



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.03.1998  
COM(1998) 131 final

98/0090 (AVC)  
98/0114 (SYN)  
98/0115 (SYN)  
98/0116 (CNS)

Proposal for a  
**COUNCIL REGULATION (EC)**  
laying down general provisions on the Structural Funds

Proposal for a  
**COUNCIL REGULATION (EC)**  
on the European Regional Development Fund

Proposal for a  
**COUNCIL REGULATION (EC)**  
on the European Social Fund

Proposal for a  
**COUNCIL REGULATION (EC)**  
on structural measures in the fisheries sector

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(presented by the Commission)



# REFORM OF THE STRUCTURAL FUNDS

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## **EXPLANATORY MEMORANDUM**

### **Introduction**

#### **The need to revise the Regulations**

Almost a decade has elapsed since the 1988 reform of the Structural Funds. The adjustments to the legal framework carried out in 1993 were designed to consolidate and improve the new structures which were created in 1988 rather than to constitute another root-and-branch reform before a thorough review had been undertaken.

The Commission had the opportunity to undertake such a review in the First Report on Economic and Social Cohesion in November 1996, from which conclusions can be drawn about the situation with regard to economic and social cohesion, about the way in which this process is developing and about the influence on it of the Union's structural policies. It also proposed initial ideas on making the Union's structural policies more effective.

As far as economic and social convergence is concerned, disparities in per capita income between the Member States have been substantially reduced over the last decade, mainly because the four "cohesion countries" have caught up considerably, with their incomes rising from 66% to 74% of the Community average. Disparities in incomes between regions have remained broadly unchanged over that period although, taking the less prosperous (Objective 1) regions together, average net per capita income has increased by 2.5 percentage points, from 64.6% of the Union average to 67.2%.

The situation with regard to disparities in income within the Member States and to employment is, however, less favourable. Disparities have increased in virtually all the Member States and the creation of some 7 million net jobs since 1983 has barely reduced the number out of work in the Union while the range of regional variations in the unemployment rate has grown sharply. Furthermore, unemployment tends to weigh most heavily on the weakest social groups: young people, among whom one in five is without work, women, whose unemployment rate is considerably higher than that for men, and those without qualifications. Half the unemployed have been so for more than a year. It is not surprising, therefore, that a growing number of people live below the poverty line and this poverty, a matter of concern for the future of European society, is growing fastest in some of the most prosperous and urbanised countries.

The inclusion in the Treaty of Amsterdam of a Title on employment constitutes progress in this respect. It highlights the promotion of employment in the Union, sustainable development and equal opportunities for men and women. The desire for a policy strongly in favour of equal opportunities is reflected in the desire to incorporate this principle into the structural policies.

The Union is also facing major challenges in the form of globalisation, the speed of technological progress, the introduction of economic and monetary union and its own enlargement. In addition it needs to promote a people's Europe.

This is the general background which requires cohesion to be further strengthened. It is true that market forces and the entrepreneurial spirit are essential factors in seizing new opportunities but solidarity and mutual support are vital complements to them, not only for social reasons but because they promote competitive development and sustainable growth and create extra jobs and income. These factors generate trade which has an effect not only on the regions assisted but throughout the Union.

This was why, in its communication "Agenda 2000 - for a stronger and wider Union", the Commission made a proposal that economic and social cohesion should remain a high political priority. It is made still more necessary by the impending accession of countries at a low level of development since it pursues the major objective, set out in Article 130a of the Treaty, of reducing disparities in development. A number of instruments help attain this goal of cohesion, including in the context of enlargement: they are the Structural Funds (ERDF, ESF, EAGGF Guidance Section and the FIFG), the Cohesion Fund and the Pre-accession Structural Instrument. The Commission's proposals for the Structural Funds are arranged in three main themes set against a general background of budget discipline and intended to continue support to the regions and social groups in difficulty in the 15 Member States and to integrate the applicant countries into the Union.

The first is to maintain financial solidarity for 2000-06 at the 1999 level of 286.4 billion euros (at 1999 prices), the equivalent of ECU 275 billion at 1997 prices. This includes 218.7 billion euros, the equivalent of ECU 210 billion at 1997 prices, from the Structural Funds for the 15 existing Member States. The former sum therefore equates to the allocation of 0.46% of the Union's GDP to the objective of economic and social cohesion.

The second is to continue the effort decided on at the Edinburgh European Council (ECU 200 billion at 1997 prices for 1993-99 or ECU 208 billion in 1999 prices). This reflects the desire that the Union should participate in the efforts made by the Member States to promote the development and conversion of the regions while taking account of the need to contribute to their policies of budgetary rigour. This can be done provided that the Funds' assistance also becomes more targeted. This targeting is all the more necessary because some regions have made significant progress towards convergence and for reasons of the efficiency of structural assistance.

Thirdly, the way in which the reformed Structural Funds operate should ensure greater cost-effectiveness by clarifying the roles of the various parties involved in regional development, through simplification, evaluation and monitoring.

These guidelines of the Commission, which appear in Agenda 2000, are now set out in detail in a proposal for a new general Regulation concerning the Structural Funds and Regulations dealing with the particular aspects of each Fund.

## **PART I**

### **The political approach to the reform of the Structural Funds**

#### **A. The political priority of economic and social cohesion**

The goal of economic and social cohesion was introduced by the Single European Act, which paved the way for the 1988 reform of the Structural Funds. The Treaty on European Union made cohesion one of the three pillars of European construction, alongside EMU and the single market.

The Treaty of Amsterdam confirmed cohesion's leading role, advanced still further by the priority given to the fight against unemployment through the inclusion of a new Title on employment.

The political priority granted to economic and social cohesion must be unequivocally maintained, and this means continuing the efforts. The prospect of enlargement to include new countries with very different levels of development makes this all the more vital.

Solidarity within Europe will become increasingly imperative if the major reduction in development disparities called for in Article 130a is to remain our target.

Solidarity makes an essential contribution to the stability of the Union and the promotion of a high level of employment and of equal opportunities for men and women. The work of the Structural Funds must therefore stimulate competitive, environmentally sustainable development, lasting growth which is job-creating, economic and technological innovation and the provision of a skilled and flexible labour-force while ensuring the removal of inequalities.

#### **B. The Community priorities for the structural policies**

##### **Ensuring the conditions for sustainable economic development: growth, competitiveness and employment**

The Structural Funds are a leading instrument for reducing disparities and so for promoting growth and sustainable employment. The impact on employment should affect their three main areas of assistance - infrastructure, the development of human resources and support for the productive sector - in both the short and the long term: in the short term because assistance will stimulate demand for goods and services and in the long term by improving the links connecting human and physical resources with the productive environment and the operation of the labour market.

Responsibility for most of the policy areas which affect the employment situation in the EU rests, however, primarily with the Member States, whose macroeconomic policies exert a determining influence in creating the climate for economic growth and jobs. And indeed, these policies have led in difficult circumstances to some notable improvements in the economic fundamentals in the Member States. This is especially true, for example, with regard to interest rates and price stability, where interest rates

have converged towards the lowest level in thirty years. Most Member States have taken action to increase innovation and the rate of new business formation and to improve the efficiency of the labour market with a battery of new measures to help match supply and demand.

However, despite their successes, policies pursued at national level have their own limits and there is a general consensus amongst Member States that further potential for job-creation remains to be exploited at local and regional level. In this context, the main aim of Structural Fund assistance is to help establish the conditions for sustainable economic development through growth, competitiveness and employment. Only by ensuring such conditions are in place can the paramount aim of safeguarding and creating jobs be fully realised.

### **Increasing competitiveness and innovation and supporting SME development**

This means that the key tasks of the Funds should be to address major structural adjustment and the reduction of disparities in respect primarily of inadequate basic infrastructure (mainly in Objective 1 regions), a poorly qualified labour force and low innovative capacity, including limited research and technological development. This gives rise to problems in terms of competitiveness and prevents businesses, especially small and medium-sized enterprises, from creating the impetus to redress the situation. Reducing economic dependency on a very few sectors, diversifying the economic fabric through the creation and development of innovative SMEs, the capacity to adapt to new technologies and changes in production systems as well as enhanced administrative capacity will be essential to improving the levels of competitiveness necessary to increase economic development and employment.

### **Employment: developing human resources**

The conclusions of successive European Councils have provided a Union-wide framework setting priority themes for investment in employment and human resource development initiatives. The Amsterdam European Council has been of crucial importance for employment policies within the Community and, by adopting the new Title on employment, the Council recognised that this should be regarded as a matter of common interest.

The new Treaty has started a process which enables the Member States to look at the employment situation each year and adopt guidelines for their national employment policies. These will form part of an integrated approach based on the pursuit of sound macroeconomic policies, a single market which is working well, thorough reform of the labour market on the basis of a certain number of priorities agreed in guidelines for the employment policy of the Member States and systematic attention to employment in all Community policies, but particularly the structural policies, which represent a powerful tool for achieving these aims.

The Structural Funds should contribute to bolstering the four cornerstones of the European strategy on employment (entrepreneurial spirit, having the right skills, flexibility and equal opportunities) which will underpin the development of human resources.

## **The environment and sustainable development**

The principle of sustainable and environmentally sound development and the integration of environmental protection requirements into other policies is enshrined in the Treaty on European Union (Article 2) and is further strengthened in the Treaty of Amsterdam<sup>1</sup>. Articles 1 and 2 of the draft general regulation, dealing with the objectives, means and tasks of the Structural Funds, relate these Treaty principles to the action of the Funds. A number of other Articles throughout the regulation set out proposals to increase the Structural Funds' contribution to the objectives of sustainable development and environmental protection and improvement.

In this regard, the environmental situation in urban areas will be one of the criteria for eligibility under Objective 2. Furthermore, beside the financial aid directly addressed towards the environment sector, such as basic environmental infrastructures, the Funds will be giving emphasis to economic and social measures, which by their distinctly preventive nature, are especially valuable in terms of sustainability. These would include material environmental investment in industry such as renewable energies, energy or water saving technologies, or waste minimisation and re-use, and support to firms for respecting mandatory standards. The revised regulations reflect the increased importance to be given to such aspects through the scope to differentiate rates of assistance.

Additional changes include a strengthening of the *ex-ante* evaluation requirements, the information required in respect of large projects and an enhanced role for the environmental authorities in the preparation and implementation of programmes.

## **Equal opportunities**

Follow-up work on the Madrid commitment to equal opportunities, the Treaty of Amsterdam and a Council resolution<sup>2</sup> have all called on the Commission and the Member States to make a continued, deepened and determined effort to "mainstream" the principle of equal opportunities for women and men into operations supported by the Structural Funds.

## **Establishing Community guidelines**

In order to give effect to the types of priority outlined above, the proposed Regulations will contain specific provision for the Commission to establish Community guideline priorities for each of the Objectives. These are to be issued both before the presentation of plans by the Member States and before the mid-term review of programmes. They will provide a general policy and priority framework for drawing up Structural Fund programmes and making later adjustments to them.

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<sup>1</sup> New Article 2 - "The Community shall have as its task to promote throughout the Community a harmonious, balanced and sustainable development of economic activities ..."

New Article 6 - "Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities ... in particular with a view to promoting sustainable development".

<sup>2</sup> OJ C 386/1 of 2 December 1996 on mainstreaming equal opportunities for men and women into the European Structural Funds.

### **C. A clear division of responsibilities**

For ten years now, the Structural Funds have been implemented on the basis of an innovative policy approach based on the four principles of concentration, partnership, programming and additionality and underpinned by a high degree of financial solidarity, as reflected in two decisions of the European Council on the multi-annual financial perspective. It seems essential to continue to base the structural policies on these four major principles of proven relevance and to learn lessons from the experience gained so that their application can be overhauled to make them yet more credible, effective and transparent.

The reform is also based on the need to reform the principle of partnership, requiring a clearer division of responsibilities between the Member States and the Commission. The responsibilities of each of the partners (Member State, region, Commission) in this contract will have to be defined so as to implement better the principle of subsidiarity and permit improved application of Article 205, under which the Commission is responsible for implementation of the Community budget.

In this way, a high degree of decentralisation and simpler procedures will accompany the requirement for greater efficiency, transparency and rigour characterised by enhanced evaluation of results and supervision.

Introducing a fifth principle, efficiency, into part-financing by the Structural Funds should reassure people that the public money allocated to Community structural assistance is being well used.

#### **1. Deeper and broader partnership**

The principle of partnership was introduced in 1988 as a means of ensuring the efficiency of the Funds. This particular method of operation enables all concerned to be involved in the preparation, implementing, monitoring and evaluation of Community funding, providing a check that the strategy, priorities and development measures are relevant and increasing credibility through the consensus it facilitates when decisions are taken and during programme implementation.

Naturally, this partnership must take place with full regard to the respective competences of each of the partners. In practice, there still remains much to be done, both to deepen partnership and to widen it.

Deepening the partnership simply means that involvement of the partners should be the rule throughout the process of financing from the Funds: from the design of the strategies to *ex post* evaluation of assistance. At present, the partnership actually concentrates on a few specific stages which are generally restrictive and subject to very tight time constraints. The Commission is proposing a number of major adjustments to this end: for example the development plans submitted by the Member States should be accompanied by the opinion of the partners on it and the closer involvement of the Monitoring Committees in programming decisions and in evaluation work.

It is also essential to broaden the partnership. While significant progress has been made in involving regional authorities, in particular in the Member States where regionalisation is least developed, the involvement of the local authorities most directly concerned and environmental authorities is still very patchy, or the consultation of bodies committed at local level or implementing operations supported by the Structural Funds (the social partners, local voluntary associations, non-governmental bodies, etc.). Some of these bodies are also dealing with matters of major concern to the Community, such as employment, sustainable development and equal opportunities for men and women. The Commission is therefore proposing explicit provisions for these partners to be involved in concertation on the implementation of the Structural Funds at national, regional and local level. However, to ensure that this principle does not slow procedures down, it is proposed that the operation of partnership should where necessary be adjusted in line with the involvement of the partners in financing assistance.

## **2. Re-focusing the Commission's responsibilities**

The Commission's role in implementing the structural policies needs to be rethought and reorganised. The implementation system has become too complicated, slow and cumbersome and the value added by procedures which are regarded as over-bureaucratic is frequently rightly questioned.

As in the case of the Member States, the political responsibility of the Commission must be better defined. At present, an inadequate definition of responsibilities and a degree of confusion in the operation of the partnership assigns responsibilities to the Commission which it is unable to fulfil. This confusion, which has resulted in a tangle of administrative procedures, must not end up concealing the genuine benefits stemming from the structural policies.

This means that the Commission's institutional and political responsibility as guarantor of the Community interest must be more clearly identified. Its prime responsibility is to ensure that Structural Fund assistance helps to realise the objective of Article 130a of reducing regional development disparities. That responsibility also derives directly from Article 205, which gives the Commission the general and exclusive power to implement the Community budget. It must also ensure that the actions financed by the Structural Funds conform with the other provisions in the Treaty as well as with Community policies.

It is in such a spirit that the Commission's political responsibility must be clearly affirmed and re-focused on strategic programming, the respect for Community priorities and the verification of results through monitoring, evaluation and financial control. On these points, it is not a matter of joint management with the Member States. This should also help to dispel some ambiguities resulting from the practice of partnership in the past which led to the Commission taking on responsibilities which it is unable to assume.

Similarly, measurement of the final results achieved should have consequences for the final allocation of appropriations, which would no longer be automatic. A reserve fund to be used at the mid-term point would also allow the Commission to decide on final financial allocations according to the performance of programmes as revealed by the outturn up to that stage.

### **3. Wider responsibility in the hands of the Member States**

The need for increased efficiency must be translated into improved targeting on priorities that favour structural development and greater added value at Community level.

Community financial participation in support of national or regional development priorities is no guarantee in itself of concrete results. It is necessary in particular that the partners benefiting from the Structural Funds assume greater responsibility. The role of the national governments and the regions in the implementation of programming must be marked to a greater extent by a genuine decentralisation. At the same time, they must become more responsible to the Community for monitoring, verification and the evaluation of results.

This will make evaluation and monitoring into key instruments in the management of the Structural Funds.

## **D. Balanced proposals**

A clear division of responsibilities between the national governments and the Commission will form the basis for the renewed political contract, guided by two principles: concentration of assistance from the Structural Funds and simpler and more decentralised implementation in accordance with arrangements offering greater guarantees of effectiveness and control.

### **1. More concentrated assistance from the Structural Funds**

The effectiveness of the Structural Funds depends on seeking concentration at four levels:

- concentration on three priority Objectives and three Community Initiatives;
- concentration on areas of priority assistance which encourage an integrated approach to development rather than a fragmentation of operations, aimed at both regional and national needs and the Community priorities;
- geographical concentration so that in 2006, after a series of transition periods, some 35 % to 40 % of the Community population will be covered compared to 51 % at present;

- financial concentration which continues to give priority to the regions whose development is lagging behind, at a level equivalent to that currently prevailing.

## **2. Integrated strategic programming**

If all the operations part-financed by the Funds are to achieve the required level of economic effectiveness, the various strategies and development priorities must include all development and restructuring operations. If this is not done, there is a real danger of seeing the operations supported by the Funds undertaken in an isolated and disparate fashion, which could severely undermine their results and their impact in development terms. It is therefore proposed that, with the reduction in the number of Objectives and Community Initiatives, Community regional actions should be integrated into a single regional programme at an appropriate territorial level, that of the region (NUTS II). At that level, all the Funds (ERDF, ESF, EAGGF and FIG) involved in an Objective would contribute in a coherent and mutually supportive manner to the goals to be achieved. In this way, the integrated approach gradually introduced by the 1988 reform would be applied in a much broader and more systematic way.

## **3. Decentralised and simplified assistance**

Fund assistance needs to be simplified by a clarification of the responsibilities of the Commission and the Member States.

Acting on a proposal from the Member States and after consulting in partnership, the Commission will decide, with the Member States, on the development strategies and priorities contained in the programming documents and will allocate Structural Fund appropriations accordingly.

On that basis the Member States will then decide on programme implementation as well as its management, monitoring and evaluation. They will report back to the Commission.

## **4. More effective, better supervised monitoring**

For the Commission, the essential counterpart to simplification and decentralisation, must be the assurance that endeavours to cement solidarity within the Union are as effective as possible and monitored at all levels.

In this connection, the Commission and the Member States will meet in various types of forum with the intention in particular of ensuring that implementation is consistent with the strategic priorities and respect for financial control;

## **E. The layout of the Structural Fund Regulations**

### **1. Legal basis**

The Regulations adopted in 1988 and reviewed in 1993 were predicated on the Single European Act. Article 130d stipulated that the Commission was to put forward a proposal for a framework regulation and Article 130e required that three implementing regulations were to be adopted, one for each Fund. These two Articles laid down differing adoption procedures. An additional implementing regulation, the “coordinating regulation”, was adopted under Article 130e in furtherance of the framework regulation. These two “general” regulations overlap and duplicate each other at numerous points as a result.

The attached proposals for regulations are once more based on Articles 130d and 130e, as amended by the Treaty on European Union. Article 130d now provides for the adoption of general rules to “define the tasks, priority objectives and the organisation” of the Funds and to define “the general rules applicable to them and the provisions necessary to ensure their effectiveness and the coordination of the Funds with one another and with the other existing financial instruments”. Article 130e still provides for the adoption of a regulation to govern each Fund using different procedures to those provided for in Article 130d.

Once the Amsterdam Treaty has been ratified, the Commission will adapt these proposals to the new legal basis. However, the proposals already include and promote the principles stressed in the Treaty of Amsterdam, in particular the priority for employment, equal opportunities and sustainable development.

### **2. The new architecture of the Regulations**

With a view to simpler and more transparent legislation, the Commission is proposing, still in line with the Treaty, to amalgamate the two general regulations, to keep the separate regulations for each Fund and to introduce a clear distinction between the single general regulation and the regulations for each Fund, which are reduced to provisions specific to them. The FIFG will become a fully fledged Structural Fund.

The general regulation will thus define the Structural Funds’ general principles, i.e. their priority goals and tasks, general organising principles, coordination among the Funds and the various other financial instruments, programming and financial management methods and the tools to achieve effectiveness, which include monitoring.

Each Fund regulation will consist of rules specific to it, mainly governing the scope of its assistance.

## PART TWO

### The general Regulation governing the Structural Funds

- A. **A general attempt at concentration**
  - 1. **A limited number of priority Objectives**
    - (a) **The three Objectives**

To increase the visibility and effectiveness of the Structural Funds, it is proposed that the current seven Objectives should be reduced to three, two of which are regional-based and the third, dealing with human resources, is horizontal.

#### **Regions whose development is lagging behind (Objective 1)**

The purpose of the first Objective will continue to be to help those regions whose level of development (measured in terms of GDP per head in purchasing power parities at NUTS Level II) is less than 75% of the Community average to close their development gap. The calculation will be based on figures for the three most recent years available from Eurostat, the Statistical Office of the European Communities.

These regions should continue to have the same priority they currently enjoy. They are faced with the most serious problems of lack of economic potential, employment, infrastructure, and skills levels in the workforce. The first Cohesion Report has confirmed that substantial gaps remain in both infrastructure and human resources. Even though these gaps are less now in fields such as telecommunications, eliminating them entirely will be a long-term process given the amount of investment required.

The most remote regions (the French overseas departments, the Azores, Madeira and the Canary Islands) form a special group, given their many combined structural problems. Their situation has been acknowledged in a new Treaty Article and Protocol, which justifies making them eligible under Objective 1. It is proposed that the regions currently eligible under Objective 6 which have a per capita GDP of less than the 75% threshold will be eligible in their entirety under Objective 1. The other currently existing Objective 6 areas will be eligible for Objective 1 and will receive fair financial treatment.

A strict application of the rules of eligibility means that the Commission will draw up the list of Objective 1 regions for the seven-year period 2000-06 as soon as the new regulations are adopted by the Council. As the Commission has noted, there will also have to be a complete overlap of the regions whose development is lagging behind and whose per capita GDP is less than 75% of the Community average with the regions aided by the Member States under Article 92(3)a of the Treaty.

The four Structural Funds (ERDF, ESF, EAGGF Guidance Section and FIFG) will assist the development of the Objective 1 regions.

The current Objective 1 regions that no longer qualify for the list will have their assistance phased out gradually. It will end altogether on 31 December 2005 for the ERDF but will be extended to 31 December 2006 for those areas that meet the eligibility criteria for Objective 2. In 2006, the other areas covered by phasing-out will benefit from the support of the ESF, EAGGF Guidance Section and the FIFG under the programme decided at the outset.

