

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Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (repealed)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 III

## PROGRAMMING

### CHAPTER I

#### **General provisions on the structural funds and the cohesion fund**

#### *Article 32*

#### **Preparation and approval of operational programmes**

1 The activities of the Funds in the Member States shall take the form of operational programmes within the national strategic reference framework. Each operational programme shall cover a period between 1 January 2007 and 31 December 2013. An operational programme shall cover only one of the three objectives referred to in Article 3, save as otherwise agreed between the Commission and the Member State.

2 Each operational programme shall be drawn up by the Member State or any authority designated by the Member State, in cooperation with the partners referred to in Article 11.

3 The Member State shall submit a proposal for an operational programme to the Commission containing all the components referred to in Article 37 as soon as possible but no later than five months following the adoption of the Community strategic guidelines on cohesion, as referred to in Article 26.

[<sup>F1</sup>With regard to Croatia, the Commission shall adopt the decision approving an operational programme to be financed under the programming period 2007-2013 no later than 31 December 2013. Croatia shall in this operational programme take into account any observations made by the Commission and submit it to the Commission no later than three months from the date of accession.]

4 The Commission shall appraise the proposed operational programme to determine whether it contributes to the goals and priorities of the national strategic reference framework and the Community strategic guidelines on cohesion. Where the Commission, within two months following the receipt of the operational programme, considers that an operational programme does not contribute to the achievement of the objectives of the national strategic reference framework and the Community strategic guidelines on cohesion, it may invite the Member State to provide all necessary additional information and, where appropriate, to revise the proposed programme accordingly.

5 The Commission shall adopt each operational programme as soon as possible but no later than four months following its formal submission by the Member State and not before 1 January 2007.

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### Textual Amendments

- F1** Inserted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

### Article 33

#### Revision of operational programmes

1 At the initiative of the Member State or the Commission in agreement with the Member State concerned, operational programmes may be re-examined and, if necessary, the remainder of the programme revised, in one or more of the following cases:

- a following significant socio-economic changes;
- b in order to take greater or different account of major changes in Community, national or regional priorities;
- c in the light of the evaluation referred to in Article 48(3); or
- d following implementation difficulties.

Operational programmes shall, if necessary, be revised following allocation of the reserves referred to in Articles 50 and 51.

[<sup>F1</sup>With regard to Croatia, operational programmes adopted before the date of accession may be revised for the sole purpose of a better alignment with this Regulation.]

2 The Commission shall adopt a decision on a request for revision of operational programmes as soon as possible but no later than three months after its formal submission by the Member State.

3 The revision of operational programmes shall not require revision of the decision of the Commission referred to in Article 28(3).

### Textual Amendments

- F1** Inserted by Treaty between the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Croatia concerning the accession of the Republic of Croatia to the European Union.

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## Article 34

### Specific character of the Funds

1 Operational programmes shall receive financing from only one Fund, save as otherwise provided in paragraph 3.

2 Without prejudice to the derogations laid down in the specific regulations of the Funds, the ERDF and the ESF may finance, in a complementary manner and subject to a limit of 10 % of Community funding for each priority axis of an operational programme, actions falling within the scope of assistance from the other Fund, provided that they are necessary for the satisfactory implementation of the operation and are directly linked to it.

3 In the Member States receiving support from the Cohesion Fund, the ERDF and the Cohesion Fund shall jointly provide assistance for operational programmes on transport infrastructure and the environment, including for major projects.

## Article 35

### Geographical scope

1 Operational programmes submitted under the Convergence objective shall be drawn up at the appropriate geographical level and at least at NUTS level 2.

Operational programmes submitted under the Convergence objective with a contribution from the Cohesion Fund shall be drawn up at national level.

2 Operational programmes submitted under the Regional competitiveness and employment objective shall be drawn up at NUTS level 1 or NUTS level 2, in accordance with the institutional system specific to the Member State, for regions benefiting from financing by the ERDF, save as otherwise agreed between the Commission and the Member State. They shall be drawn up by the Member State at the appropriate level if they are financed by the ESF.

3 Operational programmes submitted under the European territorial cooperation objective for cross-border cooperation shall be drawn up, as a general rule, for each border or group of borders by an appropriate grouping at NUTS level 3, including enclaves. Operational programmes submitted under the European territorial cooperation objective for transnational cooperation shall be drawn up at the level of each transnational cooperation area. Interregional cooperation and exchange of experience programmes shall relate to the whole territory of the Community.

## Article 36

### Participation by the European Investment Bank and the European Investment Fund

1 The EIB and the EIF may participate, in accordance with the modalities laid down in their statutes, in the programming of assistance from the Funds.

2 The EIB and the EIF may, at the request of Member States, participate in the preparation of national strategic reference frameworks and operational programmes, as well as in activities relating to the preparation of projects, in particular major projects, the arrangement of finance, and public-private partnerships. The Member State, in agreement with the EIB

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and the EIF, may concentrate the loans granted on one or more priorities of an operational programme, in particular in the spheres of innovation and the knowledge economy, human capital, the environment and basic infrastructure projects.

3 The Commission may consult the EIB and the EIF before adoption of the decision referred to in Article 28(3) and of the operational programmes. That consultation shall relate in particular to operational programmes containing an indicative list of major projects or programmes which, by the nature of their priorities, are suitable for mobilising loans or other types of market-based financing.

4 The Commission may, if it considers it appropriate for the appraisal of major projects, request the EIB to examine the technical quality and economic and financial viability of the projects concerned, in particular as regards the financial engineering instruments to be implemented or developed.

5 The Commission, in implementing the provisions of this Article, may award a grant to the EIB or the EIF.

### *F<sup>2</sup>Article 36a*

#### **Risk-sharing instrument**

1 For the purpose of this Article, a risk-sharing instrument means a financial instrument which guarantees the total or partial coverage of a defined risk, where appropriate in exchange for an agreed remuneration.

2 A Member State that meets one of the conditions set out in points (a), (b) and (c) of Article 77(2), may contribute a part of the overall resources distributed in accordance with Articles 19 and 20 to a risk-sharing instrument which shall be established by means of a cooperation agreement to be concluded by the Commission either with the EIB or with national or international public sector bodies or bodies governed by private law with a public service mission providing adequate guarantees as referred to in Article 54(2)(c) of Regulation (EC, Euratom) No 1605/2002, under similar terms and conditions to those applied to and by the EIB ('contracted implementing body'), to cover the provisioning and capital allocation of guarantees and loans, as well as other financial facilities, granted under the risk-sharing instrument.

3 The cooperation agreement, referred to in paragraph 2, shall contain rules in particular on: the total amount of the Union contribution and a schedule on how it will be made available; the trust account conditions to be set up by the contracted implementing body; the eligibility criteria for the use of the Union contribution; the details of the exact risk-sharing (including the leverage ratio) to be covered and the guarantees to be provided by the contracted implementing body; the pricing of the risk-sharing instrument based on the risk margin and the coverage of all the administrative costs of the risk-sharing instrument; the application and approval procedure for the project proposals covered by the risk-sharing instrument; the period of availability of the risk-sharing instrument; and the reporting requirements.

The exact risk-sharing (including the leverage ratio) to be undertaken, pursuant to the cooperation agreement, by the contracted implementing body, shall, as an average, aim at being at least 1,5 times the amount of the Union contribution to the risk-sharing instrument.

Payments to the risk-sharing instrument shall be made in tranches, in accordance with the scheduled use of the risk-sharing instrument in providing loans and guarantees financing specific operations.

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4 By way of derogation from Article 54(5), the risk-sharing instrument shall be used to finance operations co-financed by the ERDF or the Cohesion Fund, regarding investment costs which cannot be financed, as eligible expenditure pursuant to Article 55, or pursuant to the Union rules on State aids.

It may also be used to finance operations which contribute to the achievement of the objectives of the national strategic reference framework of the requesting Member State and the Community strategic guidelines on cohesion under Council Decision 2006/702/EC<sup>(1)</sup>, and which bring the greatest added value to the Union strategy for smart, sustainable and inclusive growth.

5 The risk-sharing instrument shall be implemented by the Commission within the framework of indirect centralised management in accordance with Articles 54 and 56 of Regulation (EC, Euratom) No 1605/2002.

6 A Member State seeking to benefit from a risk-sharing instrument shall submit a written request to the Commission by 31 August 2013. In its request, the Member State shall provide all the information necessary to establish:

- a that it meets one of the conditions referred to in points (a), (b) and (c) of Article 77(2), by providing a reference to a Council decision or other legal act proving its eligibility;
- b the list of programmes (including project proposals and related funding needs) co-financed either by the ERDF or by the Cohesion Fund, and the part of the 2012 and 2013 allocations to such programmes that it wants to take out of those programmes in order to reallocate those amounts to the risk-sharing instrument;
- c the list of proposed projects pursuant to the second subparagraph of paragraph 4, and the part of the 2012 and 2013 allocations that it wants to take out of the programmes in order to reallocate those amounts to the risk-sharing instrument;
- d the amount available for its exclusive benefit within its cohesion policy financial allocation pursuant to Article 18(2), and an indication of the amount which may be earmarked for the objectives of the risk-sharing instrument exclusively from the Union budget commitments to be effected in the years 2012 and 2013, pursuant to Article 75(1).

7 After verifying that the Member State request is correct and justified, the Commission shall adopt a decision, within four months of the Member State request, by means of an implementing act, specifying the system established to guarantee that the amount available is used for the exclusive benefit of the Member State which provided it within its cohesion policy financial allocation pursuant to Article 18(2), as well as setting out the terms and conditions of the participation of the requesting Member State in the risk-sharing instrument. The terms and conditions shall in particular cover the following:

- a traceability and accounting, information on the use of the funds, payment conditions and monitoring and control systems;
- b structure of the fees and other administrative and management costs;
- c indicative list of eligible projects for financing; and
- d the maximum amount of the Union contribution that can be allocated to the risk-sharing instrument from the Member State allocations available, and the instalments for practical implementation.

The Commission decision shall be published in the *Official Journal of the European Union*.

When deciding on the Member State request, the Commission shall ensure that only projects for which a favourable financing decision is taken either by the EIB or by a

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national or international public-sector body or body governed by private law with a public-service mission, shall be accepted as eligible for financing through an established risk-sharing instrument.

8 The Commission decision referred to in paragraph 7 shall be preceded by the revision of the operational programmes under the ERDF and the Cohesion Fund in accordance with Article 33(2).

9 The financial allocations to the risk-sharing instrument shall be strictly capped and shall not exceed 10 % of the indicative total allocation for the requesting Member State for the years 2007-13 regarding the ERDF and the Cohesion Fund, which was approved in accordance with Article 28(3)(b). The financial allocations available to the projects in the second subparagraph of paragraph 4 of this Article are limited to the amounts left after financing the operations mentioned in the first subparagraph of paragraph 4 of this Article. Apart from the total Union contribution to the risk-sharing instrument endorsed in the decision referred to in paragraph 7 of this Article, the Union participation in a risk-sharing instrument shall not create any additional contingent liabilities either for the general budget of the European Union or for the Member State concerned.

10 Any reflow or amount left over after the completion of an operation covered by the risk-sharing instrument may be reused, at the request of the Member State concerned, within the risk-sharing instrument, provided that the Member State still meets one of the conditions set out in points (a), (b) and (c) of Article 77(2). If the Member State no longer meets any of those conditions, the reflow or the amount left-over shall be considered as assigned revenue within the meaning of Article 18 of Regulation (EC, Euratom) No 1605/2002. At the request of the Member State concerned, additional commitment appropriations generated by this assigned revenue shall be added the following year to the cohesion policy financial allocation of that Member State.]

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#### **Textual Amendments**

- F2** Inserted by [Regulation \(EU\) No 423/2012 of the European Parliament and of the Council of 22 May 2012 amending Council Regulation \(EC\) No 1083/2006 as regards certain provisions relating to risk-sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability.](#)

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## CHAPTER II

### Programming content

#### Section 1

#### Operational programmes

##### Article 37

#### **Operational programmes for the Convergence and Regional competitiveness and employment objectives**

1 Operational programmes relating to the Convergence and Regional competitiveness and employment objectives shall contain:

- a an analysis of the situation of the eligible area or sector in terms of strengths and weaknesses and the strategy chosen in response;
- b a justification of the priorities chosen having regard to the Community strategic guidelines on cohesion, the national strategic reference framework, as well as the results of the *ex ante* evaluation referred to in Article 48;
- c information on the priority axes and their specific targets. Those targets shall be quantified using a limited number of indicators for output and results, taking into account the proportionality principle. The indicators shall make it possible to measure the progress in relation to the baseline situation and the achievement of the targets of the priority axis;
- d for information purposes, an indicative breakdown by category of the programmed use of the contribution from the Funds to the operational programme in accordance with the implementing rules of this Regulation adopted by the Commission in accordance with the procedure referred to in Article 103(3);
- e a financing plan containing two tables:
  - (i) a table breaking down for each year, in accordance with Articles 52, 53 and 54, the amount of the total financial appropriation envisaged for the contribution from each Fund. The financing plan shall show separately within the total annual contribution from the Structural Funds the appropriations provided for regions receiving transitional support. The total contribution from the Funds provided for annually shall be compatible with the applicable financial framework taking into account the phased reduction laid down in paragraph 6 of Annex II;
  - (ii) a table specifying, for the whole programming period, for the operational programme and for each priority axis, the amount of the total financial appropriation of the Community contribution and the national counterparts and the rate of contribution from the Funds. Where in accordance with Article 53, the national counterpart is made up of public and private expenditure, the table shall give the indicative breakdown between the public and the private components. Where in accordance with Article 53, the national counterpart is made up of public expenditure, the table shall indicate the amount of the national public contribution. It shall show, for information, the contribution from the EIB and the other existing financial instruments;

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- f information on complementarity with measures financed by the EAFRD and those financed by the EFF, where relevant;
  - g the implementing provisions for the operational programme, including:
    - (i) designation by the Member State of all the entities referred to in Article 59 or, if the Member State exercises the option provided for in Article 74, the designation of other bodies and procedures in accordance with the rules laid down in Article 74;
    - (ii) a description of the monitoring and evaluation systems;
    - (iii) information about the competent body for receiving the payments made by the Commission and the body or bodies responsible for making payments to the beneficiaries;
    - (iv) a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency;
    - (v) the elements aiming at ensuring the publicity and the information of the operational programme as referred to in Article 69;
    - (vi) a description of the procedures agreed between the Commission and the Member State for the exchange of computerised data to meet the payment, monitoring and evaluation requirements laid down by this Regulation;
  - h an indicative list of major projects within the meaning of Article 39, which are expected to be submitted within the programming period for Commission approval.
- 2 Operational programmes financed jointly by the ERDF and the Cohesion Fund with respect to transport and the environment shall contain priority axis specific to each Fund and a specific commitment by Fund.
- 3 Without prejudice to the second subparagraph of Article 5 of Regulation (EC) No 1080/2006, each operational programme under the Regional competitiveness and employment objective shall include a justification for the thematic, geographical and financial concentration on the priorities as laid down respectively in Article 5 of that Regulation and in Article 4 of Regulation (EC) No 1081/2006.
- 4 Operational programmes financed by the ERDF shall contain in addition for the Convergence and Regional competitiveness and employment objectives:
- a information on the approach to the sustainable urban development where appropriate;
  - b Specific priority axis for the measures financed under the additional allocation referred to in paragraph 20 of Annex II in operational programmes providing assistance in outermost regions;
- 5 Operational programmes affected by one or more specific allocations referred to in the additional provisions in Annex II shall contain information on the procedures foreseen to allocate and ensure the monitoring of these specific allocations.
- 6 At the initiative of the Member State, the operational programmes financed by the ERDF may also contain for the Convergence and Regional competitiveness and employment objectives:
- a the list of cities chosen for addressing urban issues and the procedures for sub-delegation to urban authorities, possibly by means of a global grant;
  - b actions for interregional cooperation with, at least, one regional or local authority of another Member State.



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7 At the initiative of the Member State concerned, the operational programmes for the ESF may also contain for the Convergence and Regional Competitiveness and Employment objectives a horizontal approach or a dedicated priority axis for interregional and transnational actions involving the national, regional or local authorities of at least one other Member State.

### *Article 38*

#### **Operational programmes for the European territorial cooperation objective**

Specific rules on operational programmes are laid down in the Regulation (EC) No 1080/2006 as regards operational programmes under the European territorial cooperation objective.

### Section 2

#### **Major projects**

*[<sup>F3</sup>Article 39*

#### **Content**

As part of an operational programme or operational programmes, the ERDF and the Cohesion Fund may finance expenditure comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and whose total cost exceeds EUR 50 million (hereinafter a major project).]

#### **Textual Amendments**

**F3** Substituted by [Regulation \(EU\) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation \(EC\) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management.](#)

### *Article 40*

#### **Information submitted to the Commission**

*[<sup>F3</sup>The Member State or the managing authorities shall provide the Commission with the following information on major projects:]*

- (a) information on the body to be responsible for implementation;
- (b) information on the nature of the investment and a description of it, its financial volume and location;
- (c) the results of the feasibility studies;

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- (d) [<sup>F3</sup>a timetable for implementing the major project and, where the implementation period is expected to be longer than the programming period, the phases for which Union co-financing is requested during the 2007 to 2013 programming period;]
- (e) a cost-benefit analysis, including a risk assessment and the foreseeable impact on the sector concerned and on the socio-economic situation of the Member State and/or the region and, when possible and where appropriate, of other regions of the Community;
- (f) an analysis of the environmental impact;
- (g) a justification for the public contribution;
- (h) the financing plan showing the total planned financial resources and the planned contribution from the Funds, the EIB, the EIF and all other sources of Community financing, including the indicative annual plan of the financial contribution from the ERDF or the Cohesion Fund for the major project.

The Commission shall provide indicative guidance on the methodology to be used in carrying out the cost-benefit analysis in (e) above in accordance with the procedure referred to in Article 103(2).

#### Textual Amendments

- F3** Substituted by [Regulation \(EU\) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation \(EC\) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management.](#)

### Article 41

#### Decision of the Commission

[<sup>F31</sup> The Commission shall appraise the major project, if necessary consulting outside experts, including the EIB, in the light of the factors referred to in Article 40, its consistency with the priorities of the operational programme or programmes concerned, its contribution to achieving the goals of those priorities and its consistency with other Union policies.

2 The Commission shall adopt a decision as soon as possible but no later than three months after the submission by the Member State or the managing authority of a major project, provided that it is submitted in accordance with Article 40. That decision shall define the physical object, the amount to which the co-financing rate for the priority axis of the operational programme or programmes concerned applies, and the annual plan or plans of financial contribution from the ERDF or the Cohesion Fund.]

3 Where the Commission refuses to make a financial contribution from the Funds to a major project, it shall notify the Member State of its reasons within the period and the related conditions laid down in paragraph 2.

#### Textual Amendments

- F3** Substituted by [Regulation \(EU\) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation \(EC\) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as](#)

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regards simplification of certain requirements and as regards certain provisions relating to financial management.

## Section 3

### Global grants

#### Article 42

#### General provisions

1 The Member State or the managing authority may entrust the management and implementation of a part of an operational programme to one or more intermediate bodies, designated by the Member State or the managing authority, including local authorities, regional development bodies or non-governmental organisations, in accordance with the provisions of an agreement concluded between the Member State or the managing authority and that body.

Such delegation shall be without prejudice to the financial responsibility of the managing authority and of the Member States.

