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COMMISSION OF THE EUROPEAN COMMUNITIES

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2008/0232 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Regulation (EC) No 1081/2006 on the European Social Fund to extend the
types of costs eligible for a contribution from the ESF**

EXPLANATORY MEMORANDUM

- **Grounds for and objectives of the proposal**

The purpose of the proposal is to introduce a simplification into the operations of the European Social Fund.

- **General context: New challenges for the future ESF**

The European Social Fund (ESF) is set up under Article 146 of the Treaty, which gives it the objective of helping to make the employment of workers easier, and of increasing their geographical and occupational mobility. It thereby also contributes to the economic and social cohesion objective set out in Article 158 of the EC Treaty, by supporting policies and priorities aimed at achieving progress towards full employment, the improvement of quality and productivity at work, and the promotion of social inclusion and cohesion, in line with the guidelines and recommendations under the European Employment Strategy (EES).

The current financial crisis and economic downturn are rapidly increasing competitive pressures on businesses in Europe, and have a negative impact on public budgets. In numerous Member States growth has reduced significantly; in some it has even come to a halt. Unemployment figures are starting to rise.

It is critically important in this context that the European Social Fund is used to its full potential to alleviate problems of the unemployed, in particular the most vulnerable, in the economic downturn. Everything must be done to encourage the effective, efficient and fast uptake of available resources, although without compromising the principles of sound financial management. In this framework the aim of this proposal is to add a further, simpler, method of spending the European Social Fund, so that its contribution to addressing the economic and social challenges facing Europe can be faster and more effective.

Simplification has repeatedly been identified by the European Parliament as a key issue for the Structural Funds. The European Court of Auditors, in its Annual Report on the Implementation of the 2007 Budget made an important recommendation in this respect. It recommends a simplification of *"the basis of calculation of eligible cost, and making greater use of lump sum or flat rate payments instead of reimbursement of 'real costs'"*¹. Flat-rate payments from ESF have been possible for indirect costs since 2007; 23 Member States will take advantage of this provision. However, payment of lump sums is not yet eligible within the ESF rules. This proposal aims to extend flat-rate financing to direct costs; to widen its scope to scales of standardised units of cost; and to enable the use of lump sum payment systems.

The proposal will not alter the focus of the European Social Fund regulation on the four key areas for action endorsed by the European Council: increasing adaptability of workers and enterprises; enhancing access to employment, preventing unemployment, prolonging working lives and increasing participation in the labour market; reinforcing social inclusion by promoting the integration in work of disadvantaged people and combating discrimination; and promoting partnership for reform in the fields of employment and inclusion.

¹ OJ C 286, 10.11.2008, Volume 51 "Court of Auditors – Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2007, together with the institutions' replies", chapter 2, paragraph 42.

In the least prosperous regions and Member States, the Structural Funds will continue to concentrate on promoting structural adjustment, growth and job creation. To this end, under the Convergence objective, in addition to the above-mentioned priorities, the ESF will continue to support action to expand and improve investment in human capital, in particular by improving education and training systems, and action aimed at developing institutional capacity and the efficiency of public administrations, at national, regional and local level. Lastly, the proposal does not alter the attention devoted to the Union's commitment towards the elimination of inequalities between women and men, and promoting good governance. The involvement of the social partners remains of particular importance in the implementation of the Fund priorities and operations, and notably, if required due to the present economic situation, in the partial re-programming of European Social Fund programmes.

In parallel to this proposal the Commission is proposing some changes to the Structural Funds Regulations (in particular, to the General Regulation) to enable them to be used in the most effective manner possible as part of the response to the crisis. One issue which will affect the ESF is the proposal that increased advance payments should be made available to Managing Authorities, to ensure that they can kick-start new operations.

- **Consistency with the other policies and objectives of the Union**

N/A

1. LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

The proposed action aims to amend the ESF Regulation to introduce elements necessary to the simplification of its administration and use.

- Legal basis

The proposal is based on Article 148 EC Treaty.

- Subsidiarity principle

The subsidiarity principle does not apply, in that the proposal falls under the exclusive competence of the Community

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 148 thereof,

Having regard to the proposal from the Commission²,

Having regard to the opinion of the European Economic and Social Committee³,

Having regard to the opinion of the Committee of the Regions⁴,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁵,

Whereas:

- (1) Article 56 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999⁶ provides that rules on eligibility of expenditure are to be established at national level, with certain exceptions laid down for the European Regional Development Fund and the European Social Fund (ESF).
- (2) Article 11(3) of Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999⁷ establishes which expenditure is eligible for a contribution from the ESF as defined in Article 11(1) of that Regulation.
- (3) The financial crisis justifies the need for further simplifications to facilitate access to grants co-financed by the European Social Fund.
- (4) The European Court of Auditors recommended in its 2007 annual report that the legislative authorities and the Commission be prepared to reconsider the design of future expenditure programmes by giving due consideration to simplifying the basis of

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ C , , p. .

⁵ OJ C , , p. .

⁶ OJ C 210, 31.7.2006, p. 25.

⁷ OJ L 210, 31.7.2006, p. 12.

calculation of eligible cost and making greater use of lump sum or flat rate payments instead of reimbursement of 'real costs'.

- (5) In order to ensure the necessary simplification in the management, administration and control of operations receiving an ESF grant, particularly when linked to a result-based reimbursement system, it is appropriate to add two additional forms of eligible costs, namely, lump sums and flat-rate standard scales of unit cost.
- (6) In order to ensure legal certainty in relation to the eligibility of expenditure, this simplification should be applicable to all grants from the ESF. Retroactive application should therefore be necessary with effect from 1 August 2006, date of entry into force of Regulation (EC) No 1081/2006.
- (7) Therefore Regulation (EC) No 1081/2006 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Paragraph 3 of Article 11 of Regulation (EC) No 1081/2006 is amended as follows:

(1) Point (b) is replaced by the following:

"(b) in the case of grants:

- (i) indirect costs declared on a flat-rate basis, up to 20 % of the direct costs of an operation;
- (ii) flat-rate costs calculated by application of standard scales of unit cost as defined by the Member State;
- (iii) lump sums to cover all or part of the costs of an operation. "

(2) The following second, third and fourth subparagraphs are added:

"The options referred to in points (i), (ii) and (iii) of point (b) of the first subparagraph may be combined only where each of them covers a different category of eligible costs or where they are used for different projects within the same operation.

Costs referred to in points (i), (ii) and (iii) of point (b) of the first subparagraph shall be established in advance on the basis of a fair, equitable and verifiable calculation.

The lump sum referred to in point (b) (iii) of the first subparagraph shall not exceed EUR 50 000."

Article 2

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

However, it shall apply with effect from 1 August 2006.

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*