

I

(Acts whose publication is obligatory)

**REGULATION (EC) No 1080/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 July 2006
on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 162 and the second subparagraph of Article 299(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Having regard to the opinion of the Committee of the Regions ⁽²⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽³⁾,

Whereas:

(1) Article 160 of the Treaty provides that the European Regional Development Fund (ERDF) is intended to help to redress the main regional imbalances in the Community. The ERDF therefore contributes to reducing the gap between the levels of development of the various regions and the extent to which the least favoured regions, including rural and urban areas, declining industrial regions, areas with a geographical or natural handicap, such as islands, mountainous areas, sparsely populated areas and border regions, are lagging behind.

(2) The provisions common to the Structural Funds and the Cohesion Fund are set out in Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund ⁽⁴⁾. Specific provisions concerning the type of activities which may be financed by the ERDF under the objectives defined in that Regulation should be laid down.

(3) The ERDF should provide assistance within the framework of an overall strategy for cohesion policy which ensures greater concentration of assistance on the priorities of the Community.

(4) Regulation (EC) No 1083/2006 provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions for which it is necessary to lay down specific provisions. Specific provisions should therefore be laid down for the exceptions related to the ERDF.

(5) Within the framework of an integrated urban development operation, it is considered necessary to support limited actions to renovate housing in areas experiencing or threatened by physical deterioration and social exclusion in the Member States that acceded to the European Union on or after 1 May 2004.

(6) It is necessary to establish that the contribution from the ERDF to housing expenditure should concern the provision of good quality accommodation for lower income groups, including recently privatised housing stock, as well as accommodation for vulnerable social groups.

(7) Efficient and effective implementation of actions supported by the ERDF depends on good governance and partnership among all the relevant territorial and socio-economic partners, and in particular regional and local authorities, as well as any other appropriate body during the various stages of implementation of the operational programmes co-financed by the ERDF.

(8) The Member States and the Commission should ensure that there is no discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the operational programmes co-financed by the ERDF.

⁽¹⁾ OJ C 255, 14.10.2005, p. 91.

⁽²⁾ OJ C 231, 20.9.2005, p. 19.

⁽³⁾ Opinion of the European Parliament of 6 July 2005 (not yet published in the Official Journal), Council Common Position of 12 June 2006 (not yet published in the Official Journal) and Position of the European Parliament of 4 July 2006 (not yet published in the Official Journal).

⁽⁴⁾ See page 25 of this Official Journal.

- (9) Building on the experience and strengths of the URBAN Community initiative provided for in Article 20(1)(b) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽¹⁾, sustainable urban development should be reinforced by fully integrating measures in that field into the operational programmes co-financed by the ERDF, paying particular attention to local development and employment initiatives and their potential for innovation.
- (10) Particular attention should be paid to ensuring complementarity and consistency with other Community policies, and in particular with the Seventh Framework Programme for research, technological development and demonstration activities and the Competitiveness and Innovation Framework Programme. Furthermore, there should be synergy between support granted from the ERDF, on the one hand, and that granted from the European Social Fund pursuant to Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund ⁽²⁾, the Cohesion Fund pursuant to Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund ⁽³⁾, the European Agricultural Fund for Rural Development pursuant to Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) ⁽⁴⁾ and a European Fisheries Fund, on the other hand.
- (11) It is necessary to ensure that actions supported by the ERDF in favour of small and medium-sized enterprises take into account and support the implementation of the European Charter for Small Enterprises adopted at the Santa Maria da Feira European Council of 19 and 20 June 2000.
- (12) Specific attention should be paid to the outermost regions, namely by extending, on an exceptional basis, the scope of the ERDF to the financing of operating aid linked to the offsetting of the additional costs resulting from their specific economic and social situation, which is compounded by their remoteness, insularity, small size, difficult topography and climate and their economic dependence on a few products, the permanence and combination of which severely restrain their development. Such specific measures require the use of Article 299(2) of the Treaty as a legal basis.
- (13) The ERDF should address the problems of accessibility to and remoteness from large markets confronting areas with an extremely low population density, as referred to in Protocol No 6 on special provisions for Objective 6 in the framework of the Structural Funds in Finland and Sweden to the 1994 Act of Accession. The ERDF should also address the specific difficulties encountered by

certain islands, mountainous areas, border regions and sparsely populated areas whose geographical situation slows down their development with a view to supporting their sustainable development.

