

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COMMISSION

COMMISSION DECISION

of 5 March 2008

laying down rules for the implementation of Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' as regards Member States' management and control systems, the rules for administrative and financial management and the eligibility of expenditure on projects co-financed by the Fund

(notified under document number C(2008) 789)

(Only the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish texts are authentic)

(2008/456/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Decision No 574/2007/EC of the European Parliament and of the Council of 23 May 2007 establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme 'Solidarity and Management of Migration Flows' ⁽¹⁾, in particular Articles 25, 33(5), 35(6) and 37(4) thereof,

Whereas:

- (1) It is necessary to lay down the conditions under which Member States should implement the action under the Fund, in particular to identify under which circumstances the responsible authority may implement projects directly. Further provisions should also be laid down for delegated authorities.
- (2) It is necessary to identify a list of procedures and/or practical arrangements that the different designated authorities should lay down and follow for implementation of the Fund.
- (3) It is necessary to lay down the obligations which the responsible authorities should have with regard to final

beneficiaries in the phase leading to selection and approval of the projects to be funded and with regard to the aspects which should be covered by the verifications of the expenditure declared by the final beneficiary and/or by the partners in the project, including administrative verifications of the applications for reimbursement and on-the-spot verifications of individual projects.

- (4) In order to ensure that expenditure under annual programmes can be properly audited, it is necessary to set out the criteria with which audit trails should comply in order to be considered adequate.
- (5) The audits of projects and of systems are carried out under the responsibility of the audit authority. To ensure that the audits offer adequate scope and effectiveness and are carried out in accordance with the same standards in all Member States, it is necessary to set out the conditions which the audits should fulfil, including the basis for sampling.
- (6) The Member States must submit to the Commission, together with their multiannual programme, a description of their management and control systems. Since this document is one of the principal bases on which the Commission relies, in the context of shared management of

⁽¹⁾ OJ L 144, 6.6.2007, p. 22.

- the Community budget, to determine whether the financial assistance concerned is used by the Member States in accordance with the applicable rules and principles for protecting the Community's financial interests, it is necessary to set out in detail the information that this document should contain.
- (7) In order to harmonise standards for programming, following up the implementation of the Fund, auditing and certifying expenditure, it is necessary to clearly define the contents of the multiannual programme, the annual programme, the progress report, the final report, the applications for payments as well as the audit strategy, the annual audit report, the declaration of validity and the certification of expenditure.
- (8) Since Member States are required to report and monitor irregularities and to recover sums wrongly paid in connection with the financing from the Fund, it is necessary to define requirements for the data sent to the Commission.
- (9) Experience has shown that citizens of the European Union are insufficiently aware of the role played by the Community in funding programmes. It is therefore appropriate to define in detail the information and publicity measures necessary to bridge this communication and information gap.
- (10) In order to guarantee that information on possible funding opportunities is disseminated widely to all interested parties and for the sake of transparency, the minimum measures needed to inform potential final beneficiaries about the financing opportunities offered jointly by the Community and the Member States through the Fund should be set out. In order to enhance transparency about use of the Fund, the list of final beneficiaries, the names of the projects and the amount of public funding allocated to projects should be published.
- (11) In the light of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data ⁽¹⁾ and Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data ⁽²⁾, it is necessary to provide, in relation to the information and publicity measures and audit work under this Decision, that the Commission and the Member States should prevent any unauthorised disclosure of or access to personal data and to specify the purpose for which the Commission and the Member States may process such data.
- (12) Use of electronic means to exchange information and financial data between the Member States and the Commission leads to simplification, increased efficiency, transparency and time savings. In order to capitalise fully on these advantages while preserving the security of exchanges, a common computer system may be established by the Commission.
- (13) To ensure efficient implementation of the Fund in the Member States, in accordance with the principles of sound financial management, a series of common rules should be adopted on the eligibility of expenditure from the Fund. In order to reduce the administrative burden on final beneficiaries and designated authorities, flat rates for indirect costs should be eligible under certain conditions.
- (14) It is necessary to lay down detailed rules for the implementation of the support to the Special Transit Scheme established by Council Regulation (EC) No 693/2003 ⁽³⁾ and Council Regulation (EC) No 694/2003 ⁽⁴⁾.
- (15) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not bound by the present Decision or subject to its application. Given that Decision No 574/2007/EC builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the date of adoption of that Decision whether it will implement it in its national law.
- (16) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* ⁽⁵⁾ and the subsequent Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland ⁽⁶⁾. The United Kingdom is therefore not bound by it or subject to its application.
- (17) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* ⁽⁷⁾. Ireland is therefore not bound by it or subject to its application.

⁽³⁾ OJ L 99, 17.4.2003, p. 8.

⁽⁴⁾ OJ L 99, 17.4.2003, p. 15.

⁽⁵⁾ OJ L 131, 1.6.2000, p. 43.

⁽⁶⁾ OJ L 395, 31.12.2004, p. 70.

⁽⁷⁾ OJ L 64, 7.3.2002, p. 20.

⁽¹⁾ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁽²⁾ OJ L 8, 12.1.2001, p. 1.

- (18) As regards Iceland and Norway, Decision No 574/2007/EC constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽¹⁾, which fall within the areas referred to in Article 1, points A and B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽²⁾.
- (19) As regards Switzerland, Decision No 574/2007/EC constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement signed by the European Union, the European Community and the Swiss Confederation on the latter's association with the implementation, application and development of the Schengen *acquis* which fall within the areas referred to in Article 4(1) of the Council decision ⁽³⁾ on the signing, on behalf of the European Community, and on the provisional application of certain provisions of this Agreement.
- (20) The measures provided for in this Decision are in accordance with the opinion of the Management Committee of the Fund,

HAS ADOPTED THIS DECISION:

⁽¹⁾ OJ L 176, 10.7.1999, p. 36.

⁽²⁾ OJ L 176, 10.7.1999, p. 31.

⁽³⁾ OJ L 370, 17.12.2004, p. 78.

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PART I

INTRODUCTION

CHAPTER I

Subject and definitions

Article 1

Subject matter

1. This Decision lays down rules for implementation of the Fund as regards:

- (a) designated authorities;
- (b) management and control systems;
- (c) information to be provided by the Member States to the Commission regarding use of the Fund;
- (d) reporting of irregularities;
- (e) information and publicity;
- (f) personal data;
- (g) electronic exchange of documents.

2. The provisions set out below shall apply without prejudice to Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities ⁽¹⁾.

Article 2

Definitions

For the purposes of this Decision the following definitions shall apply:

- 'basic act': Decision No 574/2007/EC,
- 'Fund': the External Borders Fund, as established by the basic act,
- 'four Funds': the European Refugee Fund, the External Borders Fund, the European Return Fund and the European

Fund for the Integration of third-country nationals, as established by Decision No 573/2007/EC ⁽²⁾, Decision No 574/2007/EC and Decision No 575/2007/EC ⁽³⁾ of the European Parliament and of the Council and Council Decision 2007/435/EC ⁽⁴⁾ as part of the General programme 'Solidarity and Management of Migration Flows',

- 'responsible authority': the body designated by a Member State under Article 27(1)(a) of the basic act,
- 'certifying authority': the body designated by a Member State under Article 27(1)(b) of the basic act,
- 'audit authority': the body designated by a Member State under Article 27(1)(c) of the basic act,
- 'delegated authority': the body designated by a Member State under Article 27(1)(d) of the basic act,
- 'designated authorities': all the authorities designated by a Member State under Article 27 of the basic act,
- 'action': action under the Fund, as those being listed under the specific objectives defined in Article 4 and as defined in Article 6 of the basic act,
- 'project': specific, practical means deployed to implement all or part of an action by the final beneficiaries of grants,
- 'final beneficiary': the legal entity responsible for implementing projects such as NGOs, federal, national, regional or local authorities, other non-profit organisations, private or public-law companies or international organisations,
- 'partner in the project': any legal entity which implements a project in cooperation with a final beneficiary by providing the project with resources and by receiving part of the Community contribution through the final beneficiary,
- 'strategic guidelines': the framework for intervention by the Fund, as adopted by Commission Decision 2007/599/EC ⁽⁵⁾,
- 'priority': set of actions defined as a priority in the strategic guidelines,
- 'specific priority': set of actions defined as a specific priority in the strategic guidelines, allowing co-financing at a higher rate, in accordance with Article 16(4) of the basic act,
- 'primary administrative or judicial finding': first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure,

⁽²⁾ OJ L 144, 6.6.2007, p. 1.

⁽³⁾ OJ L 144, 6.6.2007, p. 45.

⁽⁴⁾ OJ L 168, 28.6.2007, p. 18.

⁽⁵⁾ OJ L 233, 5.9.2007, p. 3.

⁽¹⁾ OJ L 292, 15.11.1996, p. 2.

- 'irregularity': any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget,
 - 'suspected fraud': an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour, in particular fraud, as referred to in point (a) of Article 1(1) of the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on the protection of the European Communities' financial interests ⁽¹⁾,
 - 'bankruptcy': insolvency proceedings, as defined in Article 2(a) of Council Regulation (EC) No 1346/2000 ⁽²⁾,
 - 'grant agreement': an agreement or an equivalent form of legal instrument on the basis of which Member States provide grants to the final beneficiary for the purpose of implementing the project under the Fund.
- (b) the task entrusted to the delegated authority;
 - (c) the rights and duties of the delegated authority and the responsibilities it assumes;
 - (d) the obligation for the delegated authority to put in place and to maintain an organisational structure and a management and control system adapted to performance of its duties;
 - (e) the assurance to be provided concerning sound financial management and the legality and regularity of the delegated tasks.
3. The handling of communication with the Commission referred to in Article 27(1)(a) of the basic act shall not be delegated. The delegated authority shall communicate with the Commission via the responsible authority.
4. If the delegated authority is not a public administration or a body governed by the private law of the Member State which has a public-service mission, the responsible authority may not delegate to that authority any executive powers which involve a large measure of discretion implying political choices.
5. Delegation of tasks to the delegated authorities shall not affect the liability of the responsible authority, which shall remain answerable for the tasks it has delegated.
6. Where the responsible authority has delegated tasks to the delegated authority, all provisions of this Decision relating to the responsible authority shall apply *mutatis mutandis* to the delegated authority.

PART II

PROVISIONS COMMON TO THE FOUR FUNDS

CHAPTER 1

Designated authorities

Article 3

Common authorities

Member States may designate the same responsible authority, audit authority or certifying authority for two or more of the four Funds.

Article 4

Delegated authority

1. Any delegation of tasks shall comply with the principle of sound financial management, which requires effective and efficient internal control, and shall ensure compliance with the principle of non-discrimination and the visibility of Community funding. No implementing tasks delegated may give rise to conflicts of interest.

2. The scope of the tasks delegated by the responsible authority to the delegated authority and the detailed procedures for implementation of the delegated tasks shall be formally recorded in writing.

The act of delegation shall mention at least:

- (a) the references of the relevant Community legislation;

⁽¹⁾ OJ C 316, 27.11.1995, p. 49.

⁽²⁾ OJ L 160, 30.6.2000, p. 1. Regulation as last amended by Regulation (EC) No 681/2007 (O) L 159, 20.6.2007, p. 1).

Article 5

Outsourcing of tasks

Designated authorities may outsource some of their tasks but they shall remain answerable for the outsourced tasks in accordance with the responsibilities defined in Articles 29, 31 and 32 of the basic act.

CHAPTER 2

Management and control systems

Article 6

Manual of procedures

In accordance with Article 33(2) of the basic act and having regard to the principle of proportionality, Member States shall establish a manual setting out procedures and practical arrangements regarding:

- (a) functioning of the designated authorities;

- (b) arrangements ensuring appropriate separation of functions;
- (c) where appropriate, monitoring of delegated authorities and other outsourced tasks;
- (d) establishment of multiannual and annual programmes;
- (e) establishment of audit strategy and annual audit plans;
- (f) selection of projects, award of grants and monitoring and financial management of the projects;
- (g) management of irregularities, financial corrections and recoveries;
- (h) preparation and implementation of audit missions;
- (i) preparation of audit reports and declarations;
- (j) certification of expenditure;
- (k) evaluation of the programme;
- (l) reporting to the Commission;
- (m) audit trail.

and communicated to the Commission within the framework of the annual programme concerned.

2. When implementing the projects, the responsible authority shall ensure the principle of value for money and prevent conflicts of interest.

3. The responsible authority may implement the projects identified in accordance with Article 7(3) directly and/or in association with any national authority competent on account of its technical expertise, its high degree of specialisation or its administrative powers. The main national authorities involved in implementation shall also be identified in the annual programme concerned.

4. The administrative decision to co-finance a project under the Fund shall contain the information necessary to monitor the co-financed products and services and to check the expenditure incurred. All relevant provisions laid down for a grant agreement in Article 10(2) shall be specified in an equivalent form of legal instrument.

5. The final report on implementation of the annual programme shall include information on the procedures and practices applied to ensure adequate separation of functions, effective control and satisfactory protection of the European Communities' financial interests and shall provide explanations on how conflicts of interest have been avoided.

6. When the responsible authority is expected to be executing body on a regular basis for projects co-financed by the Fund:

- (a) the audit authority shall not be part of the same body as the responsible authority, except when its audit independence is guaranteed and it also reports to another body outside the body of which it and the responsible authority form part;
- (b) the tasks of the responsible authority, as defined in Article 29 of the basic act, shall not be affected when the responsible authority also implements projects directly.

7. When a delegated authority is expected to be executing body for projects co-financed by the Fund, this delegated authority may not be the sole final beneficiary of the appropriations which it was delegated to manage.

Article 7

Implementation of the Fund by the responsible authority

1. For implementation of the Fund, the responsible authority may act as awarding body and/or as executing body.

2. The responsible authority acts as awarding body in cases where it implements the projects, as a general rule, on the basis of annual open calls for proposals.

