



Analytic presentation of the acquis

Chapter 22 - Regional policy and coordination of structural instruments

Brussels

11 and 12 September 2006



Objectives of the Cohesion policy

Treaty : Art. 158 TCE (reduction of disparities) and Art. 2 TUE

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

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General provisions

Objectives of the cohesion policy.



THE OVERALL OBJECTIVE

- The Economic and Social Cohesion together with the Internal Market and the Economic and Monetary Union constitute the three pillars in order to realise one of the key objectives of the Union which is the promotion of economic and social progress, high level of employment and a balance on sustainable development (Art. 2 of the Treaty).
- The overall objective of the actions to the strengthen the economic and social cohesion is the promotion of an harmonious development of the Union (Art. 158 of the Treaty).
- The key priority being the reduction of disparities between the level of development of the various regions and the backwardness of the least favoured regions (Art. 158 of the Treaty).



A JOINT ACTION

A joint action for strengthening the Economic and Social Cohesion of the Union through :

- The conduct and coordination of the Member States economic policy.
- The formulation and implementation of Community policies and actions.
- The action through the Structural Funds (ERDF, ESF, Cohesion Fund, EAGGF), European Investment Bank and the other existing financial instruments.

(Art. 159 of the Treaty)

THE DETERMINANTS OF THE STRUCTURAL FUNDS ACTION

The action taken through the Structural Funds relies on :

- An important public investment effort initiated by the Community budget and having a leverage effect on national public investment and private capital (308 billions of euros for the period 2007-2013 the credits for SF in the Community budget).
- Specific financial instruments (ERDF, ESF, Cohesion Fund) with their own rules directly applicable to the Member States.
- An appropriate method with its own principles, programming, effectiveness and financial management and control mechanisms demanding an institutional and administrative capacity.



NOT JUST THE MONEY - THE METHOD

- Recognition that institutions matter in development: capacity building, T.A.
- Strategic programming approach – multi-annual (a 7 years indicative programming)
- Partnership, co-financing, additionality, evaluation
- Improves capacity for expenditure in general
- Leverage – funding and political engagement



THE UNDERLYING LOGIC OF EU COHESION POLICY

- Long-run investment
- Increase physical capital – infrastructure
- Increase human capital and labour market access
- Stimulate innovation and company formation through productive investments



KEY CHARACTERISTICS OF THE MAIN FINANCIAL INSTRUMENTS

➤ COHESION FUND:

- Eligibility at national level (M-S with GNI less than 90% of the community average)
- Transport TENs and environmental projects
- Cofinancing national driven programmes

➤ EUROPEAN REGIONAL DEVELOPMENT FUND:

- Eligibility at regional level (NUTS II)
- Broad eligibility
- National and regional development programmes

➤ EUROPEAN SOCIAL FUND:

- Human resources
- Mainly National and in some appropriate cases regional programmes



A MULTIPLE EFFECT/IMPACT

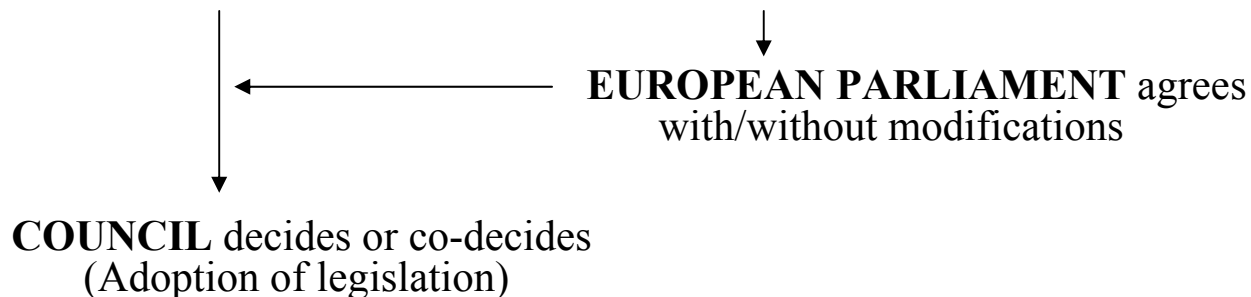
The action carried out by means of the Structural Funds has a multiple effect/impact in terms of :

- Real convergence (an additional growth of GDP of employment, gains of productivity).
- Implementation of the norms, objectives and priorities of the European Union (Lisboa Strategy, Environmental policy, TEN, etc...)
- Improvement of the conception and implementation of public policies (management by objectif, monitoring/evaluation, Social financial management, etc...)



AN INTEGRATING DECISION MAKING AND A SHARED MANAGEMENT

EUROPEAN COMMISSION proposes (Financial resources, legislation, Priorities)



COUNCIL decides or co-decides (Adoption of legislation)

EUROPEAN COMMISSION implements in partnership and shared management with **MEMBER STATES**

MEMBER STATES:

- Submit their National Strategic Reference Framework Operational programmes and big projects
- Report on execution and strategic priorities

COMMISSION:

- Decides on NSRF
- Adopts Operational programmes
- Report to the Council, E.P. and other European instances



THE LEGAL FRAMEWORK (1)

A. THE TREATY:

Notably Art. 2, 146, 147, 148, 158, 159, 160, 161, 162

B. REGULATIONS:

B1: of Council and European Parliament

* Regulation (EC) N° 1080/2006 relative to ERDF

* Regulation (EC) N° 1081/2006 relative to EFS

* Regulation (EC) N° 1082/2006 relative to GECT

B2: Regulations of Council

* Regulation (EC) N° 1083/2006ERDF, Cohesion Fund, EFS

* Regulation (EC) N° 1084/2006 relative to Cohesion Fund

B3: Regulations of Commission

* Regulation (EC) setting out rules for the implementation of Council Regulations N° 1083/2006 and 1080/2006



THE LEGAL FRAMEWORK (2)

C. COMMISSION DECISIONS:

* C(2006)3472 final of 04/08/2006 fixing an indicative allocation by Member State of the commitment appropriations for the Regional competitiveness and employment objective for the period 2007-2013

* C(2006)3473 final of 04/08/2006 fixing an indicative allocation by Member State of the commitment appropriations for the European territorial cooperation objective for the period 2007-2013

* C(2006)3474 final of 04/08/2006 fixing an indicative allocation by Member State of the commitment appropriations for the Convergence objective for the period 2007-2013

* C(2006)3475 final of 04/08/2006 drawing up the list of regions eligible for funding from the Structural Funds under the Convergence objective for the period 2007-2013

* C(2006)3479 final of 04/08/2006 drawing up the list of Member States eligible for funding from the Cohesion Fund for the period 2007-2013

* C(2006)3480 final of 04/08/2006 drawing up the list of regions eligible for funding from the Structural Funds on a transitional and specific basis under the Regional competitiveness and employment objective for the period 2007-2013



General principles of Cohesion Policy 2007-2013

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 3-4: Overview 3 objectives

Art. 5-8: Geographic eligibility

Art. 9-17: Programming, partnership, additionality, shared management

N.De Michelis

General
provisions

General principles
of the
Cohesion policy.



General
provisions

General principles
of the
cohesion policy.

3 Objectives :

1. **Convergence** : aims at speeding up the convergence of the least developed member States and regions – ERDF, ESF and Cohesion fund
2. **Regional competitiveness and employment** : strengthen regions' competitiveness and attractiveness outside the least developed – ERDF and ESF
3. **European territorial cooperation** : cross border, transnational and interregional cooperation - ERDF



Geographical eligibility : *Convergence*

1. **Regions** NUTS II with GDP/head $< 75\%$ EU 25;
2. **Member States** with GNI/head $< 90\%$ EU25 (and have a programme to meet economic convergence conditions) : cohesion fund

Transitional support :

1. **Regions** NUTS II with GDP/head $< 75\%$ EU 15 (*“statistical phasing out”*)
2. **Member States** with GNI/head $< 90\%$ EU 15 : cohesion fund

General provisions

General principles of the cohesion policy.



