This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

►**B**

COUNCIL REGULATION (EC) No 2236/95

of 18 September 1995

laying down general rules for the granting of Community financial aid in the field of trans-European networks

(OJ L 228, 23.9.1995, p. 1)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Regulation (EC) No 1655/1999 of the European Parliament and of the Council of 19 July 1999	L 197	1	29.7.1999

▼B

COUNCIL REGULATION (EC) No 2236/95

of 18 September 1995

laying down general rules for the granting of Community financial aid in the field of trans-European networks

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the third paragraph of Article 129d thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the Economic and Social Committee [2],

Having regard to the opinion of the Committee of the Regions [3],

Acting in accordance with the procedure laid down in Article 189c of the Treaty [4],

Whereas under Article 3 (n) of the Treaty the activities of the Community should include encouragement for the establishment and development of trans-European networks;

Whereas Article 129b of the Treaty states that to help achieve the objectives referred to in Articles 7a and 130a of the Treaty the Community shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures;

Whereas Article 129b (2) of the Treaty is aimed at promoting the interconnection and interoperability of national networks as well as access to such networks and must take account in particular of the need to link island, landlocked and peripheral regions with the central regions of the Community;

Whereas Article 129c of the Treaty provides that the Community shall establish a series of guidelines covering the objectives, priorities and broad lines of measures envisaged in the sphere of trans-European networks and that it may support the financial efforts of the Member States to establish trans-European networks;

Whereas general rules should be laid down for the Community financing of trans-European networks, thereby permitting implementation of this Article;

Whereas under Article 129c of the Treaty Community aid may be granted to projects of common interest which are identified in the framework of the guidelines;

Whereas the guidelines referred to in Article 129c (1) of the Treaty, proposed by the Commission, are under consideration by the European Parliament and the Council; whereas, should the decisions adopting these guidelines not have entered into force when this Regulation enters into force, provision should be made on a transitional basis for a possible Community contribution to specific priority projects within the limits of the appropriations available for the financial year 1995 and at the latest until 31 December 1995;

Whereas involvement of private capital funding trans-European networks should be increased and the partnership between the public and private sectors developed;

---

[1] OJ No C 89, 26. 3. 1994, p. 8.
[2] OJ No C 195, 18. 7. 1994, p. 74.
[3] OJ No C 217, 6. 8. 1994, p. 36.
[4] Opinion of the European Parliament of 30 November 1994 (OJ No C 363, 19. 12. 1994, p. 23). Council common position of 31 March 1995 (OJ No C 130, 29. 5. 1995, p. 1) and Decision of the European Parliament of 12 July 1995 (not yet published in the Official Journal).

▼B

Whereas Community aid may take the form in particular of feasibility studies, loan guarantees or interest rate subsidies; whereas these subsidies and guarantees relate in particular to financial support from the European Investment Bank or other public or private financial bodies; whereas in certain duly justified cases direct grants to investments may be considered;

Whereas loan guarantees will be granted on a commercial basis by the European Investment Fund or by other financial organizations; whereas Community financial aid may cover all or part of the premiums paid by the beneficiaries of these guarantees;

Whereas Community aid is chiefly intended to overcome any financial obstacles which may arise during the start-up phase of a project;

Whereas it is necessary to set a limit for Community aid in relation to the total cost of investment;

Whereas Community aid is to be granted to projects on the basis of how much they contribute to the objectives of Article 129b of the Treaty and the other objectives and priorities covered by the guidelines referred to in Article 129c of the Treaty; whereas account should also be taken of other aspects such as the stimulative effect on public and private finance, the direct and indirect socio-economic effects of projects, in particular on employment, and the consequences for the environment;

Whereas the Commission must carefully evaluate the potential economic viability of the projects, with the help of cost/benefit analyses and other appropriate criteria, as well as their financial profitability;

Whereas Community financial support under Article 129c (1) of the Treaty must be compatible with Community policies, in particular on networks and as regards environmental protection, competition and the award of public contracts; whereas environmental protection includes an environmental impact assessment;

Whereas it is necessary to clarify the respective powers and responsibilities of Member States and the Commission with regard to financial control;

Whereas the Commission must ensure proper coordination of all Community activities, especially between financing under trans-European networks, and that of the Structural and Cohesion Funds, of the European Investment Fund and of the European Investment Bank, affecting trans-European networks;

Whereas provision should be made for suitable methods of evaluation, follow-up and control of Community aid;

