

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)

Article 1

Regulation (EU) No 1303/2013 is amended as follows:

- (1) the following Articles are inserted:

Article 92a

REACT-EU resources

The measures referred to in Article 1(2) of Council Regulation (EU) 2020/2094⁽¹⁾ shall be implemented under the Structural Funds with an amount of up to EUR 47 500 000 000 in 2018 prices as referred to in point (a)(i) of Article 2(2) of that Regulation, subject to its Article 3(3), (4), (7) and (9).

These additional resources for 2021 and 2022, stemming from the European Union Recovery Instrument, shall 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 resources”).

As provided for in Article 3(1) of Regulation (EU) 2020/2094, the REACT-EU resources shall constitute external assigned revenues for the purpose of Article 21(5) of the Financial Regulation.

Article 92b

Implementing arrangements for the REACT-EU resources

- 1 The REACT-EU resources shall be made available under the Investment for growth and jobs goal.

By way of derogation from Article 94, Member States shall also jointly allocate part of their REACT-EU resources to cross-border co-operation programmes under the European territorial cooperation goal in which they participate, if they agree that such allocations reflect their respective national priorities.

The REACT-EU resources shall be used to implement technical assistance pursuant to paragraph 6 of this Article and the operations implementing the thematic objective referred to in the first subparagraph of paragraph 9 of this Article.

- 2 The REACT-EU resources shall be made available for budgetary commitment for the years 2021 and 2022, in addition to the global resources set out in Article 91, as follows:

- 2021: EUR 37 500 000 000,
- 2022: EUR 10 000 000 000.

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The REACT-EU resources shall also support administrative expenditure up to EUR 18 000 000 in 2018 prices.

Operations to be supported by the REACT-EU resources may be selected for support up to the end of 2023. The phasing provisions set out in a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument are applicable to operations supported by the REACT-EU resources.

3 0,35 % of the REACT-EU resources shall be allocated to technical assistance at the initiative of the Commission, with a special focus on Member States hit harder by the COVID-19 pandemic and Member States with lower absorption and implementation rates.

4 The Commission shall adopt a decision, by means of implementing acts, setting out the breakdown of the REACT-EU resources as appropriations from the Structural Funds for 2021 for each Member State in accordance with the criteria and methodology set out in Annex VIIa. That decision shall be revised in 2021 to set out the breakdown of the REACT-EU resources for 2022 based on data available by 19 October 2021.

5 By way of derogation from the first paragraph of Article 76, the budget commitments for the REACT-EU resources in respect of each operational programme concerned shall be made for each Fund for the years 2021 and 2022.

The legal commitment referred to in the second paragraph of Article 76 for the years 2021 and 2022 shall enter into force on or after the date referred to in Article 3(3) of Regulation (EU) 2020/2094.

The third and fourth paragraphs of Article 76 shall not apply in respect of the REACT-EU resources.

By way of derogation from Article 14(3) of the Financial Regulation, the de-commitment rules set out in Chapter IV of Title IX of Part II and in Article 136 of this Regulation shall apply to the budgetary commitments based on the REACT-EU resources. By way of derogation from point (c) of Article 12(4) of the Financial Regulation, the REACT-EU resources shall not be used for a succeeding programme or action.

By way of derogation from Articles 86(2) and 136(1) of this Regulation, the commitments for the REACT-EU resources shall be decommitted in accordance with the rules to be followed for the closure of the programmes.

Each Member State shall allocate the REACT-EU resources available for programming under the ERDF and the ESF to operational programmes or to cross-border cooperation programmes, involving local and regional authorities, as well as relevant bodies representing civil society and social partners, in accordance with the partnership principle.

By way of derogation from Article 92(7), a part of the REACT-EU resources shall also be proposed to be used, if the Member State concerned considers it appropriate, to increase the support for the Fund for European Aid to the Most Deprived ("FEAD"), in order to address the situation of those who have been hit to an unprecedented degree

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by the COVID-19 crisis. A part of the REACT-EU resources may also be used to increase the support for the YEI. In both cases, the increase may be proposed before or at the same time as the allocation to the ERDF and the ESF.

Following their initial allocation, the REACT-EU resources may, at the request of a Member State for amendment of an operational programme pursuant to Article 30(1), be transferred between the ERDF and the ESF, irrespective of the percentages referred to in points (a), (b) and (c) of Article 92(1), keeping the overall operational strength of the ESF at Union level. This subparagraph shall not apply to ERDF resources allocated to cross-border cooperation programmes under the European territorial cooperation goal.

Article 30(5) shall not apply to the REACT-EU resources. Those resources shall be excluded from the basis of calculation for the purposes of the ceilings established in that paragraph.