Geographical eligibility : *Regional competitiveness*

1. **Regions** NUTS II with GDP/head $>$ 75% EU 25;

Transitional support :

Regions totally covered by Objective 1 in 2006 with
GDP/head $>$ 75% EU 15 (“*phasing in*”)

General
provisions

General principles
of the
cohesion policy.



Geographical eligibility : *European territorial cooperation*

- 1. Cross border cooperation** : NUTS III regions along all internal and certain land borders + along maritime borders (< 150 kms) – adjustments to ensure coherence and continuity
- 2. Transnational cooperation** : all NUTS II regions eligibles, within transnational areas
- 3. Interregional cooperation** : entire Community territory eligible.

General provisions

General principles of the cohesion policy.



Principles of assistance -1

1. **Complementarity** with accompanying national actions
 2. **Coordination** between assistance from the Funds, but also the EAFRD and EFF
 3. **Compliance** with the provisions of the Treaty and Community law
 4. **Consistency** with activities, policies and priorities of the Community - in particular the competitiveness objectives of the Integrated guidelines for growth and jobs
- ⇒ Corresponding **Earmarking** of expenditure (as an average) :
- a. 60% for Convergence objective
 - b. 75% for regional competitiveness and employment objective

General provisions

General principles of the cohesion policy.



Principles of assistance -2

1. **Programming** : funds are implemented through multiannual programmes : provide visibility and certainty for the stakeholders
2. **Partnership** : objectives pursued in close cooperation with relevant partners :
 - a. Regional, local, urban authorities;
 - b. Economic and social partners
 - c. Appropriate bodies representing civil society
 - *In compliance with national institutional framework*
 - *Cover preparation, implementation, monitoring and evaluation*

General provisions

General principles of the cohesion policy.



Principles of assistance -3

1. **Proportionality** : resources related to evaluation monitoring indicators, management and control requirements or reporting are proportional to the financial allocation of the programmes
2. **Shared management** between the Commission and member States for implementing the Funds implementing bodies within member States but the Commission :
 - a. Check the existence of efficient management and control systems
 - b. Interrupts payments in case of failure of the above systems and apply financial corrections
 - c. Check reimbursements of payments and automatically decommit budget commitments according to applicable provisions

General provisions

General principles of the cohesion policy.



Principles of assistance -4

1. **Equality between men and women and non discrimination** to be promoted during the implementation – attention paid to accessibility for disabled persons when defining operations
2. **Sustainable development**, in compliance with article 6 of the Treaty
3. **Additionality** : contributions from the Funds shall not replace public expenditure by member State
 - a. Levels of expenditure to be maintained determined for the regions covered by the Convergence objective
 - b. Level of expenditure at least equal to the expenditure attained during the previous programming period
 - c. Mid term (2011) and ex post (2016) verification for the convergence objective

General provisions

General principles of the cohesion policy.



Programming

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 25-28: NSRF content; preparation and adoption; strategic reporting

Art. 32-46: Operation programmes, preparation, adoption and revision; major projects; global grants

J.Torrebadella

General provisions

Programming



Community Strategic Guidelines

- List the EU priorities aiming at promoting an harmonious, balanced and sustainable development of the Union
- Exploit the synergies between Cohesion policy and the renewed Lisbon and Gothenburg agenda
- Priorities foreseen for 2007-2013 :
 - ✓ *making Europe and its regions more attractive place to invest and work*
 - ✓ *improving knowledge and innovation for growth*
 - ✓ *more and better jobs*
- May be subject to mid-term review, if needed
- Territorial dimension to be taken into account when implementing the guidelines

General
provisions

Programming
(Art. 25-26 GR)



NSRF

- **Key document which links the EU priorities with the national and regional priorities of each Member State**
- **Consistent with the CSG on Cohesion and, on the other, with each Member State's National Reform Programme**
- **It is not a management tool but a strategic document**
- **Applies to both the Convergence and the Regional Competitiveness and Employment objective**
- **May also apply to the European Territorial Cooperation objective without prejudice to the future choices of other Member States concerned**

General
provisions

Programming
(Art. 27 GR)



NSRF – Content

The NSRF shall contain the following elements:

- a) An analysis of development disparities, weaknesses and potential,
- b) The strategy subsequently chosen including the thematic and territorial priorities
- c) The list of operational programmes (for the Convergence and the Regional Competitiveness and Employment objective)
- d) Description of the contribution of the Community expenditure to the achievement of European priorities
- e) Indicative annual allocation by programme, for each fund
- f) For regions under convergence objective :
 - i. *Actions for strengthening administrative capacity*
 - ii. *Amount provided for under the EFF and EAFRD*
 - iii. *Information for ex ante verification of additionality*
- g) For member States eligible for the Cohesion fund : coordination mechanisms between programmes and with EAFRD, EFF and, when appropriate, with EIB intervention

General provisions

Programming
(Art. 27 GR)



NSRF – *Preparation and adoption*

- Prepared by the Member State, in dialogue with the Commission, after consultation with relevant partners (see Art. 11) – according to its institutional structures
- Cover the period from 01.01.2007 to 31.12.2013
- To be transmitted to the Commission within five months following the adoption of the CSG on Cohesion
- Member States may present in parallel the operational programmes
- Approved by an EC decision covering :
 - *List of operational programmes*
 - *Indicative allocation of each Fund by programme*
 - *Level of expenditure guaranteeing compliance with the additionality principle (convergence only)*

General
provisions

Programming
(Art. 28 GR)



Strategic reporting by the MS

- **Each Member State shall explain, in the annual implementation report on its National Reform Programme, the contribution of the Structural and Cohesion Funds towards the achievement of its objectives**

- **By the end of 2009 and 2012, each Member State shall inform the Commission on the contribution of the programmes co-financed by the Funds:**
 1. ***towards implementing the objectives of Cohesion Policy (as established by the Treaty)***
 2. ***towards fulfilling the tasks of the Funds (as set out in the GR)***
 3. ***towards implementing the priorities of the CSG on Cohesion and of the NRSF***
 4. ***towards achieving the objectives of the Integrated Guidelines for Growth and Jobs***

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Programming
(Art. 29 GR)



Strategic reporting by the Commission

- The Commission shall include in its Annual Progress Report to the Spring European Council a section summarising the reports of the Member States on the achievement of the objectives of their National Reform Programmes
- In 2010 and 2013, the Commission shall prepare a strategic report summarising the reports of the Member States on the contribution of the Funds
- This last report will be examined by the Council
- The European Parliament, the European Economic and Social Committee and the Committee of the Regions will also be invited to hold a debate on it

General
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Programming
(Art. 30 GR)



Operational programmes -1 : preparation and approval

- Programmes cover the 2007-2013 period
 - Each programme can cover only one of the three objectives
 - Programmes shall receive financing from only one Fund, but :
 - o Joint support from ERDF and cohesion fund for transport or environment programmes
 - o Complementary financing, between ESF and ERDF of actions falling within the scope of the other fund (up to 10% of the priority axis)
- a. Drawn up by the member State or designated authorities
 - b. Submission to the Commission no later than 5 months after the adoption of the Community strategic guidelines
 - c. Appraisal by the Commission and adoption (EC decision) after its submission (*receivable draft*)

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Programming
(Art. 32 GR)



Operational programmes -2 : Revision

- At the initiative of the member States or the Commission in agreement with the member State
- Adoption of a decision by the Commission after formal submission of request for revision

Revision in the following cases :

- a. Significant socio-economic changes;
- b. Major changes in Community / national priorities;
- c. Following interim evaluations;
- d. Following implementation difficulties

