

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 I

**COMMON PROVISIONS**

TITLE II

**COMMON RULES FOR IMPLEMENTATION**

CHAPTER I

**Principles**

*Article 9*

**Coherence of implementation of assistance**

- 1 Assistance under the IPA Regulation shall be consistent and coordinated within and between the IPA components, both at planning and programming levels.
- 2 Any overlap between actions covered by different components shall be avoided and no expenditure shall be financed under more than one operation.

*Article 10*

**General principles for implementation of assistance**

- 1 Unless otherwise provided for in paragraph 2, 3 and 4, decentralised management, where the Commission confers the management of certain actions on the beneficiary country, while retaining overall final responsibility for general budget execution in accordance with Article 53c of Regulation (EC, Euratom) No 1605/2002 and the relevant provisions of the EC Treaties, shall apply to the implementation of assistance under the IPA Regulation.

For the purposes of assistance under the IPA Regulation, decentralised management shall cover at least tendering, contracting and payments.

In the event of decentralised management, operations shall be implemented in accordance with the provisions laid down in Article 53c of Regulation (EC, Euratom) No 1605/2002.

- 2 Centralised management as defined in Article 53a of Regulation (EC, Euratom) No 1605/2002 may be used under the transition assistance and institution building component, in particular for regional and horizontal programmes, and under the cross-border cooperation component. It may also be used for technical assistance under any of the IPA components.

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Under centralised management, operations shall be implemented in accordance with the provisions laid down in Articles 53(a), 53a and 54 to 57 of Regulation (EC, Euratom) No 1605/2002.

3 Joint management, as defined in Article 53d of Regulation (EC, Euratom) No 1605/2002 may be used under the transition assistance and institution building component, in particular for regional and horizontal programmes, for programmes involving international organisations.

In the event of joint management with international organisations, operations shall be implemented in accordance with the provisions laid down in Articles 53(c) and 53d of Regulation (EC, Euratom) No 1605/2002.

4 Shared management as defined in Article 53b of Regulation (EC, Euratom) No 1605/2002 may be used under the cross-border cooperation component, for cross-border programmes involving Member States.

Under shared management with a Member State, operations shall be implemented in accordance with the provisions laid down in Articles 53(b), 53b and Title II of Part two of Regulation (EC, Euratom) No 1605/2002.

## CHAPTER II

### **Management and control systems**

#### *Section 1*

#### ***Decentralised management***

#### *Sub-section 1*

#### ***Accreditation and conferral of management powers***

#### *Article 11*

#### **Common requirements**

1 Before deciding to confer management powers relating to a component, a programme or a measure on the beneficiary country, the Commission shall satisfy itself that the country concerned meets the conditions referred to in Article 56(2) of Regulation (EC, Euratom) No 1605/2002, in particular as regards the management and control systems established, and that the accreditations as laid down in Articles 12 and 13 are in force.

2 For that purpose, the management and control systems set up in the beneficiary country shall provide for effective controls in at least the areas set out in the Annex. Provisions on other areas which have been laid down in the sectoral or financing agreements shall apply in addition to this Regulation.

3 Where specific persons have been given responsibility for an activity in relation to the management, implementation and control of programmes, the beneficiary country shall enable such persons to exercise the duties associated with that responsibility, including in cases where

there is no hierarchical link between them and the bodies participating in that activity. The beneficiary country shall, in particular, provide those persons with the authority to establish, through formal working arrangements between them and the bodies concerned:

- a an appropriate system for the exchange of information, including the power to require information and a right of access to documents and staff on the spot if necessary;
- b the standards to be met;
- c the procedures to be followed.

4 Any other component specific requirements which have been established in sectoral agreements or the financing agreements shall apply in addition to this Regulation.

### *Article 12*

#### **Accreditation of the national authorising officer and the national fund**

1 The competent accrediting officer as referred to in Article 24 shall be responsible for the accreditation of the national authorising officer described in Article 25, both as the head of the national fund in accordance with Article 25(2)(a) and with regard to his capacity to fulfil the responsibilities laid down in Article 25(2)(b). The accreditation of the national authorising officer shall cover the national fund described in Article 26.

2 Prior to accrediting the national authorising officer, the competent accrediting officer shall satisfy himself that the applicable requirements set out in Article 11 are fulfilled, supported by an audit opinion drawn up by an external auditor functionally independent from all actors in the management and control systems. The audit opinion shall be based on examinations conducted according to internationally accepted auditing standards.

3 The competent accrediting officer shall notify the Commission of the accreditation of the national authorising officer, not later than the notification of the accreditation of the first operating structure as described in Article 13(3). The competent accrediting officer shall provide all relevant supporting information required by the Commission.

4 The competent accrediting officer shall immediately inform the Commission of any changes concerning the national authorising officer or the national fund. Where a change affects the national authorising officer or the national fund in relation to the applicable requirements as set out in Article 11, the competent accrediting officer shall send to the Commission an assessment of the consequences of such a change on the validity of the accreditation. Where such a change is significant, the competent accrediting officer shall also notify the Commission of his decision concerning the accreditation.

### *Article 13*

#### **Accreditation of the operating structure**

1 The national authorising officer shall be responsible for the accreditation of the operating structures as referred to in Article 28.

2 Prior to accrediting an operating structure, the national authorising officer shall satisfy himself that the requirements set out in Article 11 are fulfilled by the operating structure concerned. This assurance shall be supported by an audit opinion drawn up by an external auditor functionally independent from all actors in the management and control systems. The audit opinion shall be based on examinations conducted according to internationally accepted auditing standards.

3 The national authorising officer shall notify the Commission of the accreditation of the operating structures and shall provide all relevant supporting information required by the Commission, including a description of the management and control systems.

#### Article 14

### **Conferral of management powers by the Commission**

1 Before the conferral of management powers, the Commission shall review the accreditations referred to in Articles 12 and 13 and examine the procedures and structures of any of the bodies or authorities concerned within the beneficiary country. This may include on-the-spot verifications by its services or subcontracted to an audit firm.

2 The Commission may, in its decision to confer management powers, set further conditions, with a view to ensuring that the requirements referred to in Article 11 are met. These further conditions must be fulfilled within a fixed period determined by the Commission for the conferral of management powers to remain effective.

