

## I

*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 1260/1999**

**of 21 June 1999**

**laying down general provisions on the Structural Funds**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 161 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 158 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 or islands, including rural areas; whereas Article 159 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 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<sup>(5)</sup>, 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 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the coordination of the activities of the different Structural Funds, on the one hand, between themselves and with the operations of the European Investment Bank and the other existing financial instruments, on the other hand<sup>(6)</sup>;

- (3) Whereas, by virtue of Article 5 of Protocol 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 promoting the development and 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 the Community also seeks to promote the harmonious, balanced and sustainable development of economic activities, a high level of employment, equality between men

<sup>(1)</sup> OJ C 176, 9.6.1998, p. 1.

<sup>(2)</sup> Assent delivered on 6 May 1999 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 407, 28.12.1998, p. 74.

<sup>(4)</sup> OJ C 373, 2.12.1998, p. 1.

<sup>(5)</sup> OJ L 185, 15.7.1988, p. 9. Regulation as last amended by Regulation (EC) No 3193/94 (OJ L 337, 24.12.1994, p. 11).

<sup>(6)</sup> OJ L 374, 31.12.1988, p. 1. Regulation as last amended by Regulation (EC) No 3193/94.

and women and a high level of protection and improvement of the environment; whereas those efforts should in particular integrate the requirements of environmental protection into the design and implementation of the operations of the Structural Funds and help to eliminate inequalities and promote equality between men and women; whereas the Funds' operations may also make it possible to combat any discrimination on the grounds of race, ethnic origin, disability or age by means in particular of an evaluation of needs, financial incentives and an enlarged partnership;

- (6) Whereas cultural development, the quality of the natural and the man-made environment, the qualitative and cultural dimension of life and the development of tourism contribute to making regions economically and socially more attractive in so far as they encourage the creation of sustainable employment;
- (7) Whereas the European Regional Development Fund (ERDF) is the primary contributor to attaining the objective of promoting the development and structural adjustment of the regions whose development is lagging behind and economic and social conversion of areas facing structural difficulties;
- (8) Whereas the tasks of the European Social Fund (ESF) should be adjusted in order to take account of and to implement the European employment strategy;
- (9) 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); whereas assistance from FIFG in Objective 1 shall form part of the programming of this Objective and the assistance outside Objective 1 shall be subject to a single programme in each Member State concerned;
- (10) 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 contributes to attaining the priority objective of economic and social conversion of areas facing structural difficulties, in accordance with Council Regulation (EC) No 1257/1999 of 17 May 1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations<sup>(1)</sup>;
- (11) Whereas the specific rules applicable to each Fund are to be set out in the implementing Decisions adopted pursuant to Articles 37, 148 and 162 of the Treaty;
- (12) 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;
- (13) 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 outermost regions and areas with a very low population density covered by Objective 6 as set out in Protocol 6 attached to the Act of Accession of Austria, Finland and Sweden for the period 1995 to 1999 should also be covered by Objective 1 under this Regulation;
- (14) 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;

<sup>(1)</sup> OJ L 160, 26.6.1999, p. 80.

- (15) 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, as far as possible, be designated on the basis of objective indicators defined at Community level; whereas, furthermore, the population covered by this priority objective taken over the Community as a whole, for guidance, should constitute about 10 % of the population of the Community in the case of the industrial areas, 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 in 2006, set out in this Regulation, must not exceed one third compared to the coverage under Objectives 2 and 5b in 1999, set out in Regulation (EEC) No 2052/88;
- (16) 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 pursuant to Article 87(3)(a) of the Treaty and, taking account of any specific measures adopted pursuant to Article 299(2) of that Treaty in favour of the outermost regions (the French overseas departments, the Azores, Madeira and the Canary Islands); whereas, similarly, the areas undergoing economic and social change should correspond to a large extent to the areas assisted by the Member States pursuant to Article 87(3)(c) of the Treaty; whereas the objective of the Community should be to increase consistency at the end of the period 2000 to 2006 by an appropriate effort by Member States with regard to their current situation;
- (17) 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 Objective 1; whereas Objective 3 should also provide a frame of reference to ensure consistency with all operations for human resources in a given Member State;
- (18) Whereas the ESF assistance within Objective 2 should be the regional and local actions which respond to the specific situation in an Objective 2 area and which are coordinated with the interventions of the other Structural Funds; whereas any ESF contribution to an Objective 2 single programming document must be of sufficient size to justify its separate management, and should therefore not amount to less than 5 % of the total Structural Funds contribution;
- (19) 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; whereas this support should be lower in 2000 than in 1999;
- (20) Whereas there should be provision for allocating shares of the available resources; whereas these resources should be allocated annually, being significantly concentrated on regions whose development is lagging behind, including those receiving transitional support;
- (21) Whereas total annual receipts in any Member State from Structural Funds under this Regulation — in combination with assistance provided under the Cohesion Fund — should be limited under this general capping dependent on the national absorption capacity;
- (22) Whereas the Commission should work out indicative allocations of the available commitment appropriations under each of the priority objectives, basing itself on appropriate objective criteria; whereas 4 % of appropriations allocated in this way to the Member States should be allocated by the Commission at the mid-term point; whereas, in recognition of the special efforts for the peace process in Northern Ireland, the PEACE programme should continue up to 2004; whereas a special programme of assistance for the period 2000 to 2006 shall be established for the Swedish NUTS-II regions which are not covered by the list referred to in Article 3(2) and which meet the criteria laid down in Article 2 of Protocol 6 to the Act of Accession for Austria, Sweden and Finland;
- (23) Whereas 5,35 % of the total commitment appropriations available should be devoted to the Community initiatives and 0,65 % to innovative schemes and to technical assistance;
- (24) 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;
- (25) 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;
- (26) 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;
- (27) Whereas the action of the Community should be complementary to, or intended to contribute to, the action of 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 the relevant partners shall be associated in the preparation, monitoring and evaluation of assistance;
- (28) Whereas the programming process should be laid down from original conception to final beneficiary, and should be facilitated in the Member States by broad indicative guidelines drawn up by the Commission on relevant and agreed Community policies in relation to the Structural Funds;
- (29) 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;
- (30) Whereas the activities of the Funds and the operations which they help to finance must be compatible with other Community policies and comply with Community legislation, and specific provisions should be laid down; whereas in this field operations to disseminate and exploit the results of research and technological development conducted in the context of the Structural Funds must ensure the protection of rights relating to the obtaining and exploitation of knowledge and be carried out in accordance with Community rules on competition;
- (31) Whereas simpler criteria and detailed rules for the verification and implementation of the principle of additionality should be laid down;
- (32) 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 the priority objectives and by including major projects and global grants in the other forms of assistance;
- (33) 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 policies, the strategy for employment, the economic and social policies of the Member States and the regional policies of the Member States;
- (34) 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, provisions 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;
- (35) 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;
- (36) 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;
- (37) 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;

- (38) Whereas these Community initiatives should concentrate on promoting cross-border, transnational and inter-regional cooperation (Interreg), economic and social regeneration of cities and urban neighbourhoods in crisis (URBAN), both to be financed by the ERDF, rural development (Leader), to be financed by the EAGGF Guidance Section, and the development of human resources in the context of equal opportunities (EQUAL), to be financed by the ESF; whereas the promotion of cross-border cooperation — in particular in the perspective of enlargement, transnational and inter-regional cooperation — takes on particular significance in this context; whereas due attention should be given to cooperation with the outermost regions; whereas it is necessary to reinforce the coordination of cross-border, transnational and inter-regional cooperation with the measures enacted in the context of Council Regulation (EEC) No 3906/89<sup>(1)</sup>, Council Regulation (Euratom, EC) No 1279/96<sup>(2)</sup> and Council Regulation (EC) No 1488/96<sup>(3)</sup>, especially in view of the enlargement of the European Union and taking account of the Europe-Mediterranean partnership; whereas due account should be taken of the social and vocational integration of asylum seekers in the framework of EQUAL;
- (39) 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;
- (40) 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 forms 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;
- (41) 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; whereas consequently, in order to ensure the efficiency and durable impact of the Funds' assistance, 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;
- (42) 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;
- (43) 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;
- (44) Whereas, to ensure sound management of Community resources, improvements should be made to the forecasting and implementing of expenditure; whereas to that 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;
- (45) Whereas, throughout the transitional period from 1 January 1999 to 31 December 2001, all references to the euro should normally be read as
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- <sup>(1)</sup> OJ L 375, 23.12.1989, p. 11 (PHARE). Regulation as last amended by Council Regulation (EC) No 753/96 (OJ L 103, 26.4.1996, p. 5).
- <sup>(2)</sup> OJ L 165, 4.7.1996, p. 1 (TACIS).
- <sup>(3)</sup> OJ L 189, 30.7.1996, p. 1 (MEDA). Regulation as last amended by Council Regulation (EC) No 780/98 (OJ L 113, 15.4.1998, p. 2).