- (14) It is necessary to lay down specific provisions concerning the programming, management, monitoring and control of operational programmes under the European territorial cooperation objective.
- (15) It is necessary to support effective cross-border, transnational and interregional cooperation with the Community's neighbouring countries where this is necessary to ensure that the regions of the Member States which border third countries can be effectively assisted in their development. Accordingly, it is appropriate to authorise on an exceptional basis the financing of assistance from the ERDF for projects located on the territory of third countries where they are for the benefit of the regions of the Community.
- (16) In the interest of clarity, Regulation (EC) No 1783/1999 of the European Parliament and the Council of 12 July 1999 on the European Regional Development Fund ⁽⁵⁾ should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

1. This Regulation establishes the tasks of the European Regional Development Fund (ERDF), the scope of its assistance with regard to the Convergence, Regional competitiveness and employment and European territorial cooperation objectives as defined in Article 3(2) of Regulation (EC) No 1083/2006, and the rules on eligibility for assistance.

2. The ERDF is governed by Regulation (EC) No 1083/2006 and by this Regulation.

Article 2

Purpose

Pursuant to Article 160 of the Treaty and Regulation (EC) No 1083/2006, the ERDF shall contribute to the financing of assistance which aims to reinforce economic and social cohesion by redressing the main regional imbalances through support for the development and structural adjustment of regional economies, including the conversion of declining industrial regions and regions lagging behind, and support for cross-border, transnational and interregional cooperation.

⁽¹⁾ OJ L 161, 26.6.1999, p. 1. Regulation as last amended by Regulation (EC) No 173/2005 (OJ L 29, 2.2.2005, p. 3).

⁽²⁾ See page 12 of this Official Journal.

⁽³⁾ See page 79 of this Official Journal.

⁽⁴⁾ OJ L 277, 21.10.2005, p. 1.

⁽⁵⁾ OJ L 213, 13.8.1999, p. 1.

In so doing, the ERDF shall give effect to the priorities of the Community, and in particular the need to strengthen competitiveness and innovation, create and safeguard sustainable jobs, and ensure sustainable development.

Article 3

Scope of assistance

1. The ERDF shall focus its assistance on thematic priorities. The type and range of actions to be financed within each priority shall reflect the different nature of the Convergence, Regional competitiveness and employment and European territorial cooperation objectives in accordance with Articles 4, 5 and 6.

2. The ERDF shall contribute towards the financing of:

- (a) productive investment which contributes to creating and safeguarding sustainable jobs, primarily through direct aid to investment primarily in small and medium-sized enterprises (SMEs);
- (b) investment in infrastructure;
- (c) development of endogenous potential by measures which support regional and local development. These measures include support for and services to enterprises, in particular SMEs, creation and development of financing instruments such as venture capital, loan and guarantee funds, local development funds, interest subsidies, networking, cooperation and exchange of experience between regions, towns, and relevant social, economic and environmental actors;
- (d) technical assistance as referred to in Articles 45 and 46 of Regulation (EC) No 1083/2006.

The range of investments and measures listed above under points (a) to (d) shall be available to implement the thematic priorities in accordance with Articles 4, 5 and 6.

Article 4

Convergence

Under the Convergence objective, the ERDF shall focus its assistance on supporting sustainable integrated regional and local economic development and employment by mobilising and strengthening endogenous capacity through operational programmes aimed at the modernisation and diversification of economic structures and at the creation and safeguarding of sustainable jobs. This shall be achieved primarily through the following priorities, the precise policy mix depending on the specificities of each Member State:

- 1. research and technological development (R&TD), innovation and entrepreneurship, including strengthening research and technological development capacities, and their integration into the European Research Area, including infrastructures; aid to R&TD, notably in SMEs, and to technology transfer; improvement of links between

SMEs, tertiary education institutions, research institutions and research and technology centres; development of business networks; public-private partnerships and clusters; support for the provision of business and technology services to groups of SMEs; and fostering of entrepreneurship and innovation funding for SMEs through financial engineering instruments;

