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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	7 July 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

No. Cion doc.:	C(2023) 4524 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 7.7.2023 supplementing Regulation (EU) 2021/1060 of the European Parliament and of the Council regarding the definition of unit costs, lump sums and flat rates and financing not linked to costs for reimbursement of expenditure by the Commission to Member States

Delegations will find attached document C(2023) 4524 final.

Encl.: C(2023) 4524 final



Brussels, 7.7.2023
C(2023) 4524 final

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

of 7.7.2023

supplementing Regulation (EU) 2021/1060 of the European Parliament and of the Council regarding the definition of unit costs, lump sums and flat rates and financing not linked to costs for reimbursement of expenditure by the Commission to Member States

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Simplification is high on the Commission's agenda, supported by the European Parliament and the Council. It means making implementation of the Common Provisions Regulation funds simpler, safer and more geared towards outputs and results.

Articles 94(1) and 95(1) of Regulation (EU) 2021/1060¹ of the European Parliament and of the Council of 24 June 2021 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, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (the Common Provisions Regulation – 'CPR') allow the Commission to reimburse the Union contribution to a programme based on unit costs, lump sums, and flat rates, as well as financing not linked to costs (FNLC), defined by the Commission decision approving the programme, one of its amendments, or by delegated act. These options extend the simplification of financial management of the funds to the relationship between the Commission and the Member States. It also has the following additional benefits compared to simplified costs options set out in points b) to f) Article 53(1) CPR:

- The Commission and Member State audits and management verifications for which expenditure is reimbursed solely on the basis of Article 94 and 95 of the CPR shall exclusively aim at verifying that the conditions for reimbursement by the Commission set out in the delegated act have been fulfilled.
- In accordance with Article 94(3) and Article 95(3) of the CPR, the accounting practices used by Member States to reimburse beneficiaries and the resulting amounts will not be subject to audit by the audit authority or the Commission.

Therefore, the use of unit costs, lump sums, and flat rates under Article 94 and the use of amounts for Union-level financing not linked to costs under Article 95 of the CPR provide legal certainty to Member States and beneficiaries. Furthermore, it reduces the administrative burden of managing operations.

To this purpose, paragraph 4 of Article 94 of the CPR empowers the Commission to adopt delegated acts defining at Union level unit costs, lump sums, flat rates, their amounts and adjustment methods.

Likewise, paragraph 4 of Article 95 of the CPR empowers the Commission to adopt delegated acts defining amounts for Union level financing not linked to costs by type of operation, the methods for adjustment of the amounts and the conditions to be fulfilled or the results to be achieved.

This Delegated Regulation sets out unit costs and FNLC schemes for all EU Member States within the Annex for operations under the ESF+ in the area of

- formal education operations (from early childhood education to tertiary level including formal vocational education);
- operations concerning training of registered unemployed, job-seekers or inactive people;

¹ OJ L 231, 30.6.2021, pg.159

- operations concerning training of employed persons, and
- operations concerning the provision of employment-related counselling services to registered unemployed, job-seekers or inactive people,
- operations concerning in-home care services and community-based day care services, and
- operations providing support to services for victims of domestic violence and the homeless.

In addition it sets out Union level values for the same types of operations to address the specific needs of third-country nationals, including refugees and people having fled the military aggression of the Russian Federation against Ukraine.

The unit costs and FNLC schemes set out in this Delegated Act may also apply in case of operations supported by the JTF, when this Fund provides support to these types of operations under points (k) to (m) Article 8(2) of Regulation (EU) 2021/1056 of the European Parliament and of the Council of 24 June 2021 establishing the Just Transition Fund², and by the ERDF, when this Fund provides support on the basis of the eligibility rules of the ESF + in accordance with Article 25 (2) of Regulation (EU) 2021/1060.

The reimbursement on the basis of amounts set out in this regulation is without prejudice to compliance with 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 largely based on the unit costs for the same types of operations set for all Member States for the 2014-2020 programming period, as defined in the latest amendment of Delegated Regulation (EU) 2015/2195³, and on the study “Simplified cost options and Financing not linked to costs in the area of social inclusion and youth”. The definition of the unit costs and their amounts established in this delegated act is based on methods taking into account data on historical costs provided by Member States and extrapolation, as well as data obtained from Eurostat. The amounts take into account the different needs and particular characteristics of different regions and operations. The amounts set for reimbursement on the basis of FNLC were established on the basis of other objective information.

