

COUNCIL REGULATION (EEC) No 2082/93

of 20 July 1993

amending Regulation (EEC) No 4253/88 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 130e and 153 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

In cooperation with the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas Regulation (EEC) No 2081/93 ⁽⁴⁾ amends Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments ⁽⁵⁾; whereas Regulation (EEC) No 4253/88 should therefore be amended ⁽⁶⁾;

Whereas, under Article 3a of Regulation (EEC) No 2052/88, the provisions of that Regulation governing the Structural Funds and the provisions necessary for the coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank (EIB) and the other existing financial instruments apply to the financial instrument for fisheries guidance (FIFG);

Whereas the coordination provided for in Regulation (EEC) No 4253/88 should therefore be extended to the FIFG and to the cohesion financial instrument; whereas coordination through the Communities' budgetary resources can also concern the measures accompanying the reform of the common agricultural policy (CAP), the framework programmes for research and technological development, the trans-European networks and the economic restructuring of the countries of central and eastern Europe; whereas the economic and social effectiveness of Community action depends on coherence,

particularly with the framework programmes for research and technological development and education and training programmes;

Whereas the Member States should submit their development plans as soon as possible in order not to delay the implementation of structural assistance from 1 January 1994;

Whereas, in order to simplify and speed up programming procedures, there should be provision for the Commission to adopt simultaneously the Community support frameworks and the forms of assistance submitted largely in the form of a limited number of operational programmes at the same time as development plans; whereas for the same reason there should be provision for the plan and the application for assistance to be presented in a single document and for the Community support framework to be adopted and assistance granted through a single Commission decision;

Whereas, in application of the principle of subsidiarity, and without prejudice to the Commission's powers, particularly its responsibility for the management of the Community's financial resources, implementation of the forms of assistance contained in the Community support frameworks should be primarily the responsibility of the Member States at the appropriate territorial level according to the specific needs of each Member State;

Whereas the principle of additionality and the criteria and procedures for its verification should be defined;

Whereas measures of major importance to the Community undertaken at the initiative of the Commission have an important role to play in achieving the general objectives of Community structural action referred to in Article 1 of Regulation (EEC) No 2052/88; whereas such initiatives should primarily promote cross-frontier, transnational and inter-regional cooperation and aid to the outermost regions, in accordance with the principle of subsidiarity;

Whereas, in order to increase the flexibility of Community structural assistance, there should be provision for assistance undertaken at the initiative of the Commission in the context of Objectives 1, 2 and 5 (b) to concern exceptionally areas other than those eligible under those Objectives; whereas the question of

⁽¹⁾ OJ No C 118, 28. 4. 1993, p. 33.

⁽²⁾ Opinion delivered on 22 June 1993 (not yet published in the Official Journal) and Decision of 14 July 1993 (not yet published in the Official Journal).

⁽³⁾ OJ No C 201, 26. 7. 1993, p. 52.

⁽⁴⁾ See page 5 of this Official Journal.

⁽⁵⁾ OJ No L 185, 15. 7. 1988, p. 9.

⁽⁶⁾ OJ No L 374, 31. 12. 1988, p. 1.

cross-frontier cooperation with Community priority regions may also be addressed by the Phare programme, taking account of complementary support under the Community Structural Funds;

Whereas, in order to minimize delays in financial flows, the time allowed for the Commission to pay financial assistance to the Member State and for the Member State to pay that assistance to the final beneficiaries should be laid down, so that the funds are available to the final beneficiaries in good time for them to carry out their measures;

Whereas the role and powers of the monitoring committees should be laid down;

Whereas there should be greater transparency in the implementation of structural assistance; whereas, to that end, care should be taken to ensure compliance with Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment⁽¹⁾; whereas it is appropriate that projects benefiting from Community assistance should be specified when published in a notice in the *Official Journal of the European Communities* under the rules relating to the award of public contracts;

Whereas appraisal and evaluation are the responsibility both of the Member States and of the Commission in the framework of partnership; whereas, in addition, to enhance the effectiveness and financial viability of Community assistance, *ex ante* appraisal, monitoring and *ex post* evaluation should be strengthened;

Whereas it is appropriate to lay down the detailed transitional provisions including provisions to ensure that aid to Member States is not interrupted pending the establishment of the plans and operational programmes in accordance with the new system,

HAS ADOPTED THIS REGULATION:

Article 1

Articles 1 to 33 of Regulation (EEC) No 4253/88 shall be replaced by the following:

1. COORDINATION

Article 1

General provisions

Pursuant to Regulation (EEC) No 2052/88, the Commission shall, in a manner consistent with

partnership, ensure coordination of the activities of the different Funds and the FIFG as between themselves and with the operations of the EIB and the other existing financial instruments.