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Programming
(Art. 33 GR)



Operational programmes – 3 : geographical scope

- At the appropriate level, but at least NUTS II for the **Convergence** objective
- For the **European Territorial Cooperation** objective :
 - a. Cross border cooperation : for each border or group of borders, by appropriate grouping of NUTS III regions, including enclaves
 - b. Transnational cooperation : for each transnational area
 - c. Interregional cooperation : whole Community territory
- for the **Regional competitiveness and employment** objective :
 - a. At NUTS I or NUTS II level for regions receiving ERDF
 - b. At the appropriate level if financed by the FSE

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Programming
(Art. 35 GR)



Operational programmes – 4 : Programming content

1. Swot analysis of the situation of the eligible area and subsequent strategy
2. Justification of priorities with regard to :
 - a. *Community strategic guidelines*
 - b. *National strategic reference framework*
 - c. *Ex ante evaluation*
3. Information on the priority axis and their (quantified) targets
4. Indicative categorisation of the contribution by the Funds
5. Financing plan with two tables :
 - a. *Annual breakdown of the total financial appropriation*
 - b. *Specification, for each priority axis, of the Community contribution and the national counterpart (public / private applicable) and the rate of contribution*
6. Information on complementarity with EFF and EAFRD
7. Implementing provisions (implementing entities, financial management,...)
8. Indicative list of major projects
9. Approach on sustainable urban development when appropriate

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provisions

Programming
(Art. 37 GR)



Major projects

Definition : series of works / activities / services to accomplish indivisible tasks with identified goals and which costs exceeds :

- i. 25 M€ in the environment sector
- ii. 50 M€ in the other sectors

Information submitted to the EC :

- i. description of the project, with result of feasibility studies and implementation timetable
- ii. cost benefit analysis
- iii. analysis of the environmental impact
- iv. justification of public contribution and financing plan specifying the planned financial resources

Decision of the Commission : appraisal of the project by the Commission and EC decision on the physical object, the amount to which the relevant co-financing rate applies and the annual plan of financial contribution

General
provisions

Programming
(Art. 39-41 GR)



Global grants

Possibility to entrust the management and implementation of part of an operational programme to intermediate bodies :

1. Delegation without prejudice of the financial responsibility of the managing authority and the member States
2. Delegation in accordance with agreement concluded between the body and the MS / managing authority
3. The body responsible for managing the global grant shall provide guarantee of its solvency and competences

General
provisions

Programming
(Art. 42-43 GR)



Financial engineering instruments

The Funds may support financial engineering instruments :
venture capital, guarantee or loan funds, and urban
development funds

To be implemented through :

1. Award of public contract, in accordance with public procurement law;
2. Donation to the EIB or EIF or to a financial institution pursuant to a national law

General
provisions

Programming
(Art. 44 GR)



Technical assistance

At the initiative of MS, for financing preparatory, management, monitoring, evaluation, information and control activities and reinforcing the administrative capacity :

- a. Up to 4% of the amount allocated under the convergence / regional competitiveness objectives – 6% under the ETC objective
- b. Actions shall be undertaken within the framework of each operational programme

The Commission benefits from specific TA allocation to cover its own needs (evaluation, studies, information,...)

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provisions

Programming
(Art. 45-46 GR)



Monitoring and Evaluation

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 47-51: ex-ante, on-going and ex-post evaluation; reserves
Art. 40 and 55: Cost-benefit-analysis

Kai STRYCZYNSKI

General
provisions

Evaluation



1. Rationale for Evaluation

Why evaluations are necessary?

- assist in the allocation of budgetary resources through assessing costs and benefits of the investment plans
- improve programme management by assessing what works and what does not work
- ensure proper accountability vis-à-vis EU tax payers by demonstrating impact and value for money

General provisions

Evaluation



Regulatory Requirements

Set out in Regulation on General Provisions on the Structural and Cohesion Funds:

- Evaluation: aims and nature (art. 47)
- Ex ante & on-going evaluations (MS) (art.48)
- Ex post & strategic evaluations (EC) (art.49)

Also important:

- Indicators Quantification of objectives (art.37 and 66)
- Cost Benefit Analysis - Major Projects (art.40, 55)

General provisions

Evaluation



Ex ante evaluation: Improving the programming document

1 – Relevance of the Strategy

- Appraisal of socio-economic analysis and ranking of the main disparities

2 – Economic Rationale & Consistency

- Assessment of the strategy and its consistency:
 - analysis of objectives and priorities, including case for public intervention and main trade offs
 - relationships between priorities and appropriateness of financial allocations

General provisions

Evaluation



Ex ante evaluation: 3 – External Coherence

- Appraisal of the coherence with regional / national policies and Community Strategic Guidelines
- Coherence with NSRF + National Reform Programmes
- Coherence with Strategic Environmental Assessment (SEA)
- Equal Opportunities

General provisions

Evaluation



Ex ante evaluation

4 – Expected Results and Impacts

- Estimating macroeconomic impacts, (macroeconomic models)
- Verification of Indicators and Targets (outputs, results & impacts)
- Potential impact on Lisbon objectives, if possible

General provisions

Evaluation



Ex ante evaluation

5 – Implementation Systems

- Implementing provisions for managing, monitoring and evaluating
- Partnership arrangements
- Risk: possible bottlenecks

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provisions

Evaluation



3. Ongoing evaluation

Member States Responsibilities (I)

Evaluation required (Art. 48.3) :

- a) Where the monitoring systems reveal a significant departure from the goal initially set
- financial + physical monitoring data
 - “early warning mechanism”: timely to facilitate programme adjustments

General provisions

Evaluation



Member States Responsibilities (II)

b) When programme revisions are proposed

Only if programme changes are significant:

- Financial: between priority axes, Commission approval required
- Content-related: revision of objectives at programme or priority level

Reasons to revise (Art. 33):

- Significant socio-economic changes in programme environment
- Major changes in Community, national or regional priorities
- Monitoring reveals a significant departure from the goals initially set
- Implementation difficulties

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provisions

Evaluation



Beyond Legal Requirements: Policy - performance oriented Evaluations

Evaluation on initiative of the MS

- Specific themes (e.g. innovation, SME development)
- Interface between monitoring and evaluation (quantification of impact indicators)
- Delivery mechanisms

=> Draw conclusions to improve the quality and effectiveness of programmes

General provisions

Evaluation



Evaluation Plan

Art. 48.1: *“evaluation activities the MS intends to carry out in the different phases of the implementations”*

- For “Convergence” objective, where appropriate
- Content:
 - What should be evaluated?
 - Human and financial resources
 - Co-ordination, revision of planning

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provisions

Evaluation



4. Ex-Post evaluation

Art. 49 (3)

Completed by end of 2015

Responsibility of the Commission

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Two main questions:

- Achievements
- Lessons

Evaluation



5. Evaluation - Policy Issues/Challenges

- Evaluation is not just about methods and techniques, but institutionalisation,
- Need to invest in capacity building to strengthen accountability and policy learning
- Prerequisites of good evaluation: clear objectives and effective monitoring

General provisions

Evaluation



DEFINITION AND SCOPE OF CBA

Definition: CBA is a methodology aiming at evaluating investment projects

Scope: CBA identifies :

- the best feasible option;
- the money needed to realise the project;
- the project impact on the area where it is going to be implemented;
- the risks associated with the project.

General provisions

Evaluation

Cost Benefit Analysis



General provisions

Evaluation

Cost Benefit Analysis

THE STRUCTURE OF CBA

Option and Feasibility Analysis:

How can an objective be achieved? Are the selected options feasible?

Financial Analysis:

How much money is necessary to implement the option selected?

Economic Analysis:

What is the impact on the area where the project is going to be implemented?

Risk Analysis:

Which are the most likely financial and economic results?
How can they be improved?



