

Council Regulation (EC) No 1260/1999 of 21 June 1999 laying
down general provisions on the Structural Funds (repealed)

TITLE III

CONTRIBUTIONS AND FINANCIAL MANAGEMENT BY THE FUNDS

CHAPTER I

FINANCIAL CONTRIBUTIONS BY THE FUNDS

Article 28

Decision on the contributions from the Funds

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

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

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

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

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

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

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

2 The contribution of the Funds to operational programmes undertaken in implementing a Community support framework shall be consistent with the financing plan laid down in the corresponding Community support framework, as set out in Article 17(2)(c).

3 In implementing measures, the contribution of the Funds shall principally take the form of non-repayable direct assistance (hereinafter referred to as 'direct assistance'), as well as other forms, such as repayable assistance, an interest-rate subsidy, a guarantee, an equity holding, a venture-capital holding or another form of finance.

Assistance repaid to the managing authority or to another public authority shall be reallocated to the same purpose.

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Article 29

Differentiation of the rates of contribution

- 1 The contribution of the Funds shall be differentiated in the light of the following:
 - a the gravity of the specific problems, in particular of a regional or social nature, to be tackled by the assistance;
 - b the financial capacity of the Member State concerned, taking into account in particular its relative prosperity and the need to avoid excessive increases in budget expenditure;
 - c within the framework of the objectives of the Funds set out in Article 1, the importance attaching to the assistance and the priorities from the Community viewpoint, where appropriate, for the elimination of inequalities and the promotion of equality between men and women and for the protection and improvement of the environment, principally through the application of the precautionary principle, of the principle of preventive action, and the polluter-pays principle;
 - d the importance attaching to the assistance and priorities from the regional and national viewpoint;
 - e the particular characteristics of the type of assistance and priority concerned, to take account of the needs identified by the *ex-ante* evaluation, in particular with regard to human resources and employment;
 - f the optimum utilisation of financial resources in the financing plans, including the combination of public and private resources, the use made of appropriate financial instruments in accordance with Article 10(2), and the choice of forms of financing as set out in Article 28(3).

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

- 2 The contribution from the Funds shall be calculated in relation to either the total eligible cost, or the total public or similar eligible expenditure (national, regional or local, and Community) under each assistance.

- 3 The contribution of the Funds shall be subject to the following ceilings:
 - [^{F1}a a maximum of 75 % of the total eligible cost and, as a general rule, at least 50 % of eligible public expenditure in the case of measures carried out in the regions covered by Objective 1. Where the regions are located in a Member State covered by the Cohesion Fund, the Community contribution may rise, in exceptional and duly justified cases, to a maximum of 80 % of the total eligible cost and to a maximum of 85 % of the total eligible cost for the outlying Greek islands which are under a handicap due to their distant location. The Community contribution for all the outermost regions may rise, in exceptional and duly justified cases, to a maximum of 85 % of the total eligible cost;]
 - b a maximum of 50 % of the total eligible cost and, as a general rule, at least 25 % of eligible public expenditure in the case of measures carried out in areas covered by Objective 2 or 3.

In the case of investment in firms, the contribution of the Funds shall comply with the ceilings on the rate of aid and on combinations of aid set in the field of State aids.

- 4 Where the assistance concerned entails the financing of revenue-generating investments, the contribution from the Funds to these investments shall be determined in the light of their intrinsic characteristics, including the size of the gross self-financing margin which

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would normally be expected for the class of investments concerned in the light of the macro-economic circumstances in which the investments are to be implemented, and without there being any increase in the national budget effort as a result of the contribution by the Funds.

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

- a in the case of investment in infrastructure generating substantial net revenue, the contribution may not exceed:
 - (i) 40 % of the total eligible cost in the regions covered by Objective 1, which may be increased by not more than an extra 10 % in the Member States covered by the Cohesion Fund;
 - (ii) 25 % of the total eligible cost in the areas covered by Objective 2;
 - (iii) these rates may be increased by an amount for forms of finance other than direct assistance, provided that this increase does not exceed 10 % of the total eligible cost;
- b in the case of investments in firms, the contribution may not exceed:
 - (i) 35 % of the total eligible cost in the regions covered by Objective 1;
 - (ii) [^{F2}50 % of the total eligible cost in the outermost regions and, exceptionally, also in the smaller Aegean islands in the case of investments in accordance with Regulation (EC) No 1257/1999, in the case of investments in small and medium-sized firms;]
 - (iii) 15 % of the total eligible cost in the areas covered by Objective 2;
 - (iv) in the case of investments in small and medium-sized undertakings, these rates may be increased by an amount for forms of finance other than direct assistance, provided that this increase does not exceed 10 % of the total eligible cost.

