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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the European Regional Development Fund**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

Article 158 of the EC treaty establishes the community objective of promoting harmonious development, and article 160 provides for the European Regional Development Fund ERDF, in order to support the correction of regional imbalances.

The most recent enlargement has heightened regional disparities within the EU, with a large increase in regions whose development is lagging. With GDP per head ranging from 30% to 75% of the community average, they are faced with the challenge of achieving convergence. In the more developed regions, on the other hand, the continuing challenge is to establish and reinforce their relative attractiveness by increasing their competitiveness in order to contribute to the harmonious development of the Community's territory,.

Enlargement has simultaneously increased the overall number of EU borders. This calls for greater territorial co-operation, based around joint projects for local development under cross-border cooperation, actions conducive to integrated territorial development under transnational development, and networks of development and exchange.

The differences in the level of regional development within the Community, require a both in budgetary and in thematic terms. ERDF actions are thus differentiated depending upon the beneficiary region, whilst remaining concentrated upon the Union's priorities, as defined in Lisbon and Gothenburg.

Under the "Convergence" objective, the ERDF maintains a broad range of interventions, which reflects the important needs faced by these regions. This must allow the regions to mobilise and modernise their resources and launch a process of integrated and sustainable regional development. A new emphasis is placed upon research, innovation and risk prevention, while infrastructures retain an important role.

The "Regional competitiveness and employment" objective is constructed around a three-pronged menu of themes: innovation and the knowledge economy, which seeks to raise the quality of regional economies, environment and risk prevention, in order to ensure the sustainability of these developments, and accessibility to transport services and information and communication technologies (ICTs), aimed at reducing regional isolation from transport and digital networks, a pre-condition for their attractiveness.

A specific objective is dedicated to territorial co-operation, which is organised around cross-border and trans-national elements, based upon a menu of actions linked to the Lisbon and Gothenburg agenda. The inter-regional dimension, in turn, is part of the joint management of programmes under the preceding two objectives. This is based upon a bottom-up approach, which ensures the involvement of all actors and the success of actions carried out. Support for the development of networks of exchange, analysis and study between regions and local authorities will continue to be provided by this objective. Programming and management rules are simplified and clarified.

Finally, the ERDF pays particular attention to territorial specificities, in particular in accordance with article 299(2) of the EC treaty. In this regard, the regulation allows, during the planning phase of programmes, to modulate the menu to take account of the particular situation of urban and rural areas, and areas with natural handicaps. Also, the financing of the additional costs brought about by the peripheral location of the outermost regions is allowed for.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the European Regional Development Fund**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN COMMUNITY,

Having regard to the Treaty establishing the European Community, and in particular the first paragraph of Article 162 and the second subparagraph of Article 299(2) thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>2</sup>,

Having regard to the opinion of the Committee of the Regions<sup>3</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas,

- (1) Article 160 of the Treaty provides that the European Regional Development Fund (ERDF) is intended to help redress the main regional imbalances in the Community. The ERDF therefore contributes to reducing the gap between the levels of development of the various regions and the extent to which the less-favoured regions and islands, including rural areas, are lagging behind.
- (2) The provisions common to the Structural Funds and the Cohesion Fund are set out in Regulation (EC) No (...) <sup>4</sup> laying down general provisions for the European Regional Development Fund, the European Social Fund, and the Cohesion Fund. Specific provisions concerning the type of activities which may be financed by the ERDF under the objectives defined in that Regulation need to be laid down.
- (3) The ERDF should provide assistance within the framework of an overall strategy for cohesion policy which ensures greater concentration of assistance on the priorities of the Community, particularly outside the less-developed regions.
- (4) Regulation (EC) No (...) provides that the eligibility of expenditure is to be established at national level, with certain exceptions for which it is necessary to lay

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ L [...], [...], p. [...].

down specific provisions. The exceptions related to the ERDF should therefore be laid down.

