

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 21 December 1993

Proposal for a
COUNCIL REGULATION (EC)

establishing a Cohesion Fund

Proposal for a
COUNCIL REGULATION (EC)

laying down detailed rules for implementing Regulation (EC) No
establishing a Cohesion Fund

EXPLANATORY MEMORANDUM

1. Article 130d of the Treaty provides for the establishment of a Cohesion Fund to provide a financial contribution to projects in the fields of the environment and trans-European transport infrastructure networks.
2. The European Council at Edinburgh specified the scope of this instrument and the conditions under which it is to operate. The purpose of this proposal for a Council Regulation is to establish the Cohesion Fund.
3. On December 1992 the Commission presented the draft proposal for a Regulation establishing the Cohesion Fund, based on Article 130d as amended by the Maastricht Treaty, which takes account of the conclusions of the European Council.
4. This proposal replaces that text and includes certain amendments intended to take account, in particular, of Parliament's wishes, certain appropriate provisions of Regulation (EEC) No 792/93 establishing the cohesion financial instrument and certain adjustments which appear necessary in the light of experience gained in 1993.
5. The Commission will seek to ensure that the Cohesion Fund can take over from the cohesion financial instrument as soon as possible to provide funding for projects without any interruptions in the implementation of the investments or the flow of Community financial assistance.
6. The basic principles of the proposal have already been described in the Commission's communication COM(92) 339 final of 31 July 1992.
7. At the same time, the Commission is submitting a proposal for a Council Regulation laying down detailed rules for implementing the Regulation establishing the Cohesion Fund.

Proposal for a
COUNCIL REGULATION (EC)

establishing a Cohesion Fund

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second paragraph of Article 130d thereof,

Having regard to the proposal from the Commission,

Having regard to the assent of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Whereas Article 2 of the Treaty includes the task of promoting economic and social cohesion and solidarity between Member States as objectives essential to the Community's development and success; whereas the strengthening of economic and social cohesion is referred to at point (j) of Article 3 as one of the activities of the Community for the purposes set out in Article 2;

Whereas Article 130a of the Treaty provides for the Community to develop and pursue its actions leading to the strengthening of its economic and social cohesion, and provides in particular that it shall aim at reducing disparities between the levels of development of the various regions and the backwardness of the least-favoured regions, including rural areas; whereas Community action through the Cohesion Fund should support the achievement of the objectives set out in Article 130a;

Whereas the conclusions of the European Councils held in Lisbon on 26 and 27 June 1992 and in Edinburgh on 11 and 12 December 1992 concerning the establishment of the Cohesion Fund set out the principles governing it;

Whereas the promotion of economic and social cohesion requires the Community to take action in addition to that taken through the structural Funds, the European Investment Bank and the other financial instruments in the fields of the environment and transport infrastructure of common interest;

Whereas the Protocol on economic and social cohesion annexed to the Treaty on European Union reaffirms the Community's task of promoting economic and social cohesion and solidarity between Member States and specifies that a Cohesion Fund will provide a financial contribution to projects in the fields of the environment and trans-European networks in the Member States with a per capita gross-national product (GNP) of less than 90% of the Community average which have a programme leading to the fulfilment of the conditions of economic convergence as set out in Article 104c of the Treaty; whereas the relative prosperity of Member States is best assessed on the basis of per capita GNP, measured in purchasing power parities;

Whereas the special situation of the Member States concerned calls for a determined effort if they are to meet the convergence criteria which are a precondition for moving to the third stage of economic and monetary union; whereas, in this context, all of the beneficiary Member States have submitted to the Council a convergence programme designed to avoid excessive public deficits;

Whereas the second paragraph of Article 130d of the Treaty also states that the Council must set up a Cohesion Fund to provide a financial contribution to projects in the fields of the environment and trans-European transport infrastructure networks;

Whereas Article 129c(1) of the Treaty provides that the Community may contribute through the Cohesion Fund to the financing of specific projects in the Member States in the area of transport infrastructure, whilst taking into account the potential economic viability of the projects; whereas the projects financed by the Fund should form part of trans-European network guidelines which have been adopted by the Council including those approved on the basis of Article 75 of the Treaty, or proposed by the Commission; whereas, if this condition cannot yet be fulfilled, other transport infrastructure projects contributing to the attainment of the objectives of Article 129b of the Treaty may be financed;