### **Areas undergoing economic and social conversion (new Objective 2)**

The Union must continue to support the economic and social conversion of areas experiencing structural difficulties, including those in the wealthiest Member States. Many types of area in the Union are in need of restructuring because their economic base is not sufficiently diversified. This concerns industrial, rural, urban and fisheries-dependent areas facing structural problems of socio-economic restructuring, including the restructuring of services.

As under Objective 1, the focus should be on the most seriously affected areas. The Commission's current role in designating the eligible areas must accordingly be maintained, in partnership with the Member States concerned, and simple, transparent eligibility criteria that are specific to the various types of area covered by Objective 2 should be used.

Once the Council has adopted the new regulations, the Member States will propose to the Commission the areas they consider the most seriously affected by social and economic conversion. In general, the Member States must propose for Objective 2 status only those areas that they also propose for a derogation under Article 92(3)(c) of the Treaty, in accordance with the Commission communication to the Member States on regional and competition policy.

The population covered by Objective 2 over the whole period 2000-06 should be no more than 18% of the Union figure. The Commission will fix a ceiling for eligible population for each Member State according to objective criteria. In order to ensure that each Member State contributes to the overall effort towards concentration the maximum possible reduction in population covered by the new Objective 2 in 2006, including the areas receiving transitional support under Objective 1 which meet the Objective 2 eligibility criteria, will be limited to one-third compared to coverage under the current Objectives 2 and 5b.

The list of areas will be established in a partnership between the Commission and the national authorities. In order to preserve the Community character of Objective 2, particular importance will be attached to the industrial and rural regions identified, at NUTS III level, as Community priorities according to the latest harmonised statistical information available to the Commission. The

population of the industrial and rural areas eligible under the purely Community criteria must be at least half of the total population eligible for Objective 2 assistance within each Member State where this is objectively possible.

In addition, within the limits of the national population ceiling the Member States may make other proposals based on the remaining criteria in the regulation including those for urban areas and areas dependent upon fishing. The criteria must be applied at an appropriate geographical level.

A fair allocation should be ensured between the various types of area. In terms of the total population of the Union, on an indicative basis the industrial and service sector areas should represent 10%, the rural areas 5%, the urban areas 2% and those dependent on fishing 1%.

The list of the most seriously affected areas in the Community as designated by the Commission will remain valid for seven years, for Objective 1.

The experience of the previous two programming periods was that the Member States did not wish to modify the list of eligible areas in the course of the periods. However, to tackle any serious regional crisis it is proposed to retain the option of amending the list during 2003, at the request of any Member State, within the limits of population coverage initially decided.

Three Structural Funds (ERDF, ESF and FIFG) and the EAGGF Guarantee Section will assist the restructuring of these areas under a single programme per region at NUTS level 2.

Lastly, to avoid serious upsets to the conversion process assisted by the Structural Funds, the areas currently eligible for Objectives 2 and 5(b) that no longer meet the criteria of this new Objective 2 will see their entitlement to ERDF assistance gradually reduce, to end on 31 December 2003. From 2000 they will receive aid from the ESF under Objective 3 and from the EAGGF Guarantee Section and the FIFG under their operations including structural actions for fisheries, throughout the Community.

### **The development of human resources (new Objective 3)**

This new Objective 3 (part-funded by the ESF) will support the adaptation and modernisation of policies and systems relating to education, training and employment. It will fund this outside the areas concerned by Objectives 1 and 2 and will serve as a policy frame of reference for all the human resources operations in a Member State, paying due regard to specific local circumstances.

In this regard, it will be necessary to ensure an integrated approach under each of the three Structural Fund Objectives, through improved coordination of their respective assistance. The development of human resources will play a pivotal role in Community and national strategies, based in particular on the reference frameworks drawn up in partnership under Objective 3 and applying

as a result to assistance under Objectives 1 and 2. It will take as its starting point the new Title on employment introduced by the Amsterdam Treaty, the European employment strategy developed since the European Council in Essen and - in accordance with the new Title on employment - the new procedure for drawing up national action plans on employment.

Objective 3 should be implemented with sufficient flexibility to take account of the wide variety of employment policies, practices and needs in the Member States. As a result, and given the seven-year lifespan of the new regulations, the eligible measures have been quite broadly defined to facilitate effective dovetailing between the assistance provided and the national action plans for employment and to ensure that the funding is appropriate to the national and regional priorities and policies of each Member State.

#### **(b) The Community Initiatives**

The current thirteen Community Initiatives are clearly too many. They have given rise to over 400 programmes, as many as all the other structural operations put together. The Commission is proposing three Community Initiatives: trans-national, cross-border and inter-regional cooperation to stimulate regional economic development and encourage harmonious and balanced regional planning, rural development and new trans-national cooperation to fight all sorts of discrimination and inequality preventing access to employment.

The Commission intends that Community Initiatives should play a specific role in implementing measures of common interest in priority fields for the Union as a whole through cooperation between the regions, the Member States and the various economic and social partners. With an eye on simplification, each Initiative will be financed by a single Structural Fund, whose scope for assistance can be extended to include that of the other Funds as required for the implementation of the measures.

Allocating 5% of the resources of the Structural Funds among these three Community Initiatives will enable important measures of interest to the Community to be undertaken, even outside the areas concerned by Objectives 1 and 2 in the case of the first two Initiatives mentioned.

Furthermore, to continue improving the quality of the assistance under Objectives 1, 2 and 3, innovative measures will be supported at the initiative of the Commission. Their implementation as studies, pilot projects or the pooling of experience, should take greater account of the need for simplification, transparency and sound financial management. With regard to regional development, a special effort will be made to encourage financial engineering in the regions most deficient in that area. In total, some 1% of resources in global terms will be allocated to innovative actions (0.7%) and technical assistance (0.3%).

## **2. Greater concentration**

### **(a) Concentration by theme**

Experience indicates that activities assisted by the Community's Structural Funds must continue to meet the real needs of beneficiaries, because that is the yardstick for the effectiveness of every structural conversion and development measure. The local, regional and national actors must thus remain the real initiators of measures. To concentrate Community assistance, and also increase its effectiveness, the Union has nevertheless set itself a number of priorities for action in the Treaty and elsewhere that all the partners and players covered by the Funds must take into account.

The Structural Funds must thus endeavour to translate some of the principles set out in Article 2 of the Treaty in a direct and concrete manner. Examples are: a high level of competitiveness and innovation, a high level of employment, balanced and sustainable economic development and equal opportunities for men and women.

The Commission's partners do not always find it easy to apply these priorities in their operations on the ground. The Commission therefore proposes to draw up guidelines setting out the Community priorities for each of the Objectives before programming starts at local, regional and national level. The value of these guidelines will be two-fold: they will encourage future beneficiaries to concentrate their activities on the priorities of the Community as a whole and they will facilitate the partnership between Member State and Commission when setting the joint priorities to be included in the final programme documents.

### **(b) A progressive geographical concentration**

The eligible population in the Objective 1 and 2 areas of the fifteen Member States should be reduced from 51% to a figure between 35% and 40%, below the level for eligible areas under Articles 92(3)(a) and 92(3)(c) of the Treaty, which must also be reduced as of 1 January 2000 and which was set at 42.7% for the period 2000-06.

However, the introduction of extended transitional support - six years for Objective 1 and four years for Objective 2 - will prevent any adverse effects of that reduction in regions whose development and conversion since 1988 justify their no longer being eligible from 2000.

Geographical concentration should affect Objectives 1 and 2 more or less equally. The regions eligible under Objective 1 should account for no more than 20% of the Union's population, as against the current 25%. The same should be true of the Objective 2 areas whose eligible population in 1999 should not exceed 20%, including about 2% for the areas eligible for Objective 1 transitional aid between 2000 and 2005 and which meet the eligibility criteria for Objective 2.

### **(c) Financial concentration**

The European Council in Edinburgh decided to allocate roughly two thirds of the Structural Funds to regions whose development is lagging behind.

While these regions have made tangible progress in catching up, thanks to Structural Fund assistance, much remains to be done, especially as regards infrastructure provision and the need to reduce an unemployment rate that is 60% higher than the Community average. This is why two thirds of the Structural Funds should to be concentrated on these regions, including those where assistance will be transitional, which is a similar proportion to that applying on average during the current programming period.

Within the budgets to be set by the Commission for Objectives 1, 2 and 3 respectively, an indicative allocation by Member State, based entirely on objective criteria, will concentrate funding on the regions in greatest difficulty, including the outermost regions and regions where the assistance will be transitional. These objective criteria will be similar to those used now, i.e. eligible population, national and regional prosperity and the relative seriousness of structural problems, in particular unemployment.

## **B. Simplification and decentralisation**

### **1. Clearer division of tasks and responsibilities in a broader and deeper partnership**

Partnership is one of the key principles of the way the Structural Funds operate and primarily involves the Commission and the Member States. Through it, the partners most concerned can also be involved in the joint action of the Community and its Member States. It guarantees the commitment and necessary consensus between actors which are vital for the success of any development operation. However, the Commission believes that additional progress is needed in two directions: broadening and deepening, resulting from a clarification of the principle of partnership.

#### **Broadening the partnership**

It is still too often the case that national and regional authorities involve other economic and social development partners in Fund activities only sporadically or at the last moment, and this will usually be inadequate for the required effectiveness. The participation of regional and local authorities, environmental authorities and economic and social partners, including non-governmental organisations, must be guaranteed by the Member State. The latter will maintain a central role and will ensure that national administrative rules are fully respected. In effect, these are all either project promoters or partners whose advice is valuable for developing the economic and social activities necessary for sustainable growth and employment. The recent territorial employment pacts are proof of the need for involving parties beyond institutional circles. The Commission believes that it is the

responsibility of the Member States, as a trade-off for the decentralisation of implementation, to guarantee that broadening of the partnership.

### **A clear division of responsibilities**

Before simplification of the method of operation can be achieved there is a need for a clear division of responsibilities. This will also help guarantee a genuine deepening of the partnership. The current operation of the Funds contains too many provisions to be applied "in the context of partnership" without stating clearly which authority - the Commission, Member State, ... - has actual responsibility for a certain part of the preparation and implementation of Fund programmes. This dilution of responsibilities means every partner is ultimately associated with every decision, whatever its stage or significance, and this considerably increases the ponderousness of the whole edifice. The Commission therefore wants the responsibilities of the various partners to be specified at all stages of the operation of the Funds.

As indicated above the Commission will be publishing a summary of the guidelines to be used in the preparation of national development plans. The development plans are to be established by the competent authorities in the Member States after the partnership has actually been introduced in the Member State. The content of the assistance packages adopted by the Commission will be more strategic and will be centred on the goals and priorities in each programming document. In return, the Member States will remain guarantors for monitoring, management, evaluation and control. On the other hand, the more detailed content of programmes and the management of operations will be the full and sole responsibility of the Member States. Their obligations to account for that management will be better defined as a result. This presupposes that it will be possible to effectively simplify and decentralise the programming.

## **2. Integrated strategic programming**

### **Fewer but integrated operations**

Reducing the number of Objectives and Community Initiatives is an initial contribution to the substantial simplification of the operation of the Funds. Implementation of a single Structural Fund integrated programme per region is a second. In principle, the regional level concerned is NUTS level II. A programme must contain the integrated measures promoted via all the Structural Funds, whether under Objective 1 or Objective 2.

This rationalisation has several advantages: the additional effectiveness and synergy due to integration of the Funds, the reduction in the number of initial and amending decisions, the flexibility it introduces to the benefit of local managers and, lastly, the effective harmonisation of Fund methods.

More specifically, the Commission is proposing that Objectives 2 and 3 should always be implemented in the form of single programming documents bringing together all the Funds, including the EAGGF and the FIFG for

Objective 2, while Community support frameworks will remain the general rule for Objective 1 because of the scale of the funding and the opportunity they offer to implement multiregional programmes relating to a particular topic or sector, including the development of human resources.

### **More strategic content taking account of Community priorities**

Fund programmes have often been criticised from the aspect of subsidiarity. Many partners have felt that the Community should concentrate more on strategic choices and decentralise Fund management. The Commission is therefore proposing to make programming into two parts: one which will continue to require a decision at Community level, and for which the Commission will be responsible, and one which will henceforth be the sole responsibility of the Member States.

The programming decisions adopted at Community level will be centred on quantified strategic targets, priorities and funding allocations to them, a description of the measures and the necessary guarantees relating to the rules of implementation in a strengthened partnership. Such strategic decisions can be amended by the Commission.

### **3. Decentralised programming**

Within that part of the programming decided at Community level, the detailed programming will be entirely the responsibility of the Member States. They will allocate funding to different operational measures, quantify their targets, designate the final beneficiaries and define criteria for selecting projects.

Each Member State will appoint a managing authority which will take on that responsibility along with ensuring correct implementation. The authority will have a broad degree of autonomy; it will prepare, adopt and amend that part of the programming which it forwards to the Commission. It will have responsibility for the entire process of implementing the assistance of the Funds, including guaranteeing compliance with Community policies and quality of implementation. To that end it will manage financing plans at measure level and put in place management, monitoring and evaluation systems under its authority.

In cases where the full involvement of local actors is vital to the effectiveness of the Funds (local development, revitalisation of depressed urban areas, employment pacts, etc) use of a "global grant" entrusted to specified intermediaries (local authorities, development agencies, specialist NGOs, etc) may be particularly relevant.

#### **4. Accountable and transparent monitoring**

##### **Monitoring Committees**

Monitoring the implementation of the programmes will continue to be the responsibility of a Monitoring Committee, chaired by the managing authority. In addition, so as to guarantee the broadest possible partnership, all types of partners - local and environmental authorities, economic and social partners - must be represented on the Monitoring Committees. A distinction will be made between partners participating directly in financing and those who have advisory roles.

The role of Commission representatives will be a new one. So as not to conflict with the decentralisation of management it is proposed that they only participate in an advisory capacity. To preserve its institutional responsibility, the Commission will nevertheless satisfy themselves that the strategic programming is being complied with and ensure that Community assistance is being used properly.

Lastly, it is proposed that the Monitoring Committees be more involved in the quality of implementation of the assistance. Firstly, they will now give their approval to the additional programming proposed by the authority responsible for the programme before the latter body forwards it to the Commission. As a result, they will also approve any amendments. In addition, they should periodically discuss the implementation of the strategic guidelines and assistance priorities and should do so more frequently than they currently do because they are too often involved in management. To that end they will examine the programming evaluations so that they can propose, with all the facts at their fingertips, the necessary adjustments resulting from changing local conditions. They will also approve the annual implementation report drawn up by the managing authority before it is forwarded to the Commission.

##### **Transparent implementation**

The decentralisation of financing must not conflict with the Treaty principle making the Commission responsible for execution of the budget. As part of that responsibility the Commission must guarantee transparency of the funding granted and account for this to the budget authority and the citizens of Europe. To be able to do this it must be informed about the utilisation of budget appropriations by those responsible for managing the funds. Several provisions are included to achieve this:

- The annual implementation report: this must contain adequate information on the progress of the assistance and its results and impact in the Member States.

- Data collection and indicators; these play a crucial role for both the Commission and the management authorities in ensuring efficient monitoring; in particular, they will permit monitoring in areas of Community interest such as those of equality between men and woman, enterprise support or transEuropean networks
- An annual monitoring meeting between the Commission and the managing authority. The aim should be to examine the results achieved over the past year. The meeting may result in recommendations for improving management quality.
- An annual meeting between the Commission and the Member States' inspection authorities; the aim of this will be to evaluate the results of controls carried out, the observations of other inspection bodies and the measures taken or planned to put right any shortcomings detected.
- An in-depth mid-term examination of all Funds assistance; this is needed because of the length of the forthcoming programming period (seven years) and the allocation of the performance reserve.
- A special information and publicity effort aimed at both potential beneficiaries and the general public, so as to inform them of the opportunities offered and of the role played by the Community in promoting cohesion.

##### **5. Simpler and more exacting financial management by the Commission**

The current method of managing appropriations and payments for programmes part-financed by the Structural Funds is complex. It also has the drawback of producing blockages and delays in disbursements when there is a problem even in a small part of a programme. The Commission feels that it is both possible and desirable to improve the current provisions decisively.

The Commission firstly proposes a simpler and more automatic system for budget commitments. The first annual commitment will be made at the time the assistance package is approved. Subsequent annual commitments will be triggered automatically at the beginning of each new programme year. However, in order to minimise the drawback of delays in the payment of commitments, the Commission is proposing automatic decommitting of those parts of commitments still not used after the end of the second year following the commitment year. At the same time, the possibility for a rebudgetisation of commitment appropriations, not used in the year 2000, is proposed in the framework of a new inter-institutional agreement. This provision will also be an encouragement to use assistance efficiently.

On payments, the Commission feels that the general principle should be the reimbursement of actual, certified expenditure. However, in order that the implementation of programmes can start thanks to Community part-financing it is necessary to provide for a lump-sum advance of the order of 10% of the total planned contribution, to be paid by the Commission when the programme is adopted. This system of a single advance and then regular reimbursements

staggered throughout the year is both more simple and more exacting. The reimbursements must satisfy a number of special conditions: availability of the programming supplement and of annual reports, and the absence of irregularities in the management or implementation of measures.

This simplification of financial management will be helped by a new indexing system. This will be flat-rate and will be set before the programming process. It can, if necessary, be subject to a mid-term review to take account of actual inflation rates.

## **6. Special rules for Community Initiatives**

Because of their special nature, focusing on cooperation and innovation, Community Initiative programmes will have a different scope by comparison with assistance under the priority Objectives. For simplification, a single source of financing (a single Fund) for each Initiative is provided for.

Their Community interest provides the justification for Commission playing a more central role in preparing and implementing them. Simple structures for coordination and exchanges between the various regions concerned would be valuable for profiting from all the advantages of cross-border and inter-regional cooperation. These structures, placed under the responsibility of the Commission, should, of course, also contain representatives from the Member States. In addition, in so far as crossborder and transnational cooperation involves external regions supported by PHARE, TACIS and MEDA, they would need to be adapted accordingly.

In contrast, those responsible for preparing and managing operational measures, defined as laid down in guidelines drawn up by the Commission, should be the authorities or partners most directly involved on the ground.

## **C. Greater efficiency**

Clarifying responsibilities and decentralising ought to lead to greater efficiency in the Structural Funds, a requirement that should be applied throughout the programming process.

### **1. A Negotiated additionality**

The additionality principle, which is intended to prevent Structural Funds money being substituted for a Member State's public or equivalent structural expenditure, is a necessary condition for securing an economic impact in real terms in eligible regions.

Experience has shown that verifying additionality is a complex business, principally because it is carried out for each Objective and because it is difficult to identify eligible expenditure, especially for small geographical areas. In addition, verification would be more effective if it had practical consequences. Compliance with additionality should therefore be taken into account when the performance reserve is allocated. Its implementation should

be simplified by reducing its frequency and the number of levels at which it is assessed.

The level of structural expenditure to which each Member State commits itself will be agreed between it and the Commission. It will have to be at least the same as that achieved during the previous programming period so as to maintain that Member State's effort in those regions.

The number of verifications will be reduced to three: one *ex ante* verification, one at mid-term and one before the end of the programming period. In Objective 1, eligible expenditure will be public structural expenditure and in Objectives 2 and 3 it will be expenditure on active labour market policies. Lastly, the geographical verification levels will be reduced to two: regions eligible under Objective 1, which usually cover a large part of national territory, and joint national verification of Objectives 2 and 3.

## **2. A tighter definition of eligible expenditure**

Decentralising management presupposes that the authorities responsible for it know the rules to apply. They are set out in a general way in the Structural Fund regulations. However, the work carried out under SEM 2000 has shown that in some cases more detailed rules on eligibility of expenditure are needed which the Fund regulations cannot specify precisely. It is therefore proposed that:

- the Fund Regulations continue to define, as at present, the scope which provides the basis for detailing the measures to be financed by the Funds under each assistance package;
- beyond that definition of the Funds' scope, relevant national rules should apply to eligible expenditure unless the Commission issues common eligibility rules, like the current "eligibility sheets" attached to programming documents in 1997.

The principles to be applied are thus rendered more transparent to operators: the eligibility of measures is defined in the Regulations; the eligibility of expenditure to implement these measures is regulated by national law except in a small number of cases where common rules are desirable on the basis of the experience of managers and inspection bodies.

In the light of previous experience, the Commission will undertake an evaluation before mid 1999 on the application by the Member States of the 22 existing datasheets in order to determine those which can be usefully retained and given legal status for the new programming period.

In addition, two particular areas have caused problems in recent years : these concern, on the one hand, the delocalisation of productive investments which have received publically-funded assistance to set up, and, on the other hand, the privatisation of infrastructures which have received support in the construction phase. In both cases, on the basis of more precise and simplified

regulatory provisions and while respecting market forces, the Member States and the Commission must seek to ensure that for a predefined period (5 years) aid from the Funds is not diverted from its original purpose and does not lead to undue advantages. Such undue advantages could be to the benefit of enterprises if they delocalise an activity prematurely for which they had received aid for the creation of permanent jobs, or, as a result of the purchase of equipment under conditions which give rise to an implicit aid. A comparable problem could involve public authorities, who, after the sale of an infrastructure facility, gain a financial benefit of a kind not initially foreseen by the Structural Funds.

### **3. More developed financial engineering**

The Commission states in Agenda 2000 that as a result of various criticisms, such as by the Court of Auditors, the leverage of structural assistance should be reinforced by forms of assistance other than straight grants. Two motives are at the back of this greater concern for financial efficiency: a more adequate response to economic needs and greater consideration of the return on projects based on the revenues expected thus also permitting closer cooperation with the EIB and the EFI. Three amendments to the rules are proposed here:

- The general Regulation will specify that, during the implementation of measures, Fund participation can take differentiated forms other than direct aid: reimbursable aid, preferential interest rates, guarantees, equity stakes, etc.
- The Regulation will also provide for a greater variation in rates, by specifying the special treatment to be given to infrastructure projects producing substantial revenues and to investment in businesses. In addition, this will give an encouragement to use part of the Community assistance in a form other than direct aid. In order to promote the greatest possible use of private sources of finance in supporting projects aided by the Funds (public-private partnerships), and with a view to transparency with regard to the management authority in the context of decentralised programming, reduced rates are proposed for these two investment categories. In the case of infrastructure, the notion of 'substantial receipts' could be defined on an indicative basis as net receipts equivalent to at least 25 % of the total cost of the investment concerned.
- Lastly, the major projects, which are still included in the programmes, will be subject to separate approval permitting an *ex ante* verification both of their conformity with the programme objectives pursued and Community policies and of their funding package, if necessary in consultation with the EIB.

