Manual of European Environmental Policy

The following pages are a section from the Manual of European Environmental Policy written by the Institute for European Environmental Policy.

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This section is the text of the Manual as published in 2012. It is therefore important to note the following:

- The contents have not been updated since 2012 and no guarantee is given of the accuracy of the contents given potential subsequent developments.
- The sections include links to external websites (e.g. to legal texts). These links continue to work as long as those links are not broken by those websites.
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The Manual should be cited as follows:

Farmer, A.M. (2012) (Editor). Manual of European Environmental Policy. 1043pp. Routledge, London.

Structural and Cohesion Funds

Note: The following Regulations are repealed: Regulation (EC) No 1783/1999 (Regulation on the European Regional Development Fund); Regulation (EC) No 1784/1999 (Regulation on the European Social Fund); Regulation (EC) No 1262/1999 (Regulation on the European Social Fund); Regulation (EC) No 1261/1999 (Regulation on the European Regional Development Fund); Regulation (EC) No 1260/1999 (Regulation laying down general provisions on the Structural Funds).

Formal References	
Regulation (EC) No 1083/2006 (OJ L210 31.7.2006)	Council Regulation laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management and repealing Regulation (EC) No 1260/1999
Proposed by 14.7.2004 - COM(2004)492	
Legal base	Article 177 TFEU (originally Article 161 EEC Treaty)
Entry into Force	1 August 2006 (most provisions)
	1 January 2007 (rest of provisions)
Binding Dates	
First annual report on implementation by Member States	30 June 2008
Followed by yearly annual reports by Member States	30 June
First Commission strategic report	1 April 2009
Second Commission strategic report	1 April 2013
Ex-post evaluation by the Commission	31 December 2015
Final report on implementation	31 March 2017
Other related Regulations, agreed under various legal bases, include	
2006/702/EC (OJ L 291 21.10.2006)	Council Decision on Community Strategic Guidelines on Cohesion Policy
Proposed by 13.7.2006 COM(2006)386	
Regulation (EC) No 1341/2008 (OJ L348 24.12.2008)	Regulation amending Regulation (EC) No 1083/2006 in respect of certain revenue-generating projects
Proposed by 15.9.2008 COM(2008)558	
Regulation (EC) No 284/2009 (OJ L 94 8.4.2009)	Regulation amending Regulation (EC) No 1083/2006 concerning certain provisions relating to financial management

Proposed by 26.11.2008 - COM(2008)803	
Regulation (EU) No 539/2010 (OJ L 158, 24.6.2010)	Regulation amending Regulation (EC) No 1083/2006 as regards simplification of certain requirements and as regards certain provisions relating to financial management
Proposed by 22.7.2009 - (COM(2009)384)	
Regulation (EC) No 1080/2006 (OJ L 210 31.7.2006)	Regulation on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999
Proposed by 14.7.2004 – COM(2004)495	
Regulation (EC) No 397/2009 (OJ L 126 21.5.2009)	Regulation amending Regulation (EC) No 1080/2006 as regards to eligibility of the energy efficiency and renewable energy investments in housing
Proposed by 3.12.2008 – COM(2008)838	
Regulation (EU) No 437/2010 (OJ L 132, 29.5.2010)	Regulation amending Regulation (EC) No 1080/2006 as regards the eligibility of housing interventions in favour of marginalised communities
Proposed by 17.7.2009 - (COM(2009)382)	
Regulation (EC) No 1081/2006 (OJ L 210 31.7.2006)	Regulation on the European Social Fund and repealing Regulation (EC) No 1784/1999
Proposed by 13.9.2006 – COM(2006)493	
Regulation (EC) No 396/2009 (OJ L 126 21.5.2009)	Regulation amending Regulation (EC) No 1081/2006 to extend the types of costs eligible for a contribution from the ESF
Proposed by 26.11.2008 COM(2008)813	
Regulation (EC) No 1084/2006 (OJ L210 31.7.2006)	Regulation establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94
Proposed by 14.7.2004 - COM(2004)494	
Regulation (EC) No 1082/2006 (OJ L 210 31.7.2006)	Regulation on a European grouping of territorial cooperation (EGTC)
Proposed by 14.7.2004 COM(2004)496	

Purpose of the Regulations

The General Regulation (EC) No 1083/2006 defines the principles, rules and standards for the European Regional Development Fund (ERDF) and the European Social Fund (ESF) as well as the Cohesion Fund for the programming period 2007-2013. The principal purpose of the Structural Funds (ERDF and ESF) is to promote the economic and social development of disadvantaged regions, sectors and social groups within the EU and to ‘contribute to the harmonious, balanced and sustainable development of economic activities, the development of employment and human resources, the protection and improvement of the environment, and the elimination of inequalities, and the promotion of equality between men and women’. The Cohesion Fund is intended to strengthen economic and social cohesion within the Community through the provision of EU finance to programmes and projects in the poorest Member States, specifically in the fields of environmental protection and transport infrastructure. The total budget of Structural Funds and the Cohesion Fund for the 2007-2013 programming period is €347 billion.