- 2. information society, including development of electronic communications infrastructure, local content, services and applications, improvement of secure access to and development of on-line public services; aid and services to SMEs to adopt and effectively use information and communication technologies (ICTs) or to exploit new ideas;
- 3. local development initiatives and aid for structures providing neighbourhood services to create new jobs, where such actions are outside the scope of Regulation (EC) No 1081/2006;
- 4. environment, including investments connected with water supply and water and waste management; waste-water treatment and air quality; prevention, control and fight against desertification; integrated pollution prevention and control; aid to mitigate the effects of climate change; rehabilitation of the physical environment, including contaminated sites and land and brownfield redevelopment; promotion of biodiversity and nature protection, including investments in NATURA 2000 sites; aid to SMEs to promote sustainable production patterns through the introduction of cost-effective environmental management systems and the adoption and use of pollution-prevention technologies;
- 5. prevention of risks, including development and implementation of plans to prevent and cope with natural and technological risks;
- 6. tourism, including promotion of natural assets as potential for the development of sustainable tourism; protection and enhancement of natural heritage in support of socio-economic development; aid to improve the supply of tourism services through new higher added-value services and to encourage new, more sustainable patterns of tourism;
- 7. investments in culture, including protection, promotion and preservation of cultural heritage; development of cultural infrastructure in support of socio-economic development, sustainable tourism and improved regional attractiveness; and aid to improve the supply of cultural services through new higher added-value services;
- 8. transport investments, including improvement of trans-European networks and links to the TEN-T network; integrated strategies for clean transport which contribute to improving the access to and quality of passenger and goods services, to achieving a more balanced modal split, to promoting intermodal systems and to reducing environmental impacts;

9. energy investments, including in improvements to trans-European networks which contribute to improving security of supply, the integration of environmental considerations, the improvement of energy efficiency and the development of renewable energies;
10. education investments, including in vocational training, which contribute to increasing attractiveness and quality of life;
11. investments in health and social infrastructure which contribute to regional and local development and increasing the quality of life.

Article 5

Regional competitiveness and employment

Under the Regional competitiveness and employment objective, the ERDF shall focus its assistance in the context of sustainable development strategies, while promoting employment, primarily on the following three priorities:

1. innovation and the knowledge economy, including through the creation and strengthening of efficient regional innovation economies, systemic relations between the private and public sectors, universities and technology centres which take into account local needs, and in particular:
 - (a) enhancing regional R&TD and innovation capacities directly linked to regional economic development objectives by supporting industry or technology-specific competence centres, promoting industrial R&TD, SMEs and technology transfer, developing technology forecasting and international benchmarking of policies to promote innovation and supporting inter-firm collaboration and joint R&TD and innovation policies;
 - (b) stimulating innovation and entrepreneurship in all sectors of the regional and local economy by supporting the introduction of new or improved products, processes and services onto the market by SMEs, supporting business networks and clusters, improving access to finance by SMEs, promoting cooperation networks between enterprises and appropriate tertiary education and research institutions, facilitating SMEs' access to business support services and supporting the integration of cleaner and innovative technologies in SMEs;
 - (c) promoting entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new firms by appropriate tertiary education and research institutions and existing firms;
2. environment and risk prevention, and in particular:
 - (a) stimulating investment for the rehabilitation of the physical environment, including contaminated, desertified and brownfield sites and land;
 - (b) promoting the development of infrastructure linked to biodiversity and investments in NATURA 2000 sites, where this contributes to sustainable economic development and/or diversification of rural areas;
 - (c) stimulating energy efficiency and renewable energy production and the development of efficient energy management systems;
 - (d) promoting clean and sustainable public transport, particularly in urban areas;
 - (e) developing plans and measures to prevent and cope with natural risks (e.g. desertification, droughts, fires and floods) and technological risks;
 - (f) protection and enhancement of the natural and cultural heritage in support of socio-economic development and the promotion of natural and cultural assets as potential for the development of sustainable tourism;
3. access to transport and telecommunication services of general economic interest, and in particular:
 - (a) strengthening secondary transport networks by improving links to TEN-T networks, regional railway hubs, airports and ports or multimodal platforms, providing radial links to main railway lines and promoting regional and local inland waterways and short-sea shipping;
 - (b) promoting access to, take up, and efficient use of ICTs by SMEs by supporting access to networks, the establishment of public Internet access points, equipment, and the development of services and applications, including, in particular, the development of action plans for very small and craft enterprises.

In addition, for operational programmes supported by the ERDF in the regions eligible for the specific and transitional financing referred to in Article 8(2) of Regulation (EC) No 1083/2006, the Member States and the Commission may decide to extend support to the priorities referred to in Article 4 of this Regulation.

Article 6

European territorial cooperation

Under the European territorial cooperation objective, the ERDF shall focus its assistance on the following priorities:

1. the development of cross-border economic, social and environmental activities through joint strategies for sustainable territorial development, and primarily:

- (a) by encouraging entrepreneurship, in particular the development of SMEs, tourism, culture, and cross-border trade;
- (b) by encouraging and improving the joint protection and management of natural and cultural resources, as well as the prevention of natural and technological risks;
- (c) by supporting links between urban and rural areas;
- (d) by reducing isolation through improved access to transport, information and communication networks and services, and cross-border water, waste and energy systems and facilities;
- (e) by developing collaboration, capacity and joint use of infrastructures, in particular in sectors such as health, culture, tourism and education.

In addition, the ERDF may contribute to promoting legal and administrative cooperation, the integration of cross-border labour markets, local employment initiatives, gender equality and equal opportunities, training and social inclusion, and sharing of human resources and facilities for R&TD.

As regards the PEACE Programme between Northern Ireland and the border counties of Ireland as envisaged under paragraph 22 of Annex II to Regulation (EC) No 1083/2006, the ERDF shall in addition to the abovementioned actions contribute to promote social and economic stability in the regions concerned, notably by actions to promote cohesion between communities;

2. the establishment and development of transnational cooperation, including bilateral cooperation between maritime regions not covered under point 1, through the financing of networks and of actions conducive to integrated territorial development, concentrating primarily on the following priority areas:

- (a) innovation: the creation and development of scientific and technological networks, and the enhancement of regional R&TD and innovation capacities, where these make a direct contribution to the balanced economic development of transnational areas. Actions may include: the establishment of networks between appropriate tertiary education and research institutions and

SMEs; links to improve access to scientific knowledge and technology transfer between R&TD facilities and international centres of RTD excellence; twinning of technology transfer institutions; and development of joint financial engineering instruments directed at supporting R&TD in SMEs;

- (b) environment: water management, energy efficiency, risk prevention and environmental protection activities with a clear transnational dimension. Actions may include: protection and management of river basins, coastal zones, marine resources, water services and wetlands; fire, drought and flood prevention; the promotion of maritime security and protection against natural and technological risks; and protection and enhancement of the natural heritage in support of socio-economic development and sustainable tourism;
- (c) accessibility: activities to improve access to and quality of transport and telecommunications services where these have a clear transnational dimension. Actions may include: investments in cross-border sections of trans-European networks; improved local and regional access to national and transnational networks; enhanced interoperability of national and regional systems; and promotion of advanced information and communication technologies;
- (d) sustainable urban development: strengthening poly-centric development at transnational, national and regional level, with a clear transnational impact. Actions may include: the creation and improvement of urban networks and urban-rural links; strategies to tackle common urban-rural issues; preservation and promotion of the cultural heritage, and the strategic integration of development zones on a transnational basis.

Assistance to bilateral cooperation between maritime regions may be extended to the priorities referred to in point 1;

3. reinforcement of the effectiveness of regional policy by promoting:

- (a) interregional cooperation focusing on innovation and the knowledge economy and environment and risk prevention in the sense of Article 5(1) and (2);
- (b) exchanges of experience concerning the identification, transfer and dissemination of best practice including on sustainable urban development as referred to in Article 8; and
- (c) actions involving studies, data collection, and the observation and analysis of development trends in the Community.