#### **4. Full integration of evaluation**

Following the general adoption of evaluation in the Member States during the previous programming periods, it should continue to play an enhanced role in assisting decision-making and sound management of national and Community assistance. To properly fulfil this operational role, evaluation must be based on a clear division of responsibilities among those commissioning it. This will cover greater integration of *ex ante* evaluation in the preparation of development plans and the quantification of targets to be achieved, the systematic provision of mid-term evaluations to accompany adjustments in programming and the implementation of *ex post* evaluations to capitalise on experience gained.

The inclusion of lessons gained from evaluations during previous programming periods in the preparation of new development plans will help to spread "best practice" and therefore contribute to a greater socio-economic return on public expenditure.

#### **5. A new incentive to efficiency: the performance reserve**

The aim of the mid-term performance reserve is to enhance the efficiency with which each operational programme or SPD uses its available funding to achieve the targets it sets and an additional economic impact in real terms. The aim is to encourage the best possible utilisation of national and Community public funds. To that end, on the basis of a Commission proposal, the performance reserve will be awarded to operational programmes or to the SPDs which are judged to be performing well or very well according to their score on a limited number of measurable indicators assessed at the mid-term in comparison to targets established at the outset. The indicators will be defined so as to guarantee that assistance achieves the expected results (quality programming), that proper administrative rules guaranteeing the correct management of the measures undertaken are put in place (monitoring financial control, project selection, evaluation) that the mobilised funds are spent at the rate specified in the programmes (financial absorption) and that an effort has been made to ensure a leverage effect with respect to the involvement of private capital.

The results of the mid-term verification of additionality will determine the final percentage of the reserve allocated to the programmes performing well or very well. Programmes in Member States where undertakings with regard to additionality have not been respected will experience a reduction in favour of other programmes.

#### **6. The role of advisory and management committees**

The Commission is proposing continuation of the existing five committees (the Advisory Committee on the Development and Conversion of Regions, the ESF Committee, the Management Committee on Agriculture Structures and Rural Development, the Management Committee of the Fisheries and Aquaculture sector and the Management Committee for Community

Initiatives) even though a reduction in their number might have seemed desirable. However, such a reduction runs up against legal problems which the general Regulation on its own cannot resolve.

#### **D. Improved controls**

Improved checking of Structural Fund assistance in the Member States is another *quid pro quo* for decentralising its implementation.

##### **1. Reliable financial management and control systems**

Better controls require a clearer definition of responsibilities of the Commission and the Member States. As a continuation of the work leading to the recent adoption by the Commission of a Regulation on this subject, and without prejudicing the institutional competences of the Commission, the fact that there must be no doubt as to the principle that prime responsibility lies with the Member States is an indispensable prerequisite for guaranteeing the efficiency and correctness of financial management and for preventing, detecting and correcting irregularities. At all stages of programming the Commission is proposing special provisions enabling it to verify that those requirements are being met. In the event of shortcomings or irregularities being detected, the Commission will have the facility to make the financial corrections.

The Commission also intends to strengthen the links between programme monitoring, financial management and controls. As is the case for the monitoring and evaluation systems, it will ask for guarantees from Member States on the effectiveness of their management and inspection systems. The Commission itself will have powers to suspend the reimbursement of expenditure if the efficiency and correctness of expenditure or programme implementation is compromised. Regular meetings between the managing authorities and the inspection departments in the Commission and the Member States and regions will guarantee that the effectiveness of implementation is in accordance with the programmes' objectives, Community policies and the principles of sound financial management.

All these principles have already been debated at length with the Member States as part of the SEM 2000 exercise, particularly in the context of the preparation of Commission Regulation (EC) No 2064/97 on implementation of the current Article 23 of the Coordination Regulation.

##### **2. Effective financial corrections**

In maintaining the present system, it will be necessary to develop more operational and transparent means for undertaking financial corrections.

As for controls, the principle must be clearly reinforced that prime responsibility for the necessary financial corrections in the event of mistakes or irregularities being identified rests with the Member States. Where the Member States does carry out such financial corrections the Community

assistance concerned must be reusable for other purposes within the same programme.

As at present, where a Member State does not make corrections for infringements of Community law, irregularities or mistakes or where the Community assistance is no longer justified, in whole or in part, or where shortcomings in the management or inspection systems cause systematic irregularities, it will be for the Commission to make duly justified corrections. As at present, a Member State must have the opportunity to submit comments within a specified time limit. Corrections are in principle made by deducting the aid available to the Member State in question. A correction may be limited to the irregularity detected or made larger if the infringement or irregularity is the result of a more general shortcoming in the management or inspection system.

Lastly, financial corrections will continue to be necessary where irregularities have no precise financial value (for example, in the event that a particular aspect of Community law is not respected).

## **PART THREE**

### **The Regulations specific to each Structural Fund**

#### **A. The ERDF**

In accordance with the overall architecture of its proposals, the Commission is proposing that the Regulation concerning the European Regional Development Fund should cover only those rules specific to that Fund, i.e. its general scope. Moreover, this Regulation has proved itself over the past ten years so the Commission does not propose altering it radically, but merely to spell out some details.

As part of its more clearly defined task (to promote economic and social cohesion) the ERDF should continue to participate in four types of financing: productive investment, investment in infrastructure differentiated according to the type of region, support for endogenous development, and support for innovative measures and technical assistance.

With regard to the ERDF's participating in the financing of endogenous development, more attention will be given to new forms of financial engineering and to local services so as to provide instruments better adapted to innovation in the field of business investment and local development and employment initiatives.

ERDF funding should be used to meet the development needs of eligible regions while pursuing Community assistance priorities. For this reason the ERDF Regulation distinguishes between a number of fields assisted by the ERDF, such as the productive sector environment, research and technological development, protection and improvement of the environment, local economic development, equality of opportunity for men and women and Europe-wide cooperation in the field of regional development.

Lastly, the ERDF Regulation should specify the scope of assistance specific to innovative measures supported by the Fund so as to further bolster the programmes financed under the priority Objectives of the Structural Funds.

#### **B. The ESF**

##### ***Relationship to General Regulation***

The Regulation governing the European Social Fund (ESF) conforms with the logic of the overall package of Structural Fund Regulations set out in the Introduction. Set within the general context of the General Regulation, the ESF Regulation sets out a range of provisions which apply specifically and uniquely to the ESF.

##### ***Political context***

The role of the ESF within the revised Structural Funds takes as its starting point a new Employment Chapter in the Amsterdam Treaty, the employment strategy developed since the Essen European Council, and the new process - initiated by the Council in anticipation of the Amsterdam Treaty - of developing annual national

action plans for employment. ESF implementation also has to be sufficiently flexible to take into account the great diversity of policies, practices, and needs regarding employment and human resource development across the Member States. To that extent, and given that the Regulation applies for a 7-year period, the definition at this stage of the measures fundable is relatively wide in order to facilitate an effective linkage with the annual employment guidelines and to ensure that every Member State can find appropriate categories for funding.

The overall thrust of the approach is to look for policy rather than programme or project additionality, and to seek to identify in what way Member States are proposing to use ESF money to further develop, improve or totally change their employment and human resource policies in line with the employment guidelines foreseen in the Amsterdam Treaty.

It is very important to ensure appropriate articulation of, on the one hand, this overall ESF framework and its connection with the employment strategy and guidelines and, on the other hand, the operation of regionalised ESF funding. The Commission is committed to an integrated approach across all three Structural Fund Objectives and to considerably strengthened co-ordination between the interventions of the different Funds, particularly in respect of human resource development.

The importance of human resource development is such that it cannot be seen in isolation from an overall national and European strategy, and the agreements between Member States and the Commission on Objective 3 will be an important reference point for discussions on specific human resource activities within Objectives 1 and 2.

### *The content of ESF activities*

ESF activity is based on five policy fields:

*Active labour market policies to fight unemployment*

*Promoting social inclusion*

*Lifelong education and training systems to promote employability*

*Anticipating and facilitating economic and social change*

*Equal opportunities for men and women.*

The aim is to ensure a minimum participation of the Social Fund in all five fields while at the same time permitting each Member State to decide its own priorities for ESF investment. The exact distribution across the five headings has to take into account the *ex ante* evaluation as well as the overall scale of funding available in relation to the programme objectives. The draft Regulation proposes a minimum level of investment within each intervention for the activities mentioned under 4. and 5. above.

A particular emphasis should be given to the policy fields set out in Article 2.1 (d) and (e), i.e. improving systems for anticipating and facilitating economic and social change as well as improving the participation of women in the labour market. In practice there shall be an indicative target of at least 15 % of the fund appropriations available for each of these two policy fields.

Member States are obliged to ensure that ESF money is invested in a focused manner with clearly verifiable impact and visibility. These latter points cannot be dictated in terms of the measures, but will be defined in terms of the outcome of the negotiation. This enables Member States to select carefully measures best adapted to their own particular situation, which fit in with the employment strategy and the employment priorities agreed jointly between Member States and the Commission, at European level.

The end result for each Member State is a “framework of reference” decided as part of either national Objective 3 programming or within the relevant Community Support Framework (with regional programming where necessary). This framework will identify: (i) the allocation of money across the five policy goals; (ii) a defined number of priorities for expenditure within those five categories; (iii) the mechanisms for identifying the precise outcomes and outputs from the programme expenditure for the purposes of monitoring and evaluation; and (iv) defined targets which allow performance to be measured (and where results will feed into the mid-term allocation of the Reserve).

### **C. Support for rural development from the EAGGF**

The new regulation on support for rural development from the EAGGF provides the basis for a coherent rural development policy. Its aim is also to complement market policies by ensuring that agricultural expenditure will make a greater contribution than previously to territorial development and to nature protection. An important part of its financial resources come from a transfer from the Guidance Section to the Guarantee Section of the EAGGF.

The text, which combines all rural development measures financed by the EAGGF within a single framework, gives the Member States the opportunity to define priorities themselves and to make their own choices from among the measures contained in the regulation. These choices would be set within an overall programming approach.

The financial and administrative provisions under the regulation on support for rural development from the EAGGF corresponds to the Agenda 2000 proposals in relation to rural development measures:

- programming within the framework of the Structural Funds in regions eligible for support under Objectives 1 and 2;
- financing either by the Guarantee or Guidance Section of the EAGGF according to measure or region.

Measures for modernisation and diversification follow an approach differentiated according to the regional context. In Objective 1 and 2 regions, they will be included in the regional programmes and contribute in that way to economic and social cohesion policy. With regard to the necessary legal provisions, the regulation on support for rural development from the EAGGF forms part of the general framework for the Structural Funds, with a specific reference to the General Regulation on the Structural Funds.

#### **D. The Regulation specific to structural operations in the fisheries sector**

The regulation specific to structural operations in the fisheries sector which is part of this proposal for legislation is restricted to establishing the affiliation of the Fund with both the common fisheries policy and economic and social cohesion policy. Under the latter, the operations contribute to Structural Fund Objectives 1 and 2.

The detailed rules for the Community financial contribution to structural operations in the fisheries sector will be established at a later date by the Council in a regulation based on Article 43 of the Treaty. The procedure is absolutely identical to that applied in 1993 when within a few months the Council adopted Regulation (EEC) No 2080/93<sup>3</sup>, which must be replaced by the regulation specific to fisheries which is part of this proposal, and Regulation (EEC) No 3699/93<sup>4</sup>.

Programming measures to accompany the restructuring of fishing fleets is incompatible with the exclusively "regional" nature of Objective 2 programming. The measures in question<sup>5</sup> are aimed at implementing the multiannual guidance programmes to adjust fishing effort (MAGP), which set precise targets for fishing capacity reduction by means of restrictive rules. However, they do so for each Member State, with no possibility of a breakdown into regions. In those regions affected by Objective 1 the present approach will be maintained.

It is for that reason that we are not proposing to integrate measures to accompany the restructuring of fishing fleets into Objective 2 programming. For such measures there will be a separate special programming covering all the regions outside Objective 1, including the Objective 2 regions. The resources will come from the EAGGF Guarantee Section. All the other measures in the sector (aquaculture modernisation, product processing, port facilities, etc.) will continue to be programmed in Objective 2.

Where Objective 1 regions are concerned, all measures in the sector, including measures to accompany the restructuring of fishing fleets, will be programmed within that Objective.

Lastly, and in line with the Agenda 2000 proposal, the Community will be able to act outside the Objective 1 and 2 regions in all parts of the sector using funds from the EAGGF Guarantee Section.

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<sup>3</sup> OJ L 193, 31.7.1993, p. 1.

<sup>4</sup> OJ L 346, 31.12.1993, p. 1.

<sup>5</sup> Without prejudging the decision of the Council under Article 43 of the Treaty, such measures currently include all premiums and aid paid to owners of fishing boats as well social aid to workers in the fishing industry affected by the restructuring.

Proposal for a  
**COUNCIL REGULATION (EC)**  
laying down general provisions on the Structural Funds

Proposal for a  
**COUNCIL REGULATION (EC)**  
laying down general provisions on the Structural Funds

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Union, and in particular Article 130d thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the assent of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Having regard to the opinion of the Committee of the Regions<sup>4</sup>,

- (1) Whereas Article 130a of the Treaty states that, in order to strengthen its economic and social cohesion, the Community shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least favoured regions, including rural areas; whereas Article 130b provides for that action to be supported through the Structural Funds, the European Investment Bank (EIB) and the other existing financial instruments;
- (2) Whereas Article 19 of Council Regulation (EEC) No 2052/88<sup>5</sup>, as last amended by Regulation (EC) No 3193/94<sup>6</sup> 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, requires the Council to re-examine that Regulation on the basis of a Commission proposal before 31 December 1999; whereas, in order to improve the transparency of Community legislation, it is desirable to bring together all the provisions concerning the Structural Funds into a single Regulation and to repeal Regulation (EEC) No 2052/88 and Council Regulation (EEC) No 4253/88<sup>7</sup>, as last amended by Regulation (EC) No 3193/94;

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<sup>1</sup> OJ ...

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<sup>5</sup> OJ L 185, 15.7.1988, p. 9.

<sup>6</sup> OJ L 337, 24.12.1994, p. 11.

<sup>7</sup> OJ L 374, 31.12.1988, p. 1.

- (3) Whereas, by virtue of Article 5 of Protocol No 6 on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden, attached to the Act of Accession of Austria, Finland and Sweden, the provisions of that Protocol should be re-examined before the end of 1999, simultaneously with Regulation (EEC) No 2052/88;
- (4) Whereas in order to increase the concentration and simplify the operation of the Structural Funds the number of priority Objectives should be reduced as compared with Regulation (EEC) No 2052/88; whereas those Objectives should be redefined as developing and promoting the structural adjustment of regions whose development is lagging behind, economic and social conversion of areas facing structural difficulties and adapting and modernising policies and systems of education, training and employment;
- (5) Whereas in its efforts to strengthen economic and social cohesion through the Structural Funds the Community also seeks to promote the harmonious, balanced and sustainable development of economic activities, a high degree of competitiveness, a high level of employment, equal opportunities for men and women and a high level of protection and improvement of the environment; whereas those efforts should in particular help to eliminate inequalities and promote equal opportunities for men and women and to integrate the requirements of environmental protection into the design and implementation of the action of the Structural Funds;
- (6) Whereas the European Regional Development Fund (ERDF) is the primary contributor to attaining the objective of developing and promoting those structural adjustment of the regions whose development is lagging behind and economic and social conversion of areas facing structural difficulties;
- (7) Whereas the tasks of the European Social Fund (ESF) should be adjusted in order to take account of and to implement the Community's strategy for employment;
- (8) Whereas the structural aspects of the common fisheries policy have been integrated as a full structural policy under the rules governing the Structural Funds since 1993; whereas implementation should continue under the Structural Funds through the Financial Instrument for Fisheries Guidance (FIFG);
- (9) Whereas the Community has undertaken a reform of the common agricultural policy which includes structural and accompanying measures for promoting rural development; whereas in this context the Guidance Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) should continue to contribute to attaining the priority objective of the development and structural adjustment of the regions whose development is lagging behind, by improving the efficiency of the structures of production, processing and marketing of agricultural and forest products and developing local potential in rural areas; whereas the EAGGF Guarantee Section should also contribute to

attaining the priority Objective of economic and social conversion of areas facing structural difficulties, in accordance with Council Regulation (EC) No [...] on Support for Rural Development from the European Agricultural Guidance and Guarantee Fund (EAGGF)<sup>8</sup>;

- (10) Whereas the specific rules applicable to each Fund are to be set out in the implementing decisions adopted under Articles 43, 125 and 130e of the Treaty;
- (11) Whereas the criteria for designating eligible regions and areas should be specified; whereas, to this end, it is appropriate that the identification of the priority regions and areas at Community level should be based on the common system of classification of the regions, referred to as the "Nomenclature of Territorial Statistical Units (NUTS)" established by the Statistical Office of the European Communities in cooperation with the national institutes for statistics;
- (12) Whereas regions whose development is lagging behind should be defined as those whose per capita GDP is less than 75% of the Community average; whereas, in order to ensure an effective concentration of assistance, the Commission should apply this criterion strictly, using objective statistical data; whereas the most remote regions and areas with a very low population density covered by Objective 6 as set out in Protocol No 6 attached to the Act of Accession of Austria, Finland and Sweden for the period 1995-99 should also be covered by Objective 1 under this Regulation;
- (13) Whereas the areas undergoing economic and social conversion should be defined as those which include areas undergoing socio-economic change in the industrial and service sectors, declining rural areas, urban areas in difficulty and depressed areas dependent on fisheries; whereas this assistance should be properly concentrated on the most seriously affected parts of the Community; whereas these areas should be designated by the Commission acting on a proposal from the Member States and in close concertation with them;
- (14) Whereas, to ensure the Community nature of the operations of the Funds, the areas undergoing socio-economic change in the industrial sector and the declining rural areas should be designated on the basis of objective indicators defined at Community level; whereas, furthermore, the indicative population covered by this Objective in the case of the industrial areas should constitute about 10% of the population of the Community, 5% in the case of the rural areas, 2% in the case of the urban areas and 1% in the case of the fisheries areas; whereas, in order to ensure that each Member State makes a fair contribution to the overall effort towards concentration, the maximum possible reduction in population covered by Objective 2, set out in this Regulation, in 2006 shall not exceed one-third compared to the coverage under Objectives 2 and 5b, set out in Regulation (EEC) No 2052/88, in 1999, including areas

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<sup>8</sup> OJ L ...

receiving transitional support under Objective 1 which fulfil the Objective 2 eligibility criteria;

- (15) Whereas, in the interests of efficient programming, the regions whose development is lagging behind where per capita GDP is less than 75% of the Community average should be the same as the areas assisted by the Member States under Article 92(3)(a) of the Treaty; whereas, similarly, in accordance with the communication of the Commission to the Member States on regional policy and competition policy<sup>9</sup>, the areas undergoing economic and social change should correspond as closely as possible to the areas assisted by the Member States under point (c) of Article 92(3) of the Treaty, and the areas that the Member States accordingly propose as eligible for assistance towards economic and social conversion should essentially only be those areas notified to the Commission under point (c) of Article 92(3) of the Treaty;
- (16) Whereas the objective of adapting and modernising policies and systems of education, training and employment is to provide financial assistance in the regions and areas not covered by the other two priority objectives; whereas this objective should also provide a frame of reference to ensure consistency with all operations for human resources in a given Member State;
- (17) Whereas the regions covered by a priority objective in 1999 which no longer satisfy the eligibility criteria should receive a gradually declining level of transitional support;
- (18) Whereas there should be provisions for allocating shares of the available resources; whereas these resources should be allocated annually, with some two-thirds being concentrated on regions whose development is lagging behind, including those receiving transitional support;
- (19) Whereas the Commission should work out indicative allocations for 90% of the available commitment appropriations under each of the priority objectives, basing itself entirely on appropriate objective criteria; whereas the 10% of appropriations not allocated in this way should be allocated by the Commission at the mid-term point;
- (20) Whereas 5% of the total commitment appropriations available should be devoted to the Community initiatives, 1% to innovative schemes and to technical assistance;
- (21) Whereas the appropriations available to the Structural Funds should be indexed on a flat-rate basis for programming purposes and, if necessary, a technical adjustment to that indexation should be made before 31 December 2003;

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<sup>9</sup> OJ L ...

- (22) Whereas the main principles of the 1988 reform of the Structural Funds should continue to govern the Funds until 2006; whereas, however, experience to date has demonstrated the need for improvements to make these principles simpler and more transparent; whereas effectiveness should in particular be regarded as a fundamental principle;
- (23) Whereas, if the operations of the Structural Funds are to be effective and transparent, the responsibilities of the Member States and of the Community should be precisely defined; whereas those responsibilities should be specified for each stage of programming, monitoring, evaluation and supervision; whereas, in accordance with the principle of subsidiarity, and without prejudice to the powers vested in the Commission, implementing and monitoring assistance should be primarily the responsibility of the Member States;
- (24) Whereas the action of the Community should be complementary to, or intended to contribute to, the action of the Member States; whereas, in order to ensure significant added value, partnership should be strengthened; whereas this concerns the regional and local authorities, the other competent authorities, including those responsible for the environment and for the promotion of equality between men and women, the economic and social partners and other competent bodies; whereas all the partners shall be associated in the preparation, monitoring and evaluation of assistance;
- (25) Whereas the programming process should be laid down from original conception to final beneficiary, and should be facilitated in the Member States by guidelines drawn up by the Commission setting out the Community's priorities for the operations of the Structural Funds;
- (26) Whereas programming should ensure the coordination of the Structural Funds with one another and with the other existing financial instruments and the EIB; whereas that coordination extends to combining grants and loans;
- (27) Whereas the activities of the Funds and the operations which they help to finance should be compatible with the other Community policies and comply with Community legislation; whereas specific provisions should be laid down in this field;
- (28) Whereas simpler criteria and detailed rules for the verification and implementation of the principle of additionality should be laid down;
- (29) Whereas the system of programming should be simplified by fixing a uniform lifetime for programming of seven years; whereas to that end the forms and number of assistance schemes should be limited and should normally consist of a single integrated assistance for each region, by making single programming documents the norm for some of the priority objectives and by including major projects and global grants in the other forms of assistance;

- (30) Whereas, in order to reinforce the integrated approach to development, steps should be taken - with due regard to the specific features of the regions concerned - to ensure consistency between the operations of the various Funds and the Community priorities, the strategy for employment, the economic and social policies of the Member States and the regional policies of the Member States;
- (31) Whereas, in order to speed up and simplify programming procedures, the responsibilities of the Commission should be distinguished from those of the Member States; whereas, therefore, provision should be made for the Commission, acting on a proposal from the Member States, to adopt the strategies and development priorities that are to govern the programming as well as the size of the financial contribution from the Community, and the implementing arrangements linked to them while the Member States are to decide on their application; whereas the content of the various forms of assistance should also be specified;
- (32) Whereas such decentralised implementation of the operations of the Structural Funds by the Member States should provide sufficient guarantees as to the details and quality of implementation, the results of operations and their evaluation and sound financial management and its supervision;
- (33) Whereas the Commission, in association with the EIB where appropriate, should approve major investment projects whose financial volume exceeds a specified sum with a view to evaluating their impact and the proposed use of Community resources;
- (34) Whereas there should be provision for operations of Community interest carried out at the initiative of the Commission to supplement those implemented under the priority objectives;
- (35) Whereas these Community initiatives should concentrate on promoting cross-border, transnational and inter-regional cooperation, to be financed by the ERDF, rural development, to be financed by the EAGGF Guidance Section, and the development of human resources in the context of equal opportunities, to be financed by the ESF; whereas consistency should be ensured between operations of cross-border, transnational and inter-regional cooperation and operations under Council Regulation (EEC) No 3906/89<sup>10</sup>, as last amended by Regulation (EC) No 753/96<sup>11</sup>;
- (36) Whereas the Structural Funds should provide support for studies, pilot projects and exchanges of experience in order to promote innovative approaches and practices through simple and transparent implementation;

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<sup>10</sup> OJ L 375, 23.12.1989, p. 11.