Summary of the Regulations

The General Regulation (EC) No 1083/2006 sets out the key principles of the Structural and Cohesion Funds. Article 17 states that the objective of the Funds shall be pursued in the framework of sustainable development and the Community promotion of the goal of protecting and improving the environment. The more specific funding opportunities relating to the environment are discussed below in relation to the three objectives set out in the Regulation: Convergence; Regional Competitiveness and Employment; and European Territorial Co-operation.

Other important principles include complementarity, consistency, coordination and compliance of local/regional and national interventions in relation to EU priorities and objectives (Article 9). The principle of partnership is embedded in Article 11 and for a first time recognises environmental partners on a par with local/regional authorities and socio-economic partners. The responsibility of the implementation of EU funds programmes between the Member States and the Commission is guided by the shared management principle (Article 14). The principle of additionality (Article 15) is essential as it precludes EU funds to replace public financing by Member States and sets out the role of EU funds as co-financing.

Convergence

The Convergence objective is available to the EU's poorest Member States and regions, with a GDP below 75 per cent of the EU average. The objective covers 17 Member States – including all the twelve Member States that joined on or after 2004 - and 84 regions, covering in total a population of 16.4 million inhabitants. The amount available under this objective for the current Financial Perspective (2007-2013) is € 283 billion, representing 81.5 per cent of the total cohesion policy funds (that is the Structural and Cohesion Fund). The contribution of the Cohesion Fund to the Convergence objective is € 70 billion or one third of the aid channelled to new Member States. Approximately 167.2 million people live in regions which are supported by the Cohesion Fund.

Under the Convergence objective, the ERDF and the Cohesion Fund may co-fund a broad range of interventions with a new emphasis upon research, innovation and risk prevention, while infrastructures retain an important role (see Table 1). The ESF can co-finance a number of soft measures for education, training and capacity building and, although it is not explicit in the Regulations, these can have a sustainability and environmental focus. The following priorities listed in the ERDF Regulation (Regulation (EC) No 1080/2006), ESF (Regulation

(EC) No 1081/2006) and Cohesion Fund (Regulation (EC) No 1084/2006) Regulations could support environmental projects under Convergence:

Table 1. Environmental measures eligible for co-financing under the Convergence objective

Convergence objective	**Environmental measures**
ERDF	**Research and technological development, innovation and entrepreneurship (Article 4.1):**
	• clean technologies and environmental research and innovation.
	Environment (Article 4.4):
	• waste management; • water supplies; • urban waste-water treatment; • air quality; • integrated pollution prevention and control; • rehabilitation of contaminated sites and land; • promotion of biodiversity and nature protection (including Natura 2000); • aid to SMEs to promote sustainable production patterns through the introduction of cost-effective environmental management systems; • adoption and use of pollution-prevention technologies.
	Prevention of risks (Article 4.5):
	• development and implementation of plans to prevent and cope with natural and technological risks
	Tourism (Article 4.6):
	• 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; and • aid to improve the supply of tourism services through new higher value-added services.
	Culture (Article 4.7):
	• protection, promotion and preservation of cultural heritage; • aid to improve the supply of new higher value added cultural services.
	Transport (Article 4.8):
	• integrated strategies for clean urban transport; • better modal balance; • reduction of environmental impacts.
	Energy (Article 4.9):
	• the improvement of Trans-European energy networks to increase the

	security of energy supply; • improvement of energy efficiency; and • the development of renewable energies.
	Education (Article 4.10):
	• aid for education and vocational training that increases the attractiveness and quality of life.
	Health (article 4.11):
	• investments to develop and improve health provision which contribute to regional development and quality of life in regions.
Cohesion Fund	**Environmental measures in relation to the implementation of EU environmental policy (Article 2.1b)**
	• energy efficiency and renewable energy; • clean public transport, interoperability and intermodal transport systems.
ESF	**Access to green jobs (Article 3.1b)**
	• Enhancing access to employment in the sector for environmental services and products.
	Enhancing human capital in environmental measures (Article 3.2a)
	• Reforming to integrate sustainability in education and training systems; • Lifelong learning programmes; • Enhancing human potential for research and innovation.
	Strengthening institutional capacity for environmental measures (Article 3.2b)
	• Mechanisms to improve policy and programme design, monitoring and evaluation; • Managerial and staff training and support to socio-economic and non-governmental actors to improve delivery of policies and programmes.