Neither the responsible authority nor any delegated authority may apply in response to these calls for proposals.

In duly justified cases, including continuation of multiannual projects in accordance with Article 16(6) of the basic act which were selected after a previous call for proposals or in emergency situations, grants may be awarded without a call for proposals.

3. The responsible authority acts as executing body in cases where it decides to implement the projects directly because the characteristics of the projects leave no other choice for implementation, such as *de jure* monopoly situations or security reasons. In these cases, the rules concerning the final beneficiary shall apply *mutatis mutandis* to the responsible authority.

Article 8

Conditions under which the responsible authority acts as executing body

1. The reasons which led the responsible authority to act as executing body for implementation of projects shall be identified

Article 9

Selection and award procedure when the responsible authority acts as awarding body

1. The calls for proposals defined in Article 7(2) shall be published in a way that ensures maximum publicity among

potential beneficiaries. Any change to the content of the calls for proposals shall also be published under the same conditions.

The calls for proposals shall specify:

- (a) the objectives;
- (b) the selection criteria, which shall comply with Article 16(5) of the basic act, and the relevant supporting documents;
- (c) the arrangements for Community and, if applicable, national financing;
- (d) the arrangements and final date for submission of proposals.

2. For the purposes of selection of projects and award of grants, the responsible authority shall ensure that potential beneficiaries are informed of the following specific conditions concerning the projects to be implemented:

- (a) the eligibility rules for the expenditure;
- (b) the time-limit for implementation; and
- (c) the financial and other information to be kept and communicated.

Before the award decision is taken the responsible authority shall satisfy itself that the final beneficiary and/or the partners in the project have the capacity to fulfil these conditions.

3. The responsible authority shall ensure that projects awarded grants have been subject to a formal, technical and budgetary analysis and qualitative assessment applying the criteria laid down in the call for proposals. The reasons for rejection of the other projects shall be recorded.

4. Member States shall determine who shall have the power to award projects and shall ensure that conflicts of interest are avoided in all cases and, in particular, when the applicants are national bodies.

5. The award decision shall indicate at least the name of the final beneficiary and/or of the partners in the project, the essential details of the project and its operational objectives, the maximum amount of co-financing from the Fund and the maximum rate of co-financing of the total eligible costs.

6. Written information shall be sent to each applicant on the results of the selection process containing an explanation of the selection decisions. If provided for in national legislation, the relevant review procedure shall be mentioned.

Article 10

Grant agreements with final beneficiaries when the responsible authority acts as awarding body

1. The responsible authority shall lay down detailed project management procedures covering, *inter alia*:

- (a) signature of grant agreements with selected final beneficiaries;
- (b) follow-up of agreements and any amendment thereto by establishing a system for administrative monitoring of projects (exchange of correspondence, issuing and monitoring amendments and reminder letters, receipt and processing of reports, etc.).

2. The grant agreements shall lay down, *inter alia*:

- (a) the maximum amount of the grant;
- (b) the maximum percentage of the Community contribution in accordance with Article 16(4) of the basic act;
- (c) a detailed description and timetable of the project supported;
- (d) if applicable, the part of the tasks and related costs that the final beneficiary intends to subcontract to third parties;
- (e) the agreed forward budget and financing plan for the project, including the fixed percentage of indirect costs as defined in Annex XI regarding the rules on eligibility of expenditure;
- (f) the timetable and provisions for implementation of the agreement (reporting obligations, amendments and termination);
- (g) the operational objectives of the project and the indicators to be used;
- (h) the definition of eligible costs;
- (i) the conditions relating to payment of the grant and bookkeeping requirements;
- (j) the conditions relating to audit trail;
- (k) the relevant provisions relating to data protection;
- (l) the relevant provisions relating to publicity.

3. If appropriate, the final beneficiaries shall ensure that all partners in the project are subject to the same obligations as them. The partners shall engage their responsibility through the final beneficiary which remains answerable, in last resort, for the respect of the contractual conditions by itself and all partners in the project.

The final beneficiaries shall keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.

4 The grant agreements shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, based on documents and on the premises, over all final beneficiaries, partners in the project and subcontractors.

Article 11

Implementation contracts

Without prejudice to the applicable Community and national public procurement rules, the grant agreements shall lay down that, when implementing the projects, the final beneficiaries and/or the partners in the project shall award the procurement contract, following a tendering procedure, to the tender offering best value for money and that care be taken to avoid any conflict of interest. However, without prejudice to the applicable Community and national public procurement rules, contracts with a value of less than EUR 5 000 may be awarded on the basis of a single offer without a call for tender.

Article 12

Determination of the final Community contribution

For calculation of the final payment to the final beneficiary, the total Community contribution to each project shall be the lowest of the following three amounts:

- (a) the maximum amount stated in the grant agreement;
- (b) the maximum co-financing resulting from multiplication of the total eligible costs of the project concerned by the percentage laid down in Article 16(4) of the basic act (i.e. 50 % or 75 %); and
- (c) the amount resulting from application of the principle of non-profit, as defined in point I.3.3 of Annex XI.

Article 13

Technical assistance

1. Technical assistance at the initiative of the Commission, as defined in Article 17 of the basic act, may be financed up to 100 % by the Fund.

2. Technical assistance at the initiative of the Member States, as defined in Article 18 of the basic act, may be financed up to 100 % by the Fund.

3. Technical assistance at the initiative of the Commission or the Member States may take the form of procurement contracts, expert fees and/or any administrative expenditure subject to the eligibility rules defined in Part III, Chapter 1.

Article 14

Technical assistance expenditure in the case of a common authority

1. When one or more designated authorities are common to two or more of the four Funds, the appropriations for the technical assistance expenditure on each of the annual programmes concerned may be merged, partly or entirely.

2. The expenditure on technical assistance shall be allocated between the Funds concerned, preferably on the basis of simple and representative apportionment formulae. Application of the formulae shall not lead to any increase in the maximum amount of technical assistance expenditure on each annual programme concerned.

Article 15

Verifications by the responsible authority

1. The verifications to be carried out by, or under the responsibility of, the responsible authority under Article 29(1)(g) of the basic act shall cover administrative, financial, technical and physical aspects of projects, as appropriate.

The verifications shall ensure that the expenditure declared is real and justified for the purpose of the project, that the projects granted have been delivered in accordance with the grant agreements, that the Community contribution complies with the rules, in particular regarding the financing structure defined in Article 16 of the basic act, that the applications for reimbursement by the final beneficiary are correct and that the projects and expenditure comply with Community and national rules and avoid double-financing of expenditure with other Community or national schemes and with other programming periods.

Moreover, the verifications shall include:

- (a) administrative and financial verifications of each application for reimbursement sent by the final beneficiaries;
- (b) verifications, at least on a representative sample of the supporting documents covering all headings of the budget annexed to the grant agreement, of the relevance, accuracy and eligibility of the expenses, income and costs covered by assigned income declared by the final beneficiaries;
- (c) on-the-spot verifications of individual projects, at least on a sample representing an appropriate mix of types and sizes of projects and taking account of any risk factors already identified, in order to achieve reasonable assurance as to the legality and regularity of the underlying transactions, having regard to the level of risk identified by the responsible authority.

The verifications indicated in points (a) and (b) do not have to be carried out if an obligation is imposed on the final beneficiary to provide an audit certificate from an independent auditor which covers all the aspects mentioned in points (a) and (b).

2. Records shall be kept of each verification, stating the work performed, the date, the results and the measures taken in response to errors detected. The responsible authority shall ensure that all the supporting documents regarding the verifications performed are kept available for the Commission and the Court of Auditors for a period of five years following closure of the project. This period shall be interrupted in the event of legal proceedings or at the duly substantiated request of the Commission.

3. Where the responsible authority acts as executing body under the annual programme, as defined in Article 7(3), the verifications referred to in paragraph 1 shall be implemented in accordance with the principle of adequate separation of functions.

Article 16

Audit trail

1. For the purposes of Article 29(1)(k) of the basic act, an audit trail shall be considered adequate if it complies with the following criteria:

- (a) it permits reconciliation of the amounts certified to the Commission with the detailed accounting records and supporting documents held by the certifying authority, responsible authority, delegated authorities and final beneficiaries on projects co-financed under the Fund;
- (b) it permits verification of payment of the public contribution to the final beneficiary, of allocation and transfer of the Community funding granted under the Fund and of the sources of co-financing of the project;
- (c) it permits verification of application of the selection criteria established for the annual programme;
- (d) it contains in respect of each project, as appropriate, the technical specifications and financing plan, documents concerning grant approval, documents relating to public procurement procedures and reports on the verifications and audits carried out.

2. The responsible authority shall ensure that a record is kept of the location of all documents relating to specific payments made under the Fund.

Article 17

Audits of systems and audits of projects

1. The audits referred to in Article 32(1)(a) and (b) of the basic act shall be carried out on the management and control systems established by the Member States and on a sample of projects selected by a method approved by the audit authority.

The sampling method shall:

- (a) include an appropriate mix of types and sizes of projects;
- (b) take account of any risk factors which have been identified by national or Community controls and the cost-benefit aspects of the verifications.

The sample shall also include projects implemented by the responsible authority acting as executing body at least on a proportional basis.

The method used to select the sample shall be documented.

2. The audit on the management and control systems shall cover each of the following processes at least once before 2013: programming, delegation of tasks, selection and award, monitoring of the projects, payment, certification of expenditure, reporting to the Commission, detection and treatment of potential irregularities and evaluation of the programmes.

3. The audits of projects shall be carried out on the spot on the basis of documentation and records held by the final beneficiary and/or the partners in the project. The audits shall verify that:

- (a) the project meets the selection criteria for the annual programme, has been implemented in accordance with the grant agreement and fulfils any applicable conditions concerning its functionality and use or the objectives to be attained;
- (b) the expenditure declared corresponds to the accounting records and supporting documents held by the final beneficiary and/or by the partners in the project, and those records correspond to the supporting documents kept by the responsible authority or any delegated body;
- (c) the items of expenditure correspond to the eligibility requirements set out in Annex XI, to the requirements specified during the national selection procedure, to the terms of the grant agreement and to the works actually carried out and, where appropriate, to other Community and national rules;
- (d) the use or intended use of the project is consistent with the objectives, action or measures set out in Articles 3, 4, 5, 6 and 18 of the basic act;

- (e) the public or private contribution has been paid to the final beneficiary in accordance with Article 16(2) of the basic act;
- (f) there is an adequate audit trail;
- (g) there are no conflicts of interest and good value for money has been achieved, in particular in cases where the responsible authority acts as executing body of the project.

4. Only expenditure within the scope of an audit carried out under paragraph 3 shall be counted towards the amount of expenditure audited for the purpose of Article 32(1)(b) of the basic act. If the audit is performed before the project has been closed, only the expenditure actually audited is taken into account to calculate the coverage rate.

5. Where problems detected appear to be systemic in nature and may therefore entail a risk to other projects, the audit authority shall ensure that further examination is carried out, including additional audits where necessary, to establish the scale of such problems. The necessary preventive and corrective measures shall be taken by the relevant authorities.

6. The audit authority shall draw conclusions on the basis of the results of the audits relating to expenditure declared to the Commission and shall communicate the conclusions to the Commission in the annual audit report. In annual programmes for which the error rate is above the materiality level of 2 % of the Community contribution, the audit authority shall analyse the significance of this error and take the necessary measures, including making appropriate recommendations, which shall be communicated at least in the annual audit report.

Article 18

Verifications by the certifying authority

1. In cases where the audit authority gives a qualified opinion or an adverse opinion on the functioning of the management and control system, the certifying authority shall verify that this information has been sent to the Commission. It shall also ensure that an adequate action plan has been implemented by the responsible authority to restore effectively functioning management and control systems and to assess the impact of the malfunctioning on the declaration of expenditure.

2. If the request for payment or statement of reimbursement is not validated by the audit authority for the final report on implementation of the annual programme, the certifying authority shall ensure that a correct request for payment or statement of reimbursement is established without delay.

CHAPTER 3

Information to be provided regarding use of the Fund

Article 19

Principle of proportionality

1. Pursuant to Article 10(2) of the basic act, the extent to which the information available to a Member State on use of the Fund is transmitted to the Commission in the documents referred to in this chapter may be proportionate to the amount of the Community contribution allocated to the Member State concerned and, where appropriate, this information may be provided in summarised form.

2. However, upon a request from the Commission, the Member State shall nevertheless provide more detailed information. The Commission may request this information if it appears necessary in order for the Commission to fulfil effectively its obligations under the basic act and the Financial Regulation.

Article 20

Description of management and control systems

1. The description of the management and control systems referred to in Articles 33(4) and 34(2) of the basic act shall be submitted in accordance with the model in Annex I.

2. The responsible authority shall validate the description of the systems implemented by any delegated authority. Each of the designated authorities shall confirm the accuracy of the description of the management and control systems which concerns it. In addition, the audit authority shall also confirm the completeness of the description.

3. When examining the description, the Commission may request clarifications and propose measures to comply with the provisions defined in the basic act. If necessary, on-site visits may be carried out by Commission officials or authorised Commission representatives.

4. If the responsible authority is the same for two or more of the four Funds or where common systems apply to two or more of the Funds, a description of the common management and control systems may be submitted highlighting, where appropriate, any specific features.

Article 21

Revision of the description of management and control systems

1. The responsible authority shall:

- (a) when submitting the draft annual programme, report whether changes have been made to the management and control systems;
- (b) notify the Commission of any substantial change at the latest once any such change has taken effect;

- (c) at the request of the Commission, provide a revised description in the event of multiple substantial changes.

2. Substantial changes are changes which are likely to have an impact on the separation of functions, on the effectiveness of selection, award, control and payment mechanisms and on communication with the Commission. They shall include, in particular, changes in one of the designated authorities, in the accounting system and in the payment and certification processes.