1. Financial Analysis

How Much Money is Necessary to Implement the Option Selected?

General provisions

Scope: It is aiming at identifying the project financial profitability and sustainability

Evaluation

Rationale: It is based on incremental cash-flow analysis of investment project

Cost Benefit Analysis



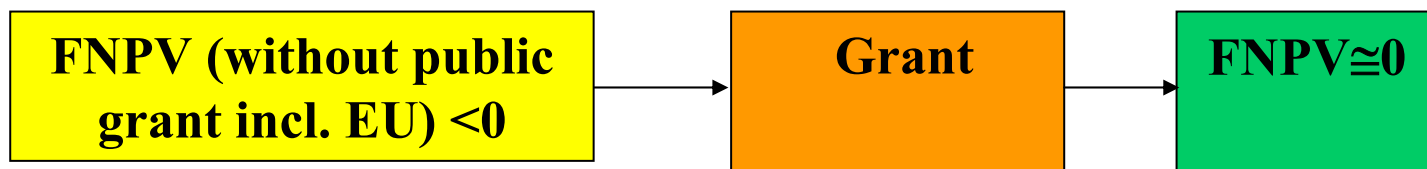
Rationale of funding gap method

- **The public grant should be so that the project financial profitability and sustainability is achieved, that is,**

General provisions

Evaluation

Cost Benefit Analysis





General
provisions

Evaluation

Cost Benefit
Analysis

Steps to determine EU grant

Step 1. Find the funding-gap rate (R):

$$R = \text{Max EE/DIC}$$

where

- Max EE is the *maximum eligible expenditure* = DIC-DNR (Art. 55.2)
- DIC is the *discounted investment cost*
- DNR is the *discounted net revenue* = discounted revenues – discounted operating costs + discounted residual value

Step 2. Find the “decision amount” (DA), i.e. “the amount to which the co-financing rate for the priority axis applies” (Art. 41.2):

$$DA = EC * R$$

Where EC is the eligible cost.

Step 3. Find the (maximum) EU grant:

$$\text{EU grant} = DA * \text{Max CRpa}$$

where Max CRpa is the maximum co-funding rate fixed for the priority axis in the Commission’s decision adopting the operational programme (Art. 53.6).



2. ECONOMIC ANALYSIS: KIND OF PROJECT EFFECTS

Direct effects are the changes induced directly by the project

Jobs created by the project

Indirect effects are the changes induced by those who are impacted by the project

Jobs created by the activities stimulated by the project

Internal effects are the effects transacted through markets (i.e. a price is paid for these effects).

Demand increase of project inputs

External effects are the effects not transacted through markets (i.e. a price is not paid for these effects).

Pollution; Health Effects; Effects on Land and Housing Markets

General provisions

Evaluation

Cost Benefit Analysis



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provisions

Evaluation

Cost Benefit
Analysis

RISK ANALYSIS

Which are the Most Likely Financial and Economic Results? How Can They be Improved?

The main steps of Risk Analysis are:

1. Identify critical variables, i.e. the variables whose change strongly impact the project NPV or IRR. This is done through sensitivity analysis.
2. Associate to each variable its probability distribution.
3. Aggregate critical variables and their probability to derive Expected NPV or IRR.
4. Include Risk in Project Design.



National Contingency Reserve

Art. 51

General
provisions

- Optional instrument to cover unforeseen local/sectoral crises due to economic or social restructuring or trade opening consequences

Evaluation

- Allocation of up to 1% of funds (Convergence objective)

Reserves



General
provisions

Evaluation

Reserves

National Performance Reserve

Art. 50

- Optional instrument to boost effectiveness of programmes by organizing a “competition” between them
- Allocation of up to 3% of funds
- Assessment by Member State not later than 20 June 2011
- Allocation by Commission not later than 31 December 2011



Management and monitoring

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 58-61: general principles, designation/description of authorities

Art. 63-68 : monitoring committee, annual report

General provisions

Management and monitoring

C. Le Foll



General principles of the management and control systems :

- Definition and allocation of functions
- separation of functions
- procedures to ensure the correctness and regularity of expenditure declared
- reliable and computerized accounting, management and financial reporting systems
- systems to ensure the audit trail
- systems to report and monitor (the follow-up) of irregularities and to recover amounts of SF co-funding

General provisions

Management and monitoring



Authorities designated by the Member States :

- A Managing authority
- A certifying authority
- An audit authority
- Other bodies
- [Monitoring committee]

General
provisions

Management
and monitoring



Managing Authority – functions (1)

- project selection and compliance of projects with EU and national rules
- verifying the actual delivery of the project and the compliance of the expenditure declared with the rules (desk and on-spot checks); establishing guidance and ensuring adequate documentation of these checks
- compliance with publicity and information requirements
- ensuring computerized accounting/monitoring systems with relevant financial information by project

General provisions

Management and monitoring



General
provisions

Management
and monitoring

Managing Authority – functions (2)

- ensuring separate accounting systems or codes at the level of beneficiaries for co-financed operations
- documentation of the audit trail
- submit to Certifying Authority the information relevant for certification
- guiding the work of the Monitoring committee
- Transmit to the Commission all the relevant information for the appraisal of major projects

Art. 6



General
provisions

Management
and monitoring

Certifying Authority – functions

- drawing-up and submitting certified expenditure statements and payment requests to Commission
- receiving relevant information from MA and taking account of audit results
- maintain computerized accounting records on expenditure declared to Commission
- keeping an account of recoverable amounts and of amounts recovered



Monitoring committee – composition

- Chaired by a representative of the MA or the Member State
- Composition to be decided by the Member State in agreement with the MA
- Participation of the representative of the Commission

Art. 63-64

General
provisions

Management
and monitoring



Monitoring committee – Tasks

- Approval of the criteria for selecting the operations
- Reviewing progress of the operational programmes
- Approval of the reports on the implementation
- Propose any revision or examination of the operational programmes
- Arrangements for monitoring: financial indicators and electronic data exchange

General
provisions

Management
and monitoring

Art. 65-6



General
provisions

Management
and monitoring

Annual report and final report :

- The progress made in implementing the OP with quantification (when it is possible)
- Financial implementation of the OP
- Categorisation
- The means for ensuring the quality and effectiveness of implementation, including the compliance with Community law
- The measures taken for information and publicity on the OP
- The use of assistance

Art. 67



Annual examination of programmes

- Joint examination of the annual report by the Commission and the MA
- Include also the issues on the system raised in the annual control report
- Information of the Monitoring Committee
- Follow-up by the Member State and the Commission

General provisions

Management and monitoring

Art. 6



Financial management

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 75-97: eligibility of expenditure; budget commitments; automatic de-commitments; common rules for payment: pre-financing, interim and final balance payments; interruption and suspension of payments; contribution of funds; closure

General provisions

Financial Management

C. De Lassus



Financial Management

Budget commitments (Art. 75) 1/2

- Financial Perspectives have given a frame per year for Structural Actions

in M€ (2004 Prices)	2007	2008	2009	2010	2011	2012	2013	Total	
Line									35.7
1b	42840	43288	43820	43801	43995	44634	45241	307619	%
								86 523	

ERDF and
cohesion fund
regulations

ERDF regulation

- Breakdown of these yearly figures :
 - Commission decisions of 04/08/06 per Country and Objective
 - NSRFs to be received per Country/Objective and Fund
- Financial tables attached to OPs have to adhere to these breakdowns



Financial Management

Budget commitments (Art. 75) 2/2

- Commitment = *amount of expenses allowed to be reimbursed by the Commission to a third party (MS) on a particular programme in a particular deadline*
 - Each payment shall be posted to the earliest open commitment (Art. 76.1)
 - Basis for « N+2 rule » (Art. 93-97)
- For SF, commitments are yearly based
 - The first is established just few days before the formal adoption of the OP
 - Subsequent commitments established before 30 April each year
- Amounts = amounts in the financial table of the OP