Article 2

Coordination between the Funds and the FIFG

Coordination between the activities of the various Funds and the FIFG shall be carried out in particular through:

- Community support frameworks,
- multiannual budget forecasts,
- where advisable, the implementation of integrated forms of assistance,
- prior appraisal, monitoring and *ex post* evaluation of operations under the Funds carried out in connection with a single objective and of those carried out in connection with a number of objectives in the same territory.

Article 3

Coordination between the Funds, the EIB and the other existing financial instruments

1. In implementing the objectives referred to in Article 1 of Regulation (EEC) No 2052/88, the Commission shall ensure, within the framework of the partnership, coordination and consistency between assistance from the Funds and assistance provided:

- by the European Coal and Steel Community (ECSC) in the form of re-adaptation aids, loans, interest subsidies or guarantees,
- by the EIB, the New Community Instrument and the European Atomic Energy Community (Euratom) in the form of loans and guarantees,
- from resources from the Community budget allocated in particular:
 - to other actions for structural purposes,
 - to the cohesion financial instrument.

Such coordination shall be carried out in keeping with the EIB's own powers and responsibilities and with the objectives of the other instruments concerned.

2. The Commission shall associate the EIB in the use of the Funds or the other existing financial instruments with a view to the part-financing of investments that are eligible for financing by the EIB in accordance with its Statute.

Article 4

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⁽¹⁾ OJ No L 158, 23. 6. 1990, p. 56.

II. PLANS

Article 5

Scope and content

1. Subject to the guidelines laid down in this Article, plans submitted in connection with Objectives 1 to 4 and 5 (b) shall be drawn up at the geographical level deemed to be most appropriate. They shall be prepared by the competent national, regional or other authorities designated by the Member State and shall be submitted by the Member State to the Commission.

Plans submitted in connection with Objective 1 shall, as a general rule, cover one region at NUTS (Nomenclature of Territorial Units for Statistics) level II. However, in implementation of the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that such plans comprise the features listed in the first subparagraph of the said paragraph 4.

Plans submitted in connection with Objectives 2 and 5 (b) shall normally cover one or more regions a NUTS level III.

Member States may submit plans covering a wider territory than that of eligible regions or areas, provided that they distinguish between measures in eligible regions or areas and measures elsewhere.

2. For regions concerned by Objective 1, the regional development plans shall include measures to the conversion of declining industrial areas and rural development, the adaptation of agricultural and fisheries structures, together with employment and vocational training measures under Objective 1 and, where appropriate, those in connection with Objectives 3 and 4.

Regional and social conversion plans submitted in connection with Objective 2 and rural development plans submitted in connection with Objective 5 (b) shall also include employment and vocational training measures other than those covered by plans submitted in connection with Objectives 3 and 4.

Plans submitted in connection with Objectives 3 and 4 shall distinguish between expenditure in respect of the regions covered by Objectives 1 and, if possible, 2 and 5 (b) and expenditure in respect of other regions.

In the plans, Member States shall indicate the particulars relating to each Fund, including the volumes of assistance requested. In order to expedite the examination of applications and the implementation of action, they may include in their

plans, applications for assistance for operational programmes and other forms of assistance.

Member States may submit in a single programming document the information required for each of the plans and referred to in Articles 8 to 10 and 11a of Regulation (EEC) No 2052/88 and the information required pursuant to Article 14 (2).

3. Member States shall ensure, when the plans are drawn up, that plans relating to the same geographical area are mutually consistent.

4. Member States shall ensure that the plans take account of Community policies.

Article 6

Duration and timetable

Each plan shall as a general rule cover a period of three or six years. The first programming period shall begin on 1 January 1994. As a general rule, the plans may be revised on an annual basis and in the event of significant changes in the socio-economic situation and the labour market.

Unless otherwise agreed with the Member State concerned, plans in respect of Objectives 1, 3 and 4 shall be submitted not later than three months after the entry into force of this Regulation. Plans in respect of Objectives 2 and 5 (b) shall be submitted not later than three months after the establishment of the list of eligible areas under the objectives concerned.

Article 7

Preparation

1. The Commission may provide Member State at their request with any technical assistance necessary in the preparation of plans.

2. The plans shall contain information making it possible to assess the link between structural action and the Member State's economic, social and where appropriate, regional policies.

III. COMMUNITY SUPPORT FRAMEWORKS

Article 8

Preparation, scope and content

1. The Community support frameworks relating to Objectives 1 to 4 and 5 (b) shall be drawn up on the

basis of the plans in agreement with the Member State concerned within the framework of the partnership and shall be established by decision of the Commission in accordance with the procedures laid down in Title VIII. The EIB shall also be involved in the preparation of the Community support frameworks.