3. Revision of the management and control systems shall follow the same procedure as laid down in Article 20.

Article 22

Programming documents

1. Member States shall submit to the Commission a multi-annual programme, as referred to in Article 21 of the basic act, in accordance with the model in Annex II.

2. Member States shall submit to the Commission the annual programmes, as referred to in Article 23 of the basic act, in accordance with the model in Annex III.

3. The financial plans linked to the multiannual programme shall present a breakdown of the budgeted amounts by priority, as defined in the strategic guidelines.

The financial plans linked to the annual programmes shall present a breakdown of the budgeted amounts by category of action, as defined in Article 3(1) of the basic act, with a reference to the priorities.

Article 23

Revision of financial breakdown in annual programmes

1. In order to revise the annual programme approved by the Commission pursuant to Article 23(4) of the basic act, the Member State concerned shall submit a revised draft annual programme to the Commission before 1 May of the year following the reference year. The Commission shall examine and, as soon as possible, approve the revised programme in accordance with the procedure laid down in Article 23(4) of the basic act.

2. Changes to the financial breakdown without revision of the annual programme pursuant to paragraph 1 shall not exceed 10 % of the total contribution from the Fund and shall be allowed only in circumstances justified by causes beyond the control of the responsible authority. An adequate explanation of any such changes shall be provided in the progress report and/or in the final report on the implementation of the annual programme.

Article 24

Progress and final reports on implementation of annual programmes

1. Member States shall submit to the Commission the progress reports on implementation of the annual programme and payment requests, as referred to in Article 41(4) of the basic act, in accordance with the model in Annex IV.

2. Member States shall submit to the Commission the final reports on implementation of the annual programme and payment requests, as referred to in Article 42(1)(b) of the basic act, in accordance with the model in Annex V.

3. The financial tables linked to the progress reports and final reports shall present a breakdown of the amounts both by priority, as defined in the strategic guidelines, and by projects for each category of action as defined in Article 3(1) of the basic act.

Article 25

Documents established by the audit authority

1. The audit strategy referred to in Article 32(1)(c) of the basic act shall be established in accordance with the model in Annex VI.

2. Except when each of the last two annual programmes adopted by the Commission corresponds to an annual Community contribution below 1 million euros, the audit authority shall submit an annual audit plan before 15 February each year, as from 2009. The audit plan shall be established as an annex to the audit strategy in accordance with the model in Annex VI. In the case of a combined audit strategy, as provided for in Article 32(2) of the basic act, a combined annual audit plan may be submitted.

3. The audit report and the opinion referred to in Articles 32(3)(a) and 32(3)(b) of the basic act shall be based on the systems audits and audits of projects carried out in accordance with the audit strategy and shall be drawn up in accordance with the models in Annexes VII.A and VII.B.

4. The validity declaration referred to in Article 32(3)(c) of the basic act shall be based on all the audit work carried out by the audit authority and on additional checks, if necessary. The validity declaration shall be drawn up in accordance with the model in Annex VII.C.

5. If there is any limitation on the scope of the examination or if the level of irregular expenditure detected does not allow provision of an unqualified opinion for the annual opinion referred to in Article 32(3)(b) of the basic act or in the declaration referred to in point (c) of the same Article, the audit authority shall give the reasons and estimate the scale of the problem and its financial impact.

*Article 26***Documents established by the certifying authority**

1. The certified declaration of expenditure relating to the request for a second pre-financing payment referred to in Article 41(4) of the basic act shall be drawn up and transmitted to the Commission in the format in Annex VIII.
2. The certified declaration of expenditure relating to the request for a final payment referred to in Article 42(1)(a) of the basic act shall be drawn up and transmitted to the Commission in the format in Annex IX.

CHAPTER 4

Reporting irregularities*Article 27***Initial reporting — derogations**

1. In accordance with the models in Annexes IV and V, Member States shall report to the Commission any irregularity which has been the subject of a primary administrative or judicial finding in the progress or final reports on implementation of the annual programmes.

The report shall indicate:

- (a) the Fund, the annual programme and the project concerned;
- (b) the provision which has been infringed;
- (c) the date and the source of the first information leading to suspicion that an irregularity has been committed;
- (d) the practices employed in committing the irregularity;
- (e) where appropriate, whether the practice gives rise to a suspicion of fraud;
- (f) the manner in which the irregularity was discovered;
- (g) the amount of the Community contribution concerned.

However, the following cases need not be reported, except in cases of suspected fraud:

- (a) cases where the irregularities relate to amounts of less than 10 000 euros chargeable to the general budget of the European Communities;
- (b) cases where the irregularity consists solely of failure to implement, in whole or in part, a project included in the annual programme owing to the bankruptcy of the final beneficiary;
- (c) cases brought to the attention of the responsible authority by the final beneficiary voluntarily and before detection by

the responsible authority, whether before or after payment of the public contribution;

- (d) cases detected and corrected by the responsible authority before any payment of the public contribution to the final beneficiary and before inclusion of the expenditure concerned in a declaration of expenditure submitted to the Commission.

2. At the request of the Commission, Member States shall in all cases give further details concerning:

- (a) where appropriate, the other Member States and third countries involved;
- (b) the period during which, or the moment at which, the irregularity was committed;
- (c) the national authorities or bodies which drew up the official report on the irregularity and the authorities responsible for the administrative or judicial follow-up;
- (d) the date on which the primary administrative or judicial finding on the irregularity was established;
- (e) the identity of the natural and legal persons involved or of any other participating entities, except where this information is irrelevant for the purposes of combating irregularities, given the nature of the irregularity concerned;
- (f) the total budget and the public contribution approved for the project and the distribution of its co-financing between the Community and national contributions;
- (g) the amount of the public contribution affected by the irregularity and the corresponding Community contribution at risk;
- (h) where no payment of the public contribution referred to under point (g) has been made to the persons or other entities identified, the amounts which would have been unduly paid had the irregularity not been identified;
- (i) the suspension of payments, where applicable, and the possibilities of recovery;
- (j) the nature of the irregular expenditure.

3. Where some of the information referred to in paragraph 2, in particular on the practices employed in committing the irregularity and on the manner in which the irregularity was discovered, is not available, Member States shall as far as possible supply the missing information when forwarding subsequent reports of irregularities to the Commission.

*Article 28***Reporting of follow-up — Non-recovery**

1. Member States shall inform the Commission, with reference to any previous report made under Article 27, of the procedures

instituted with respect to all irregularities previously notified and of significant changes resulting from them. This information shall be given in the progress reports or final reports on implementation of the annual programmes in accordance with the models in Annexes IV and V.

The report shall indicate the amounts which have been, or are expected to be, recovered.

2. At the request of the Commission, Member States shall in all cases give further details concerning:

- (a) any interim measures taken by Member States to safeguard recovery of sums unduly paid;
- (b) any judicial and administrative procedures instituted with a view to recovering sums unduly paid and to imposing sanctions;
- (c) the reasons for any abandonment of recovery procedures;
- (d) the reasons for any abandonment of criminal prosecutions.

Member States shall report to the Commission all administrative or judicial decisions terminating such procedures, or the main points thereof, and shall state, in particular, whether or not the findings are such that fraud is suspected.

Article 29

Contacts with Member States

1. The Commission shall maintain appropriate contacts with the Member States concerned for the purpose of supplementing the information supplied on the irregularities referred to in Article 27 and on the procedures referred to in Article 28 on the possibility of recovery.

2. Independently of the contacts referred to in paragraph 1, the Commission shall inform Member States in cases where the nature of the irregularity is such as to suggest that identical or similar practices could occur in other Member States.

Article 30

Use of information

1. The Commission may use any information of a general or operational nature communicated by Member States under this Decision to perform risk analyses and may, on the basis of the information obtained, produce reports and develop early-warning systems serving to identify risks more effectively.

2. The Commission shall regularly inform the Member States concerned of the use made of information under paragraph 1.

CHAPTER 5

Information and publicity

Article 31

Information for potential final beneficiaries

1. The responsible authority shall ensure that the key indications regarding the multiannual and annual programmes are disseminated widely, with details of the financial contributions concerned, and that they are made available to all interested parties.

However, the responsible authority may decide to keep confidential the internal management arrangements laid down in the multiannual programme or in the annual programmes and any other information relating to implementation of the Fund on grounds of public security.

2. The responsible authority shall provide potential final beneficiaries with at least the following information:

- (a) the conditions of eligibility to be met in order to qualify for financing under an annual programme;
- (b) a description of the procedures for examining applications for funding and of the time periods involved;
- (c) the criteria for selecting the projects to be financed;
- (d) the contacts who can provide information on the annual programmes.

In addition, the responsible authority shall inform potential final beneficiaries of the publication provided for in Article 33(2)(b).

Article 32

Information for final beneficiaries

The responsible authority shall inform final beneficiaries that acceptance of funding also implies acceptance of their inclusion on the list of final beneficiaries published in accordance with Article 33(2)(b).

Article 33

Responsibilities of the responsible authority relating to information and publicity for the general public

1. The responsible authority shall ensure that information and publicity measures are implemented with the aim of the widest possible media coverage using various forms and methods of communication at the appropriate territorial level.

2. The responsible authority shall organise at least the following information and publicity measures:

- (a) at least one information activity a year, presenting, as of 2008, the launch of the multiannual programme or the achievements of the annual programme(s);
- (b) annual publication, at least on a website, of the list of final beneficiaries, the names of the projects and the amount of public and Community funding allocated to them. The address of the website shall be communicated to the Commission.

Article 34

Responsibilities of final beneficiaries relating to information and publicity for the general public

1. The final beneficiary shall be responsible for informing the public, by means of the measures laid down in paragraphs 2, 3 and 4, about the assistance obtained from the Fund.
2. The final beneficiary shall put up a permanent prominent plaque of significant size no later than three months after completion of any project that fulfils the following conditions:
 - (a) the total Community contribution to the project exceeds EUR 100 000; and
 - (b) the operation consists of purchasing a physical object or of financing infrastructure or construction projects.

The plaque shall state the type and name of the project. In addition, the information referred to in Article 35 shall take up at least 25 % of the plaque.

3. Where a project receives funding under an annual programme co-financed by the Fund, the final beneficiary shall ensure that those taking part in the project have been informed of that funding.
4. Any document, including any attendance or other certificate, concerning such projects shall include a statement indicating that the project is co-financed by the Fund.

Article 35

Technical characteristics of information and publicity for the operation

All information and publicity measures aimed at final beneficiaries, potential final beneficiaries and the general public shall include:

1. the emblem of the European Union, in accordance with the graphic standards indicated in Annex X, and a reference to the European Union;
2. a reference to the Fund;

3. a statement chosen by the responsible authority, highlighting the added value of the contribution from the Community.

For small promotional items or for promotional items linked to two or more of the four Funds, points 1 and 3 shall not apply.

CHAPTER 6

Personal data

Article 36

Protection of personal data

1. Member States and the Commission shall take all necessary measures to prevent any unauthorised disclosure of, or illegitimate access to, the information referred to in Article 29(1)(h) of the basic act, information collected by the Commission in the course of its on-the-spot checks and the information referred to in Chapter 4.
2. The information referred to in Chapter 4 may not be sent to persons other than those in the Member States or within the Community institutions whose duties require that they have access to it, unless the Member State supplying such information has expressly agreed so.

CHAPTER 7

Electronic exchange of documents

Article 37

Electronic exchange of documents

In addition to the duly signed paper versions of the documents referred to in Chapter 3, the information shall also be sent, whenever possible, by electronic means.

Article 38

Computer system for the exchange of documents

1. If the Commission develops a computer system for secure data exchange between the Commission and each Member State for implementation of the Fund, the Member States shall be informed of and, at their request, involved in development of any such computer system.
2. The Commission and the designated authorities, along with the bodies to which the tasks have been delegated, shall record the documents referred to in Chapter 3 in the computer system mentioned in paragraph 1.
3. In addition, Member States may be invited voluntarily to provide information referred to in Articles 27 and 28 using the existing specific system managed by the Commission for collecting the irregularities detected under the Structural Funds.

4. Any costs of an interface between the common computer system and national, regional and local computer systems and any costs of adapting national, regional and local systems to the technical requirements of the common system shall be eligible under Article 18 of the basic act.

PART III

PROVISIONS SPECIFIC TO THE EXTERNAL BORDERS FUND

CHAPTER 1

Eligibility rules

Article 39

Eligibility rules

1. The rules set out in Annex XI shall be used to determine the eligibility of expenditure of actions financed under the annual programmes referred to in Article 37(4) of the basic act.
2. These rules are applicable to the final beneficiaries and shall apply *mutatis mutandis* to the project partners.
3. Member States may apply national eligibility rules that are more rigorous than those laid down in this decision.

It shall be for the Commission to evaluate whether the applicable national eligibility rules comply with this condition.

CHAPTER 2

Special Transit Scheme

Article 40

Support for the implementation of the Special Transit Scheme

1. The support for the implementation of the Special Transit Scheme referred to in Article 6 of the basic act shall be established in the framework of the multiannual programme of the Republic of Lithuania and be implemented on the basis of the annual programmes of the Republic of Lithuania.

Consequently, the rules in the basic act and this Decision regarding the implementation of annual programmes shall apply *mutatis mutandis* to the support for the implementation of the Special Transit Scheme. The fund shall bear any additional cost

incurred in implementing the specific provision of the *acquis* covering such transit.

2. For each annual programme the amount to be allocated to this support shall be set in accordance with Article 6 of the basic act and within the limits of the appropriations set out in Article 14(12) of the basic act.

3. With regard to the foregone fees, the action shall run from 1 January of the year referred to in the financing decision approving the annual programme until 31 December of that year.

With regard to the additional costs, the action shall run from 1 January of the year referred to in the financing decision approving the annual programme:

- (a) for salaries of the staff specifically implementing the Special Transit Scheme until 31 December of that year;
- (b) for all other additional costs, until 31 December of the following year.

