

Basic information

2009/0107(COD)

COD - Ordinary legislative procedure (ex-codecision procedure)
Regulation

European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

Amending Regulation (EC) No 1083/2006 [2004/0163\(AVC\)](#)

Subject

4.10.15 European Social Fund (ESF), Fund for European Aid to the Most Deprived (FEAD)

4.70.02 Cohesion policy, Cohesion Fund (CF)

4.70.07 European Regional Development Fund (ERDF)

Procedure completed

Key players

European Parliament	Committee responsible		Rapporteur	Appointed
	REGI Regional Development		KIRILOV Evgeni (S&D)	05/10/2009
			Shadow rapporteur SCHROEDTER Elisabeth (Verts/ALE) VLASÁK Oldřich (ECR)	
	Committee for opinion		Rapporteur for opinion	Appointed
	BUDG Budgets		GODMANIS Ivars (ALDE)	21/10/2009
	CONT Budgetary Control		The committee decided not to give an opinion.	
	EMPL Employment and Social Affairs		BASTOS Regina (PPE)	17/09/2009
Council of the European Union	Council configuration		Meetings	Date
	Justice and Home Affairs (JHA)		3018	2010-06-03
European Commission	Commission DG		Commissioner	
	Regional and Urban Policy		HAHN Johannes	

Key events

Date	Event	Reference	Summary
22/07/2009	Legislative proposal published	COM(2009)0384 	Summary
02/12/2009	Additional information		Summary
18/01/2010	Committee referral announced in Parliament, 1st reading		
18/03/2010	Vote in committee, 1st reading		Summary
23/03/2010	Committee report tabled for plenary, 1st reading	A7-0055/2010	
20/04/2010	Debate in Parliament		
05/05/2010	Decision by Parliament, 1st reading	T7-0125/2010	Summary
05/05/2010	Results of vote in Parliament		
03/06/2010	Act adopted by Council after Parliament's 1st reading		
16/06/2010	Final act signed		
16/06/2010	End of procedure in Parliament		
24/06/2010	Final act published in Official Journal		

Technical information

Procedure reference	2009/0107(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1083/2006 2004/0163(AVC)
Legal basis	Treaty on the Functioning of the European Union TFEU 177-p1
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	REGI/7/00750

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE438.425	03/02/2010	
Amendments tabled in committee		PE439.242	26/02/2010	
Committee opinion	EMPL	PE430.307	17/03/2010	

Committee opinion	BUDG	PE438.465	17/03/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0055/2010	23/03/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0125/2010	05/05/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00009/2010	16/06/2010	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2009)0384 	22/07/2009	Summary
Commission response to text adopted in plenary	SP(2010)3805	24/06/2010	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1721/2009	04/11/2009	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2010/0539 OJ L 158 24.06.2010, p. 0001	Summary
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European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

2009/0107(COD) - 22/07/2009 - Legislative proposal

PURPOSE: to simplify the management of European Structural Funds in order to help regions counter the effects of the crisis.

PROPOSED ACT: Council Regulation.

BACKGROUND: in the context of the current crisis, ensuring a smooth implementation of Cohesion programmes is of particular relevance as they represent the most powerful and relevant lever for assisting the real economy. With total financial resources of EUR 347 billion for the period 2007-2013, Cohesion policy provides a powerful support for both budgetary stability and public investment in the Member States and the regions of the European Union. Experience shows that **more effort is needed to facilitate the management of the Community funding** in order to speed up the flow of the funding to the beneficiaries that are most affected by the economic downturn.

The December 2008 European Council agreed on a European Economic Recovery Plan (EERP), which envisages the initiation of priority action to enable European economies to adjust more rapidly to current challenges. Moreover, the Commission has endeavoured to contribute to the debate currently taking place within the Union and with its international partners on how best to react to the current financial crisis and to its socio-economic consequences. In particular, in the framework of its **recovery package**, the Commission proposed a number of **regulatory changes to simplify the implementation rules for Cohesion Policy** and to increase the pre-financing (advance payments) to ERDF and ESF programmes. The additional advance payments have provided an immediate cash injection of EUR 6.25 billion in 2009 to pre-finance investment, within the financial envelope agreed for each Member State for the period 2007-2013. This amendment brings the total of advance payments in 2009 to EUR 11.25 billion. The Commission proposal was adopted by the Council in May 2009 and all advance payments now have been paid to Member States.

Moreover, in June 2009 the Commission presented a Communication on "A Shared Commitment for Employment" (COM(2009)0257) in which it proposed additional measures to strengthen the creation of jobs and to counter the effects of the crisis on employment.

Therefore, this proposal includes **further elements of simplification**, with the overall objective of accelerating co-financed investments in Member States and regions and increasing the impact of the funding on the economy as a whole.