Financial Management

Common rules for payments (Art. 76-81) 1/5

- Forecasts of applications for payment for each programme for N and N+1 :
 - to be sent by MS to the Commission before 30/04/N
- All financial management and documents are in Euro => rule for conversion in certifying authority accounts in art 81
- Public contribution has to be paid to the final beneficiary as quickly as possible and in full
- Electronic exchange (no paper) for all financial transactions between MS and the Commission and vice-versa (*Force majeure* case foreseen)



Financial Management

Common rules for payments (Art. 76-81) 2/5

- 3 types of payment :
 - Pre-financing
 - Interim
 - Final balance
- Prefinancing + Interim payments <95% assistance at the level of the programme
 - Ceiling of reimbursements from EU doesn't refrain MS to declare new expenses
- Interim+Final payments for a given priority axis :
 - <100% assistance and public contribution

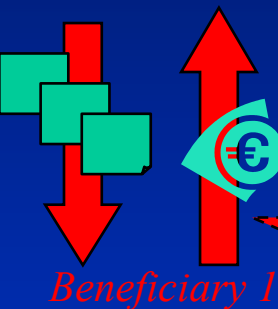


Financial Management :

Common rules for payments (Art. 76-81) 3/5

How a interim/final payment claim arrives in the Commission (recap)?

Provider X
Provider Y



Step 1 : each individual invoice is paid by the beneficiary (after good/service provided)

Managing Auth.



Step 2 : 1rst level checks (Cf Art. 60b)



Audit Auth.

Certifying Auth.

Step 3 : 2d level checks (Cf Art. 61 of Gal Reg.)



Step 4 : Payment Claim sent to EC





Financial Management

Common rules for payments (Art. 76-81) 4/5

- Interim/final payment claims : Expenses can be reimbursed by the Commission only if (art 78) :
 - They are certified as eligible (cf art 56 conditions) :
 - Within eligibility period (special rule for major projects),
 - Expenses incurred on operations decided by the MA,
 - Type of expenses : national rules (with exceptions)
 - They have been paid by the beneficiary (proof of payment and realisation). Special rule for financial engineering actions
 - Conditions for public contribution :
 - paid for aid schemes (special rules for aid schemes advances),
 - paid or to be paid for other expenses (but contract/grant with the beneficiary signed !)



Financial Management

Common rules for payments (Art. 76-81) 5/5

- Interim/final payments claims sent by MS :
 - are cumulative
 - Have a compulsory format (art 78.1-3+Com. Reg)
- Interim/final payments :
 - Must be made at the level of each assistance and calculated at the level of axes contained in the financing plan of the programme
 - Payment = Amount spend under one priority axis and declared as certified* co-financing rate for this priority axis



Financial Management

Prefinancing (Art. 82-84)

- Advances given by the Commission for the entire period 2007-2013 when the programme is adopted
- Paid in 3 instalments

Structural Funds	2007	2008	2009	Total
EU15	2%	3%		5%
EU10+BG, RO	2%	3%	3%	8%

CF	2007	2008	2009	Total
EU15	2%	3%	2,50%	7,5%
EU10+BG, RO	3%	4%	4%	10,5%

- First interim payment claim must be received within 24 months of payment by the Commission of the first part of the advance

ERDF and
cohesion fund
regulations

ERDF regulation



Financial Management

Interim payment (Art. 85-86) 1/2

- One payment claim/payment per programme
- Each interim payment is subject to other following conditions :
 - Receipt of an standard application for payment and a statement of expenditure fulfilling requirements laid down in Art. 78
 - presentation to the EC of the latest annual implementation report due at the date of payment claim reception, fulfilling requirements laid down in Art. 67(1) and (3)
 - no decision has been taken by the Commission to embark on an infringement procedure (see Article 226 of the Treaty)
 - Reminder : ceiling of payment for a given priority axis : <100% assistance



Financial Management

Interim payment (Art. 85-86) 2/2

- First interim payment is triggered by a supplementary condition :
 - receipt of a report describing the management and control systems in place (see art 71.2§2 for precise conditions)
- Interim payments have to be done within 2 months, if these conditions are fulfilled.
 - If not : inform MS within one month
 - Exceptions to the 2 months general rule :
 - No payment credits available
 - Suspension of payments under article about irregularities (art 92)
 - Interruption (art 91)
- Interim payments claims have to be sent in 3 batches
 - The last one has to be sent before 31 Oct for payment within the year



Financial Management

Final balance (Art. 88-90) 1/3

- Possibility of partial closure
 - Concerns closure of programme operations completed before the 31/12 of previous year (definition of completion in art 88.1§2)
 - Documents to be sent by MS for partial closure :
 - statement of expenditure for these completed operations
 - declaration for partial closure on legality and regularity of the expenditure concerned by these completed operations
 - Documents concerning closed operations should be available for audit for a period of 3 years after the partial closure date (see art 90)



Financial Management

Final balance (Art. 88-90) 2/3

- Final balance
 - Concerns the entire programme closure
 - Needs 3 documents from MS to be submitted before 31/03/17
 - Final payment claim and a statement of expenditure fulfilling requirements laid down in Art. 78
 - Final implementation report fulfilling requirements laid down in Art. 67
 - Final closure declaration established by the audit authority on legality and regularity of the expenditure declared to EC
 - => if one document not received, automatic decommitment of final balance
- Final balance is subject to other following conditions :
 - no decision has been taken by the Commission to embark on an infringement procedure (see Article 226 of the Treaty)
 - Reminder : ceiling of payment for a given priority axis : <100% assistance and public contribution



Financial Management

Final balance (Art. 88-90) 3/3

- EC Opinion on the closure declaration to be given within 5 months
- Final payment/recovery issued afterwards within 45 days
 - Exceptions to the 45 days general rule :
 - No payment credits available
 - Interruption/suspension (art 91 and 92)
- Information to be given to MS of the precise date of closure (trigger for 3 years documents availability duration calculation –see art 90-)
- Possibility to amend the final payment/recovery issued within 9 months.



Financial Management

Interruption-suspension (Art. 91-92)

- What is an interruption/suspension ?
 - A “stop-the-clock” procedure for a payment
- When does it occur ?
 - When the payment cannot be made unless further explanations are provided before payment
 - Be careful : “**Interruption**” is not “**suspension**”
 - Interruption : made by an EC official for a maximum of 6 months (Immediate information of the MS is compulsory)
 - Suspension : made by the College of Commissioners after contradictory procedure (formal decision)
 - In each case :
 - Grounds for the 2 « stop-the clock » procedures defined in art 91 and 92
- When shall it be ended ?
 - As soon as the necessary measures (information/action) have been taken by the MS



Financial Management

Automatic decommitment (Art. 93-97)

- N+2 rule
 - Maximum time –limit for certification of expenses to the Commission : 2 years after the commitment
 - Special rules to reduce N+2 rule impact :
 - Exclusion of not declared expenses at the deadline :
 - major projects and aid schemes
 - Legal proceedings and administrative appeals
 - Special rules for expenses declared at the deadline but not reimbursed in case of :
 - Interruption/suspension
 - Capping by lack of budget resources or priority axis ceiling
 - *Force majeure*

- N+2 rule becomes N+3 rule
 - For 2007 to 2010 and
 - For those countries whose 2001-2003 GDP was below 85% of the EU25 average (EU10+BG&RO+GR+PT)



Control and audit

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 60-62 and 70-73: responsibilities of different authorities with regard to financial control and audit