3 The Commission Decision on the conferral of management powers shall lay down the list of the *ex ante* controls, if any, to be performed by the Commission on the tendering of contracts, launch of calls for proposals and the award of contracts and grants. This list may vary with the component or the programme. The *ex ante* controls shall apply, depending on the component or programme, until the Commission allows for decentralised management without *ex ante* controls as referred to in Article 18.

4 The Commission Decision may lay down provisions concerning the suspension or withdrawal of the conferral of management powers in relation to specific bodies or authorities.

#### Article 15

### **Withdrawal or suspension of the accreditation of the national authorising officer and the national fund**

1 After the conferral of management powers by the Commission, the competent accrediting officer shall be responsible for monitoring the continuing fulfilment of all the requirements for this accreditation to be maintained and shall inform the Commission of any significant change related thereto.

2 If any of the applicable requirements set out in Article 11 are not, or are no longer, fulfilled, the competent accrediting officer shall either suspend or withdraw the accreditation of the national authorising officer, and shall immediately inform the Commission of his decision and of the reasons for his decision. The competent accrediting officer shall assure himself that those requirements are again fulfilled before restoring the accreditation. This assurance shall be supported by an audit opinion as specified in Article 12(2).

3 Where the accreditation of the national authorising officer is withdrawn or suspended by the competent accrediting officer, the provisions of this paragraph shall apply.

The Commission shall cease to make transfers of funds to the beneficiary country during the period when the accreditation is not in force.

During the period when the accreditation is not in force, all the euro accounts or the euro accounts for the components concerned shall be blocked and no payment made

by the National Fund from those euros accounts which are blocked shall be considered eligible for Community funding.

Without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 49 against the beneficiary country in respect of its past non-compliance with the requirements for the conferral of management powers.

#### *Article 16*

### **Withdrawal or suspension of the accreditation of the operating structures**

1 After the conferral of management powers by the Commission, the national authorising officer shall be responsible for monitoring the continuing fulfilment of all the requirements for this accreditation to be maintained and shall inform the Commission and the competent accrediting officer of any significant change related thereto.

2 If any of the requirements set out in Article 11 are not, or are no longer, fulfilled, the national authorising officer shall either suspend or withdraw the accreditation of the operating structure concerned, and shall immediately inform the Commission and the competent accrediting officer of his decision and of the reasons for his decision.

The national authorising officer shall assure himself that those requirements are again fulfilled before restoring the accreditation concerned. This assurance shall be supported by an audit opinion as referred to in Article 13(2).

3 Where the accreditation of an operating structure is withdrawn or suspended by the national authorising officer, the provisions of this paragraph shall apply.

The Commission shall make no transfers to the beneficiary country of funds relating to programmes or operations implemented by the operating structure concerned while its accreditation is suspended or withdrawn.

Without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 49 against the beneficiary country in respect of its past non-compliance with the requirements and conditions for the conferral of management powers.

No new legal commitments made by the operating structure concerned shall be considered eligible during the period when the accreditation is not in force.

The national authorising officer shall be responsible for taking any appropriate safeguard measures regarding payments made or contracts signed by the operating structure concerned.

#### *Article 17*

### **Withdrawal or suspension of conferral of management powers**

1 The Commission shall monitor compliance with the requirements set out in Article 11.

2 Irrespective of the decision by the competent accrediting officer to maintain, suspend or withdraw the accreditation of the national authorising officer, or of the decision by the national authorising officer to maintain, suspend or withdraw the accreditation of the operating structure, the Commission may withdraw or suspend the conferral of management powers at

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any time, in particular in the event that any of the requirements mentioned in Article 11 are not, or no longer, fulfilled.

3 Where the conferral of management powers is withdrawn or suspended by the Commission, the provisions of this paragraph shall apply.

The Commission shall cease to make transfers of funds to the beneficiary country.

Without prejudice to any other financial corrections, the Commission may make financial corrections as laid down in Article 49 against the beneficiary country in respect of its past non-compliance with the requirements for the conferral of management powers.

The Commission may lay down other consequences of such a suspension or withdrawal in a specific Commission Decision.

#### *Article 18*

##### **Decentralisation without *ex ante* controls by the Commission**

1 Decentralisation without *ex ante* controls by the Commission shall be the objective for the implementation of all IPA components where assistance is implemented on a decentralised basis in accordance with Article 10. The timing for attainment of this objective may vary depending on the IPA Component concerned.

2 Before dispensing with the *ex ante* controls laid down in the Commission Decision on conferral of management powers, the Commission shall satisfy itself of the effective functioning of the management and control system concerned in accordance with the relevant Community and national rules.

3 In particular, the Commission shall monitor the implementation, by the beneficiary country, of the roadmap included in the financing agreement as laid down in Article 8(4)(c), which may refer to a phased waiver of different types of *ex ante* controls.

4 The Commission shall take due account of the results achieved by the beneficiary country in this context, in particular in the provision of assistance and in the negotiation process.

#### *Article 19*

##### **Anti-fraud measures**

1 Beneficiary countries shall ensure investigation and effective treatment of suspected cases of fraud and irregularities and shall ensure the functioning of a control and reporting mechanism equivalent to that referred to in Commission Regulation (EC) No 1828/2006<sup>(1)</sup>. In the case of suspected fraud or irregularity, the Commission shall be informed without delay.

2 Furthermore, beneficiary countries shall take any appropriate measure to prevent and counter any active or passive corruption practices at any stage of the procurement procedure or grant award procedure or during the implementation of corresponding contracts.

## *Article 20*

### **Audit trail**

The national authorising officer shall ensure that all the relevant information is available to ensure at all times a sufficiently detailed audit trail. This information shall include documentary evidence of the authorisation of payment applications, of the accounting and payment of such applications, and of the treatment of advances, guarantees and debts.

