

Commission Regulation (EC) No 718/2007 of 12 June
2007 implementing Council Regulation (EC) No 1085/2006
establishing an instrument for pre-accession assistance (IPA)

PART II

SPECIFIC PROVISIONS

TITLE I

TRANSITION ASSISTANCE AND INSTITUTION BUILDING COMPONENT

CHAPTER III

Implementation

Section 1

Framework for implementation and principles

Article 73

General principles

1 Assistance under this component shall be granted through centralised, decentralised or joint management, in accordance with Articles 53 of Regulation (EC, Euratom) No 1605/2002.

2 The objective shall be decentralised management where national programmes are concerned.

[^{F13} Regional and horizontal programmes shall be implemented by the Commission on a centralised basis or by joint management with international organisations as defined by Article 53d of Regulation (EC, Euratom) No 1605/2002.]

Textual Amendments

F1 Substituted by [Commission Regulation \(EU\) No 80/2010 of 28 January 2010 amending Regulation \(EC\) No 718/2007 implementing Council Regulation \(EC\) No 1085/2006 establishing an instrument for pre-accession assistance \(IPA\)](#).

Article 74

Structure and authorities in the event of centralised and joint management

In the event of centralised or joint management, the national IPA coordinator shall be the sole contact person of the Commission, in accordance with Article 32.

*Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 718/2007, CHAPTER III. (See end of Document for details)*

Article 75

Structure and authorities in the event of decentralised management

1 Where, in the event of decentralised management, in accordance with Article 22(2)(b), the national IPA coordinator exercises his responsibility for the programming of this component at national level, he shall carry out the following tasks:

- [^{F1}a organise the preparation of the proposals as referred to in Article 69,]
- b elaborate and present to the Commission the project fiches referred to in Article 69,
- c monitor the technical execution of the national programmes.

2 [^{F1}With reference to Article 28, the operating structure shall include one or more implementing agencies, which shall be established within the national administration of the beneficiary country or under its direct control.]

The national authorising officer shall, after consulting the national IPA coordinator, designate programme authorising officers to head the implementing agencies.

The programme authorising officers shall be officials within the state administration of the beneficiary country. They shall be responsible for the activities carried out by the implementing agencies in accordance with Article 28.

3 Programme authorising officers shall designate officials within the national administration as senior programme officers. Under the overall responsibility of the programme authorising officer concerned, senior programme officers shall carry out the following tasks:

- a be responsible for the technical aspect of the operations within line ministries,
- b assist the programme authorising officers in the good and timely preparation and implementation of operations at technical level,
- c be in charge of the coordination within each priority axis set down in the beneficiary country's project proposal.

Textual Amendments

- F1** Substituted by [Commission Regulation \(EU\) No 80/2010 of 28 January 2010 amending Regulation \(EC\) No 718/2007 implementing Council Regulation \(EC\) No 1085/2006 establishing an instrument for pre-accession assistance \(IPA\)](#).

Article 76

Accreditation of the operating structure and conferral of management powers

1 Where Community funds have been managed by existing national bodies in the beneficiary countries under Regulation (EEC) No 3906/89 or Regulation (EC) No 2500/2001 prior to the date of entry into force of this Regulation, those bodies (hereinafter referred to as the 'existing national bodies') shall manage funds under the transition assistance and institution building component, until the Commission adopts a Decision on conferral of management powers.

2 In no case the existing national bodies can manage funds under the transition assistance and institution building component without a conferral of management powers under this Regulation for more than one year from the entry into force of this Regulation.

Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 718/2007, CHAPTER III. (See end of Document for details)

3 The Commission shall decide whether to confer management powers on the existing national bodies in particular having regard to the list of deviations submitted in accordance with paragraph 4 and the decision taken by the national authorising officer in accordance with paragraph 5.

4 The national authorising officer shall carry out an assessment of the operating structure, which include the existing national bodies, with regard to the requirements referred to in Article 11. In particular, he shall establish a list of any requirements under this Regulation, as set out in Article 11, which the operating structure does not comply with, based on an opinion of an external auditor functionally independent from all actors in the management and control system.

The list of deviations shall be sent to the Commission at the latest four months after the entry into force of this Regulation.

5 Where the non-compliance referred to in paragraph 4 is deemed to be compatible with the efficient and effective functioning of the operating structures, the national authorising officer may decide to accredit the bodies concerned under this Regulation.