A.Wicha

General provisions

Control and audit



• Responsibilities of Member States

- ensuring that management and control systems for OP are set up and function
 - topics: setting up of system, (MA, CA), AA, role of the Commission
- preventing, detecting and correcting irregularities and recovering amounts unduly paid
 - topics: irregularities, corrections by MS, corrections by the Commission

General provisions

Control and audit

– Art. 70



- **System description**

- outline to be included already in the OP
- Art. 32, 37

- complete system description, in particular organisation and procedures, to be submitted within 1 year of the OP approval

- ex ante assessment of the system along with audit opinion is to be attached

– Art. 71

General
provisions

Control and
audit



Requirements on management and control systems relevant for MA and CA:

- clear allocation of functions; separation of (incompatible) functions
- procedures to ensure eligibility of expenditure declared
- computerized accounting,
- systems to ensure the audit trail,
- systems to report irregularities and to recover amounts of EC co-funding

General provisions

Control and audit

• Art. 58



MA – functions

- compliance of projects with EU and national rules
- verifying the actual delivery of the project and the eligibility of the expenditure declared (desk and on-spot checks);
- ensuring adequate documentation of these checks

General provisions

Control and audit

– Art. 60



CA – functions

- drawing-up and submitting certified expenditure statements and payment requests to Commission
- maintain computerized accounting records on expenditure declared to Commission
- keeping an account of recoverable amounts and of amounts recovered

General provisions

Control and audit



AA – approach

- designated AA shall be functionally independent of MA and CA
- designated AA is responsible for all audit work for OP
- particular audits may be carried by other bodies but the coordination stays with AA

General provisions

Control and audit



AA – functions (1)

- ex ante assessment of the systems
- coordination and execution of audit strategy
- ensuring execution of system audits
- ensuring execution of sample audits of operations
- issuing annual control report with audit opinion

General provisions

Control and audit



AA – functions (2)

- ensuring independence of audit bodies
- ensuring professional audit work (acc. to internationally accepted audit standards)
- submitting closure declaration or declaration for partial closure

General provisions

Control and audit

– Art. 62



1. ex ante assessment of the systems

- MAY BE done by Audit Authority
- should be done on system description according to model in Commission regulation
- description, report and opinion should be submitted within 12 months of adoption of OP and before first payment claim
- action plan in case of qualified opinion

General provisions

Control and audit



2. audit strategy

- presentation of audit strategy within 9 months of approval of OP; possibly for several programmes (approval by the EC – 3 months)
- audit standards, materiality thresholds, types of audits to be carried out, coverage of bodies, risk assessment, audit schedule for the forthcoming year
- reliance on the work of others
- resources and reporting procedures
- covering entire programming period

General provisions

Control and audit



3. system audits

- objective: to verify effective functioning of management and control systems
- selection of system audits based on risk assessment of key bodies
- MA, CA, horizontal issues
- following up results of previous audits

General
provisions

Control and
audit



4. sample of operations

- objective: to verify expenditure declared
- sample of operations selected following statistical method fixed in Com. Reg.
- minimum 5% of total expenditure declared by beneficiaries and certified to the Commission
- operations implemented acc. to approval decision, compliant with EC and national rules

General provisions

Control and audit



5. annual control report

- first report at 31.12.2008 covers the period 01.01.07-30.06.08
- model will be given in Com. Reg.
- based on audit work carried out in accordance with strategy
- if the systems have functioned effectively
- objective: to give reasonable assurance on correctness of statements of expenditure and therefore on legality and regularity of underlying transactions

General provisions

Control and audit



6. independence

- AA ensures independence of all bodies involved in audit of OPs
- organisation chart of AA and other audit bodies describing how the independence is ensured and qualification of staff
- procedures for supervision of work of audit bodies and preparation of audit reports

General provisions

Control and audit



7. audit standards

- AA required to work according to common standards
- audit strategy should indicate which internationally accepted audit standards will be used
- basis for annual control report and opinion

General provisions

Control and audit



8. closure declaration

- based on all the audit work carried out under the responsibility of AA according to the audit strategy
- model in Com. Reg.
- 31.12. 2017
- AA provides final control report and declaration on validity of payment claim
- if qualified opinion, AA should give its reasons and estimate the financial impact
- partial closure possible

General
provisions

Control and
audit



AA – summary

- reinforced role of independent AA
- compliance assessment
- audit strategy approved by the Commission
- professional audit work – common standards
- formal annual audit opinion
- (partial) closure declarations

General
provisions

Control and
audit



Responsibilities of the Commission

- adoption of OP
 - Art. 32
 - review of system description and ex ante system assessment
 - Art. 71
 - verifying that the management and control systems are set up and function effectively
 - on-the-spot audits by EC officials
 - request to the MS to carry out on-the-spot audits
- Art. 72

General provisions

Control and audit



Responsibilities of the Commission

- cooperation with AA to coordinate audit plans to avoid duplication of work
- for OP without reservations, and where reasonable assurance on effective functioning of systems was obtained (via audits), the Commission CAN rely on annual opinion issued by the AA
- audits only if evidence to suggest shortcomings

– Art. 73

General
provisions

Control and
audit



Financial corrections

Council regulation laying down general provisions of the European Regional Development Fund, the European Social Fund and the Cohesion Fund

Art. 99 – 102: financial corrections by the Member State and by the Commission

A.Wicha

General provisions

Financial corrections



- **Financial corrections – topics**

- Rule:
- MS obligation to prevent, detect and correct irregularities and recover amounts unduly paid
- (art. 70)
- Topics:
 - irregularities
 - financial corrections by the MS
 - financial corrections by the Commission

General
provisions

Financial
corrections



- **Irregularity – definition**

- any infringement of EC law provision
- resulting from an act or omission
- by an economic operator
- which has, or would have, the effect of prejudicing the general budget of the EU by charging an unjustified item of expenditure

General
provisions

Financial
corrections

– Art. 2(7)



- Irregularities – examples

- Systemic irregularities
 - lack of system or operations audits
 - lack of eligibility checks for operations
 - no verifications of entries into accounting system
- Individual irregularities
 - lack of documentary proof of expenditure
 - direct award of a contract

General provisions

Financial corrections



- **Irregularity – first consequences**

- interruption of payment deadline in case of significant deficiencies in the functioning of the systems (max. 6 months)
- suspension of payments in case of serious deficiencies or irregularities which have not been corrected
- interruption / suspension ends when adequate measures are taken by the MS

General provisions

Financial corrections

– Art. 91, 92



- **Financial corrections by the MS**
 - obligation to prevent, detect and correct irregularities and recover amounts unduly paid
 - Art. 70
 - in case of individual or systemic irregularities in operations or OP
 - cancelling all / part of public contribution
 - re-use of resources possible for OP, but not for the irregular operations
 - extended audits in case of systemic irregularities
 - Art. 98

General provisions

Financial corrections



- **Financial corrections by the Commission**

- reasons for corrections
- amount of corrections
- applicable procedures
- obligations of Member State
- repayment

General provisions

Financial corrections



- **Reasons for corrections**

- serious deficiency in management and control system
- irregular expenditure in certified statement of expenditure (not corrected by MS)
- MS has not executed necessary corrections (as required by art. 98)

General provisions

Financial corrections

– Art. 99



- **Amount of corrections**

- decided always on individual basis
- flat-rate or extrapolated correction in case of systemic irregularities
- taking into account the gravity of irregularity and its financial consequences
- determined after examining the measures taken by the MS

General provisions

Financial corrections

– Art. 99



- **Applicable procedures**

- Commission informs MS of its provisional conclusions and requests to submit comments (2 months)
- when MS does not accept the provisional conclusions – hearing
- in case of agreement, MS may re-use the funds concerned (for the OP, but not for operations subject to correction)

General provisions

Financial corrections

– Art. 100



- **Obligations of Member State**

- financial correction by the Commission has no influence on the MS obligation to pursue recoveries and to recover the State aid