Whereas there should be suitable information, publicity and transparency regarding the activities financed;

Whereas a financial reference amount, within the meaning of point 2 of the Declaration by the European Parliament, the Council and the Commission of 6 March 1995, is included in this Regulation for its implementation, without thereby affecting the powers of the budgetary authority as they are defined by the Treaty;

Whereas an assessment should be made before the end of the financial perspective for the period 1994-99 whether and to what extent the action provided for in this Regulation meets the Community's needs,

HAS ADOPTED THIS REGULATION:

Article 1

Definition and Scope

This Regulation defines the conditions and procedures for granting Community aid to projects of common interest in the field of trans-European networks for transport, telecommunications and energy infrastructures under Article 129c (1) of the Treaty.

▼B

Article 2

Eligibility

1. Community aid may be granted only to projects of common interest (hereinafter referred to as 'projects') identified within the framework of the guidelines referred to in Article 129c (1) of the Treaty.

Parts of projects within the meaning of the first subparagraph shall also be eligible in so far as they form technically and financially independent units.

▼M1

Article 4

Forms of aid

1. Community aid for projects may take one or several of the following forms:

(a) co-financing of studies related to projects, including preparatory, feasibility and evaluation studies, and other technical support measures for these studies. Community participation may in general not exceed 50 % of the total cost of a study.

In exceptional, duly substantiated cases, at the initiative of the Commission and with the consent of the Member States concerned, Community participation may exceed the limit of 50 %;

(b) subsidies of the interest on loans granted by the European Investment Bank or other public or private financial bodies. As a general rule, the duration of subsidy shall not exceed five years;

(c) contributions towards fees for guarantees for loans from the European Investment Fund or other financial institutions;

(d) direct grants to investments in duly justified cases;

(e) risk-capital participation for investment funds or comparable financial undertakings with a priority focus on providing risk capital for trans-European network projects and involving substantial private-sector investment; such risk-capital participation shall not exceed 1 % of the budgetary resources under Article 18. In accordance with the procedure specified in Article 17, this limit may be increased up to 2 % as from 2003 in the light of a review, to be presented to the European Parliament and the Council by the Commission, of the functioning of this instrument.

Further modalities of implementation of this risk-capital participation are laid down in the Annex.

The participation may be made directly into the fund or comparable financial undertaking or into an appropriate coinvestment vehicle managed by the same fund managers;

(f) Community assistance under points (a) to (e) shall be combined where appropriate, in order to maximise the stimulus provided by the budgetary resources deployed, which shall be used in the most economical way.

2. The forms of Community aid referred to under points (a) to (e) shall be used selectively to take account of the specific characteristics of the various types of network involved and to ensure that such aid does not cause distortions of competition between undertakings in the sector-concerned.

3. The funding for transport infrastructure projects throughout the period referred to in Article 18 should be used in such a way that at least 55 % is devoted to railways (including combined transport) and a maximum of 25 % to roads.

4. The Commission shall specifically promote recourse to private sources of financing for projects funded under this Regulation where the multiplier effect of Community financial instruments can be maximised

▼M1

in public-private partnerships. Each case shall be examined individually by the Commission, with account taken where appropriate of a possible alternative financed solely with public resources. The support of each member State concerned shall be required for each project in accordance with the Treaty.

▼B

Article 5

Conditions for Community aid

1. Community aid shall be granted, in principle, only if achievement of a project meets financial obstacles.

2. Community aid shall not exceed the minimum considered necessary for the launch of a project.

3. Regardless of the form of intervention chosen, the total amount of Community aid under this Regulation shall not exceed 10 % of the total investment cost.

▼M1

Exceptionally, in the case of projects concerning satellite positioning and navigation systems as provided for in Article 17 of Decision No 1692/96/EC [1], the total amount of Community aid under this Regulation may reach 20 % of the total, investment cost as from 1 January 2003 following a review.

▼B

4. The financial resources provided for under this Regulation shall not, in principle, be assigned to projects or stages of projects which benefit from other sources of Community funding.

▼M1

Article 5a

Community indicative multiannual programme

1. Without prejudice to the application of Article 6 and in order to improve the efficiency of the Community's action, the Commission may, in accordance with the procedure set out in Article 17, elaborate by sector an indicative multiannual programme (hereinafter called 'programme') on the basis of the guidelines referred to in Article 155 of the Treaty. The programme will be based on applications for financial aid under Article 8 and reflect *inter alia* information provided by Member States, in particular the information set out in Article 9.

