

**COMMISSION IMPLEMENTING REGULATION (EU) 2019/256****of 13 February 2019****amending Implementing Regulation (EU) 2015/207 with regard to changes to the models for submission of the information on a major project, for the joint action plan, for the implementation reports for the Investment for growth and jobs goal and for the European territorial cooperation goal and correcting that Regulation with regard to data for the purpose of the performance review and performance framework**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1303/2013 of 17 December 2013 of the European Parliament and of the Council 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 <sup>(1)</sup>, and in particular the fifth paragraph of Article 101, the second paragraph of Article 106, and Article 111(5), thereof,

Having regard to Regulation (EU) No 1299/2013 of 17 December 2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal <sup>(2)</sup>, and in particular Article 14(5) thereof,

After consulting the Coordination Committee for the European Structural and Investment Funds,

Whereas:

- (1) Annex II to Commission Implementing Regulation (EU) 2015/207 <sup>(3)</sup> sets out the format for submission of the information on a major project in accordance with Article 101 of Regulation (EU) No 1303/2013. Due to the amendments to Article 61 of Regulation (EU) No 1303/2013 as regards operations generating net revenue after completion, introduced by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council <sup>(4)</sup>, and due to the adoption by the Commission of a Notice on the notion of State aid <sup>(5)</sup>, Annex II should be amended accordingly.
- (2) Annex IV to Implementing Regulation (EU) 2015/207 sets out the format of the model for the joint action plan in accordance with Article 106 of Regulation (EU) No 1303/2013. Due to the amendments to Articles 104 to 109 of Regulation (EU) No 1303/2013 as regards first Joint Action Plans and the content of Joint Action Plans, introduced by Regulation (EU, Euratom) 2018/1046, Annex IV should be amended accordingly.
- (3) Annex V to Implementing Regulation (EU) 2015/207 sets out the model for the implementation reports for the Investment for growth and jobs goal in accordance with Article 111 of Regulation (EU) No 1303/2013. Due to the amendments to Article 70(2) of Regulation (EU) No 1303/2013, as regards the eligibility of expenditure of operations implemented outside the programme area, and to Article 104(2) and (3) of that Regulation, as regards the thresholds for a first Joint Action Plan, as introduced by Regulation (EU, Euratom) 2018/1046, Annex V should be amended accordingly.

<sup>(1)</sup> OJ L 347, 20.12.2013, p. 320.

<sup>(2)</sup> OJ L 347, 20.12.2013, p. 259.

<sup>(3)</sup> Commission Implementing Regulation (EU) 2015/207 of 20 January 2015 laying down detailed rules implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards the models for the progress report, submission of the information on a major project, the joint action plan, the implementation reports for the Investment for growth and jobs goal, the management declaration, the audit strategy, the audit opinion and the annual control report and the methodology for carrying out the cost-benefit analysis and pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council as regards the model for the implementation reports for the European territorial cooperation goal (OJ L 38, 13.2.2015, p. 1).

<sup>(4)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

<sup>(5)</sup> Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union (C/2016/2946) (OJ C 262, 19.7.2016, p. 1).