2. A Community support framework shall cover a period of three or six years.

3. Each Community support framework shall include:

- a statement of the priorities for joint Community and national action in relation to the objectives referred to under Article 1 of Regulation (EEC) No 2052/88, their specific objectives, quantified where they lend themselves to quantification, an appraisal of the expected impact, including with regard to employment, together with information on their consistency with the economic, social and, where appropriate, regional policies of the Member State concerned,
- an outline of the assistance which is not decided at the same time as the Community support framework including, for operational programmes, their specific objectives and the main types of measure involved,
- an indicative financing plan specifying the financial allocations envisaged for the various forms of assistance and the duration thereof, including those of the Funds, the EIB and the other existing financial instruments provided for in Article 3 (1), where they contribute directly to the financing plan concerned,
- the procedures for monitoring and evaluation,
- the procedures for verifying additionality and an initial evaluation of the latter; appropriate information concerning the transparency of the relevant financial flows, in particular from the Member State concerned to the recipient regions,
- for Objectives 1, 2 and 5 (b), the arrangements for associating the environmental authorities designated by the Member States in the implementation of the Community support framework,
- where appropriate, information on the means available for any studies or necessary technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned.

Article 9

Additionality

1. In order to achieve a genuine economic impact, the Structural Funds and the FIFG appropriations

allocated in each Member State to each of the objectives under Article 1 of Regulation (EEC) No 2052/88 may not replace public expenditure on structural or comparable expenditure undertaken by the Member State in the whole of the territory eligible under an objective.

2. For this purpose, in establishing and implementing the Community support frameworks, the Commission and the Member State concerned shall ensure that the Member State maintains, in the whole of the territory concerned, its public structural or comparable expenditure at least at the same level as in the previous programming period, taking into account, however, the macroeconomic circumstances in which the funding takes place, as well as a number of specific economic circumstances, namely privatizations, an unusual level of public structural expenditure undertaken in the previous programming period and business cycles in the national economy.

The Commission and the Member States shall also agree, in establishing the Community support frameworks, the arrangements for verifying additionality.

3. To permit verification of the principle of additionality, the Member State shall provide the relevant financial information to the Commission at the time of the submission of the plans and regularly during the implementation of the Community support frameworks.

Article 10

Approval and implementation

1. Unless otherwise agreed with the Member State concerned, the Commission shall take a decision approving the Community support framework not later than six months after receiving the relevant plan or plans.

When adopting its decision on the Community support framework, the Commission shall also approve, in accordance with Article 14 (3), applications for assistance submitted at the same time as the plans in so far as they include the information requested under Article 14 (2).

If the Member State submits a single programming document containing all the information referred to in the last subparagraph of Article 5 (2), the Commission shall adopt a single decision in a single document covering the points referred to in Article 8 (3) and the assistance from the Funds referred to in the last subparagraph of Article 14 (3).

2. The Commission decision on the Community support framework shall be sent as a declaration of

intent to the Member State. The decision shall be published in the *Official Journal of the European Communities*. At the request of the European Parliament, the Commission shall transmit to it this decision and the Community support framework which it approves, for information.

The Commission and the Member States shall ensure that measures accounting for at least two-thirds of assistance from the Funds during the first year of the Community support framework are approved by the Commission within two months of adoption of its decision on the Community support framework.

Article 11

Community initiatives

1. In accordance with Article 5 (5) of Regulation (EEC) No 2052/88, the Commission may, on its own initiative and in accordance with the procedures provided for in Title VIII, and after having informed the European Parliament accordingly, decide to propose to the Member States that they submit applications for assistance in respect of measures of significant interest to the Community. Any assistance approved pursuant to this provision shall be reflected in the establishment or revision of the relevant Community support framework.

For operations of transnational interest, pursuant to the previous subparagraph, two or more Member States may, on their own initiative or at the invitation of the Commission, submit a single application for assistance. In response to these applications the Commission may, in consultation with the Member States concerned, take a single decision granting aid for all these Member States.

2. For a limited part of the appropriations available, the forms of assistance approved under paragraph 1 in the context of the priority Objectives 1, 2 and 5 (b) may cover areas other than those under Articles 8, 9 and 11a of Regulation (EEC) No 2052/88.

Article 12

Forms of assistance

Assistance covered by a Community support framework shall be provided predominantly in the form of a limited number of operational programmes.

Article 13

Integrated approach

1. At the initiative of a Member State, or of the Commission pursuant to Article 11 and in agreement

with the Member State concerned, assistance shall be implemented in the form of an integrated approach if:

- (a) the programme involves financing by more than one Fund or at least one Fund and one financial instrument other than a loan instrument;
- (b) the measures to be financed by different Funds or financial instruments are mutually reinforcing and significant benefits are likely to accrue from close coordination between all the parties involved;
- (c) the appropriate administrative structures are provided at national, regional and local level in the interests of integrated implementation of the assistance.

2. The desirability of implementing measures on the basis of an integrated approach shall be considered at the time a Community support framework is established or revised.

3. In the implementation of integrated approaches, the Commission shall ensure that Community assistance is provided in the most effective manner, taking into account the special coordination effort required.

