

COMMISSION REGULATION (EC) No 439/2007

of 20 April 2007

implementing Council Decision 2006/526/EC on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

as well as for reporting. Such provisions should cover the participation of the Commission in those activities.

Having regard to the Treaty establishing the European Community,

(5) The measures provided for in this Regulation have been subject to consultation with the Home Rule Government of Greenland and the Government of Denmark.

Having regard to Council Decision 2006/526/EC⁽¹⁾, and in particular Article 9 thereof,

(6) The measures provided for in this Regulation are in accordance with the opinion of the Greenland Committee established by Article 10 of the Decision,

Having regard to the Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁽²⁾,

HAS ADOPTED THIS REGULATION:

Whereas:

Article 1

Subject matter

This Regulation lays down the procedures for the programming, implementation, monitoring, review and evaluation of the Community financial assistance to Greenland managed by the Commission from 1 January 2007 to 31 December 2013, in accordance with the provisions of Decision 2006/526/EC and the Financial Regulation applicable to the general budget of the European Communities.

Article 2

Complementarity and partnership

1. The programming, implementation, monitoring, review and evaluation of support shall be carried out in close consultation between the Home Rule Government of Greenland, the Government of Denmark and the Commission.

2. The Home Rule Government of Greenland shall ensure that the local authorities and civil society are adequately consulted during the programming process.

3. The Home Rule Government of Greenland, the Government of Denmark and the Commission shall promote coordination and consistency between measures undertaken pursuant to this Regulation, measures undertaken with contributions from the EDF and operations undertaken by the European Investment Bank on the one hand, and contributions from the Government of Denmark on the other.

(1) Decision 2006/526/EC (hereinafter the Decision) requires the Commission to adopt implementing provisions concerning Part Two of the Decision in close consultation with the Home Rule Government of Greenland and the Government of Denmark within the framework of the partnership procedure.

(2) The provisions adopted by the Commission pursuant to Article 9 of the Decision should be consistent with the principles of sound financial management, partnership, complementarity and subsidiarity, and should ensure ownership by the Home Rule Government of Greenland of the development process as well as adequate monitoring and auditing by the Home Rule Government of Greenland itself and the Commission.

(3) Pursuant to Article 11(2) of the Decision and taking into account the specific needs and capabilities of the Home Rule Government of Greenland and the way in which it manages public expenditure, financial assistance should be granted as budgetary support.

(4) Provisions should be established for the preparation and adoption by the Home Rule Government of Greenland and the Commission of the indicative Programming Document for the Sustainable Development of Greenland referred to in Article 6 of the Decision and for its implementation, follow-up, evaluation and review,

⁽¹⁾ OJ L 208, 29.7.2006, p. 28.

⁽²⁾ OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC, Euratom) No 1995/2006 (OJ L 390, 30.12.2006, p. 1).

*Article 3***Programming**

1. Operations financed by Community financial assistance within the framework of the Decision shall be programmed as soon as possible after the entry into force of this Regulation by means of the adoption of a Programming Document for the Sustainable Development of Greenland (hereinafter PDSD) structured in accordance with the model in the Annex to this Regulation.

2. The Home Rule Government of Greenland shall prepare a proposal for the PDSD following consultations with stakeholders in the development process, and shall draw on lessons learned and best practices.

The proposal for the PDSD shall be adapted to the needs and respond to the specific circumstances of Greenland. It shall prioritise activities and build local ownership of cooperation programmes.

The proposal shall be submitted to the Commission not later than three months after the entry into force of this Regulation.

3. The draft PDSD shall be the subject of an exchange of views between the Home Rule Government of Greenland, the Government of Denmark and the Commission, taking into account the Commission's responsibility regarding the response strategy.

The Home Rule Government of Greenland shall provide all the necessary information, including the results of any feasibility studies, to make the appraisal of the draft PDSD by the Commission as effective as possible.

Any divergences between the own analysis of the Home Rule Government of Greenland and the analysis of the Commission shall be noted.

4. The Commission shall appraise the proposal for the PDSD, not later than 30 days after it was submitted by the Greenland Home Rule Government, to determine whether it contains all the elements required to adopt the annual financing decision in accordance with Article 6(4) of the Decision and whether the PDSD is consistent with the aims of the Decision, this Regulation and the relevant Community policies.

5. The Home Rule Government of Greenland shall be responsible for finalising the PDSD. The Home Rule Government of Greenland and the Commission shall be jointly responsible for adopting the PDSD. The Commission shall adopt the PDSD after the opinion of the Greenland

Committee has been delivered in accordance with Article 10(2) of the Decision.

*Article 4***Implementation**

1. Expenditure on financial assistance for Greenland pursuant to the Decision shall be committed by the Commission in accordance with the Financial Regulation applicable to the general budget of the European Communities and Article 11(3) of the Decision.