Regional Competitiveness and Employment

The Regional Competitiveness and Employment objective aims to strengthen regions' competitiveness and attractiveness. All regions outside the Convergence objective have access to this objective. A total of 168 regions are eligible, representing 314 million inhabitants. This covers also the 13 ‘phase-in’ areas, which are subject to special financial allocations due to their former Convergence status. The total co-funding available for this objective is €55 billion (this includes €11.4 billion for the ‘phase-in’ areas), which represents 16 per cent of the funds available for Cohesion Policy. The objective is constructed around the three priorities of Innovation and the Knowledge Economy, Environment and Risk Prevention, and Transport and Telecommunication Services. The following priorities listed in the ERDF Regulation (Regulation (EC) No 1080/2006) under Regional Competitiveness and Employment might support environmental projects are shown in Table 2.

Table 2. Environmental measures eligible for co-financing under Regional Competitiveness and Employment objective

Regional Competitiveness and Employment objective	Environmental measures
ERDF	**Innovation and Knowledge Economy (Article 5.1):** • enhancement of regional R&TD and innovation capacities; • 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; • promotion of entrepreneurship by facilitating the economic exploitation of new ideas creating new financial instruments and incubation facilities. **Environment and risk prevention (Article 5.2):** • rehabilitation of physical environment; • development of infrastructure for biodiversity and NATURA2000 sites; • energy efficiency, renewable energy sources and energy efficient management systems; • clean and urban public transport; • develop plans and measures to tackle natural disasters; • protection and enhancement of natural heritage.

European Territorial Cooperation

The 'European Territorial Co-operation' Objective aims to reinforce co-operation across national borders to promote common solutions to a range of shared economic, social and environmental problems. The total budget for the Territorial Co-operation Objective is relatively small - with an allocation of 2.5 per cent (€8.7 billion) of the Structural Funds budget for the period 2007-2013. The European Territorial Co-operation Objective is divided into three 'strands'. The type of environmental projects that may be supported, and the funding conditions, differ between each strand.

Cross-border Co-operation

The biggest share of the budget for the European Territorial Co-operation Objective (€5.6 billion for 52 programmes) is devoted to supporting joint projects between regions on either side of the EU's land-based internal borders and across some external frontiers, together with maritime borders, so long as Member States are separated by a maximum distance of 150km. Eligible projects could include: the development of eco-tourism; the protection and management of natural and cultural resources, and the prevention of natural and technological risks; the development of marine spatial plans; and strengthening links between urban and rural areas.

Transnational Co-operation

This strand supports joint projects between groups of neighbouring Member States and/or regions which share a number of geographical characteristics, such as common sea borders, or a mountainous topography. In consultation with the Member States, the European Commission has identified 13 such regions for which the support from ERDF amounts to €1.8 billion. Each group of states and regions has established a joint secretariat to administer joint projects. Eligible projects under this strand include: the protection and management of river basins; coastal zones, marine resources, and wetlands; fire, drought and flood prevention and protection; the protection and enhancement of the natural heritage (including biodiversity) as well as sustainable urban development initiatives.

Interregional Co-operation

This strand enables regional or local authorities and other stakeholders to collaborate with regions anywhere else in the EU in order to set up networks, exchanges of experience and to undertake joint studies. All the EU's regions are eligible. Some €445 million from ERDF is allocated to this strand for programmes such as INTERREG IVC, URBACT II, ESPON and INTERACT II. Eligible projects include: exchanges of experience; data collection and analysis; the identification and transfer of best practice in relation environmental protection and risk prevention in the categories of projects eligible under the Regional Competitiveness and Employment Objective.

Regulation (EC) No 1084/2006/EC

Regulation (EC) No 1084/2006 establishes a Cohesion Fund to support projects within the framework of (a) trans-European transport networks, particularly the EU's priority projects of common interest, as identified in Decision 1692/96/EC; and of (b) the sixth Environmental Action Programme). Energy efficiency, renewable energy, and sustainable transport initiatives outside the trans-European networks are also eligible.

In the current Financial Perspective, for the first time, the operation of the Cohesion Fund is aligned with that of the Structural Funds bringing the administration of the fund more closely within the framework set by the General Regulation (EC) No 1083/2006. In particular, financial assistance is made available through programmes, rather than as formerly on a project-by-project basis, and resources from the ERDF and the Cohesion Fund are to be deployed jointly in programmes in relation to transport and the environment respectively.