- references to the euro as a monetary unit as referred to in the second sentence of Article 2 of Council Regulation (EC) No 974/98 of 3 May 1998 on the introduction of the euro<sup>(1)</sup>;
- (46) 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;
- (47) 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;
- (48) Whereas it should be stipulated that the Monitoring Committees are bodies appointed by the Member State 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;
- (49) Whereas indicators and annual reports on implementation are essential for monitoring and should be better defined so as to reflect reliably the progress of assistance schemes and the quality of programming;
- (50) Whereas, in order to guarantee efficient and correct implementation, the obligations of the Member States should be laid down with regard to management and supervision systems, the certification of expenditure and the prevention, detection and correction of irregularities and of infringements of Community law;
- (51) 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;
- (52) 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;
- (53) Whereas the effectiveness and impact of the operations of the Structural Funds also depend 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;
- (54) Whereas assistance schemes should be evaluated with a view to their preparation, mid-term review and assessment of their impact, and the evaluation process should be incorporated into the monitoring of assistance; whereas to that end the aims and content of each stage of evaluation should be defined, and the evaluation of the situation as regards the social and economic situation, the environment and equality between men and women should be improved;
- (55) Whereas the mid-term evaluation and the withholding of part of the original appropriations as a reserve enable supplementary funding to be allocated within each Member State on a performance-related basis; whereas such allocations should be based on objective, simple and transparent criteria which reflect efficiency and the quality of management and financial execution;
- (56) 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;
- (57) 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;
- (58) Whereas rules should be laid down for the operation of the committees called upon to assist the Commission in implementing this Regulation;

<sup>(1)</sup> OJ L 139, 11.5.1998, p. 1.

(59) 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

#### Article 2

#### OBJECTIVES AND TASKS

#### Means 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 158 and 160 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 covered by Objective 1 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 shall contribute to the harmonious, balanced and sustainable development of economic activities, 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.

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 33, 146 and 160 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 FIFG;
- (b) Objective 2: ERDF and ESF;
- (c) Objective 3: ESF.

3. The FIFG shall contribute to structural actions in the fisheries sector outside Objective 1 regions in accordance with Council Regulation (EC) No 1263/1999 of 21 June 1999 on the financial instrument for fisheries guidance<sup>(1)</sup>.

The EAGGF Guarantee Section shall contribute to the attainment of Objective 2 in accordance with Regulation (EC) No 1257/1999.

4. The Funds 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 13 to 27 or at the initiative of the Commission under Article 23.

<sup>(1)</sup> See page 54 of this Official Journal.

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, energy 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 on 26 March 1999, is less than 75 % of the Community average.

The outermost regions (the French overseas departments, the Azores, the Canary Islands and Madeira), which are all below the 75 % threshold, and the areas eligible under Objective 6 for the period 1995 to 1999 pursuant to Protocol 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) and Article 7(4), second subparagraph.

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 with structural problems whose socio-economic conversion is to be supported in accordance with Article 1(2) and whose population or area is sufficiently substantial. They shall include in particular 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 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 those regions, which satisfy either the criteria set out in paragraph 5 or those set out in paragraph 6;
- (b) the areas satisfying the criteria referred to in paragraph 7 or paragraph 8 or Member States' specific criteria referred to in paragraph 9.

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 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 areas undergoing socio-economic change 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 and delinquency 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 either from the ageing or decline of the agricultural working population;
- (c) areas facing or threatened by serious structural problems on account of relevant, verifiable characteristics, or a high level of unemployment arising from an ongoing or planned restructuring of one or more activities in 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 13(2).

#### Article 5

#### Objective 3

The areas eligible for financing under Objective 3 shall be those not covered by Objective 1.

#### Article 6

#### Transitional support

1. Notwithstanding Article 3, the regions covered by Objective 1 in 1999 pursuant to Regulation (EEC) No 2052/88 which are not referred to in the second subparagraph of Article 3(1) and (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) the list of the NUTS level III areas belonging to those regions which are to receive support from the Funds under Objective 1 on a transitional basis in 2006.

However, within the limit of the population of the areas referred to in the second subparagraph and in conformity with the provisions of Article 4(4), second subparagraph, the Commission may on a proposal from a Member State, substitute these areas by areas at or smaller than NUTS level III belonging to those regions which satisfy the criteria of Article 4(5) to (9).

The areas of the regions not on the list referred to in the second and third subparagraphs shall continue to receive support in 2006 from the ESF, FIFG 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 pursuant to 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 2005, under Objective 2 pursuant to 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 on the same basis as Objective 3 areas, the EAGGF Guarantee Section under its support to rural development and from the FIFG under its structural measures in the fisheries sector outside of Objective 1.

### 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 EUR 195 billion at 1999 prices.

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

2. The breakdown of budgetary resources between objectives shall be such as to achieve a significant concentration on Objective 1 regions.

69,7% of the Structural Funds will be allocated to Objective 1, including 4,3% for transitional support (i.e. a total of EUR 135,9 billion).

11,5% of the Structural Funds will be allocated to Objective 2, including 1,4% for transitional support (i.e. a total of EUR 22,5 billion).

12,3% of the Structural Funds will be allocated to Objective 3 (i.e. a total of EUR 24,05 billion).

The figures stated for Objectives 1, 2 and 3 do not include the financial resources referred to in paragraph 6 nor the financing for FIFG outside Objective 1.

3. Using transparent procedures, the Commission shall make indicative breakdowns by Member State of the commitment appropriations available for the programming referred to in Articles 13 to 19, 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.

For Objectives 1 and 2, 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 from 1 January 2000 and shall be lower in 2000 than in 1999. The profile of transitional support may be tailored to the specific needs of individual regions, in agreement with the Commission, provided the financial allocation for each region is respected.

Using transparent procedures, the Commission shall also make indicative breakdowns by Member State of the commitment appropriations available for the structural actions in the fisheries sector outside Objective 1 regions, as referred to in Article 2(3), first subparagraph.

4. Under Objective 1, a PEACE programme in support of the peace process in Northern Ireland shall be established for the years 2000 to 2004 for the benefit of Northern Ireland and the border areas of Ireland.

Under Objective 1, a special programme of assistance for the period 2000 to 2006 shall be established for the Swedish NUTS-II regions which are not covered by the list referred to in Article 3(2) and which meet the criteria laid down in Article 2 of Protocol 6 to the Act of Accession for Austria, Sweden and Finland.

5. 4% of commitment appropriations under each national indicative breakdown referred to in paragraph 3 shall be allocated in accordance with Article 44.

6. For the period referred to in paragraph 1, 5,35% of the commitment appropriations for the Structural Funds referred to in paragraph 1 shall be devoted to funding the Community initiatives.

0,65% of the appropriations referred to in paragraph 1 shall be devoted to funding innovative measures and technical assistance as defined in Articles 22 and 23.

7. For the purpose of their programming and subsequent inclusion in the general budget of the European Communities, the sums referred to in paragraph 1 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 5.

8. Total annual receipts in any Member State from the Structural Funds pursuant to this Regulation — in combination with assistance provided under the Cohesion Fund — should not exceed 4% of national GDP.

#### CHAPTER IV

#### ORGANISATION

##### *Article 8*

#### Complementarity and partnership

1. Community actions shall complement or contribute to corresponding national operations. They shall be drawn up in close consultation, hereinafter referred to as the 'partnership', between the Commission and the Member State, together with the authorities and bodies designated by the Member State within the framework of its national rules and current practices, namely:

- the regional and local authorities and other competent public authorities,
- the economic and social partners,
- any other relevant competent bodies within this framework.

The partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each of the partners as defined in the first subparagraph.

In designating the most representative partnership at national, regional, local or other level, the Member State shall create a wide and effective association of all the relevant bodies, according to national rules and

practice, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements.

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

2. Partnership shall cover the preparation, financing, monitoring and evaluation of assistance. Member States shall ensure the association of the relevant partners at the different stages of programming, taking account of the time limit for each stage.

3. In application of the principle of subsidiarity, the implementation of assistance shall be the responsibility of the Member States, at the appropriate territorial level according to the arrangements specific to each Member State, and without prejudice to the powers vested in the Commission, notably for implementing the general budget of the European Communities.

4. Member States shall cooperate with the Commission to ensure that Community Funds are used in accordance with the principles 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

#### Definitions

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* (hereinafter referred to as '*the 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) *Objective 3 policy frame of reference*: means a document which sets the context for assistance concerning employment and human-resource development throughout the territory of each Member State, and which identifies the relationship with the priorities set out in the National Action Plan for Employment;
- (d) *Community support framework*: means the document approved by the Commission, in agreement with the Member State concerned, following appraisal of the plan submitted by a Member State and containing the strategy and priorities for action of the Funds and the Member State, 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;
- (e) *assistance*: means the forms of assistance provided by the Funds, i.e.:
- (i) operational programmes or single programming documents;
  - (ii) Community initiative programmes;
  - (iii) support for technical assistance and innovative measures;
- (f) *operational programme*: means the document approved by the Commission to implement a Community support framework and comprising a consistent set of priorities comprising 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;
- (g) *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;
- (h) *priority*: means one of the priorities of the strategy adopted in a Community support framework or 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;
- (i) *global grant*: means that part of assistance the implementation and management of which may be entrusted to one or more approved intermediaries in accordance with Article 27(1), including local

authorities, regional development bodies or non-governmental organisations, used preferably to assist local development initiatives. The decision to employ a global grant shall be taken in agreement with the Commission by the Member State or, in agreement with the Member State, by the managing authority.

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 assistance. In the case of Community initiatives, this decision may only be taken with the prior agreement of the Member States concerned.

- (j) *measure*: means the means by which a priority is implemented over several years which enable operations to be financed. Any aid scheme pursuant to Article 87 of the Treaty or any aid granted by bodies designated by the Member States, or any group of aid schemes or aid grants of this type or any combination thereof which have the same purpose and are defined as a measure;
- (k) *operation*: means any project or action carried out by the final beneficiaries of assistance;
- (l) *final beneficiaries*: means the bodies and public or private firms responsible for commissioning operations. In the case of aid schemes pursuant to Article 87 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;
- (m) *programme complement*: means the document implementing the assistance strategy and priorities and containing detailed elements at measure level, as set out in Article 18(3), drawn up by the Member State or managing authority and revised as necessary in accordance with Article 34(3). It is sent to the Commission for information;
- (n) *managing authority*: means any public or private authority or body at national, regional or local level designated by the Member State, or the Member State when it is itself carrying out this function, to manage assistance for the purposes of this Regulation. If the Member State designates a managing authority other than itself, it shall determine all the modalities of its relationship with the managing authority and of the latter's relationship with the Commission. If the Member State so decides, the managing authority may be

the same body as the paying authority for the assistance concerned;

- o) *paying authority*: means one or more national, regional or local authorities or bodies designated by the Member States for the purposes of drawing up and submitting payment applications and receiving payments from the Commission. The Member State shall determine all the modalities of its relationship with the paying authority and of the latter's relationship with the Commission.

#### Article 10

#### Coordination

1. Coordination between the various Funds shall be carried out in particular through:

- (a) the plans, the Community support frameworks, the operational programmes and the single programming documents (as defined in Article 9) including the frame of reference where relevant in accordance with Article 9(1)(c);
- (b) the monitoring and evaluation of assistance under an Objective;
- (c) the guidelines referred to in paragraph 3.

2. The Commission and Member State shall, in a manner consistent with the principle of partnership, ensure coordination of assistance from the different Funds between the Funds and with 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 may be combined in an appropriate way with loans and guarantees. This combination may be determined in conjunction with the EIB when the Community support framework or single programming document is being drawn up. It may take account of the balance in the proposed financing plan, the contribution from the Funds and the development goals pursued.

3. No later than one month from the entry into force of this Regulation and subsequently before the mid-term review referred to in Article 42, and on each occasion after consulting all Member States, the

Commission shall publish broad, indicative guidelines on relevant and agreed Community policies in relation to the objectives referred to in Article 1, to help the competent national and regional authorities to draw up development plans and to carry out any revision of the assistance. This guidance shall be published in the *Official Journal of the European Communities*.

#### Article 11

##### Additionality

1. In order to achieve a genuine economic impact, the appropriations of the Funds may not replace public or other equivalent structural expenditure by the Member State.

2. For this purpose, the Commission and the Member State concerned shall determine the level of public or equivalent structural expenditure that the Member State is to maintain in the sum of its regions covered by Objective 1 during the programming period.

For Objectives 2 and 3 taken together, the Commission and the Member State concerned shall determine the level of expenditure on the active labour-market policy and, where justified, other actions designed to make it possible to achieve the goals of those two Objectives which the Member State is to maintain at national level during the programming period.

Such expenditure shall be determined by the Member State and the Commission, taking account of the provisions of the fourth subparagraph, in advance of the Commission decision approving any Community support framework or single programming documents relating to the Member State concerned and shall be integrated into those documents.

As a general rule, the level of expenditure referred to in the first and second subparagraphs shall be at least equal to the amount of average annual expenditure in real terms achieved in the previous programming period and shall be determined in the light of the general macroeconomic circumstances in which the funding takes place, although account should be taken of certain specific economic situations, namely privatisations, an exceptional level of public structural effort or equivalent effort on the part of the Member State during the previous programming period and national economic trends.

Account shall also be taken of any reduction in Structural Fund expenditure when compared to the period 1994 to 1999.

3. Additionality shall be verified at the territorial level set out in paragraph 2 at three points during the programming period:

- (a) an *ex-ante* verification as described in the third subparagraph of paragraph 2, to provide a frame of reference for the whole programming period;
- (b) a mid-term verification no later than three years after approval of the Community support framework or the single programming documents and as a general rule no later than 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 developments in public revenue or employment in the Member State concerned significantly different from those expected at the time of the *ex-ante* verification;
- (c) a verification by 31 December 2005.

To that end, the Member State shall provide the Commission with appropriate information at the time when the plans are submitted and when the mid-term verification and the verification before 31 December 2005 are made. Where necessary, methods of statistical estimation shall be used.

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

#### Article 12

##### Compatibility

Operations financed by the Funds or receiving assistance from the EIB or from another financial instrument shall be in conformity with the provisions of the Treaty, with instruments adopted under it and with Community policies and actions, including the rules on competition, 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 13***Geographical coverage**

1. Plans submitted under Objective 1 shall be drawn up at the geographical level deemed by the Member State concerned to be most appropriate but shall, as a general rule, cover a single region at NUTS level II. However, Member States may submit a general development plan covering some or all of their regions included in the list referred to in Article 3(2), Article 6(1) and Article 7(4), provided that such plan contains the features listed in Article 16.

2. Plans submitted under Objective 2 shall be drawn up at the geographical level deemed by the Member State concerned to be most appropriate, but shall as a general rule comprise all the areas covered by a single NUTS level II region, included in the list referred to in Article 4(4) and Article 6(2). However, the Member States may submit a plan covering certain or all of their regions included in the list referred to in Article 4(4) and in Article 6(2), provided that such plan contains the features listed in Article 16. Where plans cover regions other than those eligible under Objective 2, they shall distinguish between operations in regions or areas covered by Objective 2 and operations elsewhere.

3. Plans submitted under Objective 3 shall cover the territory of a Member State in respect of assistance outside the regions covered by Objective 1 and, taking into account the general needs of areas facing structural problems of socio-economic conversion, shall provide, for the whole of the national territory, a framework of reference for developing human resources.

*Article 14***Duration and revision**

1. Each plan, Community support framework, operational programme and single programming

document shall cover a period of seven years, without prejudice to Article 6 and Article 7(4), first subparagraph.

The programming period shall begin on 1 January 2000.

2. Community support frameworks, operational programmes and single programming documents shall be re-examined and, if necessary, adapted at the initiative of the Member State or the Commission in agreement with the Member State, in accordance with this Title following the mid-term evaluation referred to in Article 42 and the allocation of the performance reserve referred to in Article 44.

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

*Article 15***Preparation and approval**

1. In respect of Objectives 1, 2 and 3, Member States shall submit a plan to the Commission. That plan shall be drawn up by the competent authorities designated by the Member State at national, regional and other level. In cases where assistance is to take the form of a single programming document, the plan shall be dealt with as a draft single programming document.

In respect of Objective 1, Community support frameworks shall be employed for all regions covered by Objective 1; however, where the Community allocation is less than or does not substantially exceed EUR 1 000 million, the Member States shall, as a general rule, submit a draft single programming document.

In respect of Objectives 2 and 3, single programming documents shall as a general rule be employed; however, Member States may elect to have a Community support framework drawn up.

2. The plans shall be submitted by the Member State to the Commission after consultation with the partners, who shall express their views within a period of time consistent with the deadline set in the second subparagraph.

Unless otherwise agreed with the Member State concerned, plans shall be submitted not later than four months after the list of eligible regions referred to in Article 3(2) and Article 4(4) have been drawn up.

3. The Commission shall appraise these plans to determine whether they are consistent with the aims of this Regulation, taking account of the framework of reference referred to in Article 9(1)(c), other Community policies and Article 41(2).

The Commission shall also appraise each Objective 3 plan proposed in the light of the consistency of the measures envisaged with the national plan for implementing the European employment strategy in accordance with Article 16(1)(b) and having regard to the manner in which and the degree to which the general needs of areas facing structural problems of socio-economic conversion are taken into account.

4. Where applicable as provided in paragraph 1, the Commission shall draw up the Community support frameworks in agreement with the Member State concerned and following the procedures laid down in Articles 48 to 51. The EIB may 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 five months after receiving the relevant plan or plans provided they contain all the features listed in Article 16.

The Commission shall appraise the proposed operational programmes submitted by the Member State 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 28(1) and in agreement with the Member State concerned, provided that the proposals contain all the features listed in Article 18(2).

In order to expedite the examination of applications and the implementation of programmes, the Member States may submit, at the same time as their plans, draft operational programmes. When adopting its decision on a Community support framework, the Commission shall also approve, in accordance with Article 28(1), the operational programmes submitted at the same time as the plans provided they include all the features listed in Article 18(2).

5. Where applicable as provided in paragraph 1 on the basis of the plans, the Commission shall take a decision on the single programming documents in agreement with the Member State concerned, following the procedures laid down in Articles 48 to

51. The EIB may be involved in the preparation of the single programming documents. The Commission shall take a single decision on the single programming document and the contribution of the Funds pursuant to Article 28(1) not later than five months after having received the relevant plan, provided that it contains all the features listed in Article 19(3).

6. The Member State or the managing authority shall adopt the programme complement defined in Article 9(m) after the agreement of the Monitoring Committee if the programme complement is drawn up after the Commission decision on the contribution of the Funds, or after consulting the relevant partners if it is drawn up before the decision on the contribution of the Funds. In the latter case, the Monitoring Committee shall either confirm the programme complement or request an adjustment in accordance with Article 34(3).

Within three months of the Commission decision approving an operational programme or single programming document, the Member State shall send the programme complement to the Commission in a single document for information.

7. 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, for information, these decisions and the Community support framework and single programming documents it has approved.

## CHAPTER II

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

#### *Article 16*

#### **Plans**

1. The plans submitted under Objectives 1, 2 and 3 shall be based on appropriate national and regional priorities and shall take account of the indicative guidance referred to in Article 10(3) and shall include:

(a) a description, quantified where it lends itself to quantification, 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 developing human



resources and employment policy in the Member State and the areas covered by Objective 3; also, a description of 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 sustainable development and conversion of regions and areas, including rural areas, and the related development of human resources and the adaptation and modernisation of policies and systems for education, training and employment.

In addition to the other items listed in this point, Member States shall demonstrate in each Objective 3 plan that the priorities planned are consistent with the prevailing national employment plan, by reference to a description of the main aims of the strategy and the main means of attaining them.

