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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 214/79

of 6 February 1979

amending Regulation (EEC) No 724/75 establishing a European Regional Development Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Regulation (EEC) No 724/75 of 18 March 1975 establishing a European Regional Development Fund (4) created a European Regional Development Fund intended to correct the principal regional imbalances within the Community;

Whereas Article 18 of that Regulation provides that on a proposal from the Commission the Council is to re-examine the Regulation before 1 January 1978;

Whereas the Fund's endowment should be fixed each year in the general budget of the European Communities;

Whereas, in view of the economic and social trends in the regions and areas of the Community, it seems necessary to diversify the assistance from the Fund to enable it both to provide assistance for Community action in support of regional policy measures taken by the Member States and also to assist specific Community regional development measures;

Whereas it should be possible for the geographical scope of Fund assistance to be extended for specific Community regional development measures to cover regions or areas other than those established by the Member States under their regional aid systems;

Whereas the general framework in which these specific Community regional development measures will subsequently be adopted and implemented should be laid down;

Whereas the diversity of regional situations in the Community means that the definition of infrastructure investments eligible for Fund assistance should be adapted;

Whereas provision should be made for an increased rate of participation by the Fund in the financing of some of these infrastructure investments;

Whereas the experience gained in the first three years of operation of the Fund permits the decision-making procedures for Fund assistance to be simplified;

Whereas the provisions relating to regional development programmes, to annual information and to statistical summaries must be adapted to the changes that have taken place;

Whereas an acceleration of the arrangements for payment from the Fund would facilitate the carrying out of the investments benefiting from the Fund; whereas the introduction, on certain conditions, of a scheme for accelerated payments will enable this objective to be met;

Whereas the procedures for making apparent the complementary character of the assistance provided from the Fund should be specified, and whereas the

(1) OJ No C 161, 9. 7. 1977, p. 11.
(2) OJ No C 266, 7. 11. 1977, p. 35.
(3) OJ No C 292, 3. 12. 1977, p. 13, and OJ No C 84, 8. 4. 1978, p. 2.
(4) OJ No L 73, 21. 3. 1975, p. 1.

Commission should, for this purpose, be given the information necessary for it to ascertain that this complementary character is ensured,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 1 of Regulation (EEC) No 724/75, 'A European Regional Development Fund is hereby established, hereinafter referred to as "the Fund", intended to correct ...' shall be replaced by 'The European Regional Development Fund, hereinafter referred to as "the Fund", is intended to correct ...'.

Article 2

In Article 2 of Regulation (EEC) No 724/75:

(1) Paragraph 1 shall be replaced by the following:

'1. As from the financial year 1978, the endowment for the Fund shall be determined annually in the general budget of the European Communities.'

(2) Paragraph 2 shall be deleted and paragraph 3 shall become paragraph 2.

(3) The following paragraph shall be added:

'3. The following may be financed by the Fund with a view to contributing to the realization of the objectives referred to in Article 1:

(a) Community action in support of regional policy measures taken by the Member States, as provided for in Title II of this Regulation.

The resources of the Fund intended for financing these activities shall be distributed in accordance with the following table:

Belgium	1·39%
Denmark	1·20%
Germany	6·00%
France	16·86%
Ireland	6·46%
Italy	39·39%
Luxembourg	0·09%
Netherlands	1·58%
United Kingdom	27·03%

(b) Specific Community regional development measures, as provided for in Title III of this Regulation. The sum allotted to such measures shall amount to 5% of the Fund's resources. Resources which cannot be used in time for such measures shall be allocated to the supporting action referred to in (a).

The whole of the Fund's resources for financing these measures shall be used having due regard to the relative severity of regional imbalances in the Community.'

Article 3

In Article 3 of Regulation (EEC) No 724/75, the first and second subparagraphs shall become paragraph 1 and the following paragraph shall be added:

'2. As part of the specific Community regional development measures referred to in Article 2 (3) (b), the Fund may also, where appropriate, give assistance in regions or areas other than those referred to in paragraph 1, for the solution of problems forming the subject of Community action, if the Member State concerned has also given assistance or does so at the same time.'

Article 4

1. Article 4 (1) of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) The introductory sentence shall be replaced by the following:

'As part of Community action in support of regional policy measures taken by the Member States, the Fund may contribute to the financing of investments which individually exceed 50 000 European units of account and come under any of the following categories:'

(2) In point (a) of the first sentence of the first paragraph, 'provided that at least 10 new jobs are created or that existing jobs are maintained' shall be replaced by 'provided that at least 10 new jobs are created or that 10 existing jobs are maintained'.

(3) In point (a) the following subparagraph shall be added:

'For the purposes of this Article, a group of investments which are related geographically and financially, and which together comply with the criteria provided for in this Article, may be considered as a single investment in the field of handicrafts or tourism;'

(4) Point (b) shall be replaced by the following:

'(b) investments financed wholly or in part by public authorities or by any other agency responsible, on a similar basis to a public authority, for the creation of infrastructures, and covering, provided that this is justified by regional development programmes, infrastructures which contribute to the development of the region or area in which they are situated, provided that the total share of the overall assistance granted by the Fund for

financing the investments referred to in this point does not exceed 70% of the Fund's assistance.

This percentage must be complied with over a period of three years; however, it may be exceeded by a decision of the Council acting on a proposal from the Commission.

In administering the Fund, the Commission shall take account of the particular situation of certain regions on the basis of the programmes referred to above. Member States shall take all steps to enable the provisions of this point to be applied.'

2. Article 4 (2) of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) In point (a) of the first subparagraph, the expression 'units of account' shall be preceded each time by the adjective 'European';

(2) In point (a), the second subparagraph shall be replaced by the following:

'In the case of services and handicrafts, the Fund's contribution may, by way of derogation from the first subparagraph, exceed 20% of the investment cost, provided that the amount does not exceed in such case 10 000 European units of account per job created or maintained, or 50% of the national aid.

The State aid to be taken into consideration shall be grants, interest rebates, or their equivalent where loans at reduced rates of interest are concerned, whether such aid is linked to the investment or to the number of jobs created.

Such aid may include aid granted in respect of an investment in connection with the transfer of plant and workers. The aid equivalent shall be calculated in accordance with an implementing Regulation under the terms of Article 16. Aid granted in the form of rent rebates or exemptions from payments of rent for buildings, including plant, may also be taken into account, provided that the same calculation is possible.'

(3) Point (b) shall be replaced by the following:

'(b) in respect of investments covered by paragraphs 1 (b) and (c), 30% of the expenditure incurred by public authorities where the investment is less than 10 million European units of account and from 10 to 30% maximum for investments of 10 million European units of account or more. However, the maximum rate may be 40% for projects which are of particular importance to the development of the region in which they are situated.

The Fund's assistance may consist wholly or in part of a rebate of three percentage points on loans made by the European Investment Bank, pursuant to Article 130 (a) and (b) of the Treaty, in the regions and areas referred to in Article 3 of this Regulation. In that event, the aid from the Fund shall be paid to the Bank in one instalment, the rebate being a capitalized sum expressed as a percentage of the investment.'

Article 5

Article 5 of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) In the first sentence of paragraph 1, 'in accordance with the procedure laid down in Article 12' shall be deleted.

(2) Paragraph 2 shall be replaced by the following:

'2. (a) In respect of investments of 10 million European units of account or more, the Fund's assistance shall be the subject of a Commission Decision under the procedure provided for in Article 16.

In respect of investments in infrastructure costing 10 million or more European units of account, the Commission shall, before obtaining the opinion of the Fund Committee referred to in Article 15, consult the Regional Policy Committee.

(b) In respect of investments costing less than 10 million European units of account, the Commission shall provide prior information for the Member States in the form of a simplified list of investment for which requests for assistance have been received. The procedure provided for in Article 16 shall apply in the case of:

— draft negative decisions, where the Member State concerned so requests,

— all other draft decisions in respect of which the Commission or a Member State wishes an opinion to be sought from the Fund Committee.'

Article 6

Article 6 of Regulation (EEC) No 724/75 shall be replaced by the following:

'*Article 6*

1. Investments may benefit from the Fund's assistance only if they fall within the framework of a regional development programme the implementation of which is such as to contribute to correction of the main regional imbalances within the Community which may prejudice the proper functioning of the common market and the convergence of the Member States' economies, with a view, in particular, to the attainment of economic and monetary union.

2. Regional development programmes shall be established according to the joint plan prepared by the Regional Policy Committee.

3. Member States shall notify the Commission of regional development programmes and alterations to programmes already notified.

4. The programmes shall be of an indicative nature and specify the objectives of the development of the region concerned and the means to be employed. They shall be the subject of consultation with the Regional Policy Committee. The Commission shall examine these programmes in the light of the criteria referred to in Article 5 (1) (b) in order to enable it to determine the priorities for assistance from the Fund.