2. The programme shall exclusively be composed of projects of common interest and/or coherent groups of projects of common interest, as previously identified within the framework of the guidelines referred to in Article 155(1) of the Treaty, in specific fields having substantial financial needs over a long period.

3. For each project or group of projects referred to in paragraph 2 the programme will establish the indicative amounts for the granting of financial aid subject to the annual decisions of the budgetary authority. No more than 75 % of the budgetary resources under Article 18 shall be used for the purposes of indicative multiannual programmes.

4. The programme shall serve as a reference for the annual decisions allocating Community aid for projects within the annual budgetary appropriations. The Commission shall regularly inform the Committee referred to in Article 17 of the progress of programmes and any decisions taken by the Commission in allocating Community aid for projects. The supporting documents accompanying the Commission's preliminary draft budget shall include a report concerning progress in the implementation of each multiannual indicative programme in accordance with the Financial Regulation.

[1] OJ L 228, 9.9.1996, p. 1.

▼M1

The programme must be reviewed, at least at mid-term or in the light of the effective progress of the project(s) or groups) of projects, and if necessary revised, in accordance with the procedure set out in Article 17.

The programme shall also give an indication of other sources of financing for the projects concerned, in particular from other Community instruments and the European Investment Bank.

5. In case substantial changes in the implementation of the project(s) or the groups) of projects take place, the Member State concerned will inform the Commission without delay.

Modifications to the indicative global amounts established by the programme for the project(s) or groups) of projects, which may be necessary following these changes, shall be decided in accordance with the procedure of Article 17.

▼B

Article 6

Project selection criteria

1. Projects shall be assisted according to their degree of contribution to the objectives set out in Article 129b of the Treaty and to the other objectives and priorities defined in the guidelines referred to in Article 129c (1) of the Treaty.

▼M1

1 a. In its implementation of this Regulation, the Commission shall ensure the conformity of its decisions on granting Community aid with the priorities laid down in the guidelines for the different sectors established pursuant to Article 155(1) of the Treaty. This shall include their conformity with any requirements which may be laid down in those guidelines in terms of a percentage of total Community aid.

▼B

2. Community aid shall be assigned to projects that are potentially economically viable and for which the financial profitability at the time of application is deemed insufficient.

3. The decision to grant Community assistance should also take account of:

— the maturity of the project,

— the stimulative effect of community intervention on public and private finance,

— the soundness of the financial package,

— direct or indirect socio-economic effects, in particular on employment,

— the environmental consequences.

4. Especially in the case of cross-border projects, coordination of the timing of different parts of the project shall also be taken into account.

Article 7

Compatibility

The projects financed under this Regulation shall comply with Community law and Community policies, in particular in relation to environmental protection, competition and the award of public contracts.

▼M1

Article 8

Submission of applications for financial aid

Applications for financial aid shall be submitted to the Commission by the Member States concerned or, with the agreement of the Member State(s), by the public or private undertakings or bodies directly

▼M1

concerned. The Commission shall establish the agreement of the Member States concerned.

▼B

Article 9

Information required for the assessment and identification of applications

1. Each application for financial aid shall include all the information necessary for the examination of the project according to Articles 5, 6 and 7, and in particular:

(a) if the application concerns a project:
- — the body responsible for carrying out the project,
- — a description of the project concerned and the type of Community aid envisaged,
- — the results of the cost/benefit analyses, including the results of the potential economic viability analysis and of the financial profitability analysis,
- — the position of the project, according to the guidelines, in the field of transport, on the axes and nodes,
- — consistency with regional planning,
- — a summary description of the environmental impact, based on the assessments carried out in accordance with Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment ([1]),
- — a statement that alternative possibilities of public and private financing, including the European Investment Fund and the European Investment Bank, have been examined,

▼M1

- — a financial plan listing, in euro or in national currency, all the components of the financial package, including the financial aid requested from the Community, in its different forms as mentioned in Article 4, and from local, regional or national government bodies, as well as from private sources, and the aid already granted;

▼B

(b) if the application relates to a study, the study's objective and purpose and the methods and techniques envisaged;

(c) a provisional timetable of work;

(d) a description of the control measures to be operated by the Member State concerned over the use of the funds requested.

▼M1

2. Applicants shall supply the Commission with any relevant additional information which it requires, such as the parameters, guidelines and hypotheses on which the cost/benefit analysis is based.

▼B

3. The Commission may seek any specialist advice it requires in order to assess an application, including the opinion of the European Investment Bank.

▼M1

Article 10

Grant of financial aid

In accordance with Article 274 of the Treaty, the Commission shall decide to grant financial aid under this Regulation according to its assessment of the application in accordance with the selection criteria. In the case of projects identified in the relevant indicative multiannual programme established pursuant to Article 5a, the Commission shall

([1]) OJ No L 175, 5. 7. 1985, p. 40.

▼M1

take the annual decisions to grant aid within the indicative financial amounts provided for in that programme. In the case of other projects, measures shall be adopted in accordance with the procedure specified in Article 17. The Commission shall notify its decision directly to the beneficiaries and to the Member States.

▼B

Article 11

Financial provisions

1. Community aid may cover only project-related expenditure incurred by the beneficiaries or by third parties responsible for the implementation of a project.

2. Expenditure incurred before the date on which the Commission received the application for financial aid shall not be covered.

3. Decisions to grant financial aid taken by the Commission under Article 10 shall be binding as commitments to incur expenditure authorized by the Budget.

4. As a general rule, payments shall be made in the form of advances, intermediate payments and a final payment. The advance, which shall not normally exceed 50 % of the first annual tranche, shall be paid once the application for aid has been approved. Intermediate payments shall be made on the basis of requests for payment, taking account of the progress made in implementing the project or study and, if necessary taking account of revised financial plans in a rigorous and transparent manner.

5. The payments must take account of the fact the infrastructure projects will be implemented over a period of years and that provision must therefore be made for multiannual financing.

6. The Commission shall make the final payment after approval of the final report on the project or study, submitted by the beneficiary and itemizing all the expenditure actually incurred.

▼M1

7. Following the procedure set out in Article 17, the Commission shall establish a framework for the procedures, timetable and amounts for payments of interest-rate subsidies, guarantee premium subsidies and support in the form of risk capital participation, for investment funds or comparable financial undertakings with a priority focus on providing risk capital for trans-European network projects.

▼B

Article 12

Financial control

►M1 1. In order to guarantee successful completion of projects financed by this Regulation, Member States and the Commission, each in its field of competence, shall take the necessary measures to: ◄

— verify on a regular basis that projects and studies financed by the Community have been properly carried out,

— prevent irregularities and take action against them,

▼M1

— recover any amounts lost as a result of irregularity, including interest on account of late repayment in accordance with the rules adopted by the Commission. Except where the Member States) and/or the implementing public authority provide proof that they were not responsible for the irregularity, the Member State shall be liable in the alternative for reimbursement of any sums unduly paid.

▼B

2. Member States shall inform the Commission of the measures taken for these purposes and, in particular, shall notify the Commission of the description of the management and control systems established to ensure the efficient implementation of projects and studies.

▼B

3. Member States shall make available to the Commission any appropriate national reports on the control of projects.

4. Without prejudice to any control measures carried out by the Member States in accordance with national laws, regulations and administrative provisions and without prejudice to the provisions of Article 188 a of the Treaty and control measures carried out in accordance with Article 209 (c) of the Treaty, Commission officials or agents may carry out spot checks, including sample checks, in respect of projects financed under this Regulation and may examine the control systems and measures established by the national authorities, which shall inform the Commission of measures taken to that end.

5. Before carrying out an on-the-spot check, the Commission shall give notice to the Member State concerned with a view to obtaining all the assistance necessary. If the Commission carries out on-the-spot checks without giving notice, it shall be subject to agreements reached in accordance with provisions of the Financial Regulation. Officials or agents of the Member State concerned may take part in such checks.

The Commission may require the Member State concerned to carry out an on-the-spot check to verify the correctness of payment applications. Commission officials or agents may take part in such checks, and must do so if the Member State concerned so requests.

The Commission shall ensure that any checks that it carries out are performed in a coordinated manner so as to avoid repeating checks in respect of the same subject matter during the same period. The Member State concerned and the Commission shall immediately exchange any relevant information concerning the results of the checks carried out.

▼M1

6. In the case of Community aid granted to public or private undertakings or bodies directly concerned, the control measures shall be carried out by the Commission in cooperation with the Member States as appropriate.

7. The responsible bodies and authorities and public or private undertakings or bodies directly concerned shall keep available for the Commission all the supporting documents regarding expenditure on any project for a period of five years following the last payment in respect of the project.