For the purposes of the application of point (f) of Article 30(1) of the Financial Regulation, the condition that appropriations are to be for the same objective shall not apply in respect of such transfers. Such transfers may only apply to the ongoing year or to future years in the financial plan.

The requirements laid down in Article 92(4) of this Regulation shall not apply to the initial allocation or the subsequent transfers of the REACT-EU resources.

The REACT-EU resources shall be implemented in accordance with the rules of the Fund to which they are allocated or transferred.

- 6 Up to 4 % of the total REACT-EU resources under the ERDF and the ESF may be allocated to technical assistance at the initiative of the Member States, under any existing operational programme supported from the ERDF or the ESF or a new operational programme or programmes referred to in paragraph 10.

Up to 6 % of the additional ERDF resources allocated to a cross-border cooperation programme under the European territorial cooperation goal pursuant to the second subparagraph of paragraph 1 may be allocated to technical assistance.

- 7 By way of derogation from Articles 81(1) and 134(1), the initial pre-financing to be paid following the Commission decision adopting an operational programme or approving the amendment to an operational programme for the allocation of the REACT-EU resources shall be 11 % of the REACT-EU resources allocated to programmes for the year 2021.

For the purpose of applying Article 134(2) to the annual pre-financing in the years 2021, 2022 and 2023, the amount of the support from the Funds for the whole programming period to the operational programme shall include the REACT-EU resources.

The amount paid as additional initial pre-financing referred to in the first subparagraph shall be totally cleared from the Commission accounts not later than when the operational programme is closed.

- 8 The REACT-EU resources not allocated to technical assistance shall be used under the thematic objective referred to in the first subparagraph of paragraph 9 to support operations that foster crisis repair in the context of the COVID-19 pandemic and its social consequences and prepare a green, digital and resilient recovery of the economy.

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Member States may allocate the REACT-EU resources either to one or more separate priority axes within an existing operational programme or programmes under the Investment for growth and jobs goal or within an existing cross-border cooperation programme or programmes under the European territorial cooperation goal, or to a new operational programme or programmes referred to in paragraph 10 of this Article under the Investment for growth and jobs goal. By way of derogation from Article 26(1), the programme shall cover the period until 31 December 2022, subject to paragraph 4 of this Article.

For the ERDF, the REACT-EU resources shall be used primarily to support investments in products and services for health services or in social infrastructure, to provide support in the form of working capital or investment support to SMEs' investments in sectors with a high job creation potential, to support investments contributing to the transition towards a digital and green economy, to support investments in infrastructure providing basic services to citizens, and to support economic support measures in the regions which are most dependent on sectors most affected by the COVID-19 crisis.

For the ESF, the REACT-EU resources shall be used primarily to support access to the labour market by maintaining jobs of employees and of the self-employed, including through short-time work schemes even when that support is not combined with active labour market measures, unless those measures are imposed by national law. The REACT-EU resources shall support job creation and quality employment, in particular for people in vulnerable situations, and extend youth employment measures in line with the reinforced Youth Guarantee. Investments in education, training and skills development shall be directed to address the twin green and digital transitions.

The REACT-EU resources shall also support social systems contributing to social inclusion, anti-discrimination and poverty eradication measures, with a particular focus on child poverty and enhance equal access to social services of general interest, including for children, the elderly, persons with disabilities, ethnic minorities and the homeless.

- 9 With the exception of technical assistance referred to in paragraph 6 of this Article and of the REACT-EU resources used for the FEAD or for the YEI referred to in the seventh subparagraph of paragraph 5 of this Article, the REACT-EU resources shall support operations 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", complementing the thematic objectives set out in Article 9.

The thematic objective referred to in the first subparagraph of this paragraph shall be available exclusively for the programming of the REACT-EU resources. By way of derogation from points (b), (c) and (d) of Article 96(1) of this Regulation and from Article 8(1) of Regulation (EU) No 1299/2013, it shall not be combined with other investment priorities.

The thematic objective referred to in the first subparagraph of this paragraph shall also constitute the single investment priority for the programming and implementation of the REACT-EU resources from the ERDF and the ESF.

Where one or more separate priority axes are established corresponding to the thematic objective referred to in the first subparagraph of this paragraph within an existing operational programme, the elements listed in points (b)(v) and (vii) of Article 96(2)

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of this Regulation and in points (b)(v) and (vi) of Article 8(2) of Regulation (EU) No 1299/2013 shall not be required for the description of the priority axis in the revised operational programme.

The revised financing plan set out in point (d) of Article 96(2) of this Regulation and in point (d) of Article 8(2) of Regulation (EU) No 1299/2013 shall set out the allocation of the REACT-EU resources for the year 2021 and, where applicable, for 2022 without identifying amounts for the performance reserve and with no breakdown per category of regions.

