

2. European Social Fund

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Typology of indicative measures under the ESF and YEI to address the COVID-19 crisis

[Typology ESF measures to address COVID.pdf](#)

Short Time Work Schemes

FAQ

[Short Time Work Schemes FAQ.pdf](#)

Short-time work schemes (STW) are public programmes that allow firms experiencing economic difficulties to temporarily reduce the working hours of their employees, who in turn receive income support from the State for the hours not worked.

The main purpose of these schemes is to avoid dismissals, protecting employees and limiting the consequences of a shock. Also, the use of short-time work allows the burden of the adjustment to be shared more equally across employees, and preserves the human capital of the concerned firms.

A key characteristic is that the employment relationships are maintained during the period of short-time work, even in cases when working hours are reduced to zero (i.e. a full suspension of work).

The ESF can play an important role, in particular in Member States with large national allocations, to support the Member States' efforts to delay the spread of the virus, including mitigating measures such as the reduction of hours worked, the organisation of flexible work arrangements such as shifts, etc.

In particular, the ESF can support, short-time work schemes for workers, as follows:

- *Under Thematic Objective 9, investment priority on "access to services":* Priority to workers in **sectors directly affected by the public health ban to congregate** (notably the hospitality sector - bars, restaurants, shops, schools, etc. closed as closure was imposed to halt the spreading of the Coronavirus, but also for staff in aviation given the numerous restrictions to travel for the same reason). In this case, there is **no need to combine these schemes with active measures** (e.g. training) as these STW measures are driven by the need to ensure access to healthcare services by delaying the spread of the virus.
- *Under Thematic Objective 8, in particular the investment priority on "adaptation of workers and enterprises to change":* STW measures to maintain employment in **sectors not directly at the forefront of combating the spread of the virus, but undergoing side-effects**: e.g. suffering delays in delivery of supplies or facing a drop in demand, for those sectors and companies; STW arrangements supported by the ESF should be **more consistently accompanied by active measures**: requirements to ensure access to training for staff (which can take place through distance learning or at a later stage), or a commitment of companies to maintain these workers in employment for a certain duration (e.g. at least equal to

the duration of the time the worker was benefitting from the STW). This is due to the fact that these STW measures are driven by the aim to maintain employment and therefore require an active component. However, in light of the urgency of the current Coronavirus crisis, this is not a requirement, rather a recommendation in how to design ESF support.

It should be underlined that in case a scheme pursues two objectives (containing the spread of the virus and maintaining employment), Member States have flexibility and they can, if they so wish, also programme these STW schemes under the employment thematic objective (TO 8) in particular the investment priority on “adaptation of workers to change”. This is justified by the fact that these STW measures - whilst driven by the need to ensure access to healthcare services by delaying the spread of the virus - also aim at maintaining employment. As these schemes pursue two objectives, it is up to Member States to decide to programme them either under thematic objective 8 or 9.

The following general conditions apply:

- **the time duration of the exceptional STW arrangements** supported by the ESF should be clearly stipulated in relevant national legislation and ESF eligibility rules.
- Member States should make sure that **national law allows such schemes**.
- The **national eligibility rules** need to comply with the very limited set of eligibility rules at EU level (in the Common Provisions Regulation and the ESF Regulation). The national eligibility rules on the ESF should determine what is eligible. Member States have ample flexibility in defining the eligible costs.
- Member States also have the competence to determine **how they will check whether the eligibility rules are complied with**. It will be useful to also discuss these with the national audit authority as this will determine what will have to be checked at the different levels (by the managing authority, by the national Audit Authority and by the Commission auditors). This also ensures audit certainty with regard to such expenditure under the European Social Fund. It is therefore of utmost importance to keep it simple and avoid gold-plating.

EE	<p>On the present scope of the ESF regulation we would ask confirmation that it is possible to grant:</p> <ul style="list-style-type: none"> · Temporary wage support for people already employed, but at risk of layoffs. Under which investment priorities could this be planned? We request confirmation because some ESF investment priorities refer explicitly to narrower target groups.
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As short time work arrangements (STWA), by definition, do not change the participant’s labour market situation, MAs will report common result indicators, by default, with zero. The common output indicators are applicable. The minimum requirement is the recording and reporting of the set of non-sensitive data on labour market status: employment situation (by default: employed), age and educational attainment, broken down by gender.

Specific result indicators, especially if a specific aim is sought (e.g. “workers still in employment 6 months after the support” or “number of workers kept in full-time jobs”) may be considered for communication purposes and for the evaluation of the scheme’s effectiveness.