▼B

Article 13

Reduction, suspension and cancellation of assistance

1. If the implementation of an operation appears not to justify, in whole or in part, the financial aid allocated to it, the Commission shall conduct an appropriate examination of the case, in particular requesting the Member State, or the authorities or bodies designated by it to carry out the operation, to submit their comments within a specified period of time.

2. Following the examination referred to in paragraph 1 above, the Commission may reduce, suspend or cancel aid in respect of the operation in question if the examination reveals an irregularity or a failure to comply with one of the conditions laid down in the decision to grant assistance, and in particular any significant change affecting the nature of, or conditions for carrying out, the project for which the Commission's approval was not sought.

Any undue cumulation shall give rise to the recovery of sums unduly paid.

▼M1

2 a. Except in cases duly justified to the Commission, aids granted to projects which have not started within two years following the date of their expected start, as indicated in the decision granting assistance, will be cancelled by the Commission.

▼B

3. Any sum to be recovered for want of due entitlement shall be repaid to the Commission.

▼M1

Article 14

Coordination

The Commission shall be responsible for coordination and coherence between the projects and the programmes referred to in Article 5a(1) undertaken under this Regulation and projects undertaken with the help of contributions from the Community budget, the European Investment Bank, the European Investment Fund and other Community financial instruments.

Article 15

Appraisal, monitoring and evaluation

1. The Member States and the Commission shall ensure that the implementation of projects under this Regulation is subject to effective monitoring and evaluation. Projects may be adapted according to monitoring and evaluation results.

2. In order to ensure that Community aid is used efficiently, the Commission and the Member States concerned shall systematically monitor progress with projects, where appropriate with the cooperation of the European Investment Bank or other appropriate bodies.

3. On receipt of an application for aid, and before approving it, the Commission shall carry out an appraisal in order to assess the project's conformity with the conditions and criteria laid down in Articles 5 and 6. Where necessary, the Commission shall invite the European Investment Bank or other appropriate bodies to contribute to this appraisal.

4. The Commission and the Member States shall assess the manner in which the projects and the programmes have been carried out and evaluate the impact of their implementation, in order to assess whether the original objectives can be, or have been, achieved. This evaluation shall, *inter alia*, cover the impact of projects on the environment, regard being had to the Community laws in force. The Commission may, after consultation of the Member State concerned, also require the beneficiary to provide a specific evaluation on projects or groups of projects supported under this Regulation, or to provide it with the information and the assistance required to evaluate such projects.

5. Monitoring shall be carried out, where appropriate, by reference to physical and financial indicators. The indicators shall relate to the specific character of the projects and its objectives. They shall be arranged in such a way as to show:

— the stage of the project reached in relation to the plan and the operational objectives originally laid down,

— the progress achieved on the management side and any related problems.

6. In vetting individual applications for assistance, the Commission shall take into account the findings of appraisals and evaluations made in accordance with this Article.

7. Procedures for evaluation and monitoring, as provided in paragraphs 4 and 5, shall be established in the Decisions approving the projects and/or in the contractual provisions relating to the financial aid.

▼B

Article 16

Information and publicity

▼M1

1. The Commission shall submit an annual report on the activities carried out under this regulation to the European Parliament, the Council, the Economic and Social Committee and to the Committee of

▼M1

the Regions for their appraisal. This report shall contain an evaluation of the results achieved with Community aid in different fields of application, in terms of original objectives, as well as a chapter on the substance and implementation of current multiannual programmes, especially an account of the revisions provided in Article 5a.

▼B

2. Beneficiaries shall ensure that suitable publicity is given to assistance granted under this Regulation in order to inform the public of the role played by the Community in the implementation of the projects. They shall consult the Commission on how this should be done.

Article 17

Committee

1. The Commission shall be responsible for the implementation of this Regulation.

2. In implementing this Regulation, the Commission shall be assisted by one Committee that will meet in the appropriate composition according to the sectors treated:

— trans-European networks in the field of transport,

— trans-European networks in the field of telecommunications,

— trans-European networks in the field of energy.

The Committee shall be composed of representatives of the Member States and chaired by a representative of the Commission.

The European Investment Bank shall appoint a representative to the Committee who shall not vote.

3. The representative of the Commission shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a time limit which the Chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. When votes are taken within the Committee, the votes of the representatives of the Member States within the Committee shall be weighted as defined in that Article. The Chairman shall not vote.

4. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the Committee.

(b) If the measures envisaged are not in accordance with the opinion of the Committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

▼M1

Article 18

Budgetary resources

The financial framework for the implementation of this Regulation for the period 2000 to 2006 shall be EUR 4 600 million.

The annual appropriations shall be authorised by the budgetary authority within the limits of the financial perspective.

Article 19

Revision clause

Before the end of 2006 the Commission shall submit to the European Parliament and the Council a comprehensive report on the experience gained with the mechanisms under this Regulation for granting

▼M1

Community aid, in particular the mechanisms and provisions laid down in Article 4. The European Parliament and the Council, acting in accordance with the procedure laid down in the first paragraph of Article 156 of the Treaty, shall examine whether and under which conditions the measures provided for in this Regulation will be continued or amended after the end of the period referred to in Article 18.

▼B

Article 20

Entry into force

This Regulation shall enter into force on the 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.

▼M1

ANNEX

Implementation modalities referred to in Article 4(1)(e)

1. *Conditions for a Community contribution to risk capital*

Applications for financial assistance under Article 4(1)(e) of the Regulation shall include the following information, satisfactory to the Committee referred to in Article 17 thereof, as a basis for decisions to grant assistance:

— an information memorandum containing the main provisions of the statutory documentation of the fund including its legal and management structure,

— its detailed investment guidelines including information on target projects,

— information on the involvement of private investors,

— information on geographical coverage,

— information on the financial viability of the fund,

— information on the rights of the investors to take remedial action in the event that the undertakings given to them are not honoured by the fund,

— information on the exit policies of the fund and arrangements for the termination of the fund,

— rights of representation in the committees of investors.

Before the decision to grant assistance, the intermediary investment fund or other comparable financial institution must undertake to invest not less than a sum equivalent to two and a half times the Community contribution, into projects previously identified as projects of common interest in accordance with Article 155(1) first subparagraph, first indent of the Treaty.

Community aid for investment funds or comparable financial undertakings, if granted in the form of a risk-capital participation, shall be granted, in principle, only if the Community contribution ranks *pari passu*in terms of risk with other investors in the fund.

Recipient investment funds or comparable financial undertakings have to follow sound financial principles.

2. *Limits for intervention and maximum investment*

Contributions under Article 4(1)(e) of the Regulation shall not exceed 1 % of the overall amount for the period mentioned in Article 18. However this limit may be increased in accordance with the said Article 4(1)(e).

Community assistance under the said Article 4(1)(e) shall not exceed 20 % of the total capital of an investment fund or comparable financial undertaking.

3. *Management of the Community contribution*

The management of the Community contribution will be ensured by the European Investment Fund (EIF). The detailed terms and conditions for implementing Community assistance under Article 4(1)(e) of the Regulation, including its monitoring and control, shall be laid down in a Cooperation Agreement between the Commission and the EIF, taking into account the provisions laid down in this Annex.

4. *Other provisions*

The provisions applying to appraisal, monitoring and evaluation as specified in the Regulation shall apply in full to Article 4(1)(e) thereof, including the provisions on conditions for Community aid, on financial control and the reduction, suspension and cancellation of assistance. This shall, *inter alia*, be ensured by appropriate provisions in the Cooperation Agreement between the Commission and the EIF and appropriate agreements with investee funds or comparable financial undertakings stipulating the necessary controls at the level of individual projects of common interest. Appropriate arrangements will be made to allow the Court of Auditors to exercise its mission in particular in order to verify the regularity of payments made.

Payments under Article 4(1)(e) shall be governed by Article 11(7) thereof, notwithstanding Article 11(6) thereof. After the end of the investment period or earlier as the case may be, any balances resulting from a return of invested capital or distribution of profits and capital gains and any and all other distributions due to investors shall be returned to the Community budget.

All decisions to provide risk-capital participations under Article 4(1)(e) of the Regulation shall be submitted to the Committee referred to in Article 17 thereof.

▼**M1**

The Commission will report regularly to the said Committee on the implementation of risk capital participations under Article 4(1)(e) of the Regulation.

Before the end of 2006, the Commission shall in the framework of Article 15 of the Regulation provide an evaluation of actions carried out under Article 4(1)(e) thereof, in particular on its utilisation, its effects on the implementation of the trans-European network projects supported and the involvement of private investors in the projects financed.