## *Sub-section 2*

### **Structures and authorities**

## *Article 21*

### **Designation**

- 1 The beneficiary country shall designate the following different bodies and authorities:
  - a a national IPA coordinator,
  - b a strategic coordinator for the regional development component and the human resources development component,
  - c a competent accrediting officer,
  - d a national authorising officer,
  - e a national fund,
  - f an operating structure by IPA component or programme,
  - g an audit authority.
- 2 The beneficiary country shall ensure that appropriate segregation of duties applies to the bodies and authorities under points (a) to (g) of paragraph 1, in accordance with Article 56(2) of Regulation (EC, Euratom) No 1605/2002.
- 3 The Commission shall confer management powers on the beneficiary country, in accordance with Article 14 of this Regulation, only after the bodies and authorities referred to in paragraph 1 have been designated and put in place.

## *Article 22*

### **Functions and responsibilities of the national IPA coordinator**

- 1 A national IPA coordinator shall be appointed by the beneficiary country. He shall be a high-ranking official in the government or the state administration of the beneficiary country, who shall ensure the overall coordination of assistance under the IPA Regulation.
- 2 He shall, in particular:
  - a ensure partnership between the Commission and the beneficiary country, and a close link between the general accession process and the use of assistance under the IPA Regulation;
  - b bear overall responsibility for:

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- the coherence and coordination of the programmes provided under this Regulation,
  - the annual programming for the transition assistance and institution building component at national level,
  - the coordination of the participation of the beneficiary country in the relevant cross-border programmes, both with Member States and with other beneficiary countries, as well as in the transnational, interregional or sea basins programmes under other Community instruments. The national IPA coordinator may delegate the tasks relating to this coordination to a cross-border cooperation coordinator,
- c draw up and, after examination by the IPA monitoring committee, submit the IPA annual and final reports on implementation as defined in Article 61(3) to the Commission with a copy to the national authorising officer.

### *Article 23*

#### **Functions and responsibilities of the strategic coordinator**

1 A strategic coordinator shall be appointed by the beneficiary country to ensure the coordination of the regional development component and human resources development component under the responsibility of the national IPA coordinator. The strategic coordinator shall be an entity within the state administration of the beneficiary country, with no direct involvement in the implementation of components concerned.

- 2 The strategic coordinator shall, in particular:
- a coordinate assistance granted under the regional development component and the human resources development component;
  - b draft the strategic coherence framework as defined in Article 154;
  - c ensure coordination between sectoral strategies and programmes.

### *Article 24*

#### **Responsibilities of the competent accrediting officer**

1 A competent accrediting officer shall be appointed by the beneficiary country. He shall be a high-ranking official in the government or the state administration of the beneficiary country.

2 The competent accrediting officer shall be responsible for issuing, monitoring and suspending or withdrawing the accreditation of the national authorising officer and the national fund, in accordance with Articles 12 and 15.

### *Article 25*

#### **Functions and responsibilities of the national authorising officer**

1 A national authorising officer shall be appointed by the beneficiary country. He shall be a high-ranking official in the government or the state administration of the beneficiary country.

- 2 The national authorising officer shall:

- a as the head of the national fund, bear overall responsibility for the financial management of EU funds in the beneficiary country; he shall be responsible for the legality and regularity of the underlying transactions;
  - b be responsible for the effective functioning of management and control systems under the IPA Regulation.
- 3 For the purposes of paragraph 2(a), the national authorising officer shall in particular fulfil the following tasks:
- a provide assurance about the regularity and legality of underlying transactions;
  - b draw up and submit to the Commission certified statements of expenditure and payment applications; the national authorising officer shall bear overall responsibility for the accuracy of the payment application and for the transfer of funds to the operating structures and/or final beneficiaries;
  - c verify the existence and correctness of the co-financing elements;
  - d ensure the identification and immediate communication of any irregularity;
  - e make the financial adjustments required in connection with irregularities detected, according to the provisions of Article 50;
  - f be the contact point for financial information sent between the Commission and the beneficiary country.
- 4 For the purposes of paragraph 2(b), the national authorising officer shall in particular fulfil the following tasks:
- a be responsible for issuing, monitoring and suspending or withdrawing the accreditation of the operating structures;
  - b ensure the existence and effective functioning of systems of management of assistance under the IPA Regulation;
  - c ensure that the system of internal control concerning the management of funds is effective and efficient;
  - d report on the management and control systems;
  - e ensure that a proper reporting and information system is functioning;
  - f follow-up the findings of audit reports from the audit authority, in accordance with Article 30(1);
  - g immediately notify the Commission, with a copy of the notification to the competent accrediting officer, of any significant change concerning the management and control systems.
- 5 Pursuant to the responsibilities laid down in paragraphs 2(a) and (b), the national authorising officer shall draw up an annual statement of assurance, as defined in Article 27.

#### *Article 26*

#### **The national fund**

The national fund shall be a body located in a state level Ministry of the beneficiary country with central budgetary competence. The national fund shall act as a central treasury and be in charge of tasks of financial management of assistance under the IPA Regulation, under the responsibility of the national authorising officer.

It shall in particular be in charge of organising the bank accounts, requesting funds from the Commission, authorising the transfer of funds received from the Commission to

the operating structures or to the final beneficiaries, and the financial reporting to the Commission.

#### *Article 27*

##### **Statement of assurance by the national authorising officer**

1 In accordance with Article 25(5), the national authorising officer shall make an annual management declaration, which shall take the form of a statement of assurance to be presented to the Commission by 28 February each year. He shall forward a copy of the statement of assurance to the competent accrediting officer.

2 The statement of assurance shall be based on the national authorising officer's actual supervision of the management and control systems throughout the financial year.

3 The statement of assurance shall be drawn up as specified in the framework agreement, and shall include:

- a a confirmation of the effective functioning of the management and control systems;
- b a confirmation regarding the legality and regularity of underlying transactions;
- c information concerning any changes in systems and controls, and elements of supporting accounting information.

4 If the confirmations required in accordance with points (a) and (b) of paragraph 3 are not available, the national authorising officer shall inform the Commission of the reasons and potential consequences, as well as of the actions being taken to remedy the situation and to protect the interests of the Community. He shall forward a copy of this information to the competent accrediting officer.

#### *Article 28*

##### **Functions and responsibilities of the operating structure**

1 For each IPA component or programme, an operating structure shall be established to deal with the management and implementation of assistance under the IPA Regulation.

The operating structure shall be a body or a collection of bodies within the administration of the beneficiary country.

