



Use of EU funds during the pandemic

The law on special measures supporting the implementation of operational programmes in connection with the COVID-19 occurrence in 2020 introduces exemptions from some of the current rules in respect of project implementation and calls for applications for co-financing. The most important measures from the point of view of beneficiaries and applicants are summarised below. Each of them applies from 1 February 2020 to 31 December 2020.

Irregularities in relation to projects

- » The existing provisions on the reimbursement of irregular expenditure do not apply to irregularities resulting from COVID-19. The amount corresponding to the financial adjustment for such irregularities is to be borne by the State budget. However, the beneficiary must demonstrate that it was unable to prevent the occurrence of the irregularity despite exercising due care. However, irregularities the occurrence of which are connected with a failure to achieve the project's objective are treated in a slightly different way. If the cause of the failure to achieve the objective is the occurrence of COVID-19, expenditure incurred in respect of this objective may nevertheless be considered eligible, if the beneficiary can demonstrate that it undertook action in due time with the aim of recovering the funds incurred to achieve the objective or that such recovery was not possible. If the beneficiary succeeds in recovering the funds in question within three years of the date when they were found eligible, the funds are to be reimbursed to the competent authority.

Amendments to co-financing agreements

- » Where the implementation of the provisions of a co-financing agreement, to the extent required by the project selection criteria, proves impossible or significantly impeded as a result of COVID-19, the co-financing agreement may be amended at the request of the beneficiary (even if the amendment affects the fulfilment of the project selection criteria in a way that would result in a negative evaluation of the project i.e. the project would not have been co-financed if those circumstances had applied at the time of application).

Extension of deadlines for the implementation of projects and submission of payment claims

- » The following deadlines are subject to extension:
 - > the deadline for submission of payment claims falling in the period up to 31 December 2020 – by 30 days; and
 - > the deadline for completion of projects - by 90 days, but not later than 31 December 2023.
- » Those time limits may be further extended, at the request of the beneficiary, but no longer than 31 December 2023 and only in particularly justified cases.

Change of a partner in the project

- » If the preparation or implementation of a partner-based project proves impossible or significantly impeded as a result of COVID-19, it is possible to select, change or engage an additional partner in respect of the project, including after the co-financing application has been submitted (with consent of the competent authority).

WKB's experts are at your disposal.

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Inspections and recovery of irregular expenditure

- » The time limits for performing project inspections may be extended, including the 14-day deadline for raising objections to a post-inspection findings report. However, it should be noted that an extension of the deadline for raising such objections is also possible under the existing legislation.
- » The time limits for administrative proceedings for the recovery of irregularly paid amounts are extended by 3 months if the proceedings prove impossible or impeded (the competent authority is not required to inform the beneficiary of the causes for the failure to complete the case within the original time limit, and the beneficiary is not entitled to file a reminder)
- » Administrative proceedings for reimbursement of co-financing may also be suspended ex officio or at the reasoned request of a party for a maximum of 180 days. No interest is charged for the period from the date of the decision to suspend the proceedings to the date of the delivery of the decision to the party.
- » It is possible to suspend the execution of a decision to require reimbursement of irregularly spent funds for a period not exceeding 180 days, either ex officio or at the request of a party. No interest is charged for the period from the date of the order to suspend execution of the decision until the date of delivery of the order repealing the decision.
- » A competent authority may, at the request of the beneficiary, apply discounts on the repayment of irregular expenditures which are subject to reimbursement, such as redemption deferral or distribution in instalments.
- » A beneficiary who, due to the occurrence of COVID-19, did not reimburse irregularly expended funds on time will not be disqualified from receiving future co-financing.

Applying for co-financing

- » In order to limit the negative impact of COVID-19 on the implementation of operational programmes, the approved project evaluation criteria may be changed at any time. This means that, when a call for applications is pending, the criteria according to which the applicants' projects were originally to be assessed may be modified.
- » The rules of competitions and the deadlines for submitting co-financing applications may also be changed. In such a case, the provisions of the implementation law, according to which, pending the outcome of the competition, the competent authority may not amend the competition rules in such a way as to result in unequal treatment of applicants, do not apply.
- » The possibility to update the schedule of calls for applications at any time has been introduced (at present, this cannot be done for a competition which is scheduled to take place within 3 months from the date of the update).
- » Where the failure to comply with the deadline for submission of a co-financing application is directly attributable to COVID-19, the application may be deemed to have been submitted on time if the delay in submission does not exceed 14 days.
- » The deadlines for rectifying formal deficiencies or correcting obvious mistakes in respect of a co-financing application may be extended to 30 days (currently it is a maximum of 21 days).
- » There is the possibility to request an extension (by a maximum of 30 days) of the deadline for filing a protest, supplementing it or correcting obvious mistakes. Such a request should demonstrate that it was either impossible or difficult to meet the deadline due to COVID-19.
- » A protest may be filed in electronic form if, as a result of COVID-19, it is impossible or significantly impeded to file a written protest.