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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 4253/88  
of 19 December 1988

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

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

down in that Regulation and in accordance with the guidelines of the European Council;

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

Whereas Article 3 (5) of Regulation (EEC) No 2052/88 provides that the Council, acting on the basis of Article 130e of the Treaty, shall adopt the provisions necessary for ensuring coordination between the different Structural Funds, on the one hand, and between them and the European Investment Bank (EIB) and the other existing financial instruments, on the other;

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

Whereas it is necessary to ensure and strengthen, in a manner consistent with the partnership, the coordination between the Structural Funds and between these Funds, the EIB and the Community's other existing financial instruments, in order to enhance the effectiveness of their contributions to the attainment of the objectives set out in Article 1 of Regulation (EEC) No 2052/88; whereas the Commission has an important role to play in this respect;

In cooperation with the European Parliament <sup>(2)</sup>,

Whereas, to this end, the Commission must, where necessary, associate the EIB with the preparation of its decisions; whereas the EIB is prepared to cooperate in the implementation of this Regulation, in keeping with its own powers and responsibilities;

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

Whereas the Council adopted Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on the coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments <sup>(4)</sup>;

Whereas Articles 8 to 11 of the said Regulation provide for measures relating to their implementation to be laid down in the implementing decisions referred to in Article 130e of the Treaty; whereas it is necessary to determine the criteria which the Commission should use to select those rural areas outside the regions designated for assistance from the Funds under objective 1 which may receive assistance under objective 5 (b) as defined in Article 1 of Regulation (EEC) No 2052/88; whereas these criteria must ensure that there is effective concentration on those areas suffering from the most serious problems of development, while account is taken of difficulties in other rural areas, in the regions of Member States with socio-economic imbalances such as would threaten their development;

Whereas the doubling of the Structural Funds between 1987 and 1993 is covered by the Interinstitutional Agreement of 29 June 1988; whereas provisions for the implementation of Regulation (EEC) No 2052/88 should be laid down so that the new financial means allocated to the Funds are used in compliance with the new rules laid

<sup>(1)</sup> OJ No C 256, 3. 10. 1988, p. 1.

<sup>(2)</sup> OJ No C 326, 19. 12. 1988 and decision of 14 December 1988 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 337, 31. 12. 1988.

<sup>(4)</sup> OJ No L 185, 15. 7. 1988, p. 9.

Whereas it is necessary to specify the scope, content and duration of the plans to be submitted by the Member States and the time limits for their submission;

Whereas, with a view to helping Member States in the preparation of plans, the Commission should be in a position to supply the necessary technical assistance;

Whereas it is necessary to give guidelines on the content and duration of the Community support frameworks to be established by the Commission in agreement with the Member State concerned and on the time limit for their establishment;

Whereas, when the Community support frameworks are being worked out and implemented, care should be taken to see that any increase in appropriations from the Funds has a genuine additional economic impact in the regions concerned;

Whereas the Commission should be able to adapt, in agreement with the Member State concerned, Community support frameworks to take account of measures not provided for in the plans submitted by the Member States, including measures resulting from new Community initiatives;

Whereas assistance from the Funds envisaged in the Community support frameworks should be provided mainly in the form of part-financing of operational programmes;

Whereas it is necessary to specify the conditions for the implementation of operational programmes under the integrated approach;

Whereas it is necessary to specify the general conditions governing the processing of applications for financial assistance from the Structural Funds;

Whereas financial assistance from the Structural Funds objectives 1 to 4 and 5 (b) should normally be provided only for measures indicated in the Community support frameworks and for expenditure incurred after presentation of an application for assistance from the structural Funds; whereas it is, however, necessary to provide that expenditure incurred before that date for the part-financing of projects and aid systems should be eligible;

Whereas it is necessary to define the conditions under which the Structural Funds may provide global grants and part-finance projects;

Whereas provision should be made for the conditions under which studies and technical assistance linked to the

joint or coordinated use of the Structural Funds, the EIB and the other financial instruments may be financed;

Whereas care must be taken to ensure that the technical and administrative difficulties which might hinder implementation of the reform of the Funds, particularly in regions whose development is lagging behind, do not result in inadequate take-up of the budgetary resources nor in the effective doubling of those resources being called into question;