Similarly, Member States shall demonstrate that the activities provided for in each Objective 2 plan on human resources and employment to be assisted by the ESF are integrated into the conversion strategy, coordinated with the other Funds and consistent with the *ex-ante* evaluation relating to human resources and employment as referred to in Article 41(2). If these needs do not amount to a significant sum, they shall be covered by Objective 3;

- (c) an indication of the planned use and form of the financial contribution from the Funds and, where appropriate, the EIB and the other financial instruments including, for information, the total amount from the EAGGF Guarantee Section for the measures referred to in Article 33 of Regulation (EC) No 1257/1999; the expected requirement for technical assistance; an indication as regards additionality in accordance with Article 11(2), whereby for Objective 1 this should take the form of an indicative overall financing table summarising the public or equivalent and, where appropriate, estimated private resources and the Community structural resources allocated corresponding to each priority proposed in the plan.

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

In the case of ESF assistance under Objective 2 or 3, the percentage contribution may be higher in Objective 2 areas than in others.

In the case of Objective 3, this financing plan shows the concentration of appropriations planned for the areas facing structural problems of economic and social conversion;

- (d) an account of arrangements made to consult partners.

2. For regions covered by Objective 1, the plans shall include all relevant measures for economic and social conversion, the development of human resources, having regard to the frame of reference referred to in Article 9(1)(c), and rural development and fisheries structures.

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

3. 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 actions planned.

#### Article 17

#### Community support frameworks

1. The Community support framework shall provide coordination of all Community structural assistance in the regions concerned, including, in accordance with Article 1(3), assistance for the development of human resources.

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; evaluation of the expected impact in accordance with Article 41(2); an indication of how this strategy and these priorities have taken account of the indicative guidance referred to in Article 10(3), the economic policies, the strategy for developing employment through improving the adaptability and skills of people 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 28 and 29, for each priority and each year, the financial allocation envisaged for the contribution of each Fund, where appropriate the EIB, the other financial instruments — including, for information, the total amount from the EAGGF Guarantee Section for the measures referred to in Article 33 of Regulation (EC) No 1257/1999 — where they contribute directly to the financing plan concerned and the total amount of eligible public and estimated private funding relating to the contribution of each Fund.

In the case of Objective 3, that financing plan shall show the concentration of appropriations planned for the areas facing structural problems of economic and social conversion.

This financing plan shall distinguish the funding planned for the regions receiving transitional support.

The total contribution of the Funds planned for each year for each Community support framework shall be compatible with the relevant financial perspective, taking account of the degressivity referred to in the third subparagraph of Article 7(3);

(d) the provisions for implementing a Community support framework including:

— designation by the Member State of a managing authority within the meaning of Article 9(n) responsible for managing the Community support framework in accordance with Article 34,

— arrangements for involving the partners in the Monitoring Committees described in Article 35;

(e) where appropriate, information on the appropriations required for preparing, monitoring and evaluating assistance.

In accordance with Article 11, the Community support frameworks shall include the *ex-ante* verification of additionality and the appropriate information concerning the transparency of financial flows, in particular from the Member State concerned to the beneficiary regions.

## Article 18

### Operational programmes

1. Assistance covered by a Community support framework shall as a general rule be provided in the form of an integrated operational programme by region, as defined in Article 9.

2. Each operational programme shall contain:

(a) the priorities of the programme, their consistency with the relevant Community support framework, their specific targets, quantified where they lend themselves to quantification, and an evaluation of the impact expected, in accordance with Article 41(2);

(b) a summary description of the measures planned to implement the priorities, including the information needed to check compliance with aid schemes pursuant to Article 87 of the Treaty; where appropriate, the nature of the measures required to prepare, monitor and evaluate the operational programme;

(c) an indicative financing plan specifying for each priority and each year, in accordance with Articles 28 and 29, the financial allocation envisaged for the contribution of each Fund, the EIB where appropriate, and the other financial instruments — including, for information, the total amount from the EAGGF Guarantee Section for the measures referred to in Article 33 of Regulation (EC) No 1257/1999 — in so far as they contribute directly to the financing plan, as well as the total amount of eligible public and estimated private funding relating to the contribution of each Fund.

This financing plan shall distinguish in the total contribution of the various Funds the funding planned for the regions receiving transitional support.

The total contribution of the Funds planned for each year shall be compatible with the relevant financial perspective, taking account of the degressivity referred to in the third subparagraph of Article 7(3);

(d) the provisions for implementing an operational programme shall include:

(i) designation by the Member State of a managing authority within the meaning of Article 9(n) responsible for managing the

operational programme in accordance with Article 34;

- (ii) a description of the arrangements for managing the operational programme;
- (iii) a description of the systems for monitoring and evaluation, including the role of the Monitoring Committee;
- (iv) a definition of the procedures concerning the mobilisation and circulation of financial flows to ensure their transparency;
- (v) a description of the specific arrangements and procedures for checking on the operational programme.

3. The programme complement shall contain:

- (a) the measures implementing the corresponding priorities in the operational programme; *ex-ante* evaluation, in accordance with Article 41(3), of quantified measures, where they lend themselves to quantification; the relevant monitoring indicators in accordance with Article 36;
- (b) the definition of the types of final beneficiary of measures;
- (c) the financing plan specifying for each measure, in accordance with Articles 28 and 29, the financial allocation envisaged for the contribution of the Fund concerned, the EIB where appropriate, and the other existing financial instruments and the amount of eligible public or equivalent funding and estimated 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 29 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.

The financing plan shall be accompanied by a description of the arrangements for providing the co-financing for measures, taking account of the institutional, legal and financial systems of the Member State concerned;

- (d) measures intended to publicise the operational programme in accordance with Article 46;

- (e) a description of arrangements agreed between the Commission and the Member State concerned for the computerised exchange, where possible, of the data required to fulfil the management, monitoring and evaluation requirements of this Regulation.

#### Article 19

#### Single programming documents

1. Assistance under Objectives 2 and 3, and under Objective 1 as specified in Article 15(1), shall, as a general rule, take the form of single programming documents. In the case of Objectives 2 and 3, Article 15(1)(c) shall apply.

2. An Objective 1 single programming document shall include all relevant measures for economic and social conversion, the development of employment through improving adaptability and skills of people, having regard to the frame of reference referred to in Article 9(1)(c) and rural development and fisheries structures.

An Objective 2 single programming document shall provide coordination of all Community structural assistance including, in accordance with Article 41(2) of Regulation (EC) No 1257/1999, the coordination of rural development measures pursuant to Article 33 of that Regulation, but excluding assistance for developing human resources granted under Objective 3, in all the areas covered by Objective 2.

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, excluding aid in this area granted under Objective 2.

3. Each single programming document shall contain the following elements:

- (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, including on the environmental situation, in accordance with Article 41(2); an indication of how this strategy and these priorities have taken account of the indicative guidelines referred to in Article 10(3), the economic policies, the strategy for developing employment through improving the adaptability and skills of people and, where

- appropriate, the regional policies of the Member State concerned;
- (b) a summary description of the measures planned to implement the priorities, including the information needed to check the compliance with aid schemes pursuant to Article 87 of the Treaty; where appropriate, the nature of the measures required to prepare, monitor and evaluate the single programming document;
- (c) an indicative financing plan specifying for each priority and each year, in accordance with Articles 28 and 29, the financial allocation envisaged for the contribution of each Fund, the EIB where appropriate, and the other financial instruments — including, for information, the total amount from the EAGGF Guarantee Section for the measures referred to in Article 33 of Regulation (EC) No 1257/1999 — in so far as they contribute directly to the financing plan, as well as the total amount of eligible public or equivalent and estimated private funding relating to the contribution of each Fund.
- (iv) a definition of the procedures concerning the mobilisation and circulation of funding to ensure that flows are transparent;
- (v) a description of the specific arrangements and procedures for checking on the single programming document;
- (e) where appropriate, information on the resources required for preparing, monitoring and evaluating assistance.
- In accordance with Article 11, the single programming document shall include the *ex-ante* verification of additionality for the relevant objective or objectives agreed between the Member State and the Commission and appropriate information concerning the transparency of financial flows, in particular from the Member State concerned to the beneficiary regions.
4. Each single programming document shall be supplemented by a programme complement as defined in Article 9(m) and described in Article 18(3).

This financing plan shall distinguish the funding planned for the regions receiving transitional support.

The total contribution of the Funds planned for each year shall be compatible with the relevant financial perspective, taking account of the degressivity referred to in the third subparagraph of Article 7(3).

In the case of Objective 3, the financing plan shall indicate the concentration of appropriations planned for the areas facing structural, economic and social reconversion problems;

- (d) the provisions for implementing a single programming document shall include:
- (i) the designation by the Member State of a managing authority within the meaning of Article 9 responsible for managing the single programming document in accordance with Article 34;
- (ii) a description of the arrangements for managing the single programming document;
- (iii) a description of the systems for monitoring and evaluation, including the role of the Monitoring Committee;
- (a) cross-border, transnational and interregional cooperation intended to encourage the harmonious, balanced and sustainable development of the whole of the Community area ('Interreg');
- (b) economic and social regeneration of cities and of urban neighbourhoods in crisis with a view to promoting a sustainable urban development ('URBAN');
- (c) rural development ('Leader');
- (d) transnational cooperation to promote new means of combating all forms of discrimination and inequalities in connection with the labour market ('EQUAL').
2. At least 2,5 % of the Structural Funds commitment appropriations referred to in Article 7(1) shall be allocated to Interreg, under which due

### CHAPTER III

#### COMMUNITY INITIATIVES

##### Article 20

##### Content

attention should be given to cross-border activities, in particular in the perspective of enlargement, and for Member States which have extensive frontiers with the applicant countries, as well as to improved coordination with the PHARE, TACIS and MEDA programmes. Due attention shall also be given to cooperation with the outermost regions.

