481/2014 should therefore be amended accordingly.
- (2) Implementation of point (i) of Article 3(6) of Delegated Regulation (EU) No 481/2014 on one of the two methods to calculate an hourly rate for part-time assignments of staff with a flexible number of hours worked per month has proven difficult to apply in practice, in particular where the employment document does not fix the monthly working time, but the weekly working time. Point (i) of Article 3(6) of that Regulation should therefore be amended in order to calculate a single hourly rate based on the number of hours worked per month. That method should also take into account the differences between Member States and employment contracts with regard to annual leave and public holidays, as specified in the individual employment document, by law or agreements concluded by the social partners (employers and employees) on the

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<sup>5</sup> OJ L 347, 20.12.2013, p. 259.

<sup>6</sup> Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes (OJ L 138, 13.5.2014, p. 45).

<sup>7</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

level of the employer of a specific staff member or on the level of the relevant sector or at national level. This clarification should apply to the entire programming period in order to ensure a coherent set of rules, i.e. as of the date of entry into force of Delegated Regulation (EU) No 481/2014.

- (3) In accordance with Article 149(3a) of Regulation (EU) No 1303/2013, the measures provided for in this Regulation have been subject to consultation of experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making<sup>8</sup>.
- (4) In order to ensure legal certainty and to limit discrepancies between the amended provisions of Regulation (EU) No 1303/2013 which apply from 2 August 2018 or earlier in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046 and the provisions of this Regulation to a minimum, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (5) Delegated Regulation (EU) No 481/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Article 3 of Delegated Regulation (EU) No 481/2014 is amended as follows:

- (1) paragraph 3 is replaced by the following:
  - ‘3. Staff costs may be reimbursed either:
    - (i) in accordance with point (a) of Article 67(1) of Regulation (EU) No 1303/2013 (as proven by the employment document and payslips); or
    - (ii) in the form of standard scales of unit costs in accordance with point (b) of Article 67(1), with paragraph (2), the first subparagraph of paragraph (3) and paragraph (4) of Article 68a of that Regulation; or
    - (iii) in the form of lump sums in accordance with point (c) of Article 67(1); or
    - (iv) in the form of flat-rate financing in accordance with point (d) of Article 67(1) and with Article 68a(1) of that Regulation.’;
- (2) point (a) of paragraph 4 is replaced by the following:
  - ‘(a) a fixed percentage of the gross employment costs in accordance with Article 68a(5) of Regulation (EU) No 1303/2013; or’;
- (3) paragraph 5 is deleted;
- (4) paragraph 6 is replaced by the following:

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<sup>8</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

- ‘6. For part-time assignments under point (b) of paragraph 4, the reimbursement of staff costs shall be calculated on a single hourly rate basis determined either by:
- (i) dividing the monthly gross employment cost by the average monthly working time expressed in hours taking into account the working time as fixed in the employment document as well as fixed by law or agreements between the social partners on the relevant level; or
  - (ii) dividing the latest documented annual gross employment cost by 1 720 hours.

The hourly rate shall be multiplied by the number of hours actually worked on the operation.’

#### *Article 2*

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

Point 4 of Article 1 shall apply from 14 May 2014.

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

Done at Brussels, 7.2.2019

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*