Whereas, in order to ensure a measure of flexibility in the implementation of the reform of the Funds, it is appropriate that the rates of assistance from the Funds be fixed, on the basis of Article 13 of Regulation (EEC) No 2052/88 and under the conditions laid down in this Regulation, in the framework of the partnership, for objectives 1 to 4 and 5 (b), on the one hand, and by subsequent decisions taken by the Council for objective 5 (a), on the other;

Whereas, to promote efficient and coordinated management of the Funds' financial resources, it is necessary to lay down common rules and procedures on commitments, payments and controls;

Whereas, in the interests of the wider use of the ecu in financial transactions in the Community and, in particular, in the implementation of the Community budget, it is important that the Community's financial entitlements and obligations with respect to the Structural Funds should also be expressed in ecus, in keeping with the Financial Regulation;

Whereas it is necessary to specify the arrangements for the monitoring and assessment of Community structural action in order to strengthen the effectiveness of assistance methods in achieving the objectives and to assess the impact of assistance;

Whereas, it is necessary to determine the arrangements for the working of the committees called upon to assist the Commission in the implementation of Regulation (EEC) No 2052/88;

Whereas there is a need to specify the content of the report referred to in Article 16 of the said Regulation;

Whereas provision should be made to give adequate publicity to Community assistance provided towards specific schemes;

Whereas it is necessary to determine more specifically the transitional arrangements for assistance from the Funds which was approved or applied for before the entry into force of the implementing decisions referred to in Article 130e of the Treaty and whereas it may also prove necessary, with a view to ensuring continuity in the operations of the Funds, to provide for approval of certain measures before the Commission has decided the relevant Community support frameworks,

HAS ADOPTED THIS REGULATION:

**TITLE I**

**COORDINATION**

*Article 1*

**General provisions**

Pursuant to Regulation (EEC) No 2052/88, the Commission shall, in a manner consistent with partnership, ensure coordination of the activities of the different Funds as between themselves and with the operations of the EIB and the other existing financial instruments.

*Article 2*

**Coordination between the Funds**

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

- Community support frameworks,
- multiannual budget forecasts,
- where advisable, the implementation of integrated operational programmes,
- monitoring and assessment of operations under the Funds carried out in connection with a single objective and of those carried out in connection with a number of objectives in the same territory.

*Article 3*

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

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

- by the European Coal and Steel Community in the form of re-adaptation aids, loans, interest subsidies or guarantees,
- by the EIB, the New Community Instrument and Euratom in the form of loans and guarantees,
- from resources from the Community budget allocated to other action for structural purposes,

- from the resources of the Community research budget.

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

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

*Article 4*

**Selection of rural areas outside the regions in objective 1 (objective 5 (b))**

1. In accordance with Article 11 (2) of Regulation (EEC) No 2052/88, the rural areas that may receive Community assistance under objective 5 (b) shall meet each of the following criteria:

- (a) high share of agricultural employment in total employment;
- (b) low level of agricultural income, notably as expressed in terms of agricultural value added by agricultural work unit (AWU);
- (c) low level of socio-economic development assessed on the basis of gross domestic product per inhabitant.

Assessment of the eligibility of areas according to the above three criteria shall take into account socio-economic parameters which indicate the seriousness of the general situation in the areas concerned, and how it is developing.

2. In addition, on receipt of a reasoned request from a Member State, Community assistance may also be extended to other rural areas with a low level of socio-economic development, if they meet one or more of the following criteria:

- low population density and/or a significant depopulation trend in the areas concerned,
- the peripheral nature of areas or islands in relation to major centres of economic and commercial activity in the Community,
- the sensitivity of the area to developments in agriculture, especially in the context of reform of the common agricultural policy, assessed on the basis of the

trend in agricultural incomes and the size of the agricultural labour force,

- the structure of agricultural holdings and the age structure of the agricultural labour force,
- the pressures exerted on the environment and on the countryside,
- the situation of areas within mountain or less-favoured areas classified pursuant to Article 3 of Directive 75/268/EEC<sup>(1)</sup>, as last amended by Regulation (EEC) No 797/85<sup>(2)</sup>.