Whereas Article 130r of the Treaty defines the objectives and principles of the Community in the field of the environment; whereas the Community may contribute, through the Cohesion Fund, to actions designed to achieve those objectives; whereas, in accordance with Article 130s(5) of the Treaty, the Cohesion Fund is to contribute, without prejudice to the principle that the polluter should pay, to the financing of measures if the Council decides that such measures involve costs deemed disproportionate for the public authorities of a Member State;

Whereas the principles and objectives of sustainable development are established in the Community's programme of policy and action in relation to the environment and sustainable development as set out in the Council resolution of 1 February 1993⁽¹⁾;

Whereas a suitable balance must be struck between financing for transport infrastructure projects and financing for environmental projects;

Whereas the Commission's Green Paper on the Impact of Transport on the Environment⁽²⁾ reiterates the need to develop a more environmentally friendly transport system;

Whereas, in the light of the undertaking by the Member States concerned not to decrease their investment efforts in the fields of environmental protection and transport infrastructure, the principle of additionality within the meaning of Article 9 of Council Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽³⁾, as amended by Regulation (EEC) No 2082/93⁽⁴⁾, will not apply to the Cohesion Fund;

⁽¹⁾ OJ No C 138, 17.5.1993, p. 1.

⁽²⁾ COM(92) 46.

⁽³⁾ OJ No L 374, 31.12.1988, p. 1.

⁽⁴⁾ OJ No L 193, 31.7.1993, p. 20.

Whereas, in accordance with Article 198e of the Treaty, the European Investment Bank (EIB) is to facilitate the financing of investments in conjunction with assistance from the other Community financial instruments;

Whereas it is necessary to coordinate action taken in the fields of the environment and of trans-European transport infrastructure networks through the Cohesion Fund, the structural Funds, the EIB and the other financial instruments in order to enhance the effectiveness of Community assistance;

Whereas, with a view, in particular, to helping Member States in the preparation of projects, the Commission should be in a position to ensure that the necessary technical support is available to them, particularly in order to contribute to the preparation, implementation, monitoring and evaluation of projects;

Whereas, particularly in order to ensure value for money, a thorough appraisal should precede the commitment of Community resources in order to ensure that they yield economic benefits in keeping with the resources deployed;

Whereas assistance from the Cohesion Fund must be consistent with Community policies, particularly with regard to environmental protection, transport, competition and the award of public contracts; whereas environmental protection includes the assessment of environmental impact;

Whereas there should be provision for an indicative allocation of commitment appropriations between the Member States in order to facilitate the preparation of projects;

Whereas it is necessary, given the requirements of economic and social cohesion, to provide a high rate of assistance;

Whereas, in the interests of the proper management of the Cohesion Fund, provision should be made for effective methods of evaluating, monitoring and checking Community operations;

Whereas adequate information should be provided in the form of an annual report;

Whereas provision should be made to give adequate publicity to Community assistance from the Cohesion Fund;

Whereas the present Regulation should replace Council Regulation (EEC) No 792/93 of 30 March 1993 establishing a cohesion financial instrument⁽⁵⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Definition and objective

I. A Cohesion Fund, hereinafter referred to as "the Fund", is hereby established.

⁽⁵⁾ OJ No L 79, 1.4.1993, p. 74.

2. The Fund shall contribute to the strengthening of the economic and social cohesion of the Community and shall operate according to the provisions set out in this Regulation.
3. For the purposes of this Regulation, the word "project" shall include the stages of a project which are technically and financially independent, or groups of projects linked to a visible strategy which form a coherent whole.

Article 2

Scope

1. The Fund shall provide financial contributions to projects in the fields of the environment and trans-European transport infrastructure networks in Member States with a per capita GNP, measured in purchasing power parities, of less than 90% of the Community average which have a programme leading to the fulfilment of the conditions of economic convergence referred to in Article 104c of the Treaty.
2. Until the end of 1999, only the four Member States which currently meet the criterion regarding per capita GNP in paragraph 1 shall be eligible for assistance from the Fund. Those four Member States are Greece, Spain, Ireland and Portugal.
3. With regard to the GNP criterion referred to in paragraph 1, the abovementioned Member States shall continue to be eligible for assistance from the Fund provided that, after a mid-term review in 1996, their GNP remains below 90% of the Community average. Any eligible Member State whose GNP exceeds the 90% threshold at that time shall lose its entitlement to assistance from the Fund for new projects or, in the case of important projects split into several technically and financially separate stages, for new stages of a project.