<sup>11</sup> OJ L 103, 26.4.1996, p. 5.

- (37) Whereas, in order to strengthen the leverage effect of Community resources by favouring as far as possible recourse to private sources of financing and to take better account of the profitability of the projects, the forms of assistance available from the Structural Funds should be diversified and the rates of assistance differentiated with a view to promoting the Community interest, encouraging the use of a wide range of financial resources and limiting the contribution of the Funds by encouraging the use of appropriate forms of assistance; whereas, to that end, reduced rates of intervention should be established in the case of investments in firms and infrastructure projects which generate substantial revenue; whereas for the purpose of this Regulation, substantial net revenue should be tentatively defined as revenue higher than at least 25% of the total cost of the investment concerned;
- (38) Whereas, in accordance with the principle of subsidiarity, the rules on eligible expenditure should be the relevant national rules where there are no Community rules, although they may be laid down by the Commission where they are clearly needed for the uniform and equitable implementation of the Structural Funds across the Community; whereas, however, the starting and closing dates for the eligibility of expenditure should be defined and it should be stipulated that investment projects may not undergo major modification; that, consequently, in order to ensure the efficiency and durable impact of the Funds' interventions, all or part of the assistance from a Fund should remain attached to an operation only where its nature or its implementation conditions do not undergo a substantial modification which would result in diverting the assisted operation from its original objectives;
- (39) Whereas the rules and procedures for making commitments and payments should be simplified; whereas to that end budget commitments should be made once a year in accordance with the multiannual financial perspective and with the financing plan for assistance, whilst payments should be made in the form of an advance followed by the reimbursement of actual expenditure incurred; whereas, in accordance with established case law, any interest earned on the advance payment should be regarded as resources for the Member State concerned, and in order to strengthen the impact of the Funds, it should be allocated to the same purpose as the advance payment itself;
- (40) Whereas sound financial management should be assured by providing that expenditure is to be duly justified and certified, and by linking payments to compliance with essential responsibilities as to the monitoring of programming, financial controls and the application of Community law;
- (41) Whereas, to ensure sound management of Community resources, improvements should be made to the forecasting and implementing expenditure; whereas to this end the Member States should regularly send the Commission their forecasts of the use of Community resources, and any delays in financial implementation should give rise to repayment of advances and to automatic decommitments;

- (42) Whereas, throughout the transitional period from 1 January 1999 to 31 December 2001, all references to the euro should normally be read as references to the euro as a monetary unit as referred to in the second sentence of Article 2 of Council Regulation (EC) No .../98<sup>12</sup>;
- (43) Whereas one way of ensuring that the operations of the Structural Funds are effective is efficient monitoring; whereas monitoring should be improved and responsibilities in this field better defined; whereas, in particular, management functions should be distinguished from monitoring functions;
- (44) Whereas there should be a single managing authority for each assistance, with defined responsibilities; whereas these responsibilities should primarily include collecting data on outcomes and reporting this data to the Commission, ensuring sound financial implementation, organising evaluations and complying with obligations relating to publicity and Community law; whereas accordingly there should be provision for regular meetings between the Commission and the managing authority to monitor the assistance;
- (45) Whereas it should be stipulated that the Monitoring Committees are national bodies supervising assistance, checking on how it is being managed by the managing authority, ensuring compliance with its own guidelines and implementing rules and reviewing evaluations;
- (46) Whereas indicators and annual reports on implementation are essential for monitoring and should be better defined so as reliably to reflect the progress of assistance schemes and the quality of programming;
- (47) Whereas, in order to guarantee efficient and correct implementation, the obligations of the Member States should be laid down with regard to management systems and controls, the certification of expenditure and the prevention, detection and correction of irregularities and of infringements of Community law;
- (48) Whereas, without prejudice to the Commission's responsibilities for financial control, cooperation between the Member States and the Commission in this regard should be improved, in particular through provision for regular consultations between the Member States and the Commission to consider the measures taken by the Member States and to permit the Commission to request corrective measures where necessary;
- (49) Whereas the responsibility of the Member States for the pursuit and correction of irregularities and infringements, and that of the Commission where the Member States do not comply with their obligations, should be specified;

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<sup>12</sup> OJ L ...

- (50) Whereas the effectiveness and impact of the operations of the Structural Funds depends on improved and more thorough evaluation; whereas the responsibilities of the Member States and the Commission in this regard and arrangements to ensure the reliability of evaluation should be laid down;
- (51) Whereas assistance schemes should be evaluated with a view to their preparation and adoption, revisions at the mid-term point and assessment of their impact, and the evaluation process should be incorporated into the monitoring of assistance; whereas to this end the aims and content of each stage of evaluation should be defined, and the evaluation of environmental aspects and of the impact on equal opportunities for men and women should be improved;
- (52) Whereas, on the basis of the mid-term evaluation and withholding part of the original appropriations as a reserve, it becomes possible to allocate supplementary funding which depends on the performance of assistance; whereas such allocations should be based on objective, simple and transparent criteria which reflect efficiency and the quality of management and financial execution;
- (53) Whereas a report is to be presented every three years on the progress made towards economic and social cohesion, which should include an analysis of the situation of the regions of the Community and their economic and social development;
- (54) Whereas, in the interests of a good working partnership and the proper promotion of Community assistance, the broadest possible information and publicity about it should be provided; whereas the authorities responsible for managing assistance should be responsible for this aspect and for keeping the Commission informed of measures taken;
- (55) Whereas rules should be laid down for the operation of the committees called upon to assist the Commission in implementing this Regulation;
- (56) Whereas detailed transitional provisions should be laid down to allow preparation of new programming immediately on entry into force of this Regulation and to ensure that assistance to Member States is not interrupted pending the production of regional development plans and assistance schemes in accordance with the new system,

HAS ADOPTED THIS REGULATION:

## TITLE I

### GENERAL PRINCIPLES

#### CHAPTER I: OBJECTIVES AND TASKS

##### Article 1 - Objectives

Community action through the Structural Funds, the Cohesion Fund, the European Agricultural Guidance and Guarantee Fund (EAGGF) Guarantee Section, the European Investment Bank (EIB) and the other existing financial instruments shall support the achievement of the general objectives set out in Articles 130a and 130c of the Treaty. The Structural Funds, the EIB and the other existing financial instruments shall each contribute in appropriate fashion to the attainment of the following three priority objectives:

1. promoting the development and structural adjustment of regions whose development is lagging behind, hereinafter referred to as "Objective 1";
2. supporting the economic and social conversion of areas facing structural difficulties, hereinafter referred to as "Objective 2";
3. supporting the adaptation and modernisation of policies and systems of education, training and employment, hereinafter referred to as "Objective 3". This Objective shall provide financial assistance outside the regions or areas covered by Objectives 1 and 2 and provide a policy frame of reference for all measures to promote human resources in a national territory without prejudice to the specific features of each region.

In pursuing these Objectives, the Community, through the Funds, shall promote the harmonious, balanced and sustainable development of economic activities, and in particular the development of competitiveness and economic innovation, especially in small and medium-sized enterprises, the development of employment and human resources, the protection and improvement of the environment, and the elimination of inequalities, and the promotion of equality, between men and women.

##### Article 2 - Means and tasks

1. For the purposes of this Regulation, "Structural Funds" shall mean the European Regional Development Fund (ERDF), the European Social Fund (ESF), the European Agricultural Guidance and Guarantee Fund (EAGGF) Guidance Section and the Financial Instrument for Fisheries Guidance (FIFG), hereinafter referred to as "the Funds".

2. In accordance with Articles 39, 123 and 130c of the Treaty, the Funds shall contribute, each according to the specific provisions governing its operations, to the attainment of Objectives 1, 2 and 3, as follows:
  - (a) Objective 1: ERDF, ESF, EAGGF Guidance Section and FIG;
  - (b) Objective 2: ERDF, ESF and FIG;
  - (c) Objective 3: ESF.
3. The EAGGF Guarantee Section shall also contribute to the attainment of Objective 2 in accordance with Regulation (EC) No .... [concerning the support from EAGGF to rural development].
4. Each Fund shall contribute to financing Community initiatives and to supporting innovative measures and technical assistance.

Technical assistance measures shall be carried out within the framework of the programming defined in Articles 12 to 26 or at the initiative of the Commission under Article 22.

5. The other resources of the Community budget which may be used to attain the Objectives referred to in Article 1 are in particular those allocated to other structural measures and to the Cohesion Fund.

The Commission and the Member States shall ensure that the operations of the Funds are consistent with other Community policies and operations, in particular in the areas of employment, equality between men and women, social policy and vocational training, the common agricultural policy, the common fisheries policy, transport and the trans-European networks and the incorporation of the requirements of environmental protection into the definition and implementation of the operations of the Funds.

6. The EIB shall cooperate in attaining the Objectives set out in Article 1, in accordance with the procedures laid down in its Statute.

The other existing financial instruments which may contribute, each according to the specific provisions governing its operations, to attaining the Objectives referred to in Article 1 include the European Investment Fund and the European Atomic Energy Community (Euratom) (loans, guarantees), hereinafter "the other financial instruments".

## **CHAPTER II: GEOGRAPHICAL ELIGIBILITY FOR THE PRIORITY OBJECTIVES**

### **Article 3 - Objective 1**

1. The regions covered by Objective 1 shall be regions corresponding to level II of the Nomenclature of Territorial Statistical Units (NUTS level II) whose per capita GDP, measured in purchasing power parities and calculated on the basis of Community figures for the last three years available, is less than 75% of the Community average.

The most remote regions (the French overseas departments, the Azores, the Canary Islands and Madeira) and the areas eligible under Objective 6 for the period 1995-99 pursuant to Protocol No 6 to the Act of Accession of Austria, Finland and Sweden shall also be covered by this Objective.

2. The Commission shall draw up the list of regions covered by Objective 1 strictly in accordance with the first subparagraph of paragraph 1, without prejudice to Article 6(1).

This list shall be valid for seven years from 1 January 2000.

### **Article 4 - Objective 2**

1. The regions covered by Objective 2 shall be those areas facing structural problems of socio-economic conversion whose population or area are sufficiently substantial. They shall include areas undergoing socio-economic change in the industrial and service sectors, declining rural areas, urban areas in difficulty and depressed areas dependent on fisheries.
2. The Commission and the Member States shall seek to ensure that assistance is genuinely concentrated on the areas most seriously affected and at the most appropriate geographical level. The population of the areas referred to in paragraph 1 shall not exceed 18% of the total population of the Community. Accordingly, the Commission shall lay down a population ceiling for each Member State on the basis of the following factors:
  - (a) the total population in the NUTS III areas of each Member State which meet the criteria referred to in paragraphs 5 and 6;
  - (b) the severity of the structural problems at national level in each Member State as compared with the other Member States concerned. Such severity shall be assessed on the basis of total unemployment and long-term unemployment outside the regions eligible under Objective 1;

- (c) the need to ensure that each Member State makes a fair contribution to the overall concentration effort as defined in this subparagraph; the maximum reduction in the population covered by Objective 2, including the areas referred to in the second subparagraph of Article 6(1), shall not exceed one third compared to the population covered by Objectives 2 and 5b as set out in Regulation (EEC) No 2052/88, in 1999.

The Commission shall provide the Member States with all the information it has available about the criteria set out in paragraphs 5 and 6.

- 3. Subject to the ceilings referred to in paragraph 2, the Member States shall propose to the Commission a list of significant areas representing:
  - (a) the NUTS level III regions, or the most seriously affected areas within each of these regions, which satisfy either the criteria set out in paragraph 5 or those set out in paragraph 6;
  - (b) the other areas most seriously affected under the other criteria set out in paragraphs 7, 8 and 9; for the application of these criteria, Member States may also take as a reference basis the specific realities influencing the actual activity rate or employment rate of the population.

The Member States shall provide the statistics and other information, at the most appropriate geographical level, which the Commission requires to evaluate these proposals.

- 4. On the basis of the information referred to in paragraph 3, the Commission, in close concertation with the Member State concerned, shall draw up the list of areas eligible under Objective 2 with due regard to national priorities, without prejudice to Article 6(2).

The industrial and rural areas meeting the criteria in paragraphs 5 and 6 must contain at least 50% of the population covered by Objective 2 in each Member State, except where duly justified by objective circumstances.

- 5. The industrial areas referred to in paragraph 1 shall represent or belong to a NUTS level III territorial unit which satisfies the following criteria:
  - (a) an average rate of unemployment over the last three years above the Community average;
  - (b) a percentage share of industrial employment in total employment equal to or greater than the Community average in any reference year from 1985 onwards;

- (c) an observable fall in industrial employment compared with the reference year chosen in accordance with (b).
6. The rural areas referred to in paragraph 1 must represent or belong to a NUTS level III territorial unit which satisfies the following criteria:
- (a) either a population density of less than 100 people per km<sup>2</sup>, or a percentage share of agricultural employment in total employment which is equal to, or higher than, twice the Community average in any reference year from 1985;
  - (b) either an average unemployment rate over the last three years above the Community average, or a decline in population since 1985.
7. The urban areas referred to in paragraph 1 shall mean densely populated areas which also meet at least one of the following criteria:
- (a) a rate of long-term unemployment higher than the Community average;
  - (b) a high level of poverty, including precarious housing conditions;
  - (c) a particularly damaged environment;
  - (d) a high crime rate;
  - (e) a low level of education among the population.
8. The areas dependent on fisheries referred to in paragraph 1 shall mean coastal areas in which the number of jobs in the fisheries industry as a percentage of total employment is significant and which are facing structural socio-economic problems relating to the restructuring of the fisheries sector which result in a significant reduction in the number of jobs in that sector.
9. Community assistance may extend to areas whose population or area is significant which fall into one of the following categories:
- (a) areas meeting the criteria set out in paragraph 5 which are adjacent to an industrial area, areas meeting the criteria set out in paragraph 6 which are adjacent to a rural area, areas which meet either the criteria set out in paragraph 5 or those set out in paragraph 6 which are adjacent to a region covered by Objective 1;
  - (b) rural areas with socio-economic problems arising from the ageing of the agricultural working population;
  - (c) areas facing or threatened by a high level of unemployment arising from an ongoing or planned restructuring of an activity of key importance for the agricultural, industrial or service sector.

10. Any one area may be eligible for assistance under only one of Objectives 1 or 2.
11. The list of areas shall be valid for seven years from 1 January 2000.

Where there is a serious crisis in a region, the Commission, acting on a proposal from a Member State, may amend the list of areas during 2003 in accordance with paragraphs 1 to 10 without increasing the proportion of the population within each region referred to in Article 12(2).

### **Article 5 - Objective 3**

The areas eligible for financing under Objective 3 shall be those not covered by Objectives 1 and 2, without prejudice to Article 6(2).

### **Article 6 - Transitional support**

1. Notwithstanding Article 3, the regions covered by Objective 1 in 1999 under Regulation (EEC) No 2052/88 which are not referred to in the second subparagraph of Article 3(1) and Article 3(2) of this Regulation shall continue to receive support from the Funds under Objective 1 on a transitional basis from 1 January 2000 to 31 December 2005.

At the time of adoption of the list referred to in Article 3(2), the Commission shall draw up in accordance with Article 4(5) and (6) a list of the NUTS level II areas belonging to those regions which are to receive support from the Funds under Objective 1 on a transitional basis in 2006.

The areas of the regions not on the list referred to in the second subparagraph shall continue to receive in 2006 support from the ESF, FIG and the EAGGF Guidance Section only, within the same form of assistance:

2. Notwithstanding Article 4, the regions covered by Objectives 2 and 5(b) in 1999 under Regulation (EEC) No 2052/88 which are not on the list referred to in Article 4(4) of this Regulation shall receive support from the ERDF, from 1 January 2000 to 31 December 2003, under Objective 2 under this Regulation, on a transitional basis.

Such areas shall receive support from 1 January 2000 to 31 December 2006 from the ESF under Objective 3 and from the EAGGF Guarantee Section under its support to rural development and its structural measures in the fisheries sector in all parts of the Community.

## CHAPTER III: FINANCIAL PROVISIONS

### Article 7 - Resources and concentration

1. The resources available for commitment from the Funds for the period 2000 to 2006 shall be 218.4 billion euros at 1999 prices.

The annual breakdown of those resources is shown in the Annex.

2. A considerable proportion of budgetary resources shall be concentrated on the regions covered by Objective 1. The resources available for commitment for those regions shall be about two-thirds of the appropriations available to the Funds.
3. Using transparent procedures, the Commission shall make indicative breakdowns by Member State of 90% of the commitment appropriations available for the programming referred to in Articles 12 to 18, taking full account, for Objectives 1 and 2, of one or more objective criteria similar to those covered by Regulation (EEC) No 2052/88, namely: eligible population, regional prosperity, national prosperity and the relative severity of the structural problems, especially the level of unemployment.

For Objective 3, the breakdown by Member State shall be based principally on the eligible population, the employment situation and the severity of the problems, such as social exclusion, education and training levels, and participation of women in the labour market.

These breakdowns shall distinguish allocations of appropriations to regions and areas benefiting from transitional support. These allocations shall be determined in accordance with the criteria referred to in the first subparagraph. The annual breakdown of these appropriations shall be degressive.

4. The 10% of commitment appropriations not allocated under the indicative breakdown referred to in paragraph 3 shall be allocated at the mid-term point by the Commission in accordance with Article 43.
5. For the period referred to in paragraph 1, 5% of the commitment appropriations for the Structural Funds referred to in paragraph 1 shall be devoted to funding the Community Initiatives. 1 % of the appropriations referred to in paragraph 1 shall be devoted to funding innovative measures and technical assistance as defined in Articles 21 and 22.
6. For the purpose of their programming and subsequent inclusion in the Community budget, the sums referred to in paragraphs 1 and 2 shall be indexed as from 1 January 2000 at 2% per year.

Indexation of the allocations for 2004 to 2006 shall be reviewed, if necessary, by 31 December 2003 at the latest for technical adjustment by the Commission on the basis of the latest economic information available. The difference relative to the initial programming shall be reallocated for inclusion in the sum referred to in paragraph 4.

## CHAPTER IV: ORGANISATION

### Article 8 - Complementarity and partnership

1. Community action shall complement or contribute to comparable national operations. They shall be drawn up in close consultations, hereinafter referred to as the "partnership", between the Commission and the Member State, together with:
  - (a) the regional and local authorities and the other competent authorities;
  - (b) the economic and social partners;
  - (c) the other competent bodies.

Each Member State shall, within its own institutional, legal and financial system, choose and designate the most representative partners at national, regional, local or other level referred to in the first indent through as wide an association as possible, including where appropriate the bodies active in the field of environment and in the promotion of equality between men and women.

All the designated parties, hereinafter referred to as the "partners", shall be partners pursuing a common goal.

2. The Member States shall ensure the association of each of the partners; such association shall cover all stages of programming at the appropriate territorial level. Partnership shall cover the preparation, financing, monitoring and evaluation of assistance.
3. In pursuance of the principle of subsidiarity, and without prejudice to the powers vested in the Commission, the implementation of assistance shall be primarily the responsibility of the Member States at the appropriate territorial level.
4. The Member States shall cooperate with the Commission to ensure that Community funds are used in accordance with the principle of sound financial management.
5. Each year, the Commission shall consult the European-level organisations representing the social partners about the structural policy of the Community.

## Article 9 - Programming and coordination

1. For the purposes of this Regulation:
  - (a) “programming” means the organising, decision-making and financing process carried out in a number of stages to implement on a multiannual basis the joint action of the Community and the Member States to attain the objectives referred to in Article 1;
  - (b) “development plan” means the analysis of the situation prepared by a Member State in the light of the objectives referred to in Article 1 and the priority needs for attaining those objectives, together with the strategy, the planned action priorities, their specific goals and the related indicative financial resources;
  - (c) “Community support framework” means the document approved by the Commission following appraisal of the development plan submitted by a Member State and containing the strategy and priorities for action, their specific objectives, the contribution of the Funds and the other financial resources. This document shall be divided into priorities and implemented by means of one or more operational programmes;
  - (d) “assistance” means the forms of assistance provided by the Funds, namely:
    - (i) operational programmes or single programming documents;
    - (ii) Community Initiative programmes;
    - (iii) support for technical assistance and innovative measures;
  - (e) “operational programme” means the document approved by the Commission to implement a Community support framework, composed of a consistent set of priorities which comprise multiannual measures and which may be implemented through recourse to one or more Funds, to one or more of the other existing financial instruments and to the EIB. An “integrated operational programme” means an operational programme financed by more than one Fund;
  - (f) “single programming document” means a single document approved by the Commission and containing the same information to be found in a Community support framework and operational programme;

- (g) “priority” means one of the priorities of the strategy adopted in a Community support framework or by way of assistance. To it is assigned a contribution from the Funds and other financial instruments and the relevant financial resources of the Member State and a set of specified targets;
  - (h) “measure” means the means by which a priority is implemented over several years which enables operations to be financed. Any aid scheme under Article 92 of the Treaty or any aid granted by bodies designated by the Member States is defined as a measure;
  - (i) “operation” means any project carried out by the final beneficiaries of assistance;
  - (j) “final beneficiaries” means the bodies and public or private firms responsible for commissioning operations. In the case of aid schemes under Article 92 of the Treaty and in the case of aid granted by bodies designated by the Member States, the final beneficiaries are the bodies which grant the aid.
2. Coordination between the various Funds shall be carried out in particular through:
- (a) the guidelines referred to in paragraph 4;
  - (b) the Community support frameworks;
  - (c) financial programming and the implementation of assistance;
  - (d) the monitoring and evaluation of assistance under an objective.
3. The Commission shall, in a manner consistent with the principle of partnership, ensure coordination of assistance from the different Funds among themselves and with the assistance from the EIB and other existing financial instruments.

In order to maximise the stimulus provided by the budget resources deployed, making use of appropriate financial instruments, the Community assistance provided in the form of grants shall be combined in an appropriate way with loans. This combination shall be determined in conjunction with the EIB when the Community support framework or single programming document is being drawn up. It shall take account of the balance in the proposed financing plan, the contribution from the Funds and the development goals pursued.

4. Before the submission of development plans and before the mid-term review referred to in Article 41, the Commission shall draw up guidelines setting out Community priorities for each of the Objectives referred to in Article 1. These guidelines shall be published in the *Official Journal of the European Communities*.

The Member States and the Commission shall take account of the guidelines at the various stages of programming.

#### **Article 10 - Additionality**

1. In order to achieve a genuine economic impact, the appropriations of the Funds may not replace public or other equivalent structural expenditure.
2. In the Community support frameworks and single programming documents for Objective 1, the Commission and the Member State concerned shall determine the level of public or similar structural expenditure that the Member State is to maintain in all the regions covered by Objective 1 during the programming period.

In the single programming documents for Objectives 2 and 3, the Commission and the Member State concerned shall determine the level of expenditure on active labour market policy which the Member State is to maintain at national level during the period 2000-2006.

As a general rule, the average annual level of expenditure referred to in the first and second subparagraphs must be at least equal to the level achieved in the programming period covered by Regulation (EEC) No 2052/88.

3. Additionality shall be verified at three points during the programming period:
  - (a) an *ex ante* verification when the Community support frameworks and single programming documents are adopted, to provide a baseline for the whole programming period;
  - (b) a mid-term verification by 31 December 2003, following which the Commission and the Member State may agree to revise the level of structural expenditure to be attained if the economic situation has resulted in changes in public revenue or in employment in the Member State which diverge significantly from expectations at the time of the *ex ante* verification;
  - (c) a verification by 31 December 2005.

The Member State shall provide the Commission with appropriate information at the time when development plans are submitted and when the mid-term verification and the verification before 31 December 2005 are made.

Independently of those verifications, the Member State shall inform the Commission at any point during the programming period of developments likely to impair its ability to maintain the level of expenditure referred to in paragraph 2.

### **Article 11 - Compatibility**

Operations financed by the Funds or receiving assistance from the EIB or from another financial instrument shall conform to the provisions of the Treaty, to instruments adopted under it and to Community policies, in particular those concerning the rules on competition and especially those on State aids, on the award of public contracts, on environmental protection and improvement and on the elimination of inequalities and the promotion of equality between men and women.

## **TITLE II**

### **PROGRAMMING**

#### **CHAPTER I: GENERAL PROVISIONS CONCERNING OBJECTIVES 1, 2 AND 3**

#### **Article 12 - Geographical coverage**

1. Regional development plans submitted under Objective 1 shall, as a general rule, cover a single region at NUTS level II. However, Member States may submit a general development plan for all their regions included in the list referred to in Article 3(2) and 6(1), provided that such plans comprise the features listed in Article 15.
2. Regional conversion plans submitted under Objective 2 shall normally comprise all the areas covered by Objective 2 in a single NUTS level II region, included in the list referred to in Article 4(4) and Article 6(2). Plans shall distinguish between operations in areas covered by Objective 2 and operations elsewhere and shall demonstrate that the operations are consistent with policies being carried out at regional level.
3. Development plans submitted under Objective 3 shall cover the whole territory of a Member State in respect of assistance outside the regions or areas covered by Objectives 1 and 2, and shall provide, for the whole of the national territory, a framework of reference for developing human resources without prejudice to specific regional circumstances.

#### **Article 13 - Duration and revision**

1. Each development plan, Community support framework, operational programme and single programming document shall cover a period of seven years, without prejudice to Article 6.

The programming period shall begin on 1 January 2000.

2. Development plans, Community support frameworks, operational programmes and single programming documents shall be revised in accordance with this Chapter following the mid-term evaluation referred to in Article 41 and the allocation of the performance reserve referred to in Article 43.

They may also be similarly revised in the event of significant changes in the socio-economic situation and the labour market.

#### **Article 14 - Preparation and approval**

1. The development plans for Objectives 1, 2 and 3 shall be drawn up by the national, regional or other authorities designated for this purpose by the Member State and submitted by the Member State to the Commission once the opinions of the partners have been secured.

Each partner shall express its opinion within a period of time consistent with the deadline set under the third subparagraph.

Unless otherwise agreed with the Member State concerned, development plans shall be submitted not later than three months after the establishment of the lists of eligible areas referred to in Article 3(2) and Article 4(4).

2. The Commission shall appraise the plans to determine whether they are consistent with the aims of this Regulation, including the framework of reference referred to in Article 1(3), with the guidelines referred to in Article 9(4), with other Community policies and with Article 40. The Commission shall take account of the arrangements taken to associate the partners and of their opinions issued during the consultations referred to in paragraph 1.

The Commission shall also appraise each Objective 3 plan submitted to determine whether the measures planned are consistent with the national plan to implement the European strategy for employment referred to in point (b) of Article 15(2).

3. On the basis of the development plans, the Commission shall draw up the Community support frameworks relating to Objective 1, in agreement with the Member State concerned and in accordance with the procedures laid down in Articles 47 to 50. The EIB shall be involved in the preparation of the Community support frameworks. The Commission shall take a decision on the contribution from the Funds not later than six months after receiving the relevant plan or plans provided they contain all the information referred to in Article 15.

The Commission shall appraise the proposed operational programmes for Objective 1 submitted by the Member States to determine whether they are consistent with the aims of the corresponding Community support framework and compatible with other Community policies. It shall adopt a decision on the contribution of the Funds in accordance with Article 27(1) and in agreement with the Member State concerned, provided that the proposals include all the information referred to in Article 17.

In order to expedite the examination of applications and the implementation of programmes, the Member States may include in their plans applications for financial contributions to operational programmes. When adopting its decision on a Community support framework, the Commission shall also approve, in accordance with Article 27(1), the operational programmes submitted at the same time as the development plans, provided that they include all the information referred to in Article 17.

Where Article 15(1) applies, the Commission shall adopt a single decision on a single programming document covering the points referred to in Articles 16 and 17 and the contribution of the Funds referred to in Article 27(1).

4. On the basis of the development plans, the Commission shall draw up the single programming documents for Objectives 2 and 3, in agreement with the Member State concerned and in accordance with the procedures laid down in Articles 47 to 50. The EIB shall be involved in the preparation of the single programming documents. The Commission shall take a single decision on the contribution of the Funds pursuant to Article 27(1), not later than six months after receiving the relevant plan providing it contains all the information referred to in Articles 16 and 17.
5. Within three months following the Commission decision approving an operational programme or single programming document, the managing authority shall adopt all supplementary programming information, with the agreement of the Monitoring Committee referred to in Article 34, which it shall send to the Commission within one month of the Commission's decision, in a single document, referred to hereinafter as the "programming supplement."
6. The Commission decisions on a Community support framework or single programming document shall be published in the *Official Journal of the European Communities*. At the request of the European Parliament, the Commission shall transmit to it these decisions and the Community support frameworks it has approved.

## CHAPTER II: CONTENT OF THE PROGRAMMING FOR OBJECTIVES 1, 2 AND 3

### Article 15 - Development plans

1. In the case of Objective 1, where the Community allocation is less than or does not substantially exceed EUR 1 billion, the Member States shall submit a plan as a single document containing the information referred to in paragraphs 2, 3 and 4 and in Article 17.

In the case of Objectives 2 and 3, the Member States shall likewise submit a plan as a single document containing this information.

In any case, the plans shall distinguish between the financial packages allocated to areas receiving transitional support and those allocated to the other areas covered by Objectives 1 or 2.

2. The plans submitted under Objectives 1, 2 and 3 shall take account of the guidelines referred to in Article 9(4) and the priorities expressed by the regions concerned, and shall include:

- (a) quantified description of the current situation either with regard to disparities, gaps and potential for development in the regions covered by Objective 1, or in terms of conversion in the areas covered by Objective 2 or in terms of the development of human resources and employment policies in the Member State and the areas covered by Objective 3; the financial resources deployed and the main results of operations undertaken in the previous programming period with regard to the evaluation results available;
- (b) a description of an appropriate strategy to attain the Objectives referred to in Article 1 and the priorities selected for the development and sustainable conversion of regions and areas, including rural areas, and the related development of human resources or the adaptation and modernisation of policies and systems for education, training and employment; the result of the *ex ante* evaluation referred to in Article 40;

In addition to those items listed, the plans submitted under Objective 3 shall ensure the overall consistency of the strategy for employment and development of human resources throughout the territory of the Member State concerned, with particular regard to the national plan for implementing the European strategy on employment; they shall contain a description of the main aims of that strategy and the main means of attaining them;

- (c) an indication of the planned use of the financial contribution from the Funds, the EIB and the other financial instruments; in the case of Objective 1, this information shall be supplemented by an indicative overall financing table summarising the national public and private and Community financial resources allocated and corresponding to each priority adopted in the plan; the expected requirement for technical assistance;
  - (d) the results of the consultations carried out in accordance with Article 14(1) and the arrangements taken and provisions envisaged to involve the partners.
3. For regions covered by Objective 1, the development plans shall include all measures for economic and social conversion, the development of human resources having regard to the frame of reference referred to in point 3 of Article 1, and rural development.

Where a Member State is covered in its entirety by Objective 1, the development plan shall cover the items listed in the second subparagraph of point (b) of paragraph 2.

4. Member States shall indicate the particulars relating to each Fund, including the amount of the financial contribution requested and an outline of the operational programmes planned with particular regard to their specific aims and the main types of measure planned.

#### **Article 16 - Community support frameworks for Objective 1**

1. Community support frameworks under Objective 1 shall provide coordination of all Community structural assistance in the regions concerned, including, in accordance with point 3 of Article 1, assistance for the development of human resources, in particular where a Member State is covered in its entirety by Objective 1.
2. Each Community support framework shall include:
- (a) a statement of the strategy and priorities for joint Community and national action, their specific objectives, quantified where they lend themselves to quantification, an evaluation of the expected impact in accordance with Article 40, together with information on their consistency with the Community guidelines referred to in Article 9(4) and economic policies, the strategy for employment and the development of human resources and, where appropriate, the regional policies of the Member State concerned;
  - (b) an indication of the nature and the duration of the operational programmes not decided at the same time as the Community support framework, including their specific aims and the priorities selected;

- (c) an indicative financing plan specifying, in accordance with Articles 27 and 28, for each priority and each year the financial allocation envisaged for the contribution of each Fund, the EIB, the other financial instruments where they contribute directly to the financing plan concerned and total amount of eligible national public and private funding relating to the contribution of each Fund;

this financing plan shall distinguish the funding planned for the regions receiving transitional support;

without prejudice to the degressivity referred to in the third subparagraph of Article 7(3), the total contribution of the Funds planned for each year for each Community support framework shall be compatible with the relevant financial perspective;

- (d) an *ex ante* verification of additionality in accordance with Article 10 and appropriate information concerning the transparency of the relevant financial flows, in particular from the Member State concerned to the beneficiary regions;
- (e) the provisions for implementing a Community support framework shall include:
- (i) designation by the Member State of a single authority or body responsible for managing the Community support framework as referred to in Article 33;
  - (ii) the definition and utilisation in cooperation with the Commission of compatible computer systems for management, monitoring and evaluation. These systems must ensure effective management and reliability of the information on implementation and results and comply with Articles 35, 41 and 42;
  - (iii) the planned arrangements for involving the partners;
- (f) where appropriate, information on the resources required for measures to prepare, monitor and evaluate assistance.

#### **Article 17 - Operational programmes for Objective 1**

1. As a general rule, assistance covered by a Community support framework for Objective 1 shall be provided in the form of an integrated operational programme for each region.

2. Each operational programme shall contain:

- (a) the specific priorities of the operational programme, their consistency with the relevant Community support framework, their quantified specific targets, an evaluation of the impact expected in accordance with Article 40 and their consistency with the guidelines referred to in Article 9(4);
- (b) a description of the measures planned to implement the priorities, including the information needed to check the compliance with aid schemes under Article 92 of the Treaty; where appropriate, the measures required to prepare, monitor and evaluate the operational programme;
- (c) a financing plan specifying for each priority and each year, in accordance with Article 27, the financial allocation envisaged for the contribution of each Fund, the EIB, the other financial instruments and the total amount of eligible national public and private funding relating to the contribution of each Fund;

this financing plan shall distinguish the funding planned for the regions receiving transitional support;

without prejudice to the degressivity referred to in the third subparagraph of Article 7(3), the total contribution of the Funds planned for each year shall be compatible with the relevant financial perspective;

- (d) the provisions for implementing an operational programme shall include:
  - (i) designation by the Member State of a single authority or body responsible for managing the operational programme as referred to in Article 33;
  - (ii) a description of the arrangements for managing the operational programme;
  - (iii) a description of the systems for monitoring and evaluation;
  - (iv) the definition and utilisation in cooperation with the Commission of compatible computer systems for management, monitoring and evaluation. These systems shall ensure effective management, reliability and availability of the information on implementation and results, and shall comply with Articles 35, 41 and 42;

- (v) a definition of the rules on the mobilisation and circulation of funding to ensure that flows are transparent;
- (vi) the specific measures for checking on the operational programme, including a definition of the roles of the parties;
- (vii) the respective roles and responsibilities of the partners in monitoring and evaluating the operational programme.

3. The programming supplement shall contain:

- (a) the measures implementing the corresponding priorities in the operational programme; their *ex ante* evaluation under Article 40; the relevant monitoring indicators in accordance with Article 35;
- (b) definition of the types of final beneficiary of measures;
- (c) the criteria for selecting the operations financed under each measure, including the method for appraising their viability in advance;
- (d) the financing plan specifying, for each measure, in accordance with Articles 27 and 28, the financial allocation envisaged for the contribution of each Fund, the EIB, the other existing financial instruments and the amount of eligible national public and private funding relating to the contribution of the Funds; the percentage contribution of a Fund to a measure shall be determined in accordance with Article 28 and the total amount of community funds allocated to the priority concerned;
 

this financing plan shall distinguish the funding planned for the regions receiving transitional support;
- (e) the measures planned to ensure adequate publicity for the operational programme in accordance with Article 45.

Where a number of partners are contributing to the finance of assistance at national, regional, local or other level, their respective commitments shall be the subject of an agreement among them designed to ensure that the funds are made available efficiently and in accordance with the plan for financing. This agreement shall be attached to the programming supplement.

**Article 18 - Single programming documents for Objectives 2 and 3**

In accordance with the second subparagraph of Article 15(1), assistance under Objectives 2 and 3 shall take the form of single programming documents.

An Objective 2 single programming document shall provide coordination of all Community structural assistance, including assistance for the development of human resources and rural development, in the areas covered by Objective 2 within each region referred to in Article 12(2), and including areas receiving transitional support from the ERDF.

An Objective 3 single programming document shall provide coordination of all Community structural assistance for the development of human resources in the areas referred to in Article 5, including the areas receiving support from the ESF under the second subparagraph of Article 6(2).

### **CHAPTER III: COMMUNITY INITIATIVES**

#### **Article 19 - Content**

1. The Community Initiatives shall cover the following fields:
  - (a) cross-border, transnational and inter-regional cooperation intended to encourage the harmonious and balanced development and spatial planning of the European territory;
  - (b) rural development;
  - (c) trans-national cooperation on new means of combatting all forms of discrimination and inequalities in access to the labour market.
2. Programmes approved under the first two indents of paragraph 1 may cover areas other than those referred to in Articles 3 and 4.

#### **Article 20 - Preparation, approval and implementation**

1. In accordance with the procedure referred to in Article 51, and after notifying them for information to the European Parliament, the Commission shall lay down guidelines describing, for each Initiative, the aims, scope and the appropriate method of implementation. Those guidelines shall be published in the *Official Journal of the European Communities*.
2. Each area referred to in Article 19(1) shall be financed by a single Fund, either the ERDF, the EAGGF Guidance Section or the ESF. The decision on the contribution of a Fund may amplify the scope of each Fund as defined in the Regulations specific to each Fund, but without broadening it, to include all measures required to implement the Community Initiative programme concerned.
3. On the basis of proposals drawn up in accordance with the guidelines and the *ex ante* evaluation carried out in accordance with Article 40, the Commission shall decide on Community Initiative programmes in accordance with Article 27.

4. The Community Initiative programmes shall be revised by the Commission after the mid-term evaluation referred to in Article 41.

#### **CHAPTER IV: INNOVATIVE MEASURES AND TECHNICAL ASSISTANCE**

##### **Article 21 - Innovative measures**

1. At the initiative of the Commission, and subject to a ceiling of 0.7% of their respective annual funding, the Funds may finance innovative measures at Community level. These shall include studies, pilot projects and exchanges of experience.

Such innovative measures shall contribute to the preparation of innovative methods and practices designed to improve the quality of assistance under Objectives 1, 2 and 3. They shall be implemented in a simple, transparent fashion and in accordance with the principles of sound financial management.

2. Each field for pilot projects shall be financed by one Fund only. The decision on the contribution of a Fund may amplify the scope of each Fund as defined in the Regulations specific to each Fund, but without broadening it, to include all measures required to implement the pilot project concerned.

##### **Article 22 - Technical assistance**

At the initiative or on behalf of the Commission, and subject to a ceiling of 0.3% of their respective annual allocation, the Funds may finance the preparatory, monitoring, evaluation and checking measures necessary for implementing this Regulation. These shall include:

- (a) studies, including studies of a general nature, concerning the operations of the Funds;
- (b) measures of technical assistance, the exchange of experience and information aimed at the partners, the final beneficiaries of assistance from the Funds and the general public;
- (c) the installation, operation and interconnection of computerised systems for management, monitoring and evaluation.

##### **Article 23 - Approval of innovative measures and technical assistance**

The Commission shall appraise applications for a contribution from the Funds under Articles 21 and 22 on the basis of the following details:

- (a) a description of the proposed assistance, its scope, including geographical coverage, and specific aims;

- (b) an *ex ante* evaluation;
- (c) the bodies to be responsible for implementing the assistance and the beneficiaries;
- (d) the timetable and financing plan, including contributions from any other source of Community finance;
- (e) provisions to ensure efficient and correct implementation;
- (f) any other information necessary to verify compatibility with the Community policies and with the guidelines referred to in Article 9(4).

The Commission shall approve the contribution of the Funds when this information enables it to appraise the application.

#### **CHAPTER V: DEFINITION OF MAJOR PROJECTS**

##### **Article 24 - Definition**

As part of any assistance, the Funds may finance expenditure in respect of major projects, namely those:

- (a) which comprise an economically indivisible series of works fulfilling a precise technical function and which have clearly identified aims, and,
- (b) whose total cost taken into account in determining the contribution of the Funds exceeds 50 million euros.

##### **Article 25 - Approval and implementation**

1. During the implementation of assistance, where a Member State or managing authority proposes that the Funds contribute to a major project, it shall inform the Commission in advance and provide the following information:
  - (a) the body to be responsible for implementation;
  - (b) the nature of the investment and a description of it, its financial volume and location;
  - (c) the timetable for implementing the project;
  - (d) a cost-benefit analysis, including financial costs and benefits, and a risk analysis; for investments in infrastructure, an analysis of the socio-economic costs and benefits, including an indication of the likely rate of use;

- (e) information on the economic viability of the project; in the case of investment in production facilities, the analysis shall include the market prospects in the sector concerned and an analysis of the likely return on the project;
  - (f) the direct and indirect effects on employment;
  - (g) information allowing an evaluation to be made of the environmental impact and the implementation of the precautionary principle and the principles that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay, and compliance with the Community rules on the environment;
  - (h) information needed to assess compliance with competition rules, especially rules on State aids;
  - (i) in the case of investments in infrastructure, the foreseeable impact on the development or conversion of the region concerned, and the application of Community rules on public contracting;
  - (j) an indication of the influence of the contribution of the Funds on whether the project will be implemented;
  - (k) the financing plan and the total financial resources expected from the contribution of the Funds and any other source of Community finance.
2. The Commission shall appraise the project, consulting the EIB if necessary, in the light of the following factors:
- (a) the type of investment planned and, where applicable, the revenue expected;
  - (b) the results of the cost-benefit analysis;
  - (c) the evaluation of the impact on the environment,
  - (d) consistency with the priorities in the corresponding assistance;
  - (e) compliance with other Community policies;
  - (f) the expected economic and social benefits, particularly in terms of employment, having regard to the financial resources deployed;
  - (g) the coordination of the financial instruments and the combination of assistance and loans referred to in the second subparagraph of Article 9(3).

3. Within three months of receipt of the information referred to in paragraph 1, the Commission shall confirm or amend the level of the Community contribution. If it considers that the project appears not to justify either part or all the contribution of the Funds, it may withhold part or all of that contribution.

## **CHAPTER VI: GLOBAL GRANTS**

### **Article 26 - Global grants**

1. In agreement with the Commission, a Member State or managing authority may decide to entrust to appropriate intermediaries, including local authorities, regional development bodies or non-governmental organisations, the implementation and management of part of the assistance, hereinafter referred to as a "global grant", and preferably one to assist local development initiatives.

In the case of Community Initiative programmes and innovative measures, the Commission may decide to employ a global grant for all or part of the programme.

2. The intermediaries, who must provide guarantees of solvency and have the necessary administrative capability, shall be present or represented in the regions concerned, shall operate in the public interest and shall properly involve the socio-economic interests directly affected by the implementation of the planned measures.
3. The choice of a global grant shall appear in the corresponding decision on the contribution of the Funds as a special implementing provision as defined in point (d) of Article 17(2). The procedures for the use of global grants shall be agreed between the managing authority and the intermediary body concerned.

In the case of Community Initiative programmes and innovative measures, the procedures for the use of global grants shall be the subject of an agreement between the Commission and the intermediary body concerned. The programming supplement shall not relate to that part of the single programming document for the assistance dealing with the global grant.

4. The procedures for the use of the global grant shall detail in particular:
  - (a) the measures to be implemented;
  - (b) the criteria for choosing beneficiaries;
  - (c) the conditions and rates of assistance from the Funds, including the use of any interest accruing;
  - (d) the arrangements for monitoring and evaluating the global grant;

- (e) where applicable, any use of a bank guarantee, with the agreement of the Commission.

### **TITLE III**

## **CONTRIBUTIONS AND FINANCIAL MANAGEMENT BY THE FUNDS**

### **CHAPTER I: FINANCIAL CONTRIBUTIONS BY THE FUNDS**

#### **Article 27 - Decision on a Funds contribution**

1. Provided that all the requirements of this Regulation are fulfilled, the Commission shall adopt in a single decision the contribution of all the Funds, as a general rule within six months of receipt of the application for assistance. The decision shall distinguish clearly the regions and areas receiving transitional support.

A maximum contribution from the Funds shall be set for each priority in the assistance.

For any given period, a measure may not receive a financial contribution from more than one Fund at a time.

No operation may benefit simultaneously from a contribution from a Fund under Objectives 1, 2 or 3 and under a Community Initiative.

2. The contribution of the Funds to operational programmes undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in the corresponding Community support framework concerned.
3. In implementing measures, the contribution of the Funds may take one of the following forms: non-repayable direct assistance (hereinafter referred to as "direct assistance"), repayable assistance, an interest-rate subsidy, a guarantee, an equity holding, a venture-capital holding or another form of finance.

Assistance repaid to the managing authority or to another public authority shall be reallocated to the same purpose.

#### **Article 28 - Differentiation of the rates of contribution**

1. The contribution of the Funds shall be differentiated in the light of the following:
- (a) the gravity of the specific problems, in particular of a regional or social nature, to be tackled by the assistance;

- (b) the financial capacity of the Member State concerned, taking into account in particular its relative prosperity and the need to avoid excessive increases in budget expenditure;
  - (c) the importance attaching to the assistance and the priorities from the Community viewpoint, as referred to in the second paragraph of Article 1, in particular for the elimination of inequalities, and the promotion of equality, between men and women and for the protection and improvement of the environment, principally through the application of the precautionary principle, of the principle of preventive action, and the polluter-pays principle;
  - (d) the importance attaching to the assistance and priorities from the regional and national viewpoint;
  - (e) the particular characteristics of the type of assistance and priority concerned;
  - (f) the optimum utilisation of financial resources in the financing plans, including the combination of public and private resources, and the use made of appropriate financial instruments in accordance with Article 9(3).
2. The 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) under, each assistance.
3. The contribution of the Funds shall be subject to the following ceilings:
- (a) a maximum of 75% of the total eligible cost and, as a general rule, at least 50% of eligible public expenditure in the case of measures carried out in the regions covered by Objective 1. Where the regions are located in a Member State covered by the Cohesion Fund, the Community contribution may rise, in exceptional and duly justified cases, to a maximum of 80% of the total eligible cost and to a maximum of 85% of the total eligible cost for the most remote regions and for the outlying Greek islands which are under a handicap due to their distant location;
  - (b) a maximum of 50% of the total eligible cost and, as a general rule, at least 25% of eligible public expenditure in the case of measures carried out in areas covered by Objective 2 or Objective 3.

The contribution of the Funds shall comply with the ceilings on the rate of aid and on combinations of aid set in the field of State aids.

4. Where the assistance concerned entails the financing of revenue-generating investments, the contribution from the Funds to these investments shall be determined in the light of their intrinsic characteristics, including 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 the contribution by the Fund.

The contribution of the Funds shall be subject to the following limits:

- (a) in the case of investment in infrastructure generating substantial revenue:
    - (i) 40% of the total eligible cost in the regions covered by Objective 1, which may be increased by not more than an extra 10% in the Member States covered by the Cohesion Fund;
    - (ii) 25% of the total cost in the areas covered by Objective 2;
    - (iii) these rates may be increased by an amount obtained by using forms of finance other than direct assistance, provided that this increase does not exceed 10% of the total eligible cost;
  - (b) in the case of investments in firms:
    - (i) 35% of the total eligible cost in the regions covered by Objective 1;
    - (ii) 15% of the total eligible cost in the areas covered by Objective 2;
    - (iii) in the case of investments in small and medium-sized businesses, these rates may be increased by an amount obtained by using forms of finance other than direct assistance, provided that this increase does not exceed 10% of the total eligible cost.
5. References in paragraphs 3 and 4 to the regions and areas covered by Objective 1 and 2 shall also be construed as references to regions or areas receiving transitional support under Article 6(1) and 6(2) respectively.
  6. The measures carried out on the Commission's initiative referred to in Articles 21 and 22 may be financed at a rate of 100% of the total cost. The measures carried out on behalf of the Commission referred to in Article 22 shall be financed at a rate of 100% of the total cost. The rates in this Article shall apply to technical assistance measures within the framework of programming and the Community initiatives.

## **Article 29 - Eligibility**

1. Expenditure in respect of operations shall be eligible for a contribution from the Funds only if these operations form part of the assistance concerned.
2. Expenditure may not be considered eligible for a contribution from the Funds if it has been paid by the final beneficiary before the date on which the application for assistance reaches the Commission. That date shall constitute the starting date for the eligibility of expenditure.

The final date for the eligibility of expenditure shall be laid down in the decision to grant a contribution from the Funds. It shall relate to payments made by the final beneficiaries. It may be extended by the Commission at the duly justified request of the Member State in accordance with Articles 13 and 14.

3. The relevant national rules shall apply to eligible expenditure except where, as necessary, the Commission lays down common rules on the eligibility of expenditure in accordance with the procedures referred to in Articles 47 to 51.
4. The Member States shall ensure that an operation shall retain the contribution from the Funds only if that operation does not undergo a substantial modification:
  - (a) affecting its nature or its implementation conditions or giving to a firm or a public body an undue advantage;
  - (b) and resulting before the end of a period of 5 years, as the case may be, either from a change in the terms of ownership in an item of infrastructure or a cessation or change of location in a productive activity.

Where such a change occurs, Article 38 shall apply.

## **CHAPTER II: FINANCIAL MANAGEMENT**

### **Article 30 - Budget commitments**

1. Budget commitments of Community funds shall be made on the basis of the decision to grant a contribution from the Funds.
2. Commitments in respect of assistance to be carried out over a period of two or more years shall, as a general rule, be effected annually. The first commitment shall be made when the Commission lays down its decision approving the assistance. Subsequent commitments shall be effected as a general rule by 30 April each year.

The Commission shall automatically decommit any part of a commitment for which it has not received an acceptable payment application by the end of the second year following the year of commitment or by the end of the deadline for the transmission of the final report referred to in Article 36(1); the contribution from the Funds to that assistance shall be reduced by that amount.

3. For assistance to be carried out over a period of less than two years, the total amount of the contribution from the Funds shall be committed when the Commission adopts its decision granting a contribution from the Funds.

### **Article 31 - Payments**

1. Payment by the Commission of the contribution from the Funds shall be made, in accordance with the corresponding budget commitments, to the national, regional or local authority or body designated for the purpose in the application submitted through the Member State concerned (the "paying authority" for the purposes of this Article).

Payments shall relate to the earliest commitment made under Article 30.

Payment may take the form of advances, interim payments or payments of the final balance. Interim payments and payments of the balance shall relate to expenditure actually paid out, which must correspond to payments effected by the final beneficiaries, supported by receipted invoices or accounting documents of equivalent probative value.

As a general rule, the Commission shall make interim payments within no more than two months from receipt of an acceptable application.

The paying authority shall ensure that final beneficiaries receive payment of their contribution from the Funds as quickly as possible and in full. No deduction, retention or further specific charge which would reduce these amounts shall be made.

2. When the first commitment is made, the Commission shall pay an advance to the paying authority. This may not exceed 10% of the contribution of the Funds to the operation in question. The payment may be subdivided if necessary over several budget years depending on the availability of budget funds.

Throughout the lifetime of assistance, the paying authority shall use the advance to disburse the Community contribution to expenditure actually paid and declared to the Commission in accordance with paragraph 3.

All or part of the advance shall be repaid by the paying authority if no payment application is sent to the Commission within 18 months of its decision to grant a contribution from the Funds.

Any interest earned on the advance payment shall be allocated to the form of assistance concerned.

3. Interim payments shall be made to reimburse expenditure actually paid under the Funds as certified by the paying authority. Such payments shall relate to measures contained in the programming supplement and the financing plan for the assistance and shall be subject to the following conditions:
  - (a) the programming supplement containing all the information specified in Article 17(3) has been presented to the Commission;
  - (b) the annual implementation report for the previous year containing all the information specified in Article 36 has been transmitted to the Commission by the required deadline;
  - (c) the information required to carry out the mid-term evaluation of the assistance referred to in Article 41 has been transmitted;
  - (d) decisions taken by the managing authority and the Monitoring Committee are consistent with the total amount of the contribution from the Funds granted to the priorities concerned;
  - (e) action has been taken within the time laid down in response to requests for adjustments as referred to in Article 33(3) or the requests for corrective measures as referred to in Article 37(4);
  - (f) no suspension of payments under the first subparagraph of Article 38(2) has been decided, and no decision to launch an infringement procedure under Article 169 of the Treaty has been taken by the Commission, concerning the measure within the assistance in question.

The Member State and the designated authority shall be informed immediately if one of these conditions is not fulfilled and they shall take the necessary steps to remedy the situation.

Member States shall ensure, as far as possible, that applications for interim payments are presented to the Commission in batches three times a year, the last application being presented no later than 31 October.

Applications for interim payments shall distinguish, for each priority, the expenditure incurred in regions and areas receiving transitional support.

The combined total of the payments referred to in paragraph 2 and in this paragraph which are made in respect of an assistance shall not exceed 95% of the contribution from the Funds to that package.

4. The final balance of the assistance shall be paid if:
  - (a) the paying authority submits to the Commission, within six months of the deadline for payment laid down in the decision granting a contribution from the Funds, a certified statement of expenditure actually paid;
  - (b) the final report on implementation has been submitted to and approved by the Commission;
  - (c) the Member State has sent the Commission the statement referred to in the sixth indent of Article 37(1).

The final payment of the balance may no longer be corrected at the request of the Member State if the designated authority has not sent an application to the Commission within nine months from the date of transfer of the final balance.

5. The Member States shall designate the authorities empowered to issue the certificates and declarations referred to in paragraphs 3 and 4.
6. No later than 30 April of each year, the Member States shall send the Commission their updated forecasts of applications for payment for the current year and the year following.
7. The Commission shall lay down appropriate payment procedures for innovative measures referred to in Article 21 and the measures referred to Article 22.

#### **Article 32 - Use of the euro**

Commission decisions, commitments and payments shall be denominated and carried out in euros in accordance with the arrangements to be drawn up by the Commission under the procedures referred to in Articles 47 to 51.

### **TITLE IV**

#### **EFFECTIVENESS OF ASSISTANCE FROM THE FUNDS**

##### **CHAPTER I: MONITORING**

#### **Article 33 - Management by the designated authority**

1. The authority or body designated by the Member State to manage assistance, hereinafter referred to as the “managing authority” for the purposes of this Regulation, shall be responsible for the efficiency and correctness of overall management and implementation, and in particular:

- (a) for setting up a system to gather financial and statistical information on implementation and monitoring indicators as referred to in Article 35 and for making these available in accordance with arrangements agreed with the Commission;
  - (b) for preparing the financing plan for the assistance, in particular including details of the funds made available by the partners contributing to the financing under an agreement as referred to in the second subparagraph of Article 17(3);
  - (c) for installing and using compatible computer systems for management, monitoring and evaluation which will ensure effective management and the reliability and availability of the information referred to at (a) and which comply with Articles 35, 41 and 42;
  - (d) for drawing up and submitting to the Commission the annual implementation report and, where appropriate and without prejudice to Article 31, the payment applications;
  - (e) for organising, together with the Commission, the mid-term evaluation referred to in Article 41;
  - (f) for ensuring that other bodies taking part in the management and implementation of the assistance maintain either a separate accounting system or an adequate accounting code for all transactions relating to the package;
  - (g) for ensuring the correctness of operations financed under the assistance, particularly by implementing internal controls in keeping with the principles of sound financial management and acting on any conclusions or recommendations made under paragraph 3 of this Article or under Article 37(4);
  - (h) for ensuring compliance with other Community policies; 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 in respect of which a contribution from the Funds has been applied for or granted;
  - (i) compliance with the obligations concerning information and publicity referred to in Article 45.
2. With the agreement of the Monitoring Committee, the managing authority may, if necessary, adapt the programming supplement, without changing the total amount of the contribution from the Funds granted to the priority concerned nor its specific targets. It shall inform the Commission of its decision within one month.

Amendments to the contents of the decision on the contribution of the Funds shall be decided by the Commission, in agreement with the Member State concerned, after the Monitoring Committee has delivered its opinion.

3. The Commission and the managing authority shall review the main outcomes of the previous year at least once a year, particularly when the annual implementation report referred to in Article 36 is presented, in accordance with arrangements to be defined by common accord with the Member State and the managing authority concerned.

After this review, the Commission shall make comments or recommendations addressed to the Member State and the managing authority. Where relevant, these shall be accompanied by requests for adjustments aimed at improving the quality or effectiveness of the monitoring or management of the assistance and, where applicable, to implement the conclusions formulated under Article 37(4). The managing authority shall adapt the programming supplement accordingly in line with paragraph 2, within a period of time laid down by the Commission. If necessary, the assistance in question shall be reviewed in accordance with Articles 12, 13 and 14.

#### **Article 34 - Monitoring Committees**

1. Each Community support framework or single programming document and each operational programme shall be supervised by a Monitoring Committee.

Monitoring Committees shall be set up by agreement between the designated managing authority and the partners. The partners shall seek to ensure balanced participation of women and men.

The Monitoring Committees shall be set up within no more than three months of the decision on the contribution of the Funds.

The acts of the Monitoring Committee shall be the legal responsibility of the Member State.

2. A representative of the Commission and, where appropriate, of the EIB, shall participate in the work of the Committees in an advisory capacity.

The representatives of all the partners which contribute to the financing of the assistance and, in the case of human resources, the representatives of the other partners, shall have the right to vote when the Committee adopts its decisions. The representatives of the other partners shall serve in an advisory capacity.

The Monitoring Committee shall be chaired by a representative of the managing authority.

3. The Monitoring Committee shall satisfy itself as to the effectiveness and quality of the implementation of assistance in order to attain the specific objectives and the Objectives referred to in Article 1. To that end:
  - (a) it shall discuss the strategic guidelines and priorities for assistance, ensuring their consistency with the guidelines referred to in Article 9(4), with the economic, social and, where appropriate, regional policies of the Member State, with the frame of reference referred to in Article 1(3) and with the Community policies;
  - (b) it shall examine the results of implementation, particularly achievement of the quantified targets set for the different measures and the mid-term evaluation referred to in Article 41.
4. The Monitoring Committee may propose to the managing authority any adjustment or review of the assistance likely to expedite attainment of the Objectives referred to in Article 1. Such adjustments shall be made in accordance with Article 33(2).

#### **Article 35 - Monitoring indicators**

1. The managing authority and the Monitoring Committee shall carry out monitoring by reference to physical and financial indicators specified, in particular, in the programming supplement on the basis of the Commission's proposals on methodology. The indicators shall relate to the specific character of the assistance concerned, its objectives and the socio-economic, structural and environmental situation of the Member State and shall take account, where appropriate, of the existence of regions or areas receiving transitional support. These indicators shall include, in particular, those used for allocating the reserve referred to in Article 43.
2. The monitoring indicators shall be arranged and quantified in such a way as to show, for the assistance in question:
  - (a) the specific quantified targets for the measures and priorities, and their mutual consistency;
  - (b) the stage reached in the priorities and measures in terms of physical implementation, results, and impact;
  - (c) the progress of the financing plan.

Where the nature of the assistance permits, the statistics shall be broken down by sex. The financial and physical indicators shall be broken down in accordance with a regional and sectoral nomenclature proposed by the Commission.

3. Major projects shall be the subject of separate financial and progress indicators designed to take account of their specific characteristics.

### **Article 36 - Annual implementation report**

1. For all multiannual assistance, the designated managing authority shall submit a progress report to the Commission within six months of the end of each full calendar year of implementation. A final report shall be submitted to the Commission at the latest six months of the final date of eligibility.

For all assistance 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 the last payment made by the paying authority.

The report shall be examined and approved by the Monitoring Committee before it is sent to the Commission.

2. All annual and final implementation reports shall contain at least the following information:
  - (a) a description of the context in which the assistance is being implemented, in particular the main socio-economic trends, consistency with other national, regional or sectoral policies and the frame of reference referred to in point 3 of Article 1 and the mutual consistency of assistance from the different Funds and other financial instruments;
  - (b) the progress in the implementation of priorities, measures and operations, when the assistance takes such a form, for each of the Funds, priorities and measures, in relation to their specific targets, with a quantification of the physical indicators and indicators of results and impact referred to in Article 35;
  - (c) the financial implementation of the assistance, summarising for each measure the expenditure actually paid out by the paying authority and payments received from the Commission and quantifying the financial indicators referred to in Article 35; financial implementation in the areas transitional support shall be presented separately in respect of each priority;
  - (d) the steps taken by the managing authority and the Monitoring Committee to ensure the quality and effectiveness of implementation, in particular:
    - (i) the monitoring and supervision of operations;
    - (ii) the use made of technical assistance;

- (iii) the evaluation systems set up, especially the results and the gathering of the information needed for monitoring;
  - (iv) the reliability of the management system;
  - (v) the action taken on the recommendations, the requests for adjustments made under Article 33(3) or the requests for corrections made under Article 37(4);
  - (vi) the measures taken to ensure publicity for the assistance in accordance with Article 45;
- (e) the steps taken to ensure compliance with other Community policies;
  - (f) a separate section, where appropriate, on the progress and financing of major projects.

## **CHAPTER II: FINANCIAL CONTROL**

### **Article 37 - General provisions**

1. The financial control of assistance shall be, in the first instance, the responsibility of the Member States. To that end, the measures they take shall include:
  - (a) verifying that management and supervision arrangements have been set up and are being implemented in such a way as to guarantee that Community funds are being used efficiently and correctly;
  - (b) providing the Commission with a description of these arrangements;
  - (c) ensuring that assistance is managed in accordance with all the applicable Community rules, including when an initiating letter or a reasoned opinion is sent pursuant Article 169 of the Treaty, and that the funds placed at their disposal are used in accordance with the principles of sound financial management;
  - (d) guaranteeing that the declarations of expenditure presented to the Commission are accurate and result from accounting systems based on verifiable supporting documents;
  - (e) preventing, detecting and correcting irregularities, and notifying these to the Commission, in accordance with the rules, keeping the Commission informed of the progress of administrative and legal proceedings;

- (f) presenting to the Commission, when each assistance is wound up, a declaration drawn up by a person or department having a function independent of the designated managing authority. This declaration shall summarise the conclusions of the checks carried out during previous years and shall assess the validity of the application for payment of the final balance and the legality and correctness of the transactions covered by the final certificate of expenditure. The Member States may attach their own opinion to this certificate if they consider it necessary;
  - (g) cooperating with the Commission to ensure that Community funds are used in accordance with the principles of sound financial management;
  - (h) recovering any amounts lost as a result of an irregularity detected and, where appropriate, charging interest on late payments.
2. The Commission shall ensure that Member States have smoothly functioning management and supervision systems which guarantee that Community funds are efficiently and correctly used.

To that end, without prejudice to checks carried out by Member States themselves in accordance with national laws, regulations and administrative provisions, Commission officials or servants may carry out on-the-spot checks, including sample checks, on the operations financed by the Funds and on management and control systems. Without prejudice to paragraph 4, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. 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 correctness of one or more transactions. Commission officials or servants may take part in such checks.

The Commission may undertake on-the-spot checks without giving notice. Officials or servants of the Member State concerned may take part in such checks.

3. The Commission and the Member States shall cooperate to coordinate programmes and methods relating to checks so as to maximise the usefulness of those carried out. They shall immediately exchange the results of checks carried out.
4. The Commission and the Member States shall cooperate to examine and evaluate at least once a year and, in all events, before the annual review provided for in Article 33(3):
- (a) the results of the checks carried out by the Member State and the Commission;

- (b) any comments made by other national or Community supervisory bodies or institutions;
- (c) the financial impact of the irregularities noted, the steps already taken or still required to correct them and, where necessary, adjustments to the management and control systems.

Following this examination and without prejudice to the measures to be taken immediately by the Member State under this Article and Article 38, the Commission shall draw up conclusions, particularly regarding the financial impact of any irregularities detected. These conclusions shall be addressed to the Member State and the managing authorities of the assistance concerned. They shall be accompanied, where necessary, by recommendations or requests for corrective measures, to be taken within a time limit laid down by the Commission, to remedy the management shortcomings found and correct those irregularities detected which have not already been corrected.

The Member State and managing authorities concerned shall take the necessary measures within the deadline set to comply with the Commission's recommendations or requests.

- 5. Without prejudice to this Article, the Commission may suspend all or part of an interim payment if 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 Member State concerned.
- 6. For a period of three years following the last payment in respect of any assistance, the responsible authorities shall keep available for the Commission all the supporting documents regarding expenditure and checks on the assistance concerned. This period shall be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.

#### **Article 38 - Financial corrections**

- 1. The Member States shall, in the first instance, bear the responsibility for investigating irregularities, drawing the consequences from any major change affecting the nature of or conditions for the implementation or supervision of assistance and making the financial corrections required.

The corrections made by the Member States shall consist in cancelling all or part of the Community contribution. The Community funds released in this way may be re-used by the Member State for the assistance concerned, in compliance with arrangements to be defined under Article 53.

2. The Commission shall suspend the interim payments in question and request that the Member State submit its comments within a specified period of time if it considers:
  - (a) that a Member State has not complied with its obligations under paragraph 1; or
  - (b) that all or part of an operation justifies neither part nor the whole of the contribution from the Funds; or
  - (c) that there are shortcomings in the management or supervision systems which are likely to result in systemic irregularities;
  - (d) that there is, after the necessary verifications, a reasonable doubt that there has been an infringement of Community law.

At the end of the period referred to in the first subparagraph, if the Member State has not made the corrections, the Commission may:

- (a) reduce the advance referred to in Article 31(2); or
- (b) cancel all or part of the contribution of the Funds to the assistance concerned.

The Commission shall decide the amount of a correction, to take account of the type of irregularity or change and the extent of the potential impact of any shortcomings in the management or supervision systems.

3. Any sum received unduly and to be recovered shall be repaid to the Commission, together with interest on account of late payment.
4. This Article shall apply without prejudice to Article 31.

### **CHAPTER III: EVALUATION**

#### **Article 39 - General provisions**

1. In order to gauge its effectiveness, Community structural assistance shall be the subject of *ex ante*, mid-term and *ex post* evaluation designed to appraise its impact with respect to the Objectives set out in Article 1 and to analyse its effects on specific structural problems.
2. The effectiveness of the operations of the Funds shall be measured at three levels:

- (a) their overall impact on the goals set out in Article 130a of the Treaty, and in particular the strengthening of the economic and social cohesion of the Community;
  - (b) the impact of the priorities proposed in the development plans and incorporated in each Community support framework;
  - (c) the impact of the specific priorities in the assistance schemes.
3. In line with the cases referred to in Articles 40, 41 and 42, evaluation shall be the main responsibility either of the Member State or of the Commission, and shall be carried out within the framework of partnership. The competent authorities in the Member States and the Commission shall assemble the appropriate resources and collect the data required to ensure that this evaluation can be carried out in the most effective manner. In this connection, evaluation shall make use of the various particulars that the monitoring arrangements may yield, supplemented where necessary by the gathering of information to improve its relevance.

On the initiative of the Member States or the Commission, supplementary evaluations, if appropriate on a specific topic, may be launched with a view to identifying transferable experience.

4. The evaluation reports shall be available to the public.
5. The principles and procedures pertaining to evaluation shall be laid down in the Community support frameworks and assistance schemes.

#### **Article 40 - *Ex ante* evaluation**

1. The purpose of *ex ante* evaluation shall be to prepare and adopt the development plans, of which it shall form part. It shall involve an analysis of the strengths, weaknesses and potential of the Member State, region or sector concerned. It shall assess the consistency of the strategy and aims selected with the specific features of the regions or areas concerned, including demographic trends, and the expected impact of the planned priorities for action, quantifying, where they lend themselves to quantification, their specific targets in relation to the starting situation.

It shall analyse especially the situation in terms of competitiveness and innovation, especially in small and medium-sized enterprises, of employment and human resources, of the environment and of equality between men and women, and it shall include in particular:

- (a) an *ex ante* evaluation of the environmental situation of the region concerned and of the arrangements to integrate the environmental dimension in the assistance and to ensure compliance with the Community rules on environment. The *ex ante* evaluation shall include: a quantified description of the starting situation; the objectives to be achieved at short and at mid-term taking into account national, regional or local plans for the management of the environment, the financial resources deployed and the main results from the previous programming period; an evaluation of the expected environmental impact of the strategy and of the assistance on the environmental situation;
- (b) an *ex ante* evaluation of the situation in terms of equality between men and women, including the specific constraints on each group and the results of the measures taken during the previous programming period; an evaluation of the expected impact of the strategy and assistance, particularly on the integration of women and men into the labour market, on education and vocational training, on the establishment of women in business and on the reconciliation of private and working life.

The *ex ante* evaluation shall verify the quality of the implementing and monitoring arrangements and consistency with Community policies and with the guidelines referred to in Article 9(4).

It shall take account of the lessons learned from evaluations of earlier programming periods.

2. Evaluation shall be the responsibility of the authorities responsible for preparing the plans. Using criteria it has defined in advance, the Commission shall appraise the development plans in accordance with Articles 14 and 15, with particular regard to the relevance and quality of the *ex ante* evaluation. If necessary, it shall seek additional information.
3. Evaluation of the measures in the programming supplement document shall demonstrate consistency with the aims of the corresponding priorities, quantify their specific targets and verify the relevance of the selection criteria.

#### **Article 41 - Mid-term evaluation**

1. Mid-term evaluation shall examine the initial results of the assistance, their consistency with the *ex ante* evaluation, the relevance of the targets and the extent to which they have been attained. It shall also assess the soundness of the financial management and the quality of monitoring and implementation.

2. Mid-term evaluation shall be the responsibility of the managing authority, in cooperation with the Commission. It shall cover each Community support framework and each assistance. It shall be carried out by an assessor independent of the managing authority, be submitted to the Monitoring Committee for the Community support framework or assistance concerned in accordance with Article 34(3), and then sent to the Commission not later than 31 December 2003 with a view to the annual review referred to in Article 33(3).
3. The Commission shall examine the relevance and quality of the evaluation on the basis of criteria it has defined beforehand, with a view to reviewing the assistance and allocating the reserve referred to in Article 43.

#### **Article 42 - *Ex post* evaluation**

1. *Ex post* evaluation shall cover the utilisation of resources and the effectiveness and efficiency of the assistance and its impact and its consistency with the *ex ante* evaluation, and shall draw conclusions regarding economic and social cohesion. It shall cover the factors contributing to the success or failure of implementation and the achievements and results, including their durability.

As a continuation of the mid-term evaluation, an initial assessment of each Community support framework and assistance shall be carried out and completed by 31 December 2005 in order to prepare for subsequent assistance operations.

2. *Ex post* evaluation shall be the responsibility of the Commission, in collaboration with the Member State and the managing authority. It shall cover the assistance schemes and be carried out by independent assessors. It shall be completed not later than three years after the end of the programming period.

### **CHAPTER IV: PERFORMANCE RESERVE**

#### **Article 43 - Allocation of the performance reserve**

1. At mid-term, the Commission shall allocate the commitment appropriations referred to in Article 7(4) on the basis of compliance with additionality and the level of performance in implementing operational programmes or single programming documents in each Member State.
2. The Commission shall verify additionality at mid-term in accordance with Article 10(3), separately for Objective 1 and for Objectives 2 and 3 taken together, assessing the performance of each of the operational programmes or single programming documents on the basis of a limited number of monitoring indicators which reflect efficiency, management and financial implementation and measure the mid-term results in relation to the specific initial targets of the operational programmes or single programming documents.

These indicators shall be defined on the basis of methodological proposals from the Commission and shall be quantified in annual implementation reports, particularly the report for the third year of implementation, and the mid-term evaluation report.

3. The appropriations in the reserve shall be allocated under each Objective to operational programmes or single programming documents which have attained a satisfactory level of performance, with of a reduction where a Member State has not complied with its obligations as regards additionality. The Commission shall adopt its decision not later than 31 March 2004. The operational programmes or single programming documents shall be adapted in accordance with Articles 12, 13 and 14.

## **TITLE V**

### **REPORTS AND PUBLICITY**

#### **Article 44 - Reports**

1. Under Article 130b of the Treaty, the Commission is required to submit a report at three-yearly intervals to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the progress made towards economic and social cohesion and the contribution made to this by the Funds, the Cohesion Fund, the EIB and other financial instruments. This report shall review in particular:
  - (a) progress in achieving economic and social cohesion, including the socio-economic situation of the regions and any changes observed;
  - (b) the role of the Funds, the Cohesion Fund, the EIB and other financial instruments as well as the impact of other Community and national policies in accomplishing this process;
  - (c) any proposals concerning Community measures and policies which may need to be adopted in order to strengthen economic and social cohesion.
2. Before 1 November of each year, the Commission shall transmit to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions a report on the implementation of this Regulation during the preceding year. This report shall review in particular:

- (a) the activities of each Fund, the utilisation of their budget resources and the concentration of assistance, the deployment of the other financial instruments for which the Commission has responsibility and the concentration of their resources; this review shall include an annual breakdown by Member State of appropriations committed and paid in respect of each Fund, including Community Initiatives and technical assistance;
- (b) the coordination of assistance from the Funds among themselves and with the assistance granted by the EIB and the other existing financial instruments;
- (c) the results of the evaluation referred to in Articles 39 to 42, indicating any revisions to assistance schemes, and an evaluation of the consistency of measures taken by the Funds with the Community policies referred to in Article 11.
- (d) a list of the major projects to which the Funds have contributed;
- (e) the results of checks carried out and the lessons to be drawn from them,
- (f) information on the opinions of Committees delivered in accordance with Articles 47 to 51.

#### **Article 45 - Information and publicity**

1. For the purposes of consultation as referred to in Article 14(1), Member States shall ensure that adequate publicity is given to development plans.
2. Without prejudice to Article 22(1), the management authority shall be responsible for ensuring that adequate publicity is given to the package, and particularly for informing:
  - (a) potential final beneficiaries, trade and professional bodies, the economic and social partners, bodies promoting equality between men and women and non-governmental organisations about the opportunities afforded by the assistance;
  - (b) the general public about the role played by the Community in the assistance concerned and its results.
3. In accordance with Article 36, the Member States shall consult the Commission and inform it each year of the initiatives taken for the purposes set out in paragraphs 1 and 2.

## TITLE VI

### COMMITTEES

#### Article 46 - General provisions

1. In implementing this Regulation, the Commission shall be assisted by five committees.
2. The Commission shall send to these committees the reports referred to in Article 44. It may seek the opinion of the committees on any matter concerning assistance under the Funds apart from those referred to in this Title.
3. The opinions of each committee shall be brought to the attention of the other committees referred to in this Title.
4. The European Parliament shall be regularly informed of the work of the committees.

#### Article 47 - Advisory Committee on the Development and Conversion of Regions

An Advisory Committee on the Development and Conversion of Regions, made up of Member States' representatives and chaired by a 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 draft decisions to the Committee. 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.

Its opinions 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 opinions delivered by the Committee. It shall inform the Committee of the manner in which it takes account of its opinions.

The Committee shall deliver opinions on draft Commission decisions concerning the Community support frameworks under Objective 1 and the single programming documents under Objective 2, and on the drawing-up and revision of the list of areas eligible under Objective 2. The matters referred to in Article 21 may also be referred to it by the Commission.

The Committee shall draw up its own rules of procedure.

### **Article 48 - Committee under Article 124 of the Treaty**

The Committee set up under Article 124 of the Treaty shall be composed of two government representatives, two representatives of the workers' organisations and two representatives of the employers' organisations 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 in the first paragraph. 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 Commission acting on a proposal from the Member State concerned, for a period of three years. They may be reappointed. The Commission 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 single programming documents under Objective 3 and, in the case of support from the ESF, on the Community support frameworks and single programming documents relating to Objectives 1 and 2.

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 takes account of its opinions.

The Committee shall draw up its own rules of procedure.

### **Article 49 - Management Committee on Agricultural Structures and Rural Development**

A Management Committee on Agricultural Structures and Rural Development, made up of Member States' representatives and chaired by a 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 draft decisions to the Committee. 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 said 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 the establishment of the list of areas eligible under Objective 2 and to single programming documents 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 or single programming documents for the Objective 1 regions.

The Committee shall draw up its own rules of procedure.

#### **Article 50 - Management Committee on Fisheries and Aquaculture**

A Management Committee on Fisheries and Aquaculture, made up of Member States' representatives and chaired by a 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 draft decisions to the Committee. 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 said 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 the establishment of the list of areas eligible under Objective 2 and to single programming documents under this Objective.

The Committee shall also be consulted on operations concerning fisheries structures included in the draft Commission decisions relating to the Community support frameworks or single programming documents for the Objective 1 regions.

The Committee shall draw up its own rules of procedure.

#### **Article 51 - Management Committee for Community Initiatives**

A Management Committee for Community Initiatives, made up of Member States' representatives and chaired by a 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 draft decisions to the Committee. 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 said Article. The chairman shall not vote.

The Commission shall adopt decisions 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 21.

The Committee shall draw up its own rules of procedure.

### **TITLE VII**

#### **FINAL PROVISIONS**

##### **Article 52 - Transitional provisions**

1. This Regulation shall not affect the continuation or modification, including the total or partial cancellation, of assistance approved by the Council or by the Commission on the basis of Council Regulations (EEC) Nos 2052/88 and 4253/88 or any other legislation which applied to that assistance on 31 December 1999.

2. Applications for a contribution from the Funds towards operations which are submitted under Council Regulations (EEC) Nos 2052/88 and 4253/88 shall be considered and approved by the Commission on the basis of those Regulations no later than 31 December 1999.
3. In drawing up Community support frameworks and assistance schemes, 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 and assistance schemes. These measures shall not be subject to compliance with Article 29(2).
4. Notwithstanding Article 29(2), expenditure submitted to the Commission between 1 January and 30 April 2000 and fulfilling all the conditions laid down in this Regulation may be regarded as eligible for a contribution from the Funds from 1 January 2000.
5. Partial sums committed for operations or programmes approved by the Commission before 1 January 1994, but in respect of which no application for final payment has been received by 31 March 2001, shall be automatically decommitted no later than 30 September 2001, giving rise to the repayment of amounts unduly paid, without prejudice to operations or programmes which have been suspended on account of legal proceedings.

Partial sums committed for operations or programmes approved by the Commission between 1 January 1994 and 31 December 1999, but in respect of which no application for final payment has been received by 31 March 2003, shall be automatically decommitted no later than 30 September 2003, giving rise to the repayment of amounts unduly paid, without prejudice to operations or programmes which have been suspended on account of legal proceedings.

#### **Article 53 - Implementation**

The Commission shall adopt detailed rules to implement this Regulation in accordance with Articles 47 to 51.

#### **Article 54 - Repeal**

Regulations (EEC) Nos 2052/88 and 4253/88 are repealed with effect from 1 January 2000.

References to the repealed Regulations shall be construed as references to this Regulation.

### **Article 55 - Review clause**

The Council shall review this Regulation on the basis of a proposal from the Commission by 31 December 2006 at the latest.

It shall act on the proposal in accordance with the procedure laid down in Article 130d of the Treaty.

### **Article 56 - Entry into force**

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

Articles 27, 30 and 31 shall apply from 1 January 2000.

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

Done at Brussels,

For the Council  
The President

**ANNEX****Commitment appropriations for 2000-2006**

<b>Euro Millions – 1999 price</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>Total</b>
Structural Funds	32 600	33 430	32 600	31 560	30 410	29 370	28 430	218 400

Proposal for a  
**COUNCIL REGULATION (EC)**  
on the European Regional Development Fund

Proposal for a  
**COUNCIL REGULATION (EC)**  
 on the European Regional Development Fund

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130e thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 189c in cooperation with the European Parliament<sup>4</sup>,

- (1) Whereas, under Article 130c of the Treaty, the European Regional Development Fund (ERDF) is intended to help redress the main regional imbalances in the Community;
- (2) Whereas Article 2(2) of Council Regulation (EC) No [...] <sup>5</sup> [laying down general provisions on the Structural Funds] states that the main task of the ERDF is to contribute to the attainment of Objectives 1 and 2, as referred to in Article 1 of that Regulation; whereas Articles 18 and 19 of that Regulation provide that the ERDF is to contribute to financing transnational, cross-border and inter-regional cooperation under the Community Initiatives; whereas Articles 20 and 21 state that it is to support innovative measures at Community level and technical assistance measures;
- (3) Whereas the provisions common to the Structural Funds are set out in Regulation (EC) No [...]; whereas the type of measures which may be financed by the ERDF under Objectives 1 and 2, the Community Initiatives and innovative measures should be defined;

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<sup>1</sup> OJ ...  
<sup>2</sup> OJ ...  
<sup>3</sup> OJ ...  
<sup>4</sup> OJ L ...  
<sup>5</sup> OJ L ...

- (4) Whereas the contribution of the ERDF, in pursuit of its task of promoting regional development, to the harmonious, balanced and sustainable development of economic activity, to a high degree of competitiveness, to a high level of employment, to equality between men and women and to a high level of protection and improvement of the environment should be defined;
- (5) Whereas, as part of its tasks, the ERDF should support the productive environment and the competitiveness of enterprises, especially in small and medium-sized enterprises, local economic development, research and technological development, the development of and the provision of suitable access to trans-European networks in the transport infrastructure, telecommunications and energy sectors, the protection and improvement of the environment on the principle that preventive action should be taken, that environmental damage should as a priority be rectified at source and that the polluter should pay and by fostering the clean, efficient utilisation of energy and the development of renewable energy sources, and equality between men and women in the field of employment,
- (6) Whereas the ERDF should play a particular role in favour of local economic development, in the context of raising the quality of life and developing the territory, especially by promoting territorial employment pacts;
- (7) Whereas measures of Community interest 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 (EC) N° .... (General Regulation);
- (8) Whereas the ERDF also contributes to support for innovative measures and assistance in accordance with Articles 21 and 22 of Regulation (EC) N° .... (General Regulation);
- (9) Whereas it is appropriate to lay down the powers for the adoption of the implementing provisions and to set out transitional provisions;
- (10) Whereas it is necessary to repeal Council Regulation (EEC) 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund<sup>6</sup>, as amended by Regulation (EEC) 2083/93<sup>7</sup>,

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<sup>6</sup> OJ L 374, 31.12.1988, p. 15.

<sup>7</sup> OJ L 193, 31.7.1993, p. 34.

HAS ADOPTED THIS REGULATION:

### **Article 1 - Tasks**

Under Article 130c of the Treaty and [the general] Regulation, the European Regional Development Fund (ERDF) shall contribute towards the financing of assistance as defined in Article 9(1) of that Regulation to promote economic and social cohesion by correcting regional imbalances and participating in the development and conversion of regions. To that end, the ERDF shall also contribute to promoting sustainable development and the creation of jobs.

### **Article 2 - Scope**

1. As part of its tasks as defined in Article 1, the ERDF shall contribute towards the financing of:
  - (a) productive investment to create and safeguard permanent jobs;
  - (b) investment in infrastructure:
    - (i) in regions designated under Objective 1, investment in infrastructure to which the ERDF may contribute shall be investment towards increasing the economic potential, development, structural adjustment and sustainable employment of those regions, including that contributing to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures;
    - (ii) in regions and areas designated under Objectives 1 and 2 and the Community Initiative for cooperation as referred to in Article 19(1) of [the general] Regulation, investment in infrastructure to which the ERDF may contribute shall be investment relating to the regeneration of areas suffering from industrial decline, the renewal of depressed urban areas and to the revitalisation of and improved access to rural areas and areas dependent on fisheries; areas whose modernisation or regeneration is a prerequisite for the creation or development of job-creating economic activities, including communications infrastructure and other links on which the development of these activities is dependent;
  - (c) the development of endogenous potential by measures which encourage and support local development and employment initiatives and the activities of small and medium-sized enterprises, involving in particular:
    - (i) assistance towards services for enterprises, in particular in the fields of management, market studies and research and services common to several enterprises;
    - (ii) financing the transfer of technology, including in particular the collection and dissemination of information and financing innovation in enterprises;

- (iii) improvement of access for enterprises to finance and loans, by creating and developing appropriate financing instruments;
  - (iv) direct aid to investment as defined in Article 27(3) of [the general] Regulation where no aid scheme exists;
  - (v) the provision of small-scale infrastructure;
  - (vi) aid for structures providing neighbourhood services to create new jobs but excluding measures financed by the ESF;
- (d) technical assistance measures as referred to in Article 22 of [the general] Regulation.

In the regions designated under Objective 1, the ERDF may contribute towards the financing of investment in education and health that is beneficial to the regions' structural adjustment.

2. In accordance with paragraph 1, the financial contribution of the ERDF shall support the following areas in particular:
- (a) the productive environment, in particular to increase competitiveness and sustainable investment by firms, especially the small and medium sized enterprises, and to make regions more attractive, particularly by improving the standard of their infrastructure;
  - (b) research and technological development with a view to promoting the introduction of new technologies and innovation and strengthening research and technological development capacities where this is necessary for regional development;
  - (c) the development of the information society;
  - (d) the protection and improvement of the environment taking account of the principles of precaution and of preventive action in the support to economic development and the fostering of clean, efficient utilisation of energy and the development of renewable energy sources;
  - (e) equality between men and women, in the field of employment principally through the establishment of firms and the reconciliation of family and working life;
  - (f) transnational, cross-border and inter-regional cooperation on regional development.

### **Article 3 – Community Initiative**

1. Pursuant to Article 19 of Regulation (EC) N° .... (General Regulation), the ERDF shall, in accordance with Article 20(1) of that Regulation, contribute to the implementation of the Community Initiative for cross-border, transnational and inter-regional cooperation intended to encourage the harmonious and balanced development and spatial planning of the European territory.
2. In accordance with Article 20(2) of [the general] Regulation, the scope laid down in paragraph 1 of this Article may be extended by the decision on the Funds contribution to the financing of measures eligible under the Council Regulations [ESF, EAGGF, FIGF]<sup>8 9 10</sup> with a view to implementing all the measures in the Community Initiative programme concerned.

### **Article 4 - Innovative measures**

1. In accordance with Article 21(1) of [the general] Regulation, the ERDF may also contribute to financing:
  - (a) studies on the Commission's initiative to analyse and identify regional development problems and solutions, particularly in connection with spatial planning and the European Spatial Development Perspective;
  - (b) pilot projects to identify or test new regional development solutions with a view to their inclusion in assistance after demonstration of their feasibility;
  - (c) exchanges of experience relating to innovation with the aim of turning to account and transferring experience gained in the regional development field.
2. In accordance with Article 21(2) of [the general] Regulation, the scope laid down in paragraph 1 of this Article may be extended by the decision on the Funds contribution to the financing of measures eligible under the [ESF, EAGGF, FIGF] Regulations with a view to implementing all the measures in the pilot project concerned.

### **Article 5 - Implementing rules**

The detailed implementing rules for this Regulation shall be adopted by the Commission in accordance with the procedure laid down in Article 47 of [the general] Regulation.

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<sup>8</sup> OJ L ...  
<sup>9</sup> OJ L ...  
<sup>10</sup> OJ L ...

## **Article 6 - Repeal**

Regulation (EEC) No 4254/88 is hereby repealed with effect from 1 January 2000.

References to the repealed Regulation shall be construed as references to this Regulation.

## **Article 7 - Review clause**

On a proposal from the Commission, the Council shall review this Regulation by 31 December 2006.

It shall act on this proposal in accordance with the procedure laid down in Article 130d of the Treaty.

## **Article 8 - Transitional provisions**

The transitional provisions referred to in Article 52 of [the general] Regulation shall apply *mutatis mutandis*.