2 The operating structure shall be responsible for managing and implementing the programme or programmes concerned in accordance with the principle of sound financial management. For those purposes, it shall carry out a number of functions that include:

- a drafting the annual or multi-annual programmes;
- b monitoring programme implementation and guiding the work of the sectoral monitoring committee as defined in Article 59, notably by providing the documents necessary for monitoring the quality of implementation of the programmes;
- c drawing up the sectoral annual and final implementation reports defined in Article 61(1) and, after their examination by the sectoral monitoring committee, submitting them to the Commission, to the national IPA coordinator and to the national authorising officer;
- d ensuring that operations are selected for funding and approved in accordance with the criteria and mechanisms applicable to the programmes, and that they comply with the relevant Community and national rules;

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- e setting up procedures to ensure the retention of all documents required to ensure an adequate audit trail, in accordance with Article 20;
  - f arranging for tendering procedures, grant award procedures, the ensuing contracting, and making payments to, and recovery from, the final beneficiary;
  - g ensuring that all bodies involved in the implementation of operations maintain a separate accounting system or a separate accounting codification;
  - h ensuring that the national fund and the national authorising officer receive all necessary information on the procedures and verifications carried out in relation to expenditure;
  - i setting up, maintaining and updating the reporting and information system;
  - j carrying out verifications to ensure that the expenditure declared has actually been incurred in accordance with applicable rules, the products or services have been delivered in accordance with the approval decision, and the payment requests by the final beneficiary are correct. These verifications shall cover administrative, financial, technical and physical aspects of operations, as appropriate;
  - k ensuring internal audit of its different constituting bodies;
  - l ensuring irregularity reporting;
  - m ensuring compliance with the information and publicity requirements.
- 3 The heads of the bodies constituting the operating structure shall be clearly designated and shall be responsible for the tasks assigned to their respective bodies, in accordance with Article 11(3).

#### *Article 29*

##### **Functions and responsibilities of the audit authority**

1 An audit authority, functionally independent from all actors in the management and control systems and complying with internationally accepted audit standards, shall be designated by the beneficiary country. The audit authority shall be responsible for verifying the effective and sound functioning of the management and control systems.

- 2 The audit authority, under the responsibility of its head, shall in particular:
- a during the course of each year, establish and fulfil an annual audit work plan which encompasses audits aimed at verifying:
    - the effective functioning of the management and control systems,
    - the reliability of accounting information provided to the Commission.

The audit work shall include audits of an appropriate sample of operations or transactions, and an examination of procedures.

The annual audit work plan shall be submitted to the national authorising officer and the Commission before the start of the year in question.

- b submit the following:
  - an annual audit activity report following the model to be found in the framework agreement, setting out the resources used by the audit authority, and a summary of any weaknesses found in the management and control systems or in transaction findings from the audits carried out in accordance with the annual audit work plan during the previous 12 month period, ending on 30 September of the year concerned. The annual audit activity report shall be addressed to the Commission, the national authorising officer, and the competent accrediting officer, by 31 December each year. The first such report

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shall cover the period from the entry into force of this regulation up until 30 November 2007,

- an annual opinion following the model set out in the framework agreement as to whether the management and control systems functions effectively and conforms to the requirements of this Regulation and/or any other agreements between the Commission and the beneficiary country. This opinion shall be addressed to the Commission, the national authorising officer, and the competent accrediting officer. It shall cover the same period and have the same deadline as the annual audit activity report,
- an opinion on any final statement of expenditure submitted to the Commission by the national authorising officer, for the closure of any programme or of any part thereof. Where appropriate, the final statement of expenditure may include payment applications in the form of accounts submitted annually. The opinion on any final statement of expenditure shall follow the model provided in annex to the framework agreement. It shall address the validity of the final payment application and the accuracy of the financial information, and, where appropriate, be supported by a final audit activity report. It shall be sent to the Commission and to the competent accrediting officer, at the same time as the relevant final statement of expenditure submitted by the national authorising officer, or at least within three months of the submission of that final statement of expenditure.

Further specific requirements for the annual audit work plan and/or the reports and opinions mentioned in paragraph (b) may be set out in the sectoral or financing agreements.

With regard to the methodology for the audit work, reports and audit opinions required by this Article, the audit authority shall comply with international standards on auditing, in particular as regards the areas of risk assessment, audit materiality and sampling. That methodology may be complemented by any further guidance and definitions from the Commission, notably in relation to an appropriate general approach to sampling, confidence levels and materiality.

### *Article 30*

#### **Follow-up of the audit authority reports**

1 Following receipt of the reports and opinions referred to in the first and second indents of Article 29 (2) (b), the national authorising officer shall:

- a decide whether any improvements to the management and control systems are required, record the decisions in that respect and ensure the timely implementation of those improvements;
- b make any necessary adjustments to the payment applications to the Commission.

2 The Commission may decide either to take follow-up action itself in response to the reports and opinions, for example by initiating a financial correction procedure, or to require the beneficiary country to take action, while informing the national authorising officer and the competent accrediting officer of its decision.

## *Article 31*

### **Specific bodies**

Within the overall framework defined by the structures and authorities as set out in Article 21, the functions described in Article 28 may be grouped and assigned to specific bodies within or outside the operating structures initially designated. This grouping and assignation shall respect the appropriate segregation of duties imposed by Regulation (EC, Euratom) No 1605/2002 and ensure that the final responsibility for the functions described in the said Article shall remain with the operating structure initially designated. Such a restructuring shall be formalised in written agreements and shall be subject to accreditation by the national authorising officer and the conferral of management by the Commission.

## *Section 2*

### ***Other forms of management***

## *Article 32*

### **Structures and authorities for centralised or joint management**

1 In the event of centralised or joint management, the beneficiary country shall designate a national IPA coordinator, who shall act as the representative of the beneficiary country vis-à-vis the Commission. He shall ensure that a close link is maintained between the Commission and the beneficiary country, with regard both to the general accession process and to EU pre-accession assistance under IPA.

The national IPA coordinator shall also be responsible for coordinating the beneficiary country's participation in the relevant cross-border programmes, both with Member States and with other beneficiary countries, as well as in the transnational, interregional or sea basins programmes under other Community instruments. He may delegate the tasks relating to this latter responsibility to a cross-border cooperation coordinator.

2 In the case of the cross-border cooperation component, operating structures shall be designated and put in place by the beneficiary country, in accordance with the provisions of Article 139.

## *Article 33*

### **Structures and authorities for shared management**

In the case of cross-border programmes implemented through shared management with a Member State, the following structures shall be put in place in one of the Member States participating in the cross-border programme, as set out in Article 102:

- a single managing authority,
- a single certifying authority,
- a single audit authority.

## CHAPTER III

### **Financial contribution by the European Community**

#### *Article 34*

#### **Eligibility of expenditure**

1 In the event of decentralised management, notwithstanding accreditations by the competent accrediting officer and the national authorising officer, contracts and addenda signed, expenditure incurred and payments made by the national authorities shall not be eligible for funding under the IPA Regulation prior to the conferral of management on the concerned structures and authorities by the Commission, unless otherwise provided in paragraph 2.

The final date for the eligibility of expenditure shall be laid down in Part II or in the financing agreements where necessary.

2 Technical assistance to support the setting up of management and control systems may be eligible prior to the initial conferral of management, for expenditure incurred after 1 January 2007.

Launch of calls for proposals or calls for tenders may also be eligible prior the initial conferral of management and after 1 January 2007, subject to this initial conferral of management being in place within the time limits defined in a reserve clause to be inserted in the operations or calls concerned, and subject to prior approval of the documents concerned by the Commission. The calls for proposal or calls for tender concerned may be cancelled or modified depending on the decision on conferral of management.

3 The following expenditure shall not be eligible under the IPA Regulation:

- a taxes, including value added taxes;
- b customs and import duties, or any other charges;
- c purchase, rent or leasing of land and existing buildings;
- d fines, financial penalties and expenses of litigation;
- e operating costs;
- f second hand equipment;
- g bank charges, costs of guarantees and similar charges;
- h conversion costs, charges and exchange losses associated with any of the component specific euro accounts, as well as other purely financial expenses;
- i contributions in kind.

4 Expenditure financed under this Regulation shall not be the subject of any other financing under the Community budget.

#### *Article 35*

#### **Treatment of receipts**

1 Receipts for the purposes of this Regulation include revenue earned by an operation, during the period of its co-financing, from sales, rentals, services, enrolment fees or other equivalent receipts with the exception of:

- a receipts generated throughout the economic lifetime of the co-financed investments in the case of investment in firms;
- b receipts generated within the framework of a financial engineering measure, including venture capital and loan funds, guarantee funds, leasing;
- c where applicable, contributions from the private sector to the co-financing of operations, which shall be shown alongside public contribution in the financial tables of the programme.

2 Receipts as defined in paragraph 1 represent income which shall be deducted from the amount of eligible expenditure for the operation concerned. No later than the closure of the programme, such receipts shall be deducted from the relevant operation's eligible expenditure in their entirety or pro-rata, depending on whether they were generated entirely or only in part by the co-financed operation.

3 This Article shall not apply to:

- the rural development component,
- revenue-generating infrastructures as defined in Article 150.

#### *Article 36*

### **Property of interest**

Any interest earned on any of the component-specific euro accounts remains the property of the beneficiary country. Interest generated by the financing by the Community of a programme shall be posted exclusively to that programme, being regarded as a resource for the beneficiary country in the form of a national public contribution, and shall be declared to the Commission, at the time of the final closure of the programme.

#### *Article 37*

### **Community financing**

1 The financial contribution from the Community towards expenditure under the multi-annual or annual programmes shall be determined in accordance with the allocations proposed in the multi-annual indicative financial framework under Article 5 of the IPA Regulation.

2 All operations receiving assistance under the various IPA components shall require national and Community contributions.

#### *Article 38*

### **Aid intensities and rate of Community contribution**

1 The Community contribution shall be calculated in relation to the eligible expenditure as defined in Part II for each IPA component.

2 Financing decisions adopting the annual or multi-annual programmes for each IPA component shall set the maximum indicative amount of the Community contribution and the subsequent maximum rate for each priority axis.

## CHAPTER IV

### **Financial management**

#### *Section 1*

#### ***Budgetary commitments***

##### *Article 39*

#### **Principles**

1 A budgetary commitment corresponding to the amount of the legal commitment, which shall take the form of a financing agreement with the beneficiary country concerned, shall be adopted on the basis of financing decisions adopting annual programmes.

2 Financing decisions adopting multi-annual programmes may provide for the conclusion of multi-annual legal commitments which shall take the form of financing agreements with the beneficiary country concerned.

The budgetary commitment corresponding to the amount of the legal commitment may in such cases be broken down over several years into annual instalments, where the financing decision so provides and taking account of the multi-annual indicative financial framework. The corresponding financing decision and financing agreement shall set out this breakdown in appropriate financial tables.

#### *Section 2*

#### ***Rules for decentralised management***

##### *Article 40*

#### **Payments**

1 Payment by the Commission of the Community contribution shall be made within the limits of the funds available. In the case of multi-annual programmes, each payment shall be posted to the earliest open budget commitments of the IPA component concerned.

2 Payments shall take the form of pre-financing, interim payments and payment of the final balance.

3 By 28 February each year, the beneficiary country shall send to the Commission a forecast of its likely payment applications for the financial year concerned and for the subsequent financial year, in relation to each IPA component or programme. The Commission may ask for an update of the forecast as appropriate.

4 Exchange of information concerning financial transactions between the Commission and the authorities and structures referred to in Article 21 shall, where appropriate, be made by electronic means, using procedures agreed upon between the Commission and the beneficiary country.

5 The combined total of pre-financing and interim payments shall not exceed 95 % of the Community contribution as set out in the financial table of each programme.

6 When the ceiling referred to in paragraph 5 is reached, the national authorising officer shall continue transmitting to the Commission any certified statement of expenditure, as well as information about the amounts recovered.

7 Amounts set out in the programmes submitted by the beneficiary country, in certified statements of expenditure, in payment applications and in expenditure mentioned in the implementation reports, shall be denominated in euro. Beneficiary countries shall convert the amounts of expenditure incurred in national currency into euro using the monthly accounting rate of the euro established by the Commission for the month during which the expenditure was registered in the accounts of the operating structure concerned.

8 Payments by the Commission to the national fund shall be made to the euro account, in accordance with the provisions laid down in Articles 41, 42, 43, 44 and 45 and in the framework, sectoral or financing agreements. One euro account shall be opened for each of the IPA programmes concerned, or, as appropriate, IPA components, and shall be used exclusively for transactions relating to that programme or component.

9 Beneficiary countries shall ensure that the final beneficiaries receive the total amount of the public contribution in due time and in full. No specific charge or other charge with equivalent effect shall be levied which would reduce these amounts for the final beneficiaries.

10 The expenditure may be covered by Community financing only if it has been incurred and paid by the final beneficiary. Expenditure paid by final beneficiaries shall be substantiated by receipted invoices or accounting documents of equivalent probative value or other relevant documents, where, according to the programme, assistance is not a function of expenditure. Expenditure must have been certified by the national authorising officer.

#### *Article 41*

### **Acceptability of applications for payment**

In order for the Commission to approve a payment application, the minimum requirements set out in Articles 42(1), 43(1) and 45(1) must be fulfilled.

#### *Article 42*

### **Pre-financing**

1 In the case of a payment application for a pre-financing payment, the minimum requirements referred to in Article 41 are the following:

- a the national authorising officer has notified to the Commission the opening of the euro account concerned;
- b the accreditations delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid;
- c the relevant financing agreement has entered into force.

2 Pre-financing payments shall represent a given percentage of the Community contribution to the programme concerned, as specified in Part II of this Regulation. In the event of multi-annual programmes, the pre-financing may be split between several financial years.

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3 The total amount paid as pre-financing shall be reimbursed to the Commission if no payment application for the programme concerned is sent within 15 months of the date on which the Commission pays the first pre-financing amount. The Community contribution to the programme concerned shall not be affected by such reimbursement.

4 The total pre-financing amount shall be cleared at the latest when the programme is closed. Throughout the lifetime of the programme, the national authorising officer shall use the pre-financing payment only to pay the Community contribution to expenditure in compliance with this Regulation.

### *Article 43*

#### **Interim payments**

1 In the case of a payment application for an interim payment, the minimum requirements referred to in Article 41 are the following:

- a the national authorising officer has sent to the Commission a payment application and a statement of expenditure relating to the payment in question; the statement of expenditure shall be certified by the national authorising officer;
- b the ceilings for Community assistance under each priority axis, as laid down in the Commission financing decision, have been respected;
- c the operating structure has sent to the Commission the sectoral annual implementation reports as referred to Article 61(1), including the most recent one;
- d the audit authority has sent to the Commission, in accordance with the first and second indent of Article 29(2)(b), the most recent annual audit activity report and opinion on the conformity of the management and control systems in place with the requirements of this Regulation and/or those of any agreement between the Commission and the beneficiary country;
- e the accreditations delivered by the competent accrediting officer and the national authorising officer are in force, and the conferral of management by the Commission remains valid.

If one or more of the conditions mentioned in this paragraph are not met, the beneficiary country shall, when so requested by the Commission and within the time limit fixed by the Commission, take the necessary steps to remedy the situation.

2 If it appears that the rules applicable have not been complied with or that Community funds have been improperly used, the Commission may reduce interim payments to the beneficiary country or temporarily suspend them, in accordance with the provisions of Article 46. It shall inform the beneficiary country accordingly.

3 The suspension or reduction of interim payments shall comply with the principle of proportionality and shall be without prejudice to the decisions of conformity and clearance-of-account decisions and financial corrections.

### *Article 44*

#### **Calculation of payments**

Payments shall be calculated on the basis of the Community contribution to the financing of the operations concerned, up to the amount obtained by applying the co-financing rate laid down for each priority axis in the financing decision to the eligible

expenditure, subject to the maximum Community contribution attached to each priority axis.

#### *Article 45*

#### **Payment of the final balance**

1 In the case of the payment of the final balance, the deadline set down in Article 166 of Regulation (EC, Euratom) No 1605/2002 shall apply and the minimum requirements referred to in Article 41 are the following:

- a the national authorising officer has sent to the Commission a final payment application and a final statement of expenditure; the final statement of expenditure shall be certified by the national authorising officer;
- b the operating structure has sent to the Commission the sectoral final reports for the programme concerned, as referred to in Article 61(1);
- c the audit authority has sent to the Commission, in accordance with the third indent of Article 29(2)(b), an opinion on any final statement of expenditure, supported by a final activity report;
- d the accreditations delivered by the competent accrediting officer and the national authorising officer are in force and the conferral of management by the Commission remains valid.

2 That part of budget commitments referring to multi-annual programmes still open on 31 December 2017, for which the documents referred to in paragraph 1 have not been transmitted to the Commission by 31 December 2018, shall be automatically de-committed.

#### *Article 46*

#### **Suspension of payments**

1 All or part of the payments may be suspended by the Commission where:

- a there is a serious deficiency in the management and control system of the programme which affects the reliability of the procedure for certification of payments and for which corrective measures have not been taken; or
- b expenditure in a certified statement of expenditure is linked to a serious irregularity which has not been corrected; or
- c clarifications are needed regarding the information contained in the declaration of expenditure.

2 The beneficiary country shall be given the opportunity to present its observations within a period of two months before the Commission decides on a suspension in accordance with paragraph 1.

3 The Commission shall end the suspension when the beneficiary country has taken the necessary measures to remedy the deficiency, irregularity or lack of clarity referred to in paragraph 1.

If those measures have not been taken by the beneficiary country, the Commission may decide to cancel all or part of the Community contribution to the programme in accordance with Article 51.

### Article 47

#### **Closure of a programme**

1 After an application for final payment has been received by the Commission, a programme is considered closed as soon as one of the following occurs:

- payment of the final balance due by the Commission,
- issuance of a recovery order by the Commission,
- de-commitment of appropriations by the Commission.

2 The closure of a programme does not prejudice the Commission's right to undertake a financial correction at a later stage.

3 The closure of a programme does not affect the obligations of the beneficiary country to continue to retain related documents, in accordance with Article 48.

### Article 48

#### **Retention of documents**

All documents related to a given programme shall be retained by the beneficiary country for at least three years after the closure of the programme. This period shall be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission.