- (5) Efficient and effective implementation of the action supported by the ERDF relies on good governance and partnership among all the relevant territorial and socio-economic actors, and in particular regional and local authorities.
- (6) Building on the experience and strengths of the Urban Community initiative foreseen by Article 20(1)(b) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds<sup>5</sup>, the urban dimension should be reinforced by fully integrating measures in that field into the operational programmes co-financed by the ERDF.
- (7) Particular attention should be paid to guaranteeing complementarity and consistency between support granted by the ERDF and that granted by the European Agricultural Fund for Rural Development pursuant to Regulation (EC) No (...) <sup>6</sup> and by the European Fund for Fisheries pursuant to Regulation (EC) No (...) <sup>7</sup>. Programmes co-financed by the ERDF should therefore support the diversification of the rural economies and the areas dependent on fisheries, away from traditional activities.
- (8) It is necessary to ensure that the action supported by the ERDF in favour of small and medium sized firms takes into account and supports the implementation of the European Charter for Small and Medium Sized Enterprises adopted at the European Council in Santa Maria de Feira.
- (9) Specific attention should be paid to the outermost regions, namely by enlarging, on an exceptional basis, the scope of the ERDF to the financing of operating aid linked to the compensation of the additional costs in certain sectors. Such a derogation requires the use of Article 299(2) of the Treaty as a legal basis.
- (10) The ERDF should address the problems of accessibility and remoteness from large markets confronting areas with an extremely low population density, as referred to in Protocol No 6 to the Act of Accession of Austria, Finland and Sweden. The ERDF should also address the specific difficulties encountered by certain islands, mountain areas and sparsely populated areas whose geographical situation slows down their development.
- (11) The ERDF should ensure synergy with assistance from the European Social Fund and the Cohesion Fund. It should also ensure complementarity and consistency with other Community policies.
- (12) It is necessary to lay down specific provisions concerning the programming, management, monitoring and control of operational programmes under the “European territorial cooperation” objective.
- (13) It is necessary to support an effective cross-border and transnational cooperation with countries neighbouring the Community where this is necessary to ensure that the

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<sup>5</sup> OJ L 161, 26.6.1999, p. 1. Regulation as last amended by the 2003 Act of Accession.

<sup>6</sup> OJ L [...], [...], p. [...].

<sup>7</sup> OJ L [...], [...], p. [...].

regions of the Member States which border third-countries can be effectively assisted in their development. Accordingly, it is appropriate to authorise on an exceptional basis the financing of assistance from the ERDF for projects located on the territory of third countries where they are for the benefit of the regions of the Community.

- (14) Regulation (EC) No 1783/1999 of the European Parliament and the Council of 12 July 1999 on the European Regional Development Fund<sup>8</sup> should be repealed,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I GENERAL PROVISIONS

### *Article 1*

#### **Subject matter**

This Regulation establishes that tasks of the European Regional Development Fund (ERDF), the scope of its assistance with regard to the “Convergence”, “Regional competitiveness and employment”, and “European territorial co-operation” as defined in Article 3 of Regulation (EC) No (...) laying down general provisions for the European Regional Development Fund, the European Social Fund and the Cohesion Fund, and the types of expenditure eligible for assistance.

It lays down specific provisions concerning the treatment of urban and rural areas, of areas dependent on fisheries, of the outermost regions, and of areas with natural handicaps.

It also sets out specific provisions concerning the “European territorial cooperation” objective, particularly in terms of programming, implementation, management, monitoring and control.

### *Article 2*

#### **Purpose**

The ERDF shall contribute to the financing of assistance towards the reinforcement of economic, social and territorial cohesion by reducing regional disparities and supporting the structural development and adjustment of regional economies, including the conversion of declining industrial regions.

In so doing, the ERDF shall give effect to the priorities of the Community, and in particular the need to strengthen competitiveness and innovation, to create sustainable jobs, and to promote environmentally sound growth.

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<sup>8</sup> OJ L 213, 13.8.1999, p. 1.