Commission Decision 2006/596/EC establishes the eligibility of Member States for the Cohesion Fund. The beneficiaries are restricted to those Member States with a GNP *per capita* less than 90 per cent of the EU's average. These are: Bulgaria; the Czech Republic; Greece; Cyprus; Latvia; Lithuania; Hungary; Malta; Poland; Portugal; Romania; Slovenia; and Slovakia. Spain is eligible on a transitional basis.

Strategic Planning and Programming

For the first time from 2007, Community Strategic Guidelines on Cohesion set out in Council Decision 2006/702/EC seek to set overarching EU priorities for the Member States' National Strategic Reference Frameworks (NSRFs) and Operational Programmes (OPs), in particular, with the aim of achieving the priorities of the Lisbon Strategy aimed at boosting growth and jobs through improved competitiveness. The Community Strategic Guidelines establish three main priorities:

- Improving the attractiveness of Member States, regions and cities by improving accessibility, ensuring adequate quality and level of services, and preserving the environment.
- Encouraging innovation, entrepreneurship and the growth of the knowledge economy by research and innovation capacities, including new information and communication technologies.
- Creating more and better jobs by attracting more people into employment or entrepreneurial activity, improving adaptability of workers and enterprises and increasing investment in human capital.

In relation to the environment, the Community Strategic Guidelines call for strengthening synergies between environmental protection and growth, and increased emphasis on energy conservation, support for the development of renewable forms of energy and tackling environmental pollution at its source.

Article 27 of the General Regulation (EC) No 1083/2006 stipulates that Member States shall 'present a national strategic reference framework which ensures that assistance from the funds is consistent with the Community Strategic Guidelines'. These NSRFs are to be used as a reference instrument for preparing the OPs for the funds. These programmes specify the activities of the Structural Funds at priority level.

The NSRFs include, amongst other things, the following elements: an analysis of development disparities; the strategy chosen on the basis of this analysis; a list of operational programmes; a description of how spending will contribute to the EU's priorities of promoting competitiveness and creating jobs; and an indicative annual allocation from each Fund by Programme. These NSRFs are prepared by the Member States as set out in Article 11 after consultation with relevant partners (including regional, local, urban authorities, socio-economic and environmental partners) and in 'dialogue' with the Commission with a view to ensuring a common approach. These NSRFs are to be submitted within five months following the adoption of the Community Strategic Guidelines on Cohesion.

The Commission then has three months after the receipt of the NSRF to make any comments and to request any additional information from the Member State. The Commission validates certain parts of the NSRF and, after a consultation with Member States, makes a Decision about the OPs and the indicative annual allocations from the Funds.

The OPs present the priorities of the Member State (and/or regions) as well as the way in which it will lead its programming. An obligation exists however for the countries and the regions concerned by the Convergence objective: 60 per cent of expenditure is earmarked to the priorities arising from the Lisbon Strategy for growth and jobs. For countries and regions concerned by the Competitiveness and employment objective the percentage is 75 per cent.

After the Commission agrees the OPs, the Member States and its regions then have the task of implementing the programmes, that is to select the projects, to monitor and assess them. The management of the OPs is carried out by managing authorities in each country and/or each region. According to Article 63 of the General Regulation (EC) No 1083/2006 Member States establish monitoring committees for the OPs, which are chaired by the managing authorities and include representatives of other relevant authorities, socio-economic and environmental partners. Members of the Commission are also members of these committees allowing it to monitor each operational programme alongside the Member States[1] .

The European Commission has a co-decision power in appraising and approving 'major projects': for the 2007–2013 period, (major projects' refer to environmental projects over €25 million and other projects over €50 million). In a proposal of July 2009 (COM(2009)384) the Commission proposed modification of the General Regulation (EC) No 1083/2006 in order to introduce a uniform threshold of €50 million for all major projects as part of the anti-crisis measures package that DG Regio has been putting forward since the end of 2008. For each major project, Member States must submit a series of information to the Commission, including a cost-benefit analysis, a financing plan and an analysis of the environmental impact.

The requirements of the EU Strategic Environmental Assessment Directive 2001/42/EC apply to the NSRFs and OPs in the same way as to any other plan or programme. Member States have to carry out a Strategic Environmental Assessment (SEA) as part of the *ex-ante* evaluation of the OPs as required by Article 48 of the General EU funds Regulation (EC) No 1083/2006. Furthermore, the SEA monitoring systems have to be integrated into the overall monitoring system of the EU fund programmes.

