Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 1304/2013 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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

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

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 164 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinions of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No 1303/2013 of the European Parliament and of the Council[(3)] establishes the framework for action by the European Social Fund (ESF), the European Regional Development Fund (ERDF), the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and lays down, in particular, the thematic objectives, the principles and the rules concerning programming, monitoring and evaluation, management and control. It is therefore necessary to specify the mission and scope of the ESF, together with the related investment priorities addressing the thematic objectives, and to lay down specific provisions concerning the type of activities that may be financed by the ESF.

(2) The ESF should improve employment opportunities, strengthen social inclusion, fight poverty, promote education, skills and life-long learning and develop active, comprehensive and sustainable inclusion policies in accordance with the tasks entrusted to the ESF by Article 162 of the Treaty on the Functioning of the European Union (TFEU), and thereby contribute to economic, social and territorial cohesion in accordance with Article 174 TFEU. In accordance with Article 9 TFEU, the ESF should take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.

(3) The European Council of 17 June 2010 called for all common policies, including cohesion policy, to support the Europe 2020 Strategy for smart, sustainable and

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inclusive growth (the 'Europe 2020 strategy'). In order to ensure the full alignment of the ESF with the objectives of this strategy, particularly as regards employment, education, training and the fight against social exclusion, poverty and discrimination, the ESF should support Member States, taking account of the relevant Integrated Guidelines and relevant country-specific recommendations adopted in accordance with Article 121(2) and Article 148(4) TFEU and, where appropriate, at national level, the national reform programmes underpinned by national employment strategies, national social reports, national Roma integration strategies and national disability strategies. The ESF should also contribute to relevant aspects of the implementation of the flagship initiatives, in particular the "Agenda for New Skills and Jobs", the "Youth on the Move", and the "European Platform against Poverty and Social Exclusion". It should also support relevant activities in the initiatives on the "Digital Agenda" and "Innovation Union".

(4) The Union is confronted with structural challenges arising from economic globalisation, technological change and an increasingly ageing workforce and growing skills and labour shortages in some sectors and regions. They have been compounded by the recent economic and financial crisis, which has resulted in increased levels of unemployment, hitting in particular young people and other disadvantaged people, such as migrants and minorities.

(5) The ESF should aim to promote employment, improve access to the labour market, paying particular attention to those who are furthest from the labour market and support voluntary labour mobility. The ESF should also support active and healthy ageing, including through innovative forms of work organisation, promoting health and safety at work and increasing employability. In promoting the better functioning of labour markets by enhancing the transnational geographical mobility of workers, the ESF should, in particular, support EURES activities (activities of the European network of employment services) in relation to recruitment and related information, advice and guidance services at national and cross-border level. Operations financed by the ESF should comply with Article 5(2) of the Charter of Fundamental Rights of the European Union which provides that no one shall be required to perform forced or compulsory labour.

(6) The ESF should also promote social inclusion and prevent and combat poverty with a view to breaking the cycle of disadvantage across generations which implies mobilising a range of policies targeting the most disadvantaged people regardless of their age including children, the working poor and older women. Attention should be paid to the participation of those seeking asylum and refugees. The ESF may be used to enhance access to affordable, sustainable and high quality services of general interest, in particular in the fields of health care, employment and training services, services for the homeless, out of school care, childcare and long-term care services. Services supported can be public, private and/or community-based, and delivered by different types of providers, namely public administrations, private companies, social enterprises, non-governmental organisations.

(7) The ESF should undertake to tackle early school leaving, promote equal access to good quality education, invest in vocational education and training, improve the labour

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market relevance of education and training systems and enhance life-long learning, including formal, non-formal and informal learning pathways.

(8) In addition to these priorities, in the less developed regions and Member States, and with a view to increasing economic growth and employment opportunities, the efficiency of public administration at national and regional level, as well as the ability of a public administration to act in a participative manner, should be improved. The institutional capacity of stakeholders, including non-governmental organisations, delivering employment, education, training and social policies, including in the field of anti-discrimination, should be strengthened.

(9) Support under the investment priority "community-led local development" may contribute to all thematic objectives as set out in this Regulation. Community-led local development strategies supported by the ESF should be inclusive with regard to disadvantaged people present on the territory, both in terms of governance of local action groups and in terms of content of the strategy.

(10) At the same time, it is crucial to support the development and competitiveness of micro, small and medium-sized enterprises of the Union and to ensure that people can adapt, through acquiring appropriate skills and through lifelong learning opportunities, to new challenges such as the shift to a knowledge-based economy, the digital agenda, and the transition to a low-carbon and more energy-efficient economy. By pursuing its primary thematic objectives, the ESF should contribute to addressing these challenges. In this context, the ESF should support the labour force transition from education to employment, towards greener skills and jobs, and should address skills shortages, including those in the energy-efficiency, renewable energy and sustainable transport sectors. The ESF should also contribute to cultural and creative skills. Socio-cultural, creative and cultural sectors are important in indirectly addressing the aims of the ESF; their potential should therefore be better integrated into ESF projects and programming.