Article 3

Eligible measures

1. The Fund may provide assistance for the following:
 - environmental projects contributing to the achievement of the objectives of Article 130r of the Treaty, including projects resulting from measures adopted pursuant to Article 130s of the Treaty;
 - transport infrastructure projects of common interest, financed by Member States which are identified within the framework of the guidelines referred to in Article 129c of the Treaty; where the appropriate guidelines as referred to in Article 129c have not yet been adopted by the Council or proposed by the Commission, other transport infrastructure projects contributing to the achievement of the objectives of Article 129b of the Treaty may be financed.

2. Assistance may also be granted for:

- preliminary studies related to eligible projects, including those necessary for their implementation;
- technical support measures, particularly:
 - (a) horizontal measures such as comparative studies to assess the impact of Community assistance;
 - (b) measures and studies which contribute to the ex-ante appraisal or ex-post evaluation or monitoring of projects and to strengthening and ensuring the coordination and consistency of projects, particularly their compatibility with other Community policies.
 - (c) measures and studies helping to make the necessary adjustments to the implementation of projects;

Article 4

Financial resources

1. For the period 1993-99, the total commitment appropriations available for the Fund under this Regulation and Regulation (EEC) No 792/93 shall be ECU 15.15 billion at 1992 prices.
2. In accordance with paragraph 1, the commitment appropriations available for each year of the period under the abovementioned Regulations are as follows:
 - 1993: ECU 1.5 billion
 - 1994: ECU 1.75 billion
 - 1995: ECU 2 billion
 - 1996: ECU 2.25 billion
 - 1997: ECU 2.5 billion
 - 1998: ECU 2.55 billion
 - 1999: ECU 2.6 billion.

Article 5

Indicative allocation of funds

1. An indicative allocation of the total resources of the Fund shall be made based principally on population, per capita GNP and surface area; it shall also take account of other socio-economic factors such as deficiencies in transport infrastructure.
2. The indicative allocation resulting from the application of those criteria is set out in the Annex hereto.

Article 6

Conditional assistance

1. Where the Council decides, or has decided, in accordance with Article 104c(6) of the Treaty, that a Member State has an excessive government deficit, and if its decision is not repealed in accordance with Article 104c(12) within one year or any other period specified for correcting the deficit in a recommendation under Article 104c(7), no new projects or, in the case of large multi-stage projects, no new stages of a project shall be financed from the Fund for that Member State.
2. Exceptionally, in the case of projects directly affecting more than one Member State, the Council, acting by qualified majority on a proposal from the Commission, may decide to defer suspension.
3. Suspension of financing shall not take effect less than two years after the entry into force of the Treaty on European Union.
4. The suspension shall cease when the Council, in accordance with Article 104c(12), repeals its decision adopted in accordance with Article 104c(6).

Article 7

Rate of assistance

1. The rate of assistance granted by the Fund shall be 80% to 85% of public or equivalent (national, regional or local) expenditure. This shall include expenditure by bodies whose activities are undertaken within an administrative or legal framework by virtue of which they may be deemed to be equivalent to public bodies.

The actual rate of assistance shall be fixed according to the type of operation to be carried out.

2. Where assistance is granted for a project which generates revenue, the amount of the expenditure on which the calculation of the assistance from the Fund is based shall be established by the Commission, taking account of revenue where it constitutes substantial net revenue for the promoters and in close consultation with the beneficiary Member State.

'Project which generates revenue' means:

- infrastructures the use of which involves fees borne by users direct;
- productive investments in the environment sector.

3. Preliminary studies and technical support measures may be financed at 100% of the total cost, particularly when they are undertaken at the Commission's initiative.

Total expenditure carried out pursuant to this paragraph may not exceed 0.5% of the total allocation to the Fund.

Article 8

Coordination and compatibility with Community policies

1. Projects financed by the Fund shall be in keeping with the provisions of the Treaties, with the instruments adopted pursuant thereto and with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts.
2. The Commission shall ensure coordination and consistency between projects undertaken pursuant to this Regulation and measures undertaken with contributions from the Community budget, the European Investment Bank and the other financial instruments of the Community.

Article 9

Combination and overlapping

1. No item of expenditure may benefit both from the Fund and from the European Agricultural Guidance and Guarantee Fund, the European Social Fund, the European Regional Development Fund or the Financial Instrument for Fisheries Guidance.
2. The combined assistance of the Cohesion Fund and other Community aid for a project shall not exceed 90% of the total expenditure relating to that project.