### *Article 3*

#### **Scope of assistance**

1. The ERDF shall focus its assistance on a limited number of thematic priorities. The type and range of actions to be financed within each priority shall reflect the different nature of the “Convergence”, “Regional competitiveness and employment” and “European territorial cooperation” objectives in accordance with Articles 4, 5 and 6 of this Regulation.
2. The ERDF shall contribute towards the financing of:
  - a) productive investment;
  - b) infrastructure;
  - c) other development initiatives including services to enterprises, creation and development of financing instruments such as venture capital, loan and guarantee funds and local development funds, interest subsidies, neighbourhood services, and exchange of experience between regions, towns, and relevant social, economic and environmental actors;
  - d) technical assistance as referred to in Articles 43 and 44 of Regulation (EC) No (...).

### *Article 4*

#### **Convergence**

Under the “Convergence” objective, the ERDF shall focus its assistance on supporting sustainable integrated regional and local economic development by mobilising and strengthening endogenous capacity through programmes aimed at the modernisation and diversification of regional economic structures, primarily in the following areas:

- 1) Research and technological development (R&TD), innovation and entrepreneurship, including strengthening of regional research and technological development capacities, aid to R&TD in small and medium-sized enterprises (SMEs) and to technology transfer, improvement of links between SMEs and universities, and research and technology centres, development of business networks and clusters, support for the provision of business and technology services to groups of SMEs, fostering of entrepreneurship and innovation funding for SMEs through new financing instruments;
- 2) Information society, including development of local content, services and applications, improvement of access to and development of on-line public services, aid and services to SMEs to adopt and effectively use information and communication technologies (ICTs);

- 3) Environment, including investments connected with waste management, water supplies, urban waste-water treatment and air quality, integrated pollution prevention and control, rehabilitation of contaminated sites and land, promotion of biodiversity and nature protection, aid to SMEs to promote sustainable production patterns through the introduction of cost-effective environmental management systems and the adoption and use of pollution-prevention technologies;
- 4) Prevention of risks, including development and implementation of plans to prevent and cope with natural and technological risks;
- 5) Tourism, including promotion of natural and cultural assets as potential for the development of sustainable tourism, protection and enhancement of the cultural heritage in support of economic development, aid to improve the supply of tourism services through new higher value-added services;
- 6) Transport investments, including trans-European networks and integrated city-wide strategies for clean urban transport, which contribute to improving the access to and quality of passenger and goods services, to achieving a more balanced modal split, to promoting intermodal systems and reducing environmental impacts;
- 7) Energy, including trans-European networks, which contribute to improving security of supply, completing the internal market, and integrating environmental considerations, improvement of energy efficiency and the development of renewable energies;
- 8) Education investments, which contribute to increasing the attractiveness and quality of life in regions;
- 9) Health, including investments to develop and improve health provision which contribute to regional development and quality of life in regions;
- 10) Direct aid to investment in SMEs contributing to creating and safeguarding jobs.

#### *Article 5*

### **Regional competitiveness and employment**

Under the “Regional competitiveness and employment” objective, the ERDF shall focus its assistance, in the context of regional sustainable development strategies, on the following priorities:

- 1) innovation and the knowledge economy, through support to the design and implementation of regional innovation strategies conducive to efficient regional innovation systems, and specifically:
  - a) enhancing regional R&TD and innovation capacities directly linked to regional economic development objectives by supporting industry or technology-specific competence centres, by promoting technology transfer, and by developing technology forecasting and international benchmarking of policies

to promote innovation, and by supporting inter-firm collaboration and joint R&TD and innovation policies;

- b) stimulating innovation in SMEs by promoting university-enterprise cooperation networks, by supporting business networks and clusters of SMEs and by facilitating SMEs' access to advanced business support services, by supporting the integration of cleaner and innovative technologies in SMEs;
  - c) promoting entrepreneurship by facilitating the economic exploitation of new ideas, and by fostering the creation of new firms by universities and existing firms;
  - d) creating new financial instruments and incubation facilities conducive to the creation or expansion of knowledge-intensive firms.
- 2) environment and risk prevention, and specifically:
- a) stimulating investment for the rehabilitation of contaminated sites and land, and promoting the development of infrastructure linked to biodiversity and Natura 2000 contributing to sustainable economic development and diversification of rural areas;
  - b) stimulating energy efficiency and renewable energy production;
  - c) promoting clean urban public transport;
  - d) developing plans and measures to prevent and cope with natural and technological risks.
- 3) access, outside major urban centres, to transport and telecommunication services of general economic interest, and specifically:
- a) strengthening secondary networks by improving links to TEN-transport networks, to regional railway hubs, airports and ports, or to multimodal platforms, by providing radial links to main railways lines, and by promoting regional and local inland waterways;
  - b) promoting access to and efficient use of ICTs by SMEs by supporting access to networks, the establishment of public Internet access points, equipment, and the development of services and applications.