(11) In light of the persistent need to make an effort to address youth unemployment in the Union as a whole, a Youth Employment Initiative (YEI) should be created for the most affected regions. The YEI should support, in such regions, young persons not in employment, education or training (NEET), who are unemployed or inactive, thereby reinforcing and accelerating the delivery of activities supported by ESF funding. Additional funds should be specifically attributed to the YEI and should be matched with funding from the ESF in the most affected regions. By targeting individual persons rather than structures, the YEI should aim to complement other ESF–funded operations and national actions targeting NEET, including through the implementation of the Youth Guarantee in line with the Council's Recommendation of 22 April 2013 on Establishing a Youth Guarantee[(4)], which provides that young persons should receive a good-quality offer of either employment, continued education, an apprenticeship or a traineeship within a period of four months of becoming unemployed or of leaving formal education. The YEI may also support actions to combat early school leaving. Access to welfare benefits for the young person and his/her family or dependants should not be conditional upon the young person's participation in the YEI.

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(12) The YEI should be fully integrated into ESF programming but, where appropriate, specific provisions related to YEI should be envisaged with a view to achieving its objectives. It is necessary to simplify and facilitate implementation of the YEI, in particular with regard to financial management provisions and thematic concentration arrangements. In order to ensure that the results of the YEI are clearly demonstrated and communicated, specific monitoring and evaluation, as well as information and publicity arrangements should be envisaged. Youth organisations should be involved in the monitoring committees' discussions on the preparation and implementation, including evaluation, of the YEI.

(13) The ESF should contribute to the Europe 2020 strategy, ensuring a greater concentration of support on the priorities of the Union. A minimum share of cohesion policy funding for the ESF is established in accordance with Article 92(4) of Regulation (EU) No 1303/2013. The ESF should in particular increase its support for the fight against social exclusion and poverty, through a minimum ring-fenced allocation of 20 % of the total ESF resources of each Member State. The choice and number of investment priorities for ESF support should also be limited, in accordance with the level of development of the supported regions.

(14) In order to ensure closer monitoring and improved assessment of the results achieved at the Union level by actions supported by the ESF, a common set of output and result indicators should be established in this Regulation. Such indicators should correspond to the investment priority and type of action supported in accordance with this Regulation as well as the relevant provisions of Regulation (EU) No 1303/2013. The indicators should be complemented where necessary by programme-specific result and/or output indicators.

(15) Member States are encouraged to report on the effect of ESF investments on equal opportunities, equal access and integration of marginalised groups in all operational programmes.

(16) Taking into account data protection requirements linked to collecting and storing sensitive data on participants, the Member States and the Commission should regularly evaluate the effectiveness, efficiency and impact of ESF support in promoting social inclusion and combating poverty, in particular with regard to disadvantaged people such as the Roma. Member States are encouraged to report on ESF-funded initiatives in the national social reports annexed to their national reform programmes, in particular as regards marginalised communities, such as the Roma and migrants.

(17) Efficient and effective implementation of actions supported by the ESF depends on good governance and partnership between all relevant territorial and socio-economic actors, taking into account the actors at regional and local levels, in particular the umbrella associations representing local and regional authorities, organised civil society, economic and, in particular, social partners and non-governmental organisations. Member States should therefore ensure the participation of social partners and non-governmental organisations in the strategic governance of the ESF, from shaping priorities for operational programmes to implementing and evaluating ESF results.

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(18) The Member States and the Commission should ensure that the implementation of the priorities financed by the ESF contributes to the promotion of equality between women and men in accordance with Article 8 TFEU. Evaluations have shown the importance of taking the gender equality objectives aspect into account in all dimensions and in all stages of the preparation, monitoring, implementation and evaluation of operational programmes, in a timely and consistent manner while ensuring that specific actions are taken to promote gender equality, the economic independence of women, education and skills upgrading and the reintegration of female victims of violence into the labour market and into society.

(19) In accordance with Article 10 TFEU, the implementation of the priorities financed by the ESF should contribute to combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation by paying particular attention to those facing multiple discrimination. Discrimination on the ground of sex should be interpreted in a broad sense so as to cover other gender-related aspects in line with the case law of the Court of Justice of the European Union. The implementation of the priorities financed by the ESF should also contribute to promoting equal opportunities. The ESF should support the fulfilment of the Union's obligation under the UN Convention on the Rights of Persons with Disabilities with regard inter alia to education, work, employment and accessibility. The ESF should also promote the transition from institutional to community-based care. The ESF should not support any action that contributes to segregation or to social exclusion.

(20) Support for social innovation contributes to making policies more responsive to social change. The ESF should encourage and support innovative social enterprises and entrepreneurs as well as innovative projects taken on by non-governmental organisations and other actors within the social economy. In particular, testing and evaluating innovative solutions before scaling them up is instrumental in improving the efficiency of policies and thus justifies specific support from the ESF. Innovative solutions could include, provided they prove to be effective, the development of social metrics such as, for example, social labelling.

(21) Transnational cooperation has significant added value and should therefore be supported by all Member States with the exception of duly justified cases taking account of the principle of proportionality. It is also necessary to reinforce the Commission's role in facilitating exchanges of experience and coordinating implementation of relevant initiatives.

(22) With a view to fostering an integrated and holistic approach in terms of employment and social inclusion, the ESF should support cross-sectoral and territorial-based partnerships.

(23) The mobilisation of regional and local stakeholders should help to deliver the Europe 2020 strategy and its headline targets. Territorial pacts, local initiatives for employment and social inclusion, sustainable and inclusive community-led local development strategies in urban and rural areas and sustainable urban development strategies may be used and supported to involve more actively regional and local authorities, cities,