5. Before 31 March each year, Member States shall bring the regional development programmes up to date by providing the Commission with all available information for the current year not contained in the programmes, on:

(a) the financial resources allocated to regional development under their programmes;

(b) the priority measures relating to regional development which they intend to implement;

(c) the use they intend to make of Community resources, and in particular of resources from the Fund in implementing these priority measures.

Any other relevant information shall be forwarded to the Commission as soon as possible.

6. Before 1 October each year, Member States shall provide the Commission with an overall statistical summary indicating by region for the previous year:

(a) the results achieved in the region in terms of investment and employment;

(b) the financial means employed;

(c) the actual use made of the resources of the Fund.'

Article 7

Article 7 of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) In paragraph 1, 'in the light of the criteria laid down in Article 5' shall be replaced by 'in the light of Articles 5 and 6'.

(2) In the first sentence of paragraph 2, in the first sentence of paragraph 3 and in paragraph 5, the adjective 'European' shall be inserted in front of 'units of account'.

(3) In paragraph 2 (b) and paragraph 3 (b), 'its direct link with the development of the activities referred to in Article 4 (1) (a)' shall be replaced by 'its contribution to the development of the region'.

Article 8

Article 8 of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) In paragraph 1, points (a) and (b) shall be replaced by the following:

'(a) For intermediate payment requests:

— the name of the undertaking concerned, or for infrastructures, the name of the responsible authority,

— the location of the investment,

— total public expenditure paid after the date referred to in Article 11 and that part of the amount for which payment is requested,

— the amount of the payment requested from the Fund,

— a forecast of future payment requests.

(b) For final payment requests, all the information referred to in (a) except the last indent, together with:

— the sum actually invested and confirmation that the investment made conforms with the initial project,

— the date of completion of the investment,

— the number of jobs created or maintained in being by the investments referred to in Article 4 (1) (a),

— the amounts of public expenditure.'

(2) Paragraph 2 shall be deleted and paragraph 3 shall become paragraph 2.

(3) The following paragraph shall be inserted:

'3. Accelerated payments under a decision to grant aid from the Fund may be granted by the Commission to a Member State at the latter's request. They may not exceed 75% of the total amount of the aid from the Fund. Such accelerated payments shall be subject to the condition that at least 30% of the payments constituting the basis for aid from the Fund have been made.

Payments already made pursuant to paragraph 1 (a) under the decision to grant aid shall be deducted from the accelerated payments.

The balance of the aid from the Fund shall be paid in accordance with paragraph 1 as regards pay-

ments by the Member State not covered by the accelerated payment.

Grouped application for accelerated payments shall be submitted on a quarterly basis to the Commission by the Member State concerned.'

Article 9

Article 9 of Regulation (EEC) No 724/75 is hereby amended as follows:

(1) The following subparagraph shall be added to paragraph 1:

'Member States shall repay the Commission the amount of the Fund's assistance wherever national aid used as the basis for calculating the Fund's assistance has been repaid to the Member State by the investor.'

(2) The following sentence shall be added to paragraph 2:

'They shall notify the Commission of the cases referred to in the first subparagraph of paragraph 1'.

(3) The following shall be added to the beginning of paragraph 6:

'6. Notwithstanding Article 6 (2) of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities (1).'

(4) The following footnote shall be added to the text:

'(1) OJ No L 356, 31. 12. 1977, p. 1.'

Article 10

Article 10 of Regulation (EEC) No 724/75 shall be deleted; Article 14 shall become Article 10.

Article 11

Article 11 of Regulation (EEC) No 724/75 shall become Article 15; the following Article 11 shall be inserted:

'*Article 11*

The Commission shall take into consideration for Fund assistance payments made by the Member States as from the 12th month before the date on which it receives the request for assistance, in respect of investments not completed by that date. This period shall be increased to 24 months for payments in respect of investments in Greenland.'

Article 12

Article 12 of Regulation (EEC) No 724/75 shall become Article 16; the following Article 12 shall be inserted:

'*Article 12*

1. The Fund may contribute to the financing of studies which are closely related to Fund operations and are undertaken at the request of a Member State.

2. Such assistance may not exceed 50% of the cost of the study.'

Article 13

Article 13 of Regulation (EEC) No 724/75 shall become Article 17; the following Article 13 shall be inserted:

'*Article 13*

1. The Fund may participate in financing specific Community regional development measures which differ in whole or in part from the types of measure referred to in Title II. These shall be measures:

— either linked with Community policies and with measures adopted by the Community in order to take better account of their regional dimension or to reduce their regional consequences,

— or, in exceptional cases, intended to meet the structural consequences of particularly serious occurrences in certain regions or areas with a view to replacing jobs lost and creating the necessary infrastructures for this purpose.