4. The amount to be allocated to this support under each annual programme shall not be used for other action.

PART IV

FINAL PROVISIONS

Article 41

Addressees

This Decision is addressed to the Kingdom of Belgium, the Republic of Bulgaria, the Czech Republic, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Slovenia, the Slovak Republic, the Republic of Finland and the Kingdom of Sweden.

Done at Brussels, 5 March 2008.

For the Commission

Franco FRATTINI

Vice-President

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ANNEX I

MODEL DESCRIPTION OF MANAGEMENT AND CONTROL SYSTEMS

- initial version
- revised version (number, date dd/mm/year) following dialogue with the Commission
- version revised for other reasons

MEMBER STATE:

FUND(S):

MAIN CONTACT POINT:

THE INFORMATION PROVIDED DESCRIBES THE SITUATION ON:

1. IDENTIFICATION OF THE DESIGNATED AUTHORITIES
 - 1.1. General information on the designated authorities
 - 1.1.1. Short description of the choices made on the designation of the different authorities
 - 1.1.2. Indication of whether these management and control systems are operational
If not, indication of the date when they will be operational
 - 1.1.3. Indication of whether these management and control systems have been accredited by the Commission for other Community financial instruments (if applicable)
 - 1.2. Organisation chart(s) of the entire body(-ies) within which the designated authorities are functioning
 - 1.3. Responsible authority
 - 1.3.1. The date and form of the formal designation of the responsible authority
 - 1.3.2. Legal status of the responsible authority
 - 1.3.3. Specification of the functions carried out directly by the responsible authority and (if applicable and/or foreseen) by other bodies under the responsibility of the responsible authority (outsourcing of tasks, excluding the tasks entrusted to the delegated authority(ies) under point 1.4)
 - 1.3.4. Organisation chart and specification of the functions of the units (including the indicative number of posts allocated)
 - 1.3.5. Information whether the responsible authority can also act as executing body for the projects co-financed by the Fund
 - 1.3.6. If the responsible authority is the same for more than one of the four Funds, a description of the common functions and systems
 - 1.4. The delegated authority(ies)
 - 1.4.1. The reasons for establishing any delegated authority
 - 1.4.2. The date and form of the formal designation of the delegated authority(ies)
 - 1.4.3. Legal status of the delegated authority(ies)

- 1.4.4. Specification of the functions carried out directly by the delegated authority(ies) and (if applicable and/or foreseen) by other bodies under the responsibility of the delegated authority(ies) (outsourcing of tasks)
- 1.4.5. Organisation chart and specification of the functions of the units (including indicative number of posts allocated)
- 1.4.6. Information whether delegated authority(ies) can also act as executing body for the projects co-financed by the Fund
- 1.4.7. If the delegated authority(ies) is (are) the same for more than one of the four Funds, a description of the common functions and systems
- 1.5. Certifying authority
 - 1.5.1. The date and form of the formal designation of the certifying authority
 - 1.5.2. Legal status of the certifying authority
 - 1.5.3. Specification of the functions carried out directly by the certifying authority and (if applicable and/or foreseen) by other bodies under the responsibility of the certifying authority (outsourcing of tasks)
 - 1.5.4. Organisation chart and specification of the functions of the units (including indicative number of posts allocated)
 - 1.5.5. If the certifying authority is the same for more than one of the four Funds, a description of the common functions and systems
- 1.6. Audit authority
 - 1.6.1. The date and form of the formal designation of the audit authority
 - 1.6.2. Legal status of the audit authority
 - 1.6.3. Specification of the functions carried out directly by the audit authority and (if applicable and/or foreseen) by other bodies under the responsibility of the audit authority (outsourcing of tasks)
 - 1.6.4. Organisation chart and specification of the functions of the units (including indicative number of posts allocated)
 - 1.6.5. Staff qualifications for the audit authority and (if applicable and/or foreseen) of the other bodies expected to carry out audit work (outsourcing of tasks)
 - 1.6.6. If the audit authority is the same for more than one of the four Funds, a description of the common functions and systems
 - 1.6.7. If a responsible authority can also act as executing body for the projects co-financed by the Fund, a description of arrangements ensuring the independent position of the audit authority in accordance with article 8

Guidance for sections 2-4

First part of each table

The description of the processes should include the tasks to be carried out by each of the designated authorities (or bodies under their responsibility) and the interaction between them. The description should be concise but nevertheless allow a clear understanding of how the processes would work in practice.

Second part of each table

The checklist should be completed by indicating whether each target has been achieved or not and providing any relevant information. If the target has not been achieved, please provide an explanation and, if relevant, indicate the expected date for completion.

If procedures are formalised, a reference to the document should be included.

2. FUNCTIONING OF DESIGNATED AUTHORITIES

2.1. Designation and supervision of the designated authorities			
Short description of the process of setting up each of the designated authorities <i>[The description should include all authorities]</i>			
	Key targets	Achieved?	Comments
1	Rules governing the relations of the Member State with the designated authorities identify the respective responsibilities	Y/N	
2	Member State have provided guidance to the designated authorities to ensure sound financial management (through training and/or manuals)	Y/N	
3	Each authority will inform their staff of the mission statement of the organisation as well as their job description and expected results	Y/N	
4	Steps have been taken to ensure that the different authorities are adequately staffed in terms of numbers, seniority and experience in order to carry out their functions	Y/N	

2.2. Separation of functions			
Short description of the arrangements defined to ensure a proper separation of functions <i>[The description should include all authorities]</i>			
	Key targets	Achieved?	Comments
1	Rules are defined to ensure a proper separation of functions between actors within the responsible authority for the signature of contracts/ grant agreements	Y/N	
2	Rules are defined to ensure a proper separation of functions between actors within the responsible authority for the initiation, verification and approval of financial transactions	Y/N	
3	The audit authority will be functionally independent of the responsible authority and the certifying authority.	Y/N	
4	The certifying authority will not be involved in the selection, implementation and financial transactions related to Community resources	Y/N	

2.3. Monitoring of delegated authority(ies) — if applicable			
Short description of the process <i>[This description should include the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	The tasks to be delegated are clearly defined	Y/N	
2	Procedures are established concerning the delegated tasks and their compliance with the rules defined in the basic act/implementing rules has been checked	Y/N	
3	Supervisory controls will take place to ensure that the tasks are carried out according to established procedures	Y/N	

2.4. Monitoring of other tasks not carried out by the authorities themselves — if applicable			
Short description of the process <i>[This description should include all authorities]</i>			
	Key targets	Achieved?	Comments
1	In case of bodies acting under the responsibility of the responsible authority (and not considered as delegated authorities), supervisory mechanisms are in place to ensure sound financial management	Y/N	
2	In case of outsourcing of audit activities and in case of bodies acting under the responsibility of the audit authority, supervisory mechanisms are in place to ensure a common audit methodology and consistency of the audit work	Y/N	
3	In case of outsourcing of certifying activities and in case of bodies acting under the responsibility of the certifying authority, supervisory mechanisms are in place to ensure a common approach to certification	Y/N	
4	In case of outsourcing to private bodies without a public-service mission, mechanisms are defined to ensure that the tasks which may be entrusted do not include the exercise of public authority or require the use of discretionary powers of judgment	Y/N	

3. OPERATIONAL AND FINANCIAL PROCESSES

3.1. Establishing multiannual programmes			
Short description of the process <i>[This description should include the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	Arrangements are foreseen to ensure the implementation of the principle of partnership in accordance with current national rules and practices	Y/N	
2	Procedures are defined to check that the multiannual programme is consistent with the strategic guidelines and complies with Community law, in particular with Community law aiming at ensuring the free movement of persons in conjunction with the directly related flanking measures with respect to external border controls, asylum and immigration	Y/N	
3	The multiannual programme will be approved by a duly authorised person	Y/N	

3.2. Establishing annual programmes			
Short description of the process <i>[This description should include the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	Procedures are established to ensure: <ul style="list-style-type: none"> — consistency between the annual programmes and the multiannual programme — the eligibility of the actions envisaged in the annual programmes — consistency and complementarity of these actions with other national and Community instruments — the compliance with the rules concerning co-financing percentage — consistency with the priorities/specific priorities stated in the strategic guidelines 	Y/N	
2	Procedures are established to enable the revision of an annual programme in case of duly substantiated emergency situations as described in the basic act, if applicable	Y/N	
3	Procedures are established to enable the submission of a revision of an annual programme when required under Article 23(1) of this decision	Y/N	
4	Any modification to the financial breakdown of an annual programme and the reasons for it is documented	Y/N	
5.	Any modification in the implementation of the annual programme not relating to the financial breakdown (e.g. on nature and timing of the calls for proposals or the scope of technical assistance) and the reason for it is documented	Y/N	

3.3. Establishing the audit strategy and the annual audit plans			
Short description of the process <i>[This description concerns the audit authority]</i>			
	Key targets	Achieved?	Comments
1	Rules are defined to ensure a transparent and appropriate communication from the responsible authority to the audit authority on management procedures implemented and on projects prior to and throughout the programming period	Y/N	
2	Procedures are established to define annual audit plans (to be annexed each year to the audit strategy) and to send them to the Commission in time (if applicable)	Y/N	
3	The audit strategy and the annual audit plans are approved by a duly authorised person	Y/N	

3.4. Responsible authority acting as an executing body — if applicable			
Short description of the reasons leading the responsible authority to implement projects directly and the specific arrangements foreseen to strengthen the management and control systems <i>[This description should include all authorities]</i>			
	Key targets	Achieved?	Comments
1	The justification of the need for the responsible authority to implement projects will be documented and endorsed at the appropriate level	Y/N	
2	Specific arrangements are put in place to ensure that the nature and the objectives of the projects comply with the provisions defined for the Fund		
3	Specific arrangements are put in place in order to prevent conflict of interest for the projects implemented by the responsible authority	Y/N	
4	Specific arrangements are put in place to ensure the principle of value for money is respected in the implementation of projects by the responsible authority	Y/N	
5	Procedures are defined to ensure that the contractual terms governing these projects are clear and complete in particular with regard to the financing conditions, the payment terms, the eligibility rules and the obligations regarding operational and financial reporting	Y/N	
6	Specific arrangements are put in place in order to ensure that the main functions of the responsible authority as provided for in the basic act are not affected in relation to the projects implemented by the responsible authority	Y/N	
7	When the responsible authority acts as an executing body, the audit authority is located in another body than the responsible authority (if not, please describe the additional guarantees put in place to ensure the proper independence of the audit authority)	Y/N	
8	The audit strategy will cover the specific risks which may be related to the implementation of projects by the responsible authority	Y/N	

3.5. Selection and implementation of the projects (Responsible authority acting as an awarding body)			
Short description of the process <i>[This description should include the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	In the case of call for proposals (or tenders), rules are defined to ensure open competition and adequate publicity	Y/N	
2	Selection criteria will comply with the minimum criteria defined in the basic act	Y/N	
3	Procedures are defined for the receipt of proposals (or tenders)	Y/N	
4	Procedures are defined to ensure that the proposals (or tenders) are assessed against the predefined rules and criteria in a transparent and non-discriminatory manner	Y/N	
5	The award decisions and the contracts/grant agreements will be approved by a duly authorised person	Y/N	
6	Procedures are defined to ensure adequate ex-post information on the results of the selection process to the applicants	Y/N	
7	Procedures are defined to ensure the monitoring of the implementation of grant agreements/contracts according to the contractual terms	Y/N	

3.6. Monitoring of the projects implemented by the final beneficiaries			
Short description of the process <i>[This description should include the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	Key operational and financial indicators will be established, monitored and communicated to the responsible authority for each project	Y/N	
2	On-the-spot verifications by the responsible authority are foreseen to allow monitoring (of both the operational and financial aspects) of the projects	Y/N	
3	The responsible authority will ensure that final beneficiaries make use of an appropriate accounting system in computerised form	Y/N	
4	The responsible authority will ensure that final beneficiaries implement the provisions on the visibility of the EU funding	Y/N	

3.7. Financial management of the project			
Short description of the process <i>[involves the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	Financial transactions will be approved by duly authorised persons	Y/N	
2	Prior to making any payments/recoveries, verifications will be carried out in particular in order to monitor: <ul style="list-style-type: none"> — the accuracy and the regularity of the payment request, with regard to the eligibility rules for the Fund(s) — that products and/or services co-financed by the project have actually been delivered — the accuracy, completeness and effective payment of other contributions received from public or private resources — that the results of any audit activity have been taken into account 	Y/N	
3	Verifications will be carried out in order to have a reasonable assurance of the legality and regularity of the underlying transactions	Y/N	
4	Supervisory controls will be carried out throughout the programming period to ensure that the established financial procedures are respected	Y/N	
5	Verifications will be performed on the complementarity with other Community financial programmes in order to avoid double funding	Y/N	

3.8. Irregularities, corrections and recoveries			
Short description of the process <i>[This description should include the responsible authority, the delegated authority(ies) and the certifying authority]</i>			
	Key targets	Achieved?	Comments
1	Definitions of irregularities are established and comply with the Community requirements	Y/N	
2	Mechanisms are in place to ensure that irregularities can be detected in due time and immediate corrective measure are taken	Y/N	
3	Procedures are in place to ensure that the Commission is kept informed of irregularities detected, and if appropriate, of any corrective measures taken in accordance with the obligations set out in this decision	Y/N	
4	Procedures are in place to ensure a proper follow-up of recovery orders issued and, if applicable, of default interest	Y/N	
5	In case recovery orders cannot be cashed in, causes will be identified to evaluate whether Member States should reimburse the funds to the Community Budget or not	Y/N	