Article 10

Approval of projects

1. The projects to be financed by the Fund shall be selected by the Commission in agreement with the beneficiary Member State.
2. A suitable balance shall be struck between projects in the field of the environment and projects relating to transport infrastructure. This balance shall take account of Article 130s(5) of the Treaty.
3. Applications for assistance for projects under Article 3 shall be submitted by the beneficiary Member State. Projects, including groups of related projects, shall be of a sufficient scale to have a significant impact in the field of environmental protection or in the improvement of trans-European transport infrastructure networks. The total cost of projects or groups of projects may in principle not be less than ECU 10 million.
4. Applications shall contain the following information: the body responsible for implementation, the nature of the investment and a description thereof, its costs and location, including, where applicable, the link-up between projects of common interest situated on the same transport axis, the timetable for implementation of the work, a cost-benefit analysis, including the direct and indirect effects on employment and an indication of options not selected, information concerning the procedures for environmental-impact assessment where applicable, information on public contracts, the financing plan and the total financing the

Member State is seeking from the Fund and any other Community source. They shall also contain any information necessary to show that the projects comply with this Regulation.

5. The following criteria shall be applied to ensure the quality of projects:
 - the medium-term economic and social benefits, which shall be commensurate with the resources deployed; an assessment shall be made in the light of a cost-benefit analysis;
 - the priorities established by the beneficiary Member States;
 - the contribution which projects can make to the implementation of Community policies on the environment and trans-European networks;
 - the compatibility of projects with Community policies and their consistency with other Community structural measures;
 - the establishment of an appropriate balance between the fields of the environment and transport infrastructure.
6. Subject to Article 6 and to the availability of commitment appropriations, the Commission shall decide on the grant of assistance from the Fund generally within three months of receipt of the full application. Commission decisions approving projects, stages of projects or groups of related projects shall determine the amount of financial support and lay down a financing plan together with all the provisions and conditions necessary for the realization of the projects.
7. The key details of the Commission's decisions shall be published in the Official Journal of the European Communities.

Article 11

Financial provisions

1. Budgetary commitments shall be established on the basis of the Commission decisions approving the measures concerned.
2. Assistance relating to the measures referred to in Article 3(1) may be committed either by annual instalments or by granting the total amount of the aid when the Commission adopts the decision approving the assistance.
3. Expenditure within the meaning of Article 7(1), incurred before the date on which the Commission receives the relevant application, shall not be deemed eligible for assistance from the Fund.
4. Payments made after an initial advance must be closely and transparently linked to progress made in the implementation of the projects.
5. Payments shall be made in ecus and shall be subject to the specific arrangements laid down in the implementing provisions referred to in Article 15.

Article 12

Checks

1. In order to guarantee successful completion of the projects financed by the Fund, Member States shall take the necessary measures:
 - to verify on a regular basis that operations financed by the Community have been properly carried out;
 - to prevent and take action against irregularities;
 - to recover any amounts lost as a result of irregularity or negligence. Except where the Member State and/or the implementing authority provide proof that they were not responsible for the irregularity or negligence, the Member State shall be liable in the alternative for reimbursement of any sums unduly paid.
2. Member States shall inform the Commission of the measures taken for those purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of operations. They shall regularly inform the Commission of the progress of administrative and judicial proceedings. In that context the Member States and the Commission shall take the necessary steps to ensure that the information exchanged remains confidential.
3. When submitting requests for payment, Member States shall make available to the Commission any appropriate national control reports on the projects concerned.
4. Without prejudice to checks carried out by Member States in accordance with national laws, regulations and administrative provisions and without prejudice to Article 188a of the Treaty or to any inspection arranged on the basis of Article 209(c) of the Treaty, Commission officials may carry out on-the-spot checks, including sample checks, in respect of projects financed by the Fund, and may examine the control arrangements established by the national authorities, who shall inform the Commission of measures taken to that end.
5. As soon as this Regulation enters into force, the Commission shall adopt detailed rules for the application of this Article and shall inform the European Parliament thereof.

Article 13

Evaluation and monitoring

1. The Member States and the Commission shall ensure that the implementation of projects under this Regulation is effectively monitored and evaluated. Projects must be adjusted on the basis of the results of monitoring and evaluation.
2. In order to ensure the effectiveness of Community assistance, the Commission and the beneficiary Member States shall, in cooperation with the European Investment Bank (EIB) where appropriate, carry out a systematic evaluation of projects.

3. On receipt of a request for assistance and before approving a project, the Commission shall carry out a thorough appraisal in order to assess the project's consistency with the criteria laid down in Article 10(5). The Commission shall invite the EIB to contribute to the appraisal of projects as necessary.
4. During the implementation of projects and after their completion, the Commission and the beneficiary Member States shall assess the manner in which they have been carried out and the potential and actual impact of their implementation in order to judge whether the original objectives can be or have been achieved.
5. The detailed rules for monitoring and evaluation shall be laid down in the decisions approving projects.

Article 14

Information and publicity

1. The Commission shall present an annual report on the activities of the Fund for examination by the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions.

The European Parliament shall deliver an opinion on the report as soon as possible. The Commission shall report on how it has applied the observations contained in the European Parliament's opinion.

2. The Member States responsible for implementing an operation receiving a financial contribution from the Fund shall ensure that adequate publicity is given to the measure with a view to:
 - making the general public aware of the role played by the Community in relation to the operation;
 - making potential beneficiaries and professional organizations aware of the possibilities afforded by the operation.

Member States shall ensure, in particular, that directly visible display panels are erected showing the percentage of the cost of a given project which is being financed by the Community, together with the Community logo.

They shall inform the Commission of the initiatives taken under this paragraph.

3. As soon as this Regulation enters into force, the Commission shall adopt detailed rules on information and publicity, shall inform the European Parliament thereof and shall publish them in the Official Journal of the European Communities.

Article 15

Implementation:

The Council, acting by qualified majority on a proposal from the Commission, shall adopt the operational provisions necessary for the implementation of this Regulation.

Article 16

Final and transitional provisions

1. The Council, acting on a proposal from the Commission in accordance with the procedure laid down in Article 130d of the Treaty, shall re-examine this Regulation before the end of 1999.
2. This Regulation shall replace Regulation (EEC) No 792/93, on 1 April 1994.
3. This Regulation shall not affect the continuation of measures approved by the Commission on the basis of the provisions of Regulation (EEC) No 792/93 applicable before the entry into force of this Regulation, which shall consequently apply thereafter to those measures.
4. Applications presented before the entry into force of this Regulation shall remain valid provided they are supplemented, where necessary, so as to comply with the requirements of this Regulation within not more than two months from the entry into force of this Regulation.

Article 17

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX

Indicative allocation of the total resources of the Cohesion Fund among the beneficiary Member States

- Greece: 16% to 20% of the total
- Spain: 52% to 58% of the total
- Ireland: 7% to 10% of the total
- Portugal: 16% to 20% of the total

Proposal for a
COUNCIL REGULATION (EC)

laying down detailed rules for implementing Regulation (EC) No ...
establishing a Cohesion Fund

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No establishing a Cohesion Fund⁽¹⁾, and in particular Article 15 thereof;

Having regard to the proposal from the Commission⁽²⁾;

Whereas Regulation (EC) No .../... instituting the Cohesion Fund, henceforward referred to as the "Fund", provides that the Council, acting by a qualified majority on a proposal from the Commission, is to establish detailed rules for the implementation of that Regulation;

Whereas, in order to facilitate the management of assistance from the Fund, there should be provision for the identification of the stages of projects which may be considered technically and financially separate;

Whereas the rules for assessing projects in respect of which application for assistance is made should be laid down;

Whereas it should be possible to opt for assistance from the Fund either by annual instalments or for the whole of the project;

Whereas, in accordance with the principle laid down by the European Council meeting at Edinburgh on 11 and 12 December 1992, payment instalments following an initial advance should be closely and transparently linked with progress towards the completion of projects;

Whereas, in the context of the wider use of the ecu in financial transactions in the Community, and in particular in the implementation of the Community budget, it is important that the Community's financial entitlements and obligations in respect of the Fund should be expressed in ecus;

Whereas arrangements for monitoring the projects should be laid down as to both form and details;

Whereas the respective powers and responsibilities of the Member States and the Commission concerning financial control over the Fund's operations should be specified;

Whereas the action to be taken in response to irregularities or failure to comply with one of the conditions laid down when assistance from the Fund was approved should be laid down;

⁽¹⁾ OJ No L , 1994, p.

⁽²⁾ OJ No

Whereas the Member States should take all general or specific measures to ensure implementation of this Regulation and should assist the Commission in carrying out its duties;

Whereas publication in the Official Journal of the European Communities of calls for public tenders concerning projects receiving assistance from the Fund should mention that assistance;

Whereas the Financial Regulation of 21 December 1977⁽³⁾ and its subsequent modifications, and in particular Article 36(1) and (2) thereof, stipulate that all measures likely to impose a charge on the budget should previously have been the subject of a commitment proposal on the part of the competent authorizing officer,

HAS ADOPTED THIS REGULATION:

Article 1

Designation of stages of projects

1. The Commission may, in agreement with the beneficiary Member State, designate technically and financially separate stages of a project for the purpose of granting assistance.
2. A stage may also cover preliminary, feasibility and technical studies needed for the implementation of a project.

Article 2

Appraisal

1. The Commission shall examine applications for assistance to verify in particular that the administrative and financial mechanisms are appropriate for the effective implementation of the project.
2. Pursuant to Article 13(3) of Regulation (EC) No ..., the Commission shall assess projects to determine their anticipated impact in terms of the objectives of the Fund, quantified using appropriate indicators. The beneficiary Member States shall provide all necessary information, as set out in Article 10(4) of Regulation (EC) No ..., including the results of feasibility studies and ex-ante appraisals, to make this appraisal as effective as possible.

⁽³⁾ OJ No L 356, 31.12.1977, p. 1.

Article 3

Commitments

1. Commitments of budget appropriations shall be made on the basis of the Commission decisions approving the measures concerned (project, stage of a project, group of projects, study or technical support measure). Commitments shall be valid for a period determined by the nature of the measure and the specific conditions for its implementation.
2. Commitments in respect of assistance granted to projects, stages of projects or groups of projects shall be carried out in one of two ways:
 - (a) the commitment of assistance may be effected in annual instalments. The commitments in respect of the first annual instalment shall be made when the decision granting Community assistance is adopted by the Commission. Commitments in respect of subsequent annual instalments shall be based on the initial or revised financing plan for the project, provided the project is making satisfactory progress towards completion;
 - (b) the total amount of assistance may be committed when the Commission adopts the decision granting Community assistance.
3. In the case of studies and technical support measures referred to in Article 3(2) of Regulation (EC) No ..., the assistance shall be committed when the Commission adopts the decision granting Community assistance.
4. The arrangements for commitments shall be specified in the Commission decisions approving the measures concerned.

Article 4

Payments

1. Payments of assistance shall be made in accordance with the corresponding budget commitments, to the authority or body designated for the purpose in the application submitted by the Member State concerned. Payments may take the form either of advances or of intermediate payments or payments of balances in respect of expenditure actually incurred.
2. Where Community assistance is committed in accordance with Article 3(2)(a), payments shall relate to the annual instalments of commitments. They shall be made as follows:
 - (a) an advance of up to 50% of the amount of the first annual instalment committed shall be paid when the decision granting Community assistance is adopted;
 - (b) intermediate payments may be paid provided that the project is progressing satisfactorily towards completion and that at least two-thirds of the expenditure relating to the previous payment have been made.

Subject to (c) below, each such payment may not exceed 50% of the amount of each annual instalment committed;

- (c) the total amount of the payments made under (a) and (b) for all the instalments may not exceed 80% of the total assistance granted. This percentage may be increased to 90 % for major projects and in justified cases;
 - (d) the balance of Community assistance shall be paid provided that:
 - the project, stage of the project, or group of projects, has been carried out according to its objectives;
 - the designated authority or body referred to in paragraph 1 submits an application for payment to the Commission within six months of the physical completion of the project, stage of project or group of projects;
 - the final report referred to in Article 6(4) is submitted to the Commission;
 - the Member State certifies to the Commission that the information given in the application for payment and in the report is correct.
3. Where the commitment is made in accordance with Article 3(2)(b), payments shall be made as follows:
- (a) the advance paid following the decision may be up to 50% of the assistance relating to planned expenditure in the first year as shown in the financing plan approved by the Commission;
 - (b) further intermediate payments may be made provided that the project is progressing satisfactorily towards completion and that at least two-thirds of the expenditure relating to the previous payment, and all expenditure relating to earlier payments, have been made. Subject to (c) below, each of those payments may amount to up to 50% of the assistance relating to expenditure planned for the year in question, as shown in the initial or revised financing plan approved by the Commission;
 - (c) the total amount of the payments made under (a) and (b) may not exceed 80% of the total assistance granted;
 - (d) the balance of Community assistance shall be paid provided that:
 - the project, stage of the project, or group of projects, has been carried out according to its objectives;
 - the designated authority or body referred to in paragraph 1 submits an application for payment to the Commission within six months of completion of the project, stage of project or group of projects;
 - the final report referred to in Article 6(4) is submitted to the Commission;
 - the Member State certifies to the Commission that the information given in the application for payment and in the report is correct.