Due account shall be taken of the social and vocational integration of asylum seekers in the framework of EQUAL.

3. Programmes approved within the framework of the Community initiatives may cover areas other than those referred to in Articles 3 and 4.

#### *Article 21*

##### **Preparation, approval and implementation**

1. In accordance with the procedures referred to in Articles 48 to 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 20(1) shall be financed by a single Fund: the area referred to in paragraph 1(a) and (b) from the ERDF, the area referred to in paragraph 1(c) from the EAGGF Guidance Section and the area referred to in paragraph 1(d) from 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 referred to in paragraph 1 and with Article 41(2) and submitted by the Member State(s), the Commission shall decide on Community initiative programmes in accordance with Article 28.

4. The Community initiative programmes shall be re-examined following the mid-term evaluation referred to in Article 42 and amended where required on application by the Member State(s) concerned or by the Commission by agreement with the Member State(s).

5. The Community initiative programmes shall cover a period of seven years, beginning on 1 January 2000.

#### CHAPTER IV

#### INNOVATIVE ACTIONS AND TECHNICAL ASSISTANCE

##### *Article 22*

##### **Innovative actions**

1. At the initiative of the Commission and following consultation of the committees referred to in Articles 48 to 51 on the guidelines for the various types of innovative actions, subject to a ceiling of 0,40 % of their respective annual funding, the Funds may finance innovative actions at Community level. These shall include studies, pilot projects and exchanges of experience.

Such innovative actions 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 of action 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 23*

##### **Technical assistance**

At the initiative or on behalf of the Commission and following consultation of the committees referred to in Articles 48 to 51 on the different types of measures, subject to a ceiling of 0,25 % 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;
- (d) improvements in evaluation methods and exchange of information on practices in this field.

*Article 24*

**Approval of innovative actions and technical assistance**

1. Making use of information on innovative actions from the Member States concerned, the Commission shall appraise applications for a contribution from the Funds pursuant to Articles 22 and 23 on the basis of the following details:
  - (a) a description of the proposed assistance, its scope, including geographical coverage, and specific aims;
  - (b) the bodies to be responsible for implementing the assistance and the beneficiaries;
  - (c) the timetable and financing plan, including contributions from any other source of Community finance;
  - (d) provisions to ensure efficient and correct implementation;
  - (e) any other information necessary to verify compatibility with Community policies and with the guidelines referred to in Article 10(3).

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

2. The Member States concerned shall be immediately notified by the Commission following approval of an application.

3. The financial liability of the Member States within the meaning of this Regulation shall not be engaged for the innovative actions referred to in Article 22 or the technical assistance measures referred to in Article 23, without prejudice to their obligations

arising out of the institutional arrangements specific to each Member State.

CHAPTER V

MAJOR PROJECTS

*Article 25*

**Definition**

As part of any assistance, the Funds may finance expenditure in respect of major projects, i.e. 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 EUR 50 million.

*Article 26*

**Approval and implementation**

1. During the implementation of assistance, where a Member State or managing authority envisages the Funds contributing 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, a risk assessment and information on the economic viability of the project;
- (e) plus:
  - in the case of investment in infrastructure: the analysis of the costs and the socio-economic benefits of the project, including an indication of the anticipated rate of use, the foreseeable impact on the development or conversion of the region concerned, and the application of Community rules on public contracting,

- in the case of investment in production facilities: the analysis of the market prospects in the sector concerned and the anticipated return on the project,
- (f) the direct and indirect effects on the employment situation, as far as possible in the Community;
- (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, *inter alia* rules on State aids;
- (i) an indication of the influence of the contribution of the Funds on whether the project will be implemented;
- (j) 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 result of 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 Article 10(2).
3. Within two months of receipt of the information referred to in paragraph 1 or three months where consultation of the EIB proves necessary, the Commission shall decide to confirm or amend the level of Community assistance. If it considers that the

project appears not to justify either part or all of the contribution from the Funds, it may decide to withhold part or all of that contribution, stating the reasons for so doing.

## CHAPTER VI

### GLOBAL GRANTS

#### Article 27

#### Global grants

1. Where implementation or management of part of assistance has been entrusted to intermediaries in accordance with Article 9(i), such intermediaries must provide guarantees of their solvency and proven competence and experience in administrative and financial management. They must normally be established or represented in the region or regions concerned but may, in limited and justified circumstances, be established outside. They must have several years' experience in the relevant field, operate in the public interest and adequately involve the socio-economic interests directly affected by the implementation of the planned measures.

2. 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 Article 18(2)(d) and Article 19(3)(d). The procedures for the use of global grants shall be the subject of an agreement between the Member State or 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. In the case of Community initiative programmes, these procedures must also be agreed with the Member States concerned. The programme complement referred to in Article 18 shall not relate to that part of the assistance bearing on the global grant.

3. 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, evaluating and ensuring the financial control of the global grant;
- (e) where applicable, any use of a bank guarantee, in which case the Commission must be informed.

### TITLE III

## CONTRIBUTIONS AND FINANCIAL MANAGEMENT BY THE FUNDS

### CHAPTER I

#### FINANCIAL CONTRIBUTIONS BY THE FUNDS

##### *Article 28*

#### **Decision on the contributions from the Funds**

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

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

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

A measure or operation may benefit from a contribution from a Structural Fund under only one of the objectives referred to in Article 1 at a time.

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

No operation may benefit simultaneously from a contribution from a Fund under Objective 1, 2 or 3 and under the EAGGF Guarantee Section.

No operation may benefit simultaneously from a contribution from a Fund under a Community initiative and under the EAGGF Guarantee Section.

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, as set out in Article 17(2)(c).

3. In implementing measures, the contribution of the Funds shall principally take the form of non-repayable direct assistance (hereinafter referred to as 'direct assistance'), as well as other forms, such as 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 29*

#### **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) within the framework of the objectives of the Funds set out in Article 1, the importance attaching to the assistance and the priorities from the Community viewpoint, where appropriate, 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, to take account of the needs identified by the *ex-ante* evaluation, in particular with regard to human resources and employment;
- (f) the optimum utilisation of financial resources in the financing plans, including the combination of public and private resources, the use made of appropriate financial instruments in accordance with Article 10(2), and the choice of forms of financing as set out in Article 28(3).

Where the contribution of the ESF is differentiated in accordance with Article 16(1), this shall be done taking account of the needs identified by the *ex-ante* evaluation, notably in the field of human resources and employment.

2. The contribution from the Funds shall be calculated in relation to either the total eligible cost, 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 outermost 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 3.

In the case of investment in firms, 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 macro-economic 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 Funds.

In any event, the contribution of the Funds shall be subject to the following ceilings:

- (a) in the case of investment in infrastructure generating substantial net revenue, the contribution may not exceed:
  - (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 eligible cost in the areas covered by Objective 2;
  - (iii) these rates may be increased by an amount for 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, the contribution may not exceed:
  - (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 undertakings, these rates may be increased by an amount for 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 Objectives 1 and 2 shall also be construed as references to regions or areas receiving on the one hand transitional support pursuant to Article 6(1) and support pursuant to Article 7(4) and on the other hand pursuant to Article 6(2) respectively.

6. The measures carried out on the Commission's initiative referred to in Articles 22 and 23 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 23 shall be financed at a rate of 100 % of the total cost.

7. The rates in this Article shall apply to technical assistance measures within the framework of programming and to the Community initiatives.

### Article 30

#### 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 actually been paid by the final beneficiary before the date on which the application for assistance reaches the Commission. That date shall constitute the starting point 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 14 and 15.

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 procedure referred to in Article 53(2).

4. The Member States shall ensure that an operation retains the contribution from the Funds only if that operation does not, within five years of the date of the decision of the competent national authorities or the managing authority on the contribution of the Funds, undergo a substantial modification:

- (a) affecting its nature or its implementation conditions or giving to a firm or a public body an undue advantage; and
- (b) resulting either from a change in the nature of ownership in an item of infrastructure or a cessation or change of location in a productive activity.

The Member States shall inform the Commission of any such modification. Where such a modification occurs, Article 39 shall apply.

## CHAPTER II

### FINANCIAL MANAGEMENT

#### Article 31

#### Budget commitments

1. Community budget commitments 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 be as a general rule 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 which has not been settled by the payment on account or for which it has not received an acceptable payment application, as defined in Article 32(3), by the end of the second year following the year of commitment or, where appropriate and for the amounts concerned, following the date of a subsequent Commission decision necessary in order to authorise a measure or an operation or by the end of the deadline for the transmission of the final report referred to in Article 37(1); the contribution from the Funds to that assistance shall be reduced by that amount.

The period for automatic decommitment referred to in the second subparagraph shall cease to run for the part of the commitment corresponding to operations which, at the specified date of decommitment, are the subject of a judicial procedure, or an administrative appeal having suspensory effects, subject to the Commission receiving prior information giving reasons from the Member State concerned and to information being issued by the Commission.

In any case, the Commission shall in good time inform the Member State and the paying authority whenever there is a risk of application of the automatic decommitment provided for in the second subparagraph.

If this Regulation enters into force after 1 January 2000, the period for automatic decommitment referred to in the second subparagraph shall be extended for the first commitment by the number of months between 1 January 2000 and the date of the decision on the contributions from the Funds referred to in Article 28.

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 32

### Payments

1. Payment by the Commission of the contribution from the Funds shall be made, in accordance with the corresponding budget commitments, to the paying authority as defined in Article 9(o).

Payments shall be posted to the earliest open commitment made pursuant to Article 31.

Payments may take the form of payments on account, 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.

Subject to available funding, the Commission shall make interim payments within no more than two months of receipt of an acceptable payment application, as described in paragraph 3.