2 The intermediate body responsible for managing the global grant shall provide guarantees of its solvency and competence in the domain concerned as well as in administrative and financial management. It shall as a general rule be established or represented in the region or regions covered by the operational programme at the moment of its designation.

#### Article 43

#### Implementing rules

The agreement referred to in the first subparagraph of Article 42(1) shall detail in particular:

- (a) the types of operation to be covered by the global grant;
- (b) the criteria for selecting beneficiaries;
- (c) the rates of assistance from the Funds and the rules governing that assistance, including as regards the use of any interest accruing;
- (d) the arrangements for monitoring, evaluating and ensuring the financial control of the global grant referred to in Article 59(1) vis-à-vis the managing authority, including the arrangements for recovering amounts unduly paid and the presentation of accounts;
- (e) where applicable, any use of a financial guarantee or equivalent facility, unless the Member State or the managing authority provides such guarantee according to the institutional arrangements of each Member State.

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## [<sup>F4</sup>Section 3A

### **Repayable assistance**

#### *Article 43a*

#### **Forms of repayable assistance**

1 As part of an operational programme, the Structural Funds may co-finance repayable assistance in the form of:

- a reimbursable grants; or
- b credit lines managed by the managing authority through intermediate bodies which are financial institutions.

2 The statement of expenditure concerning repayable assistance shall be submitted in accordance with Article 78(1) to (5).

#### *Article 43b*

#### **Reuse of repayable assistance**

Repayable assistance, repaid to the body that provided that assistance or to another competent authority of the Member State, shall be reused for the same purpose or in line with the objectives of the relevant operational programme. Member States shall ensure that an adequate record of the repayable assistance repaid is shown in the accounting system of the appropriate body or authority.]

#### **Textual Amendments**

- F4** Inserted by [Regulation \(EU\) No 1310/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation \(EC\) No 1083/2006 as regards repayable assistance, financial engineering and certain provisions related to the statement of expenditure.](#)

## Section 4

### **Financial engineering**

#### *Article 44*

#### **Financial engineering instruments**

[<sup>F3</sup>As part of an operational programme, the Structural Funds may finance expenditure in respect of an operation comprising contributions to support any of the following:

- (a) financial engineering instruments for enterprises, primarily small and medium-sized ones, such as venture capital funds, guarantee funds and loan funds;
- (b) urban development funds, that is, funds investing in public-private partnerships and other projects included in an integrated plan for sustainable urban development;

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- (c) funds or other incentive schemes providing loans, guarantees for repayable investments, or equivalent instruments, for energy efficiency and use of renewable energy in buildings, including in existing housing.]

[<sup>F3</sup>Where such operations are organised through holding funds, that is, funds set up to invest in several venture capital funds, guarantee funds, loan funds, urban development funds, funds or other incentive schemes providing loans, guarantees for repayable investments, or equivalent instruments, for energy efficiency and use of renewable energy in buildings, including in existing housing, the Member State or the managing authority shall implement them through one or more of the following forms:]

- (a) the award of a public contract in accordance with applicable public procurement law;
- (b) [<sup>F5</sup>when the agreement is not a public service contract within the meaning of applicable public procurement law, the award of a grant, defined for this purpose as a direct financial contribution by way of donation to a financial institution without a call for proposals, if this is in accordance with a national law compatible with the Treaty;]
- (c) [<sup>F6</sup>the award of a contract directly to the EIB or the EIF.]

The implementing rules of this Article shall be adopted by the Commission in accordance with the procedure referred to in Article 103(3).

#### Textual Amendments

- F3** Substituted by Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management.
- F5** Substituted by Council Regulation (EC) No 284/2009 of 7 April 2009 amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management.
- F6** Inserted by Council Regulation (EC) No 284/2009 of 7 April 2009 amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management.

[<sup>F4</sup>Article 44a

#### Non-application of certain provisions

Articles 39, 55 and 57 shall not apply to operations falling under Article 44.]

#### Textual Amendments

- F4** Inserted by Regulation (EU) No 1310/2011 of the European Parliament and of the Council of 13 December 2011 amending Council Regulation (EC) No 1083/2006 as regards repayable assistance, financial engineering and certain provisions related to the statement of expenditure.