IMPACT ASSESSMENT: this proposal completes a series of regulatory and nonregulatory adjustments which all seek to stimulate the implementation of cohesion programmes on the ground. The proposal to provide Member States in the case of operational programmes co-financed by the ESF an option to reimburse interim payment claims at 100% for a limited period (up to the end of 2010) will ensure that all certified expenditure of 2009 and 2010 can be paid back without creating a gap in national budgets.

Further simplification and clarification of rules governing cohesion policy will undeniably have a positive impact on the pace of programme implementation, particularly by providing national, regional and local authorities clearer and less bureaucratic rules that will allow more flexibility to adapt the programmes to the new challenges.

CONTENT: the new measures presented by the Commission aim to simplify certain rules governing cohesion policy. The main changes are as follows:

- in 2009 and 2010, as part of its 'anti-crisis' measures, **the Commission may at the request of the Member States reimburse 100% of the public costs declared by the Member States for projects financed by the ESF**. Specifically, Member States will not be obliged to provide national cofinancing, thus speeding up the implementation of projects to support employment. This option does not call into question the distribution of the Funds between the Member States, nor the total budget for the Funds, nor the obligation for Member States to provide subsequent cofinancing;
- the Commission proposes establishing a **single category of 'major project'**. Previously, the Commission's approval was required for projects where the total cost exceeded EUR 25 million for the environment and EUR 50 million for other sectors. The **threshold for approval is now set at EUR 50 million for all areas**. Given the Community importance of the investments in environment as such, the Commission will ask Member States: (i) to ensure an appropriate monitoring of all the investments, including those below the threshold provided in the Regulation; and (ii) to inform the Commission about the implementation progress in the annual reports on operational programmes. Another modification consists of creating the possibility that a single major project is co-financed by more than one programme. This is of particular relevance for projects of nation-wide scope or Community importance, which straddle several regions, and which in the absence of this possibility would have to be artificially separated in multiple projects;
- the rules relating to **'revenue-generating' projects** (for example, toll motorways or projects involving the leasing or sale of land) are also simplified in order to reduce the administrative burdens on the Member States. The proposed modifications intend to simplify the monitoring of revenues and to align this with the overall life-cycle of programmes. Therefore, the duration of the provisions on monitoring revenue is now limited to the date of submission of the closure documents of a programme;
- Cohesion Policy programmes may be **simplified by Member States to take account of the new realities**. In addition, certain provisions concerning the obligation to maintain investments over a five-year period will not apply to undertakings which go bankrupt;
- a proposed modification intends to clarify that in the context of **advance payments on State aids** admissible guarantees include guarantees by banks or other financial institutions, but also a facility provided for this purpose by public institutions and the Member States themselves;
- investments in sectors linked to **energy efficiency** and the use of **renewable energies in housing** will be encouraged, given their considerable potential to provide growth and jobs;
- the Commission proposes a modification aimed at increasing flexibility with regard to the **rules on decommitment**. For example, grants for a major project will in principle be protected as soon as the Member State submits the project to the Commission. Grants are currently only protected once the Commission has approved the project;
- the European Regional Development Fund (ERDF) will be able to support the renovation or construction of **housing for communities faced with social exclusion**, particularly Roma, in both rural and urban areas. Previously, the construction of housing was ineligible under the ERDF and only housing in urban areas was eligible for renovation.

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

Where Member States decide to make use of the option to request 100% reimbursements during 2009 and 2010 there will be an impact on payment appropriations. The analysis of the Member States' payment forecasts and the payment appropriations available in the budget for 2009 and the Draft

Budget for 2010 show that the maximum additional payment appropriations to be paid under the 100% reimbursement option in 2009 and 2010 for the ESF programmes would represent approximately EUR 6.6 billion. This will be compensated by a reduced need for payment appropriations later in the programming period.

The Commission will set up a monitoring tool to supervise closely the consumption of the additional credits for the European Social Fund. For the payment claims submitted as of 1 January 2011, the regular cofinancing rate agreed in the programme decision will apply. The Commission believes that the proposed measures to simplify the implementation may significantly increase the pace of expenditure on the ground and consequently accelerate the submission of interim payments to the Commission.

European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

2009/0107(COD) - 16/06/2010 - Final act

PURPOSE: to simplify further the rules governing cohesion policy to help accelerate investments in Member States and regions and to increase the impact of the funding on the economy.

LEGISLATIVE ACT: Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management.