*Article 7***Eligibility of expenditure**

1. The following expenditure shall not be eligible for a contribution from the ERDF:

- (a) interest on debt;
- (b) the purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned. In exceptional and duly justified cases, a higher percentage may be permitted by the managing authority for operations concerning environmental conservation;
- (c) decommissioning of nuclear power stations;
- (d) recoverable value added tax.

2. Expenditure on housing shall be eligible only for those Member States that acceded to the European Union on or after 1 May 2004 and in the following circumstances:

- (a) expenditure shall be programmed within the framework of an integrated urban development operation or priority axis for areas experiencing or threatened by physical deterioration and social exclusion;
- (b) the allocation to housing expenditure shall be either a maximum of 3 % of the ERDF allocation to the operational programmes concerned or 2 % of the total ERDF allocation;
- (c) expenditure shall be limited to:
 - multi-family housing, or
 - buildings owned by public authorities or non-profit operators for use as housing designated for low-income households or people with special needs.

The Commission shall adopt the list of criteria needed for determining the areas referred to under point (a) and the list of eligible interventions in accordance with the procedure referred to in Article 103(3) of Regulation (EC) No 1083/2006.

3. The eligibility rules set out in Article 11 of Regulation (EC) No 1081/2006 shall apply to actions co-financed by the ERDF falling within the scope of Article 3 of that Regulation.

CHAPTER II

SPECIFIC PROVISIONS ON THE TREATMENT OF PARTICULAR TERRITORIAL FEATURES*Article 8***Sustainable urban development**

In addition to the activities listed in Articles 4 and 5 of this Regulation, in the case of action involving sustainable urban

development as referred to in Article 37(4)(a) of Regulation (EC) No 1083/2006, the ERDF may, where appropriate, support the development of participative, integrated and sustainable strategies to tackle the high concentration of economic, environmental and social problems affecting urban areas.

These strategies shall promote sustainable urban development through activities such as: strengthening economic growth, the rehabilitation of the physical environment, brownfield redevelopment, the preservation and development of natural and cultural heritage, the promotion of entrepreneurship, local employment and community development, and the provision of services to the population taking account of changing demographic structures.

By way of derogation from Article 34(2) of Regulation (EC) No 1083/2006, and where these activities are implemented through a specific operational programme or priority axis within an operational programme, the ERDF funding of measures under the Regional competitiveness and employment objective falling within the scope of Regulation (EC) No 1081/2006 may be raised to 15 % of the programme or priority axis concerned.

*Article 9***Coordination with the EAFRD and the EFF**

Where an operational programme supported by the ERDF targets operations also eligible under another Community support instrument, including Axis 3 of the EAFRD and the sustainable development of coastal fishing areas under the EFF, Member States shall set out in each operational programme the demarcation criteria for the operations supported by the ERDF and those supported by the other Community support instruments.

*Article 10***Areas with geographical and natural handicaps**

Regional programmes co-financed by the ERDF covering areas facing geographical and natural handicaps as referred to in point (f) of Article 52 of Regulation (EC) No 1083/2006 shall pay particular attention to addressing the specific difficulties of those areas.

Without prejudice to Articles 4 and 5, the ERDF may in particular contribute towards the financing of investments aimed at improving accessibility, promoting and developing economic activities related to cultural and natural heritage, promoting the sustainable use of natural resources, and encouraging sustainable tourism.

Article 11

Outermost regions

1. The specific additional allocation referred to in paragraph 20 of Annex II to Regulation (EC) No 1083/2006 shall be used to offset the additional costs, linked to the handicaps defined in Article 299(2) of the Treaty, incurred in the outermost regions in supporting:

- (a) the priorities referred to in Articles 4 and/or 5 as appropriate;
- (b) freight transport services and start up aid for transport services;
- (c) operations linked to storage constraints, the excessive size and maintenance of production tools, and lack of human capital in the local market.

2. Within the scope of Article 3, the specific additional allocation may finance investment costs. In addition, the specific additional allocation shall be used to a minimum of 50 % to help finance operating aid and expenditure covering public service obligations and contracts in the outermost regions.

3. The amount to which the rate of co-financing applies shall be proportional to the additional costs as mentioned in paragraph 1 incurred by the beneficiary in the case of operating aid and expenditure covering public service obligations and contracts only, and may cover the total eligible costs in the case of expenditure for investment.