2. Within the scope of the PDSD, commitment of expenditure shall be preceded by an annual Commission financing decision covering sectoral budgetary support, followed by a financing agreement concluded between the Commission and the Home Rule Government of Greenland. The annual financing decision shall be adopted by the Commission after the opinion of the Greenland Committee has been delivered in accordance with Article 10(2) of the Decision.

3. Within the overall annual amount, an indicative amount of 1 % maximum shall be used to cover the resources required for effective administration by the Commission of the assistance.

*Article 5***Monitoring, review and evaluation**

1. Without prejudice to the Commission's responsibility for implementing the Community financial support, the Home Rule Government of Greenland shall take responsibility in the first instance for the financial control of such support.

The Commission and the Home Rule Government of Greenland shall cooperate and coordinate plans, methods and implementation of checks so as to maximise the usefulness of the checks carried out. They shall immediately exchange the results of the checks carried out.

2. The Home Rule Government of Greenland shall supervise the implementation of the PDSD.

In order to verify the effectiveness and quality of the implementation of assistance, the Home Rule Government of Greenland shall follow and review the progress made towards achieving the specific objectives of the PDSD.

The Home Rule Government of Greenland shall carry out the monitoring by reference to indicators specified in the PDSD and the annual financing agreement. The indicators shall relate to the specific character of the programme and its objectives.

3. The Home Rule Government of Greenland shall draw up and submit to the Commission annual implementation reports in accordance with the timetable set out in the financing agreements to be concluded each year between the Commission and the Home Rule Government of Greenland.

This annual implementation report shall be produced locally and shall be finalised between the Home Rule Government of Greenland and the Commission within a period of 60 days.

It shall include in particular:

- (a) an assessment of the results achieved in the focal sector(s) measured against the targets identified in the PDSD and the monitoring indicators and sectoral policy commitments;
- (b) an assessment of the implementation of current operations as provided for in the financing agreements and the extent to which the timetable for commitments and payments has been met; and
- (c) a statement assuring legality and regularity.

4. In the context of the mid-term review referred to in Article 13 of the Decision, the initial results of the PDSD, their relevance and the extent to which the targets have been attained shall be reviewed, and the use made of financial resources and the operation of monitoring and implementation shall be assessed, as well as the rhythm of disbursements and the overall cooperation between the Home Rule Government of Greenland and the Commission.

This review shall be carried out under the responsibility of the Commission, in cooperation with the Home Rule Government of Greenland and the Government of Denmark, on the basis of criteria defined in the PDSD, including in respect of the financial allocation, and taking into account the annual implementation reports referred to in paragraph 3.

5. The evaluation of the PDSD shall cover the utilisation of resources and the effectiveness and efficiency of the assistance and its impact, and shall draw conclusions and recommendations, making use in particular of evaluation results already available.

It shall cover the factors contributing to the success or failure of implementation and achievements and results, including their sustainability.

The evaluation of the PDSD shall be the responsibility of the Commission, in coordination with the Home Rule Government of Greenland and the Government of Denmark.

The results of the evaluation shall be made available to the public.

Article 6

Safeguard measures

1. The Commission shall suspend the payments and, stating its reasons, request that the Home Rule Government of Greenland submit its comments and, where appropriate, carry out any corrections, within a specified period of time where, after completing the necessary checks, it concludes that:

- (a) the Home Rule Government of Greenland has not complied with its obligations; or
- (b) all or part of the PDSD justifies neither part nor the whole of the Community's contribution; or
- (c) there are serious failings in the management or control systems which could lead to systemic irregularities.

2. The period of time within which the Home Rule Government of Greenland may respond to a request to submit its comments and, where appropriate, make corrections, shall be two months, except in duly justified cases where a longer period may be agreed by the Commission.

3. Where the Home Rule Government of Greenland objects to the observations made by the Commission, the Home Rule Government of Greenland and the Government of Denmark shall be invited to a partnership meeting by the Commission, in which all sides shall try to reach an agreement on the observations and the conclusions to be drawn from them.

Whenever the Home Rule Government of Greenland objects to the observations made by the Commission and an *ad hoc* partnership meeting takes place, the three-month period under paragraph 5 within which the Commission may take a decision shall begin to run from the date of the partnership meeting.

4. Where the Commission proposes financial corrections, the Home Rule Government of Greenland shall be given the opportunity to demonstrate, through an examination of the files concerned, that the actual extent of irregularity was less than the Commission's assessment.

Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 2. The Commission shall take account of any evidence supplied by the Home Rule Government of Greenland within the time limits.

5. At the end of the period set out in paragraph 2, the Commission shall, where no agreement has been reached and the Home Rule Government of Greenland has not made the corrections, take account of any comments made by the Home Rule Government of Greenland and the Government of Denmark and decide within three months to:

- (a) reduce the payments; or
- (b) make the financial corrections required by cancelling all or part of the allocation.