3. Member States shall, in respect of the areas which in their view should benefit from assistance under objective 5 (b), provide the Commission with such information as may help it to determine which areas are eligible. On the basis of that information and of its overall assessment of the proposals submitted, the Commission shall determine which areas are eligible by following the procedures set out in Title VIII and shall invite the Member States to forward the necessary plans to it.

4. In selecting rural areas and in defining the Community support frameworks referred to in Article 11 (3) of Regulation (EEC) No 2052/88, the Commission, in the context of reform of the common agricultural policy, shall take care to ensure that assistance is effectively concentrated on areas suffering from the most serious problems of rural development.

## TITLE II

### PLANS

#### Article 5

##### Scope and content

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

Plans submitted in connection with objective 1 shall, as a general rule, cover one region at NUTS level II. However, in implementation of the second subparagraph of Article 8 (4) of Regulation (EEC) No 2052/88, Member States

may submit a plan for more than one of their regions included in the list referred to in paragraph 2 of that Article, provided that such plans comprise the features listed in the first subparagraph of the said paragraph 4.

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

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

2. For regions concerned by objective 1, the regional development plans shall include measures relating to the conversion of declining industrial areas and the development of rural areas, together with employment and vocational training measures other than those covered by plans submitted in connection with objectives 3 and 4.

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

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

Data concerning the operations carried out under objective 5 (a) will be indicated, as appropriate, in the plans in connection with objectives 1 and 5 (b).

In the plans, Member States shall indicate the particulars relating to each Fund, including the volumes of assistance requested. In accordance with Articles 8, 9, 10 and 11 of Regulation (EEC) No 2052/88, in order to expedite the examination of applications and the implementation of action, they may include in their plans applications for assistance for operational programmes.

3. Member States shall ensure, when the plans are drawn up, that plans relating to the same objective within a Member State and plans relating to different objectives in the same geographical area are mutually consistent.

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

<sup>(1)</sup> OJ No L 128, 19. 5. 1975, p. 1.

<sup>(2)</sup> OJ No L 93, 30. 3. 1985, p. 1.

*Article 6***Duration and timetable**

Each plan shall cover a period of between three and five years. As a general rule, the plans may be revised on an annual basis and in the event of significant changes in the socio-economic situation and the labour market.

For regions and areas defined before 31 January 1989, the first relating to objectives 1, 2 and 5 (b) shall cover a period which shall commence on 1 January 1989 and shall be submitted not later than 31 March 1989. Plans relating to objectives 3 and 4 shall be submitted not later than four months after the Commission has published the guidelines referred to in Article 4 (1) of Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund <sup>(1)</sup>.

The dates relating to the submission of subsequent plans will be fixed by the Commission in cooperation with the Member State concerned.

*Article 7***Preparation**

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

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

## TITLE III

## COMMUNITY SUPPORT FRAMEWORKS

*Article 8***Preparation, scope and content**

1. The Community support frameworks relating to objectives 1 to 4 and 5 (b) shall be drawn up at the appropriate geographical level in agreement with the Member State concerned within the framework of the partnership and shall be established by decision of the Commission in accordance with the procedures laid down in Title VIII. The EIB shall also be involved in the preparation of the Community support frameworks.

Without prejudice to the first subparagraph of Article 8 (5) of Regulation (EEC) No 2052/88, the Commission

shall, if appropriate, in drawing up Community support frameworks for objectives 1 and 5 (b), take account of information regarding the impact of the measures taken under objective 5 (a) which contribute to the development of the regions or areas concerned.

2. A Community support framework may cover a period of three to five years.

3. Each Community support framework shall include:

- a statement of the priorities for joint Community and national action in relation to the objectives set out in Article 1 of Regulation (EEC) No 2052/88, together with information on their consistency with the economic and social policies of the Member State concerned,
- an outline of the forms of assistance to be provided including, for operational programmes, their specific objectives and the main types of measure involved,
- an indicative financing plan specifying the financial allocations envisaged for the various forms of assistance and the duration thereof, including those of the Funds, the EIB and the other existing financial instruments provided for in Article 3 (1), where they contribute directly to the financing plan concerned,
- where appropriate, information on the means available for any studies or technical assistance operations relating to the preparation, implementation or adaptation of the measures concerned.