IV. ASSISTANCE FROM THE FUNDS

Article 14

Processing of applications for assistance

1. Applications for assistance from the Structural Funds and the FIG, with the exception of the technical assistance measures referred to in Article 5 (2) (e) of Regulation (EEC) No 2052/88 and undertaken at the initiative of the Commission, shall be prepared by the Member State or by the competent national, regional, local or other authorities designated by it and shall be submitted to the Commission by the Member State or by any body it may designate to do so. Each application shall relate mainly to the forms of assistance provided for in Article 5 of that Regulation.

2. Applications shall contain the information the Commission needs in order to assess them where this is not already included in the plans, including a description of the proposed measure, its scope, including geographical coverage, and specific objectives. Applications shall also include the results of prior appraisal of the medium-term economic and social benefits of the proposed measures commensurate with the resources to be deployed, the bodies responsible for implementation, the proposed beneficiaries and the proposed timetable and financing plan, together with any other information necessary to

verify that the measure concerned is compatible with Community legislation and policies.

3. The Commission shall examine applications with a view in particular to:

- assessing the conformity of the proposed operations and measures with the relevant Community legislation and, where appropriate, with the relevant Community support framework,
- assessing the contribution of the proposed operation to the achievement of its specific objectives and, in the case of an operational programme, the consistency of the constituent measures,
- checking that the administrative and financial mechanisms are adequate to ensure effective implementation,
- determining the precise arrangements for providing assistance from the Fund or Funds concerned on the basis, where appropriate, of the information already given in any relevant Community support framework.

The Commission shall decide on assistance from the Funds and the FIG, provided that the requirements of this Article are fulfilled, as a general rule within six months of receipt of the application. A single Commission decision shall be taken in respect of assistance from all the Funds and other existing financial instruments contributing to the financing of assistance, including assistance established in the form of an integrated approach.

4. The respective commitments of the partners, in the framework of an agreement within the partnership, shall be reflected in the Commission's decisions to grant assistance.

Article 15

Eligibility

1. Subject to Article 33, expenditure in respect of measures covered by Objectives 1 to 4 and 5 (b) shall be eligible for financial assistance from the Structural Funds only if the measures in question come within the relevant Community support framework.
2. Subject to Article 33, expenditure may not be considered eligible for assistance from the Funds if incurred before the date on which the corresponding application reaches the Commission.

Article 16

Specific provisions

1. In the case of global grants, the intermediaries who shall be designated by the Member State

concerned in agreement with the Commission must provide appropriate guarantees of solvency and have the necessary administrative capability to manage the operations envisaged by the Commission. The intermediaries shall also be selected in the light of the particular situation in the Member States or areas concerned. Without prejudice to Article 23, the management of global grants shall be subject to control by the competent authorities designated by the Member States.

2. The Funds may provide financial assistance towards expenditure in respect of major projects, i. e. those the total cost of which taken into account in determining the amount of Community assistance is, as a general rule, greater than ECU 25 million for infrastructure investments or greater than ECU 15 million for productive investments.

3. In addition to similar assistance connected with the operations of the various Funds, the Commission may, for up to 0,3% of the Funds' total allocation, finance studies and technical assistance linked to the joint or coordinated deployment of the Structural Funds, the EIB and the other financial instruments:

- in preparation for the establishment of plans,
- with a view to assessing the impact and effectiveness of assistance provided under the relevant Community support framework,
- in relation to integrated operational programmes.

V. DIFFERENTIATION OF COMMUNITY ASSISTANCE

Article 17

Financial contribution from the Funds

1. Pursuant to Article 13 (5) of Regulation (EEC) No 2052/88, the financial contribution of the Funds to the financing of measures covered by Objectives 1 to 4 and 5 (b) shall be laid down by the Commission, within the framework of the partnership, on the basis of Article 13 (1) of Regulation (EEC) No 2052/88, within the limits laid down by Article 13 (3) of the said Regulation and in accordance with the procedures provided for in that Article.

2. The financial contribution from the Funds shall be calculated in relation to either the total eligible cost of, or the total public or similar eligible expenditure (national, regional or local, and Community) on, each measure (operational programme, aid scheme, global grant, project, technical assistance, study).

3. Where the measure concerned entails the financing of revenue-generating investments, the Commission shall determine, within the framework of the partnership, the contribution from the Funds or these investments, in compliance with the provisions of Article 13 (3) of Regulation (EEC) No 2052/88 and on the basis of the criteria referred to in paragraph 1 of that Article, taking account of, among their intrinsic characteristics, the size of the gross self-financing margin which would normally be expected for the class of investments concerned in the light of the macroeconomic circumstances in which the investments are to be implemented, and without there being any increase in the national budget effort as a result of contribution by the Fund.

In any event, in connection with the development effort in the regions concerned, the contribution from the Funds to investments in enterprises may not exceed 50% of the total cost in the regions covered by Objective 1 and 30% of the total cost in the other regions.

4. The contribution of the Funds for individual measures forming part of operational programmes may be differentiated in accordance with agreements to be concluded within the framework of the partnership.