Recent Amendments to 1083/2006/EC and 1080/2006/EC

Between 2008 and 2010 the Council adopted a series of amendments to the General Regulation (EC) No 1083/2006 aimed at giving more flexibility to Member States in their use of the Structural Funds. It was hoped that these changes would offer a rapid response to the effects of the financial crisis on the European economy in 2008/9 by facilitating the increased and timely injection of funding into the European economy. These amendments include: Council Regulation (EC) No 1341/2008; Council Regulation (EC) No 284/2009 and Council Regulation (EU) 539/2010. In addition, Council Regulation (EC) No 397/2009 amends the ERDF Regulation (EC) No 1080/2006 by adding energy efficiency and renewable energy investments in housing to the eligibility criteria of Structural Funds (up to four per cent of fund allocations can now be spent on this priority); further amendments are brought by Council Regulation (EU) 437/2010 which broadens the ERDF funding eligibility to the renovation of existing housing designated for low-income households or people with special needs.

New Financial Engineering Instruments

JESSICA (Joint European Support for Sustainable Investment in City Areas)

This is a joint initiative of the Commission, the European Investment Bank (EIB) and the Council of Europe Development Bank (CEB) to enhance investments in urban areas.

JESSICA provides access to external expertise as well as greater access to loan capital (it permits Member States to use EU funds allocations to invest in revolving funds in order to 'recycle' financial resources) in order to strengthen urban development. For instance, in 2009, the Lithuanian government adopted a Recovery Plan for the Economy where using revolving EU funds via JESSICA for energy efficiency measures in multi-apartment buildings was made one of the core anti-crisis measures[2] .

JASPERS (Joint Assistance in Supporting Projects in European Regions)

This is a joint technical instrument of the Commission and the EIB which provides assistance to 12 new Member States in the process of preparing application documents for major projects. JASPERS experts are involved in the preparations of cost-benefit analysis and feasibility studies potentially looking into environmental costs as well.

Development of the Regulations

Structural Funds

Since the beginning of European integration processes financial instruments and initiatives have existed to address economic and social imbalances. Co-financing of projects in Member States has been in placed through the ESF since 1958, the European Agricultural Guidance and Guarantee Fund (now no longer a Structural Fund) since 1962 and the ERDF since 1975[3]. However, the legal basis for these instruments was only established in 1986 by the Single European Act. The ERDF was established in 1975 following the findings of the so called 'Thompson Report' (COM(73)550), published by the European Commission in 1973, which concluded that 'although the objective of continuous expansion set in the Treaty has been achieved, its balanced and harmonious nature has not been achieved'. Initially the fund was set up for a three-year period with a budget of €1,300 million. The amount of funding for Structural Funds significantly increased over time:

- In March 1988, the European Council in Brussels allocated ECU 64 billion to the Structural Funds - a doubling of annual resources compared to the previous period.
- In December 1992, the European Council allocated ECU 168 billion for the Structural and Cohesion Funds for the Financial Perspective 1994-1999 which was a third of the EU budget.
- Following a Decision taken by the European Council of Berlin in March 1999, the 2000-2006 budget for Cohesion Policy totalled €213 billion for the fifteen Member States. An additional allocation of €22 billion was provided for the new Member States for the period 2004-2006.
- The European Council agreed in December 2005 a budget for the period 2007-2013 and allocated € 347 billion to the Structural and Cohesion Funds.

A number of key milestones can be noted over this period. For example, on 24 June 1988, the Council adopted the first Regulation integrating the Structural Funds under the framework of Cohesion Policy and introduced key principles such as multi-annual programming, strategic orientation of investments, the involvement of regional and local partners and focusing on the poorest regions. Then new Cohesion Policy Regulations were adopted by the Council on 20 July 1993, which now included the Financial Instrument of Fisheries Guidance and the Cohesion Fund. The 1994–1999 Financial Perspective was the first time that the need to include environmental sustainability in Structural Fund strategies was explicitly emphasised. The 1993 Regulations required that Member States, in the preparation of programmes, should meet four environmental obligations: an analysis of the environmental situation in the programme area; an appraisal of the environmental impact of the proposed strategy; involvement of relevant competent national environmental authorities in the preparation and implementation of programmes; and, the duty to ensure compliance with the Community environmental policy and legislation.

For the 2000–2006 Financial Perspective, Council Regulation (EC) No 1260/1999 laid down general provisions on the Structural Funds. It recognised the need for a high-level of protection and improvement of the environment and that those efforts should 'in particular integrate the requirements of environmental protection into the design and implementation of the operations of the Structural Funds' (Article 5). This meant a stronger recognition and integration of the environment than in previous Structural Fund Regulations.

The current Financial Perspective facilitates a major shift in the allocation of funds towards the objectives of the Lisbon strategy for growth and jobs and channels majority of resources to the poorest Member States and regions. The funding instruments providing aid for fisheries and rural development, the European Fisheries Fund (formally the Financial Instrument of Fisheries Guidance) and the European Agricultural Fund for Rural Development, are no longer part of the Structural Funds, but are integrated into the instruments of the CAP and the Common Fisheries Policy.