#### *Article 6*

### **European territorial cooperation**

Under the “European territorial cooperation” objective, the ERDF shall concentrate its assistance on:

- 1) the development of cross-border economic and social activities through joint strategies for sustainable territorial development, and primarily:



- a) by encouraging entrepreneurship and, in particular, the development of SMEs, tourism, culture, and cross-border trade;
- b) by encouraging the protection and joint management of the environment;
- c) by reducing isolation through improved access to transport, information and communication networks and services, and cross-border water, waste and energy systems; and
- d) by developing collaboration, capacity and joint use of infrastructures in particular in sectors such as health, culture and education.

In addition, the ERDF may contribute to promoting the integration of cross-border labour markets, local employment initiatives, equal opportunities, training and social inclusion, and sharing of human resources and facilities for R&TD.

- 2) the establishment and development of transnational cooperation, including bilateral cooperation between maritime regions, through the financing of networks and of actions conducive to integrated territorial development on the following priorities:
  - a) water management, with a clear trans-national dimension, including protection and management of river basins, coastal zones, marine resources, water services and wetlands;
  - b) improving accessibility, including investments in cross-border sections of trans-European networks, improved local and regional access to national and transnational networks and platforms, enhanced inter-operability of national and regional systems, and promotion of advanced communications and information technologies;
  - c) risk prevention, including the promotion of maritime security and protection against flooding, marine and inland water pollution, prevention of and protection against erosion, earthquakes and avalanches. Programmes may include the provision of equipment and development of infrastructure, drawing up and implementing transnational assistance plans, common risk mapping systems, and the development of common instruments for studying, preventing, monitoring and controlling natural and technological risks.
  - d) the creation of scientific and technological networks connected with issues relating to the balanced development of transnational areas, including the establishment of networks between universities and links for accessing scientific knowledge and technology transfer between R&TD facilities and international centres of R&TD excellence, the development of transnational consortia for sharing R&TD resources, twinning of technology transfer institutions, and development of joint financial engineering instruments directed at supporting R&TD in SMEs.
- 3) reinforcement of the effectiveness of regional policy by promoting networking and exchange of experience among regional and local authorities focusing on the topics referred to under Article 5(1) and (2) and Article 8, including cooperation network programmes covering the whole Community and actions involving studies, data

collection, and the observation and analysis of development trends in the Community.

#### *Article 7*

#### **Rules on eligibility of expenditure**

The following expenditure is not eligible for a contribution from the ERDF:

- a) VAT;
- b) interest on debt;
- c) the purchase of land for an amount exceeding 10% of the total eligible expenditure for the operation concerned;
- d) housing;
- e) decommissioning of nuclear power stations.

### **CHAPTER II SPECIFIC PROVISIONS ON THE TREATMENT OF PARTICULAR TERRITORIAL FEATURES**

#### *Article 8*

#### **Urban dimension**

1. In the case of action involving urban regeneration as referred to in Article 25(4) a) and 36(4) b) of Regulation (EC) No (...), the ERDF shall support the development of participative, integrated strategies to tackle the high concentration of economic, environmental and social problems affecting urban agglomerations.

This may combine the rehabilitation of the physical environment, brownfield redevelopment, and the preservation and development of the historical and cultural heritage with measures to promote entrepreneurship, local employment and community development, as well as the provision of services to the population taking account of changing demographic structures.

2. By way of derogation from Article 33(2) of Regulation (EC) No (...), the ERDF funding of measures under the “Regional competitiveness and employment” objective falling within the scope of Regulation (EC) N° (...) on the European Social Fund shall be raised to 10% of the priority concerned.