In the context of the regulatory changes proposed in the Corona Response Investment Initiative, the Court of Auditors have recalled the necessity to sustain the accountability for spending EU funds^[1]. The absence of microdata means that no quantitative method can be used for evaluations purposes and thus limits seriously the robustness of evaluations.

In the absence of the complete set of non-sensitive data, participants are reported only to the grand total of participants. For this emergency support, the resulting cumulative increase in the mismatch between the common output indicators and the grand total of participants in the concerned parts of the programme will not be considered as a serious deficiency in the quality and reliability of the monitoring system or of the data on common indicators.

^[1] Opinion No 3/2020 (pursuant to Articles 287(4) and 322(1)(a), TFEU) on the proposal 2020/0054(COD) for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1303/2013 and Regulation (EU) No 1301/2013 as regards specific measures to provide exceptional flexibility for the use of the European Structural and Investments Funds in response to the COVID-19 outbreak

EL	<p>Is there an obligation for STW interventions to collect microdata to measure common indicators for participants when these will be incorporated as separate actions into the respective investment priorities of OPs?</p> <p>Please verify that we can use programme specific indicators for participants without the obligation to collect microdata and consequently without the obligation to measure and report values for common indicator.</p>
EL	<p>What if a MS cannot collect data on all common indicators for STW schemes?</p>

Short-time work schemes generally do not apply to the **self-employed** (who can organise their work freely, and assume the business risks associated with their entrepreneurial activity). However, the ESF can also support specific schemes for the self-employed.

As it is the case for STW, depending on the intervention logic, support for self-employed can be programmed under the investment priority on **adaptation of workers and enterprises to change** (Article 3(1)(a)(v) of the ESF Regulation) in case these measures are aimed at ensuring that workers and companies can adapt to the new crisis and maintain their job or business. This support can also be programmed under the investment priority on **“access to services”** (Article 3(1)(b)(iv) ESF Regulation) in case closure of businesses was imposed by the government to contain the spread of the virus.

It should be underlined that in case a scheme supports both objectives (i.e. containing the spread of the virus and maintaining employment), Member States have flexibility and they can, if they so wish, also programme these support schemes under the employment thematic objective (TO 8), in particular the investment priority on “adaptation of workers and enterprises to change”. This is justified by the fact that these measures - whilst driven by the need to ensure access to healthcare services by delaying the spread of the virus - also aim at maintaining employment. As these schemes pursue two objectives, it is up to Member States to decide to programme them either under thematic objective 8 or 9.

IT	Can the ESF provide financial support to self-employed, e.g. electricians or plumbers, who during the lockdown are not working?
PL	Please confirm the possibility of implementing the intervention planned from the ESF: In the details our shielding programme, to be financed by ESF, will cover: - temporary (3/6 months) co-financing of part of the remuneration costs of employees of a given entrepreneur and social security contributions due from them - in the case of entrepreneurs employing employees, - temporary (3/6 months) co-financing of part of the costs of running a business - in the case of an entrepreneur who is a natural person not having employees (self-employed). In financial terms ESF input would come from TO 8 at national and regional levels.

Eligibility of expenditure for Coronacrisis response operations supported by the ESF

ESF eligibility rules are national [1]: The national eligibility rules on the ESF should determine what is eligible. Member States have ample flexibility in defining the eligible costs of the actions. These national eligibility rules need to comply with the very limited set of eligibility rules at EU level (in the Common Provisions Regulation and the ESF Regulation).

[1] Article 65(1) CPR.

■ Temporary wage support for medical staff and officials in charge of containing the spread of the outbreak

The temporary wage support for **doctors and medical staff pulled out of retirement for addressing the Coronavirus crisis** is eligible for support by the ESF if this is provided in the national eligibility rules. This is a measure required to ensure access to healthcare services.

The temporary wage support for **staff recruited for controlling borders and other officials in charge of containing the spread of the outbreak** are eligible for support by the ESF if this is provided in the national eligibility rules. These measures are **driven by the need to ensure access to the healthcare system** by containing and delaying the spread of the virus. The intervention logic and the aim of these measures is to ensure that the healthcare system does not implode and that the access to health services can be guaranteed during the entire duration of this crisis. These measures are crucial for containing the spread of the virus and ensure that the healthcare services can still be provided to those who need them, including the most vulnerable.

These measures can be programmed under the investment priority on access to services set out in Article 3(1)(b)(iv) of the ESF Regulation. This can be done for as long it is necessary to achieve the objective of ensuring access to the healthcare system. It is also up to Member States to decide on the type of labour contract to be used depending on their legal framework.