Article 18

Combination of grants and loans

The combination of loans and grants referred to in Article 5 (4) of Regulation (EEC) No 2052/88 shall be determined in conjunction with the EIB when the Community support framework is being established. It shall take account of the balance in the proposed financing plan, the contribution from the Funds established in accordance with Article 17 and the development objectives pursued.

VI. FINANCIAL PROVISIONS

Article 19

General provisions

1. Financial assistance from the Structural Funds shall be subject to the relevant rules applicable to the Funds under the Financial Regulation.
2. The financial assistance to be granted in respect of specific measures undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in that support framework.
3. In order to avoid administrative delays at the end of the year, Member States shall ensure that request for payments are, as far as possible, submitted in accordance with a balanced schedule throughout the year.

Article 20

Commitments

1. Budgetary commitments shall be made on the basis of the Commission decisions approving the measures concerned. They shall be valid for a period depending on the nature of the measures and on the specific conditions for their implementation.

2. Commitments in respect of measures to be carried out over a period of two or more years shall, as a general rule, and subject to the provisions of paragraph 3, be effected in annual instalments. The commitments in connection with the first annual instalment shall be made when the decision approving the measure is adopted by the Commission.

Commitments in connection with subsequent instalments shall be based on the financing plan for the initial or revised measure concerned and on the progress made in implementing it.

3. For measures to be carried out over a period of less than two years or, subject to available funding, where the Community assistance granted is less than ECU 40 million, the total amount of Community assistance shall be committed when the Commission adopts the decision approving the measure.

Article 21

Payments

1. Payments of financial assistance shall be made in accordance with the corresponding budgetary commitments to the national, regional or local authority or body designated for the purpose in the application submitted through the Member State concerned as general rule within two months from receipt of an acceptable application. They may take the form either of advances or of final payments in respect of expenditure actually incurred. For measures to be carried out over a period of two or more years payments shall relate to the annual instalments of commitments referred to in Article 20 (2).

2. The advance made following each commitment may be up to 50% of the amount committed, taking into account the nature of the measure concerned.

3. A second advance such that the sum of the two advances does not exceed 80% of the commitment shall be made after the responsible body has certified that at least half of the first advance has been used up and that the measure is progressing at a satisfactory rate and in accordance with the objectives laid down.

The payments shall be made to the final beneficiaries without any deduction or retention which could reduce the amount of financial assistance to which they are entitled.

4. Payment of the balance in respect of each commitment shall be conditional on:

- submission to the Commission by the designated authority or body referred to in paragraph 1 of a request for payment within six months of the end of the year concerned or of completion in practice of the operation concerned,
- submission to the Commission of the relevant reports referred to in Article 25 (4),
- transmission by the Member State to the Commission of a certificate confirming the information contained in the request for payment and the reports.

5. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 3 and 4 and shall ensure that the beneficiaries receive the advances and payments as soon as possible, and as a general rule within three months of receipt of the appropriations by the Member State and provided that the beneficiaries' applications fulfil the conditions necessary for payment to be made.

6. In the case of studies and innovation schemes undertaken on its own initiative, the Commission shall determine the appropriate payment procedures.

Article 22

Use of the ecu

Commission decisions, commitments and payments shall be denominated and carried out in ecus in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

This Article shall be applicable as soon as the Commission decision referred to in the first subparagraph has been adopted.

Article 23

Financial control

1. In order to guarantee completion of operations carried out by public or private promoters, Member States shall take the necessary measures in implementing the operations:

- to verify on a regular basis that operations financed by the Community have been properly carried out,
- to prevent and to take action against irregularities,
- to recover any amounts lost as a result of an irregularity or negligence. Except where the Member State and/or the intermediary and/or the promoter provide proof that they were not responsible for the irregularity or negligence, the Member States shall be liable in the alternative for reimbursement of any sums unduly paid. For global loans, the intermediary may, with the agreement of the Member State and the Commission, take up a bank guarantee or other insurance covering this risk.

Member States shall inform the Commission of the measures taken for those purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of operations. They shall regularly inform the Commission of the progress of administrative and judicial proceedings.

Member States shall keep and make available to the Commission any appropriate national control reports on the measures included in the programmes or other operations concerned.

As soon as this Regulation enters into force, the Commission shall draw up detailed arrangements for implementation of this paragraph in accordance with the procedures referred to in Title VIII and inform the European Parliament thereof.

2. Without prejudice to checks carried out by Member States, in accordance with national laws, regulations and administrative provisions and without prejudice to the provisions of Article 206 of the Treaty or to any inspection arranged on the basis of Article 209 (c) of the Treaty, Commission officials or servants may carry out on-the-spot checks, including sample checks, in respect of operations financed by the Structural Funds and management and control systems.

Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. If the Commission carries out on-the-spot checks without giving notice, it shall be subject to agreements reached in accordance with the provisions of the Financial Regulation within the framework of the partnership. Officials or servants of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the regularity of payment requests. Commission

officials or servants may take part in such checks and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.