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 make a payment on account to the paying authority. This payment on account shall be 7% of the contribution from the Funds to the assistance in question. In principle, it may be subdivided over two budget years at most depending on the availability of budget funds.

Throughout the lifetime of assistance, the paying authority shall use the payment on account to pay the Community contribution to expenditure relating to this assistance.

All or part of a payment on account, depending on progress towards implementation of the assistance, shall be repaid to the Commission 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. If any interest is earned on the payment on account it shall be allocated by the paying authority to the form of assistance concerned.

3. Interim payments shall be made by the Commission to reimburse expenditure actually paid under the Funds as certified by the paying authority. Such payments shall be made at the level of each assistance and calculated at the level of measures contained in the financing plan of the programme complement. They shall be subject to the following conditions:

- (a) the programme complement containing the information specified in Article 18(3) has been presented to the Commission;
- (b) the latest annual implementation report due, containing the information specified in Article 37 has been forwarded to the Commission;
- (c) the mid-term evaluation of the assistance referred to in Article 42, when due, has been forwarded to the Commission;
- (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) any recommendations as referred to in Article 34(2) have been acted upon within the specified period, or reasons have been communicated by the Member State to explain why no measure has been taken, where those recommendations are intended to remedy serious shortcomings in the monitoring or management system which undermine proper financial management of the assistance; any requests for corrective measures as referred to in Article 38(4) have been acted upon, if the application relates to the measure or measures concerned;
- (f) no suspension of payments under the first subparagraph of Article 39(2) has been decided, and no decision has been taken by the Commission to embark on an infringement procedure within the meaning of Article 226 of the Treaty concerning the measure(s) that is or are the subject of the application in question.

The Member State and the paying authority shall be informed immediately by the Commission if one of these conditions is not fulfilled and the payment application is therefore not acceptable and they shall take the necessary steps to remedy the situation.

Member States shall ensure that, as far as possible, 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 assistance.

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 Article 38(1)(f).

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

6. The Member States shall designate the authorities empowered to issue the certificates and declarations referred to in paragraphs 3 and 4.

7. 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 forecast for the following year.

8. The Commission shall lay down appropriate payment procedures, consistent with the objectives of these provisions, for the innovative measures referred to in Article 22 and the measures referred to in Article 23 and inform the committees referred to in Articles 48 to 51.

### *Article 33*

#### **Use of the euro**

Commission decisions, commitments and payments shall be denominated and carried out in euro in accordance with the arrangements to be drawn up by the Commission under the procedure referred to in Article 53(2).

## TITLE IV

### EFFECTIVENESS OF ASSISTANCE FROM THE FUNDS

#### CHAPTER I

#### MONITORING

#### *Article 34*

#### **Management by the managing authority**

1. Without prejudice to Article 8(3), the managing authority as defined in Article 9(n) shall be responsible for the efficiency and correctness of management and implementation, and in particular for:

(a) setting up a system to gather reliable financial and statistical information on implementation, for the monitoring indicators referred to in Article 36, and for evaluation in compliance with Articles 42 and 43; and for forwarding this data in accordance with arrangements agreed between the Member State and the Commission, using where possible

computer systems permitting the exchange of data with the Commission, as defined in Article 18(3)(e);

(b) adjustment in accordance with paragraph 3 and the implementation of the programme complement within the meaning of Article 18(3), without prejudice to Article 35;

(c) drawing up and, after obtaining the approval of the Monitoring Committee, submitting to the Commission the annual implementation report;

(d) organising, in cooperation with the Commission and the Member State, the mid-term evaluation referred to in Article 42;

(e) ensuring that those 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 assistance;

(f) 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 in response to any observations or requests for corrective measures adopted pursuant to Article 38(4), first subparagraph, or recommendations for adjustment made under paragraph 2 of this Article in accordance with the provisions of those Articles;

(g) ensuring compliance with Community policies as stipulated in Article 12; 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;

(h) compliance with the obligations concerning information and publicity referred to in Article 46.

Without prejudice to the provisions of this Regulation, in carrying out its tasks the managing authority shall act in full compliance with the institutional, legal and financial systems of the Member State concerned.

2. Every year, when the annual implementation report referred to in Article 37 is submitted, the Commission and the managing authority shall review the main outcomes of the previous year, in accordance with arrangements to be defined by agreement with the Member State and the managing authority concerned.

After this review, the Commission may make comments to the Member State and the managing authority. The Member State shall inform the Commission of the action taken on these comments. Where in duly substantiated cases the Commission considers that the measures taken are inadequate, it may make recommendations to the Member State and the managing authority for adjustments aimed at improving the effectiveness of the monitoring or management arrangements for the assistance, together with the reasons for any such recommendations. If it receives any such recommendations, the managing authority shall subsequently demonstrate the steps taken to improve the monitoring or management arrangements or it shall explain why it has not taken any.

3. The managing authority shall, at the request of the Monitoring Committee or on its own initiative, adjust the programme complement, without changing the total amount of the contribution from the Funds granted to the priority concerned nor its specific targets. After approval by the Monitoring Committee, it shall inform the Commission of the adjustment within one month.

Any amendments to the elements contained in the decision on the contribution of the Funds shall be

decided by the Commission, in agreement with the Member State concerned, within four months of delivery of the Monitoring Committee's approval.

### Article 35

#### 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 the Member State, in agreement with the managing authority after consultation with the partners. The partners shall promote the balanced participation of women and men.

The Monitoring Committees shall be set up no more than three months after the decision on the contribution of the Funds. The Monitoring Committees shall act under the authority and within the legal jurisdiction of the Member State.

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

The Monitoring Committee shall draw up its own rules of procedure within the institutional, legal and financial framework of the Member State concerned and agree them with the managing authority.

In principle, the Monitoring Committee shall be chaired by a representative of the Member State or the managing authority.

3. The Monitoring Committee shall satisfy itself as to the effectiveness and quality of the implementation of assistance. To that end:

(a) pursuant to Article 15, it shall confirm or adjust the programme complement, including the physical and financial indicators to be used to monitor the assistance. Its approval must be obtained before any further adjustment is made;

(b) it shall consider and approve the criteria for selecting the operations financed under each measure within six months of approval of the assistance;

(c) it shall periodically review progress made towards achieving the specific objectives of the assistance;

- (d) it shall examine the results of implementation, particularly achievement of the targets set for the different measures and the mid-term evaluation referred to in Article 42;
- (e) it shall consider and approve the annual and final implementation reports before they are sent to the Commission;
- (f) it shall consider and approve any proposal to amend the contents of the Commission decision on the contribution of the Funds;
- (g) it may in any event propose to the managing authority any adjustment or review of the assistance likely to make possible the attainment of the objectives referred to in Article 1 or to improve the management of assistance, including in respect of financial management. Any adjustment to the assistance shall be made in accordance with Article 34(3).

#### Article 36

##### Monitoring indicators

1. The managing authority and the Monitoring Committee shall carry out the monitoring by reference to physical and financial indicators specified in the operational programme, single programming document, or programme complement. In drawing up their indicators, they should take into account the indicative methodology and list of examples of indicators published by the Commission, as well as a categorisation of fields of intervention to be proposed by the Commission upon entry into force of this Regulation. 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 concerned and its regions, as appropriate, 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 44.

2. These indicators shall show, for the assistance in question:

- (a) the specific targets, quantified where they lend themselves to quantification, for the measures and priorities, and their mutual consistency;
- (b) the stage reached in the assistance in terms of physical implementation, results and, as soon as practicable, its impact at the appropriate level (priority or measure);

(c) the progress of the financing plan.

Where the nature of the assistance permits, the statistics shall be broken down by sex and by the size of the recipient undertakings.

3. The financial and progress indicators shall be such that the information set out in paragraph 2(a), (b) and (c) can be identified separately for major projects.

#### Article 37

##### Annual and final implementation reports

1. For multiannual assistance, the managing authority shall, within six months of the end of each full calendar year of implementation, submit to the Commission an annual implementation report as provided for in Article 34(1)(c). A final report shall be submitted to the Commission at the latest six months after the final date of eligibility of the expenditure.

For all assistance to be implemented over a period of less than two years, the managing authority shall submit only a final report to the Commission. This shall be submitted 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.

Once the Commission has received an annual implementation report, it shall indicate within a period of two months if the report is considered unsatisfactory, giving its reasons; otherwise, the report shall be deemed to be accepted. In the case of a final report the Commission shall respond within a period of five months from its receipt of the report.

2. All annual and final implementation reports shall include the following information:

- (a) any change in general conditions which is of relevance to the implementation of the assistance, in particular the main socio-economic trends, changes in national, regional or sectoral policies or in the frame of reference referred to in Article 9(c) and, where applicable, their implications for the mutual consistency of assistance from the different Funds and consistency between Fund assistance and that from other financial instruments;

(b) the progress in the implementation of priorities and measures for each of the Funds in relation to their specific targets, with a quantification, wherever and whenever they lend themselves to quantification, of the physical indicators and indicators of results and of impact referred to in Article 36 at the appropriate level (priority or measure);

(c) the financial implementation of the assistance, summarising for each measure the total expenditure actually paid out by the paying authority and a record of the total payments received from the Commission and quantifying the financial indicators referred to in Article 36(2)(c); financial implementation in the areas receiving transitional support shall be presented separately in respect of each priority; financial implementation of the EAGGF Guarantee Section for the measures referred to in Article 33 of Regulation (EC) No 1257/1999 shall be presented at the level of the total amount of the financial implementation;

(d) the steps taken by the managing authority and the Monitoring Committee to ensure the quality and effectiveness of implementation, in particular:

(i) monitoring, financial control and evaluation measures, including data collection arrangements;

(ii) a summary of any significant problems encountered in managing the assistance and any measures taken, including action on recommendations for adjustments made pursuant to Article 34(2) or requests for corrective measures pursuant to Article 38(4);

(iii) the use made of technical assistance;

(iv) the measures taken to ensure publicity for the assistance in accordance with Article 46;

(e) the steps taken to ensure compatibility with Community policies as stipulated in Article 12 and to ensure coordination of all the Community structural assistance referred to in Article 17(1) and the second subparagraph of Article 19(2);

(f) a separate section, where appropriate, on the progress and financing of major projects and global grants.

