

**EUROPEAN COMMISSION**DIRECTORATE-GENERAL
REGIONAL POLICYDIRECTORATE-GENERAL
EMPLOYMENT, SOCIAL AFFAIRS AND EQUAL OPPORTUNITIES

Note of the Commission services No. 3

Co-financing of expenditure by Structural Funds or Cohesion Fund and another Community Financial Instrument

This note has been prepared by the Directorates-General for Regional Policy and for Employment, Social Affairs and Equal Opportunities.

A draft of this note was discussed on 31 January and 28 February 2007 in the Committee for the Coordination of the Funds (COCOF).

The note sets out the reading that the two Directorates-General will give to the relevant articles of the Regulations on this issue in their dealings with Member States.

1. INTRODUCTION

Some questions have been raised by Member States as whether or not an operation may receive assistance from the Structural Funds and Cohesion Fund (hereinafter "the Funds") and other Community financial instruments.

2. LEGAL PROVISIONS

- Article 2 of Council Regulation (EC) No 1083/2006 defines the following terms:

operation - " a project or group of projects selected by the managing authority of the operational programme concerned or under its responsibility according to criteria laid down by the monitoring committee and implemented by one or more beneficiaries allowing achievement of the goals of the priority axis to which it relates",

operational programme - "document submitted by the Member state and adopted by the Commission setting out a development strategy with a coherent set of priorities to be carried out with the aid of a Fund, or, in the case of the Convergence objective, with the aid of the Cohesion Fund and the ERDF."

- Article 54(5) provides that "*an expenditure co-financed by the Funds shall not receive assistance from another Community financial instrument*".

3. GENERAL PRINCIPLE

It should be noted that, for the purpose of this Regulation the Community financial instruments are the Funds, the programmes and other actions for specific assistance

created by Community legislation and funded by the budget of the European Communities (example: LIFE, Framework Research Programme, EARDF...). The loans from the EIB and from other loan instruments do not fall within the definition of Community financial instruments.

The principle laid down in Article 54(5) of Regulation (EC) No 1083/2006 is that "*an expenditure co-financed by the Funds shall not receive assistance from another Community financial instrument*".

Therefore, any expenditure within a project that is part of an operational programme co-financed with the assistance from the Fund(s) cannot benefit from other Community funding.

This provision aims to underline the specificity of each budgetary instrument and to eliminate the risk that expenditure may be financed twice by the Community budget.

Expenditure co-financed with the assistance of the Funds but supported by another Community financial instrument would be irregular and the amount of the co-financing of the Funds should be recovered.

4. THE CONTRIBUTION FROM THE FUNDS

Article 53(1) of Regulation (EC) No 1083/2006 provides that the contribution from the Funds at the level of the operational programme is calculated with reference to the **eligible expenditure**, which is made up either of public eligible expenditure only or public eligible plus private expenditure.

Article 2(5) of Regulation (EC) No 1083/2006 defines public expenditure as "*any public contribution to the financing of operations whose origin is the budget of the State, of regional and local authorities, of the European Communities related to the Structural Funds and the Cohesion Fund and any similar expenditure*".

Therefore, the only public expenditure eligible is that which comes within the definition under Article 2(5). This means that expenditure under each operational programme adopted by the Commission for the purpose of the Funds' intervention (both Community Funding and the national counterpart) can only be supported by an amount of Community funding (only from the Funds) and an amount of national funding (public expenditure, within the meaning of Article 2(5), whether on its own or in conjunction with private expenditure). For example an operational programme with a Community co-financing rate of 75% will be made up of 75% funding from the Funds (and no other Community funding), and 25% national counterpart (either public expenditure on its own or in conjunction with private expenditure). Another Community financing instrument cannot substitute the national public counterpart, nor can it counted in the Community co-funding.

Furthermore, the statement of expenditure referred to in Article 78 of Regulation (EC) No 1083/2006 must only contain total eligible expenditure (to be established in accordance with the choice made by the Member State pursuant to Article 53(1) of Regulation (EC) No 1083/2006) paid under an operational programme co-financed by the Funds during the entire life of that operational programme. Accordingly, if expenditure included in a statement of expenditure is subsequently co-financed by

another Community financial instrument, this expenditure is irregular and should give rise to a financial correction.

It is the responsibility of the Member States to prevent such irregularities and, if needs be, to proceed with the financial corrections if such twofold co-financing occurs, in accordance with Article 70(1)(b) of Regulation (EC) No 1083/2006.

5. MAJOR PROJECTS

Major projects are governed by Articles 40 and 41 of Regulation (EC) No 1083/2006, pursuant to which Member States must submit an application to the Commission for projects whose total cost is higher than 50 million Euros for infrastructure (25 million Euros for the environment). As the Commission decision under Article 41(2) states the amount to which the co-financing rate of the priority axis will be applied, expenditure under that project which is co-financed by other Community financial instruments will be automatically excluded from the scope of the assistance under the operational programme. The financing plan of major project must therefore be transparent as regards other Community financial instruments in order to ensure, in the interests of sound financial management, that the rules prohibiting twofold co-financing are respected.

6. CONCLUSIONS

Expenditure under each operational programme adopted by the Commission for the purpose of the Funds' intervention can only be supported by an amount of Community funding (only from the Funds) and an amount of national funding (public expenditure, within the meaning of Article 2(5), whether on its own or in conjunction with private expenditure); therefore the expenditure under each operational programme cannot benefit from other Community funding.

It is not prohibited to co-finance the same operation, as defined under Regulation (EC) No 1083/2006, with two different Community financial instruments provided that the part of the operation funded by the Funds has an overall clearly separate and distinguishable "eligible amount". This could be achieved, for example, by having different projects or parts of projects in the same operation, where one or parts of one project would be funded by the Funds (within an operational programme) and the other(s) would be funded by other Community instruments (outside the scope of an operational programme).

Guidelines will be presented at a later stage concerning the combination of aid from an Operational programme co-financed by the Structural Funds or the Cohesion Fund and Transeuropean Networks subsidies.