

Regulation (EU) 2020/2221 of the European Parliament and of the Council of 23 December 2020 amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU)

REGULATION (EU) 2020/2221 OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL

of 23 December 2020

amending Regulation (EU) No 1303/2013 as regards additional resources and implementing arrangements to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy (REACT-EU)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 177 and point (a) of Article 322(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Auditors<sup>(1)</sup>,

After consulting the European Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions<sup>(2)</sup>,

Acting in accordance with the ordinary legislative procedure<sup>(3)</sup>,

Whereas:

- (1) Member States have been affected by the crisis resulting from the economic, social and health consequences of the COVID-19 pandemic in an unprecedented manner. The crisis hampers growth in Member States, which in turn aggravates the serious liquidity shortages which are due to the sudden and significant increase in public investments needed in Member States' health systems and other sectors of their economies. The crisis has also exacerbated the situation of people at risk of poverty, thus reducing the social cohesion in Member States. In addition, the closure of internal borders has had a severe impact on economic cooperation, in particular in border areas, affecting the commuting of workers and the viability of micro, small and medium-sized enterprises (SMEs). This has created an exceptional situation which needs to be addressed with specific, immediate and extraordinary measures that reach the real economy quickly.
- (2) In order to respond to the impact of the crisis, Regulations (EU) No 1301/2013<sup>(4)</sup> and (EU) No 1303/2013<sup>(5)</sup> of the European Parliament and the Council were amended by Regulation (EU) 2020/460 of the European Parliament and of the Council<sup>(6)</sup> in order to

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allow for more flexibility in the implementation of operational programmes supported by the European Regional Development Fund (the ‘ERDF’), the European Social Fund (the ‘ESF’) and the Cohesion Fund (collectively ‘the Funds’) and by the European Maritime and Fisheries Fund (the ‘EMFF’). However, as the serious negative effects on Union economies and societies worsened, both Regulations were amended again by Regulation (EU) 2020/558 of the European Parliament and of the Council<sup>(7)</sup>. Those amendments have provided exceptional additional flexibility to enable the Member States to concentrate on the necessary response to the unprecedented crisis by enhancing the possibility to mobilise non-utilised support from the Funds and by simplifying procedural requirements linked to programme implementation and audits.

- (3) On 23 April 2020, the European Council endorsed the ‘Roadmap for recovery’ in order to redress huge shocks to the economy and to mitigate, on the one hand, the social and economic consequences for the Union stemming from the exceptional restrictions put in place by Member States to contain the spread of COVID-19 and, on the other, the risk of an asymmetric recovery, stemming from the different national means available in different Member States, which has, in turn, had a serious impact on the functioning of the internal market. The Roadmap for recovery has a strong investment component and calls for the establishment of the European Recovery Fund. In addition, and as restated in the conclusions of the European Council of 21 July 2020, it mandates the Commission to analyse the needs so that the resources would be targeted towards those sectors and geographical parts of the Union that are most affected, while also clarifying the link with the Multiannual Financial Framework for 2021-2027.
- (4) In accordance with Council Regulation (EU) 2020/2094<sup>(8)</sup> and within the limits of the resources allocated therein, recovery and resilience measures under the European Structural and Investment Funds should be carried out to address the unprecedented impact of the COVID-19 crisis. Such additional resources should be used to ensure compliance with the time limits provided for in Regulation (EU) 2020/2094.
- (5) This Regulation lays down rules and implementing arrangements regarding the additional resources provided as Recovery Assistance for Cohesion and the Territories of Europe (‘REACT-EU’) to provide assistance for fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and for preparing a green, digital and resilient recovery of the economy. Under REACT-EU, an additional exceptional amount of up to EUR 47 500 000 000 in 2018 prices for budgetary commitment from the Structural Funds for the years 2021 and 2022 should be made available to support those Member States and regions that are most affected by crisis repair in the context of the COVID-19 pandemic and its social consequences and that are preparing a green, digital and resilient recovery of the economy (‘REACT-EU resources’), with a view to deploying resources quickly to the real economy through the existing operational programmes. The REACT-EU resources stem from the European Union Recovery Instrument. Part of the REACT-EU resources should be allocated to technical assistance at the initiative of the Commission. The Commission should set out the breakdown of the REACT-EU resources for each Member State on the basis of an allocation method based on the latest available objective statistical data concerning Member States’ relative prosperity and the extent of the effect of the COVID-19 crisis