*Article 9***Impact of measures**

In establishing and implementing the Community support frameworks, the Commission and the Member States shall ensure that the increase in the appropriations for the Funds provided for in Article 12 (2) of Regulation (EEC) No 2052/88 has a genuine additional economic impact in the regions concerned and results in at least an equivalent increase in the total volume of official or similar (Community and national) structural aid in the Member State concerned, taking into account the macro-economic circumstances in which the funding takes place.

*Article 10***Approval and implementation**

1. Unless otherwise agreed between the Commission and the Member State concerned, the Commission shall

<sup>(1)</sup> See page 21 of this Official Journal.

take a decision approving the Community support framework not later than six months after receiving the relevant plan or plans.

In order to expedite implementation of the measures provided for in a Community support framework, Member States may submit applications for assistance in good time for the Commission to approve them at the same time as it takes its decision on the Community support framework. In this case, the operational programmes may be implemented immediately.

2. The Commission decision on the Community support framework shall be sent as a declaration of intent to the Member State. The declaration shall be published in the *Official Journal of the European Communities*.

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

#### Article 11

##### Community initiatives

In accordance with Article 5 (5) of Regulation (EEC) 2052/88, the Commission may, on its own initiative and in accordance with the procedures provided for in Title VIII, decide to propose to the Member States that they submit applications for assistance in respect of measures of significant interest to the Community not covered by the plans referred to in Title II. Any assistance approved pursuant to this provision shall be reflected in the establishment or revision of the relevant Community support framework.

#### Article 12

##### Forms of assistance

Assistance covered by a Community support framework shall be provided predominantly in the form of operational programmes which may be implemented in the form of an integrated approach if the conditions laid down in Article 13 are met.

#### Article 13

##### Integrated approach

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

the Member State concerned, an operational programme may be implemented in the form of an integrated approach if:

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

2. The desirability of implementing measures on the basis of an integrated approach shall be considered when establishing or revising a Community support framework.

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

#### TITLE IV

##### ASSISTANCE FROM THE FUNDS

#### Article 14

##### Processing of applications

1. Applications for assistance from the Structural Funds shall be prepared by the competent national, regional, local or other authorities designated by the Member States and shall be submitted to the Commission by the Member State or by any body it may designate to do so. Each application shall relate to one of the forms of assistance provided for in Article 5 of Regulation (EEC) No 2052/88.

2. Applications shall contain the information the Commission needs in order to assess them, including a description of the operation proposed, its scope, including geographical coverage, and specific objectives, the bodies responsible for implementation, the proposed beneficiaries and the proposed limitable and financing plan, together with any other information necessary to verify that the operation concerned is compatible with Community legislation and policies.

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

- to assessing the conformity of the proposed operations and measures with the relevant Community legislation

and, where appropriate, with the relevant Community support framework,

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

The Commission shall decide on assistance from the Funds, provided the requirements of the Article are fulfilled, as a general rule within six months of receipt of the application. A single Commission decision shall be taken in respect of assistance from all the Funds and other existing financial instruments contributing to the financing of an operational programme, including operational programmes in the form of an integrated approach. This provision does not preclude the possible application of shorter time limits pursuant to Article 7 of Regulation (EEC) No 4255/88 (ESF Regulation).

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

#### Article 15

##### Eligibility

1. Subject to Article 33, expenditure in respect of measures covered by objectives 1 to 4 and 5 (b) shall be eligible for financial assistance from the Structural Funds only if the measures in question come within the relevant Community support framework.

2. Except as provided for in Article 33 of this Regulation, in Article 9 of Regulation (EEC) No 4255/88 and in Article 2 (1) of Council Regulation (EEC) No 4256/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section<sup>(1)</sup>, expenditure may not be considered eligible for assistance from the Funds if incurred before the date on which the corresponding application reaches the Commission.

However, for the part-financing of projects and aid schemes, expenditure may be deemed to be eligible for

assistance from the Funds if incurred during the six months preceding the date on which the Commission received the corresponding application.

#### Article 16

##### Specific provisions

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

2. The Funds may provide financial assistance towards expenditure in respect of major projects if the total cost taken into account in determining the amount of Community assistance is, as a general rule, greater than ECU 15 million for infrastructure investments or greater than ECU 10 million for productive investments.

However, projects costing less than this in the fisheries sector may be financed if they are covered by a multiannual guidance programme approved by the Commission under Regulation (EEC) No 4028/86<sup>(2)</sup>.

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

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

4. For the regions designated under objective 1, the total cost of an operational programme to which the ERDF is contributing must, as a general rule, reach ECU 100 million, with the proviso that the average annual cost of the programme may not be less than ECU 15 million.

<sup>(1)</sup> See page 25 of this Official Journal.

<sup>(2)</sup> OJ No L 376, 31. 12. 1986, p. 7.

## TITLE V

## DIFFERENTIATION OF COMMUNITY ASSISTANCE

## Article 17

## Financial contribution from the Funds

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

The rates applicable under objective 5 (a) shall be laid down pursuant to the procedure provided for by Article 1 (3) of Regulation (EEC) No 4256/88.

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

3. Where the measure concerned entails the financing of revenue-generating investments, the Commission shall determine, within the framework of the partnership, the rate of contribution from the Funds for these investments, in compliance with the provisions of Article 13 (3) of Regulation (EEC) No 2052/88 and on the basis of the criteria referred to in paragraph 1 of that Article, taking account, amongst their intrinsic characteristics of 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 contribution by the Fund.

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

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

## Article 18

## Combination of grants and loans

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

## TITLE VI

## FINANCIAL PROVISIONS

## Article 19

## General provisions

1. Financial assistance from the Structural Funds shall be subject to the relevant rules applicable to the Funds under the Financial Regulation.

2. The financial assistance to be granted in respect of specific measures undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in that support framework.

3. In order to avoid administrative delays at the end of the year, Member States shall ensure that requests for payments are, as far as possible, submitted in accordance with a balanced schedule throughout the year.

## Article 20

## Commitments

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

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

Commitments in connection with subsequent annual instalments shall be based on the financing plan for the operation concerned and on the progress made in implementing it.



3. For operations to be carried out over a period of less than two years, the total amount of Community assistance shall be committed when the Commission adopts the decision approving the operation.

#### Article 21

##### Payments

1. Payments of financial assistance shall be made in accordance with the corresponding budgetary commitments to the authority designated for the purpose in the application submitted through the Member State concerned. They may take the form either of advances or of final payments in respect of expenditure actually incurred. For operations to be carried out over a period of two or more years payments shall relate to the annual instalments of commitments referred to in Article 20 (2).

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

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

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

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

5. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 3 and 4 and shall ensure that the beneficiaries receive the advances and payments as soon as possible.

6. In the case of measures that are designed to support agricultural incomes, such as compensation for natural handicaps in less-favoured or mountain areas, and that are governed by the provisions referred to in Article 11 (1) of Regulation (EEC) No 2052/88, the conditions and procedures applicable in respect of advances or final payments shall be laid down in the corresponding Commission decisions, due regard being had to the specific nature of those measures.

7. In the case of studies and innovation schemes, the Commission shall determine the appropriate payment procedures.

#### Article 22

##### Use of the ecu

Commission decisions, commitments and payments shall be denominated and carried out in ecus. In compliance with the provisions of the Financial Regulation and in accordance with the arrangements to be drawn up by the Commission pursuant to the procedures referred to in Title VIII hereof.

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

#### Article 23

##### Financial control

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

- to verify on a regular basis that operations financed by the Community have been properly carried out,
- to prevent and to take action against irregularities,
- to recover any amounts lost as a result of an irregularity or negligence. Except where the Member State and/or the intermediary and/or the promoter provide proof that they were not responsible for the irregularity or negligence, the Member State shall be liable in the alternative for reimbursement of any sums unduly paid.

Member States shall inform the Commission of the measures taken for those purposes and, in particular, of the progress of administrative and judicial proceedings.

When submitting requests for payment, Member States shall make available to the Commission any appropriate national control reports on the measures included in the programmes or other operations concerned.

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

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

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the regularity of payment requests. Commission officials may take part in such checks and must do so if the Member State concerned so requests.

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

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

#### *Article 24*

##### **Reduction, suspension and cancellation of assistance**

1. If an operation or measure appears to justify only part of the assistance allocated, the Commission shall conduct a suitable examination of the case in the framework of the partnership, in particular requesting that the Member State or other authorities designated by it to implement the operation submit their comments within a specified period of time.

2. Following this examination, the Commission may reduce or suspend assistance in respect of the operation or measure concerned if the examination reveals an irregularity and in particular a significant change affecting

the nature or conditions of the operation or measure for which the Commission's approval has not been sought.

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

#### TITLE VII

##### MONITORING AND ASSESSMENT

#### *Article 25*

##### **Monitoring**

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

The Commission shall report each year to the committees referred to in Title VIII on the progress made in implementing assistance operations under the Funds, including the use made of appropriations in relation to the particulars given in the Community support frameworks. The findings of this report and the opinions of the Committee shall be forwarded to the European Parliament for information.

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

- the stage reached in the operation,
- the progress achieved on the management side and any related problems.

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

The Commission and, where appropriate, the EIB may delegate representatives to those Committees.

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

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

5. After the Monitoring Committee has delivered its opinion, the Commission shall, in cooperation with the Member State, make any necessary adjustments to the volume or conditions of assistance as initially approved and to the schedule of payments envisaged.

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

7. Wherever this Regulation or Regulations (EEC) No 4254/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Regional Development Fund <sup>(1)</sup>, (EEC) No 4255/88 and (EEC) No 4256/88 provide for the Commission to determine detailed arrangements for implementation, the precise details which are adopted shall be notified to the Member States and published in the *Official Journal of the European Communities*.

#### Article 26

##### Assessment

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

2. *Ex ante* and *ex post* assessment of operations undertaken for structural purposes by the Community shall be concerned with their effectiveness at three levels:

- their overall impact on the objectives set out in Article 130a of the Treaty, and in particular the

strengthening of the economic and social cohesion of the Community,

- the impact of operations under each Community support framework,
- the impact of individual operations (programmes, etc.).

Assessment shall, according to the circumstances, be carried out by reference to macroeconomic indicators based on regional or national statistics, to information yielded by descriptive and analytical studies and to qualitative analyses.

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

4. The assessment principle and procedures shall be laid down in the Community support frameworks.

5. The results of the assessments shall be submitted to the European Parliament and the Economic and Social Committee within the framework of the annual report pursuant to Article 16 of Regulation (EEC) No 2052/88.

#### TITLE VIII

##### COMMITTEES

#### Article 27

##### Advisory Committee on the Development and Conversion of Regions

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

The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, where appropriate by taking a vote.

<sup>(1)</sup> See page 15 of this Official Journal.

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

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

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

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

The Committee shall draw up its rules of procedure.

#### Article 28

##### Committee referred to in Article 124 of the Treaty

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

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

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

The Committee shall deliver opinions on the draft Commission decisions relating to the guidelines for action in connection with objectives 3 and 4, on the Community support frameworks relating to those objectives and, in the case of support from the European Social Fund, on the

Community support frameworks relating to objectives 1, 2 and 5 (b).

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

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

The Committee shall draw up its rules of procedure.

#### Article 29

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

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

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

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

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

The Committee shall deliver opinions on draft Commission decisions:

- relating to common measures in connection with objective 5 (a),
- relating to Community support frameworks in connection with objective 5 (b).

The Committee provided for in this Article shall replace the Standing Committee on Agricultural Structures, set up by Article 1 of the Council Decision of 4 December 1962 <sup>(1)</sup>, in respect of all the functions assigned to it under that Decision or under Article 6 of Regulation (EEC) No 729/70 <sup>(2)</sup>, as last amended by Regulation (EEC) No 2048/88 <sup>(3)</sup>.