4. Member States shall designate the authorities empowered to issue the certificates referred to in paragraphs 2(d) and 3(d).
5. Payment shall be made to the authority or body designated by the Member State, as a general rule not later than two months after receipt of an admissible application.
6. In the case of studies and other measures referred to in Article 3(2) of Regulation (EC) No ..., the Commission shall determine the appropriate payment procedures.

Article 5


Use of the ecu

1. Applications for assistance, together with the relevant financing plan, shall be submitted to the Commission in ecus or in national currency.
2. The amounts of assistance and the financing plans approved by the Commission shall be expressed in ecus.
3. Declarations of expenditure in support of the corresponding payment applications shall be expressed in ecus or in national currency.
4. Payments of financial assistance by the Commission shall be made in ecus to the authority designated by the Member State to receive such payments.

Article 6

Monitoring

1. The Commission and the Member States shall ensure effective monitoring of implementation of Community projects part-financed by the Fund. Monitoring shall be carried out by way of jointly agreed reporting procedures, sample checks and the establishment of ad hoc committees.
2. Monitoring shall be carried out by reference to physical and financial indicators. The indicators shall relate to the specific character of the project and its objectives. They shall be arranged in such a way as to show:
 - the stage reached in the project in relation to the plan and objectives originally laid down;
 - the progress achieved on the management side and any related problems.
3. Monitoring committees shall be set up by agreement between the Member State concerned and the Commission.

The authorities or bodies designated by the Member State, the Commission and, where appropriate, the EIB shall delegate representatives to the committees. 

4. For each project, the authority or body designated for the purpose by the Member State shall submit progress reports to the Commission within three months of the end of each full year of implementation. A final report shall be submitted to the Commission within six months of completion of the project or stage of a project.
5. On the basis of the results of monitoring, the Commission shall, if necessary, adjust the amounts and conditions for granting assistance as initially approved, as well as the financing plan envisaged.
6. For the greater effectiveness of the Fund, the Commission shall ensure that particular attention is paid to transparency of management.
7. The monitoring arrangements shall be laid down in the Commission decisions approving the projects.

Article 7

Checks

1. Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. On-the-spot checks by the Commission without notice shall be subject to agreements reached in accordance with the Financial Regulation. Officials of the Member State concerned may take part in the checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of payment applications. Commission staff may take part in such checks, and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.

2. The responsible body and authorities shall keep available for the Commission all the supporting documents regarding expenditure on any project for a period of three years following the last payment in respect of the project.

Article 8

Reduction, suspension and cancellation of assistance

1. If during implementation a measure appears not to justify either a part, or the whole, of the assistance originally allocated, the Commission shall conduct an appropriate examination of the case, in particular requesting the Member State or other authorities or bodies designated by it to implement the measure to submit their comments within a specified period of time.

2. Following the examination referred to in paragraph 1, the Commission may reduce or suspend assistance in respect of the measure concerned if the examination reveals an irregularity or a failure to comply with one of the conditions in the decision to grant assistance, and in particular any significant change affecting the nature or conditions of implementation of the measure for which the Commission's approval has not been sought.
3. Any sum to be recovered for want of due entitlement shall be repaid to the Commission. Interest on account of late repayment shall be charged in accordance with rules to be adopted by the Commission.

Article 9

Under the Community rules on public contracts, notices sent for publication in the Official Journal of the European Communities shall include references serving to identify a project or projects receiving assistance from the Fund.

Article 10

Information

The information to be given in the annual report provided for in Article 14 of Regulation (EC) No ... shall be as set out in the Annex hereto.