### Article 49

#### **Financial corrections**

1 In order to ensure that the funds are used in accordance with the applicable rules, the Commission shall apply clearance-of-accounts procedures or financial correction mechanisms in accordance with Articles 53b(4) and 53c(2) of Regulation (EC, Euratom) No 1605/2002 and as detailed in the framework or, where they exist, sectoral agreements.

2 A financial correction may arise following:

- a identification of a specific irregularity, including fraud; or
- b identification of a weakness or deficiency in the management and control systems of the beneficiary country.

3 If the Commission finds that expenditure under the programmes covered by this Regulation has been incurred in a way that has infringed applicable rules, it shall decide what amounts are to be excluded from Community financing.

4 The calculation and establishment of any such corrections, as well as the related recoveries, shall be made by the Commission, following the criteria and procedures provided for in Articles 51, 52 and 53. Other provisions on financial corrections which have been set down in sectoral or financing agreements shall apply in addition to this Regulation.

### *Article 50*

#### **Financial adjustments**

1 The national authorising officer, who bears in the first instance the responsibility for investigating irregularities, shall make the financial adjustments where irregularities or negligence are detected in operations or operational programmes, by cancelling all or part of the Community contribution to the operations or the operational programmes concerned. The national authorising officer shall take into account the nature and gravity of the irregularities and the financial loss to the Community contribution.

2 In case of an irregularity, the national authorising officer shall recover the Community contribution paid to the beneficiary in accordance with national recovery procedures.

### *Article 51*

#### **Criteria for financial corrections**

1 The Commission may make financial corrections, by cancelling all or part of the Community contribution to a programme, in the situations referred to in Article 49(2).

2 Where individual cases of irregularity are identified, the Commission shall take into account the systemic nature of the irregularity to determine whether a flat-rate or extrapolated financial correction should be applied.

3 The Commission shall, when deciding the amount of a correction, take into account the nature and gravity of the irregularity and/or the extent and financial implications of the weaknesses or the deficiencies found in the management and control system in the programme concerned.

### *Article 52*

#### **Procedure for financial correction**

1 Before taking a decision on a financial correction, the Commission shall inform the national authorising officer of its provisional conclusions and requesting his comments within two months.

Where the Commission proposes a financial correction on the basis of extrapolation or at a flat rate, the beneficiary country shall be given the opportunity to establish the actual extent of the irregularity, through an examination of the documentation concerned. In agreement with the Commission, the beneficiary country may limit the scope of this examination to an appropriate proportion or sample of the documentation concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a period of two months after the two-month period referred to in the first subparagraph.

2 The Commission shall take account of any evidence supplied by the beneficiary country within the time limits mentioned in paragraph 1.

3 The Commission shall endeavour to take a decision on the financial correction within six months after opening the procedure as set out in paragraph 1.

### *Article 53*

#### **Repayment**

1 Any repayment to the general budget of the European Union shall be effected before the due date indicated in the recovery order drawn up in accordance with Article 72 of Regulation (EC, Euratom) No 1605/2002. The due date shall be the last day of the second month following the issuing of the order.

2 Any delay in repayment shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment. The rate of such interest shall be one-and-a-half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

### *Article 54*

#### **Re-use of Community contribution**

1 The resources from the Community contribution cancelled according to Article 49 shall be paid to the Community Budget, including interest thereon.

2 The contribution cancelled or recovered in accordance with Article 50 may not be re-used for the operation or operations that were the subject of the recovery or the adjustment, nor, where the recovery or adjustment is made for a systemic irregularity, for existing operations within the whole or part of the priority axis in which the systemic irregularity occurred.

### *Section 3*

#### ***Rules for centralised and joint management***

### *Article 55*

#### **Payments**

1 Payment of the Community contribution by the Commission shall be made within the limits of the funds available.

2 In accordance with Article 81 of Regulation (EC, Euratom) No 1605/2002, payments shall be made on production of proof that the relevant operation is in accordance with the provisions of the IPA Regulation, this Regulation, the contract or the grant.

3 The appropriations needed to cover expenditure as indicated in the annual programmes shall be made available through one or more of the following actions: payment of the entire amount due; pre-financing; one or more interim payments; and payment of the balance of the amounts due.

4 Payments by the Commission shall be made whenever possible in euro to a euro account.

## Article 56

### Closure of a programme

- 1 A programme is closed when all the contracts and grants funded by this programme have been closed.
- 2 After a final payment application has been received, a contract or grant is considered closed as soon as one of the events referred to in Article 47(1) occurs.
- 3 The closure of a contract or grant does not prejudice the Commission's right to undertake a financial correction at a later stage.

## CHAPTER V

### Evaluation and monitoring

## Article 57

### Evaluation

- 1 Evaluations shall aim to improve the quality, effectiveness and consistency of the assistance from Community funds and the strategy and implementation of the programmes.
- 2 Multi-annual indicative planning documents, as described in Article 5, shall be subject to regular *ex ante* evaluation, carried out by the Commission.
- 3 The Commission may also carry out strategic evaluations.
- 4 Programmes shall be subject to *ex ante* evaluations, as well as interim and, where relevant, *ex post* evaluations in accordance with the specific provisions laid down under each IPA component in Part II and Article 21 of Commission Regulation (EC, Euratom) No 2342/2002.
- 5 During the period of implementation of a programme, at least one interim evaluation shall be carried out, and specifically when the monitoring of the programme reveals significant departure from the goals initially set.
- 6 *Ex post* evaluation of the implementation of assistance shall be the responsibility of the Commission. *Ex post* evaluation shall include identifiable IPA component-specific results. In the event of joint management, *ex post* evaluation may be jointly carried out with other donors.
- 7 The results of *ex ante* and interim evaluation shall be taken into account in the programming and implementation cycle.
- 8 The Commission shall develop evaluation methods, including quality standards and using objective and measurable indicators.

## Article 58

### **Monitoring in the case of decentralised management**

1 In the case of decentralised management, the beneficiary country shall, within six months after the entry into force of this Regulation, set up an IPA monitoring committee, in agreement with the national IPA coordinator and the Commission, to ensure coherence and coordination in the implementation of the IPA components.

