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COMMISSION DELEGATED REGULATION (EU) .../...

of 10.10.2019

amending Council Regulation (EU, Euratom) 2019/1197 as regards the deadlines by which the United Kingdom would have to fulfil the conditions for eligibility for Union funding following the withdrawal of the United Kingdom from the Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

As mentioned in its Communication of 12 June 2019 on the state of play of preparations of contingency measures for the withdrawal of the United Kingdom from the European Union, the Commission concluded that there was no need to modify substantively any of the contingency measures adopted by the European Union in view of mitigating the most serious impacts in case of a withdrawal. The only changes that the Commission envisaged were technical adaptations to take into account the extension of the period provided for by Article 50(3) of the Treaty on European Union. This measure is one of those technical adjustments.

Indeed, Council Regulation (EU, Euratom) 2019/1197 of 9 July 2019 on measures concerning the implementation and financing of the general budget of the Union in 2019 in relation to the withdrawal of the United Kingdom from the Union¹ provides *inter alia* for continued eligibility in 2019 of the United Kingdom and United Kingdom beneficiaries to receive financing from the Union's budget under certain conditions.

The eligibility is subject in particular to the United Kingdom confirming the commitment in writing to the Commission to continue to pay a contribution to the budget in 2019 calculated on the basis of the estimated own resources from the United Kingdom in the approved budget for 2019, to pay a first instalment and to confirm the commitment in writing to the Commission to allow audits and controls in full by the Union in compliance with the applicable rules. The Commission should then adopt a decision on the fulfilment of the conditions.

The Regulation sets the deadline for the United Kingdom's acceptance of the aforementioned conditions (by 30 April 2019) and a payment schedule (first payment by 13 May 2019, followed by payment of monthly instalments on the first working day of each month until August 2019 and payment of the remaining amount on the first working day of September 2019). These dates have been established considering the possibility of the United Kingdom leaving the European Union with no deal on 13 April 2019. At the same time, Article 2(3) and Article 3(3) of the Regulation empower the Commission to modify these dates through a delegated act, possibly adopted under the urgency procedure.

The Regulation entered into force on 16 July and shall apply from the day following that on which the Treaties cease to apply to and in the United Kingdom, unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date.

Pursuant to the European Council Decision (EU) 2019/584 of 11 April 2019² the United Kingdom withdrawal will take place on the first day of the month following the completion of the ratification procedures of the withdrawal agreement or on 1 November 2019, whichever is the earliest.

Consequently, the deadlines by which the United Kingdom would have to fulfil the conditions laid down in Council Regulation 2019/1197 and the payment schedule should be updated to take into account the extension of the period provided for in Article 50(3) TEU until 31 October 2019.

¹ OJ L 189, 15.7.2019, p. 1.

² OJ L 101, 11.4.2019, p. 1.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

As the delegated act is limited to updating the deadlines and the payment schedule, no impact assessment was carried out. In accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³ Member State experts have been consulted and their contributions have been considered by the Commission when preparing a draft for this Delegated Regulation. In order to ensure equal participation in the preparation of delegated act the European Parliament and the Council have received all documents at the same time as the Member States' experts.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

In order to prevent a risk of serious disruption of the implementation and financing of the Union budget for 2019, especially for beneficiaries of Union spending programmes and other actions, in the event of the United Kingdom leaving the European Union with no deal on 31 October 2019, it is appropriate to adopt this delegated Regulation under the urgency procedure detailed under Article 8 of Regulation (EU, Euratom) 2019/1197, as provided for in Articles 2(3) and 3(3) of Regulation (EU, Euratom) 2019/1197. This delegated Regulation shall therefore enter into force without delay, the day following that of its publication in the Official Journal, and shall apply as long as no objection is expressed.

Either the European Parliament or the Council may object within a period of one month of notification of that act to the European Parliament and the Council. That period may be extended by one month at the initiative of the European Parliament or of the Council. In case of objection, the Commission shall repeal the delegated Regulation immediately following the notification of the decision to object by the European Parliament or by the Council.

In view of the need for certainty, it is appropriate to limit the time for the fulfilment of the conditions by the United Kingdom. In addition, the deadlines should be defined by reference to the date of withdrawal rather than as fixed dates to prevent the need for further updates through delegated acts in the event of future developments.

