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COVER NOTE

From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 10.12.2020 amending Delegated Regulation (EU) 2015/2195 on supplementing Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund, regarding the definition of standard scales of unit costs and lump sums for reimbursement of expenditure by the Commission to Member States

Delegations will find attached document C(2020) 8641 final.

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

of 10.12.2020

amending Delegated Regulation (EU) 2015/2195 on supplementing Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund, regarding the definition of standard scales of unit costs and lump sums for reimbursement of expenditure by the Commission to Member States

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Regulation (EU) No 1304/2013 (the European Social Fund (ESF) Regulation) enables the Commission to reimburse the expenditure of Member States using standard scales of unit costs (short: unit costs) and lump sums defined by the Commission.

To this end, the second subparagraph of Article 14(1) of the ESF Regulation empowers the Commission to adopt delegated acts concerning the types of operations covered and lay down the standard scales of unit costs and lump sums, their maximum amounts and the methods for adjusting them.

Taking into account the disparities between and within Member States, the Commission set out in Delegated Regulation (EU) 2015/2195 the standard scales of unit costs and lump sums for the reimbursement of expenditure to Sweden, France, the Czech Republic, Belgium, Malta, Italy, Slovakia, Germany, the Netherlands, Austria, Lithuania, Poland, Romania, Cyprus, Croatia, Ireland, Spain, the United Kingdom, Bulgaria and Portugal for certain types of operations and categories of costs. Delegated Regulation (EU) 2015/2195 also contains unit costs for operations in the area of education that can be applied by the 27 Member States listed in the respective annex as well as unit costs for three further areas – training for the unemployed, counselling services and training for employed people – which can be applied by all Member States. The simplified cost options laid down in that act, their amounts, and, where appropriate, their adjustment, were based on either:

- methods submitted by those Member States and assessed by the Commission in line with the principle of sound financial management, or
- methods taking into account statistical data on staff costs of Public Employment Services as published by the Commission, or
- methods taking into account statistical data as published by Eurostat and as reported by national Public Employment Services on the
 - cost of providing core education goods and services, or
 - cost of providing labour market interventions, or
 - cost of continuing vocational training courses at enterprise-level.

Considering the benefits of this simplification option for Member States, the Commission has been systematically collecting and assessing data from Member States in order to extend its coverage to more Member States and types of operations.

In this context, this delegated act amends Delegated Regulation (EU) 2015/2195 by setting out unit costs for specific Member States on the basis of data submitted by them, in particular by:

- the amendment of existing annexes to either amend existing or set out additional unit costs for France, Czechia, Malta, Italy, Germany, Austria, Lithuania, Poland, Cyprus, Croatia and Portugal;

Furthermore, the unit costs for operations in the area of training and counseling services that are applicable to all Member States are updated reflecting latest changes in costs.

Finally, some of the operations could not be implemented as initially planned and the delivery mode had to be adjusted to comply with the restrictions imposed by the competent authorities in Member States with a view to delaying the spread of the coronavirus. As the conditions for the simplified cost options for these operations were determined assuming a normal implementation until finalisation, uncertainties have arisen as to whether these simplified cost options could still be used. It is therefore necessary to establish the conditions for using the simplified cost options set out in the delegated regulation when the delivery mode has changed.

The reimbursement on the basis of the unit costs or lump sums set out in this draft Regulation is without prejudice to compliance with the applicable Union law and the national law relating to its implementation, including State aid and public procurement rules.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In line with paragraph 4 of the Common Understanding on delegated acts between the European Parliament, the Council and the European Commission, appropriate and transparent consultations, including at expert level, have been carried out on this delegated act.

The preparation of this delegated act was based on information and data provided by Member States. The definition of the unit costs and lump sums takes into account the different needs and the particular characteristics of different regions and operations.

All parts of the delegated act have been subject to consultation of experts from Member States. A first version of the delegated act was presented to and discussed with experts from all Member States on 1 July 2020. The European Parliament was informed of the consultations.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

For the purposes of reimbursement by the Commission of expenditure to Member States on the basis of standard scales of unit costs and lump sums defined by the Commission, Article 14(1) of Regulation (EU) No 1304/2013 empowers the Commission to adopt delegated acts regarding the type of operations covered, the definition of the standard scales of unit costs and lump sums and their maximum amounts and the commonly agreed methods for adjusting them.

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

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amending Delegated Regulation (EU) 2015/2195 on supplementing Regulation (EU) No 1304/2013 of the European Parliament and of the Council on the European Social Fund, regarding the definition of standard scales of unit costs and lump sums for reimbursement of expenditure by the Commission to Member States

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006¹, and in particular Article 14(1) thereof,

Whereas:

- (1) With a view to simplifying the use of the European Social Fund ('ESF') and reducing the administrative burden for beneficiaries, it is appropriate to increase the scope of standard scales of unit costs and lump sums available for reimbursement to Member States. The standard scales of unit costs and lump sums for reimbursement to Member States should be established on the basis of data submitted by Member States or published by Eurostat and on the basis of methods commonly agreed, including the methods set out in Article 67(5) and the flat rate established in Article 68b(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council².
- (2) Taking into account the significant disparities between Member States regarding the level of costs for a particular type of operation, the definition and amounts of standard scales of unit costs and lump sums may differ according to the type of operation and the Member State concerned in order to reflect their specificities.
- (3) France, Czechia, Malta, Italy, Germany, Austria, Lithuania, Poland, Cyprus, Croatia, and Portugal have submitted methods for either amending existing standard scales of unit costs or defining additional standard scales of unit costs for reimbursement by the Commission concerning types of operations not yet covered by Delegated Regulation (EU) 2015/2195.

¹ OJ L 347, 20.12.2013, p. 470.

² 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).

- (4) For the standard scales of unit costs relating to operations supporting training and counseling services and applicable to all Member States, the amounts should be updated in line with changes to costs.
- (5) For operations where the implementation of an action is impacted by restrictive measures imposed by the competent authorities in a Member State to delay the spread of the coronavirus, conditions for using the standard scales of unit costs and lump sums should be established.
- (6) Delegated Regulation (EU) 2015/2195 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2015/2195 is amended as follows:

- (1) In Article 3, the following paragraphs are added:

‘Where the relevant conditions for reimbursement by the Commission as defined in the Annexes could not be fulfilled due to the restrictions imposed or recommendations issued by the competent authorities in Member States to delay the spread of the coronavirus, the Commission may reimburse Member States based on inputs, outputs or results achieved by remote means.

For those operations referred to in the second paragraph, the obligation set out in the Annexes to use a simplified cost option for all similar types of operations under the same operational programme shall not apply.’

- (2) Annex II is replaced by the text in Annex I to this Regulation.
- (3) Annex III is replaced by the text in Annex II to this Regulation.
- (4) Annex V is replaced by the text in Annex III to this Regulation.
- (5) Annex VI is replaced by the text in Annex IV to this Regulation.
- (6) Annex VIII is replaced by the text in Annex V to this Regulation.
- (7) Annex X is replaced by the text in Annex VI to this Regulation.
- (8) Annex XI is replaced by the text in Annex VII to this Regulation.
- (9) Annex XII is replaced by the text in Annex VIII to this Regulation.
- (10) Annex XIV is replaced by the text in Annex IX to this Regulation.
- (11) Annex XV is replaced by the text in Annex X to this Regulation.

- (12) Annex XVI is replaced by the text in Annex XI to this Regulation.
- (13) Annex XXI is replaced by the text in Annex XII to this Regulation.

Article 2

This Regulation shall enter into force on the twentieth 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, 10.12.2020

For the Commission
The President
Ursula VON DER LEYEN