CONTENT: the Council adopted this Regulation facilitating access to EU structural funds in order to counter the economic crisis, following a first-reading agreement with the European Parliament. The Czech, Maltese, Polish, Slovenian, Slovakian and UK delegations abstained. The Regulation aims at ensuring the liquidity of the Member States worst hit by the crisis, improve the absorption of funds for certain operational programmes and simplify the rules for the management of the structural funds.

The main points are as follows:

Additional pre-financing: in order to tackle cash flow problems, five Member States (Estonia, Latvia, Lithuania, Hungary and Romania) will receive additional advance payments for an amount totalling EUR 775 million, by increasing the advance payments from the European Social Fund (ESF) by 4% and from the Cohesion Fund by 2%.

Decommitment rules: in a reaction to the slower than expected start up and late approval of programmes, the decommitment rules are eased. By way of derogation, the deadlines for automatic decommitment will not apply to the commitment appropriations of 2007. It is recalled that under the N+2 decommitment rule, commitment appropriations for 2007 are automatically decommitted if the money is not spend by the end of 2009. This rule applies to the 15 Member States that were members of the EU before 1 May 2004 except for Portugal and Greece.

One sixth of the amount of the annual commitments for 2007 will be added to the budget appropriations for each of the years between 2008 and 2013. This will avoid Member States losing a total amount of about EUR 220 million (EUR 125 million for Spain, EUR 56 million for Italy, EUR 20 million for territorial cooperation between several Member States, EUR 9 million for the United Kingdom, EUR 6 million for Germany and EUR 4 million for the Netherlands).

Simplification: the Regulation also provides for a simplification of the rules for the structural funds in order to facilitate the management of EU funding, to help accelerate investments in Member States and regions and to increase the impact of the funding on the economy. This includes, inter alia, the introduction of uniform thresholds for the definition of major projects. The text now states that the ERDF and the Cohesion Fund may finance expenditure comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and **whose total cost exceeds EUR 50 million (a major project).**

Under this Regulation, a **single major project may be co-financed by more than one programme.** The latter amendment is of particular relevance for projects of nation-wide scope or EU importance, which cover several regions, and which in the absence of this possibility would have to be artificially separated in multiple projects.

ENTRY INTO FORCE: 25/06/2010. However, certain articles will apply from 01/08/2006, 01/01/2007, and 10/06/2010 respectively.

European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

2009/0107(COD) - 05/05/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 519 votes to 83, with 33 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards provisions relating to financial management.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure).

Parliament amends the Commission's proposal as follows:

Additional pre-financing: Parliament underlines that due to exceptional circumstances and given the serious and unprecedented impact of the current economic and financial crisis on the budgets of Member States, an additional pre-financing instalment for 2010 is needed for the Member States worst hit by the crisis in order to allow for a regular cash flow and to facilitate payments to beneficiaries during programme implementation. Members propose that the Member States that were granted medium-term assistance in accordance with Council Regulation (EC) No 332/2002 and Member States with a GDP decrease in 2009 of more than 10 % in real terms in comparison to 2008, may receive advance payments in 2010 of **2% from the European Social Fund and 4% from the Cohesion Fund**.

Interim payments and final balance: Parliament deleted the proposed amendment concerning the common rules for calculating interim payments and payments of final balance. In doing so, it rejected the most pertinent of the Commission's proposal concerning the suggestion which would allow Member States to apply for 100% reimbursement of interim payments from the European Social Fund during 2009 and 2010.

Decommitment rules: these rules have been eased. Parliament states that it is appropriate to extend the deadline for the calculation of the automatic decommitment of the annual budget commitment related to 2007 total annual contribution to improve the absorption of funds committed for certain operational programmes. Such flexibility is necessary due to slower than expected start up and late approval of the programmes.

The Commission shall automatically decommit any part of the amount calculated in an operational programme that has not been used for payment of the pre-financing or interim payments or for which an application for payment has not been sent by 31 December of the second year following the year of budget commitment under the programme. For the purpose of the automatic decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to 2007 total annual contribution to each of 2008 to 2013 budget commitments. By way of derogation, the deadlines for automatic decommitment shall not apply to the annual budget commitment related to 2007 total annual contribution.

Adaptation to the Lisbon Treaty: Parliament clarifies that following, inter alia, the change in the decision-making process resulting from the entry into force of the Lisbon Treaty, amendments provided for by this Regulation have not been introduced in time to prevent the application of current Article 93 (1) of Regulation 1083/2006. Consequently, decommitments made by the Commission would result, pursuant to Article 11 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities in cancelling appropriations of financial year 2007 which should be spread over the financial years 2008 to 2013 in implementation of the rules introduced by this Regulation.

It is therefore appropriate, as a **transitory measure**, to provide for the possibility to reconstitute, as necessary, the corresponding appropriations for the purposes of implementing the amended decommitment rules.