4. Financing under this Article may not be used to support:

- (a) operations involving products falling within Annex I to the Treaty;
- (b) aids to transport of persons authorised under Article 87(2)(a) of the Treaty;
- (c) tax exemptions and exemption of social charges.

CHAPTER III

SPECIFIC PROVISIONS ON THE EUROPEAN TERRITORIAL COOPERATION OBJECTIVE

SECTION 1

Operational programmes

Article 12

Content

Each operational programme under the European territorial cooperation objective shall contain the following information:

1. an analysis of the situation of the cooperation area in terms of strengths and weaknesses and the strategy chosen in response;

2. a list of the eligible areas within the programme area including, as regards programmes for cross-border cooperation, the flexibility areas as referred to in Article 21(1);

3. a justification of the priorities chosen having regard to the Community strategic guidelines on cohesion, the national strategic reference framework where the Member State has chosen to include actions financed under the European territorial cooperation objective within it, and the results of the *ex ante* evaluation referred to in Article 48(2) of Regulation (EC) No 1083/2006;

4. information on the priority axes and their specific targets. Those targets shall be quantified using a limited number of indicators for output and results, taking into account the principle of proportionality. The indicators shall make it possible to measure the progress in relation to the baseline situation and the achievement of the targets of the priority axis;

5. for information purposes only, an indicative breakdown by category of the programmed use of the contribution from the ERDF to the operational programme in accordance with the implementing rules adopted by the Commission in accordance with the procedure referred to in Article 103(3) of Regulation (EC) No 1083/2006;

6. a single financing plan, with no breakdown by Member State, comprising two tables:

- (a) a table breaking down for each year, in accordance with Articles 52, 53 and 54 of Regulation (EC) No 1083/2006, the amount of the total financial appropriation envisaged for the contribution from the ERDF. The total ERDF contribution provided for annually shall be compatible with the applicable financial framework;

- (b) a table specifying, for the whole programming period, for the operational programme and for each priority axis, the amount of the total financial appropriation of the Community contribution and the national counterparts, and the rate of the ERDF contribution. Where, in accordance with Article 53 of Regulation (EC) No 1083/2006, the national counterpart is made up of public and private expenditure, the table shall give the indicative breakdown between the public and the private component. Where, in accordance with that Article, the national counterpart is made up of public expenditure, the table shall indicate the amount of the national public contribution;

7. information on complementarity with measures financed by the EAFRD and those financed by the EFF, where relevant;

8. the implementing provisions for the operational programme, including:

- (a) designation by the Member States of all the authorities referred to in Article 14;

- (b) a description of the monitoring and evaluation systems;

- (c) information about the competent body for receiving the payments made by the Commission and the body or bodies responsible for making payments to the beneficiaries;
 - (d) a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency;
 - (e) the elements aimed at ensuring the publicity and the information of the operational programme as referred to in Article 69 of Regulation (EC) No 1083/2006;
 - (f) a description of the procedures agreed between the Commission and Member States for the exchange of computerised data to meet the payment, monitoring and evaluation requirements laid down by Regulation (EC) No 1083/2006;
9. an indicative list of major projects within the meaning of Article 39 of Regulation (EC) No 1083/2006 expected to be submitted during the programming period for Commission approval.

SECTION 2

Eligibility

Article 13

Rules on eligibility of expenditure

The relevant national rules agreed by the participating Member States in an operational programme under the European territorial cooperation objective shall apply to determine the eligibility of expenditure except where Community rules are laid down.

The Commission shall lay down, in accordance with Article 56(4) of Regulation (EC) No 1083/2006 and without prejudice to Article 7 of this Regulation, common rules on the eligibility of expenditure in accordance with the procedure referred to in Article 103(3) of Regulation (EC) No 1083/2006.

Where Article 7 provides for different rules of eligibility of expenditure in different Member States participating in an operational programme under the European territorial cooperation objective, the most extensive eligibility rules shall apply throughout the programme area.

SECTION 3

Management, monitoring and control

Article 14

Designation of authorities

1. Member States participating in an operational programme shall appoint a single managing authority, a single certifying authority and a single audit authority, the latter being situated in the Member State of the managing authority. The certifying authority shall receive the payments made by the Commission

and, as a general rule, shall make the payments to the lead beneficiary.