5 References in paragraphs 3 and 4 to the regions and areas covered by Objectives 1 and 2 shall also be construed as references to regions or areas receiving on the one hand transitional support pursuant to Article 6(1) and support pursuant to Article 7(4) and on the other hand pursuant to Article 6(2) respectively.

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

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

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 1447/2001 of 28 June 2001 amending Regulation \(EC\) No 1260/1999 laying down general provisions on the Structural Funds.](#)
- F2** Inserted by [Council Regulation \(EC\) No 1447/2001 of 28 June 2001 amending Regulation \(EC\) No 1260/1999 laying down general provisions on the Structural Funds.](#)

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Article 30

Eligibility

1 Expenditure in respect of operations shall be eligible for a contribution from the Funds only if these operations form part of the assistance concerned.

2 Expenditure may not be considered eligible for a contribution from the Funds if it has actually been paid by the final beneficiary before the date on which the application for assistance reaches the Commission. That date shall constitute the starting point for the eligibility of expenditure.

The final date for the eligibility of expenditure shall be laid down in the decision to grant a contribution from the Funds. It shall relate to payments made by the final beneficiaries. It may be extended by the Commission at the duly justified request of the Member State in accordance with Articles 14 and 15.

3 The relevant national rules shall apply to eligible expenditure except where, as necessary, the Commission lays down common rules on the eligibility of expenditure in accordance with the procedure referred to in Article 53(2).

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

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

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

CHAPTER II

FINANCIAL MANAGEMENT

Article 31

Budget commitments

1 Community budget commitments shall be made on the basis of the decision to grant a contribution from the Funds.

2 Commitments in respect of assistance to be carried out over a period of two or more years shall be as a general rule effected annually. The first commitment shall be made when the Commission lays down its decision approving the assistance. Subsequent commitments shall be effected as a general rule by 30 April each year.

The Commission shall automatically decommit any part of a commitment which has not been settled by the payment on account or for which it has not received an acceptable payment application, as defined in Article 32(3), by the end of the second year following

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the year of commitment or, where appropriate and for the amounts concerned, following the date of a subsequent Commission decision necessary in order to authorise a measure or an operation or by the end of the deadline for the transmission of the final report referred to in Article 37(1); the contribution from the Funds to that assistance shall be reduced by that amount.

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

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

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

3 For assistance to be carried out over a period of less than two years the total amount of the contribution from the Funds shall be committed when the Commission adopts its decision granting a contribution from the Funds.

Article 32

Payments

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

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

Payments may take the form of payments on account, interim payments or payments of the final balance. Interim payments and payments of the balance shall relate to expenditure actually paid out, which must correspond to payments effected by the final beneficiaries, supported by receipted invoices or accounting documents of equivalent probative value.

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

The paying authority shall ensure that final beneficiaries receive payment of their contribution from the Funds as quickly as possible and in full. No deduction, retention or further specific charge which would reduce these amounts shall be made.

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

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[^{F3}For the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, this payment on account shall be 16 % of the contribution from the Funds to the assistance in question. It will be subdivided over two budget years: 10 % in the first year, 6 % in the following year.]

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

All or part of a payment on account, depending on progress towards implementation of the assistance, shall be repaid to the Commission by the paying authority if no payment application is sent to the Commission within 18 months of its decision to grant a contribution from the Funds. If any interest is earned on the payment on account it shall be allocated by the paying authority to the form of assistance concerned.

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

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

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

Member States shall ensure that, as far as possible, applications for interim payments are presented to the Commission in batches three times a year, the last application being presented no later than 31 October.

Applications for interim payments shall distinguish, for each priority, the expenditure incurred in regions and areas receiving transitional support.

The combined total of the payments referred to in paragraph 2 and in this paragraph which are made in respect of an assistance shall not exceed 95 % of the contribution from the Funds to that assistance.

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- 4 The final balance of the assistance shall be paid if:
- a the paying authority submits to the Commission within six months of the deadline for payment laid down in the decision granting a contribution from the Funds, a certified statement of expenditure actually paid;
 - b the final report on implementation has been submitted to and approved by the Commission;
 - c the Member State has sent the Commission the statement referred to in Article 38(1)(f).
- 5 The final payment of the balance may no longer be corrected at the request of the Member State if the paying authority has not sent an application to the Commission within nine months from the date of transfer of the final balance.
- 6 The Member States shall designate the authorities empowered to issue the certificates and declarations referred to in paragraphs 3 and 4.
- 7 No later than 30 April of each year, the Member States shall send the Commission their updated forecasts of applications for payment for the current year and the forecast for the following year.
- 8 The Commission shall lay down appropriate payment procedures, consistent with the objectives of these provisions, for the innovative measures referred to in Article 22 and the measures referred to in Article 23 and inform the committees referred to in Articles 48 to 51.

Textual Amendments

- F3** Inserted by [Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded.](#)

Article 33

Use of the euro

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

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