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 26 April 2023. The European Parliament was informed of the consultations.

² OJ L 231, 30.6.2021, p. 1–20

³ Commission Delegated Regulation (EU) 2021/702 of 10 December 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 (OJ L 148, 30.4.2021, p. 1–149)

3. LEGAL ELEMENTS OF THE DELEGATED ACT

For the purposes of reimbursement by the Commission of expenditure to Member States on the basis of unit costs, lump sums, flat rates, and financing not linked to costs defined by the Commission, Articles 94 and 95 of Regulation (EU) No 2021/1060 empower the Commission to adopt delegated acts regarding the definition at Union level of the standard scales of unit costs, lump sums, flat rates, financing not linked to costs, their amounts and the methods for adjusting them, as well as and the conditions to be fulfilled or the results to be achieved.

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

of 7.7.2023

supplementing Regulation (EU) 2021/1060 of the European Parliament and of the Council regarding the definition of unit costs, lump sums and flat rates and financing not linked to costs 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) 2021/1060 of the European Parliament and of the Council 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, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy⁴, and in particular Articles 94(4) and 95(4) thereof,

Whereas:

- (1) With a view to simplifying the use of the European Social Fund Plus (ESF+) and the Just Transition Fund (JTF) and reducing the administrative burden for beneficiaries, it is appropriate to define certain unit costs and establish amounts of financing not linked to costs available for reimbursement of the Union contribution to programmes. In line with Article 25(2) of Regulation (EU) 2021/1060, those unit costs and amounts of financing not linked to costs may be used also for operations eligible under the ESF+ and supported by the European Regional Development Fund
- (2) The unit costs for reimbursement to Member States have been established on the basis of a fair, equitable and verifiable calculation method based on historical or statistical data, as referred to in Article 94(2), second subparagraph, point (a) of Regulation (EU) 2021/1060.
- (3) In the setting of the amounts of financing not linked to costs the Commission has observed the principle of sound financial management, in particular the principle that the resources employed are adequate for the investments undertaken.
- (4) Taking into account the additional efforts required for addressing the specific needs of third country nationals, including refugees and people having fled the Russian aggression against Ukraine, specific unit costs should be established for the relevant types of operations.
- (5) Simplifying the implementation of operations in the area of formal education, training of employees, training of registered unemployed, job-seekers or inactive people and of employment-related counselling services, will also contribute to the successful implementation of European Year of Skills.

⁴ OJ L 231, 30.6.2021, p. 159.

- (6) Reaffirming the commitments under the European Pillar of Social Rights Action Plan⁵ with the new 2030 Union headline target on poverty and social inclusion it is appropriate to facilitate and create incentives for the implementation of operations that help to reduce the number of people at risk of poverty or social exclusion. Therefore, simplified cost options and financing-not-linked-to-cost schemes should be defined for operations offering in-home and community-based care services as well as for operations providing residential and non-residential services for victims of domestic violence and people experiencing short-term or long-term homelessness.
- (7) There are the significant disparities between Member States regarding the level of costs for the types of operations concerned. In line with the principle of sound financial management, the amounts established by the Commission should reflect the specificities of each Member State.
- (8) In order to ensure that the unit costs remain an appropriate proxy for the costs actually incurred and that the amounts of financing not linked to costs remain adequate for the investment undertaken throughout the programming period, an appropriate adjustment method has been provided for,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

The conditions for reimbursement of the Union contribution to ESF+ and JTF operations on the basis of unit costs and financing not linked to costs, including the types of operations that are covered and the results to be achieved or conditions to be fulfilled, the amount of such reimbursement and the method to adjust that amount are set out in the Annex.

Article 2
Eligible expenditure

The amounts calculated on the basis of this Regulation shall be regarded as eligible expenditure for the purpose of applying Regulation (EU) 2021/1060.

Article 3
Entry into force

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

⁵ [The European Pillar of Social Rights Action Plan \(europa.eu\)](https://european-council.europa.eu/media/en/press-room/pages/press-room.aspx?pid=14577)

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

Done at Brussels, 7.7.2023

For the Commission
The President
Ursula VON DER LEYEN