Commission Implementing Regulation (EU) 2020/879 of 23 June 2020 amending Implementing Regulation (EU) No 897/2014 as regards specific provisions to align the provisions for the implementation of cross-border cooperation programmes financed under the European Neighbourhood Instrument with specific measures in response to the COVID-19 pandemic

COMMISSION IMPLEMENTING REGULATION (EU) 2020/879

of 23 June 2020

amending Implementing Regulation (EU) No 897/2014 as regards specific provisions to align the provisions for the implementation of cross-border cooperation programmes financed under the European Neighbourhood Instrument with specific measures in response to the COVID-19 pandemic

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument[(1)], and in particular Article 12(1) thereof,

Having regard to Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action[(2)], and in particular Article 6(2) thereof,

Whereas:

(1) The implementation of cross-border cooperation programmes both under the European Neighbourhood Instrument and the European territorial cooperation (ETC) goal in accordance with Commission Implementing Regulation (EU) No 897/2014[(3)] has been affected by the consequences of the COVID-19 pandemic in an unprecedented manner. That exceptional situation needs to be addressed with specific measures, which should enable cross-border cooperation programmes under the European Neighbourhood Instrument to contribute to the response to the rapidly emerging needs in a flexible and effective way with regard to the most affected sectors, such as healthcare, business - including small and medium-sized enterprises - and labour market, and to foster the socio-economic recovery in the programmes' areas.

(2) Measures comparable to those introduced by Regulations (EU) 2020/460[(4)] and (EU) 2020/558[(5)] of the European Parliament and of the Council that are currently to apply to the cross-border cooperation programmes under the ETC goal should apply to the cross-border cooperation programmes under the European Neighbourhood Instrument.

(3) With a view to alleviating the budgetary charges incumbent on the participating countries or beneficiaries of the EU assistance in the context of the COVID-19 pandemic, the co-financing rule shall not apply to the Union contribution concerning

the expenditure incurred and paid as included in the programme annual accounts for the accounting year beginning on 1 July 2020 and ending on 30 June 2021.

(4) Because of the accumulation of delays at the beginning of the programming period and further slowdown of the implementation of projects caused by the COVID-19 pandemic, the deadline of 31 December 2021 for signing all contracts other than already concluded large infrastructure projects should be extended by another year until 31 December 2022. For the same reasons, project activities financed by the programmes cannot be expected to end on 31 December 2022. That deadline should therefore be extended by another year until 31 December 2023.

(5) Because of the different containment measures implemented in the participating countries, it may be difficult or even impossible for audit authorities to make on the spot audits and apply a statistical sampling method during a certain period. Therefore, as regards the accounting year from 1 July 2019 to 30 June 2020, audit authorities should be allowed to make use of a non-statistical sampling method.

(6) The selection of the projects may be done through an award without a call for proposals in exceptional cases and with a due justification in the context of the COVID-19 pandemic. The procedural steps to be taken by the Commission should be shortened by not requiring the submission of the full project application to the Commission for the assessment of the project.

(7) In Implementing Regulation (EU) No 897/2014 the term ‘final reports’ is used in two different contexts. That Implementing Regulation should therefore clearly distinguish between those final reports which cover the programme, on the one hand, and those final reports which concern the implementation of a specific project, on the other hand.

(8) The eligibility of expenditure fostering the crisis response capacities in the context of the COVID-19 pandemic should be exceptionally allowed as of 1 February 2020.

(9) Unlike Article 65(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council[6], which sets out 31 December 2023 as the final date for eligibility of expenditure with regard to cross-border cooperation programmes financed under the ETC goal, Implementing Regulation (EU) No 897/2014 does not set out such a date linked to expenditure with regard to cross-border cooperation programmes under the European Neighbourhood Instrument, but sets out certain deadlines linked to the project cycle and project activities. In order to ensure consistency between the provisions of Regulation (EU) No 1303/2013 and Implementing Regulation (EU) No 897/2014, the implementation of both types of cross-border cooperation programmes should be aligned to the extent possible. However, for reasons of legal certainty, the period during which activities linked to the closure of the programme and of projects may be carried out, namely between 1 January 2024 and 30 September 2024, should not be shortened. It is therefore appropriate to continue allowing for the eligibility of such activities and the respective expenditure thereof between 1 January 2024 and 30 September 2024. With regard to those periods, it is appropriate to extend the period of execution of programmes by one year, namely until 31 December 2025.

(10) In order to ensure legal certainty for participating countries, it is appropriate to align the specific arrangements and procedures for the final accounting year and for the programme closure with the provisions applicable to cross-border cooperation programmes under the ETC goal. In addition, full use of the Union contribution through cross-border cooperation programmes under the European Neighbourhood Instrument should be allowed to benefit from the additional flexibility provided for the calculation of the payment of the final balance at the end of the programming period.

(11) Because of the urgency of the situation related to the COVID-19 pandemic, it is appropriate to provide for prompt application of the measures provided for in this Regulation, which should therefore enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(12) Implementing Regulation (EU) No 897/2014 should therefore be amended accordingly.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Regulation (EU) No 232/2014,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) No 897/2014 is amended as follows:

(1) in Article 12, the following paragraph 4 is added:

4. By way of derogation from paragraphs 1 and 2, and in accordance with Article 6(1), no co-financing of the Union contribution shall be required for expenditure incurred and paid as included in the programme annual accounts for the accounting year from 1 July 2020 to 30 June 2021.;

(2) in Article 15, ‘31 December 2024’ is replaced by ‘31 December 2025’;

(3) Article 18 is amended as follows:

(a) in paragraph 2, ‘31 December 2021’ is replaced by ‘31 December 2022’;

(b) in paragraph 3, ‘31 December 2022’ is replaced by ‘31 December 2023’;

(4) in Article 19, paragraph 1 is replaced by the following:

1. Only activities linked to the closure of projects by beneficiaries in accordance with point (a)(iii) of Article 48(2) or linked to the closure of programmes under technical assistance may be carried out between 1 January 2024 and 30 September 2024.;

(5) in Article 28, the following paragraph 1a is inserted:

1a. For the purposes of paragraph 1, the COVID-19 pandemic shall constitute a duly justified case that the audit authority may invoke based on their professional judgement to use a non-statistical sampling method for the accounting year from 1 July 2019 to 30 June 2020.;

(6) Article 41 is amended as follows:

(a) in paragraph 1, the following point (c) is inserted: