

Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (repealed)

## TITLE I

### OBJECTIVES AND GENERAL RULES ON ASSISTANCE

#### CHAPTER I

##### Scope and definitions

###### *Article 1*

###### **Subject matter**

This Regulation lays down the general rules governing the European Regional Development Fund (ERDF), the European Social Fund (ESF) (hereinafter referred to as the Structural Funds) and the Cohesion Fund, without prejudice of the specific provisions laid down in Regulations (EC) No 1080/2006, (EC) No 1081/2006 and (EC) No 1084/2006.

This Regulation defines the objectives to which the Structural Funds and the Cohesion Fund (hereinafter referred to as the Funds) are to contribute, the criteria for Member States and regions to be eligible under those Funds, the financial resources available and the criteria for their allocation.

This Regulation defines the context for cohesion policy, including the method for establishing the Community strategic guidelines on cohesion, the national strategic reference framework and the process for examination at Community level.

To this end, this Regulation lays down the principles and rules on partnership, programming, evaluation, management, including financial management, monitoring and control on the basis of responsibilities shared between the Member States and the Commission.

###### *Article 2*

###### **Definitions**

For the purposes of this Regulation, the following terms shall have the meanings assigned to them here:

- (1) ‘operational programme’: document submitted by a Member State and adopted by the Commission setting out a development strategy with a coherent set of priorities to be carried out with the aid of a Fund, or, in the case of the Convergence objective, with the aid of the Cohesion Fund and the ERDF;

- (2) ‘priority axis’: one of the priorities of the strategy in an operational programme comprising a group of operations which are related and have specific measurable goals;
- (3) ‘operation’: a project or group of projects selected by the managing authority of the operational programme concerned or under its responsibility according to criteria laid down by the monitoring committee and implemented by one or more beneficiaries allowing achievement of the goals of the priority axis to which it relates;
- (4) ‘beneficiary’: an operator, body or firm, whether public or private, responsible for initiating or initiating and implementing operations. In the context of aid schemes under Article 87 of the Treaty, beneficiaries are public or private firms carrying out an individual project and receiving public aid;
- (5) ‘public expenditure’: any public contribution to the financing of operations whose origin is the budget of the State, of regional and local authorities, of the European Communities related to the Structural Funds and the Cohesion Fund and any similar expenditure. Any contribution to the financing of operations whose origin is the budget of public law bodies or associations of one or more regional or local authorities or public law bodies acting in accordance with Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts<sup>(1)</sup> shall be regarded as similar expenditure;
- (6) ‘intermediate body’: any public or private body or service which acts under the responsibility of a managing or certifying authority, or which carries out duties on behalf of such an authority vis-à-vis beneficiaries implementing operations;
- (7) ‘irregularity’: any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget.

## CHAPTER II

### Objectives and missions

#### *Article 3*

#### **Objectives**

1 The action taken by the Community under Article 158 of the Treaty shall be designed to strengthen the economic and social cohesion of the enlarged European Union in order to promote the harmonious, balanced and sustainable development of the Community. This action shall be taken with the aid of the Funds, the European Investment Bank (EIB) and other existing financial instruments. It shall be aimed at reducing the economic, social and territorial disparities which have arisen particularly in countries and regions whose development is lagging behind and in connection with economic and social restructuring and the ageing of the population.

The action taken under the Funds shall incorporate, at national and regional level, the Community's priorities in favour of sustainable development by strengthening growth, competitiveness, employment and social inclusion and by protecting and improving the quality of the environment.

2 To that end, the ERDF, the ESF, the Cohesion Fund, the EIB and the other existing Community financial instruments shall each contribute in an appropriate way towards achieving the following three objectives:

- a the Convergence objective, which shall be aimed at speeding up the convergence of the least-developed Member States and regions by improving conditions for growth and employment through the increasing and improvement of the quality of investment in physical and human capital, the development of innovation and of the knowledge society, adaptability to economic and social changes, the protection and improvement of the environment, and administrative efficiency. This objective shall constitute the priority of the Funds;
- b the Regional competitiveness and employment objective, which shall, outside the least-developed regions, be aimed at strengthening regions' competitiveness and attractiveness as well as employment by anticipating economic and social changes, including those linked to the opening of trade, through the increasing and improvement of the quality of investment in human capital, innovation and the promotion of the knowledge society, entrepreneurship, the protection and improvement of the environment, and the improvement of accessibility, adaptability of workers and businesses as well as the development of inclusive job markets; and
- c the European territorial cooperation objective, which shall be aimed at strengthening cross-border cooperation through joint local and regional initiatives, strengthening transnational cooperation by means of actions conducive to integrated territorial development linked to the Community priorities, and strengthening interregional cooperation and exchange of experience at the appropriate territorial level.

3 Under the three objectives referred to in paragraph 2, assistance from the Funds shall, according to their nature, take into account specific economic and social features, on the one hand, and specific territorial features, on the other. The assistance shall, in an appropriate manner, support sustainable urban development particularly as part of regional development and the renewal of rural areas and of areas dependent on fisheries through economic diversification. The assistance shall also support areas affected by geographical or natural handicaps which aggravate the problems of development, particularly in the outermost regions as referred to in Article 299(2) of the Treaty as well as the northern areas with very low population density, certain islands and island Member States, and mountainous areas.

#### *Article 4*

### **Instruments and missions**

1 The Funds shall contribute, each in accordance with the specific provisions governing it, towards achieving the three objectives referred to in Article 3(2) as follows:

- a the Convergence objective: the ERDF, the ESF and the Cohesion Fund;
- b the Regional competitiveness and employment objective: the ERDF and the ESF; and
- c the European territorial cooperation objective: the ERDF.

2 The Cohesion Fund shall also intervene in those regions not eligible for support from the Convergence objective under the criteria set out in Article 5(1) which belong to:

- a a Member State eligible for support from the Cohesion Fund under the criteria set out in Article 5(2); and
- b a Member State eligible for support from the Cohesion Fund under the criteria set out in Article 8(3).

3 The Funds shall contribute towards the financing of technical assistance on the initiative of the Member States and the Commission.

## CHAPTER III

### **Geographical eligibility**

#### *Article 5*

#### **Convergence**

1 The regions eligible for funding from the Structural Funds under the Convergence objective shall be regions corresponding to level 2 of the common classification of territorial units for statistics (hereinafter NUTS level 2) within the meaning of Regulation (EC) No 1059/2003 whose gross domestic product (GDP) per capita, measured in purchasing power parities and calculated on the basis of Community figures for the period 2000 to 2002, is less than 75 % of the average GDP of the EU-25 for the same reference period.

2 The Member States eligible for funding from the Cohesion Fund shall be those whose gross national income (GNI) per capita, measured in purchasing power parities and calculated on the basis of Community figures for the period 2001 to 2003, is less than 90 % of the average GNI of the EU-25 and which have a programme for meeting the economic convergence conditions referred to in Article 104 of the Treaty.

3 Immediately following the entry into force of this Regulation, the Commission shall adopt the list of regions fulfilling the criteria under paragraph 1 and of Member States fulfilling the criteria under paragraph 2. This list shall be valid from 1 January 2007 to 31 December 2013.

The eligibility of Member States for the Cohesion Fund shall be reviewed in 2010 on the basis of Community GNI figures for the EU-25.

#### *Article 6*

### **Regional competitiveness and employment**

The regions eligible for funding from the Structural Funds under the Regional competitiveness and employment objective shall be those not covered by Article 5(1) and Article 8(1) and (2).

When presenting the national strategic reference framework referred to in Article 27, each Member State concerned shall indicate the NUTS level 1 or NUTS level 2 regions for which it will present a programme for financing by the ERDF.

#### *Article 7*

### **European Territorial Cooperation**

1 For the purpose of cross-border cooperation, the NUTS level 3 regions of the Community along all internal and certain external land borders and all NUTS level 3 regions of the Community along maritime borders separated, as a general rule, by a maximum of 150 kilometres shall be eligible for financing taking into account potential adjustments needed to ensure the coherence and continuity of the cooperation action.

Immediately following the entry into force of this Regulation, the Commission shall adopt, in accordance with the procedure referred to in Article 103(2), the list of the eligible regions. This list shall be valid from 1 January 2007 to 31 December 2013.

2 For the purpose of transnational cooperation, the Commission, in accordance with the procedure referred to in Article 103(2), shall adopt the list of the eligible transnational areas broken down by programme. This list shall be valid from 1 January 2007 to 31 December 2013.

3 For the purpose of interregional cooperation, cooperation networks and exchange of experience, the entire territory of the Community shall be eligible.

### *Article 8*

#### **Transitional support**

1 The NUTS level 2 regions which would have been eligible for Convergence objective status under Article 5(1) had the eligibility threshold remained at 75 % of the average GDP of the EU-15, but which lose eligibility because their nominal GDP per capita level will exceed 75 % of the average GDP of the EU-25, measured and calculated according to Article 5(1), shall be eligible, on a transitional and specific basis, for financing by the Structural Funds under the Convergence objective.

2 The NUTS level 2 regions totally covered by Objective 1 in 2006 under Article 3 of Regulation (EC) No 1260/1999 whose nominal GDP level per capita, measured and calculated according to Article 5(1), will exceed 75 % of the average GDP of the EU15 shall be eligible, on a transitional and specific basis, for financing by the Structural Funds under the Regional competitiveness and employment objective.

Recognising that, on the basis of revised figures for the period 1997 to 1999, Cyprus should have been eligible for Objective 1 in 2004 to 2006, Cyprus shall benefit in 2007 to 2013 from the transitional financing applicable to the regions referred to in the first subparagraph.

3 The Member States eligible for funding from the Cohesion Fund in 2006 which would have continued to be eligible had the eligibility threshold remained at 90 % of the average GNI of the EU-15, but which lose eligibility because their nominal per capita GNI will exceed 90 % of the average GNI of the EU-25 measured and calculated according to Article 5(2), shall be eligible, on a transitional and specific basis, for financing by the Cohesion Fund under the Convergence objective.

4 Immediately following the entry into force of this Regulation, the Commission shall adopt the list of regions fulfilling the criteria under paragraphs 1 and 2 and of Member States fulfilling the criteria under paragraph 3. This list shall be valid from 1 January 2007 to 31 December 2013.

## CHAPTER IV

### Principles of assistance

#### *Article 9*

#### **Complementarity, consistency, coordination and compliance**

1 The Funds shall provide assistance which complements national actions, including actions at the regional and local levels, integrating into them the priorities of the Community.

2 The Commission and the Member States shall ensure that assistance from the Funds is consistent with the activities, policies and priorities of the Community and complementary to other financial instruments of the Community. This consistency and complementarity shall be indicated in particular in Community strategic guidelines on cohesion, in the national strategic reference framework and in the operational programmes.

3 The assistance co-financed by the Funds shall target the European Union priorities of promoting competitiveness and creating jobs, including meeting the objectives of the Integrated Guidelines for Growth and Jobs (2005 to 2008) as set out by Council Decision 2005/600/EC of 12 July 2005<sup>(2)</sup>. To this end, in accordance with their respective responsibilities, the Commission and the Member States shall ensure that 60 % of expenditure for the Convergence objective and 75 % of expenditure for the Regional competitiveness and employment objective for all the Member States of the European Union as constituted before 1 May 2004 is set for the abovementioned priorities. These targets, based on the categories of expenditure in Annex IV, shall apply as an average over the entire programming period.

With a view to ensuring that specific national circumstances, including the priorities identified in the national reform programme of each Member State concerned, are taken into account, the Commission and that Member State may decide to complement in an appropriate manner the list of categories of Annex IV.

Each Member State concerned shall contribute to these targets.

At their own initiative, Member States that acceded to the European Union on or after 1 May 2004 may decide to apply these provisions.

4 In accordance with their respective responsibilities, the Commission and the Member States shall ensure the coordination between the assistance from the Funds, the EAFRD, the EFF and the interventions of the EIB and of other existing financial instruments.

5 Operations financed by the Funds shall comply with the provisions of the Treaty and of acts adopted under it.

#### *Article 10*

#### **Programming**

The objectives of the Funds shall be pursued in the framework of a multiannual programming system organised in several stages comprising the identification of the priorities, the financing, and a system of management and control.

## *Article 11*

### **Partnership**

1 The objectives of the Funds shall be pursued in the framework of close cooperation, (hereinafter referred to as partnership), between the Commission and each Member State. Each Member State shall organise, where appropriate and in accordance with current national rules and practices, a partnership with authorities and bodies such as:

- a the competent regional, local, urban and other public authorities;
- b the economic and social partners;
- c any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women.

Each Member State shall designate the most representative partners at national, regional and local level and in the economic, social, environmental or other spheres (hereinafter referred to as partners), in accordance with national rules and practices, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements.

2 The partnership shall be conducted in full compliance with the respective institutional, legal and financial powers of each partner category as defined in paragraph 1.

The partnership shall cover the preparation, implementation, monitoring and evaluation of operational programmes. Member States shall involve, where appropriate, each of the relevant partners, and particularly the regions, in the different stages of programming within the time limit set for each stage.

3 Each year the Commission shall consult the organisations representing the economic and social partners at European level on assistance from the Funds.

## *Article 12*

### **Territorial level of implementation**

Implementation of operational programmes referred to in Article 32 shall be the responsibility of Member States at the appropriate territorial level, in accordance with the institutional system specific to each Member State. That responsibility shall be exercised in accordance with this Regulation.

## *Article 13*

### **Proportional intervention**

1 The financial and administrative resources employed by the Commission and Member States in the implementation of the Funds in relation to:

- a the choice of indicators provided for in Article 37(1)(c);
- b the evaluation under Articles 47 and 48;
- c the general principles of management and control systems referred to in Article 58(e) and (f);
- d the reporting as referred to in Article 67,

shall be proportional to the total amount of expenditure allocated to an operational programme.

2 In addition, specific provisions relating to proportionality in relation to controls are set out in Article 74 of this Regulation.

#### *Article 14*

### **Shared management**

1 The budget of the European Union allocated to the Funds shall be implemented within the framework of shared management between the Member States and the Commission, in accordance with Article 53(1)(b) of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>(9)</sup>, with the exception of the technical assistance referred to in Article 45 of this Regulation.

The principle of sound financial management shall be applied in accordance with Article 48(2) of Regulation (EC, Euratom) No 1605/2002.

2 The Commission shall exercise its responsibility for implementing the general budget of the European Union in the following ways:

- a the Commission shall check the existence and proper functioning of management and control systems in the Member States in accordance with the procedures described in Articles 71, 72 and 73;
- b the Commission shall interrupt the payment deadline or suspend all or part of payments in accordance with Articles 91 and 92 if the national management and control systems fail, and shall apply any other financial correction required, in accordance with the procedures described in Articles 100 and 101;
- c the Commission shall check reimbursements of payments on account and automatically decommit budget commitments in accordance with the procedures laid down in Article 82(2) and Articles 93 to 97.

#### *Article 15*

### **Additionality**

1 Contributions from the Structural Funds shall not replace public or equivalent structural expenditure by a Member State.

2 For regions covered by the Convergence objective, the Commission and the Member State shall determine the level of public or equivalent structural expenditure which the Member State shall maintain in all the regions concerned during the programming period.

The level of expenditure by a Member State shall be one of the items covered by the decision of the Commission on the national strategic reference framework referred to in Article 28(3). The methodological paper of the Commission, adopted in accordance with the procedure referred to in Article 103(3), shall provide guidance.

3 As a general rule, the level of the expenditure referred to in paragraph 2 shall be at least equal to the amount of average annual expenditure in real terms attained during the previous programming period.



Furthermore, the level of expenditure shall be determined with reference to the general macroeconomic conditions in which the financing is carried out and taking into account certain specific or exceptional economic situations, such as privatisations as well as an exceptional level of public or equivalent structural expenditure by the Member State during the previous programming period.

4 The Commission shall, in cooperation with each Member State, verify additionality mid-term in 2011 for the Convergence objective. As part of this mid-term verification, the Commission, in consultation with the Member State, may decide to modify the required level of structural expenditure if the economic situation in the Member State concerned has significantly changed from the one existing at the moment of the determination of the level of public or equivalent structural expenditure referred to in paragraph 2. The decision of the Commission referred to in Article 28(3) shall be amended to reflect this adjustment.

The Commission shall, in cooperation with each Member State, verify additionality *ex post* on 31 December 2016 for the Convergence objective.

The Member State shall transmit to the Commission the information required to enable the verification of compliance with the level of public or equivalent structural expenditure determined *ex ante*. Where necessary, methods of statistical estimation should be used.

The Commission shall publish the results by Member State of the verification of the additionality, including the methodology and sources of information, after the conclusion of each of the three stages of verification.

#### *Article 16*

### **Equality between men and women and non-discrimination**

The Member States and the Commission shall ensure that equality between men and women and the integration of the gender perspective is promoted during the various stages of implementation of the Funds.

The Member States and the Commission shall take appropriate steps to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the Funds and, in particular, in the access to them. In particular, accessibility for disabled persons shall be one of the criteria to be observed in defining operations co-financed by the Funds and to be taken into account during the various stages of implementation.

#### *Article 17*

### **Sustainable development**

The objectives of the Funds shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment as set out in Article 6 of the Treaty.

## CHAPTER V

### Financial framework

#### Article 18

##### Global resources

1 The resources available for commitment from the Funds for the period 2007 to 2013 shall be EUR 308 041 000 000 at 2004 prices in accordance with the annual breakdown shown in Annex I.

For the purpose of programming and subsequent inclusion in the general budget of the European Union, the amount referred to in the first subparagraph shall be indexed at 2 % per year.

The breakdown of budgetary resources by the objectives defined in Article 3(2) shall be such as to achieve a significant concentration on the regions of the Convergence objective.

2 The Commission shall make indicative annual breakdowns by Member States in accordance with the criteria and methodology set out in Annex II without prejudice to the provisions referred to in Articles 23 and 24.

3 The amounts referred to in paragraphs 12 to 30 of Annex II shall be included in the amounts referred to in Articles 19, 20 and 21 and shall be clearly identified in the programming documents.

#### Article 19

##### Resources for the Convergence objective

Overall resources for the Convergence objective shall amount to 81,54 % of the resources referred to in Article 18(1) (i.e. a total of EUR 251 163 134 221) and shall be distributed between the different components as follows:

- (a) 70,51 % (i.e. a total of EUR 177 083 601 004) for the financing referred to in Article 5(1), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State;
- (b) 4,99 % (i.e. a total of EUR 12 521 289 405) for the transitional and specific support referred to in Article 8(1), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State;
- (c) 23,22 % (i.e. a total of EUR 58 308 243 811) for the financing referred to in Article 5(2), using population, national prosperity, and surface area as the criteria for calculating the indicative breakdowns by Member State;
- (d) 1,29 % (i.e. a total of EUR 3 250 000 000) for the transitional and specific support referred to in Article 8(3).

## Article 20

### **Resources for the Regional competitiveness and employment objective**

Overall resources for the Regional competitiveness and employment objective shall amount to 15,95 % of the resources referred to in Article 18(1) (i.e. a total of EUR 49 127 784 318) and shall be distributed between the different components as follows:

- (a) 78,86 % (i.e. a total of EUR 38 742 477 688) for the financing referred to in Article 6, using eligible population, regional prosperity, unemployment rate, employment rate and population density as the criteria for calculating the indicative breakdowns by Member State; and
- (b) 21,14 % (i.e. a total of EUR 10 385 306 630) for the transitional and specific support referred to in Article 8(2), using eligible population, regional prosperity, national prosperity and unemployment rate as the criteria for calculating the indicative breakdowns by Member State.

## Article 21

### **Resources for the European territorial cooperation objective**

1 Overall resources for the European territorial cooperation objective shall amount to 2,52 % of the resources referred to in Article 18(1) (i.e. a total of EUR 7 750 081 461) and, excluding the amount referred to in paragraph 22 of Annex II, shall be distributed between the different components as follows:

- a 73,86 % (i.e. a total of EUR 5 576 358 149) for the financing of cross-border cooperation referred to in Article 7(1), using eligible population as the criterion for calculating the indicative breakdowns by Member State;
- b 20,95 % (i.e. a total of EUR 1 581 720 322) for the financing of transnational cooperation referred to in Article 7(2), using eligible population as the criterion for calculating the indicative breakdowns by Member State;
- c 5,19 % (i.e. a total of EUR 392 002 991) for the financing of interregional cooperation, cooperation networks and exchange of experience referred to in Article 7(3).

2 The contribution from the ERDF to the cross-border and sea-basin programmes under the European Neighbourhood and Partnership Instrument and to the cross-border programmes under the Instrument for Pre-Accession Assistance pursuant to Regulation (EC) No 1085/2006 shall be EUR 813 966 000, as a result of the indication of each Member State concerned, deducted from their allocations under paragraph 1(a). These ERDF contributions shall not be subject to reallocation between the Member States concerned.

3 The contribution from the ERDF to each cross-border and sea-basin programme under the instruments referred to in paragraph 2 shall be granted provided that the contribution from such instruments to each such programme is at least equivalent to the contribution from the ERDF. However, this equivalence shall be subject to a maximum amount of EUR 465 690 000 under the European Neighbourhood and Partnership Instrument and of EUR 243 782 000 under the Instrument for Pre-Accession Assistance.

4 The annual appropriations corresponding to the contribution from the ERDF mentioned in paragraph 2 shall be entered in the relevant budget lines of the cross-border strand of the instruments referred to in paragraph 2 with the 2007 budgetary exercise.

5 In 2008 and in 2009, the annual contribution from the ERDF mentioned in paragraph 2 for which no operational programme has been submitted to the Commission by 30 June at the latest under the cross-border and sea-basin strands of the instruments referred to in paragraph 2 shall then be made available to the Member State concerned for the financing of cross-border cooperation under paragraph 1(a), including cooperation on external borders.

If by 30 June 2010 at the latest, there are still operational programmes under the cross-border and sea-basin strands of the instruments referred to in paragraph 2 which have not been submitted to the Commission, the entire contribution from the ERDF mentioned in paragraph 2 for the remaining years up to 2013 shall then be made available to the Member States concerned for financing cross-border cooperation under paragraph 1(a), including cooperation on external borders.

6 If, following the adoption by the Commission of the cross-border and sea basin programmes mentioned in paragraph 2, such programmes need to be discontinued on the grounds that:

- a the partner country does not sign the financing agreement by the end of the year following the adoption of the programme; or
- b the programme cannot be implemented owing to problems arising in relations between the participating countries,

the contribution from the ERDF mentioned in paragraph 2 corresponding to the annual instalments not yet committed shall be made available to the Member States concerned, at their request, for the financing of cross-border cooperation under paragraph 1(a), including cooperation on external borders.

#### *Article 22*

##### **Non transferability of resources**

The total appropriations allocated by Member State under each of the objectives of the Funds and their components shall not be transferable between them.

By way of derogation from the first subparagraph, each Member State under the European territorial cooperation objective may transfer up to 15 % of the financial allocation of one of the components referred to in Article 21(1)(a) and (b) to the other.

#### *Article 23*

##### **Resources for the performance reserve**

Three per cent of the resources referred to in Article 19(a) and (b) and Article 20 may be allocated in accordance with Article 50.

#### *Article 24*

##### **Resources for technical assistance**

Of the resources referred to in Article 18(1), 0,25 % shall be devoted to technical assistance for the Commission as defined in Article 45.

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**Status:** This is the original version (as it was originally adopted).

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- (1) OJ L 134, 30.04.2004, p. 114.
- (2) OJ L 205, 6.8.2005, p. 21.
- (3) OJ L 248, 16.9.2002, p. 1.