3. For a period of three years following the last payment in respect of any operation, the responsible body and authorities shall keep available for the Commission all the supporting documents regarding expenditure and checks on the operation.

Article 24

Reduction, suspension and cancellation of assistance

1. If an operation or measure appears to justify neither part nor the whole of the assistance allocated, the Commission shall conduct a suitable examination of the case in the framework of the partnership, in particular requesting that the Member State or authorities designated by it to implement the operation submit their comments within a specified period of time.

2. Following this examination, the Commission may reduce or suspend assistance in respect of the operation or a measure concerned if the examination reveals an irregularity or a significant change affecting the nature or conditions for the implementation of the operation or measure for which the Commission's approval has not been sought.

3. Any sum received unduly and to be recovered shall be repaid to the Commission. Interest on account of late payment shall be charged on sums not repaid in compliance with the provisions of the Financial Regulation and in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII.

VII. MONITORING AND EVALUATION

Article 25

Monitoring

1. Within the framework of the partnership, the Commission and the Member States shall ensure effective monitoring of implementation of assistance from the Funds, geared to the Community support framework and specific operations (programmes, etc.). Such monitoring shall be carried out by way of jointly agreed reporting procedures, sample checks and the establishment of monitoring committees.

2. Monitoring shall be carried out by reference to physical and financial indicators specified in the Commission decision approving the operation concerned. The indicators shall relate to the specific character of the operation, its objectives and the form of assistance provided and to the socio-economic and structural situation of the Member State in which the assistance is to be utilized. They shall be arranged in such a way as to show, for the operations in question:

- the stage reached in the operation and the goals to be attained within a given timespan,
- the progress achieved on the management side and any related problems.

3. Monitoring committees shall be set up within the framework of the partnership, by agreement between the Member State concerned and the Commission.

The Commission and, where appropriate, the EIB may delegate representative to those committees.

4. For each multiannual operation, the authority designated for the purpose by the Member State shall submit progress reports to the Commission within six months of the end of each full year of implementation. A final report shall be submitted to the Commission within six months of completion of the operation.

For each operation to be implemented over a period of less than two years, the authority designated for the purpose by the Member State shall submit a report to the Commission within six months of completion of the operation.

5. The monitoring committee shall, if necessary, without modifying the total amount of the Community contribution and within harmonized limits by Objective, adjust the procedure for granting assistance as initially approved, as well as, in conformity with available resources and budgetary rules, the financing plan envisaged, including any transfers between Community sources of finance and the consequential adjustments of the rates of assistance. The harmonized limits by Objective referred to above shall be established by the Commission according to the procedure referred to in Title VIII and included in the Community support frameworks.

These amendments shall be notified immediately to the Commission and the Member State concerned. They shall become effective as soon as confirmation has been provided by the Commission and the Member State concerned; such confirmation shall be

given within a period of 20 working days from receipt of this notification, the date of which will be confirmed by the Commission by acknowledgement of receipt.

Other amendments required shall be decided by the Commission, in collaboration with the Member State concerned, after the monitoring committee has delivered its opinion.

6. For the greater effectiveness of the Funds, the Commission shall ensure that particular attention is paid to transparency of management in its administration of them.

For this purpose, in the context of the application of Community rules on the award of public contracts, notices sent for publication in the *Official Journal of the European Communities* shall specify those projects for which Community assistance has been applied for or granted.

7. Wherever this Regulation or the Regulations referred to in Article 3 (4) and in Article 3a of Regulation (EEC) No 2052/88 provide for the Commission to determine detailed arrangements for implementation, the precise details which are adopted shall be notified to the Member States and published in the *Official Journal of the European Communities*.

Article 26

Appraisal and evaluation

1. Appraisal and evaluation shall be the responsibility both of the Member States and the Commission and be carried out within the framework of the partnership. The competent authorities in the Member States shall contribute in such a way as to ensure that this appraisal and evaluation can be carried out in the most effective manner. In this connection, appraisal and evaluation shall make use of the various particulars that the monitoring arrangements can yield in order to gauge the socio-economic impact of the operations, where appropriate in close association with the monitoring committees.

Assistance will be allocated where appraisal shows medium-term economic and social benefits commensurate with the resources deployed.

2. In order to ensure the effectiveness of Community assistance, measures taken for structural purposes shall be subject to appraisal, monitoring and, after their implementation, evaluation. Effectiveness shall be measured at three levels:

— their overall impact on the objectives set out in Article 130a of the Treaty, and in particular the strengthening of the economic and social cohesion of the Community,

— the impact of measures proposed in the plans and undertaken under each Community support framework,

— the impact of individual measures (programmes etc.).

Appraisal and evaluation shall, according to the circumstances, be carried out by contrasting the goals with the results obtained, where applicable, and by reference to macroeconomic and sectoral objectives and indicators based on regional or national statistics, to information yielded by descriptive and analytical studies and to qualitative analyses.