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on their economies and societies. Before the application of the allocation method concerning the REACT-EU resources for the year 2021 and to provide support for the most important sectors following the COVID-19 crisis in certain Member States, an amount of EUR 100 000 000 and EUR 50 000 000 should be allocated to Luxembourg and Malta, respectively. The allocation method should include a dedicated additional amount for the outermost regions, given the specific vulnerability of their economies and societies. In order to reflect the evolving nature of the effects of the COVID-19 crisis, the breakdown should be revised in 2021 on the basis of the same allocation method and using the latest statistical data available by 19 October 2021 to distribute the 2022 tranche of the REACT-EU resources.

- (6) In view of the importance of tackling climate change in line with the Union's commitments to implement the Paris Agreement and the UN Sustainable Development Goals, the Funds will contribute to mainstream climate actions and to the achievement of an overall target of 30 % of the Union budget expenditure supporting climate objectives. REACT-EU is expected to contribute 25 % of the overall financial envelope to climate objectives. In line with the nature of REACT-EU as a crisis-repair instrument and the flexibility provided by this Regulation, including the lack of thematic concentration requirements and the possibility for Member States to direct the REACT-EU resources to support ERDF or ESF operations according to their needs, the level of Member States' contributions towards that ambition may differ depending on national priorities.
- (7) Horizontal financial rules adopted by the European Parliament and the Council on the basis of Article 322 of the Treaty on the Functioning of the European Union ('TFEU') apply to this Regulation. Those rules are laid down in Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>(9)</sup> (the 'Financial Regulation') and determine in particular the procedure for establishing and implementing the budget through grants, procurement, prizes, indirect implementation and provide for checks on the responsibility of financial actors. Rules adopted on the basis of Article 322 TFEU also include a general regime of conditionality for the protection of the Union budget.
- (8) In order to allow maximum flexibility to Member States in tailoring crisis repair actions in the context of the COVID-19 pandemic and its social consequences and preparing a green, digital and resilient recovery of the economy, allocations should be established by the Commission at Member State level. Furthermore, the possibility of using any REACT-EU resources to support aid for the most deprived and the Youth Employment Initiative ('YEI') should also be provided for. In addition, it is necessary to establish ceilings concerning the allocation to technical assistance at the initiative of the Member States while allowing maximum flexibility to the Member States as to its allocation within operational programmes supported by the ERDF or the ESF. The operational strength of the ESF should be maintained when allocating the REACT-EU resources in the policy areas of employment, in particular youth employment in line with the reinforced Youth Guarantee, skills and education, social inclusion and health, with a particular focus on reaching out to disadvantaged groups and children. Taking account of the expected quick spending of the REACT-EU resources, the commitments

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linked to these resources should only be decommitted at the closure of the operational programmes.