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## Section 5

### Technical assistance

#### Article 45

##### Technical assistance at the initiative of the Commission

1 At the initiative of and/or on behalf of the Commission, subject to a ceiling of 0,25 % of their respective annual allocation, the Funds may finance the preparatory, monitoring, administrative and technical support, evaluation, audit and inspection measures necessary for implementing this Regulation.

Those actions shall include, in particular:

- a assistance for project preparation and appraisal, including with the EIB through a grant or other forms of cooperation, as appropriate;
- b studies linked to the drawing up of the Community strategic guidelines on cohesion, the Commission's reporting on cohesion policy and the three-yearly cohesion report;
- c evaluations, expert reports, statistics and studies, including those of a general nature concerning the operation of the Funds, which may be carried out where appropriate by the EIB or the EIF through a grant or other forms of cooperation;
- d measures aimed at the partners, the beneficiaries of assistance from the Funds and the general public, including information measures;
- e measures to disseminate information, networking, raise awareness, promote cooperation and exchange experiences throughout the Community;
- f the installation, operation and interconnection of computerised systems for management, monitoring, inspection and evaluation;
- g improvements in evaluation methods and the exchange of information on practices in this field.

2 The Commission shall adopt a decision concerning the types of action listed under paragraph 1 of this Article, in accordance with the procedure referred to in Article 103(2), when a contribution from the ERDF or the Cohesion Fund is foreseen.

3 The Commission shall adopt a decision concerning the types of action listed under paragraph 1 of this Article, after consulting the committee referred to in Article 104, in accordance with the procedure referred to in Article 103(2), when a contribution from the ESF is foreseen.

#### Article 46

##### Technical assistance of the Member States

1 At the initiative of the Member State, the Funds may finance the preparatory, management, monitoring, evaluation, information and control activities of operational programmes together with activities to reinforce the administrative capacity for implementing the Funds within the following limits:

- a 4 % of the total amount allocated under the Convergence and Regional competitiveness and employment objectives;
- b 6 % of the total amount allocated under the European territorial cooperation objective.

*Status: Point in time view as at 01/07/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1083/2006 (repealed), TITLE III. (See end of Document for details)*

[<sup>F6</sup>The EIB or the EIF may, upon request of the Member States, take part in technical assistance activities referred to in the first subparagraph.]

2 For each of the three objectives, technical assistance actions, within the limits set in paragraph 1, shall, in principle, be undertaken within the framework of each operational programme. On a complementary basis, however, such actions may be undertaken partially and subject to the overall limits for technical assistance set in paragraph 1, in the form of a specific operational programme.

[<sup>X13</sup> If the Member State decides to undertake technical assistance actions in the framework of each operational programme, the proportion of the total amount allocated for technical assistance in respect of each operational programme shall not exceed the limits set in paragraph 1.

In this case, where technical assistance actions are also undertaken in the form of a specific operational programme, the total amount allocated for technical assistance in such a specific programme shall not cause the total proportion of Funds allocated to technical assistance to exceed the limits set in paragraph 1.]

#### **Editorial Information**

- X1** Substituted by [Corrigendum to 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 \(Official Journal of the European Union L 210 of 31 July 2006\)](#).

#### **Textual Amendments**

- F6** Inserted by [Council Regulation \(EC\) No 284/2009 of 7 April 2009 amending Regulation \(EC\) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management](#).

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*Status: Point in time view as at 01/07/2013.*

*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 1083/2006 (repealed), TITLE III. (See end of Document for details)*

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(1) [<sup>F2</sup>OJ L 291, 21.10.2006, p. 11.]

**Textual Amendments**

- F2** Inserted by Regulation (EU) No 423/2012 of the European Parliament and of the Council of 22 May 2012 amending Council Regulation (EC) No 1083/2006 as regards certain provisions relating to risk-sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability.



**Status:**

Point in time view as at 01/07/2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EC) No 1083/2006 (repealed), TITLE III.