Accordingly, the deadlines and payment schedule are set as follows:

- the United Kingdom needs to confirm at the latest 7 calendar days after the date of withdrawal the commitment in writing to the Commission to continue to pay a contribution to the budget in 2019 calculated on the basis of the estimated own resources from the United Kingdom in the approved budget for 2019;
- the United Kingdom needs to make at the latest 20 calendar days after the date of withdrawal the first payment on the account determined by the Commission;
- the United Kingdom needs to confirm at the latest 7 calendar days after the date of withdrawal the commitment in writing that it will accept the controls and audits which cover the entire period of the programmes and actions in accordance with the applicable rules;
- the United Kingdom needs to pay at the latest 30 calendar days after the date of withdrawal the remaining monthly instalments on the account determined by the Commission.

³ OJ L 123, 12.5.2016, p. 1.

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THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EU, Euratom) 2019/1197 of 9 July 2019 on measures concerning the implementation and financing of the general budget of the Union in 2019 in relation to the withdrawal of the United Kingdom from the Union⁴, and in particular Articles 2(3), 3(3) and 8 thereof,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties will cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) Regulation (EU, Euratom) 2019/1197 lays down the conditions under which the United Kingdom and persons and entities established in the United Kingdom would continue to be eligible for Union funding for eligible expenditure incurred in 2019 from the date on which the Treaties cease to apply to and in the United Kingdom, and sets the deadlines by which the United Kingdom would have to fulfil the conditions for such continued eligibility, including a payment schedule for the months after August 2019.
- (3) The deadlines and the payment schedule have been set considering the possibility of the United Kingdom withdrawing from the Union without an agreement on 13 April 2019.
- (4) On 11 April 2019, the European Council adopted Decision (EU) 2019/584⁵ further extending the period under Article 50(3) TEU in agreement with the United Kingdom until 31 October 2019.
- (5) It is therefore appropriate to extend the deadlines by which the United Kingdom would have to fulfil the conditions laid down in Regulation (EU, Euratom) 2019/1197 and to amend the payment schedule in order to take into account the extension of the period provided for in Article 50(3) TEU until 31 October 2019.
- (6) Regulation (EU, Euratom) 2019/1197 should therefore be amended accordingly.

⁴ OJ L 189, 15.7.2019, p. 1.

⁵ European Council Decision (EU) 2019/584 of 11 April 2019 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3) TEU (OJ L 101, 11.4.2019, p. 1).

- (7) It is also noted that the condition referred to in Article 3(1)(a) of Regulation (EU, Euratom) 2019/1197 is no longer relevant.
- (8) To prevent a risk of serious disruption of the implementation and financing of the Union budget in 2019, especially for beneficiaries of Union spending programmes and other actions at the date of the withdrawal of the United Kingdom from the Union, this Regulation should be adopted under the urgency procedure detailed under Article 8 of Regulation (EU, Euratom) 2019/1197 and as provided in Articles 2(3) and 3(3) of that Regulation, and should enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union. It should apply from the day following that on which the Treaties cease to apply to and in the United Kingdom, unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU, Euratom) 2019/1197 is amended as follows:

- (1) in Article 2(1), points (a), (b) and (c) are replaced by the following:
- (a) the United Kingdom, within 7 calendar days after the date of withdrawal, has confirmed in writing to the Commission that it will contribute in euros the amount displayed in the line ‘United Kingdom’ and the column ‘Total own resources’ of table 7 of the part ‘A. Introduction and financing of the general budget of the Union’ of the revenue part of the budget for 2019 set out in the general budget of the European Union for the financial year 2019⁶, as adopted on 12 December 2018, reduced by the amount of own resources made available by the United Kingdom in respect of the financial year 2019 before the date of withdrawal, in accordance with the payment schedule laid down in this Regulation;
- (b) the United Kingdom, within 20 calendar days after the date of withdrawal, has paid on the account determined by the Commission the first payment which corresponds to the instalment referred to in the second subparagraph of this paragraph multiplied by the result of the following: the number of full months between the date of withdrawal and the end of the year 2019 reduced by the number of months between the month of the first payment, excluding that month, and the end of the year 2019;
- (c) the United Kingdom, within 7 calendar days after the date of withdrawal, has confirmed the commitment in writing to the Commission that it will continue to accept the controls and audits which cover the entire period of the programmes and actions in accordance with the applicable rules; and’
- (2) in Article 3(1), point (b) is replaced by the following:
- (b) the United Kingdom, within 30 calendar days after the date of withdrawal, has paid on the account determined by the Commission the remaining monthly instalments referred to in the second subparagraph of Article 2(1); and’.

⁶ Definitive adoption (EU, Euratom) 2019/333 of the European Union's general budget for the financial year 2019 (OJ L 67, 7.3.2019, p. 1).

Article 2

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

It shall apply from the date following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) TEU.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) TEU has entered into force by the date referred to in the second paragraph of this Article.

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

Done at Brussels, 10.10.2019

*For the Commission
The President
Jean-Claude JUNCKER*