- (9) As the COVID-19 pandemic has affected regions and municipalities in Member States differently, the involvement of regional and local actors from authorities, economic and social partners and civil society, in accordance with the partnership principle, is important for the preparation, implementation, monitoring and evaluation of crisis repair supported by REACT-EU.
- (10) Possibilities for financial transfers under the Investment for growth and jobs goal between the ERDF and the ESF should also be introduced for the REACT-EU resources in accordance with Article 25a of Regulation (EU) No 1303/2013. Such transfers should not affect either the resources available under the European territorial cooperation goal or the specific allocation for the YEI.
- (11) In order to complement the actions already available under the scope of support of the ERDF, as extended by Regulations (EU) 2020/460 and (EU) 2020/558, Member States should continue to be allowed to use the REACT-EU resources primarily for investments in products and services for health services, including cross-border, and institutional, community and family-based care, for providing support in the form of working capital or investment support to SMEs, including advisory support, in particular in the sectors most affected by the COVID-19 pandemic and needing rapid revitalisation, such as tourism and culture, for investments contributing to the transition towards a digital and green economy, for investments in infrastructure providing non-discriminatory basic services to citizens, and for economic support measures for those regions which are most dependent on sectors most affected by the COVID-19 crisis. Stronger health cooperation, coordination and resilience should also be fostered. Furthermore, technical assistance should be supported. It is appropriate that the REACT-EU resources are focused exclusively under the new thematic objective 'Fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and preparing a green, digital and resilient recovery of the economy', which should also constitute a single investment priority, to allow for simplified programming and implementation of these resources.
- (12) For the ESF, Member States should use the REACT-EU resources primarily to support access to the labour market and social systems, ensuring job maintenance, including through short-time work schemes and support to the self-employed as well as entrepreneurs and freelancers, artists and creative workers. Short-time work schemes and similar measures, in particular for the self-employed, aim to protect employees and the self-employed against the risk of unemployment while maintaining the same level of working and employment conditions and wages of employees. The REACT-EU resources allocated to such schemes are to be used exclusively to support workers. In the context of the current exceptional circumstances caused by the COVID-19 pandemic, it should be possible to provide support to short-time work schemes for employees and the self-employed even when such support is not combined with active labour market measures, unless those measures are imposed by national law. That rule should also apply in a uniform manner to short-time work schemes which have been supported

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in accordance with Regulation (EU) No 1303/2013, as amended by Regulations (EU) 2020/460 and (EU) 2020/558 following the COVID-19 crisis, and which continue to be supported under the dedicated investment priority ‘Fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and preparing a green, digital and resilient recovery of the economy’. Union support to such short-time work schemes should be limited in time.

- (13) Support should also be provided for job creation and quality employment, in particular for people in vulnerable situations, and for social inclusion and poverty eradication measures. Youth employment measures should be extended in line with the reinforced Youth Guarantee. Investments in education, training and skills development, including reskilling and upskilling, in particular for disadvantaged groups, should be provided for. Equal access to social services of general interest, including for children, the elderly, persons with disabilities, ethnic minorities and the homeless should be promoted.
- (14) Furthermore, Member States should continue to pay special attention to people living in rural, border, less developed, insular, mountainous, sparsely populated and outermost regions, as well as in areas affected by industrial transition and depopulation and, where appropriate, use the REACT-EU resources towards supporting those people.
- (15) As the temporary closing of borders between Member States has led to significant challenges for cross-border communities and businesses, it is appropriate to allow Member States to allocate the REACT-EU resources also to existing cross-border programmes under the European territorial cooperation goal.
- (16) In order to ensure that Member States have sufficient financial means to quickly implement crisis repair actions in the context of the COVID-19 pandemic and its social consequences and to prepare a green, digital and resilient recovery of the economy, it is necessary to provide a higher level of initial pre-financing payment for the quick implementation of actions supported by the REACT-EU resources. The initial pre-financing to be paid should ensure that Member States have the means to arrange for advance payments to beneficiaries where necessary and to reimburse beneficiaries quickly following the submission of payment claims.
- (17) It should be possible for Member States to allocate the REACT-EU resources to new dedicated operational programmes under the Investment for growth and jobs goal or to new priority axes within existing programmes under the Investment for growth and jobs and the European territorial cooperation goals. In order to enable quick implementation, only already designated authorities of existing operational programmes supported by the ERDF, the ESF, or the Cohesion Fund should be allowed to be identified for new dedicated operational programmes. An *ex ante* evaluation by the Member States should not be required and the elements required for the submission of the operational programme to the Commission’s approval should be limited.
- (18) The REACT-EU resources should be used in accordance with the sustainable development and ‘Do no harm’ principles, taking into account the Paris Agreement and the UN Sustainable Development Goals. Furthermore, equality between men and women, gender mainstreaming and the integration of gender perspective should