The managing authority, after consultation with the Member States represented in the programme area, shall set up a joint technical secretariat. The latter shall assist the managing authority and the monitoring committee, and, where appropriate, the audit authority, in carrying out their respective duties.

2. The audit authority for the operational programme shall be assisted by a group of auditors comprising a representative of each Member State participating in the operational programme and carrying out the duties provided for in Article 62 of Regulation (EC) No 1083/2006. The group of auditors shall be set up at the latest within three months of the decision approving the operational programme. It shall draw up its own rules of procedure. It shall be chaired by the audit authority for the operational programme.

The participating Member States may decide by unanimity that the audit authority is authorised to carry out directly the duties provided for in Article 62 of Regulation (EC) No 1083/2006 in the whole of the territory covered by the programme without the need for a group of auditors as defined in the first subparagraph.

The auditors shall be independent of the control system referred to in Article 16(1).

3. Each Member State participating in the operational programme shall appoint representatives to sit on the monitoring committee referred to in Article 63 of Regulation (EC) No 1083/2006.

Article 15

Function of the managing authority

1. The managing authority shall perform the duties provided for in Article 60 of Regulation (EC) No 1083/2006, with the exception of those concerning the regularity of operations and expenditure in relation to national and Community rules, as set out under point (b) of that Article. In this connection, it shall satisfy itself that the expenditure of each beneficiary participating in an operation has been validated by the controller referred to in Article 16(1) of this Regulation.

2. The managing authority shall lay down the implementing arrangements for each operation, where appropriate in agreement with the lead beneficiary.

Article 16

Control system

1. In order to validate the expenditure, each Member State shall set up a control system making it possible to verify the delivery of the products and services co-financed, the soundness of the expenditure declared for operations or parts of operations implemented on its territory, and the compliance of such expenditure and of related operations, or parts of those operations, with Community rules and its national rules.

For this purpose each Member State shall designate the controllers responsible for verifying the legality and regularity of the expenditure declared by each beneficiary participating in the operation. Member States may decide to designate a single controller for the whole programme area.

Where the delivery of the products and services co-financed can be verified only in respect of the entire operation, the verification shall be performed by the controller of the Member State where the lead beneficiary is located or by the managing authority.

2. Each Member State shall ensure that the expenditure can be validated by the controllers within a period of three months.

Article 17

Financial management

1. The ERDF contribution shall be paid into a single account with no national sub-accounts.

2. Without prejudice to the Member States' responsibility for detecting and correcting irregularities and for recovering amounts unduly paid, the certifying authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead beneficiary. The beneficiaries shall repay the lead beneficiary any amounts unduly paid in accordance with the agreement existing between them.

3. If the lead beneficiary does not succeed in securing repayment from a beneficiary, the Member State on whose territory the beneficiary concerned is located shall reimburse the certifying authority for the amount unduly paid to that beneficiary.

Article 18

European grouping of territorial cooperation

Member States participating in an operational programme under the European territorial cooperation objective may make use of the European grouping of territorial cooperation under Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC) ⁽¹⁾ with a view to making that grouping responsible for managing the operational programme by conferring on it the responsibilities of the managing authority and of the joint technical secretariat. In this context, each Member State shall continue to assume financial responsibility.

SECTION 4

Operations

Article 19

Selection of operations

1. Operations selected for operational programmes aimed at developing cross-border activities as referred to in Article 6(1)

⁽¹⁾ See page 19 of this Official Journal.

and at establishing and developing transnational cooperation as referred to in Article 6(2) shall include beneficiaries from at least two countries, of which at least one shall be a Member State, which shall cooperate in at least two of the following ways for each operation: joint development, joint implementation, joint staffing and joint financing.

The selected operations fulfilling the abovementioned conditions may be implemented in a single country provided that they have been presented by entities belonging to at least two countries.

The abovementioned conditions shall not apply to those actions under the PEACE Programme referred to in the third subparagraph of Article 6(1).