## *Article 9*

### **Rural areas and areas dependent on fisheries**

Member States and regions shall ensure complementarity and consistency between the measures co-financed by the European Agricultural Fund for Rural Development (EAFRD) pursuant to Regulation (EC) No (...) and the actions co-financed by the European Fund for Fisheries (EFF) pursuant to Regulation (EC) No (...), on the one hand, and the programmes co-financed by the ERDF, on the other.

The ERDF intervention in rural areas and areas dependent on fisheries shall concentrate on the economic diversification of such areas, including:

- 1) infrastructure to improve accessibility;
- 2) acceleration of the rolling-out of telecommunication networks and services in rural areas;
- 3) development of new economic activities outside the agricultural and fishery sectors;
- 4) reinforcement of links between urban and rural areas;
- 5) development of tourism and rural amenities.

Member States and regions shall ensure complementarity and coherence between the actions co-financed by the EAFRD and those co-financed by the EFF on the one hand, and the actions co-financed by the ERDF on the other hand. To this end, for actions under points 1), 3) and 5) Member States shall set when preparing operational programmes clear demarcation criteria for actions to be supported from the ERDF by virtue of this Article, on the one hand, or from the EAFRD by virtue of Article 49(1), a), b) and i) of Regulation (EC) No (...), for rural areas, or from the EFF by virtue of Article (...) of Regulation (EC) No (...) for areas dependent on fisheries.

## *Article 10*

### **Areas with natural handicaps**

Regional programmes co-financed by the ERDF covering areas facing natural handicaps as referred to in Article 52(1) b) of Regulation (EC) No (...) shall pay particular attention to addressing the specific difficulties of those areas.

Without prejudice to Article 3 and 4, the ERDF shall in particular contribute towards the financing of investments aimed at improving accessibility, promoting and developing economic activities related to the cultural heritage, promoting the sustainable use of natural resources, and stimulating the tourism sector.

## *Article 11*

### **Outermost regions**

In accordance with the additional allocation referred to in Article 16(1) d) of Regulation (EC) No (...) and by way of derogation from Article 3(2) of this Regulation, the ERDF shall help finance operating aid in the outermost regions to offset the additional costs incurred in the areas covered by Article 4 and in the following additional areas, with the exception of products falling within Annex I to the Treaty:

- a) support for goods transport services and start-up aid for transport services;
- b) support linked to storage constraints, the excessive size and the maintenance of production tools, and the lack of human capital on the local labour market.

## **CHAPTER III SPECIFIC PROVISIONS CONCERNING THE “EUROPEAN TERRITORIAL COOPERATION” OBJECTIVE**

### **SECTION 1 OPERATIONAL PROGRAMMES**

## *Article 12*

### **Content**

Each operational programme under the “European territorial cooperation” objective shall contain the following information:

- 1) an analysis of the situation of the cooperation area in terms of its strengths and weaknesses, and the strategy adopted to deal with it;
- 2) a justification of the priorities chosen in the light of the strategic guidelines of the Community and the resulting priorities for the operational programme, as well as the expected impact as emerging from the *ex ante* evaluation referred to in Article 46 of Regulation (EC) No (...);
- 3) the information on the priorities with their specific goals. Those goals shall be quantified using a limited number of indicators for implementation, results and impact. The indicators shall make it possible to measure the progress and effectiveness of the goals implementing the priorities;
- 4) a breakdown of the spheres of assistance by category, in conformity with the detailed rules for the implementation of Regulation (EC) No (...);