- Art. 87-89 of the EC Treaty

- Art. 14 of Regulation 659/1999

- Art. 101

General
provisions

Financial
corrections



- **Repayment**

- to be made to the general budget of EU before the due date indicated in the order for recovery
- any delays will give rise to interests on account of late payment

General provisions

Financial corrections

– Art. 102



ERDF regulation

Regulation of the European Parliament and of the Council on the European Regional Development Fund

ERDF and
cohesion fund
regulations

ERDF regulation

B.Nadler



Thematic priorities

Convergence objective (art 4)

- Research and technological development, innovation and entrepreneurship
- Information society, mainly telecommunication infrastructures
- Environment
- Prevention of risks
- Tourism
- Local development initiatives (complementary to ESF)
- Investments in culture
- Transports investments including TEN-T network and intermodal systems
- Energy investments, including energy efficiency and development off renewable energies
- Education investments
- Investments in health and social infrastructure

ERDF and
cohesion fund
regulations

ERDF regulation



Thematic priorities

Regional Competitiveness objective (art 5)

1. Innovation and knowledge economy
 1. Enhancing regional R&D and innovation capacities
 2. Stimulating innovation and entrepreneurship
 3. Creating financial engineering instrument

2. Environment and risk prevention
 1. Rehabilitation of physical environment
 2. Promotion of biodiversity
 3. Energy efficiency and renewable energy
 4. Promotion of clean and sustainable transport
 5. Preventing measures to cope with natural and technological risks
 6. Protection and enhancement of the natural and cultural heritage

- Access to transport and telecommunication services of general economic interest
 - Strengthening secondary transport networks
 1. Promoting access and efficient use of ICT

ERDF and
cohesion fund
regulations

ERDF regulation



Thematic priorities

European territorial cooperation objective (art 6)

1. Development of **cross-border** economic and social activities
 1. Entrepreneurship, development of SMEs, tourism, culture
 2. Joint protection and management of natural and cultural resources
 3. Supporting links between urban and rural areas
 4. Reducing isolation (access to transport, ICT, water, waste and energy facilities)
 5. Joint use of health, culture, tourism and education infrastructure
2. Development of **transnational** cooperation
 1. Regional Innovation and R&D capacities
 2. Environment and risk management
 3. Accessibility to transnational transport and telecommunication services
 4. Sustainable urban development
3. Reinforcement of the effectiveness of regional policy
 1. Inter-regional cooperation focusing on innovation and knowledge economy and environment and risk prevention
 2. Exchanges of experience (best practices)
 3. Studies, data collection and observation (ESPON)

ERDF and
cohesion fund
regulations

ERDF regulation



Eligibility of expenditure (art 7)

1. Community ineligibility :

- a. Recoverable VAT
- b. purchase of land exceeding 10% of the total eligible expenditure
- c. Decommissioning of nuclear plants
- d. Interest on debts

2. Community eligibility under conditions :

- a. Non recoverable VAT genuinely and definitively borne by a beneficiary (for cohesion countries – excluding non taxable person for the others)
- b. Multi-family and social Housing, for new member States :
 - i. limited allocation (< 3% of the OP or 2% of the total ERDF)
 - ii. if programmed within integrated urban operation

Treatment of particular territorial feature

1. Urban areas

- a. Extension of the eligible scope : *rehabilitation of physical environment, brownfield redevelopment, preservation of cultural heritage, entrepreneurship and provisions of services to the population*
- b. Activities supported through dedicated programme or priority axis
- c. Actions implemented within integrated and sustainable urban strategy

2. Areas with geographical handicaps

- a. Areas referred to in art 52 of the general regulation : islands, mountain areas, (very) sparsely populated areas, former (before 01.05.04) external border areas
- b. Relevant programmes to pay attention to those areas, within the eligible thematic scope

3. Outermost regions

- a. eligible scope for the specific allocation (operating aids) : *common ERDF priorities, aids to transport services and addressing specific constraints (storage, lack of human capital)*



Provisions governing the ETC Objective *Programming*

1. Content of the programmes

Simplified content, in comparison with the convergence and regional competitiveness objectives.

2. Eligibility rules of expenditure :

Relevant national rules applying under the ETC objective to be agreed by the participating member States.

ERDF and
cohesion fund
regulations

ERDF regulation



Provisions governing the ETC Objective

Management, monitoring and control

1. Specificities of the authorities

- a. Single set of authorities (managing, certifying and audit) by programme
- b. Setting up of a joint technical secretariat by the managing authority
- c. Audit authority assisted by a group of auditors comprising representatives of each member State
- d. Managing authorities delegate the verification of regularity of expenditure and operations to a group of controllers

2. Financial management and control

- a. Member States designate controller(s) responsible for verifying the legality and regularity of expenditure
- b. Amounts paid as a result of an irregularity recovered by the lead beneficiary

Provisions governing the ETC Objective

Implementation

1. Selection of operations

- a. Beneficiaries from at least two (cross border, transnational or three (interregional) countries
- b. Specific conditions to be fulfilled : joint development / implementation / staffing and financing

2. Role of the lead beneficiary

- a. Bear the responsibility for ensuring the implementation of the operation
- b. Involved in the financial management (payment and certification)
- c. Lay down appropriate arrangements with beneficiarries to garantee sound management

3. Location of operations

- a. Up to 20% of the ERDF under a CBC programme can be spent in NUTS III regions adjacent to the eligible areas – 20% for expenditure incurred by partner outside the eligible area for transnational cooperation
- b. 10% of the ERDF can be spent outside the EC



Cohesion fund regulation

Council regulation establishing a Cohesion Fund

Art. 2: thematic priorities

Art. 4: conditionality

R.Lopez Sanchez

ERDF and
Cohesion fund
regulations

Cohesion fund
regulation



Establishment and purpose

- **Strengthening the economic and social cohesion of the Community in the interest of promoting sustainable development**
- **Maastricht Treaty (1992): to meet the euro convergence criteria and at the same time to continue to invest in infrastructure to make the single market work**

ERDF and
cohesion fund
regulations

Cohesion fund
regulation



Eligibility

Member States eligible for Cohesion Fund:

- **Per capita gross national income (GNI), measured in purchasing power parities, of less than 90% of the Community average**
- **Programme leading to the fulfilment of the conditions of economic convergence (avoidance of excessive government deficit) (article 104 Treaty)**
- **Review in 2010**



Scope of assistance (Art. 2)

- **Trans-European networks, in particular priority projects of common interest as identified by Decision n° 1692/96/EC (Community guidelines for the development of the TEN-T)**
- **Environment within the priorities assigned to the Community environmental protection policy. It may also intervene in areas related to sustainable development which clearly present environmental benefits:**
 - **Energy efficiency and renewable energy**
 - **Transport outside the TEN-T: rail, river and sea transport, intermodal transport systems and their interoperability, management of road, sea and air traffic, clean urban transport and public transport**
- **Appropriate balance**

ERDF and
cohesion fund
regulations

Cohesion fund
regulation



Programme-based support

Multi-annual programming:

Cohesion Fund will now be programmed together with the ERDF in Operational programmes for transport and environment infrastructure (national geographical coverage) with the Cohesion fund intervening throughout the country and the ERDF intervention being limited to the Convergence objective regions (art 34.3 General Regulation)

Priority axis specific to each Fund

ERDF and
Cohesion fund
regulations

Cohesion fund
regulation



Financial contribution (General Regulation)

- **Co-financing rate of maximum 85% of eligible expenditure**
- **Pre-financing (2007-2009):**
 - **7,5% (2% - 3% - 2,5%) for Member States of EU as constituted before 1 May 2004**
 - **10,5% (2,5% - 4 % - 4%) for Member States acceded on or after 1 May 2004**
- **For Member States that acceded to the Union on or after 1 May 2004, the share of the Cohesion Fund will be set at one third of their total financial allocation (Structural Funds plus Cohesion Fund) on average over the period.**



Eligibility of expenditure (Art. 3)

National rules (principle of subsidiarity)

Not eligible:

- Interest on debt
- Purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned
- Housing
- Decommissioning of nuclear power stations
- Recoverable value added tax



Conditionality (Art. 4)

- Fulfilment of the conditions of economic convergence (art 99 of the Treaty) and the need for sound government finances
- Stability programmes or convergence programmes
- Avoidance of excessive government deficits (article 104 of the Treaty)
- Council may decide by qualified majority on a proposal from the Commission to suspend either the totally or part of the commitments from the Fund (from 1 January of the year following the decision to suspend)
- Not apply to commitments already made at the time of suspension
- If corrective action taken, Council shall decide to lift the suspension and to re-budget the suspended commitment.



