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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the COVID-19 crisis - Outcome of the European Parliament's first reading (Brussels, 16-17 April 2020)

I. INTRODUCTION

A number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, after the plenary approved the request of the Committee on Employment and Social Affairs (EMPL) to proceed according to Rule 163 (urgent procedure) on 16 April 2020, the political groups tabled 4 amendments. EPP, S&D, Renew, ID, GREENS/EFA, ECR, EUL/NGL proposed 2 amendments (Amendments No 2 and 4), EUL/NGL proposed 2 amendments (Amendments No 1 and 3).

II. VOTE

When it voted on 17 April 2020, the plenary adopted 2 amendments (Amendments No 2 and 4) to the proposal for the Regulation and then adopted the proposal with these amendments in its final vote.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto[1].

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position bringing to a close the first reading for both Institutions.

The legislative act would then be adopted in the wording which corresponds to the European Parliament's position.

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[1] The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics.*** The symbol " ▌ " indicates deleted text.

ANNEX
(17.4.2020)

Introduction of specific measures for addressing the COVID-19 crisis ***I

European Parliament legislative resolution of 17 April 2020 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the COVID-19 crisis (COM(2020)0141 – C9-0094/2020 – 2020/0058(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2020)0141),

– having regard to Article 294(2) and Article 175(3) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0094/2020),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– after consulting the European Economic and Social Committee,

– after consulting the Committee of the Regions,

– having regard to the undertaking given by the Council representative by letter of 8 April 2020 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

– having regard to Rules 59 and 163 of its Rules of Procedure,

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P9_TC1-COD(2020)0058

Position of the European Parliament adopted at first reading on 17 April 2020 with a view to the adoption of Regulation (EU) 2020/… of the European Parliament and of the Council amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the outbreak of COVID-19

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 175(3) thereof,

Having regard to the proposal from the European Commission,

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

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[2],

[2] Position of the European Parliament of 17 April 2020.

Whereas:

(1) Regulation (EU) No 223/2014 of the European Parliament and of the Council[3] lays down rules applicable to the Fund for European Aid to the Most Deprived (the 'Fund').

(2) Member States have been affected by the outbreak of COVID-19 in an unprecedented manner. The crisis entails higher risks for the most vulnerable, such as the most deprived persons, in particular by disrupting the support provided by the Fund.

(3) In order to provide for an immediate response to the impact of the crisis on the most deprived persons, expenditure for operations fostering crisis response capacities to address the outbreak of COVID-19 should be eligible as from 1 February 2020.

(4) With a view to alleviating the burden on public budgets responding to the outbreak of COVID-19, Member States should be given the possibility, on an exceptional basis, to request for a co-financing rate of 100 % to be applied for the accounting year 2020 to 2021, in accordance with budget appropriations and subject to available funding. Based on an assessment of the application of this exceptional co-financing rate, the Commission may propose an extension of this measure.

[3] Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived (OJ L 72, 12.3.2014, p. 1).

(5) In order to ensure that the most deprived persons can continue to receive assistance under the Fund in a safe environment, it is necessary to provide for sufficient flexibility for Member States to adjust their support schemes to the current context ***based on consultations with partner organisations***, including by allowing alternative schemes of delivery***, such as*** through ▌ vouchers ***or cards in electronic or other form,*** and by allowing Member States to amend certain elements of the operational programme without requiring the adoption of a Commission decision. In order ***to ensure safe assistance to the most vulnerable persons***, it should also be possible to provide the necessary protective materials and equipment to partner organisations outside the technical assistance budget.

(6) It is appropriate to establish specific rules for determining the eligible costs borne by beneficiaries where operations are delayed, suspended or not fully implemented as a result of the outbreak of COVID-19.

(7) In order to enable Member States to focus on introducing measures to respond to the outbreak of COVID-19 and avoid the disruption of the delivery of support to the most deprived persons because of the risk of contamination, it is appropriate to provide for specific measures that reduce the administrative burden on authorities and provide flexibility with regard to compliance with certain legislative requirements, in particular those relating to monitoring, control and audit.

(8) Since the objective of this Regulation, namely to introduce specific measures to ensure the effective implementation of the Fund during the outbreak of COVID-19, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union ('TEU'). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

(9) Given the urgency of the support needed, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(10) In view of the urgency entailed by the exceptional circumstances caused by the outbreak of COVID-19, the associated public health crisis and its social and economic consequences, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(11) Regulation (EU) No 223/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 223/2014 is amended as follows:

(1) in Article 9, the first subparagraph of paragraph 4 is replaced by the following:

"4. Paragraphs 1, 2 and 3 do not apply for the purposes of modifying elements of an operational programme falling under sub-sections 3.5 and 3.6 and section 4, respectively, of the operational programme templates set out in Annex I, or the elements set out in points (a), (b), (c), (d), (e) and (g) of Article 7(2) in the event that they are modified as a result of the crisis response to the outbreak of COVID-19.";

(2) in Article 13(1), the following subparagraph is added:

"By way of derogation from the first subparagraph, the deadline for the submission of the annual implementation report for the year 2019 shall be 30 September 2020.";

(3) in Article 20, the following paragraph is inserted:

"1a. By way of derogation from paragraph 1, at the request of a Member State, a co-financing rate of 100 % may be applied to the public expenditure declared in payment applications during the accounting year starting 1 July 2020 and ending 30 June 2021.

Requests for modification of the co-financing rate shall be submitted in accordance with the procedure for the amendment of operational programmes set out in Article 9 and shall be accompanied by a revised programme. The co-financing rate of 100 % shall apply only if the relevant amendment of the operational programme is approved by the Commission before the submission of the final application for interim payment in accordance with Article 45(2).