3.9. Preparation and implementation of audit missions			
Short description of the process <i>[This description should include the audit authority and, as potential auditees, the responsible authority and the delegated authority(ies) and, as recipient of the conclusions, the certifying authority]</i>			
	Key targets	Achieved?	Comments
1	The audit practice is in line with internationally accepted standards	Y/N	
2	An audit manual is established for use by the auditors on the basis of the requirements defined in the basic act	Y/N	
3	Audits will be carried out to verify the effective functioning of the management and control systems	Y/N	
4	The checks to be carried on the eligible expenditure will be based on an appropriate sample, and will consist of at least 10 % of eligible expenses	Y/N	
5	The verifications on eligible expenses will verify at least the compliance, effectiveness and efficiency of the following elements: selection procedure, objectives of the project, reality of the achievements, eligibility of the expenses, valid supporting documents for the expenses, national co-financing, audit trail	Y/N	
6	A follow-up of earlier recommendations will take place on a regular basis	Y/N	
7	The projects implemented by the responsible authority will be subject to robust scrutiny	Y/N	

3.10. Audit report on annual programmes and related declarations			
Short description of the process <i>[This description should involved the audit authority]</i>			
	Key targets	Achieved?	Comments
1	Procedures are established to consolidate the conclusions of the systems audit and the audit of projects for each annual programme	Y/N	
2	Checks will be performed to assess the validity of the requests for payment	Y/N	
3	Further examination will be launched in case of systemic errors or errors over the materiality threshold are detected	Y/N	
4	The report and the related declarations will be approved by a duly authorised person	Y/N	

3.11. Certification of expenditure			
Short description of the process <i>[involves primarily the certifying authority but also the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	Procedures are established to ensure that the necessary information is received from the responsible authority for the purpose of certification	Y/N	
2	Procedures are established to ensure that the audit report on each annual programme and the related declarations are received from the audit authority	Y/N	
3	Procedures are established to ensure that recoveries are taken into account for the final declaration of expenditure and to follow on-going legal proceedings or administrative appeals with suspensive effect regarding recoveries	Y/N	
4	Verifications will be performed to ensure the accuracy and completeness of the declaration of expenditure (in particular, on any interest generated by the pre-financing received from the Commission as well as its effective use as national contribution)	Y/N	
5	In case of local currency, the methods used for the calculation in Euro comply with the rules defined by the Commission	Y/N	

3.12. Evaluation of the programme			
Short description of the process <i>[involves the responsible authority and the delegated authority(ies)]</i>			
	Key targets	Achieved?	Comments
1	The guidance documents from the Commission on evaluations are disseminated widely and made available to all potential final beneficiaries and other interested parties	Y/N	
2	The key operational and financial indicators provided by the final beneficiaries to measure the achievements of the project will be recorded	Y/N	
3	The responsible authority (and/or delegated authorities) will ensure that the indicators provided are appropriate to measure the outcome and results of each project	Y/N	
4	Procedures are in place to ensure that the necessary evaluation will be carried out as required by the basic act	Y/N	

4. INFORMATION MANAGEMENT

4.1. Documentation on the procedures			
Short description of the process <i>[involves all authorities]</i>			
	Key targets	Achieved?	Comments
1	The authorities will ensure that the established procedures referred to in Article 7 of this decision comply with national and Community law (e.g. public procurement, accounting rules, etc.)	Y/N	
2	The procedures are approved by a duly authorised person	Y/N	
3	The established procedures set out clear instructions concerning each of the main operations and explain the decision-making circuits concerning the performance of functions	Y/N	
4	Arrangements are in place to ensure that all relevant staff is informed of the established procedures	Y/N	
5	Where appropriate, these procedures include the use of check-lists summarising the key controls to be performed	Y/N	
6	Arrangements are in place to ensure the protection of personal data	Y/N	

4.2. Accounting and book keeping			
Short description of the process <i>[involves the responsible authority, the delegated authority(ies) and the certifying authority]</i>			
	Key targets	Achieved?	Comments
1	Arrangements are in place to ensure that accounting data is complete, reliable and correct. In particular, the accounting system will allow: <ul style="list-style-type: none"> — a full traceability of the Community resources at the level of the final beneficiaries and projects — the identification of any interest generated by the pre-financing received from the Commission — the identification of recovery orders issued and if applicable, whether they have been cashed 	Y/N	
2	The accounting and financial reporting system complies with the national data protection legislation	Y/N	
3	The accounting and financial reporting system to be used will be in computerised form	Y/N	
4	A back-up system exists to guarantee the continuity of operations should the need arise	Y/N	
5	In case of local currency, the methods used for the calculation in Euro comply with the rules defined by the Commission	Y/N	

4.3. Reporting to the Commission			
Short description of the process <i>[involves all authorities]</i>			
	Key targets	Achieved?	Comments
1	Reporting obligations have been identified as well as the implications for resources	Y/N	
2	The established procedures allow proper, timely and complete input by the designated authorities	Y/N	
3	Reports are approved by a duly authorised person	Y/N	

4.4. Audit trail		
Short description of the process <i>[involves all authorities]</i>		
Where are the following documents kept?	Body/Unit in charge	How long for?
Description of the management and control systems including manual(s) of procedures		
Audit strategy		
National multiannual programme and possible revisions		
National annual programmes and possible revisions		
European Commission Decisions on multiannual and annual programmes		
Calls for proposals/Calls for tender		
Applicant files/Contract files		
Administrative, technical and financial analysis of proposals/tenders received (evaluation grids) and evaluation committee reports		
Funding decisions or rejections		
Project funding agreements		
Financial commitment decisions for each of the projects		
Progress reports and final reports submitted by funding recipients		
Financial reports and payment applications submitted by funded Project		
Supporting documents for expenditure and revenue for funded Project		
Payments/recovery authorisations for funding (proof of verifications performed)		
Payments/recovery orders for funding		
Proof of payments/recovery of funding		
Documentation related to the sampling methodology for the audit activity		
Reports on audits carried out on projects		
Reports on audits carried out at national level on management and control systems		
Audit reports on annual programmes		
Audit opinions on the management and control systems		
Audit declarations on the validity of the requests for payment		
Requests for payment sent to the European Commission		
Certification of expenditure sent to the European Commission		
Progress implementation reports sent to the European Commission		
Final implementation reports sent to the European Commission		
Proof of payment received from the European Commission		
Evaluation reports sent to the European Commission		

5. APPROVAL OF THE DESCRIPTION OF THE MANAGEMENT AND CONTROL SYSTEMS

Authorit	Declaration	Date and signature
Responsible authority	I certify the accuracy and completeness of the information about the identification and internal control systems of the responsible authority	Name: Function: Date: <i>signature</i>
Certifying authority	I certify the accuracy and completeness of the information about the identification and internal control systems of the certifying authority	Name: Function: Date: <i>signature</i>
Audit authority	I certify the accuracy and completeness of the information about the identification and internal control systems of the audit authority and I can confirm that what has been described provides a reliable picture of all the management and control systems	Name: Function: Date: <i>signature</i>

ANNEX II

MODEL MULTIANNUAL PROGRAMME

- Initial version
- Revised version (number, date dd/mm/year) following dialogue with the Commission
- Version revised in the light of evaluations and/or following implementation difficulties
- Version revised following the revision of the strategic guidelines

MEMBER STATE:

FUND:

RESPONSIBLE AUTHORITY:

PERIOD COVERED:

1. SITUATION IN THE MEMBER STATE

A description of the baseline situation in the Member State in the policy field covered by the Fund's objectives

- 1.1. The national situation and the migratory flows affecting it
- 1.2. The measures undertaken by the Member State so far
- 1.3. The total national resources allocated

2. ANALYSIS OF REQUIREMENTS IN THE MEMBER STATE

- 2.1. The requirements in the Member State in relation to the baseline situation
- 2.2. The operational objectives of the Member State designed to meet its requirements

3. STRATEGY TO ACHIEVE THE OBJECTIVES

A description of how the Fund contributes to meeting the requirements, which priorities have been chosen and why

- 3.1. Priority 1
- 3.2. Priority 2
- 3.3. Etc.

Breakdown when presenting the information on the priorities chosen

- (a) The objective(s) of the strategy and examples of key actions
- (b) Description of target(s) concerned and the indicator(s) used
- (c) If appropriate, an indication of which key actions are considered as implementing specific priorities under the chosen priority

4. COMPATIBILITY WITH OTHER INSTRUMENTS

An indication of how this strategy is compatible with other regional, national and Community instruments

- 4.1. Priority 1
- 4.2. Priority 2
- 4.3. Etc.

5. FRAMEWORK FOR IMPLEMENTATION OF THE STRATEGY
- 5.1. The publication of the programme
- 5.2. The approach chosen to implement the principle of partnership
6. INDICATIVE FINANCING PLAN
- 6.1 Community Contribution
- 6.1.1. Table

Multiannual programme — draft financial plan								
Table 1								
Community contribution								
Member State: [...]								
Fund: [...]								
<i>(in EUR 1 000 — current prices)</i>	2007	2008	2009	2010	2011	2012	2013	TOTAL
Priority 1: [...]								0
Priority 2: [...]								0
Priority 3: [...]								0
Priority ...: [...]								0
a								0
Total	0	0	0	0	0	0	0	0

- 6.1.2. Comments on the figures/trends
- 6.2 Overall financing plan
- 6.2.1. Table

Multiannual programme — Draft financial plan								
Table 2								
Overall financing plan								
Member State: [...]								
Fund: [...]								
<i>(in EUR 1 000 — current prices)</i>	2007	2008	2009	2010	2011	2012	2013	TOTAL
Community contribution								
Public cofinancing								
Private cofinancing								
Total	0	0	0	0	0	0	0	0
% Community contribution	%	%	%	%	%	%	%	%

- 6.2.2. Comments on the figures/trends
- [signature of the responsible person]*

ANNEX III

MODEL ANNUAL PROGRAMME

- Initial version
- Revised version (number, date dd/mm/year) following dialogue with the Commission
- Version revised for other reasons

MEMBER STATE:
 FUND:
 RESPONSIBLE AUTHORITY:
 YEAR COVERED:

1. GENERAL RULES FOR SELECTION OF PROJECTS TO BE FINANCED UNDER THE PROGRAMME
2. CHANGES IN THE MANAGEMENT AND CONTROL SYSTEMS (if appropriate)
3. ACTIONS TO BE SUPPORTED BY THE PROGRAMME UNDER THE PRIORITIES CHOSEN
 - 3.1. Actions implementing priority 1
 - 3.2. Actions implementing priority 2
 - 3.3. Etc.

When presenting the actions under points 3.1. to etc, where relevant, provide a breakdown according to the description of categories of actions in the basic act

Aspects of the action presented when describing each action under points 3.1 to etc

1. Purpose and scope of the action
2. Expected grant recipients
3. Where appropriate, justification regarding project(s) implemented directly by the responsible authority acting as an executing body
4. Expected quantified results and indicators to be used
5. Visibility of EC funding
6. Complementarity with similar actions financed by other EC instruments, if appropriate
7. Financial information

4. TECHNICAL ASSISTANCE
 - 4.1 Purpose of the technical assistance
 - 4.2 Expected quantified results
 - 4.3 Visibility of EC funding

5. DRAFT FINANCING PLAN

Annual programme — draft financial plan								
Table 1								
Overview table								
Member State: [...]								
Annual programme concerned: [...]								
Fund: [...]								
<i>(all figures in EUR)</i>	Ref. priority	Ref. specific priority ⁽¹⁾	Communi- ty Con- tribution (a)	Public Allocation (b)	Private Allocation (c)	Total (d = a + b + c)	% EC (e = a/d)	Share of total (d/total d)
Action 1: [...]						0		
Action 2: [...]						0		
Action 3: [...]						0		
Action 4: [...]						0		
Action 5: [...]						0		
Action ...: [...]						0		
Action N: [...]						0		
Technical assistance						0		
Other operations ⁽²⁾						0		
Total			0	0	0	0	%	100 %
⁽¹⁾ If applicable. ⁽²⁾ If applicable.								

[signature of the responsible person]

ANNEX IV

MODEL PROGRESS REPORT ON IMPLEMENTATION OF THE ANNUAL PROGRAMME

MEMBER STATE:

FUND:

RESPONSIBLE AUTHORITY:

YEAR COVERED:

A. Technical report

1. OPERATIONAL IMPLEMENTATION
 - 1.1. Time table for the implementation of the programme
 - 1.2. Description of the organisation of the selection of projects and tenders and their outcomes
 - 1.3. Progress made in implementing the actions of the programme under the priorities chosen
 - 1.3.1 Actions implementing Priority 1
 - 1.3.2 Actions implementing Priority 2
 - Etc.
 - 1.4. Use of technical assistance
 - 1.5. Problems encountered and measures taken

Progress report on the implementation of the annual programme

**Table 1
Financial report**

Member State: [...]
 Annual programme concerned: [...]
 Situation at: [day/month/year]
 Pre-financing payment(s) received from EC: [amount]

(all figures in EUR)	Ref. priority	Ref. specific priority ⁽¹⁾	Programmed MS			Committed at the level of the MS			EC contribution paid by MS to final beneficiaries	Total eligible costs incurred to date by final beneficiaries
			Total programmed costs (a)	EC contribution (b)	% EC contribution (c = b/a)	Total eligible costs (d)	EC contribution (e)	% EC contribution (f = e/d)		
Action 1: [...]										
Action 2: [...]										
Action 3: [...]										
Action 4: [...]										
Action 5: [...]										
Action N: [...]										
Technical assistance										
Other operations ⁽¹⁾										
TOTAL			0	0	0	0	0	0	0	0

⁽¹⁾ If applicable.
⁽²⁾ If applicable.

↓	↓
> 60 % of pre-financing payment(s) received?	
Yes/No	Yes/No

3. REPORTING ON IRREGULARITIES

Notification of new irregularities ⁽¹⁾?