At the latest five months after the entry into force of this Regulation, he shall send to the Commission a decision relating to the accreditation of the bodies concerned. This decision shall include a roadmap, with time bound objectives, laying down the steps to be taken to remedy the non-compliance as set out in the list referred to in paragraph 4. The roadmap shall be agreed with the Commission.

6 Where the non-compliance referred to in paragraph 4 is not deemed to be compatible with the efficient and effective functioning of an operating structure, the national authorising officer shall proceed to establish an accreditation for the operating structure concerned, in accordance with the provisions of Article 13.

7 In the event the Commission decides to confer management powers on the existing national bodies under this Regulation, the Commission Decision may lay down further conditions on the national authorities. In the event of further conditions, the Commission shall set a time limit for compliance by the national authorities for the conferral of management powers to remain effective. The Commission Decision shall also lay down the list of *ex ante* controls as referred to in Articles 14(3).

8 Irrespective of the national authorising officer's decision, the Commission may decide to maintain, suspend, or withdraw the conferral of management powers on any of the bodies concerned at any time.

9 At all stages, the national authorising officer shall ensure that all the information required by the Commission is provided by the beneficiary country.

Article 77

Implementation principles in the event of twinning projects

1 Twinning projects shall be set up in the form of a grant, whereby the selected Member State administrations agree to provide the requested public sector expertise against the reimbursement of the expenses thus incurred.

The grant may in particular provide for the long term secondment of an official assigned to provide full time counsel to the administration of the beneficiary country as resident twinning advisor.

Changes to legislation: There are currently no known outstanding effects for the
 Commission Regulation (EC) No 718/2007, CHAPTER III. (See end of Document for details)

The twinning grant shall be established in accordance with relevant provisions of Part One, Title VI on grants of Regulation (EC, Euratom) No 1605/2002 and Commission Regulation (EC, Euratom) No 2342/2002.

2 A twinning manual including notably a system of fixed rates and prices for the reimbursement of the provided public sector expertise by the selected Member State administrations shall be established by the Commission and updated regularly.

[^{F1}Article 78

**Implementation principles in the event of
 participation in Community programmes and agencies**

In the case of participation in Community programmes and agencies, implementation shall consist in the payment, to the programme and agency budget, of the part of the financial contribution of the beneficiary country which is financed under IPA. The payment shall be made by the national fund in the case of decentralised management and by ministries or other public bodies concerned in the beneficiary countries in the case of centralised management. In the latter case, there will be no pre-financing payments of the Community contribution by the Commission.]

Textual Amendments

- F1** Substituted by [Commission Regulation \(EU\) No 80/2010 of 28 January 2010 amending Regulation \(EC\) No 718/2007 implementing Council Regulation \(EC\) No 1085/2006 establishing an instrument for pre-accession assistance \(IPA\)](#).

Section 2

Financial management

Article 79

Payments under decentralised management

1 By way of derogation from Article 40(6), when the ceiling of 95 % is reached, the national authorising officer shall only submit a new certified statement of expenditure and information about the amounts recovered when he requests the payment of the final balance.

2 Pre-financing shall in principle represent 50 % of the Community contribution to the programme concerned. It may be paid in yearly instalments. The rate of 50 % may be raised if the national authorising officer demonstrates that the resulting amount will not cover the pre-financing of the contracts and grants signed at national level.

3 The amount to be pre-financed shall be calculated as the sum of the estimate of the amount to be contracted by year, and the actual amount for which contractual obligations have been entered into in the previous years. With the exception of that concerning participation in Community programmes and agencies, pre-financing shall only be paid once the first call for tender or call for proposals is launched.

Changes to legislation: There are currently no known outstanding effects for the
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4 The payments for the participation in Community programmes and agencies may amount to 100 % of the Community contribution relating to this participation.

Article 80

Retention of documents

By way of derogation from Article 48, written records of the entire procurement, grant award and contracting procedure under this component shall be retained by the operating structure for a period of at least seven years from the payment of the balance of the contract.

Article 81

Property of interest

By way of derogation from Article 36, interest generated by the financing by the Community of a programme shall be declared to the Commission whenever a payment application is submitted to the Commission.

Section 3

Evaluation and monitoring

[^{F1}Article 82

Evaluation

1 Programmes under the transition assistance and institution building component shall be subject to *ex-ante* as well as interim and/or *ex-post* evaluation, in accordance with Article 57.

2 Prior to the conferral of management powers on the beneficiary country, all evaluations shall be carried out by the Commission.