These measures shall not have as their object the internal reorganization of declining sectors but may, by establishing new economic activities, promote the creation of alternative employment in regions or areas in a difficult situation.

These measures shall be financed jointly by the Community and the Member State or States concerned.

2. Member States shall provide the Commission with information on regional problems likely to be the subject of specific measures within the meaning of paragraph 1.

3. Without prejudice to the responsibilities of the Commission with regard to State aid under Articles 92 to 94 of the Treaty, the Council, acting unanimously on a proposal from the Commission

and after consulting the European Parliament, shall determine for each of these measures to be implemented pursuant to this Article in the form of a special programme:

(a) the nature of the operations to which the Fund may contribute;

(b) the areas and regions which the Fund may assist;

(c) the national public aid taken into consideration in granting Fund assistance;

(d) the contribution of the Fund;

(e) the categories of beneficiaries of Fund assistance;

(f) the detailed rules for financing.

4. Requests for Fund assistance for these special programmes shall be submitted to the Commission by the Member States. The fifth subparagraph of Article 4 (2) (a) and Article 10 shall apply.'

Article 14

The following Article shall be inserted in Regulation (EEC) No 724/75:

'*Article 14*

1. The Fund may bear all or part of the cost of studies which are closely related to the measures referred to in Article 2 (3) and are undertaken at the request of one or more Member States.

2. The Commission shall decide whether to grant assistance from the Fund in accordance with the procedure laid down in Article 16, after consulting the Regional Policy Committee.'

Article 15

Article 17 of Regulation (EEC) No 724/75 in its unamended version shall become Article 18; in this Article, 'in Article 12' shall be replaced by 'in Article 16'.

Article 16

The following Article shall be inserted in Regulation (EEC) No 724/75:

'*Article 19*

1. Member States shall adopt the necessary measures to indicate separately, according to the special characteristics of national budget systems, the sums received from the Fund.

2. At the request of the Commission, Member States shall provide it with information on the allocation of the amounts received from the Fund.'

Article 17

Article 15 of Regulation (EEC) No 724/75 in its unamended version shall become Article 20 and shall be replaced by the following:

'*Article 20*

Assistance from the Fund shall not change the conditions of competition in a way incompatible with the principles contained in the relevant provisions of the Treaty, as elaborated in the principles for the coordination of the general regional aid schemes. In particular, the provisions of this Regulation shall not prejudice the application of Articles 92, 93 and 94 of the Treaty, particularly as regards establishing and re-aligning the areas aided for regional purposes referred to in Article 3 and in respect of the amount of the contributions from the Fund.'

Article 18

Article 16 of Regulation (EEC) No 724/75 in its unamended version shall become Article 21 and shall be replaced by the following:

'*Article 21*

1. Before 1 October each year the Commission shall present a report to the Council, the European Parliament and the Economic and Social Committee on the implementation of this Regulation during the preceding year.

2. This report shall also cover the financial management of the Fund and the conclusions drawn by the Commission from the checks made on the Fund's operations.'

Article 19

Article 18 of Regulation (EEC) No 724/75 in its unamended version shall become Article 22 and the date '1 January 1978' therein shall be replaced by '1 January 1981'.

Article 20

The first subparagraph of Article 19 of Regulation (EEC) No 724/75 in its unamended version shall become Article 23.

The second subparagraph of the said Article 19 shall be deleted.

Article 21

The following subdivisions shall be introduced into Regulation (EEC) No 724/75:

(1) in front of Article 1:

'Title I: Preliminary provisions';

(2) after Article 3:

'Title II: Community action in support of regional policy measures taken by Member States

Chapter 1: Field of action';

(3) after Article 4:

'Chapter 2: Procedural provisions';

(4) after Article 12:

'Title III: Specific Community regional development measures';

(5) after Article 14:

'Title IV: General and final provisions'.

Article 22

The provisions of Regulation (EEC) No 724/75 in its unamended version shall continue to apply to requests for assistance from the Fund submitted prior to the date of entry into force of this Regulation where no decision to grant aid has been taken by that date.

However, provisions of this Regulation (EEC) No 724/75, as amended by this Regulation, may be applied by the Commission at the request of a Member State concerned to such requests for assistance.

Article 23

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 6 February 1979.

For the Council

The President

J. FRANÇOIS-PONCET