No

Yes (if Yes, fill in table 2)

Progress report on the implementation of the annual programme								
Table 2								
Initial reporting on irregularity								
Member State: [...]								
Situation at: [day/month/year]								
Fund: [...]								
Reference	Annual programme	Project	Provision infringed	Type of irregularity	Date/source of first information	Method of detection	Possibility of fraud (Y/N)	Amount concerned in EUR (Community contribution)

Follow-up of previous irregularities?

No

Yes (if Yes, fill in table 3)

Progress report on the implementation of the annual programme										
Table 3										
Reporting of follow-up of irregularities										
Member State: [...]										
Situation at: [day/month/year]										
Fund: [...]										
Reference	Annual Programme	Project	Provision infringed	Amount concerned (EC contribution) in EUR	Follow-up actions	Recovery order (amounts in EUR)				Cancellation of EC contribution
						Issued	Paid	Default interest	Waived	

B. Request for the second pre-financing payment

I, the undersigned [name in capitals of the person in charge],

representing the responsible authority for managing and implementing the [name of the Fund] request payment of the following amount as the second pre-financing payment.

Euro ⁽²⁾	
---------------------	--

[exact figure to two decimal places]

⁽¹⁾ Since the last progress/final report sent to the Commission.⁽²⁾ Total amount requested to complement the first pre-financing.

This request for payment is admissible because:

- (a) a progress report on implementation of the annual programme has been submitted to the Commission or is attached;
- (b) a certified declaration of expenditure drawn up accounting for at least 60 % of the amount of the first pre-financing has been submitted or is attached;
- (c) the annual programme has been implemented according to the principle of sound financial management and there is a reasonable assurance that the underlying transactions are legal and regular;
- (d) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty, as regards the actions for which the expenditure is declared in the request.

Payment should be made by the Commission to:

Authority responsible for receiving payments	
Bank	
Bank account No	
Account holder (if not the same as the authority responsible for receiving payments)	

Date

Name in capital letters, stamp, position and
signature of competent authority

ANNEX V

MODEL FINAL REPORT ON IMPLEMENTATION OF THE ANNUAL PROGRAMME

MEMBER STATE:
 FUND:
 RESPONSIBLE AUTHORITY:
 YEAR COVERED:

A. Technical report

1. OPERATIONAL IMPLEMENTATION
 - 1.1. Time table on the implementation of the programme
 - 1.2. Update from the progress report on the description of the organisation of the selection of projects and tenders and their outcomes, if appropriate
 - 1.3. The achievements in implementing the actions of the programme under the priorities chosen
 - 1.3.1. Actions implementing priority 1
 - 1.3.2. Actions implementing priority 2
 - 1.3.3. Etc.

Aspects of the action presented when describing each action under point 1.3 to etc.

1. Purpose and scope of the action
2. Changes from the programme as approved by the Commission (if appropriate)
3. Monitoring activities undertaken during and after the implementation
4. Actual results
5. Assessment of the actual results in comparison to the targets and indicators set in the programme

- 1.4. The results of the technical assistance
- 1.5. Problems encountered and measures taken on the implementation of the programme
- 1.6. Procedures applied when the responsible authority implemented project(s) directly acting as an executing body (if appropriate)
- 1.7. Coherence and complementarity with other instruments
2. ASSESSMENT OF THE PROGRESS MADE IN IMPLEMENTING THE MULTIANNUAL PROGRAMME
3. MEASURES TAKEN TO PROVIDE INFORMATION ON THE PROGRAMME
 - 3.1. Measures taken to make the multiannual ⁽¹⁾ and annual programme public
 - 3.2. Implementation of the visibility principle

⁽¹⁾ Applicable only for the final report on implementation of the first annual programme.

Final report on the implementation of the annual programme

Table 1
Detailed financial report

Member State: [...]

Annual programme concerned: [...]

Priority/other actions: [...]

Situation at: [day/month/year]

<i>(all figures in EUR)</i>				Programmed by MS			Committed at the level of the MS			Actual figures accepted by the responsible authority (costs incurred by the beneficiaries and final EC contribution)				
Actions	Projects	Ref. priority	Ref. specific priority ⁽¹⁾	Total programmed costs (a)	EC contribution (b)	% EC contribution (c = b/a)	Total eligible costs (d)	EC contribution (e)	%EC contribution (f = e/d)	Total eligible costs (g)	EC contribution due (h)	% EC contribution (i = h/g)	EC contribution paid (j)	EC still to pay/to recover by the RA (k = h - j)
Action 1: [...]	project 1: [...]													
	project N: [...]													
Total Action 1														
Action ...: [...]	project 1: [...]													
	project N: [...]													
Total Action...: [...]														
Action N: [...]	project 1: [...]													
	project N: [...]													
Total Action N														
Technical assistance														
Other operations ⁽²⁾														
Total				0	0	0 %	0	0	0 %	0	0	0 %	0	0

⁽¹⁾ If applicable.⁽²⁾ If applicable.

- 4.1. List of all pending recoveries at 30 June of the year N + 2 (N = year of this annual programme)

Final report on the implementation of the annual programme						
Table 2						
List of pending recovery orders						
Member State: [...]						
Fund: [...]						
Situation at: [day/month/year]						
Reference	Annual Programme	Project	Total amount to be recovered	EC contribution to be recovered	Deducted from the related financial report (Y/N)	Reasons for recovery

- 4.2. List of recovery orders **not** included in the financial reports of the previous annual programmes (if appropriate)

Final report on the implementation of the annual programme						
Table 3						
List of recovery orders not already deducted from previous declarations of expenditure						
Member State: [...]						
Fund: [...]						
Situation at: [day/month/year]						
Reference	Annual programme	Project	Total amount recovered	EC contribution recovered	Date of recovery	Reasons for recovery

5. REPORTING ON IRREGULARITIES

Notification of new irregularities ⁽¹⁾?

No

Yes (if Yes, fill in table 4)

Final report on the implementation of the annual programme								
Table 4								
Initial reporting on irregularity								
Member State: [...]								
Situation at: [day/month/year]								
Fund: [...]								
Reference	Annual programme	Project	Provision infringed	Type of irregularity	Date/Source of first information	Method of detection	Possibility of fraud (Y/N)	Amount concerned in EUR (Community contribution)

Follow-up of previous irregularities?

No

Yes (if Yes, fill in table 5)

Final report on the implementation of the annual programme										
Table 5										
Reporting of follow-up of irregularities										
Member State: [...]										
Situation at: [day/month/year]										
Fund: [...]										
Reference	Annual programme	Project	Provision infringed	Amount concerned (EC contribution) in EUR	Follow-up actions	Recovery order (amounts in EUR)				Cancellation of EC contribution
						Issued	Paid	Default interest	Waived	

⁽¹⁾ Since the last progress/final report sent to the Commission.

6. ANNEXES

Summary description of individual projects (one page per project) presenting objectives, achievements, relevant indicators, financial table.

Final report on the implementation of the annual programme					
Table 6					
Report per project					
Project reference and title: [...]		Priority: [...]			
Final beneficiary: [...]		Specific priority: [...]			
Situation at: [day/month/year]		Action: [...]			
TECHNICAL SUMMARY					
Objectives/achievements:					
Relevant indicators:					
Justification (in case of a specific priority):					
FINANCIAL SUMMARY					
<i>(all figures in EUR)</i>					
	Committed by the responsible authority	Requested by the final beneficiary	Accepted by the responsible authority	EC Contribution paid by the responsible authority	
a: Direct Costs				First pre-financing payment	
b: Indirect Costs				Second pre-financing payment	
c: Costs covered by assigned income (if applicable)				Final payment	
a + b + c: Total Eligible Costs	0	0	0	Recovery order	
d: EC contribution					
e: Contribution from final beneficiary and partners (public bodies)					
of which assigned income					
f: Contribution from final beneficiary and partners (non public bodies)					
g: Contribution from third parties					
h: Receipts generated by the project				EC contribution due	
d + e + f + g + h: Total Income	0	0	0	EC contribution still to pay/to recover	
% EC Contribution/Total costs (d/(a + b + c))	%	%	%		

B. Request for payment of the balance/Statement of reimbursement

I, the undersigned [name in capitals of the person in charge],

representing the responsible authority for the [name of the Fund]

— request payment of the following amount:

EUR ⁽¹⁾	+
--------------------	---

[exact figure to two decimal places]

OR

— declare for reimbursement the following amount:

EUR ⁽²⁾	—
--------------------	---

[exact figure to two decimal places]

This amount results from the balance between the total amount of pre-financing payment(s) received for this annual programme and the actual expenditure declared.

This request for payment is admissible because:

- (a) a final report on implementation of the annual programme has been submitted to the Commission or is attached;
- (b) a certified declaration of expenditure has been submitted or is attached;
- (c) an annual audit report, an opinion on the functioning of the management and control system and a declaration on the validity of the payment request prepared by the audit authority have been submitted or are attached;
- (d) any interest generated by the pre-financing payments has been posted to the annual programme, being regarded as national contribution and has been taken into account in the declaration of expenditure;
- (e) the annual programme has been implemented according to the principle of sound financial management and there is a reasonable assurance that the underlying transactions are legal and regular;
- (f) there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty, as regards the actions for which the expenditure is declared in the request.

Payment should be made by the Commission to:

Authority responsible for receiving payments	
Bank	
Bank account No	
Account holder (if not the same as the authority responsible for receiving payments)	

Date

Name in capital letters, stamp, position and signature of competent authority

⁽¹⁾ Total amount requested to complement the pre-financing payment(s).

⁽²⁾ Total amount to be reimbursed after the clearing of the pre-financing payment(s).

ANNEX VI

MODEL AUDIT STRATEGY

MEMBER STATE:

FUND(S):

RESPONSIBLE AUTHORITY:

1. THE AUDIT UNIVERSE
 - 1.1. Scope of the strategy (Funds covered)
 - 1.2. Period covered by the strategy
 - 1.3. Audit standards applied

2. RISK ASSESSMENT
 - 2.1. Risk identification and assessment
 - 2.2. Risk response and residual risk

3. OBJECTIVES AND PRIORITIES
 - 3.1. Objectives of the audits
 - 3.2. Priorities for the audits

4. AUDIT APPROACH
 - 4.1. System audits
 - 4.1.1. The responsible body/-ies for the audit work
 - 4.1.2. The authorities to be audited
 - 4.1.3. Horizontal issues to be covered by the system audits
 - 4.1.4. Indicative multiannual plan for system audits (if possible)
 - 4.2. Audits of projects
 - 4.2.1. The responsible body/ies for the audit work
 - 4.2.2. Description of the sampling methodology

5. AUDIT PLANS COVERING CALENDAR YEARS 2007 AND 2008

5.1. Year 2007 ⁽¹⁾

Year 2007								
System audits								
Funds	Authorities concerned	Processes concerned	Scope of the audit			Man-days	Planning	
Audits of projects								
Funds	Programme Year	Priority	Project	Final beneficiary	Total eligible costs of the project	Costs to be audited	Man-days	Planning

5.2. Year 2008

Insert data using the model table defined for year 2007

Annex(es) to the audit strategy ⁽²⁾: Annual plans

MEMBER STATE:
FUND:
RESPONSIBLE AUTHORITY:
CALENDAR YEAR COVERED:

1. CHANGES TO THE AUDIT STRATEGY, WHERE APPLICABLE
2. MAIN RESULTS OF AUDITS OF THE PREVIOUS YEAR
3. AUDIT PLAN YEAR 20XX

Insert data using the model table defined for year 2007

⁽¹⁾ If applicable.

⁽²⁾ To be submitted after the audit strategy, in accordance with Article 25(2).

ANNEX VII

MODEL REPORT BY THE AUDIT AUTHORITY

MEMBER STATE:
FUND:
RESPONSIBLE AUTHORITY:
ANNUAL PROGRAMME COVERED BY THE REPORT:

A. Annual audit report

1. GENERAL INFORMATION

- 1.1. The bodies that have been involved in preparing the report
- 1.2. Identification and justification of major changes in the implementation of the audit plans related to the annual programme concerned
- 1.3. Summary table of the results of the audits

Audit report						
Member State: [...]						
Annual programme concerned: [...]						
Situation at: [day/month/year]						
SYSTEM AUDITS CLOSED SINCE LAST REPORT						
Fund(s)	Authorities concerned	Processes concerned	Scope of the audit	Man-days spent	Date of final report	
AUDITS OF PROJECTS LINKED TO ANNUAL PROGRAMME 20xx						
Fund(s)	Project	Final beneficiary	Total eligible costs (a)	Eligible costs audited (b)	Financial correction (c)	Error rate (d = c/b)
Total			0	0	0	%
Total annual programme			(e)	(f)	Coverage rate: (= f/e)	

2. SYSTEMS AUDITS

- 2.1. The bodies that carried out audits
- 2.2. A summary list of the audits carried out
- 2.3. The principal findings, recommendations and the conclusions drawn from the audit work for the management and control systems
- 2.4. Financial impact of the audit findings
- 2.5. Additional work, where appropriate
- 2.6. Indication whether any problems identified were considered to be systemic in nature and the measures taken, including a quantification of any financial corrections
- 2.7. Information on the follow-up of the audit recommendations

3. AUDITS ON PROJECTS

- 3.1. The bodies that carried out the audits
- 3.2. A summary list of audits carried out and the percentage of expenditure checked in relation to total eligible expenditure declared to the Commission
- 3.3. The principal findings, recommendations and conclusions of the audits with regard to the projects implemented
- 3.4. The conclusions drawn from the results of the audits with regard to the effectiveness of the management and control system
- 3.5. Financial impact of the audit findings
- 3.6. Additional work, where appropriate
- 3.7. Information on the follow-up of audit recommendations
- 3.8. Indication whether any problems identified were considered to be systemic in nature and the measures taken, including a quantification of any financial corrections

4. FOLLOW UP OF AUDIT ACTIVITY COVERED BY PREVIOUS REPORTS, IF APPROPRIATE

- 4.1. Information on the follow-up to previous system audit recommendations
- 4.2. Information on results of audits of actions of a systemic nature from previous annual programmes

[signature of the responsible person]

B. Opinion on the functioning of the management and control systems

To the European Commission

1. INTRODUCTION

I, the undersigned, representing the [name of audit authority designated by Member State], have examined the functioning of the management and control systems in the [name of the Fund] regarding the actions implemented under the annual programme for the year [20XX], in order to issue an opinion on whether the systems functioned effectively so as to provide reasonable assurance that declarations of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular.