By way of derogation from Article 30(1) of this Regulation, requests for the amendment of a programme submitted by a Member State shall be duly justified and shall in particular set out the expected impact of the changes to the programme on fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and on preparing a green, digital and resilient recovery of the economy. Those requests shall be accompanied by the revised programme.

- 10 By way of derogation from Article 26(4), new dedicated operational programmes under the Investment for growth and jobs goal may be drawn up by Member States under the new thematic objective referred to in the first subparagraph of paragraph 9 of this Article. No *ex ante* evaluation as set out in Article 55 shall be required.

By way of derogation from point (a) of Article 96(2), where such a new operational programme is established, the justification shall set out the expected impact of the operational programme on fostering crisis repair in the context of the COVID-19 pandemic and its social consequences and on preparing a green, digital and resilient recovery of the economy.

Where such a new operational programme is established, only authorities already designated under ongoing operational programmes supported by the ERDF, the ESF and the Cohesion Fund may be identified by the Member States for the purposes of point (a) of Article 96(5).

The elements set out in points (b)(v) and (vii) of the first subparagraph of paragraph 2, in paragraph 4, in points (b) and (c) of paragraph 6 and in paragraph 7 of Article 96 shall not be required for such new operational programme. The elements set out in Article 96(3) shall only be required where corresponding support is provided.

By way of derogation from Article 29(3) and (4) and Article 30(2), the Commission shall do its utmost to approve any new dedicated operational programme or any amendment to an existing programme within 15 working days of its submission by a Member State.

- 11 By way of derogation from Article 65(2) and (9), expenditure for operations supported under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article shall be eligible from 1 February 2020.

- 12 By way of derogation from the first and second subparagraphs of Article 120(3), a co-financing rate of up to 100 % may be applied to the priority axis or axes supported by the REACT-EU resources programmed under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article. Further to the common indicators set out in the Fund-specific rules, Member States shall also, where appropriate, make use of COVID-19 programme-specific indicators made available by the Commission.

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By way of derogation from Articles 56(3) and 114(2), the Member States shall ensure that by 31 December 2024 at least one evaluation on the use of the REACT-EU resources is carried out to assess their effectiveness, efficiency, impact and, where applicable, inclusiveness and non-discrimination, including from a gender perspective, and how they contributed to the thematic objective referred to in the first subparagraph of paragraph 9 of this Article.

- 13 The following provisions shall not apply to the REACT-EU resources:
- a thematic concentration requirements including thresholds established for sustainable urban development as set out in this Regulation or the Fund-specific rules, by way of derogation from Article 18;
 - b *ex ante* conditionalities, by way of derogation from Article 19 and the Fund-specific rules;
 - c requirements on the performance reserve and application of the performance framework, by way of derogation from Articles 20 and 22, respectively;
 - d Article 65(6) for operations that started from 1 February 2020 and that foster crisis repair in the context of the COVID-19 pandemic and its social consequences and prepare a green, digital and resilient recovery of the economy supported under the thematic objective referred to in the first subparagraph of paragraph 9 of this Article;
 - e requirements to prepare a communication strategy, by way of derogation from Article 116 and point (a) of Article 115(1).

By way of derogation from the requirements set out in Article 12(4) of Regulation (EU) No 1299/2013 for operations supported by the REACT-EU resources under the European territorial cooperation goal, cooperation of beneficiaries in at least two fields shall be sufficient.

- 14 While carrying out their responsibilities linked to information, communication and visibility in accordance with Article 115(1) and (3) and with Annex XII, Member States and managing authorities shall ensure that potential beneficiaries, beneficiaries, participants, final recipients of financial instruments and the general public are aware of the existence, volume and additional support stemming from the REACT-EU resources.

The Member States and managing authorities shall make clear to citizens that the operation in question is funded as part of the Union's response to the COVID-19 pandemic and shall ensure full transparency, using, where appropriate, social media.

The references to the "Fund", "Funds" or "ESI Funds" in Section 2.2 of Annex XII shall be complemented by a reference to "funded as part of the Union's response to the COVID-19 pandemic", where financial support is provided to operations from the REACT-EU resources.;

- (2) in Article 154, the following subparagraph is added:
- Articles 92a and 92b shall not apply to or in the United Kingdom. References to Member States in those provisions shall be understood as not including the United Kingdom.;
- (3) the text set out in the Annex to this Regulation is inserted as Annex VIIa.

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- (1) Council Regulation (EU) 2020/2094 of 14 December 2020 establishing a European Union Recovery Instrument to support the recovery in the aftermath of the COVID-19 crisis ([OJ L 433, 22.12.2020, p. 23](#)).’;

Changes to legislation:

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