## CHAPTER II

### FINANCIAL CONTROL

#### *Article 38*

#### General provisions

1. Without prejudice to the Commission's responsibility for implementing the general budget of the European Communities, Member States shall take responsibility in the first instance for the financial control of assistance. To that end, the measures they take shall include:

(a) verifying that management and control arrangements have been set up and are being implemented in such a way as to ensure 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 and that the funds placed at their disposal are used in accordance with the principles of sound financial management;

(d) certifying that the declarations of expenditure presented to the Commission are accurate and ensuring that they result from accounting systems based on verifiable supporting documents;

(e) preventing, detecting and correcting irregularities, notifying these to the Commission, in accordance with the rules, and 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 regularity 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 in its responsibility for the implementation of the general budget of the European Communities shall ensure that Member States have smoothly functioning management and control systems so that Community funds are efficiently and correctly used.

To that end, without prejudice to checks carried out by the Member States in accordance with national laws, regulations and administrative provisions, Commission officials or servants may, in accordance with arrangements agreed with the Member State in the framework of cooperation described in paragraph 3, carry out on-the-spot checks, including sample checks, on the operations financed by the Funds and on management and control systems with a minimum of one working day's notice. 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.

3. The Commission and the Member States shall on the basis of bilateral administrative arrangements cooperate to coordinate plans, methods and implementation of checks so as to maximise the usefulness of those carried out. They shall immediately exchange the results of the checks carried out.

At least once a year and, in any event, before the annual review provided for in Article 34(2) the following shall be examined and evaluated:

- (a) the results of the checks carried out by the Member State and the Commission;
- (b) any comments made by other national or Community control 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.

4. Following this examination and evaluation and without prejudice to the measures to be taken immediately by the Member State under this Article and Article 39, the Commission may make observations, particularly regarding the financial impact of any irregularities detected. These observations shall be addressed to the Member State and the managing authority of the assistance concerned. The observations shall be accompanied, where necessary, by requests for corrective measures to remedy the management shortcomings found and correct those irregularities detected which have not already been corrected. The Member State shall have the opportunity to comment on these observations.

Where, following or in the absence of comments from the Member State, the Commission adopts conclusions, the Member State shall take the necessary steps within the deadline set to comply with the Commission's requests and inform the Commission of its actions.

5. Without prejudice to this Article, the Commission, after due verification, 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 of the action taken and the reasons for it. If, after five months, the reasons for the suspension remain or the Member State concerned has not notified the Commission of the measures taken to correct the serious irregularity, the provisions laid down under Article 39 shall apply.

6. For a period of three years, unless otherwise decided in the bilateral administrative arrangements, following the payment by the Commission of the final balance in respect of any assistance, the responsible authorities shall keep available for the Commission all the supporting documents (either the originals or versions certified to be in conformity with the originals on commonly accepted data carriers) 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 39*

#### **Financial corrections**

1. The Member States shall, in the first instance, bear the responsibility for investigating irregularities, acting upon evidence of any major change affecting



the nature or conditions for the implementation or supervision of assistance and making the financial corrections required.

The Member State shall make the financial corrections required in connection with the individual or systemic irregularity. The corrections made by the Member State 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 the arrangements to be defined pursuant to Article 53(2).

2. If, after completing the necessary verifications, the Commission concludes that:

- (a) a Member State has not complied with its obligations under paragraph 1; or
- (b) all or part of an operation justifies neither part nor the whole of the contribution from the Funds; or
- (c) there are serious failings in the management or control systems which could lead to systemic irregularities;

the Commission shall suspend the interim payments in question and, stating its reasons, request that the Member State submit its comments and, where appropriate, carry out any corrections, within a specified period of time.

If the Member State objects to the observations made by the Commission, the Member State shall be invited to a hearing by the Commission, in which both sides in cooperation based on the partnership make efforts to reach an agreement about the observations and the conclusions to be drawn from them.

3. At the end of the period set by the Commission, the Commission may, if no agreement has been reached and the Member State has not made the corrections and taking account of any comments made by the Member State, decide within three months to:

- (a) reduce the payment on account referred to in Article 32(2); or
- (b) make the financial corrections required by cancelling all or part of the contribution of the Funds to the assistance concerned.

The Commission shall when deciding the amount of a correction take account, in compliance with the principle of proportionality, of the type of irregularity

or change and the extent and financial implications of the shortcomings found in the management or control systems of the Member States.

In the absence of a decision to do either (a) or (b) the interim payments shall immediately cease to be suspended.

4. Any sum received unduly and to be recovered shall be repaid to the Commission, together with interest on account of late payment.

5. This Article shall apply without prejudice to Article 32.

### CHAPTER III

### EVALUATION

#### *Article 40*

#### 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 by the following criteria:

- (a) their overall impact on the goals set out in Article 158 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 of the priorities incorporated in each Community support framework and in each case of assistance.

3. The competent authorities of 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, after informing the Member State concerned, supplementary evaluations, if appropriate

on a specific topic, may be launched with a view to identifying transferable experience.

4. The results of the evaluation shall be made available to the public, on request. As regards the results of the evaluation provided for in Article 42, the Monitoring Committee's agreement shall be required according to the institutional arrangements of each Member State.

5. The evaluation procedures shall be laid down in the Community support frameworks and forms of assistance.

#### Article 41

##### *Ex-ante* evaluation

1. The purpose of *ex-ante* evaluation shall be to provide a basis for preparing the development plans, assistance and programme complement of which it shall form part.

*Ex-ante* evaluation shall be the responsibility of the authorities responsible for preparing the plans, assistance and programme complement.

2. For the preparation of plans and assistance *ex-ante* evaluation shall involve an analysis of the strengths, weaknesses and potential of the Member State, region or sector concerned. In the light of the criteria listed in Article 40(2)(a) it shall assess the consistency of the strategy and targets 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 their specific targets in relation to the starting situation, where they lend themselves thereto.

The *ex-ante* evaluation shall take into account, amongst other things, the situation in terms of competitiveness and innovation, small and medium-sized enterprises, employment and the labour market having regard to the European employment strategy, the environment and equality between men and women, and it shall include in particular:

(a) an *ex-ante* evaluation of the social and economic situation, mainly trends in the national labour market, including regions encountering particular employment problems and of the overall strategy in the field of human resource development and the way in which this strategy is linked to the national employment strategy as set out in the national action plans;

(b) an *ex-ante* evaluation of the environmental situation of the region concerned, in particular of those environmental sectors which will presumably be considerably affected by the assistance; the arrangements to integrate the environmental dimension into the assistance and how far they fit in with existing short- and long-term national, regional and local objectives (e.g. environmental management plans); the arrangements for ensuring compliance with the Community rules on the environment. The *ex-ante* evaluation shall give a description, quantified as far as possible, of the existing environmental situation and an estimate of the expected impact of the strategy and assistance on the environmental situation;

(c) an *ex-ante* evaluation of the situation in terms of equality between men and women with regard to labour market opportunities and treatment at work, including the specific constraints on each group; an estimate 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 family and working life.

The *ex-ante* evaluation shall verify the relevance of the proposed implementing and monitoring arrangements, consistency with Community policies and how far the indicative guidance referred to in Article 10(3) has been taken into account.

It shall take account of results from evaluations of earlier programming periods.

3. evaluation of the measures in the programme complement shall demonstrate consistency with the aims of the corresponding priorities, quantify their specific targets where the priorities lend themselves thereto, and subsequently verify the relevance of the selection criteria, as provided for pursuant to Article 35(3)(b).

#### Article 42

##### Mid-term evaluation

1. Mid-term evaluation shall examine, in the light of the *ex-ante* evaluation, the initial results of the assistance, their relevance and the extent to which the targets have been attained. It shall also assess the use made of financial resources and the operation of monitoring and implementation.

2. Mid-term evaluation shall be carried out under the responsibility of the managing authority, in cooperation with the Commission and the Member State. It shall cover each Community support framework and each assistance. It shall be carried out by an independent assessor, be submitted to the Monitoring Committee for the Community support framework or assistance concerned in accordance with Article 35(3), and then sent to the Commission, as a general rule three years after adoption of the Community support framework or assistance, and no later than 31 December 2003, with a view to the revision referred to in Article 14(2).

3. The Commission shall examine the relevance and quality of the evaluation on the basis of criteria defined beforehand by the Commission and the Member State in partnership, with a view to reviewing the assistance and allocating the reserve referred to in Article 44.

4. As a continuation of mid-term evaluation, it shall be updated for each Community support framework and assistance and completed no later than 31 December 2005 in order to prepare for subsequent assistance operations.

#### *Article 43*

##### *Ex-post evaluation*

1. On the basis of the evaluation results already available, *ex-post* evaluation shall cover the utilisation of resources and the effectiveness and efficiency of the assistance and its impact and shall draw conclusions regarding policy on economic and social cohesion. It shall cover the factors contributing to the success or failure of implementation and the achievements and results, including their sustainability.