▪ Eligibility of medicines, medical devices and protective material

Medical devices and protective materials can also be supported by the ESF. There is no need to make use of cross-financing under the investment priority on access to services. This can be explained by the fact that these actions are necessary in order to ensure that the healthcare systems remains accessible, including for the most vulnerable. They can also be supported under cross-financing^[2].

[2] Article 98(2) CPR.

▪ Who can benefit from prevention measures?

Prevention measures (awareness raising and provision of medical equipment such as masks, gloves, etc can be provided **to all** as this is crucial in order to contain the spread of the virus and ensure that the healthcare system remains accessible. It can be supported by the ESF under the investment priority on access to services (Article 3(1)(b)(iv) ESF Regulation).

IT	Can ESF fund the distribution of prevention measures (awareness raising and provision of medical equipment such as masks, gloves, etc.) to third country nationals (and EU citizens), independently from their residence status? (i.e. under access to services investment priority)?
RO	<p>The scope of ESF investment priorities is broad enough to cover any response measures following the unexpected situation created by CORONAVIRUS. Under ESF RO envisage to finance operations by modifying Human Capital Operational Programme 2014-2020 at the level of priority axis 3 and 4, in order to support activities like the ones listed below, as:</p> <p>Support for essential health programs and services with a strong component focused on prevention, early detection (screening), early diagnosis and treatment of priority pathologies (eg. cardiovascular disease, cancer, diabetes, COPD, chronic kidney disease, hepatitis chronic, tuberculosis, HIV-AIDS, pandemic diseases as COVID - 19). .. and within the 10% ERDF be financed exclusively medical devices (respirators) and protective materials (masks, protective suits. Is that possible?</p>
BG	In the joint letter of Commissioners Ferreira and Schmit to Member States on the CRII and EUSF support, it is stated that Structural Funds could provide extended support through the financing of medicines, testing and treatment facilities. We would like to receive more clarifications and specifications on the scope and from which Fund these could be financed, especially in terms of the eligible medicines to be purchased (at least, so far there is no widely acknowledged and certified medicine/treatment for COVID-19).
EE	<p>On the present scope of the ESF Regulation we would ask confirmation that it is possible to grant:</p> <ol style="list-style-type: none"> 1. Temporary wage support for doctors and other medical staff pulled out of retirement temporarily to help with crisis efforts. 2. Temporary wage support for engaging border guards and other officials in charge of containing the spread of the outbreak.
RO	Can we support health services aimed at this type of epidemic pathology, as well as expenses for temporary employment of medical staff?

Transfers between funds

Transfers between the ERDF and ESF are possible as the Common Provisions Regulation does not determine the split between the ERDF and the ESF. It only contains an aggregate amount for the ERDF and the ESF by category of region.

For the ESF each Member State needs to ensure that the **ESF minimum share** is respected, i.e. the allocation to the ESF cannot be lower than this amount that is determined in accordance with the methodology set out in Annex IX CPR. There is **no minimum share for the ERDF**. It is therefore possible to make transfers between the ERDF and the ESF as long as the ESF minimum share is respected.

Transfers **cannot concern previous years**. This means that the transfers are now limited to the 2020 allocation.

Transfers between Funds (either within the same programme or between programmes) require a **programme amendment** which needs **to be approved by the Commission still in 2020**. Member States can submit the request for programme amendments later (after approval by the monitoring committee^[1]) when the situation has become more stable. This has **no impact on eligibility** as the expenditure for operations for fostering crisis response capacities in the context of the COVID-19 outbreak will be eligible as of **1 February 2020** (as proposed by the Commission)^[2]. The Commission commits to swiftly approve these programme amendments related to the Coronavirus crisis.

There is no need to first amend the Partnership Agreement. The Partnership Agreement will be updated following the annual update^[3] in 2021.

For the sake of completeness, it is recalled that transfers between categories of region are possible up to a limit of 3% of the total appropriation for a category of region to other categories of region^[4].

Transfers between, on the one hand, the Cohesion Fund and, on the other hand, the ERDF or ESF are not possible as the budget for the Cohesion Fund (as well as for the ERDF and the ESF taken together) is fixed in Article 92 CPR and there is no provision in the CPR that allows these transfers.

^[1] Internal rules of the monitoring committee generally allow for an approval by written procedure.

^[2] COM(2020)113.

^[3] Article 16(4a) CPR.

^[4] Article 93(2) CPR.

HR	Implementation of Short term employment schemes - Croatia will finance it from unallocated ESF that covers 15% of needed funding. We would like to discuss possibility for financing/reallocation from other cohesion policy funds
MT	MT has a high absorption rate, the degree of flexibility is limited and none for the ESF. ESF envelope fully committed - question about flexibility of introducing a short-time work scheme
LT	Is it possible to transfer between the Funds - from ERDF, CF to priorities financed by ESF? What are the limits?

