Structural Funds and Cohesion Fund: provisions relating to risk sharing instruments for Member States experiencing or threatened with serious difficulties with respect to their financial stability

2011/0283(COD) - 22/05/2012 - Final act

PURPOSE: to help those Member States mostly affected by the financial crisis to be able to continue with the implementation of the Structural Funds and the Cohension Funds, as tool for injecting funds into the economy.

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

CONTENT: following an agreement reached with the European Parliament at first reading, the Council adopted a regulation amending Council regulation 1083/2006 as regards certain provisions relating to **risk sharing instruments** for Member States experiencing or threatened with serious difficulties with respect to their financial stability.

The unprecedented global financial crisis and economic downturn have seriously damaged economic growth and financial stability and provoked a strong deterioration in financial, economic and social conditions in several Member States.

These provisions **cover five Member States which have been most affected by the crisis** and have received financial assistance under a programme from the balance of payments mechanism for non-euro countries (Romania and Latvia) or from the European financial stabilisation mechanism (EFSM) for the euro countries (Portugal, Greece and Ireland).

Risk-sharing instruments: in order to speed up the implementation of operational programmes and projects, as well as to strengthen the economic recovery, the Regulation provides that the Member States, which have experienced or have been threatened with serious difficulties with respect to their financial stability and which have been granted financial assistance under one of the financial assistance mechanisms, may contribute a part of the overall resources distributed to a risk-sharing instrument which shall be established by means of a cooperation agreement to be **concluded by the Commission either with the EIB or with national or international public sector bodies or bodies governed by private law with a public service mission** providing adequate guarantees.

By way of definition, a **risk-sharing instrument** means a financial instrument which guarantees the total or partial coverage of a defined risk, where appropriate in exchange for an agreed remuneration.

Cooperation agreement: the cooperation agreement shall contain **rules** in particular on:

- the total amount of the Union contribution and a schedule on how it will be made available;
- the trust account conditions to be set up by the contracted implementing body;
- the eligibility criteria for the use of the Union contribution;

- the details of the exact risk-sharing (including the leverage ratio) to be covered and the guarantees to be provided by the contracted implementing body;
- the pricing of the risk-sharing instrument based on the risk margin and the coverage of all the administrative costs of the risk-sharing instrument;
- the application and approval procedure for the project proposals covered by the risk-sharing instrument;
- the period of availability of the risk-sharing instrument;
- and the reporting requirements.

Justification for benefitting from a risk-sharing instrument: a Member State seeking to benefit from a risk-sharing instrument should clearly specify, in its written request to the Commission by 31 August 2013, why it considers that it meets one of the eligibility conditions of Regulation (EC) No 1083/2006 and it should attach to its request all the information required under this Regulation in order to prove the specified eligibility condition.

Verification by the Commisson: the Commission should verify that the information submitted by the requesting Member State is correct and that the Member State request is justified, and should be empowered to adopt, by means of an implementing act, **within four months of the Member State request**, a decision on the terms and conditions of the participation of the requesting Member State in the risk- sharing instrument.

However, **only projects for which a favourable financing decision is taken** either by the EIB or by the national or international public sector bodies or bodies governed by private law with a public service mission, as the case may be, should be accepted as eligible for financing through an established risk-sharing.

Financing: the financial allocations to the risk-sharing instrument shall be strictly capped and shall **not exceed 10 % of the indicative total allocation for the requesting Member State** for the years 2007-13 regarding the ERDF and the Cohesion Fund.

Any reflow or amount left over after the completion of an operation covered by the risk-sharing instrument **may be reused**, at the request of the Member State concerned, within the risk-sharing instrument, provided that the Member State still meets one of the conditions set out in the Regulation.

ENTRY INTO FORCE: 23/05/2012.