The Committees referred to in Articles 27 and 28 shall be informed of the Committee's opinions.

The Committee shall draw up its rules of procedure.

### Article 30

#### Other provisions

1. The Commission shall periodically refer to the Committees provided for in Articles 27, 28 and 29 the reports referred to in Article 16 of Regulation (EEC) No 2052/88. It may seek the opinion of those Committees on any matter relating to assistance operations under the Funds, other than those provided for in this Title, notably in connection with its power of initiative referred to in Article 5 (5) of Regulation (EEC) No 2052/88.

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

2. Decision 75/185/EEC <sup>(4)</sup> and Decision 83/517/EEC <sup>(5)</sup> shall be repealed and, as regards the EAGGF, Guidance Section, the provisions of Articles 11 to 15 of Regulation (EEC) No 729/70 concerning the EAGGF Committee shall no longer apply.

## TITLE IX

### REPORTS AND PUBLICITY

#### Article 31

##### Reports

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

- the efforts deployed under all the Funds, the EIB and the other existing financial instruments in support of the priority objectives referred to in Article 1 of the aforementioned Regulation,
  - the activities of each Fund, the utilization of their budgetary resources and the concentration of assistance within the meaning of Article 12 of Regulation (EEC) No 2052/88, the deployment of the other financial instruments for which the Commission has responsibility and where their resources have been concentrated,
  - the coordination of assistance provided by the Funds between themselves and with the assistance granted by the EIB and the other existing financial instruments,
  - the results of the assessment referred to in Article 26,
  - the results of analysis of the impact of Community assistance and policies as compared with the objectives listed in Article 1 of Regulation (EEC) No 2052/88 and in particular their impact on the socio-economic development of the regions.
2. Each year, the Commission shall consult the social partners organized at European level on the structural policy of the Community.
3. In the annual report of the year preceding completion of the internal market, the Commission shall consider the extent to which the Community has become cohesive and the impact of the implementation of Community policies.

#### Article 32

##### Information and publicity

1. The body responsible for implementing an operation carried out with financial assistance from the Community shall ensure that adequate publicity is given to the operation with a view to:
- making potential beneficiaries and trade organizations aware of the opportunities afforded by the operation,
  - making the general public aware of the role played by the Community in relation to the operation.

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

## TITLE X

### FINAL PROVISIONS

#### Article 33

##### Transitional provisions

1. In accordance with Article 15 (3) of Regulation (EEC) No 2052/88, applications in respect of multiannual

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

<sup>(2)</sup> OJ No L 94, 28. 4. 1970, p. 13.

<sup>(3)</sup> OJ No L 185, 15. 7. 1988, p. 1.

<sup>(4)</sup> OJ No L 73, 21. 3. 1975, p. 47.

<sup>(5)</sup> OJ No L 289, 22. 10. 1983, p. 42.

operations received after adoption of that Regulation but before the entry into force of the implementing decisions referred to in Article 130e of the Treaty must be in keeping with the objectives set out in Article 1 of that Regulation and involve one of the forms of assistance provided for in Article 5 of that Regulation.

2. In drawing up Community support frameworks, the Commission shall take account of any multiannual operation already approved by the Council or by the Commission before the entry into force of the implementing decisions referred to in Article 130e of the Treaty and having financial repercussions during the period covered by those support frameworks.

3. The Commission may propose that the Member State concerned apply the provisions set out in the Funds' rules which enter into force on 1 January 1989 to operations decided on before that date.

4. In order to guarantee continuity of the activities of the Funds in the period between 1 January and 1 October

1989, approval by the Commission of any new applications submitted during that period shall not be subject to compliance with Article 15. Such operations shall be indicated in the subsequent decision on the relevant Community support framework.

5. In accordance with Article 15 (4) of Regulation (EEC) No 2052/88, any applications in respect of non-multiannual operations submitted before entry into force of this Regulation may be approved after that date on the basis of the rules in force at the time of submission of such applications.

#### *Article 34*

#### **Entry into force**

This Regulation shall enter into force 1 January 1989.

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

Done at Brussels, 19 December 1988.

*For the Council*

*The President*

Th. PANGALOS

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