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 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 44*

##### **Allocation of the performance reserve**

1. Each Member State, in close consultation with the Commission, shall assess under each objective and not later than 31 December 2003 the performance of each of their operational programmes or single programming documents on the basis of a limited number of monitoring indicators reflecting effectiveness, management and financial implementation and measuring the mid-term results in relation to their specific initial targets.

These indicators shall be decided by the Member State in close consultation with the Commission taking account of all or part of an indicative list of indicators proposed by the Commission and shall be quantified in the existing different annual implementation reports as well as the mid-term evaluation report. The Member States shall be responsible for their application.

2. At mid-term and not later than 31 March 2004, the Commission shall allocate, in close consultation with the Member States concerned, under each objective, on the basis of proposals from each Member State, taking account of its specific institutional features and their corresponding programming, the commitment appropriations referred to in Article 7(5) to the operational programmes or single programming documents or their priorities which are considered to be successful. The operational programmes or single programming documents shall be adapted in accordance with Articles 14 and 15.

## TITLE V

## REPORTS AND PUBLICITY

*Article 45***Reports**

1. Pursuant to Article 159 of the Treaty, the Commission shall 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, and an analysis of direct investment flows and their impact on the Community employment situation;

(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 forward 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;

— an annual evaluation of innovative actions 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) as soon as they are available, the results of the evaluations referred to in Article 42 — indicating any adjustments to the assistance — and in Article 43, and an evaluation of the consistency of measures taken by the Funds with the Community policies referred to in Article 12;

(d) a list of the major projects to which the Funds have contributed;

(e) the results of checks carried out by the Commission in accordance with Article 38(2) and the lessons to be drawn from them, including an indication of the number of recorded irregularities, the amounts in question and the financial corrections made in respect of Article 39(2);

(f) information on the opinions of committees delivered in accordance with Articles 48 to 51.

*Article 46***Information and publicity**

1. For the purposes of consultation as referred to in Article 15(1), Member States shall ensure that publicity is given to development plans.

2. Without prejudice to Article 23(1), the managing authority shall be responsible for ensuring that 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 the relevant 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. The Member States shall consult the Commission and in accordance with Article 37(2) inform it each year of the initiatives taken for the purposes set out in paragraphs 1 and 2 of this Article.

TITLE VI  
COMMITTEES

*Article 47*

**General provisions**

1. In implementing this Regulation, the Commission shall be assisted by four committees:

- (a) the Committee on the Development and Conversion of Regions;
- (b) the Committee pursuant to Article 147 of the Treaty;
- (c) the Committee on Agricultural Structures and Rural Development;
- (d) the Committee on Structures for Fisheries and Aquaculture.

2. Where the Committees mentioned in paragraph 1(a), (c) and (d) are acting as Consultative Committees pursuant to Articles 48, 50 and 51 respectively, the following procedure applies:

- the Commission representative shall submit to the committee a draft of the measure to be taken,
- the committee shall deliver its opinion on this draft within a time limit which the chairman may lay down according to the urgency of the matter; the matter may be put to a vote where appropriate,
- its opinions shall be entered in the minutes; each Member State shall in addition have the right to ask for its position to be included in the 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.

3. Where the committees mentioned in paragraph 1(a), (c) and (d) are acting as Management Committees pursuant to Articles 48, 50 and 51 respectively, the following procedure applies:

- the Commission representative shall submit to the committee a draft of the measure to be taken,

- the committee shall deliver its opinion on this 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 205(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 measure 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 time limit provided for in the above sub-indent.

4. The Commission shall refer the reports referred to in Article 45 to the committees. It may seek the opinion of a Committee on any matter concerning assistance under the Funds, other than assistance provided for in this Title. This includes matters primarily dealt with by other committees.

5. Each committee's opinions shall be brought to the attention of the other committees referred to in this Title.

6. Each committee shall draw up its rules of procedure.

7. The European Parliament shall be regularly informed of the work of the committees.

*Article 48*

**Committee on the Development and Conversion of Regions**

1. A 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.

2. The committee shall act as a Management Committee according to the procedure laid down in Article 47(3) when it deals with:

(a) the implementing rules referred to in Article 53(2).

Other committees shall be consulted under their consultative competence on the abovementioned implementing rules, in so far as they are concerned;

(b) the implementing rules referred to in Article 5 of Regulation (EC) No 1261/1999 of the European Parliament and of the Council of 21 June 1999 on the European Regional Development Fund (ERDF)<sup>(1)</sup>;

(c) the guidelines relating to the Community initiatives referred to in Article 20(1)(a) ('Interreg') and 20(1)(b) ('Urban');

(d) the guidelines for the different types of innovative measures provided for in application of Article 22, in the case of support from the ERDF.

3. The committee acts as a consultative committee according to the procedure laid down in Article 47(2) when it discusses the following matters:

(a) establishment and revision of the list of areas eligible under Objective 2;

(b) the Community support frameworks and the corresponding information contained in the single programming documents, under Objectives 1 and 2;

(c) the types of technical-assistance measure in accordance with Article 23 in the case of support from the ERDF;

(d) any other questions concerning Articles 20 to 22.

#### Article 49

##### Committee pursuant to Article 147 of the Treaty

1. The committee set up pursuant to Article 147 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 Council, acting on a proposal from the Commission, for a period of three years. They may be reappointed. The Council shall, as regards the composition of the committee, endeavour to ensure fair representation of the different groups concerned. For the items on the agenda affecting it, the EIB shall appoint a non-voting representative.

2. The committee shall:

(a) deliver opinions on the draft Commission decisions relating to single programming documents and to Community support frameworks under Objective 3 as well as on the Community support frameworks and corresponding information contained in the single programming documents, under Objectives 1 and 2, in the case of support from the ESF;

(b) deliver its opinion on the implementing rules provided for in Article 53(2);

(c) be consulted on the implementing rules referred to in Article 8 of Regulation (EC) No 1262/1999 of the European Parliament and of the Council of 21 June 1999 on the European Social Fund (ESF)<sup>(2)</sup>;

(d) deliver opinions on draft Commission guidelines relating to the Community initiative referred to in Article 20(1)(d) ('EQUAL') and for the various types of innovative measure in the context of Article 22 in the case of support from the ESF. The Commission may also refer further questions to it within the meaning of Articles 20 to 22;

(e) be consulted on the types of technical-assistance measure in accordance with Article 23 in the case of support from the ESF.

<sup>(1)</sup> See page 43 of this Official Journal.

<sup>(2)</sup> See page 48 of this Official Journal.

3. 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 has taken account of its opinions.

#### Article 50

##### Committee on Agricultural Structures and Rural Development

1. A 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.

2. The Committee acts as a Management Committee according to the procedure laid down in Article 47(3) when it deals with:

(a) the implementing rules and transitional rules referred to in Articles 34, 50 and 53 of Regulation (EC) No 1257/1999;

(b) the guidelines relating to the Community initiative referred to in Article 20(1)(c) ('Leader').

3. The committee acts as a Consultative Committee according to the procedure laid down in Article 47(2) when it discusses the following matters:

(a) the establishment and revision of the list of areas eligible under Objective 2;

(b) the parts of the intervention concerning agricultural structures and rural development included in the draft Commission decisions relating to the Community support frameworks and corresponding information contained in the single programming documents, for the regions under Objectives 1 and 2;

(c) the implementing rules referred to in Article 53(2);

(d) the types of technical-assistance measure in accordance with Article 23 in the case of support from the EAGGF;

(e) any other questions concerning Articles 20 to 22.

#### Article 51

##### Committee on Structures for Fisheries and Aquaculture

1. A Committee on Structures for 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.

2. The committee shall act as a Management Committee according to the procedure laid down in Article 47(3) when it deals with:

(a) the implementing rules referred to in Article 4 of Regulation (EC) No 1263/1999;

(b) the guidelines for the different types of innovative measures provided for in application of Article 22, in the case of support from the FIFG.

3. The committee shall act as a Consultative Committee according to the procedure laid down in Article 47(2) when it discusses the following matters:

(a) the establishment and revision of the list of areas eligible under Objective 2;

(b) the parts of the intervention concerning fisheries structures included in the draft Commission Decision relating to the Community support frameworks and corresponding information contained in the single programming documents under Objective 1;

(c) the implementing rules provided for in Article 53(2);

(d) the types of technical-assistance measure in accordance with Article 23 in the case of support from the FIFG;

(e) any other questions concerning Article 22.

## 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) No 2052/88 and (EEC) No 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 pursuant to Regulations (EEC) No 2052/88 and (EEC) No 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, 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. These measures shall not be subject to compliance with Article 30(2).

4. Notwithstanding the date specified in Article 30(2), expenditure actually paid, in respect of which the Commission has received an application for assistance between 1 January and 30 April 2000 and which fulfils 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**

1. The Commission shall be in charge of the implementation of this Regulation.

2. The Commission shall adopt detailed rules to implement Articles 30, 33, 38, 39 and 46, in accordance with Article 48(2)(a). It shall also, in accordance with the same procedure and where it appears necessary in unforeseen circumstances, adopt other rules for the implementation of this Regulation.

*Article 54***Repeal**

Regulations (EEC) No 2052/88 and (EEC) No 4253/88 are hereby repealed with effect from 1 January 2000, without prejudice to Article 52(1).

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 161 of the Treaty.

*Article 56***Entry into force**

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

Articles 28, 31 and 32 shall apply from 1 January 2000.



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

Done at Luxembourg, 21 June 1999.

*For the Council*

*The President*

G. VERHEUGEN

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## ANNEX

## STRUCTURAL FUNDS

Annual breakdown of commitment appropriations for 2000 to 2006  
(referred to in Article 7(1))*(EUR million — 1999 prices)*

2000	2001	2002	2003	2004	2005	2006
29 430	28 840	28 250	27 670	27 080	27 080	26 660