ESF Simplified Cost Options

We would like to highlight that there are three sets of questions and answers, which have been published on the “1. Structural Funds – horizontal questions” page on the CRII platform, which are also applicable to the operations utilising SCOs.

These are the following:

- COVID-19 and Force Majeure
 - ‘COVID-19 and Force Majeure – General
- Eligibility & Flexibility
 - Eligibility of expenditure for affected operations
 - Flexibility to adjust affected operations

PL	The impact of the coronavirus COVID-19 on the implementation of the ESF projects is visible. PL understands that costs within projects connected with cancelled meetings and seminars are eligible in case of projects with real costs. However, it is not so obvious in case of projects, where SCOs (lump sums, flat rates, standard scale of unit costs) are used. The rules applied at EU level seem not to give the possibility to lessen the negative impact of the crisis for such beneficiaries. Can the Commission confirm what the approach is regarding SCOs?
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- The Commission Delegated Regulation (EU) 2015/2195 / the Delegated Act Art. 14(1) does not establish a condition that the training has to take place in a classroom and that it cannot take place via distance learning. This is only specified in the ‘fiches’ which MS submit in view of the inclusion of an SCO in the Delegated Act.
- There is therefore no need to amend the Delegated Act to reflect that trainings can also take place via distance learning /e-learning. However, the fiches would need to be updated (to provide for this possibility following the COVID-19 outbreak and to set out the audit trail as the MA would need to be able to provide proof that the training occurred and that the employees took part in it).

DG EMPL has already received updated fiches and is assessing them.

CZ	Article 14(1) unit costs on training of employees - given the current situation, the Czech authorities would like to use unit costs from the Delegated Act also for distance trainings (using videoconference tools allowing tracking of participants and keeping logs). However one of the conditions for the use of these unit costs, as outlined in their fiche, is that the unit costs cannot be used for distance trainings (online, e-learnings).
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For the unit costs for Portugal set out in Commission Delegated Regulation (EU) 2015/2195 (training for public sector employees) it is to be noted that there is no restriction in the text of the delegated regulation that limits the training to classroom-type trainings. The way the training should be delivered is not specified in the text of the delegated regulation itself. The template/fiche submitted by the Member State describes in more detail the operations and audit trail, most notably. It also sets out how trainings will be delivered (i.e. classroom trainings) and that is the agreed way of implementing these trainings. These fiches can be changed to include operations that switch from classroom-type training to e-learning due to COVID-19 restrictions, upon mutual agreement between the Member State and the Commission, without the need to change the Commission Delegated Regulation. The Member State therefore needs to submit an updated fiche/template to the Commission which the Commission should agree upon.

EU-level SCOs for training of unemployed people: The situation is similar as described above, but there is one condition (footnote 6): *“The training courses can be primarily either institutional or workplace-based, but must be delivered at least partly in an institutional setting.”* In our view, this is the case for trainings that have already started in a classroom and are now changed into e-learning/distance learning. The measurement unit for the indicator triggering reimbursement by the Commission remains unchanged, i.e. the “Number of participants who have successfully completed a training course”.

EU-level SCOs for training of employees: The situation is similar to the unit costs for Portugal. The Commission Delegated Regulation does not specify that the training needs to take place in a classroom. For ongoing operations, switching to e-learning is possible and the measurement unit for the indicator triggering reimbursement remains unchanged.

1. *Number of completed hours of training to employed persons per participant.*
2. *Number of hours of salary paid to employees while on a training course.*

Footnote: As demonstrated by a verifiable time management system.

For the sake of completeness, your attention is also drawn to the [Q&A on flexibility to adjust affected operations](#).

PT	<p>As a consequence of the measures to prevent the proliferation of COVID-19, namely restrictions to the circulation of people, new forms of work namely teleworking have been introduced. This has consequences in the way that trainings are organized as it is no longer possible to be in classrooms. Considering that the e-learning training modality, is an excellent tool in the current context, as it promotes social distance, we would like to ask about the use of SCOs in these situations, in particular:</p> <p>a) Is it possible to continue to finance training operations with the SCOs established under delegated acts, if the training will no longer take place in the classroom and will it be carried out in a distance training regime (e-learning), in situations where the participants are in teleworking regime in consequence of the unprecedented circumstances we are facing?</p> <p>b) If the answer is positive, what procedures should be adopted to formalize this situation and obtain the Commission agreement/approval?.</p>
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