- 5) a single financing plan, with no breakdown by Member State, comprising two tables:
  - a) a table breaking down for each year, in accordance with Articles 50 to 53 of Regulation (EC) No (...), the amount of the total financial allocation from the ERDF. The total ERDF contribution provided for annually shall be compatible with the relevant financial perspective;
  - b) a table specifying, for the whole programming period and for each priority, the amount of the total financial allocation from the Community and of the matching national public funding, and the rate of the ERDF contribution;
- 6) the implementing provisions for the operational programme:
  - a) designation by the Member State of all the entities stipulated in Article 14;
  - b) a description of the monitoring and evaluation systems as well as the composition of the monitoring committee;
  - c) a definition of the procedures for the mobilisation and circulation of financial flows in order to ensure their transparency;
  - d) the provisions laid down to ensure the publicity of the operational programme;
  - e) a description of the procedures agreed between the Commission and the Member State for the exchange of computerised data to meet the payment, monitoring and evaluation requirements laid down by Regulation (EC) No (...);
- 7) an indicative list of major projects within the meaning of Article 38 of Regulation (EC) No (...) scheduled to be submitted during the programming period.

## SECTION 2 ELIGIBILITY

### *Article 13*

#### **Rules on eligibility of expenditure**

Without prejudice to Article 55 of Regulation (EC) No (...), the Commission may propose rules on eligibility for certain categories of expenditures replacing national rules, following a request by Member States. These Community rules on eligibility of expenditure are adopted in a Commission regulation in conformity with the provisions of Article 104(3) of Regulation (EC) No (...).

## SECTION 3 MANAGEMENT, MONITORING AND CONTROL

### *Article 14*

#### **Designation of authorities**

1. Member States participating in an operational programme shall appoint a single managing authority, a single certification authority and a single audit authority situated in the Member State of the managing authority. The certification authority shall receive the payments made by the Commission and, as a general rule, shall make the payments to the lead beneficiary.

The Member States shall set up a joint technical secretariat, which shall be located within the managing authority. It shall assist the managing authority and the monitoring committee in carrying out their respective duties.

2. The audit authority for the operational programme shall be assisted by a group of auditors in carrying out the duties provided for in Article 61 Regulation (EC) No (...). This group shall be set up by the Member States participating in an operational programme. It shall comprise a representative of an audit body designated by each Member State participating in the operational programme. Each group of auditors shall be set up within three months of the decision approving the operational programme at the latest. It shall draw up its own rules of procedure. It shall be chaired by the audit authority for the operational programme.

The final report of the audit authority for the operational programme referred to in Article 70 of Regulation (EC) No (...) shall have been approved by the group of auditors.

3. Each Member State participating in the operational programme shall appoint representatives to sit on the monitoring committee referred to in Article 64 of Regulation (EC) No (...).

### *Article 15*

#### **Function of the managing authority**

The managing authority shall perform the duties provided for in Article 59 of Regulation (EC) No (...), with the exception of those concerning the regularity of operations and expenditure in relation to national and Community rules. In this connection, its responsibilities shall be limited to checking that the expenditure of each beneficiary participating in an operation has been validated by the approved auditor.

## *Article 16*

### **Control system**

In order to validate the expenditure provided for in Article 21, each Member State shall set up an audit system making it possible to check on the delivery of the products and services co-financed, the soundness of the expenditure declared for operations or parts of operations implemented on its territory, and the compliance of such expenditure and of related operations, or parts of those operations, with Community and national rules. Where the check on the delivery of the products and services co-financed can be carried out only in respect of the entire operation, such a check shall be performed by the auditor of the lead beneficiary or by the managing authority.

Each Member State shall ensure that the expenditure can be validated by the approved auditors within a period of two months.

## *Article 17*

### **Financial management**

1. The ERDF contribution shall be paid into a single account with no national sub-accounts.
2. Without prejudice to the Member States' responsibility for detecting and correcting irregularities and for recovering amounts unduly paid, the certification authority shall recover from the lead beneficiary any amount paid as a result of an irregularity. The beneficiaries shall repay the lead beneficiary the amounts paid in error in accordance with the agreement existing between them.

If the lead beneficiary does not succeed in securing repayment from the beneficiaries, the Member States on whose territory the relevant beneficiary is located shall reimburse the certification authority the amount paid in error to that beneficiary.

## *Article 18*

### **European grouping of cross-border cooperation**

Member States participating in an operational programme under the “European territorial cooperation” objective may make use of the legal instrument on cooperation established by Regulation (EC) No (...) with a view to making it responsible for managing the operational programme by conferring on it the responsibilities of the managing authority and of the joint technical secretariat. In this context, each Member State shall continue to assume financial responsibility.