Appraisal and evaluation shall take account of the socio-economic benefits expected or achieved commensurate with the resources deployed, conformity with Community policy and rules as referred to in Article 7 (1) of Regulation (EEC) No 2052/88 and the conditions in which the measures are implemented.

3. In drawing up Community support frameworks and in vetting individual applications for assistance, the Commission shall take into account the findings of appraisals and evaluations made in accordance with this Article.

4. The principles and procedures pertaining to appraisal and evaluation shall be laid down in the Community support framework.

5. The results of the appraisals and evaluations shall be submitted to the European Parliament and the Economic and Social Committee within the framework of the annual report and the three-yearly report provided for in Article 16 of Regulation (EEC) No 2052/88.

VIII. COMMITTEES

Article 27

Advisory Committee on the Development and Conversion of Regions

In accordance with Article 17 of Regulation (EEC) No 2052/88, an Advisory Committee on the Development and Conversion of Regions, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative. The European Parliament shall receive regular information on the outcome of the proceedings of the committee.

The Commission representative shall submit to the committee a draft of the measures to be taken. The

committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, where appropriate by taking a vote.

The opinion shall be recorded in the minutes. In addition, each Member State shall have the right to request that its position be recorded in those minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which it took account of the opinion.

The committee shall deliver opinions on draft Commission decisions concerning the Community support frameworks as provided for in Article 8 (5) and 9 (9) of Regulation (EEC) No 2052/88, on the regular reports provided for in Article 8 of Council Regulation (EEC) No 4254/88⁽¹⁾ and on the drawing-up and revision of the list of areas eligible in connection with Objective 2. The matters referred to in Article 10 of Regulation (EEC) No 4254/88 may also be referred to it by the Commission.

The committees referred to in Articles 28 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

⁽¹⁾ OJ No L 374, 31. 12. 1988, p. 15.

Article 28

Committee under Article 124 of the Treaty

In accordance with Article 17 of Regulation (EEC) No 2052/88, the committee set up under Article 124 of the Treaty shall be composed of two government representatives, two representatives of the workers' organizations and two representatives of the employers' organizations from each Member State. The Member of the Commission responsible for chairing the committee may delegate that responsibility to a senior Commission official.

For each Member State, an alternate shall be appointed for each category of representative mentioned above. In the absence of one or both members, the alternate shall be automatically entitled to take part in the proceedings.

The members and alternates shall be appointed by the Council acting on a proposal from the Commission, for a period of three years. They may be reappointed. The Council shall, as regards the composition of the Committee, endeavour to ensure fair representation of the different groups concerned. For the items on the agenda affecting it, the EIB shall appoint a non-voting representative.

The committee shall deliver opinions on the draft Commission decisions relating to the Community support frameworks relating to Objectives 3 and 4 and, in the case of support from the European Social Fund, on the Community support frameworks relating to Objectives 1, 2 and 5 (b).

For their adoption, the opinions of the committee shall require an absolute majority of the votes validly cast. The Commission shall inform the committee of the manner in which it took account of its opinions.

The committees referred to in Articles 27 and 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

Article 29

Management Committee on Agricultural Structures and Rural Development and Standing Management Committee on Fisheries Structures

1. In accordance with Article 17 of Regulation (EEC) No 2052/88 a Management Committee on Agricultural Structures and Rural Development, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on draft Commission decisions:

- relating to common measures under Objective 5 (a),
- relating to the establishment of the list of areas eligible under Objective 5 (b) as well as to Community support frameworks under this objective.

The committee shall also be consulted on operations concerning agricultural structures and rural development included in the draft Commission decisions relating to the Community support frameworks for the Objective 1 regions.

The committee provided for in this paragraph shall replace the Standing Committee on Agricultural Structures, set up by Article 1 of the Council Decision of 4 December 1962 ⁽¹⁾, in respect of all the functions assigned to it under that Decision or under Article 6 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy ⁽²⁾.

The committee referred to in Articles 27 and 28 and paragraph 2 of this Article shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

2. The provisions detailing the operation of the Standing Management Committee on Fisheries Structures shall be laid down in accordance with the provisions laid down pursuant to the first subparagraph of Article 3a of Regulation (EEC) No 2052/88.

⁽¹⁾ OJ No 136, 17. 12. 1962, p. 2892/62.

⁽²⁾ OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EEC) No 2048/88 (OJ No L 185, 15. 7. 1988, p. 1).

Article 29a

Management Committee for Community Initiatives

In accordance with Article 17 of Regulation (EEC) No 2052/88, a Management Committee for Community Initiatives, made up of Member States' representatives and chaired by the Commission representative, is hereby set up under the auspices of the Commission. The EIB shall appoint a non-voting representative.