After the conferral of management powers, the beneficiary country shall be responsible for carrying out interim evaluation, as appropriate, without prejudice to the Commission's rights to perform any ad-hoc evaluations it deems necessary.

Responsibility for *ex-ante* and *ex-post* evaluations shall remain with the Commission even after the conferral of management powers, without prejudice to the beneficiary country's right to carry out any such evaluations as it deems necessary.

3 In line with Article 22 of the IPA Regulation, the relevant evaluation reports shall be sent to the IPA Committee for discussion.]

Textual Amendments

- F1** Substituted by [Commission Regulation \(EU\) No 80/2010 of 28 January 2010 amending Regulation \(EC\) No 718/2007 implementing Council Regulation \(EC\) No 1085/2006 establishing an instrument for pre-accession assistance \(IPA\)](#).

*Changes to legislation: There are currently no known outstanding effects for the
Commission Regulation (EC) No 718/2007, CHAPTER III. (See end of Document for details)*

Article 83

Monitoring

1 In the event of decentralised management, in accordance with Article 59, the national IPA coordinator shall establish a sectoral monitoring committee for the transition assistance and institution building component, hereinafter referred to as the ‘TAIB committee’.

2 The TAIB committee shall meet at least twice a year, at the initiative of the beneficiary country or the Commission. It shall draw up its rules of procedure, in compliance with a sectoral monitoring committee mandate set out by the Commission, and within the institutional, legal and financial framework of the beneficiary country concerned. It shall adopt these rules of procedure in agreement with the national IPA coordinator, the national authorising officer and the IPA monitoring committee.

3 The TAIB committee shall be chaired by the national IPA coordinator. Its members shall include the national authorising officer, the programme authorising officers and, where appropriate, other representatives of the operating structure, representatives of the Commission, as well as, where appropriate, representatives of international financial institutions and civil society, designated by the beneficiary country in agreement with the Commission.

4 In accordance with Article 59(2), the TAIB committee shall satisfy itself as to the effectiveness and quality of the programmes and operations concerned by, in particular:

- a reviewing implementation status reports detailing financial and operational progress of the programmes;
- b reviewing the achievement of objectives and results of the programmes;
- c reviewing procurement plans as well as relevant evaluation recommendations;
- d discussing problematic issues and operations;
- e proposing corrective actions as appropriate;
- f reviewing the cases of fraud and irregularities and present the measures taken to recover the funds and to avoid the recurrence of similar cases;
- g reviewing the annual audit work plan prepared by the audit authority and the findings and recommendations of the audits carried out.

5 The TAIB committee shall monitor all ongoing programmes under this component. In the case of, inter alia, investment operations, transfer of assets or privatisations, the beneficiary country shall monitor the programmes until their closure and shall notify the TAIB committee of any changes to the results of these programmes that significantly affect their impact, sustainability and ownership.

6 The TAIB committee may be assisted by sectoral monitoring sub-committees, set up by the beneficiary country to monitor programmes and operations of this component, grouped by monitoring sectors. Sub-committees shall report to the TAIB committee. They shall draw up and adopt their internal rules of procedure, in compliance with a mandate to be set out by the Commission.

Article 84

Sectoral annual and final reports on implementation

1 In the event of decentralised management, the operating structure shall send the Commission, the national IPA coordinator and the national authorising officer a sectoral annual report by 30 June each year.

2 A sectoral final report shall be submitted to the Commission, the national IPA coordinator and the national authorising officer at the latest 6 months after the closure of the programme. The sectoral final report shall cover the whole period of implementation and include the last sectoral annual report.

3 The sectoral reports shall be examined by the TAIB committee prior to their transmission to the Commission, the national IPA coordinator and the national authorising officer.

4 The sectoral reports shall include the following information:

- a quantitative and qualitative elements about the progress made in implementing the programme, priority axes or operations, in relation to specific, verifiable targets;
- b detailed information about the financial implementation of the programme;
- c information on the steps taken by the operating structure or the TAIB committee to ensure the quality and effectiveness of implementation, in particular:
 - (i) the monitoring and evaluation measures, including data collection arrangements;
 - (ii) a summary of any significant problems encountered in implementing the programme and any subsequent measures taken;
 - (iii) the use made of technical assistance;
- d information on the activities to provide information on and publicise the programme, in accordance with Article 62.

Changes to legislation:

There are currently no known outstanding effects for the Commission Regulation (EC) No 718/2007, CHAPTER III.