## SECTION 4 OPERATIONS

### *Article 19*

#### **Selection of operations**

1. Operations selected for operational programmes aimed at developing cross-border economic and social activities as referred to in Article 6(1), and for operational programmes aimed at establishing and developing transnational cooperation as referred to in Article 6(2), shall include beneficiaries from at least two countries, which shall cooperate in at least two of the following ways for each operation: joint development, joint implementation, joint staffing, and joint financing.

However, the operations selected for operational programmes aimed at establishing and developing transnational cooperation may be implemented in a single Member State provided that they have been presented by entities belonging to at least two Member States.

2. Operations selected for operational programmes involving cooperation networks and exchange of experience, as referred to in Article 6(3), shall include at least three beneficiaries from at least three regions of at least two Member States, which shall cooperate in the following ways for each operation: joint development, joint implementation, joint staffing and joint financing.
3. In addition to the tasks referred to in Article 64 of Regulation (EC) No (...), the monitoring committee shall be responsible for selecting operations.

### *Article 20*

#### **Responsibility of the lead partner**

1. For each operation, a lead beneficiary shall be appointed. The lead beneficiary shall assume the following responsibilities:
  - a) It shall lay down the arrangements for its relations with the beneficiaries participating in the operation in an agreement comprising, *inter alia*, provisions guaranteeing the sound financial management of the funds allocated to the operation, including the arrangements for recovering amounts unduly paid.
  - b) it shall be responsible for implementing the entire operation;
  - c) it shall ensure that the expenditure presented by the beneficiaries participating in the operation has been paid for the purpose of implementing the operation and corresponds to the activities agreed between the beneficiaries participating in the operation;



- d) it shall check that the expenditure presented by the beneficiaries participating in the operation has been validated by the auditors referred to in Article 14(2);
  - e) it shall be responsible for transferring the ERDF contribution to the beneficiaries participating in the operation.
2. The managing authority shall lay down the implementing arrangements for each operation, in agreement with the lead beneficiary.

#### *Article 21*

### **Certification of expenditure**

The legality and regularity of the expenditure declared by each beneficiary participating in the operation shall be validated by the approved auditors referred to in Article 14(2). Each beneficiary participating in the operation shall assume responsibility in the event of any irregularity in the expenditure which it has declared.

#### *Article 22*

### **Special conditions governing the location of operations**

1. In the context of cross-border cooperation, in duly justified cases, financing of up to 20% of the budget for the operational programme concerned may be granted for operations in NUTS level III areas adjacent to the areas referred to in Article 7(1) of Regulation (EC) No (...).
2. In the context of transnational cooperation, in duly justified cases, financing of up to 20% of the budget for the relevant operational programme may be granted for operations which include partners outside the area.
3. In the context of cross-border and transnational cooperation, the ERDF may finance expenditure incurred in implementing operations or parts of operations on the territory of countries outside the European Community up to a limit of 10% of the amount of its contribution to the operational programme, where they are for the benefit of the regions of the Community.

Member states ensure the legality and regularity of these expenditures.

## CHAPTER IV FINAL PROVISIONS

### *Article 23*

#### **Transitional provisions**

This Regulation shall not affect neither the continued implementation nor the modification, including the total or partial cancellation, of measures approved by the Council or by the Commission on the basis of Regulation (EC) No 1783/99 on the European Regional Development Fund, which applied prior to the entry into force of this Regulation.

Applications made under Regulation (EEC) No 1783/99 shall remain valid.

### *Article 24*

#### **Repeal**

Regulation (EC) No. 1783/99 shall be repealed with effect from (...).

References to Regulation (EC) No 1783/99 shall be construed as reference to this Regulation.

### *Article 25*

#### **Review clause**

On a proposal from the Commission, the European Parliament and the Council shall review this Regulation by 31 December 2013.

### *Article 26*

#### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2007.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, [...].

*For the European Parliament*  
*The President*  
[...]

*For the Council*  
*The President*  
[...]