2. SCOPE OF THE EXAMINATION

The examination was carried out in accordance with the audit strategy in respect of this Fund during the period [dd/mm/year] to [dd/mm/year] and reported in the annual audit report under section A.

Either

There were no limitations on the scope of the examination.

or

The scope of the examination was limited by the following factors:

- (a) [...]
- (b) [...]
- (c) etc.

(Indicate any limitation on the scope of the examination, for example any systemic problems, weaknesses in the management and control system, lack of supporting documentation, cases under legal proceedings, etc., and estimate the amounts of expenditure and the Community contribution affected. If the audit authority does not consider that the limitations have an impact on the expenditure declared, this should be stated.)

3. OPINION

Either (unqualified opinion)

Based on the examination referred to above, it is my opinion that, for the abovementioned annual programme, the management and control systems established for the [name of the Fund] complied with the applicable requirements of the basic act No 574/2007/EC [and Commission Decision (EC) No [2008/456/EC] and functioned effectively so as to provide reasonable assurance that declarations of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular.

Or (qualified opinion)

Based on the examination referred to above, it is my opinion that, for the abovementioned annual programme, the management and control systems established for the [name of the Fund] complied with the applicable requirements of the basic act No 574/2007/EC [and Commission Decision (EC) No 2008/456/EC] and functioned effectively so as to provide reasonable assurance that declarations of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular, except in the following respects:

- (a) [...]
- (b) [...]
- (c) etc.

My reasons for considering that this (these) aspect(s) of the systems did not comply with the requirements and/or did not operate in such a way as to give a reasonable assurance on the correctness of the declarations of expenditure presented to the Commission are as follows:

- (a) [...]
- (b) [...]
- (c) etc.

I estimate the impact of the qualification(s) to be [...] % of the total expenditure declared. The Community contribution affected is thus [...]

Or (*adverse opinion*)

Based on the examination referred to above, it is my opinion that, for the abovementioned annual programme, the management and control system established for the [name of the Fund] did not comply with the requirements of Articles [...] of the basic act No 574/2007/EC [and Commission Decision (EC) No 2008/456/EC] and did not function effectively so as to provide reasonable assurance that declarations of expenditure presented to the Commission are correct and, as a consequence, does not provide reasonable assurance that the underlying transactions are legal and regular.

This adverse opinion is based on:

- (a) [...]
- (b) [...]
- (c) etc.

Date

Signature

[signature of the responsible person]

C. Validation of the payment request

To the European Commission

1. INTRODUCTION

I, the undersigned, representing the (name of the audit authority designated by Member State), have, for the annual programme [20xx] of the [name of the Fund], examined the results of the audit work carried out on this annual programme [and have carried out the additional work I judged necessary as set out in the report].

I have planned and performed this work with a view to assessing whether the request for payment of the balance of the Community contribution to the annual programme [20xx] is valid and the underlying transactions covered by the declarations of expenditure regarding this annual programme are legal and regular.

2. SCOPE OF THE EXAMINATION

Either

There were no limitations on the scope of the examination.

or

The scope of the examination was limited by the following factors:

- (a) [...]
- (b) [...]
- (c) etc.

3. OPINION

Either (unqualified opinion)

Based on the examination referred to above, it is my opinion that the declarations of expenditure present fairly, in all material respects, the expenditure paid under the annual programme and that the request for payment of the balance of the Community contribution to this annual programme is valid.

Or (*qualified opinion*)

Based on the examination referred to above, it is my opinion that the declarations of expenditure present fairly, in all material respects, the expenditure paid under the annual programme and that the request for payment of the balance of the Community contribution to this annual programme is valid, except with regard to the following points:

- (a) [...]
- (b) [...]
- (c) etc.

I estimate the impact of these qualifications to be ... of the total expenditure declared. The Community contribution affected is thus....

Or (*adverse opinion*)

Based on the examination referred to above, it is my opinion that the declarations of expenditure do not present fairly, in all material respects, the expenditure paid under the annual programme and that, as a consequence, the request for payment of the balance of the Community contribution to this annual programme is not valid.

Date

Signature

[signature of the responsible person]

ANNEX VIII

MODEL DECLARATION OF EXPENDITURE FOR THE SECOND PRE-FINANCING

MEMBER STATE:

FUND:

CERTIFYING AUTHORITY:

ANNUAL PROGRAMME COVERED BY THE CERTIFICATION:

I, the undersigned, [name of the person in charge]

representing the certifying authority designated for the [name of the Fund]

hereby certify that all expenditure included in the progress report on the implementation of the annual programme amounts to:

EUR ⁽¹⁾	
--------------------	--

[exact figure to two decimal places]

I also certify that actions are progressing in pursuance with the objectives laid down in the Commission Decision adopting the annual programme and in accordance with the basic act and its implementing rules, and in particular, that:

1. the declaration of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;
2. the expenditure declared complies with the applicable Community and national rules and has been incurred in respect of actions selected for funding in accordance with the criteria applicable to the annual programme and the applicable Community and national rules, in particular with public procurement rules;
3. for the purpose of certification, I have received adequate information from the Responsible Authority on the procedures and verifications carried out in relation to expenditure included in statements of expenditure;
4. the declaration of expenditure and the request for the second pre-financing payment take account, where applicable, of any amounts recovered and of any interest received under the annual programme.

This declaration of expenditure is based on accounts provisionally closed on [dd/mm/20yy].

In accordance with Article 45 of the basic act, the supporting documents are and will continue to be available for at least five years following the closure of the annual programme by the Commission.

Date

Name in capital letters, stamp, position and signature of certifying authority

⁽¹⁾ Total amount of eligible expenditure paid by final beneficiaries or used for the technical assistance.

ANNEX IX

MODEL DECLARATION OF EXPENDITURE FOR PAYMENT OF THE BALANCE

MEMBER STATE: FUND: CERTIFYING AUTHORITY: ANNUAL PROGRAMME COVERED BY THE CERTIFICATION:

I, the undersigned, [name of the person in charge]

representing the certifying authority designated for the [name of the Fund]

hereby certify that all expenditure included in the final report on the implementation of the annual programme amounts to:

EUR ⁽¹⁾	
--------------------	--

[exact figure to two decimal places]

I also certify that actions are progressing in pursuance with the objectives laid down in the Commission Decision adopting the annual programme and in accordance with the basic act, and in particular that:

1. the declaration of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;
2. the expenditure declared complies with the applicable Community and national rules and has been incurred in respect of actions selected for funding in accordance with the criteria applicable to the annual programme and the applicable Community and national rules, in particular with public procurement rules;
3. I have a reasonable assurance that the underlying transactions are legal and regular;
4. for the purpose of certification, I have received adequate information from the Responsible Authority on the procedures and verifications carried out in relation to expenditure included in statements of expenditure;
5. the results of all audits carried out by or under the responsibility of the audit authority have been duly taken into account;
6. the declaration of expenditure and the request for the balance payment take account, where applicable, of any amounts recovered and of any interest received under the annual programme.

This declaration of expenditure is based on accounts closed on [dd/mm/20yy].

In accordance with Article 45 of the basic act, the supporting documents are and will continue to be available for at least five years following the closure of the annual programme by the Commission.

Date

Name in capital letters, stamp, position and
signature of certifying authority

⁽¹⁾ Total amount of eligible expenditure paid by final beneficiaries or used for the technical assistance.

ANNEX X

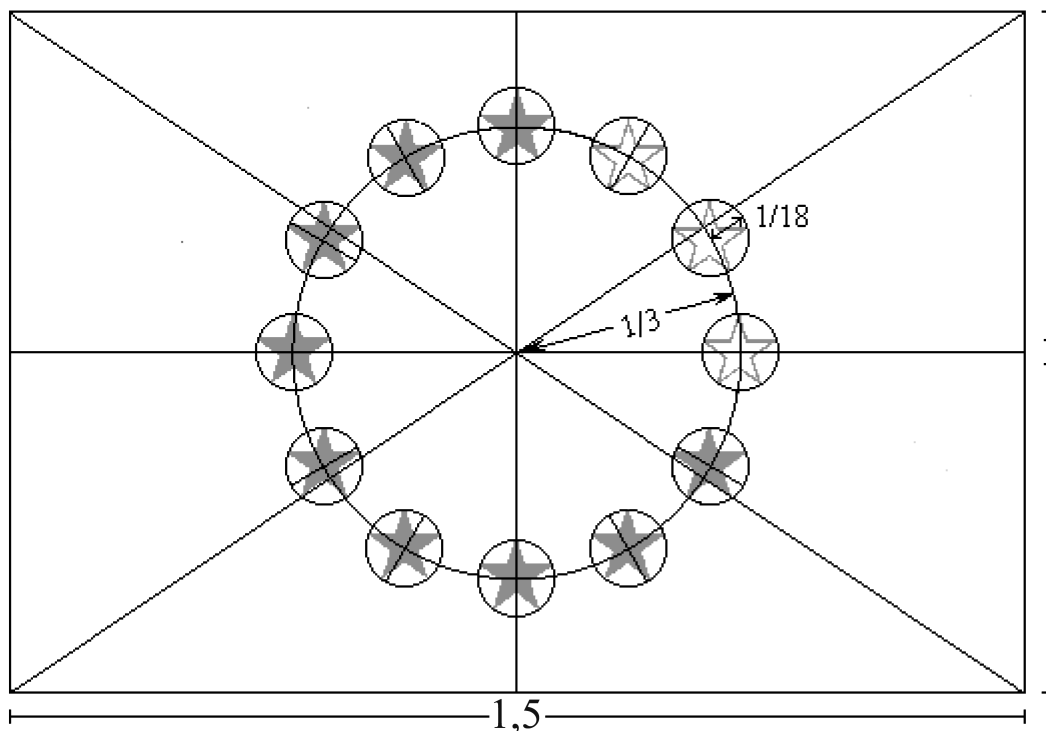
INSTRUCTIONS CONCERNING THE EMBLEM AND DEFINITION OF THE STANDARD COLOURS

Symbolic description

Against a background of blue sky, 12 golden stars form a circle representing the union of the peoples of Europe. The number of stars is fixed, twelve being the symbol of perfection and unity.

Heraldic description

On an azure field a circle of 12 golden mullets, their points not touching.

Geometric description

The emblem has the form of a blue rectangular flag of which the fly is one and a half times the length of the hoist. 12 gold stars situated at equal intervals form an invisible circle whose centre is the point of intersection of the diagonals of the rectangle. The radius of the circle is equal to one third of the height of the hoist. Each of the stars has five points which are situated on the circumference of an invisible circle whose radius is equal to one eighteenth of the height of the hoist. All the stars are upright, i.e. with one point vertical and two points in a straight line at right angles to the mast. The circle is arranged so that the stars appear in the position of the hours on the face of a clock. Their number is invariable.

Regulation colours

The emblem is in the following colours: PANTONE REFLEX BLUE for the surface of the rectangle; PANTONE YELLOW for the stars.

Four-colour process

If the four-colour process is used, recreate the two standard colours by using the four colours of the four-colour process.

PANTONE YELLOW is obtained by using 100 % 'Process Yellow'.

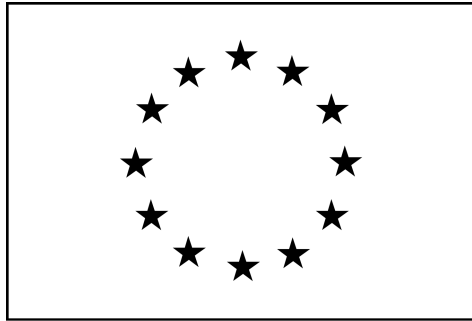
PANTONE REFLEX BLUE is obtained by mixing 100 % 'Process Cyan' and 80 % 'Process Magenta'.

Internet

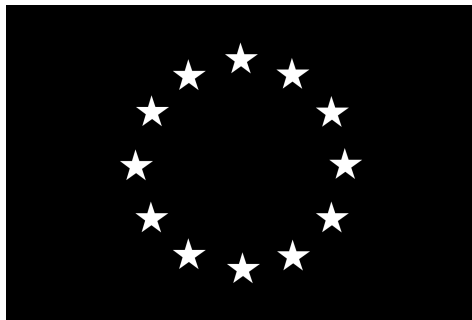
In the web-palette PANTONE REFLEX BLUE corresponds to colour RGB:0/0/153 (hexadecimal: 000099) and PANTONE YELLOW to colour RGB:255/204/0 (hexadecimal: FFCC00).

Monochrome reproduction process

Using black, outline the rectangle in black and print the stars in black on white.



Using blue (Reflex Blue), use 100 % with the stars reproduced in negative white.

**Reproduction on a coloured background**

If there is no alternative to a coloured background, put a white border around the rectangle, the width of the border being 1/25th of the height of the rectangle.