2 The IPA monitoring committee shall satisfy itself as to the overall effectiveness, quality and coherence of the implementation of all programmes and operations towards meeting the objectives set out in the financing agreements as well as in the multi-annual indicative planning documents. For this purpose, it shall base itself on the elements given by the sectoral monitoring committees, as provided for in Article 59(3).

3 The IPA monitoring committee may make proposals to the Commission, the national IPA coordinator and the national authorising officer for any actions to ensure the coherence and coordination between the programmes and operations implemented under the different components, as well as for any cross-component corrective measures needed to ensure the achievement of the global objectives of the assistance provided, and to enhance its overall efficiency. It may also make proposals to the relevant sectoral monitoring committee(s) for decisions on any corrective measures to ensure the achievements of programme objectives and enhance the efficiency of assistance provided under the programmes or IPA component(s) concerned.

4 The IPA monitoring committee shall adopt its internal rules of procedure in compliance with a monitoring committee mandate established by the Commission, and within the institutional, legal and financial framework of the beneficiary country concerned.

5 Unless otherwise provided in the monitoring committee mandate set out by the Commission, the provisions of this paragraph shall apply.

The IPA monitoring committee shall include among its members representatives of the Commission, the national IPA coordinator, the national authorising officer, representatives of the operating structures, and the strategic coordinator.

A representative of the Commission and the national IPA coordinator shall co-chair the IPA monitoring committee meetings.

The IPA monitoring committee shall meet at least once a year. Intermediate meetings may also be convened, in particular on a thematic basis.

## Article 59

### **Sectoral monitoring committees in the case of decentralised management**

1 The IPA monitoring committee shall be assisted by sectoral monitoring committees set up under the IPA components within six months after the entry into force of this Regulation, in accordance with the specific provisions laid down in Part II. The sectoral monitoring committees shall be attached to programmes or components. They may include representatives of civil society, where appropriate.

2 Each sectoral monitoring committee shall satisfy itself as to the effectiveness and quality of the implementation of the programmes and operations concerned, in accordance with the specific provisions laid down for each component in Part II, and for the related sectoral and/or financing agreements. It may make proposals to the Commission and the national IPA coordinator, with a copy to the national authorising officer, for decisions on any corrective measures to ensure the achievements of programme objectives and enhance the efficiency of the assistance provided.

3 The sectoral monitoring committees shall report to the IPA monitoring committee. They shall provide the IPA monitoring committee in particular with information relating to:

- a the progress made in implementing the programmes, by priority axis and, where relevant, by measures or operations; this shall include the results achieved, financial implementation indicators, and other factors and shall be established with a view to improving the implementation of the programmes;
- b any aspects of the functioning of the management and control systems raised by the audit authority, the national authorising officer or the competent accrediting officer.

#### *Article 60*

#### **Monitoring in the case of centralised and joint management**

In the case of centralised and joint management, the Commission may undertake any actions it deems necessary to monitor the programmes concerned. In the case of joint management, these actions may be carried out jointly with the international organisation(s) concerned.

#### *Article 61*

#### **Annual and final reports on implementation**

1 The operating structures shall draw up a sectoral annual report and a sectoral final report on the implementation of the programmes for which they are responsible, in compliance with the procedures defined in Part II for each IPA component.

The sectoral annual reports on implementation shall cover the financial year. The sectoral final reports on implementation shall cover the whole period of implementation and may include the last sectoral annual report.

2 The reports referred to in paragraph 1 shall be sent to the national IPA coordinator, the national authorising officer and to the Commission, after examination by the sectoral monitoring committees.

3 On the basis of the reports referred to in paragraph 1, the national IPA coordinator shall send to the Commission and the national authorising officer, after examination by the IPA monitoring committee, annual and final reports on the implementation of assistance under the IPA Regulation.

4 The annual report on implementation referred to in paragraph 3, which shall be sent by 31 August each year and for the first time in 2008, shall synthesise the different sectoral annual reports issued under the different components and shall include information about:

- a progress made in implementing Community assistance, in relation to the priorities set up in the multi-annual indicative planning document and the different programmes;
- b financial implementation of Community assistance.

5 The final report on the implementation as referred to in paragraph 3 shall cover the whole period of implementation and may include the latest annual report mentioned in paragraph 4.

## CHAPTER VI

### Publicity, visibility

#### *Article 62*

#### **Information and publicity**

1 In the case of centralised and joint management, information on programmes and operations shall be provided by the Commission, with the assistance of the national IPA coordinator as appropriate. In the case of decentralised management, and in all cases for programmes or part of programmes under the cross-border cooperation component not implemented through shared management, the beneficiary country and the national IPA coordinator shall provide information on and publicise programmes and operations. In the case of shared management, the Member States, the beneficiary countries and the managing authority as referred to in Article 103, shall provide information on and publicise programmes and operations. The information shall be addressed to the citizens and beneficiaries, with the aim of highlighting the role of the Community and ensuring transparency.

2 In the case of decentralised management, the operating structures shall be responsible for organising the publication of the list of the final beneficiaries, the names of the operations and the amount of Community funding allocated to operations. They shall ensure that the final beneficiary is informed that acceptance of funding is also an acceptance of their inclusion in the list of beneficiaries published. Any personal data included in this list shall be processed in accordance with the requirements of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>(2)</sup>.

3 In accordance with Article 90 of Regulation (EC, Euratom) No 1650/2002, the Commission shall publish the relevant information on the contracts. The Commission shall publish the results of the tender procedure in the *Official Journal of the European Union*, on the EuropeAid website and in any other appropriate media, in accordance with the applicable contract procedures for Community external actions.

#### *Article 63*

#### **Visibility**

1 The Commission and the relevant national, regional or local authorities of the beneficiary countries shall agree on a coherent set of activities to make available, and publicise, in the beneficiary countries, information about assistance under the IPA Regulation.

The procedures for implementing such activities shall be specified in the sectoral or financing agreements.

2 Implementation of the activities referred to in paragraph 1 shall be the responsibility of the final beneficiaries, and shall be funded from the amount allocated to the relevant programmes or operations.



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

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- (1) OJ L 371, 27.12.2006, p. 1.
- (2) OJ L 8, 12.1.2001, p. 1.