Cohesion Fund

Article 130d of the Maastricht Treaty required the Cohesion Fund to have been established by the end of 1993, but delays in ratification necessitated the adoption in March 1993 of an interim ‘Cohesion Financial Instrument’, agreed under the catch-all provisions of the existing Article 235 as Regulation (EEC) No 792/93 (OJ L79 1.4.93). This interim instrument operated until May 1994 when it was replaced by the Cohesion Fund proper, established under the new Article 130d.

Despite the emphasis given in the original Regulation to expenditure on environmental projects, the principal function of the Cohesion Fund was to provide a financial transfer mechanism from the richer to the poorer of the EU's Member States. This was to enable reductions in the latter's public borrowing to levels below the threshold required in the Maastricht Treaty for the transition to the third stage of economic and monetary union. In the original four ‘cohesion’ countries (Greece, Ireland, Portugal and Spain), significant public expenditure demands arise from transport infrastructure requirements, and especially from the need to provide water management and waste water treatment facilities of a standard sufficient to meet the requirements of relevant EU Directives. Hence the focus of the Fund on such projects.

A number of specific environmental safeguards which were incorporated in the Structural Fund Regulations did not apply to the original Cohesion Fund. In November 1995, the Commission adopted a Communication on *Cohesion Policy and the Environment* (COM(95)509), which considered options for achieving greater synergy between the Community's ‘cohesion’ and environmental policies. The paper was in response to European Parliament threats to block spending under the Structural and Cohesion Funds for failure to provide adequate information on their environmental impact.

The current Regulation (EC) No 1084/2006 seeks to address this issue by placing the operation of the Cohesion Fund within the framework of the Structural Funds, including requirements in relation to participation and sustainable development.

Implementation of the Regulations

Details of the Member States' NSRFs for the current Financial Perspective were published in 2008 by the Commission[4] . 27 National Strategic Reference Frameworks (NSRFs) were adopted, together with 429 national/regional Operational Programmes[5] . In addition, details of the management authorities within Member States can be found on DG Regio's website[6]

A Commission Communication (COM(2009)301) revealed that Member States have largely focused on allocating EU funds in support to the Lisbon agenda for growth and jobs notably through investments in innovation, research, skills and human capital. In Convergence regions, priority was often given to ensure accessibility through prioritising measures to respond to globalization and structural changes. New Member States, for instance, have focused on developing transport infrastructure by channelling 24 per cent of the total EU funds allocation for such investments. Innovation and Research and Development were also among the priorities in all Member States receiving 25 per cent of the total funding while entrepreneurship and business support received 8 per cent. In the social domain, Member States concentrated EU funds into participation in the labour marker and development of new skills for workers, integration of immigrants and social inclusion.

Nordregio conducted an external evaluation for DG Regio in 2009 on the potential of the 2007-2013 EU funds programmes to contribute to the objectives of the Lisbon and Göteborg Strategies of the EU. The evaluation concluded that ‘economic development was given a de facto priority’ over sustainable development objectives particularly in Convergence regions. The SEAs were found to have influenced some of the strategic choices in programmes based on considerations of incurring environmental costs from certain developments; greater attention, however, was paid to potential synergies between environmental investments and economic development compared to potential trade-offs[7] .

According to the Commission's figures in its Communication (COM(2009)301) planned expenditure for environmental measures amounted approximately to €105 billion for the 2007-2013 financial period, which is 30 per cent of the total EU Structural Funds and double the environmental allocations in 2000-2006. The majority of these planned investments are devoted to direct infrastructure investments related to water and waste treatment, renewal of contaminated sites, pollution reduction, and support for nature protection and risk prevention. For example, Romania has channelled 80 per cent of its cohesion fund allocated for the environment explicitly for the implementation of the EU environmental *acquis*. Latvia, via targeted investments from EU funds, aims to increase from 9 per cent to 62 per cent the number of inhabitants benefiting from waste water treatment services.

In addition, according to the Commission, around €2.7 billion is to be spent for direct biodiversity and nature protection measures and another €2.5 billion for the promotion of natural assets and natural heritage, some of which can be directly linked to biodiversity[8] . EU funds support also indirectly environmentally friendly developments such as clean and efficient energy (€9 billion), sustainable transport systems (€6.2 billion), eco-innovation, environmental management for businesses, urban and rural regeneration, and eco-tourism.

However, a number external evaluations of EU funds point to the low level of Structural Funds spending on objectives such as combating climate change[9] , [10] . Furthermore, it has been argued that some projects supported by EU funds could induce an increase in greenhouse gas emissions and potentially undermine EU climate change objectives[11] .

