### FICHE NO 11

**DELEGATED ACT ON GENERAL RULES ON ELIGIBILITY OF EXPENDITURE FOR COOPERATION PROGRAMMES**

**VERSION 3 – 20 SEPTEMBER 2013**

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*This document is provisional, without prejudice to the on-going negotiations in the Trilogues between the European Parliament and the Council (in line with the principle that "nothing is agreed until everything is agreed"). This document is a draft that shall be adjusted following the expert meeting.*

*It does not prejudge the final nature of the basic act, nor the content of any delegated or implementing act that may be prepared by the Commission.*
1. **Empowerment**

The proposed ETC Regulation provides in its Article 17(1) that the Commission shall set up specific rules on eligibility of expenditure for cooperation programmes by means of a delegated act.

"The Commission shall adopt delegated acts in accordance with Article 29 to set up specific rules on eligibility of expenditure for cooperation programmes with regard to staff costs, office and administrative expenditure, travel and accommodation costs, external expertise and services costs and equipment expenditure. The Commission shall notify the delegated acts, adopted in accordance with Article 29, simultaneously to the European Parliament and to the Council within four months of the adoption of this Regulation."

2. **Main Objectives and Scope**

The objective of the delegated act on eligibility of expenditure for cooperation programmes is to set out specific rules on European level with regard to staff costs, office and administrative expenditure, travel and accommodation costs, external expertise and services costs, and equipment expenditure. The specific rules apply without prejudice to the eligibility rules applicable to all ESI Funds set out in Articles 55 - 59 CPR and to the specific flat rate for staff costs set out in Article 18 ETC Regulation.

3. **Main Elements/Contents**

The delegated act on eligibility of expenditure will consist of general provisions and five sections related to (1) staff costs, (2) office and administrative expenditure, (3) travel and accommodation costs, (4) external expertise and services costs, and (5) equipment expenditure.

The general provisions will clarify the relation between the delegated act and the other eligibility rules. E.g. as regards lump sums (Article 57(1)(c) CPR established in accordance with Article 57(4) CPR), it will clarify that programmes are free to use them either for the whole operation or part of it in any of the following sections based on the fair, equitable and verifiable calculation method.

Section 1: Subject matter and scope

1. Without prejudice to the eligibility rules laid down in or on the basis of Articles 55 to 61 of the CPR, the delegated act will set out eligibility rules with regard to the following expenditure categories:

   a) staff costs,
   b) office and administrative expenditure,
   c) travel and accommodation costs,
   d) external expertise and service costs and
   e) equipment expenditure.
2. Member States participating in a given cooperation programme may establish that with regard to such cooperation programme the provisions for one or more expenditure categories do not apply to one or more priority axes, including the priority axis concerning technical assistance.

Where the provisions set out in the delegated act apply to one or more priority axes of a given cooperation programme (i.e. the category of costs e.g. office and administration expenditure, is considered eligible), the participating Member States are not allowed to apply only parts of these provisions or to establish less stricter rules on the specific items under each expenditure category.

Section 2: General provisions

1. Any expenditure eligible in accordance with the delegated act covers the costs for the initiating or initiating and implementing of an operation or of a part thereof.

2. Any expenditure under the ETC goal can either be reimbursed on the basis of:

   a) eligible costs actually incurred and paid, together with, where applicable, in kind contributions and depreciation under point (a) of Article 57(1) of the CPR; or
   b) one of the forms of simplified costs under points (b) to (d) of that Article.

3. As far as expenditure reimbursed on real costs basis is concerned, proof is given on the basis of legally binding contracts or written agreements as regards incurring expenditure and supported by receipted invoices, requests for reimbursement or accounting documents of equivalent probative value, meaning any document submitted by the body responsible for implementation to prove that the book entry gives a true and fair view of the transactions actually made, in accordance with standard accounting practice.

   Where applicable, documents should give evidence of the procurement procedure leading up to the award of the contract in line with the applicable EU, programme and national procurement rules, including the announcement, selection and award steps of the tendering procedure.

4. Any expenditure shall be governed by the principles of effective and economic financial management.

5. In accordance with Article 55(8) of the CPR no expenditure item included in a request for payment for reimbursement may be covered under more than one expenditure category or under more than one specific item under a given expenditure category.

Section 3: Staff costs

1. Expenditure for staff costs consist of costs of staff employed by the beneficiary and working full time or part time on operations in line with the employment/work contract. Such expenditure is eligible subject to the following conditions:
a) Staff costs relate to the cost of activities, which the relevant beneficiary/body would not carry out if the operation concerned was not undertaken;

b) Staff costs are in line with beneficiary salaries/wages and any other costs directly linked to the salary payments, incurred and paid by the employer, such as employment taxes and social security including pensions, as covered by Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems¹, provided

I. they are in accordance with the legislation and/or standard practices in the country and/or organisation in respect of equal treatment of all personnel;

II. they are fixed in the employment/work contract; and

III. they are not recovered by the employer.

c) Staff costs are either reimbursed on real cost basis or reimbursed under simplified cost options.

2. Expenditure for staff costs should be proportionate to the role and responsibilities of an individual staff member.

3. As regards staff costs related to individuals contractually engaged for an operation whose remunerations are calculated on the basis of hours actually worked on the operation and not on a fixed salary for a given period, staff costs are eligible, provided there is a time registration system in place allowing identification of the time worked including number of total hours worked for a given period and number of total hours actually worked on the operation.

The hourly rate shall be calculated by dividing the total annual staff cost of a given employee (total gross remuneration and social charges) by the number of total hours worked. The total annual staff cost shall be established on the basis of the latest documented annual gross employment costs available. Adjustments can be done once the actual total annual staff cost is known with regard to the year, during which work on the operation was done.