6. Without prejudice to paragraphs 1 to 5, the Commission may, after due verification, suspend all or part of an interim payment where it finds that the expenditure concerned is linked to a serious irregularity which has not been corrected and that immediate action is needed.

The Commission shall inform the Home Rule Government of Greenland of the action taken and the reasons for it. Where, after five months, the reasons for the suspension persist or the Home Rule Government of Greenland has not notified the Commission of the measures taken to correct the serious irregularity, the amounts receivable may be recovered in accordance

with the Financial Regulation applicable to the general budget of the European Communities.

Article 7

Information and publicity

1. The Home Rule Government of Greenland shall ensure that adequate publicity is given to the programmes financed in accordance with the Decision by making the general public aware of the role played by the Community in relation to those programmes.

2. The Home Rule Government of Greenland shall ensure, in particular, that representatives of the Community institutions are duly involved in the most important public activities connected with supported programmes.

Article 8

Entry into force

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

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

Done at Brussels, 20 April 2007

For the Commission

Louis MICHEL

Member of the Commission

ANNEX

INDICATIVE STRUCTURE FOR THE PROGRAMMING DOCUMENT FOR THE SUSTAINABLE DEVELOPMENT OF GREENLAND

The full text, including the executive summary and chapters 1 to 5, should be limited to approximately 15 pages, plus annexes.

Part A: Cooperation strategy*Executive summary*

The PDSO should begin with a half-page executive summary. This should include the major challenges facing Greenland in the medium and long term, the main objective of the PDSO and the principal reasons for the choice of focal area.

Chapter 1: EC cooperation objectives

In this section, the broad EC cooperation objectives are explicitly stated, as determined by the EC Treaty, the Decision and the related joint declaration on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other.

Chapter 2: Policy agenda of the Greenland Home Rule Government

This chapter should provide a concise statement of the aims and objectives of the Home Rule Government of Greenland, as set out in official (sector) policy documents, in medium or long-term plans, reform strategies or development programmes. This should be completed by an indication as to how the Home Rule Government of Greenland proposes to achieve these objectives and an assessment of the related sector budget. It should also cover a concise institutional capacity assessment.

Chapter 3: Assessment of the political, economic and social situation

Major domestic policy developments/issues and relevant aspects of the external context should be covered in this chapter, including the political situation, trade aspects, the economic and social situation, environmental aspects and finally, the sustainability of current policies and medium-term challenges. Particular attention should be given to the assessment of Greenland's macroeconomic policy and public expenditure management.

Chapter 4: EC response strategy

This section should set out the strategic choices for EC cooperation, specifying in which area(s)/sector(s) assistance will be concentrated. That choice should flow logically from:

- EC policy objectives,
- an analysis of Greenland's situation and its development strategy, determining the relevance and sustainability of the support strategy,
- the indicative volume of funds available,
- complementarity with assistance from other major partners and the Greenland Home Rule Government's own programmes. These programmes should be outlined concisely.

Part B: Indicative programme*Chapter 5: Indicative programme*

This chapter contains the indicative programme for Greenland, which is based on and fully consistent with the strategic analysis. The indicative programme is an integral part of the PDSO and should be composed of the following sections:

- **objectives and expected results:** this section should briefly outline the overall objectives and purpose of the programme to be financed for the period 2007 to 2013, as well as the expected results,

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- **financing envelopes:** this section should include a breakdown of the indicative amounts set aside for the period 2007 to 2013 for the focal area (and if appropriate other areas), to be used to support the priorities outlined in the strategy. All amounts should be denominated in euro,
 - **focal area:** this section should contain information on the specific objectives and expected results for the focal area (and if appropriate other areas), as well as the major assistance planned. It should also include the policy/-accompanying measures to be taken by the Government of Greenland as a contribution to the implementation of the response strategy. The amount earmarked for the focal area (and if appropriate other areas) should be indicated. The stakeholders should be identified,
 - **financing modalities:** an analysis should be made of the merits of a sectoral budget support approach and the modalities of the approach should be indicated,
 - **risks and assumptions:** the assumptions made should be presented, as well as risks likely to affect the implementation of the programme and mitigating measures considered,
 - **indicators:** input, output, outcome and, as far as possible, impact indicators should be identified for policy areas covered by the focal sector. Indicators should be specific, measurable in the short/medium term, achievable, realistic and time-bound, and include a starting level, a target and a clear time horizon, to allow for comparisons at the time of annual, mid-term and end-of-term reviews,
 - **performance monitoring:** the performance monitoring arrangements should be outlined in this section, based on readily available information,
 - **cross-cutting issues:** attention needs to be paid to the mainstreaming of cross-cutting issues (i.e. gender, environment, institutional development and capacity-building) in the areas of assistance,
 - **summary data** on Greenland should be annexed, as well as any other appropriate information.
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