



Council of the
European Union

073639/EU XXVI. GP
Eingelangt am 30/08/19

Brussels, 30 August 2019
(OR. en)

11803/19

FSTR 146
REGIO 184
FC 55
SOC 591
AGRISTR 47
PECHE 364
CADREFIN 308
POLGEN 151
CODEC 1351
DELECT 169

COVER NOTE

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

date of receipt: 28 August 2019

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

No. Cion doc.: C(2019) 6203 final

Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 28.8.2019
supplementing Regulation (EU) No 1303/2013 of the European Parliament
and of the Council with regard to the establishment of flat-rate financing

Delegations will find attached document C(2019) 6203 final.

Encl.: C(2019) 6203 final



Brussels, 28.8.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 28.8.2019

supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with regard to the establishment of flat-rate financing

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018¹ 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 ('the CPR').

As a result of this amendment, there is a new empowerment for the Commission to adopt a delegated act with regard to the definition of flat rate financing referred to in point (d) of the first subparagraph of Article 67(1) of Regulation (EU) No 1303/2013.

This provision was introduced to allow the Commission adopt 'off the shelf' flat rates without the need to amend the CPR, as this is considered the most efficient manner to facilitate the use of simplified cost options for Member States. In accordance with this, the Delegated Regulation lays down an 'off-the-shelf' flat rate that may be used by Member States when reimbursing costs of operations programmed under the priority axis for technical assistance to beneficiaries.

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-Making², in accordance with Article 149(3a) of Regulation (EU) No 1303/2013 has been carried out on 20 June 2019.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 67(5a) of Regulation (EU) No 1303/2013 was introduced to empower the Commission to adopt delegated acts supplementing that Regulation with regard to, amongst others, the definition of flat-rate financing.

On the basis of the above empowerment, this Delegated Regulation lays down an 'off-the-shelf' flat rate that may be used by Member States when reimbursing costs of technical assistance operations to beneficiaries. This possibility is provided specifically for technical assistance within programmes, which is, based on experience, particularly prone to simplification, given the well-established nature of costs covered and the fact that technical assistance operations tend to have a single or few beneficiaries. It is noted that the rate of 4% for the European Regional Development Fund (and 6% for programmes supported by the European Regional Development Fund under the European Territorial Cooperation goal), the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and 6% for the European Maritime and Fisheries Fund programmes are

¹ 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).

² 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).

considered by the Commission as rates that would increase simplification while not creating risks to the Union budget, as they are consistent with the ceilings established for technical assistance allocations. It is also consistent with the average technical assistance allocation for the funds and their absorption rates in past programming periods. The reimbursement method does not have an impact on the technical assistance allocation available in programmes; this remains at the level as agreed in the programmes.

On the basis of the above empowerment, this Delegated Regulation lays down the level of the flat rate for reimbursement of costs of operations programmed under the priority for technical assistance by the managing authority to beneficiaries. In accordance with Article 67(1)(d) of Regulation (EU) No 1303/2013, the flat rate is determined by the application of a percentage to one or more defined categories of costs, the latter being the expenditure of operations under priority axes of the programme other than the one dedicated to technical assistance.

Article 1 sets out the subject matter of this Delegated Regulation.

Article 2 specifies the fund-specific levels of the flat rates and the expenditure forming the basis to which the flat rate established in this Regulation may be applied.

Article 3 sets out the entry into force provisions to allow for a prompt application.

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

of 28.8.2019

supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council with regard to the establishment of flat-rate financing

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of 17 December 2013 of the European Parliament and of the Council 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 1083/2006³, and in particular Article 67(5a) thereof,

Whereas:

- (1) With a view to simplifying the use of the European Regional Development Fund ('ERDF'), the European Social Fund ('ESF'), the Cohesion Fund, the European Agricultural Fund for Rural Development ('EAFRD') and the European Maritime and Fisheries Fund ('EMFF') financing and reducing both administrative burden and the risk of error, it is appropriate to lay down a flat rate for the reimbursement of costs to one or more beneficiaries of operations supported under technical assistance, without the need to justify the rate. This includes cases where the managing authority or the paying agency or another body is implementing technical assistance operations.
- (2) The level of the flat rate is based on the ceilings and the actual allocation for technical assistance in programmes as well as absorption data from past programming periods. The use of the flat-rate reimbursement method does not have an impact on the financial allocation for technical assistance in the adopted programmes. It may also be used in programmes supported by more than one fund even if the technical assistance priority receives support from a different fund than the one providing support for priorities other than technical assistance in the same programme.
- (3) In addition, in order to facilitate financial management within the existing programming arrangements, it should be specified for the ERDF, the ESF and the Cohesion Fund as well as for the EMFF that the basis for the application of the rate is the eligible expenditure under priority axes other than the technical assistance priority axis of the programme in which this flat-rate reimbursement method is used. Therefore, this flat rate is not to be used where a programme covers exclusively technical assistance. Furthermore, for the aforementioned Funds there is no requirement to amend the programme where this flat-rate reimbursement method is used.
- (4) It is necessary to specify that the basis for the application of the flat rate is the eligible expenditure for which the managing authority or the relevant control body has

³ OJ L 347, 20.12.2013, p. 320.

completed the management verifications or, in the case of the EAFRD, the relevant administrative checks.

- (5) In order to avoid the risk of double-financing where Member States make use of this option, the flat-rate financing should only be applied to expenditure that has been subject to management verification after this Regulation has entered into force and then until the end of the eligibility period. For the same reason, for the EAFRD, the flat-rate financing should only be applied to expenditure which has been subject to administrative checks as from the beginning of the agricultural financial year, as provided for in Article 39 of Regulation EU (No) 1306/2013 of the European Parliament and of the Council⁴, starting on 16 October 2019 or from any subsequent agricultural financial year and then until the end of the eligibility period. In order to ensure sound financial management, Member States need to make sure that the amounts reimbursed in form of flat-rate financing are calculated based on expenditure of non-technical assistance projects, which is legal and regular.
- (6) The flat-rate financing mechanism can only be used in accounting years which at the date of entry into force of this Regulation have not yet been closed. In order to allow for checks in the context of Article 9 and Article 47 of Regulation (EU) No 1306/2013 of the basis for the calculation of the flat-rate financing, for the EAFRD the flat-rate financing mechanism may only be used for expenditure as from the beginning of the agricultural financial year starting on 16 October 2019 or from any subsequent agricultural financial year.
- (7) In order to allow for prompt application of the measures provided for in this Regulation, in view of making use of it early enough in the current accounting year, and in the case of the EAFRD in the agricultural financial year starting on 16 October 2019, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

1. This Regulation establishes flat-rate financing for the reimbursement by the managing authority of the costs of operations financed under the priority axis concerning technical assistance at the initiative of Member States to one or more beneficiaries within a programme.
2. In the case of the EAFRD, this Regulation establishes flat-rate financing for the reimbursement by the Paying Agency or other body as referred to in Article 7(1) of Regulation (EU) No 1306/2013 of the costs of technical assistance operations at the initiative of Member States to one or more beneficiaries within a programme. In case a Paying Agency or other body is directly undertaking technical assistance operations, the reimbursement of the cost of these operations may also be established based on this flat-rate financing.

⁴ Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 (OJ L 347, 20.12.2013, p. 549).

Article 2
Flat-rate financing

1. The overall amount to be reimbursed for operations financed under the priority axis concerning technical assistance in a programme may be calculated as a flat rate of the amounts of expenditure of operations under the priority axes of the programme other than the one concerning technical assistance. In the case of the EAFRD, technical assistance may be calculated as a flat rate of the amounts of expenditure of operations under the rural development measures referred to in Chapter I of Title III of Regulation (EU) No 1305/2013 of the European Parliament and of the Council⁵.
2. This flat rate is established at 4% for programmes supported by the ERDF, the ESF, the Cohesion Fund or the EAFRD and at 6% for programmes supported by the EMFF. For programmes supported by the ERDF under the European Territorial Cooperation goal the flat rate is established at 6%. The calculated amount may be reimbursed to one beneficiary or may be split for reimbursement to more beneficiaries.
3. Only expenditure which has been subject to management verifications in accordance with Article 125(4)(a) of Regulation (EU) No 1303/2013 following the entry into force of this Regulation may be included in the basis for the calculation of the flat rate as from the accounting year starting on 1 July 2019 or from any subsequent accounting year. In the case of the EAFRD, only expenditure which has been subject to administrative checks in accordance with Article 59 of Regulation (EU) No 1306/2013 as from the agricultural financial year starting on 16 October 2019 or as from any subsequent agricultural financial year may be included in the basis for calculation of the flat rate.
4. Where this flat-rate financing is used, it shall be exclusively applied until the end of the eligibility period for reimbursing the costs for technical assistance and, for the EAFRD, throughout the relevant agricultural financial year.

Article 3
Entry into force

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

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

Done at Brussels, 28.8.2019

For the Commission
The President
Jean-Claude JUNCKER

⁵ 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 Fund for Rural Development (EAFRD) and repealing Council Regulation (EC) No 1698/2005 (OJ L 347, 20.12.2013, p. 487).