The eligible cost related to the remuneration is established by multiplying the hourly rate by the number of total hours actually worked on the operation. Number of total hours actually worked exclude non-working time (holidays, sickness etc).

4. For the purposes of eligibility rules to be included in the delegated act indirect costs linked to staff costs are considered office and administrative expenditure under Section 4.

**Section 4: Office and administrative expenditure**

1. Office and administrative expenditure cover costs borne by the beneficiary organization linked to the administration and implementation of the project.

These costs are either direct or indirect. They cover:

- Supplies (furniture, stationary, photocopying);
- Office and equipment rent;
- Insurance and taxes related to the buildings where the staff is located and to the equipment of the office (e.g. fire, theft insurances);
- Utilities (electricity, heating, water);
- Maintenance, cleaning and repairs;
- Security;
- IT system support;
- Communication (telephone, fax, internet, postal services, business cards); Bank charges for opening and administering the account or accounts where the implementation of an operation requires a separate account to be opened;
- Charges for transnational financial transactions;
- Foreign exchange difference costs.

2. Costs as defined in paragraph 1 can either be reimbursed on real cost basis or reimbursed on a flat rate basis according to Article 58(1) of the CPR.

**Section 5: Travel and accommodation costs**

1. Expenditure by the beneficiary for its staff for travel and accommodation costs cover the following costs:

- travel costs, including travel insurance;
- costs of meals;
- accommodation costs;
- daily allowances;
- visa costs.

Travel and accommodation expenses related to external experts and service providers fall into the category of expenditure as set out in Section 6.

2. Travel and accommodation costs must refer to staff of the beneficiary and must be directly related and essential for the operation.

3. Travel and accommodation costs shall be reimbursed on real cost basis except for daily allowances.

Any expenditure item listed in paragraph 1 and covered by a daily allowance cannot be also reimbursed on real cost basis.

Direct payment by an employee shall be supported by a proof of reimbursement by the employer.
4. Costs for accommodation and meals taken in establishments located outside the Union part of the programme area shall be eligible in accordance with Article 19(2) of the ETC Regulation unless covered by daily allowances. This also applies to local travel costs inside the area of a venue outside the Union part of the programme area.

As regards staff of beneficiaries located outside the Union part of the programme area, costs for travel to and back from the area of a venue inside or outside the Union part of the programme area as well as daily allowances or travel insurance and or visa costs - where not covered by daily allowances - are considered eligible in accordance with Article 19(2) of the ETC Regulation.

As regards staff of beneficiaries located inside the Union part of the programme area, costs for travel to and back from the area of a venue inside or outside the Union part of the programme area as well as daily allowances, travel insurance or visa costs - where not covered by daily allowances - shall be considered eligible in accordance with Article 19(1) of the ETC Regulation.

Section 6: External expertise and services costs

1. Expenditure for external expertise and services costs comprise the following professional services and expertise provided by a public or private law body other than the beneficiary on operations:

- studies or surveys;
- translations;
- website development;
- material concerning promotion, communication or information linked to an operation or to a cooperation programme as such;
- coordination of operations;
- financial management;
- services related to the organisation and implementation of events (including rent, catering or interpretation);
- legal consultancy fees, notarial fees, cost of technical and financial experts, other consultancy fees and accountancy fees;
- costs for control concerning verifications under Article 114(4)(a) of the CPR;
- cost of guarantees provided by a bank or other financial institution are eligible to the extent to which the guarantees are an EU, programme or national requirement;
- travel and accommodation costs related to external experts and service providers.

2. The following costs are not eligible:

- fines, financial penalties and expenditure on legal disputes and litigation;
- gifts.
Section 7: Equipment and investment expenditure

1. Expenditure for the financing of equipment and investment costs purchased or rented by the beneficiary on operations other than those covered by Section 6 comprise the following:

   a) equipment costs:
      - IT hardware and software,
      - laboratory equipment,
      - machines and instruments,
      - tools or devices,
      - second hand equipment,
      - other specific equipment needed for operations.

   b) investment costs including the planning thereof;

   c) purchase of land in accordance with Article 59(3)(b) of the CPR.

2. The full purchase price of equipment is only eligible if the item is solely used for the operation during its total economic and depreciable lifetime.

   In accordance with Article 59(2) of the CPR, depreciation is eligible only on a pro-rata basis in the following cases:

   a) equipment purchased before the operation approval but used solely for the operation purpose (pro rata as regards duration);
   b) equipment purchased before the operation, but used only partially on the operation during the operation lifetime (pro rata as regards amount and duration);
   c) Equipment purchased after the start of the operation but used only partially on the operation during the operation lifetime (pro rata as regards the amount).

   This share has to be calculated according to a justified and equitable method.

3. Durable equipment that is specially purchased or produced for operations may be considered eligible if it is without economic value or is scrapped after use.

4. **Main Changes Compared to the Period 2007-2013**

   The key change is that a clear hierarchy of rules is established and more extensive eligibility rules are set at EU level in order to provide for a more harmonised implementation frame for ETC programmes. In contrast, in the 2007-2013 period eligibility of expenditure is mostly determined on the basis of national rules.

   Extensive eligibility rules that are also applicable to ETC programmes are established in the CPR for 2014-2020, including provisions for the use of in-kind contribution,
depreciation or simplified cost options (flat rates, lump sums, standard scale of unit costs). In addition, the ETC Regulation contains a specific flat rate for staff costs.

The delegated act on eligibility of expenditure for cooperation programmes is an additional component to provide clarity on eligibility of expenditure for cost categories that have caused particular problems in the past. For areas that are not covered by rules thus established at EU level, the monitoring committee shall establish additional eligibility rules for the cooperation programme as a whole. National rules of the Member State in which the expenditure is incurred shall only apply as a last resort.