2. Operations selected for operational programmes involving interregional cooperation, as referred to in Article 6(3)(a), shall include beneficiaries, at regional or local level, from at least:

- (a) three Member States, or
- (b) three countries, of which at least two must be Member States, where a beneficiary from a third country is involved.

Operations selected for operational programmes as referred to in Article 6(3)(b) shall, whenever possible according to the type of the operation, apply the conditions set out in the first subparagraph of this paragraph.

The beneficiaries shall cooperate in the following ways for each operation: joint development, joint implementation, joint staffing and joint financing.

3. In addition to the tasks referred to in Article 65 of Regulation (EC) No 1083/2006, the monitoring committee or a steering committee reporting to it shall be responsible for selecting operations.

Article 20

Responsibilities of the lead beneficiary and the other beneficiaries

1. For each operation, a lead beneficiary shall be appointed by the beneficiaries among themselves. The lead beneficiary shall assume the following responsibilities:

- (a) it shall lay down the arrangements for its relations with the beneficiaries participating in the operation in an agreement comprising, *inter alia*, provisions guaranteeing the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid;

- (b) it shall be responsible for ensuring the implementation of the entire operation;
- (c) it shall ensure that the expenditure presented by the beneficiaries participating in the operation has been incurred for the purpose of implementing the operation and corresponds to the activities agreed between those beneficiaries;
- (d) it shall verify that the expenditure presented by the beneficiaries participating in the operation has been validated by the controllers;
- (e) it shall be responsible for transferring the ERDF contribution to the beneficiaries participating in the operation.

2. Each beneficiary participating in the operation shall:

- (a) assume responsibility in the event of any irregularity in the expenditure which it has declared;
- (b) inform the Member State in which it is located about its participation in an operation in the case that this Member State as such is not participating in the operational programme concerned.

Article 21

Special conditions governing the location of operations

1. In the context of cross-border cooperation and in duly justified cases, the ERDF may finance expenditure incurred in implementing operations or parts of operations up to a limit of 20 % of the amount of its contribution to the operational programme concerned in NUTS level 3 areas adjacent to the eligible areas for the programme referred to in Article 7(1) of Regulation (EC) No 1083/2006 or surrounded by such adjacent areas. In exceptional cases as agreed between the Commission and Member States, this flexibility may be extended to the NUTS level 2 areas in which the areas referred to in Article 7(1) of Regulation (EC) No 1083/2006 are located.

At project level, expenditure incurred by partners located outside the programme area as defined in the first subparagraph may be eligible, if the project would have difficulty in achieving its objectives without that partner's participation.

2. In the context of transnational cooperation and in duly justified cases, the ERDF may finance expenditure incurred by partners located outside the area participating in operations up to a limit of 20 % of the amount of its contribution to the operational programme concerned, where such expenditure is for the benefit of the regions in the cooperation objective area.

3. In the context of cross-border, transnational and inter-regional cooperation, the ERDF may finance expenditure incurred in implementing operations or parts of operations on the terri-

tory of countries outside the European Community up to a limit of 10 % of the amount of its contribution to the operational programme concerned, where they are for the benefit of the regions of the Community.

4. Member States shall ensure the legality and regularity of these expenditures. The managing authority shall confirm the selection of operations outside the eligible areas as referred to under paragraphs 1, 2 and 3.

CHAPTER IV

FINAL PROVISIONS

Article 22

Transitional provisions

1. This Regulation shall not affect either the continuation or modification, including the total or partial cancellation, of assistance approved by the Commission on the basis of Regulation (EC) No 1783/1999 or any other legislation applying to that assistance on 31 December 2006, which shall consequently apply thereafter to that assistance or the projects concerned until their closure.

2. Applications made under Regulation (EC) No 1783/1999 shall remain valid.

Article 23

Repeal

1. Without prejudice to the provisions laid down in Article 22 of this Regulation, Regulation (EC) No 1783/1999 is hereby repealed with effect from 1 January 2007.

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

Article 24

Review clause

The European Parliament and the Council shall review this Regulation by 31 December 2013 in accordance with the procedure laid down in Article 162 of the Treaty.

Article 25

Entry into force

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

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

Done at Strasbourg, 5 July 2006.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

P. LEHTOMÄKI