Article 11

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

ANNEX

The annual report shall provide information about the following:

1. Financial assistance committed and paid from the Fund, with an annual breakdown by Member State and by type of project (environment or transport).
2. The economic and social impact of the Fund in the Member States.
3. Summary information on the programmes implemented in the beneficiary Member States to fulfil the conditions of economic convergence referred to in Article 104c of the Treaty and on the application of Article 6 of this Regulation.
4. The contribution which the Fund has made to the efforts of the beneficiary Member States to implement Community environment policy and to strengthen trans-European transport infrastructure networks; the balance between projects in the field of the environment and projects relating to transport infrastructure.
5. Assessment of the compatibility of operations of the Fund with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts.
6. The measures taken to ensure coordination and consistency between projects financed by the Fund and measures financed with contributions from the Community budget, the European Investment Bank and the other financial instruments of the Community.
7. The investment efforts of the beneficiary Member States in the fields of environmental protection and transport infrastructure.
8. The preparatory studies and technical support measures financed, including a specification of the types of such studies and measures.
9. The results of monitoring and evaluation of projects, including information on any adjustment of projects to accord with the results of monitoring and evaluation.
10. The contribution of the European Investment Bank to the evaluation of projects.

FINANCIAL STATEMENT

SECTION 1: FINANCIAL IMPLICATIONS

1. Title of operation

Cohesion Fund

2. Budget heading involved

B2.300

3. Legal basis

Proposal for a Council Regulation based on Article 130d of the Treaty on European Union.

4. Description of operation

4.1. Specific objectives of operation

To adopt the Regulation establishing a Cohesion Fund.

4.2. Duration

1994-99.

4.3. Target population

Greece, Spain, Ireland and Portugal.

5. Classification of expenditure

5.1. Non-compulsory

5.2. Differentiated appropriations

5.3. Not applicable

6. Type of expenditure

Subsidy for joint financing of projects with other sources in the public and/or private sector.

7. Financial impact

7.1 Method of calculating total cost of operation

The financial resources of the Cohesion Fund are the same as those provided for in the financial perspective (ECU 14 728 million at 1994 prices for the period 1994-99).

8. Anti-fraud measures planned in the proposal for the operation.

9. Elements of cost-effectiveness analysis

9.1 Objectives

The objective of the Cohesion Fund is to contribute funding to projects concerning the environment and trans-European networks in the area of transport infrastructure in the Member States whose per capita Gross Domestic Product is less than 90% of the Community average, measured on the basis of purchasing power parities, i.e. Greece, Spain, Ireland and Portugal. Each of these Member States has presented a convergence programme designed to prevent an excessive public deficit.

9.2 Grounds for the operation

Article 130d of the Treaty on European Union provides for the Council to set up a Cohesion Fund to provide a financial contribution to projects in the fields of the environment and trans-European transport networks.

9.3 Monitoring and evaluation of the operation

1. The Commission will carry out a systematic evaluation of the projects in collaboration with the beneficiary Member States.

The Commission will cooperate with the EIB in this evaluation where appropriate. As soon as the aid application is received, the Commission will assess the projects presented by the Member States with reference to the following criteria:

- their medium term economic and social benefits, which should be proportionate to the resources deployed; this assessment should be based on a cost-benefit analysis drawn up by the Member States;
- the contribution which the projects can make to the implementation of the Community's policies in the fields of the environment and trans-European networks;
- the establishment of an appropriate balance between environment and transport.

The Commission will verify and quantify the expected impact of the projects on the basis of a cost-benefit analysis.

The beneficiary Member States concerned will provide all the necessary information, including the results of feasibility studies and ex-ante appraisal, so that the assessment can be carried out as effectively as possible.

The Commission will also examine applications for assistance, particularly in order to ascertain that the administrative and financial mechanisms can ensure effective implementation.

2. For the purposes of the Regulation, the Member States concerned will forward to the Commission a description of the management and control arrangements set up to ensure the effective implementation of the projects.

They must also inform the Commission of all cases of irregularities discovered or which are the subject of legal proceedings.

3. The implementation of projects is to be monitored by means of:
 - statements presented with applications for payment, certifying that the project is progressing satisfactorily towards completion and that expenditure has been carried out in accordance with the details in the financing plan;
 - reports drawn up in accordance with procedures agreed with the Member State, showing the progress of the projects financed in relation to the physical and financial indicators specified in the Commission Decision approving the projects;
 - Monitoring Committees set up by mutual agreement between the Commission and the Member State.
4. The balance, amounting to 20% of the assistance granted to the project, will be paid once Member States have presented a report stating that the project has been completed in accordance with its objectives.

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