## **Article 9 - Entry into force**

This Regulation shall enter into force on the third day following that of 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,

For the Council  
The President

101

Proposal for a  
**COUNCIL REGULATION (EC)**  
on the European Social Fund

Proposal for a  
**COUNCIL REGULATION (EC)**  
 on the European Social Fund

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 125 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>2</sup>,

Acting in accordance with Article 189c of the Treaty in cooperation with the European Parliament<sup>3</sup>,

- (1) Whereas Council Regulation (EC) No ... [general Regulation]<sup>4</sup> replaced Regulation (EEC) No 2052/88<sup>5</sup>, as last amended by Regulation (EC) No 3193/94<sup>6</sup> and Council Regulation (EEC) No 4253/88<sup>7</sup>, as last amended by Regulation (EC) No 3193/94; whereas it is necessary also to replace Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing the European Social Fund<sup>8</sup> (hereinafter referred to as "the Fund"), as last amended by Regulation (EC) No 2084/93<sup>9</sup>;
- (2) Whereas Regulation (EC) No ..... (General Regulation) defines the general arrangements governing the Structural Funds as a whole and that it is necessary to define the nature of the activities which the European Social Fund (hereinafter "the Fund") may finance within Objectives 1, 2, and 3, in the Community Initiative combating discrimination and inequalities in access to the labour market, and under innovative measures and technical assistance;
- (3) Whereas it is necessary to define the mission of the Fund in relation to the tasks prescribed in the Treaty and in the context of the priorities agreed by the Community in the fields of human resource development and employment;

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<sup>1</sup> OJ ...  
<sup>2</sup> OJ ...  
<sup>3</sup> OJ ...  
<sup>4</sup> OJ L ...  
<sup>5</sup> OJ L 185, 15.7.1988, p. 9.  
<sup>6</sup> OJ L 337, 21.12.1994, p. 11.  
<sup>7</sup> OJ L 374, 31.12.1988, p. 1.  
<sup>8</sup> OJ L 374, 31.12.1988, p. 21.  
<sup>9</sup> OJ L 193, 31.7.1993, p. 39.

- (4) Whereas the Conclusions of the European Council in Amsterdam in June 1997 and its Resolution on growth and employment<sup>10</sup> initiated the implementation of the European employment strategy, the Annual Guidelines on Employment, and the process of establishing national action plans for employment,
- (5) Whereas it is necessary to re-define the scope of the Fund, in particular following the re-structuring and simplification of the Objectives of the Structural Funds and following the implementation of the European employment strategy and the National Action Plans for Employment related to it;
- (6) Whereas it is necessary to define a common framework for Fund interventions in all three Structural Fund Objectives so as to ensure consistency and complementarity of actions across those Objectives to improve the workings of the labour market and to develop human resources;
- (7) Whereas the Member States and the Commission should ensure that programming and implementation of the actions financed by the Fund in the context of all the Objectives contribute to the promotion of equality between women and men;
- (8) Whereas the Member States and the Commission should ensure that the social and labour market dimension of the Information Society is duly taken into account in implementing actions financed by the Fund;
- (9) Whereas it is necessary to ensure that operations relating to industrial adaptation should meet the general needs of workers of either sex resulting from industrial change and changes in production systems identified or predicted and are not designed to benefit a single firm or a particular industry; whereas particular attention should be devoted to small and medium-sized enterprises and to enhancing access to training and to improving work organisation;
- (10) Whereas it is necessary to ensure that the Fund continues to strengthen employment and job qualifications by supporting anticipation, counselling, networking and training operations throughout the Community and that the activities funded must therefore be horizontal, covering the economy as a whole, without a priori reference to specific industries or sectors;
- (11) Whereas it is necessary to redefine eligible actions in order to increase the effectiveness of the implementation of policy aims in the context of all Objectives under which the Fund takes action; whereas it is necessary to define expenditure eligible for Fund assistance within the framework of the partnership;
- (12) Whereas it is necessary to supplement and specify the content of plans and forms of assistance, especially following the redefinition of Objective 3;

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<sup>10</sup> OJ C 236, 2.8.1997, p. 3.

- (13) Whereas it is necessary to ensure that the support of the Fund is concentrated under each Objective on the most important needs and the most effective operations;
- (14) Whereas it is necessary to introduce arrangements whereby local groups may gain simple and rapid access to Fund support for operations concerned with combating social exclusion and thereby build up their capacity for action in that field;
- (15) 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 (EC) No .....; whereas such initiatives should primarily promote policy innovation and transnational cooperation;
- (16) Whereas the Fund also contributes to support for technical assistance, innovative measures, and preparatory, monitoring, evaluation measures and control in accordance with Articles 21 and 22 of Regulation (EC) No ..... (General Regulation);
- (17) Whereas it is appropriate to lay down the powers for the adoption of the implementing provisions and to set out transitional provisions;
- (18) Whereas it is necessary to repeal Regulation (EEC) 4255/88,

HAS ADOPTED THIS REGULATION:

#### **Article 1 - Mission**

Within the framework of the task entrusted to the European Social Fund (hereinafter referred to as "the Fund") by Article 123 of the Treaty and of the tasks entrusted to the Structural Funds pursuant to Article 130b of the Treaty and laid down in Regulation (EC) No .... (General Regulation), the Fund shall support human resource development measures to promote a high level of employment and social protection, equality between men and women, sustainable development, and economic and social cohesion. In particular, the Fund shall contribute to the actions undertaken in pursuance of the European Employment Strategy and the Annual Guidelines on Employment.

#### **Article 2 - Scope of Intervention**

1. The Fund shall support and complement the activities of Member States in the following policy fields, in particular in the context of their multi-annual National Action Plans for employment:
  - (a) developing active labour market policies to combat unemployment, to prevent both women and men from moving into long-term unemployment, to facilitate the re-integration of the long-term unemployed into the labour market, and to support the occupational integration of young people and of returners to the labour market;

- (b) promoting social inclusion and equal opportunities for all in accessing the labour market;
  - (c) developing education and training systems as part of lifelong learning policy to enhance and sustain employability, mobility, and integration into the labour market;
  - (d) improving systems to promote a skilled, trained and adaptable workforce, foster innovation and adaptability in work organisation, support entrepreneurship and employment creation, and boost human potential in research, science and technology;
  - (e) improving the participation of women in the labour market including their career development, their access to new job opportunities and to entrepreneurship, and reducing vertical and horizontal segregation in the labour market.
2. The Fund shall contribute to promoting local development, including local employment initiatives and territorial employment pacts.
3. The social and labour market dimensions of the Information Society shall be taken into account, notably by developing policy and programmes designed to harness the employment potential of the Information Society and to ensure equal access to its facilities and benefits.

### **Article 3 - Eligible activities**

1. The financial support of the Fund shall in particular be devoted to the following activities:
- (a) assistance to persons:
    - (i) education and vocational training (including vocational training equivalent to compulsory schooling), pre-training, including provision and up-grading of basic skills (including literacy), guidance and counselling;
    - (ii) employment aids and aids for self-employment;
    - (iii) in the field of research, science and technology development, post-graduate training and the training of managers and technicians at research establishments and in enterprises;
    - (iv) development of new sources of employment;

- (b) assistance to structures and systems:
  - (i) development and improvement of the quality and content of training, education and qualification systems, including the training of teachers, trainers and staff, and improving the access of workers to training and qualifications;
  - (ii) modernisation and improved efficiency of employment services;
  - (iii) development of links between the world of work and education, training, and research establishments;
  - (iv) development of systems for forward planning and anticipation of changes in employment and skills development, particularly in relation to patterns of work and new forms of work organisation;
- (c) accompanying measures:
  - (i) assistance in the provision of services to beneficiaries, including the provision of care services and facilities for dependants, healthcare and legal assistance;
  - (ii) capacity-building, in particular to facilitate the pathway approach to labour market integration;
  - (iii) awareness-raising, information and publicity.

2. The activities under paragraph 1 above may be combined or complemented as part of a pathway approach to labour market integration.
3. The Fund may finance activities in pursuit of Articles 21 and 22 of Regulation (EC) No .... (General Regulation).

#### **Article 4 - Concentration of assistance**

1. In order to maximise the efficiency of Fund support, its interventions within each of the priority fields referred to in paragraph 1 of Article 2 will be concentrated to cover a limited number of areas or themes and be directed towards the most important needs and the most effective operations, having due regard to the relevant *ex ante* evaluations. To support these needs and operations, variable co-financing rates should be used within the limits defined in Article 28 of Regulation (EC) No .... (General Regulation).
2. The programming of Fund interventions shall, subject to the results of the *ex ante* evaluations, ensure that measures relating to each of the five policy fields referred to in paragraph 1 (a) to (e) of Article 2 above will be undertaken. Fund appropriations available for the intervention in question shall

give a particular emphasis to the policy fields set out in paragraph 1 (d) and (e) of Article 2.

Where the financial scale of the programme is insufficient to support effective policy intervention within each of the five policy fields set out in paragraph 1 of Article 2, the strategy set out in the programming of the activities financed by the Fund must nevertheless take explicit account of all of those policy fields.

3. The programming of Fund interventions shall provide that at least 1% of the Fund appropriations available for the intervention in question shall be available, in conformity with Article 26 of Regulation (EC) No .... (General Regulation), for the distribution by intermediary organisations of small grants with special access arrangements for non-governmental organisations.

#### **Article 5 - Community Initiative**

1. Pursuant to Article 19 of Regulation (EC) No .... (General Regulation), the Fund shall, in accordance with Article 20(1) of that Regulation, contribute to the implementation of the Community Initiative for combating discrimination and inequalities in access to the labour market.
2. In conformity with Article 20(2) of Regulation (EC) No .... (General Regulation), the decisions on the contribution of the Fund to the Community Initiative may extend the scope of assistance referred to in Article 3 of this Regulation to cover measures which can be funded by the [ERDF, EAGGF, FIG] Regulations<sup>11 12 13</sup> so as to permit the implementation of all the measures foreseen in the Initiative.

#### **Article 6 - Innovative measures and technical assistance**

1. In conformity with Article 21(2) of Regulation EC) No .... (General Regulation), the Commission may finance preparatory, monitoring and evaluation operations in Member States or at Community level which are necessary for the implementation of the operations referred to the present Regulation. They may include:
  - (a) operations of an innovatory nature and pilot projects concerning labour markets, employment, and vocational training;
  - (b) studies, technical assistance and the exchange of experience which has a multiplier effect;
  - (c) technical assistance for the preparation, monitoring, and evaluation, as well as control of operations financed by the Fund;

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<sup>11</sup> OJL ...  
<sup>12</sup> OJL ...  
<sup>13</sup> OJL ...

- (d) operations directed, within the framework of social dialogue, at staff from enterprises in two or more Member States and concerning the transfer of special knowledge relating to areas of intervention by the Fund;
  - (e) informing the various partners involved, the final beneficiaries of assistance from the Fund and the general public.
2. In accordance with Article 21(2) of Regulation (EC) No ... [*general Funds Regulation*], the field for projects covered by point (a) of paragraph 1 of this Article is extended by the decision for the participation of the Funds to measures that can be financed under Regulations (EC) No [*ERDF, FIGF, EAGGF*] in order to implement all the measures envisaged by the innovative actions concerned.

#### **Article 7 - Applications for assistance**

Applications for a contribution from the Fund shall be accompanied by a computerised form, drawn up by the Commission in consultation with the Member States, listing the operations regarding each form of assistance so that it can be followed through from budgetary commitment to final payment.

#### **Article 8 - Implementing provisions**

The detailed implementing rules for this Regulation shall be adopted by the Commission according to the procedure laid down in Article 53 of Regulation (EC) No .... (General Regulation).

#### **Article 9 - Transitional provisions**

The transitional provisions set out in Article 52 of Regulation (EC) No .... (General Regulation) shall apply *mutatis mutandis* to the present Regulation.

#### **Article 10**

On a proposal from the Commission, the Council shall review this Regulation by 31 December 2006.

It shall act on this proposal in accordance with the procedure laid down in Article 130d of the Treaty.

#### **Article 11 - Repeal**

Regulation (EEC) 4255/88 as amended by Regulation (EEC) 2084/93 is hereby repealed as from 1 January 2000.

References to the repealed Regulation shall be construed as references to this Regulation.

## Article 12 - Entry into force

This Regulation shall enter into force on the third day following that of 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,

For the Council  
The President

Proposal for a  
**COUNCIL REGULATION (EC)**  
on structural measures in the fisheries sector

Proposal for a  
**COUNCIL REGULATION (EC)**  
 on structural measures in the fisheries sector

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

- (1) Whereas the common fisheries policy supports the general objectives of Article 39 of the Treaty; whereas, in particular, Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture<sup>4</sup>, as amended by the Act of Accession of Austria, Finland and Sweden, contributes towards achieving a balance between conservation and the management of resources, on the one hand, and fishing effort and the stable and rational exploitation of those resources, on the other;
- (2) Whereas structural measures in the fisheries and aquaculture sector ("the sector") should contribute to the attainment of the objectives of the common fisheries policy and those of Article 130a of the Treaty;
- (3) Whereas the incorporation of structural measures in the sector into the operational framework of the Structural Funds in 1993 improved the synergy of Community operations and enabled a more coherent contribution to be made to the strengthening of economic and social cohesion;
- (4) Whereas Council Regulation (EC) N°..... laying down general provisions on the Structural Funds<sup>5</sup> institutes a comprehensive review of the operational arrangements for the structural policies to take effect from 1 January 2000; whereas the structural measures in the sector will form part of priority Objectives 1 and 2 of the Structural Funds in force from that date; whereas Regulation (EEC) No 2080/93 of 20 July 1993 laying down provisions for implementing Council Regulation (EEC) No 2052/88 as regards the financial instrument for fisheries guidance<sup>6</sup> should therefore be repealed [and replaced by a new regulation] providing in particular for arrangements that will ensure a transition which avoids any interruption of the structural measures;

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<sup>1</sup> OJ C ...

<sup>2</sup> OJ C ...

<sup>3</sup> OJ C ...

<sup>4</sup> OJ L 389, 31.12.1992, p. 1.

<sup>5</sup> OJ ...

<sup>6</sup> OJ L 193, 31.7.1993, p.1.

- (5) Whereas there is incompatibility between the exclusively regional nature of the programming planned for Objective 2 of the Structural Funds, on the one hand, and the programming of the supporting measures for the restructuring of the fishing fleets, on the other hand; whereas the problem does not arise in the case of Objective 1;
- (6) Whereas it is appropriate therefore not to include in the programming for Objective 2 the supporting measures for the restructuring of the fishing fleets; whereas it is necessary to allocate to those measures resources from the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) so that they can be implemented in all regions in addition to those covered by Objective 1, including in areas covered by Objective 2; whereas this separate treatment will not affect the implementation of the other structural measures in the sector which will continue to be programmed under Objective 2;
- (7) Whereas furthermore the Community must be able to make a financial contribution in regions and areas other than those covered by Objectives 1 and 2, in respect of all structural measures in the sector; whereas it is necessary also to allocate to this measure resources from the Guarantee Section of the EAGGF,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. The structural measures implemented with Community financial assistance under this Regulation in the fisheries and aquaculture sector and the industry processing and marketing their products (hereinafter referred to as "the sector") shall support the general objectives of Articles 39 and 130a of the Treaty and the Objectives set out in Regulations (EEC) No 3760/92 and (EC) No [general Funds Regulation].
2. The tasks of the measures referred to in paragraph 1 shall be:
  - (a) to contribute to achieving a sustainable balance between fishery resources and their exploitation;
  - (b) to strengthen the competitiveness of structures and the development of economically viable enterprise in the sector;
  - (c) to improve market supply and the value added to fishery and aquaculture products;
  - (d) to contribute to revitalising areas dependent on fishing.
3. Community financial assistance may be granted for the implementation of measures in support of one or more of the tasks referred to in paragraph 2, in accordance with the provisions of Articles 2 and 3.
4. Under the procedure referred to in Article 5, the Council shall establish the fields of intervention for the structural actions referred to in paragraph 1 of this Article.

## Article 2

1. A financial instrument for fisheries guidance is hereby established, hereinafter called the "FITFG".
2. Measures implemented with assistance from the FIFG shall form part of Objectives 1 and 2 of the Structural Funds. They shall include all structural measures in the sector, with the exception of those referred to in Article 3.
3. In addition, and in accordance with Articles 21 and 22 of Regulation (EC) No [general Funds], the FIFG shall contribute towards:
  - (a) innovative action including transnational operations and the establishment of networks for those operating in the sector and coastal areas dependent on fishing;
  - (b) technical assistance measures.

In accordance with Article 21(2) of Regulation (EC) No [general Funds Regulation], the field for pilot projects covered by the first subparagraph of point (a) is extended by the decision for the participation of the Funds to measures that can be financed under Council Regulations (EC) No .../98<sup>7</sup>, No .../98<sup>8</sup> and EC No .../98<sup>9</sup> in order to implement all the measures envisaged by the innovative actions concerned.

## Article 3

The Guarantee Section of the EAGGF shall contribute towards:

- (a) supporting measures for the restructuring of the fishing fleets in regions not covered by Objective 1 of the Structural Funds,
- (b) all structural measures in the sector in regions not covered by Objectives 1 and 2 of the Structural Funds.

## Article 4

The financial contribution granted to each individual operation under the measures referred to in Article 1(3) may not exceed a maximum amount to be determined in accordance with the procedure referred to in Article 5.

## Article 5

Without prejudice to Article 6, the Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 43 of the Treaty, shall adopt, not later than [31 December 1998], the detailed rules and conditions for the Community financial contribution to the structural measures referred to in Articles 2 and 3.

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<sup>7</sup> OJ L ...[ERDF].  
<sup>8</sup> OJ L ... [ESF].  
<sup>9</sup> OJ L ... [EAGGF].

## Article 6

1. Council Regulations (EEC) No 4028/86<sup>10</sup> and (EEC) No 4042/89<sup>11</sup> shall continue to apply to applications for aid submitted before 1 January 1994.
2. Portions of sums committed as assistance for projects by the Commission between 1 January 1989 and 31 December 1993 under Regulation (EEC) No 4028/86 for which no final application for payment has been submitted to the Commission at the latest six years and three months after the date the aid is granted shall be released automatically by the Commission at the latest six years and nine months after the date the aid is granted, giving rise to the repayment of amounts unduly paid, without prejudice to projects which have been suspended on legal grounds.

## Article 7

Regulation (EEC) No 2080/93 is hereby repealed with effect from 1 January 2000.

References to the repealed Regulation shall be understood as references to this Regulation.

## Article 8

The transitional arrangements provided for in Article 52 of Regulation (EC) No [general Funds] shall apply *mutatis mutandis* to this Regulation.

## Article 9

This Regulation shall enter into force on the third day following that of 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,

For the Council  
The President

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<sup>10</sup> OJ L 376, 31.12.1986, p. 7.

<sup>11</sup> OJ L 388, 30.12.1989, p. 1.

## FICHE SMEs

### **1. Why is the legislation necessary? What are its aims?**

The legislation is based on the Articles of the Treaty governing economic and social cohesion, in particular Articles 130a, b and c, which provide for the Community to act to reduce regional disparities and contribute to the development of the least-favoured regions including rural areas through the Structural Funds and other Community financial instruments. This new proposal is necessary as the current Regulations governing the Structural Funds must be re-examined by the Council by 31 December 1999 (Article 19 of Regulation (EEC) No 2052/88, as revised by Regulation (EEC) No 2081/93).

Article 1 of this proposal sets out the overall objectives of Community Structural Policy:

- (i) promoting the development and structural adjustment of regions whose development is lagging behind (Objective 1);
- (ii) supporting the economic and social conversion of areas facing structural difficulties (Objective 2);
- (iii) supporting the adaptation and modernisation of policies and systems of education, training and employment. This Objective 3 shall provide financial assistance outside the regions or areas concerned by Objectives 1 and 2.

### **2. Who will be affected by this legislation?**

The financial support provided through the Structural Funds complements national actions undertaken in the Member States. A key principle underpinning the action of the Structural Funds is partnership between the Commission, Member States, regional and local authorities, environmental authorities, economic and social partners and other competent authorities including those responsible for promoting equality between men and women. The partners are to be designated by the Member States and all are to be involved in the various stages of preparation and implementation of the Structural Funds.

### **3. What will business have to do to comply with the legislation?**

No direct action is required by business to comply with the Regulation once adopted by the Community. In order to receive assistance from the Structural Funds, businesses will have to fulfil a number of conditions laid down by the authorities in the Member States responsible for the implementation of the Structural Funds.

#### **4. What economic effects is the proposal likely to have?**

The budgetary resources being proposed by the Commission for the Structural Funds are of the order of ECU 210 billion for the period 2000-06. This will have important economic impacts especially in the regions eligible under Objective 1 for which the Commission is proposing to reserve around two-thirds of the total resources. In general, Structural Fund assistance will have an impact on the overall business environment through improvements in infrastructure, services to firms, investment in human resources, assistance to help anticipate and facilitate economic and social change in businesses as well as a direct impact on business through assistance for productive investment.

#### **5. Does the proposal contain measures to take account of the specific situation of SMEs?**

In the guidance papers that the Commission has issued to assist programming for the current 1994-99 period, emphasis has been put on the role the Structural Funds can play to support the development of SMEs. Commission services estimate that some 15 to 20% of Structural Fund resources for the current programming period (around ECU 150 billion) are being devoted to support for SMEs. The level of support can be expected to be at least as significant, if not more important, in the next period and this priority will be emphasised in the guidelines for the Structural Funds the Commission is proposing in Article 8(4) of the draft general Regulation. The Commission is currently carrying out an evaluation of the impact of current Structural Fund support on SMEs, the result of which could assist the development of approaches to SME support in the new programming period.

#### **6. Conclusion**

At this stage there has been no formal consultation outside the Commission on the present proposals, although the Agenda 2000 proposal of July 1997, which outlined the basic principles of the reform of the Structural Funds, has been widely discussed throughout the Union. Following the adoption of the draft proposals for new Regulations by the Commission, there will be wide-ranging consulting and the proposal makes specific provision for the association of economic and social partners in the implementation of the actions. In addition, each year the Commission proposes to consult the social partners organised at European level on the structural policy of the Community.



ISSN 0254-1475

COM(98) 131 final

# DOCUMENTS

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Catalogue number : CB-CO-98-184-EN-C

ISBN 92-78-32411-6

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Office for Official Publications of the European Communities  
L-2985 Luxembourg