Before submitting the first payment application for the accounting year starting 1 July 2021, Member States shall notify the table referred to in section 5.1 of the operational programme templates set out in Annex I, confirming the co-financing rate which was applicable during the accounting year ending 30 June 2020.";

(4) in Article 22(4), the following subparagraph is added:

"By way of derogation from the first subparagraph, expenditure for operations for fostering crisis response capacity to address the outbreak of COVID-19 shall be eligible from 1 February 2020.";

(5) in Article 23, the following paragraph is inserted:

"4a. Food and/or basic material assistance may be provided directly to the most deprived persons or indirectly***, such as*** through ▌ vouchers or cards, ***in electronic or other form*****,** provided that such vouchers***,*** cards ***or other instruments*** can be exchanged only against food and/or basic material assistance.";

(6) in Article 26, paragraph 2 is amended as follows:

(a) point (a) is replaced by the following:

"(a) the cost of purchasing food and/or basic material assistance and the cost of purchasing personal protective materials and equipment for partner organisations,";

(b) point (c) is replaced by the following:

"(c) the administrative, preparation, transport and storage costs borne by the partner organisations at a flat-rate of 5 % of the costs referred to in point (a); or 5 % of the value of the food products disposed of in accordance with Article 16 of Regulation (EU) No 1308/2013;";

(7) the following articles are inserted:

"Article 26a

Eligibility of expenditure for operations supported under OP I during their suspension as a result of the outbreak of COVID-19

Delays in the delivery of food and/or basic material assistance as a result of the outbreak of COVID-19 shall not lead to a reduction of the eligible costs borne by the purchasing body or partner organisations in accordance with Article 26(2). Such costs may be declared to the Commission in their entirety in accordance with Article 26(2) before the food and/or basic material assistance is delivered to the most deprived persons, provided that delivery is resumed after the end of the crisis associated with the outbreak of COVID-19.

Where food is spoiled because of the suspension of delivery as a result of the outbreak of COVID-19, the costs set out in point (a) of Article 26(2) shall not be reduced.

Article 26b

Eligibility of expenditure for operations supported under OP II or technical assistance during their suspension as a result of the outbreak of COVID-19

1. Where the implementation of operations is suspended as a result of the outbreak of COVID-19, a Member State may consider the expenditure during the suspension to be eligible expenditure even if no services are delivered, provided that all of the following conditions are met:

   (a) the implementation of the operation is suspended after 31 January 2020;

   (b) the suspension of the operation is due to the outbreak of COVID-19;

   (c) the expenditure has been incurred and paid;

   (d) the expenditure constitutes a genuine cost to the beneficiary and cannot be recovered or compensated for; for recoveries and compensation which are not provided by the Member State, the Member State may consider this condition to be met on the basis of a declaration by the beneficiary; recoveries and compensation shall be deducted from the expenditure;

   (e) the expenditure is limited to the period of the suspension of the operation.

2. For operations for which the beneficiary is reimbursed on the basis of simplified cost options and where the implementation of the actions constituting the basis for reimbursement is suspended as a result of the outbreak of COVID-19, the Member State concerned may reimburse the beneficiary on the basis of the outputs planned for the period of the suspension, even if no actions are delivered, provided that all of the following conditions are met:

(a) the implementation of the actions is suspended after 31 January 2020;

(b) the suspension of the actions is due to the outbreak of COVID-19;

(c) the simplified cost options correspond to a genuine cost borne by the beneficiary, which shall be demonstrated by the beneficiary, and cannot be recovered or compensated for; for recoveries and compensation which are not provided by the Member State, the Member State may consider this condition to be met on the basis of a declaration by the beneficiary; recoveries and compensation shall be deducted from the amount corresponding to the simplified cost option;

(d) the reimbursement to the beneficiary is limited to the period of the suspension of the actions.

For the operations referred to in the first subparagraph of this paragraph, the Member State may also reimburse the beneficiary on the basis of costs referred to in point (a) of Article 25(1), provided that the conditions set out in paragraph 1 of this Article are met.

Where a Member State reimburses the beneficiary on the basis of both the first and the second subparagraphs, it shall ensure that the same expenditure is only reimbursed once.

Article 26c

Eligibility of expenditure for operations supported under OP II or technical assistance that are not fully implemented as a result of the outbreak of COVID-19

1. A Member State may consider the expenditure for operations that are not fully implemented as a result of the outbreak of COVID-19 to be eligible expenditure, provided that all of the following conditions are met:

   (a) the implementation of the operation ceases after 31 January 2020;

   (b) the cessation of the implementation of the operation is due to the outbreak of COVID-19;

   (c) the expenditure prior to the cessation of the implementation of the operation was incurred by the beneficiary and paid.

2. For operations for which the beneficiary is reimbursed on the basis of simplified cost options, a Member State may consider the expenditure for operations that are not fully implemented as a result of the outbreak of COVID-19 to be eligible expenditure, provided that all of the following conditions are met:

(a) the implementation of the operation ceases after 31 January 2020;

(b) the cessation of the implementation of the operation is due to the outbreak of COVID-19;

(c) the actions covered by the simplified cost options were at least partly delivered prior to the cessation of the implementation of the operation.

For the operations referred to in the first subparagraph of this paragraph, the Member State may also reimburse the beneficiary on the basis of costs referred to in point (a) of Article 25(1), provided that the conditions set out in paragraph 1 of this Article are met.

Where a Member State reimburses the beneficiary on the basis of both the first and the second subparagraphs, it shall ensure that the same expenditure is only reimbursed once.";

(8) in Article 30, the following paragraph is inserted:

"1a. Based on an analysis of potential risks, Member States may establish lighter control and audit trail requirements regarding the distribution of food and/or basic material assistance to the most deprived persons during the outbreak of COVID-19.".

Article 2

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,

For the European Parliament	*For the Council*
The President	*The President*