Structural Funds: repayable assistance, financial engineering and certain provisions related to the statement of expenditure

2011/0210(COD) - 01/08/2011 - Legislative proposal

PURPOSE: to clarify Council Regulation (EC) No 1083/2006 as regards repayable assistance and financial engineering.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: Member States have had positive experiences with repayable assistance schemes at the level of operations during the programming period 2000-2006 and have therefore continued such schemes or have started to implement repayable assistance schemes in the current programming period 2007-2013. Some Member States have also included descriptions of those schemes in their programming documents, which were approved by the Commission.

Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund set out financial engineering instruments with precise areas and scope of intervention. However, the schemes implemented by Member States in the form of reimbursable grants and of credit lines managed by managing authorities via intermediate bodies are neither appropriately covered by the provisions on financial engineering instruments, nor by other provisions of Regulation (EC) No 1083/2006.

It is therefore necessary to **set out in a new Section of Regulation (EC) No 1083/2006 that the Structural Funds may co-finance repayable assistance**. That Section should cover reimbursable grants and credit lines managed by the managing authority through intermediate bodies which are public financial institutions.

IMPACT ANALYSIS: the present proposal will clarify the use of repayable forms of assistance at project level, a practice which has been well established in the programming period 2000-2006 and will give the use of structural funds a further boost and higher leverage.

The proposal aims to provide clarity about the legality of an existing legal practice. The main expected impact is thus the reduction of legal risk.

LEGAL BASIS: Article 177 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal seeks to provide legal security at the level of European Union that support provided by Member States through Structural Funds to schemes based on repayable forms of assistance implemented lawfully in the previous programming period and/or started in the current period but not having the characteristics of financial engineering instruments are permitted and legitimate under the present Structural Fund regulations.

The proposed modifications to the current regulatory framework are as follows:

- provides for a definition of reimbursable grant as a direct financial contributions by way of donation which can be totally or partially reimbursable without interest;

- establish that the Structural Funds may finance expenditure in respect of an operation comprising contributions to support repayable assistance. This provision covers reimbursable grants and credit lines managed by the managing authority through intermediate bodies which are "in-house" public financial institutions;
- clarify that the assistance repaid, to the body providing the assistance or to another competent public authority of the Member State shall be kept in a separate account and reused to the same purpose or in line with the objectives of the operational programme;
- clarify that provisions regarding major projects, revenue generating projects and durability of operations shall not, as a matter of principle, apply to financial engineering instruments under, since these rules are rather conceived for other types of assistance;
- introduce reporting of financial engineering instruments, having regard to the need to ensure appropriate monitoring, by the Member States as well as by the Commission, of the implementation of financial engineering instruments;
- introduce a legal obligation in order to ensure that the financial contribution paid by managing authorities for establishing or contributing to financial engineering instruments is spent for eligible expenditure within a timeframe of two years of the payment into the fund.

BUDGETARY IMPLICATION: there is no impact on commitment appropriations since no modification is proposed to the maximum amounts of Structural Funds financing provided for in the Operational Programmes for the programming period 2007-2013.