Many Member States have designated environmental authorities at both the national and regional level. In Italy, for example, the Ministry of Environment acts as the national environmental authority. While several Member States have created new structures, in many, including Italy, Austria and Spain, existing agencies are used. In addition, at the end of the 1994-1999 programming cycle, both Italy and Spain created networks of national and regional environmental authorities. These networks cooperate on establishing common approaches. For example, the network in Italy drafted common guidelines on the ex-ante environmental evaluation in Objective 1 regions for the 2000-2006 cycle. In 2004, a European wide network of environmental managing authorities of EU funds, programmes and projects was also set up. It is coordinated by DG Environment and meets twice a year. Its purpose is to provide exchange of know how and ideas between managing authorities on how to integrate environmental considerations into cohesion policy. The network also has set up Working Groups which for the 2008-2010 will include climate change, SEA and biodiversity. These Working Groups also meet twice a year and produce thematic reports in cooperation with the European Environment Agency and the Regional Environmental Centre[12] .

At the end of 2009, Member States had to submit strategic reports examining how the implementation of the Operational Programmes contributes to the fulfilment of the Funds' objectives focusing on socio-economic trends, achievements and challenges. In March 2010, on the basis of the national strategic reports the European Commission published an overall Strategic report on cohesion (COM(2010)110). It showed that for the 18 months implementation period, €93 billion, which was 27.1 per cent of the available 2007-2013 EU funds, had been contracted to concrete projects in the 27 Member States.

It is emphasized that that environmental investments were 'underperforming at this stage' utilising 21 per cent of the total amount available for such measures with Greece and the Czech Republic facing major delays while Estonia, Spain and Hungary were making some progress. Traditional investments in environmental infrastructure (e.g. waste water treatment) were taking place faster compared to investments in risk prevention, in which the uptake of funds was 'especially weak' in countries like Spain, Greece, Poland and Romania. Spending on energy efficiency had been successful in the Czech Republic, Italy and Lithuania but close to non existent in several other countries including the UK. Spending in wind energy was also slow, utilising only 2.9 per cent of the available EU funds. Therefore, the Commission identified 'priority areas' *inter alia* rail, energy, environment and capacity building, where Member States are urged to undertake special efforts and speed up the implementation of EU funding. The report also provided an indicative selection of 40 'good practice examples' of projects receiving EU funding, several of which were environmental ones. The European Parliament, the European Economic and Social Committee and the Committee of the Regions will be invited to hold a debate on the report. Second strategic reports by Member States are due in 2012 and by the Commission in 2013.

Enforcement and court cases

No infringement cases have so far reached the European Court of Justice.

Further Developments

In September 2007 the Commission launched a public consultation on the future of the EU cohesion policy, addressing in particular how it can be adapted to new challenges facing Europe, including the differential impacts of climate change across the EU. In 2010, the Commission published the 5th Report on economic, social and territorial cohesion which provides a comprehensive assessment of the economic, social and territorial situation and trends (including environmental sustainability) and assesses the contribution and impact of EU's Cohesion Policy to these trends[13] . The conclusions of the 5th Cohesion report are published as a Commission Communication (COM(2010)642) which outline proposals and options for the future Cohesion Policy, with regards to its architecture, governance system and value added. Proposals are made regarding strengthening the strategic planning framework and the thematic concentration of funding in line with the objectives and targets of the Europe 2020 Strategy; strengthening the system of conditionality and incentives, which could make funding conditional to achievements in certain policy areas including environmental protection among others; improving the performance and quality of spending through better evaluation; strengthening partnership and good governance; and reinforcing the third dimension of the future Cohesion Policy - territorial cohesion.

In relation to the publication of the Resource Efficiency flagship initiative, the European Commission published a separate, complementary Communication outlining how Cohesion Policy contributes to EU's strategic objective for sustainable growth (COM(2011)17). In it the Commission calls for national, regional and local actors ‘without delay’ to reallocate available funds under the current Operational Programmes to boost ‘green’ investments. Importantly, the Communication proposes a two-pillar strategy which include: 1) *Investing more in sustainable growth* (e.g. low carbon economy, entailing stepping up investments in energy efficiency in buildings, renewable energy and clean transport systems; ecosystem services and eco-innovation) and 2) *Investing better in sustainable growth* (e.g. through the integration of sustainability concerns throughout the entire project life-cycle, strengthening the use of green public procurement and environmental indicators for monitoring and evaluation, screening Operational Programmes for their climate resilience and steer investments towards the most resource efficient options, and improving the participation of environmental authorities and actors in the decision-making process. While it remains unclear what the immediate effect of this Communication would be, given its soft language and lack of political currency, it constitutes a valuable document that provides a number of concrete examples, practical applications and straightforward recommendations to Member States and regions how to shift EU funds towards greener projects already in the current 2007-2013 period.