The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver an opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter under consideration. The opinion shall be delivered by the majority stipulated in Article 148 (2) of the Treaty in the case of decisions which the Council is requested to

adopt on a proposal from the Commission; when a matter is put to the vote within the committee, the votes of the Member States' representatives shall be weighted as provided for in the aforementioned Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if they are not in accordance with the opinion delivered by the committee, they shall be communicated forthwith by the Commission to the Council. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the period provided for in the third subparagraph.

The committee shall deliver opinions on the Commission proposals to the Member States referred to in Article 11 (1).

The committee referred to in Articles 27 to 29 shall be informed of the committee's opinions.

The committee shall draw up its rules of procedure.

Article 30

Other provisions

1. The Commission shall periodically refer to the committees provided for in Articles 27, 28 and 29 the reports referred to in Article 16 of Regulation (EEC) No 2052/88. It may seek the opinion of the committees on any matter relating to assistance operations under the Funds, other than those provided for in this Title.

Moreover, all the specific cases laid down in Regulation (EEC) No 2052/88, and in all the implementing Regulations referred to in Article 130e of the Treaty, shall be referred to the committees.

The Commission shall inform the appropriate committees of the granting of assistance to major productive investment projects, the total cost of which taken into account in determining the amount of Community assistance is greater than ECU 50 million.

2. Decision 75/185/EEC ⁽¹⁾ and Decision 83/517/EEC ⁽²⁾ shall be repealed and, as regards the EAGGF Guidance Section, Articles 11 to 15 of Regulation (EEC) No 729/70 shall no longer apply as far as the EAGGF committee is concerned.

⁽¹⁾ OJ No L 73, 21. 3. 1975, p. 47.

⁽²⁾ OJ No L 289, 22. 10. 1983, p. 42.

IX. REPORTS AND PUBLICITY

Article 31

Reports

1. The annual reports referred to in the first subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review, *inter alia*:

- the activities of each Fund, the utilization of their budgetary resources and the concentration of assistance within the meaning of Article 12 of Regulation (EEC) No 2052/88, the deployment of the other financial instruments for which the Commission has responsibility and where their resources have been concentrated; these reviews shall include an annual breakdown by Member State of appropriations committed and appropriations paid out in respect of each Fund and the FIG, including Community initiatives and technical assistance,
- the coordination of assistance provided by the Funds between themselves and with the assistance granted by the EIB and the other existing financial instruments,
- the results of the appraisal, monitoring and evaluation referred to in Articles 25 and 26 indicating any changes made to measures, and an evaluation of the compatibility of Fund assistance with Community policies, including those on environmental protection, competition and public procurement,
- the list of major productive investment projects which benefited from assistance granted under Article 16 (2); these projects should be the subject of a concise evaluation,
- the results of controls carried out, indicating the number and financial volume of irregularities detected and the lessons to be drawn from these controls,
- the results of analysis of the impact of Community assistance and policies as compared with the objectives listed in Article 1 of Regulation (EEC) No 2052/88 and in particular their impact on the socio-economic development of the regions,
- information on the opinions of committees delivered in accordance with Title VIII,
- an analysis of the follow-up to recommendations and comments made by the European Parliament in its opinion on the 'previous years' annual report.

2. Each year, the Commission shall consult the social partners organized at European level on the structural policy of the Community.

3. The three-yearly report referred to in the third subparagraph of Article 16 of Regulation (EEC) No 2052/88 shall review in particular;

- progress made in achieving economic and social cohesion,
- the role of the Structural Funds, the FIG, the financial instrument for cohesion, the EIB and other financial instruments as well as the impact of other Community policies in the completion of this process,
- any proposals which may need to be adopted in order to strengthen economic and social cohesion.

Article 32

Information and publicity

1. Member States shall ensure that adequate publicity is given to the plans referred to in Article 5 (1).

2. The body responsible for implementing a measure carried out with financial assistance from the Community shall ensure that adequate publicity is given to the measure with a view to:

- making potential beneficiaries and trade organizations aware of the opportunities afforded by the measure,
- making the general public aware of the role played by the Community in relation to the measure.

Member States shall consult the Commission on, and inform it of, the initiatives taken for these purposes.

Once this Regulation has come into force, the Commission shall draw up detailed arrangements for information and publicity concerning assistance from the Funds and the FIG, shall inform the European Parliament thereof and shall publish them in the *Official Journal of the European Communities*.

X. FINAL PROVISIONS

Article 33

Transitional provisions

1. In drawing up Community support frameworks, the Commission shall take account of any measure already approved by the Council or by the Commission before the entry into force of this Regulation and having financial repercussions during the period covered by those support frameworks. These measures shall not be subject to compliance with Article 15 (2).

2. Notwithstanding Article 15 (2), requests for expenditure received by the Commission between 1 January and 30 April 1994 and fulfilling all the conditions under Article 14 (2) may be regarded as eligible for assistance from the Funds from 1 January 1994.'

Article 2

Entry into force

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

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

Done at Brussels, 20 July 1993.

For the Council

The President

W. CLAES