EGCC regulation

**Regulation of the European Parliament and of the Council
establishing a European grouping of cross-border co-
operation (EGCC)**

D.Peters

ESF and
EGTC
regulations

EGTC
regulation



EGTC : What is it ?

- Creation of a new legal instrument on EU level with legal personality
- EGTC can manage:
 - European Territorial Co-operation programmes
 - **ETC and other co-operation projects**
 - other co-operation actions with EU funding
 - other co-operation actions without EU funding

ESF and
EGTC
regulations

EGTC
regulation



EGTC : why a Community instrument ?

EGTC : what is the legal basis ?

- Existing legal framework
 - not existing
 - not sufficient
 - not efficient
- Art. 159(3) of the Treaty : cohesion actions **OUTSIDE** the scope of Structural Funds

ESF and
EGTC
regulations

**EGTC
regulation**



EGTC – new instrument, but optional

- Member States free to delegate management of an ETC programme to an EGTC
- Regional/local partners free to run ETC projects as an EGTC
- other existing instruments remain possible
- if EGTC is chosen, **WHOLE** Regulation applies

ESF and
EGTC
regulations

**EGTC
regulation**



EGTC – Content of Regulation Summary

- Nature of the EGTC (Art. 1)
- Applicable law (Art 2)
- Composition of the EGTC (Art. 3)
- Establishment of the EGTC (Art. 4)
- Acquisition of legal personality and OJ (Art. 5)
- Control of management of public funds (Art. 6)
- Tasks (Art. 7)
- Convention and Statutes (Art. 8 and 9)
- Organisation of the EGTC (Art. 10)
- Budget (Art. 11)

ESF and
EGTC
regulations

**EGTC
regulation**

EGTC – Content of Regulation Summary

- Liquidation, liability etc. (Art. 12)
- Public Interest (Art. 13)
- Dissolution (Art. 14)
- Jurisdictions (Art. 15)
- Final provisions (Art. 16)
- Report and review clause (Art. 17)
- Entry into force (Art. 18)

ESF and
EGTC
regulations

**EGTC
regulation**



EGTC – How to set up an EGTC?

- Who can be a member? -> Art. 3
 - a) Member States (especially those without regions)
 - b) regional authorities
 - c) local authorities
 - d) bodies governed by public law →
 - e) Art. 1(9), 2nd sub§ of Dir 2004/18/EC
+ associations consisting of such bodies
- at least two Member States (third countries?)

ESF and
EGTC
regulations

EGTC
regulation



EGTC – How to set up an EGTC?

- Starting point -> Art. 4(1) and (2)
- Agreement of Member States -> Art. 4(3)
- scope of *ex-ante* control:
 - a) Regulation
 - b) national law, including powers and duties
 - c) public interest/public policy (*ordre publique*)
- 3 months + explain reasons
- procedure according to national rules

ESF and
EGTC
regulations

EGTC
regulation



EGTC – How to set up an EGTC?

- What next after approval by MS?
 - Members agree final convention and statutes according to MS approval -> Art. 4(5)
 - Statutes shall be registered/published in MS of "registered office" -> Art. 5 (1)
 - Members inform MS concerned + Committee Regions
 - Within 10 days send request to publish notice OJ with key information -> Art. 5(2)



EGTC – How to set up an EGTC?

- Content of convention -> Art. 8
 - Final version agreed unanimously
 - a. Name, registered office
 - b. Territory
 - c. objective and tasks, duration and dissolution
 - d. list of members
 - e. applicable law → Art. 2
 - f. financial control arrangements
 - g. procedures for amendments → Art. 4(6)



EGTC – How to set up an EGTC?

- Content of statutes -> Art. 9
 - Final version agreed unanimously
 - ALL provisions of convention and :
 - a. operating provisions of organs
 - b. decision-making procedures
 - c. working language(s)
 - d. functioning (recruitment, personnel contracts)
 - e. financial contributions and other financial issues
 - f. member's liability → Art. 12(2)
 - g. independent external audit body
 - h. procedures for amendments → Art. 4(6)



EGTC exists

- When does EGTC start to exist?
 - Legal personality from day of national registration/publication -> Art. 5(1)
- Extent of legal capacity?
 - "Most extensive legal capacity" -> Art. 1(4) property, employ staff, legal proceedings
 - (EGTC can act as Managing Authority)
 - (EGTC can sign grant letters)
 - **EGTC can be beneficiary/intermediate body**

ESF and
EGTC
regulations

EGTC
regulation



EGTC exits

- What can EGTC do?
 - Carry out TASKS given by its members -> Art.7(1)
 - Act within confines of tasks given -> Art. 7(2)
 - limited to co-operation in cohesion field -> Art. 7(3)
 - a) Primarily implement co-operation programmes or
 - b) **co-operation projects (ERDF, ESF, CF)**
 - c) "Other" co-operation actions with EU funding
 - d) **"Other" co-operation actions without EU funding**
- ONE member may be empowered to execute the EGTC's tasks -> Art. 7(5)

ESF and
EGTC
regulations

EGTC
regulation



EGTC exits

- What can EGTC NOT do?
 - Exercise of powers conferred by public law to safeguard general interest of State -> Art. 7(4)
 - a) Police
 - b) Regulatory powers
 - c) Justice
 - d) Foreign policy
 - Actions outside EU funding if restricted by MS to Art.6 ERDF-like actions -> Art. 7(3)

ESF and
EGTC
regulations

EGTC
regulation



EGTC exits

- How can EGTC act?
 - By its organs -> Art. 10(1)
 - a) Assembly (\neq Monitoring/Steering Committee)
 - b) Director
 - c) additional organs in the statutes
 - Liability of organs -> Art. 10(2)
towards third parties, even outside tasks

ESF and
EGTC
regulations

EGTC
regulation



EGTC exits

- Can EGTC manage public funds?
 - YES -> Art. 11 and Art. 6
- What are the control mechanism?
 - a) Assembly approves own annual budget, covering running costs and "operational component" -> Art.11(1)
 - b) EU funds managed and controlled according to relevant EU law -> Art. 6(4)
 - c) National funds controlled in a similar way than EU funds -> Art. 6(1) – (3) and (5)

ESF and
EGTC
regulations

EGTC
regulation

EGTC – Other provisions

- Liability of EGTC as such -> Art. 12(2)
- Residual liability of members -> Art. 12(2)
- Liquidation, insolvency, cessation of payments -> Art. 12(1)
- Member State can prohibit certain acts, oblige its member to withdraw from EGTC or wind up EGTC's - > Art. 13 and 14
- Jurisdictions - > Art. 15
- Over Five years report with proposals for amendments -> Art.17
- Member States may request payments of registration fees > Art. 16(2)
- Entry into force : day following publication -> Art. 18
- Application 1 year later except for obligations of MS -> Art. 18
- Member States shall make national implementation rules and inform COM about them -> Art. 16(1)