The Commission Communication on the 2014-2020 EU MFF was published on 29 June 2011 (COM(2011)500 - Part II). It set out proposals about the main elements of the future Cohesion Policy. The total budget for the future Cohesion Policy is proposed at €336 billion, with most of the funding targeting less developed regions (or €11 billion less than the 2007-2013 budget).

On 6 October, the European Commission unveiled a legislative package which contained the following proposals for Regulations:

- A Regulation setting out common provisions governing the five EU funds under shared management, which also includes a separate section laying down general provisions for the ERDF, ESF and the Cohesion Fund (i.e. replacing the current General Regulation (EC) No 1083/2006) (COM(2011)516);

- Three specific Regulations for the ERDF, the ESF and the Cohesion Fund (COM(2011)614), (COM(2011)607), (COM(2011)612); and
- Two Regulations dealing with the European territorial cooperation goal and the European grouping of territorial cooperation (EGTC) (COM(2011)611) and (COM(2011)610). .

The Common Provisions Regulation lays down provisions governing all five funds under shared management which fall under the Common Strategic Framework (CSF). These include the ERDF, ESF and the Cohesion Fund as well as the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF). The proposed Regulation establishes the main principles, objectives and rules governing the funds. Eleven new ***thematic objectives*** are introduced, reinforcing a thematic concentration of funds, four of which are of relevance for the environment. In addition, novel governance mechanisms are put forward in order to strengthen the performance and result-orientation of spending among which are ex-ante conditionalities and a performance framework.

EU Structural and the Cohesion Funds will underpin ***two new goals***: (1) 'Investment in growth and jobs' and (2) 'European territorial cooperation' with the majority of funds concentrated in poorer regions. These replace the current three objectives for convergence, competitiveness and employment, and territorial cooperation. Regions under the 'Investment in growth and jobs' goal are differentiated on the basis of GDP per capita as follows:

1. **Less developed regions** (GDP per capita is less that 75 per cent of the EU average). The total budget for this category of regions is €162.6bn;
2. **Transition regions** (GDP per capita is between 75-90 per cent of the EU average). This is a new category which captures the current system of phasing in and phasing out regions. The total budget for this category of regions is €38.9bn; and
3. **More developed regions** (GDP per capita is more than 90 per cent of the EU average). The total budget for this category of regions is €53.1bn.

For a first time, a quantified earmarking for the ***ERDF*** is proposed in relation to three of the thematic objectives. In more developed and transition regions, at least 60 per cent of the total ERDF resources at national level is to be allocated to research, innovation and SMEs and 20 per cent to low carbon measures, particularly energy efficiency and renewable energy. Less developed regions will be allowed to devote their allocation to a wide range of measures. However, they will still need to allocate at least 50 per cent of the total ERDF to measures promoting research, innovation, SMEs and low carbon actions, out of which at least 6 per cent should target energy efficiency and renewable energy.

The ***ESF*** will continue to support measures for promoting employment and labour mobility; education, skills and lifelong learning; promoting social inclusion and combating poverty; and enhancing institutional and administrative capacity. In line with the proposed thematic objective for low carbon transformations, the ESF should also support projects promoting the reform of education and training systems, adaptation of skills and qualifications, up-skilling of the labour force, and the creation of new jobs in sectors related to the environment and energy.

The ***Cohesion Fund*** continues to support Member States where Gross National Income (GNI) per capita is less than 90 per cent of the EU average. It supports interventions under the 'Investment in growth and jobs' objective with a total budget of €68bn. €10bn however are 'ring-fenced' for support to large scale transport infrastructure (TEN-T) under the new Connecting Europe Facility. The total budget for the European territorial cooperation goal is €11.7bn.

After the publication of the Commission proposal on the 2014-2020 EU Cohesion Policy Regulations, the European Parliament and the Council will follow the ordinary legislative procedure in order to agree on the final parameters of the regulatory framework for the future policy. It is anticipated that the Regulations will be adopted by mid 2013 so that they can enter into force on 1 January 2014.

Related Legislation

There are a number of other items of EU legislation which has a strong interaction with the Structural Funds or because these funds play an important role in supporting the implementation of these Directives. These include:

- Habitats Directive 92/43/EEC.
- Birds Directive 79/409/EEC.
- Water Framework Directive 2000/60/EC.
- Urban Waste Water Treatment Directive 91/271/EC.
- Integrated Pollution Prevention and Control Directive 2008/1/EC.
- Waste Framework Directive 2008/98/EC.
- Landfill Directive 1999/31/EC.
- SEA Directive 2001/42/EC.
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