- (4) Table 4A of Annex V to Implementing Regulation (EU) 2015/207 includes the common output indicators for the European Social Fund ('ESF') and the Youth Employment Initiative ('YEI'). Due to changes in Annex I to Regulation (EU) No 1304/2013 of the European Parliament and of the Council <sup>(6)</sup> setting out common output and result indicators for ESF investments, as introduced by Regulation (EU, Euratom) 2018/1046, Table 4A in Part A, point 3.2 of Annex V should be amended accordingly. As the changes in Annex I to Regulation (EU) No 1304/2013 apply from 1 January 2014, the amendments to Table 4A in Part A, point 3.2 of Annex V should also apply from 1 January 2014.
- (5) Annex X to Implementing Regulation (EU) 2015/207 sets out the model for the implementation reports for the European territorial cooperation goal in accordance with Article 14 of Regulation (EU) No 1299/2013. Due to the amendments to Article 104(2) and (3) of Regulation (EU) No 1303/2013, as regards the thresholds for a first Joint Action Plan, as introduced by Regulation (EU, Euratom) 2018/1046, Annex X should be amended accordingly.
- (6) The table in Part C, point 15 of Annex V to Implementing Regulation (EU) 2015/207 and the table in Part B, point 12 of Annex X to that Regulation, both with regard to financial information for the purpose of assessing progress towards the achievements of milestones and targets refer to expenditure 'incurred and paid by beneficiaries and certified to the Commission by 31 December 2018' and 'incurred and paid by beneficiaries by 31 December 2023 and certified to the Commission'. Neither Regulation (EU) No 1303/2013 nor Commission Implementing Regulation (EU) No 215/2014 <sup>(7)</sup> include such a cut-off date for the certification of eligible expenditure with regard to the achievement of milestones and targets for financial indicators. Those tables should be corrected accordingly. In order to provide legal certainty as regards the requirements for reporting on the progress towards the achievement of milestones for financial indicators, to be included for the first time in the annual implementation report in 2019, it is necessary for that correction to apply retroactively with effect from the date of entry into force of this Regulation as first adopted.
- (7) In order to ensure legal certainty and to limit discrepancies between the amended provisions of Regulation (EU) No 1303/2013 which apply from 2 August 2018 or earlier in accordance with Article 282 of Regulation (EU, Euratom) 2018/1046 and the provisions of this Regulation to a minimum, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (8) Implementing Regulation (EU) 2015/207 should therefore be amended and corrected accordingly.

HAS ADOPTED THIS REGULATION:

#### Article 1

Implementing Regulation (EU) 2015/207 is amended as follows:

- (1) Annex II to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex I to this Regulation.
- (2) Annex IV to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex II to this Regulation.
- (3) Annex V to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex III to this Regulation.
- (4) Annex X to Implementing Regulation (EU) 2015/207 is amended in accordance with Annex IV to this Regulation.

#### Article 2

Implementing Regulation (EU) 2015/207 is corrected as follows:

- (1) Annex V to Implementing Regulation (EU) 2015/207 is corrected in accordance with Annex V to this Regulation.
- (2) Annex X to Implementing Regulation (EU) 2015/207 is corrected in accordance with Annex VI to this Regulation.

<sup>(6)</sup> 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 1081/2006 (OJL 347, 20.12.2013, p. 470).

<sup>(7)</sup> Commission Implementing Regulation (EU) No 215/2014 of 7 March 2014 laying down rules for implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council 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 with regard to methodologies for climate change support, the determination of milestones and targets in the performance framework and the nomenclature of categories of intervention for the European Structural and Investment Funds (OJL 69, 8.3.2014, p. 65).

*Article 3*

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

Article 2 shall apply from 14 February 2015.

Point (1) of Annex III shall apply from 1 January 2014.

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

Done at Brussels, 13 February 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX I

Annex II to Implementing Regulation (EU) 2015/207 is amended as follows:

(1) in point C.2, footnote 1 is replaced by the following:

'<sup>(1)</sup> The Commission services provided guidance to Member States to facilitate the assessment when infrastructure investments involve State aid. In particular, the Commission services have prepared analytical grids. Commission Notice on the notion of State aid as referred to in Article 107(1) of the Treaty on the Functioning of the European Union has been published (C/2016/2946) (OJ C 262, 19.7.2016, p. 1). The Commission invites Member States to make use of the analytical grids or of other methods for explaining why it is considered that the support does not involve the granting of State aid.';

(2) in point C.3, the title of the last table is replaced by the following:

'Flat rate method or decreased co-financing rate method (Article 61(3)(a), Article 61(3)(aa) and Article 61(5) of Regulation (EU) No 1303/2013)';

(3) in point C.3, the last table is replaced by the following:

		'Value
1.	Total eligible cost before taking into account the requirements set out in Article 61 of Regulation (EU) No 1303/2013 (in EUR, not discounted) (Section C.1.12(C))	<type='N' input='G'>
2.	Net revenue flat rate as defined in Annex V to Regulation (EU) No 1303/2013 or delegated acts or established on the basis of Article 61(3)(aa) (FR) (%)	<type='N' input='M'>
3.	Total eligible cost after taking into account the requirements set out in Article 61 of Regulation (EU) No 1303/2013 (in EUR, not discounted) = (1) × (1 – FR) (*) <i>The maximum public contribution must respect the State aid rules and the amount of total aid granted reported above (if applicable)</i>	<type='N' input='M'>

(\*) In case of decreased co-financing rate method, this formula is not applicable (flat rate is reflected in the co-financing rate of the priority axis, resulting in lower ERDF/CF financing) and the total eligible cost is equal to the amount mentioned in point 1.'

(4) in point E.1.2, footnote 3 is replaced by the following:

'<sup>(3)</sup> This does not apply: (1) for projects subject to the rules on State aids in the meaning of Article 107 of the Treaty (see point (G1), pursuant to Article 61(8) of Regulation (EU) No 1303/2013; (2) if flat rate (Article 61(3)(a) and Article 61(3)(aa) of Regulation (EU) No 1303/2013) or decreased co financing rate (Article 61(5) of Regulation (EU) No 1303/2013) is used; and (3) if the sum of the present values of operating and replacement costs are higher than the present value of revenues the project is not considered as revenue generating, in which case items 7 and 8 can be ignored and pro rata application of discounted net revenue should be set at 100 %.'.

## ANNEX II

Annex IV to Implementing Regulation (EU) 2015/207 is amended as follows:

- (1) point A.8 is replaced by the following:

‘A.8. Type of JAP	<input type="checkbox"/> Normal <input type="checkbox"/> YEI <input type="checkbox"/> First JAP under IGJ (*) <input type="checkbox"/> First JAP under ETC (**) <i>[one possibility only]; &lt;type='C' input='M'&gt;</i>
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(\*) First joint action plan submitted by the Member State under the Investment for growth and jobs goal in accordance with Article 104(3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council

(\*\*) First joint action plan submitted by the Member State under the European Territorial Cooperation goal, in accordance with Article 104(3) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council;

- (2) the title of part C is replaced by the following:

‘C. OBJECTIVES OF THE JAP’;

- (3) point C.1 is replaced by the following:

‘C.1. **Please describe the objectives of the JAP and how it contributes to the objectives of the programme or to the relevant country-specific recommendations and the broad guidelines of the economic policies of the Member States and of the Union under Article 121(2) TFEU and the relevant Council recommendations under Article 148(4) TFEU which Member States are to take into account in their employment policies.**

<type='S' maxlength='17500' input='M'>

- (4) point C.2 is replaced by the following:

‘C.2. **On the basis of the information provided in C.1, please set out the JAP objectives**

Number	Code	Objective
JAP objective 1 <type='S' input='S'>	<type='N' input='M'>	<type='S' maxlength='500' input='M'>
JAP objective 2'		
...		

- (5) point C.3 is deleted;

- (6) the title of part D is replaced by the following:

‘D. DESCRIPTION OF THE JAP’;

- (7) in point D.1.1 the text in the third column of the first row of the table is replaced by the following:

‘JAP objective(s) to which it contributes’;

- (8) the title of point D.1.2 is replaced by the following:

‘D.1.2. How will the projects contribute to achieving the JAP objectives? Please justify.’;

- (9) the title of point D.1.3 is replaced by the following:

‘D.1.3. What are the milestones, where relevant, and targets for outputs and results of these projects?’;

- (10) in point D.1.3, the text in the second column of the second row of the table is replaced by ‘the JAP indicator’;

- (11) point D.3 is deleted;

- (12) the text between points F and F1 is deleted;

(13) in point F.1 the text in the second column is replaced by the following:

‘(Please specify the starting date of implementation)’;

(14) the title of part G is replaced by the following:

‘G. Contribution of the JAP to horizontal principles’;

(15) between points G and G.1, the following text is inserted:

*‘Please confirm and explain how the JAP contributes to horizontal principles as set out in the relevant programme or Partnership Agreement’;*

(16) point G.1 is replaced by the following:

**‘G.1. The promotion of equality between men and women**

`<type='S' maxlength='3500' input='M'>`

(17) point G.3 is replaced by the following:

**‘G.3. The promotion of sustainable development**

`<type='S' maxlength='3500' input='M'>`

(18) point H.1.2 is replaced by the following:

‘H.1.2. Please provide information on the selection of the joint action plan in accordance with Article 125(3) of Regulation (EU) No 1303/2013.’;

(19) points H.1.2.1 and H.1.2.2 are deleted;

(20) point H.4. is deleted;

(21) point I.1 is replaced by the following:

I.1. Costs of achieving milestones, and targets for outputs and results (please also complete the appendix on indicators).

Please fill out the following tables with the indicators to be used for the financial management of the JAP, where relevant broken down by priority axis, Fund and category of region.’;

(22) point I.2 is deleted.

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(2) in part A, point 3.2, Table 9 (Cost of operations implemented outside the programme area (the ERDF and the Cohesion Fund under the Investment for growth and jobs goal)) is replaced by the following:

1.	2.	3.	4.	5.	6.
	Priority axis	The amount of EU support envisaged to be used for operations implemented outside the programme area based on selected operations (EUR)	As a share of the EU support to the priority axis at the time of adoption of the programme (%) (3/EU support to priority axis at the time of adoption of the programme * 100)	The amount of EU support in operations implemented outside the programme area based on eligible expenditure declared by the beneficiary to the managing authority (EUR)	As a share of the EU support to the priority axis at the time of adoption of the programme (%) (5/EU support to priority axis at the time of adoption of the programme * 100)
Cost of operations outside the programme area <sup>(1)</sup>	<type='S' input='S'>	<type='N' input='M'>	<type='P' input='G'>	<type='N' input='M'>	<type='P' input='G'>

<sup>(1)</sup> In accordance with and subject to ceilings set out in Article 70(2) of Regulation (EU) No 1303/2013 or Article 20 of Regulation (EU) No 1299/2013.

(3) in part A, point 3.2, in Table 13 (Joint action plans), the text of the eighth column of the first row is replaced by the following:

Type of JAP

1. normal
2. first JAP
3. YEI.

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## ANNEX IV

In Part A, point 8.2, of Annex X to Implementing Regulation (EU) 2015/207, in Table 8 (Joint Action Plans), the text of the eighth column of the first row is replaced by the following:

'Type of JAP

1. normal
2. First JAP'.

## ANNEX V

In Part C, point 15 of Annex V to Implementing Regulation (EU) 2015/207, the table is replaced by the following:

'13	14
Data for the purpose of the performance review and performance framework	
Only for the report submitted in 2019: Total eligible expenditure incurred by beneficiaries and paid by 31.12.2018 and certified to the Commission Article 21(2) of Regulation (EU) No 1303/2013	Only for the final implementation report: Total eligible expenditure incurred by beneficiaries and paid by 31.12.2023 and certified to the Commission Article 22(7) of Regulation (EU) No 1303/2013'

## ANNEX VI

In Part B, point 12 of Annex X to Implementing Regulation (EU) 2015/207, the table is replaced by the following:

'13	14
Data for the purpose of the performance review and performance framework	
Only for the report submitted in 2019: Total eligible expenditure incurred by beneficiaries and paid by 31.12.2018 and certified to the Commission Article 21(2) of Regulation (EU) No 1303/2013	Only for final the implementation report: Total eligible expenditure incurred by beneficiaries and paid by 31.12.2023 and certified to the Commission Article 22(7) of Regulation (EU) No 1303/2013'