ANNEX XI

RULES ON THE ELIGIBILITY OF EXPENDITURE — EXTERNAL BORDERS FUND

I. General principles

I.1. Basic principles

1. In accordance with the basic act, for it to be eligible, expenditure must be:
 - (a) within the scope of the Fund and within its objectives, as described in Articles 1 and 3 of the basic act;
 - (b) within the eligible actions listed in Articles 4 and 6 of the basic act;
 - (c) needed to carry out the activities covered by the project, forming part of the multiannual and annual programmes, as approved by the Commission;
 - (d) reasonable and comply with the principles of sound financial management, in particular, value for money and cost-effectiveness;
 - (e) incurred by the final beneficiary and/or the partners in the project, who shall be established and registered in a Member State, except in the case of international governmental organisations that pursue the same objectives laid down in the basic act. With regard to Article 39 of this Decision, the rules applicable to the final beneficiary shall apply *mutatis mutandis* to the partners in the project;
 - (f) incurred in accordance with the specific provisions in the grant agreement.
2. In the case of multiannual actions within the meaning of Article 16(6) of the basic act, only the part of the action co-financed by an annual programme is considered to be a project for the application of these eligibility rules.
3. Projects supported by the Fund shall not be financed by other sources covered by the Community budget. Projects supported by the Fund shall be co-financed by public or private sources.

I.2. Budget of a project

The budget of a project shall be presented as follows:

Expenditure	Income
+ Direct costs (DC)	+ contribution from the EC (<i>defined as the lowest of the three amounts indicated in Article 12 of this Decision</i>)
+ Indirect costs (<i>fixed percentage of DC, defined in the grant agreement</i>)	+ contribution from the final beneficiary and the partners in the project ⁽¹⁾
+ Costs covered by assigned income (if applicable)	+ contribution from third parties
	+ receipts generated by the project
= Total eligible cost (TEC)	= Total income

The budget shall be balanced: total eligible cost shall be equal to total income.

I.3. Income and non-profit principle

1. Projects supported by the Fund must be of a non-profit-making nature. If, at the end of the project, the sources of income, including receipts, exceed expenditure, the contribution to the project from the Fund shall be reduced accordingly. All sources of income for the project must be recorded in the final beneficiary's accounts or tax documents, and must be identifiable and controllable.

⁽¹⁾ Including assigned income as described in point IV.

2. Project income shall come from all financial contributions granted to the project by the Fund, from public or private sources, including the final beneficiary's own contribution, and from any receipts generated by the project. 'Receipts' for the purpose of this rule covers revenue received by a project during the eligibility period as described in point I.4, from sales, rentals, services, enrolment/fees or other equivalent income.
3. The Community contribution resulting from the application of the principle of non-profit, as referred to under Article 12(c) of this Decision, will be the 'total eligible cost' minus the 'contribution from third parties' and 'receipts generated by the project'.

I.4. *Eligibility period*

1. Costs relating to a project must be incurred and the respective payments (except for depreciation) made after 1 January of the year referred to in the financing decision approving the annual programmes of the Member States. The eligibility period is until 31 December of the year N ⁽¹⁾ +1, meaning that the costs relating to a project must be incurred before this date.
2. An exception to the abovementioned eligibility period is made for:
 - (a) projects supported under the 2007 annual programme, in accordance with Article 37(3) of the basic act;
 - (b) technical assistance for Member States (refer to point V(3)).

I.5. *Record of expenditure*

1. Expenditure shall correspond to payments made by the final beneficiary. These must be in the form of financial (cash) transactions, with the exception of depreciation.
2. As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value.
3. Expenditure must be identifiable and verifiable. In particular,
 - (a) it must be recorded in the accounting records of the final beneficiary;
 - (b) it must be determined in accordance with the applicable accounting standards of the country where the final beneficiary is established and with the usual cost accounting practices of the final beneficiary; and
 - (c) it must be declared in accordance with the requirements of applicable tax and social legislation.
4. Where applicable, the final beneficiaries are obliged to keep certified copies of the accounting documents justifying income and expenditure incurred by the partners in relation to the project concerned.
5. The storage and processing of such records must comply with the national data protection legislation.

I.6. *Territorial scope*

1. Expenditure for actions described in Articles 4 and 6 of the basic act must be incurred in the territory of the Member States, by the final beneficiaries defined in point I.1(e), with the exception of:
 - expenditure implementing actions relating to the general objective defined in Article 3(1)(d) of the basic act. Expenditures for these actions may be incurred in the territory of the Member States and in third countries,
 - actions relating to the surveillance of external borders. These actions can take place both within and beyond the territory of Member States.

⁽¹⁾ Where 'N' is the year referred to in the financing decision approving the annual programmes of Member States.

2. Partners in the project registered and established in third countries may participate in projects on a no-cost basis, except in the case of international governmental organisations. Therefore, costs incurred by these partners are ineligible.

II. Categories of eligible costs (at project level)

II.1. Direct eligible costs

The direct eligible costs of the project are costs that, with due regard to the general conditions of eligibility set out in part I above, are identifiable as specific costs directly linked to the implementation of the project. Direct costs shall be included in the estimated overall budget of the project.

The following direct costs are eligible:

II.1.1. Staff costs

II.1.1.1. General rules

1. Direct costs for staff are eligible only for persons that have a key and direct role in the project, such as project managers and other staff operationally involved in the project, for example planning project activities, implementing (or monitoring) operational activities, delivering services to the final recipients of the project, etc.

Costs for other members of staff in the final beneficiary organisation who only provide a supporting role (such as the general manager, accountant, procurement support, human resources support, information technology support, administrative assistant, receptionist, etc.) are not eligible as direct costs and are considered to be indirect costs (see point II.2).

2. Staff costs shall be detailed in the forward budget, indicating functions, number of staff and names.

If the names of the persons are not yet known or cannot be disclosed, indication shall be provided of the professional and technical capacities of the persons set to implement the relevant functions/tasks within the project.

3. The cost of staff assigned to the project, i.e. salaries and social security contributions and other statutory costs, shall be eligible, provided that this does not exceed the average rates as regards the final beneficiary's usual policy on remuneration. Where applicable, this figure may include all the usual contributions paid by the employer, but it must exclude any bonuses, incentive payments or profit-sharing schemes. Levies, taxes or charges (in particular, direct taxes and social security contributions on wages) arising from projects co-financed by the Fund amount to eligible costs only where they are actually borne by the final beneficiary of the grant.

II.1.1.2. Specific conditions for staff costs of public bodies

Staff costs for public bodies in charge of implementing the project are considered as eligible direct costs only in the following situations:

1. In accordance with the tasks carried out in relation to the project as well as the duration of the project, costs for staff of consular and other services of Member States in third countries competent in the management of flows of third-country nationals into the territory of the Member States, such as consular officers, air liaison officers and immigration liaison officers, are considered as direct eligible costs, provided that the purpose of the project is to improve the co-operation between Member States and involves the sharing of tasks and responsibilities for the benefit of more than two participating Member States.
2. Costs for staff of other authorities and services of Member States concerned by the basic act, such as border guards provided that:
 - (a) the project does not predominantly concern the procurement of equipment or real estate as referred to in points II.1.3 and II.1.4 below; and

- (b) the project consists mainly of tasks which require the active and continuous input by staff such as the organisation of meetings and management processes for exchange of information or best practices, consultation and coordination mechanisms, training or education of staff and programmes for the secondment and exchange of staff.

In such cases, the staff costs are considered as direct eligible costs for:

- a person contracted by the final beneficiary solely for the purpose of implementing the project,
- a person employed on a permanent basis by the final beneficiary who:
 - (i) fulfils tasks specifically linked to the implementation of the project on the basis of overtime remuneration; or
 - (ii) is seconded by a duly documented decision of the organisation to tasks that are specifically linked to the implementation of the project and which do not form part of his/her normal routine and he/she is replaced for his/her usual tasks by another person recruited by the organisation.

II.1.2. Travel and subsistence costs

1. Travel and subsistence costs are only eligible as direct costs for:
 - (a) staff of the final beneficiary whose costs are eligible as defined in point II.1.1;
 - (b) in duly exceptional and justified cases, staff of the final beneficiary providing a supporting role as defined in point II.1.1;
 - (c) other persons outside the final beneficiary who participate in the activities of the project. In this case, attendance lists should be kept as supporting evidence.
2. Travel costs shall be eligible on the basis of the actual costs incurred. Reimbursement rates shall be based on the cheapest form of public transport and flights shall, as a rule, be permitted only for journeys over 800 km (return trip), or where the geographical destination justifies travelling by air. Boarding passes must be kept. Where a private car is used, reimbursement is normally made either on the basis of the cost of public transport, or on the basis of mileage rates in accordance with published official rules in the Member State concerned or used by the final beneficiary.
3. Subsistence costs shall be eligible on the basis of real costs or a daily allowance. Where an organisation has its own daily rates (subsistence allowances), they shall be applied within ceilings established by the Member State in accordance with national legislation and practice. Subsistence allowances are normally understood to cover local transport (including taxis), accommodation, meals, local telephone calls and sundries.

II.1.3. Equipment

II.1.3.1. General rules

1. Costs pertaining to the acquisition of equipment (based on any of the following: rental, leasing, purchase based on the full or partial cost, or depreciation of purchased assets) are only eligible if they are essential to the implementation of the project. Equipment shall have the technical properties needed for the project and comply with applicable norms and standards.
2. Costs for day-to-day administrative equipment (such as printer, laptop, fax, copier, phone, cabling, etc.) are not eligible as direct costs and are to be considered as indirect costs (see point II.2).

II.1.3.2. Renting and leasing

Expenditure in relation to renting and leasing operations is eligible for co-financing subject to the rules established in the Member State, national legislation and practice and the duration of the rental or lease for the purpose of the project.

II.1.3.3. Purchasing

1. Costs pertaining to the acquisition of equipment (systems, operating equipment, means of transport, *inter alia*, as referred to in Article 5(1)(c) to (f) of the basic act) are eligible in accordance with national rules. Such costs are eligible for co-financing on the basis of the full or partial cost of the purchase if:
 - (a) they are directly linked to the realisation of the project;
 - (b) incurred in accordance with national procurement rules established in the Member State;
 - (c) the equipment has the technical characteristics necessary for the project and complies with applicable norms and standards;
 - (d) the equipment will continue to be used for the same objectives pursued by the project, even after the project has ended for the minimum duration of:
 - three years or more for information and communication technology (ICT) equipment,
 - five years or more for other types of equipment such as operating equipment and means of transport, except for the ones indicated below,
 - 10 years for helicopters, vessels and aircrafts.
2. Costs for the abovementioned equipment may be eligible on the basis of depreciation in accordance with national rules. In that case the above conditions (a), (b) and (c) shall apply. Furthermore, the following conditions must also be satisfied:
 - (a) where equipment is purchased before or during the lifetime of the project, the portion of equipment depreciation is eligible on the basis of the duration of use for the project and the rate of actual use for the project;
 - (b) equipment that was purchased before the lifetime of the project, but which is used for the purpose of the project, is eligible on the basis of depreciation. However these costs are ineligible if the equipment was originally purchased through a Community grant;
 - (c) purchase costs of equipment shall correspond to normal market costs and the value of the items concerned is written off in accordance with the tax and accounting rules applicable to the final beneficiary.

II.1.4. Real estate

II.1.4.1. General rules

In the case of either purchase of real estate, construction or renovation of real estate, or rental of real estate, it shall have the technical properties needed for the project and comply with the applicable norms and standards.

II.1.4.2. Purchase, construction or renovation

1. If the acquisition of real estate is essential for implementation of the project and is clearly linked with its objectives, the purchase of real estate, i.e. buildings already constructed, or construction of real estate, is eligible for co-financing on the basis of the full or partial cost, or on the basis of depreciation, under the conditions set out below, without prejudice to the application of stricter national rules:
 - (a) a certificate shall be obtained from an independent qualified valuer or duly authorised official body establishing that the price does not exceed the market value, either attesting that the real estate is in conformity with national regulations or specifying the points which are not in conformity that the final beneficiary plans to rectify as part of the project;
 - (b) the real estate has not been purchased through a Community grant at any time prior to the implementation of the project;
 - (c) the real estate is to be used solely for the purpose stated in the project for a period of at least 10 years after the end date of the project unless the Commission specifically authorises otherwise in the case of co-financing of the full or partial costs. In the case of co-financing on the basis of depreciation this period is reduced to five years;

- (d) the purchase of the real estate respects the principles of value for money and cost-effectiveness and is being considered as proportionate to the aim to be achieved through the implementation of the project;
- (e) in the case of co-financing on the basis of depreciation, only the portion of the depreciation of these assets corresponding to the duration of use for the project and the rate of actual use for the project is eligible. Depreciation shall be calculated according to national accounting rules.

- 2. Expenses for renovation of real estate are eligible for co-financing on the basis of the full or partial cost or on the basis of depreciation. In the case of renovation costs only conditions (c) and (e) above apply.

II.1.4.3. Rental

Rental of real estate is eligible for co-financing where there is a clear link between the rental and the objectives of the project concerned, under the conditions set out below and without prejudice to the application of stricter national rules:

- (a) the real estate shall not have been purchased through a Community grant.
- (b) the real estate should only be used for implementation of the project. If not, only the portion of the costs corresponding to the use for the project is eligible.

II.1.4.4. Office space for the final beneficiary

Costs for the purchase, construction, renovation or rental of office space for the routine activities of the final beneficiary are not eligible. Such costs are considered to be indirect costs (see point II.2).

II.1.5. Consumables, supplies and general services

- 1. The costs of consumables, supplies and general services are eligible provided that they are identifiable and directly necessary for the implementation of the project.
- 2. However, office supplies as well as all kinds of small administrative consumables, supplies, hospitality costs and general services (such as telephone, internet, postage, office cleaning, utilities, insurance, staff training, recruitment, etc.) are not direct eligible costs; they are included in indirect costs, as referred to in point II.2.

II.1.6. Subcontracting

- 1. As a general rule, final beneficiaries must have the capacity to carry out the activities relating to the project themselves. Therefore, subcontracting must be limited and shall not exceed 40 % of the direct eligible costs of a project unless duly justified and approved in advance by the responsible authority.
- 2. Expenditure relating to the following subcontracts is ineligible for co-financing by the Fund:
 - (a) subcontracting of tasks relating to the overall management of the project;
 - (b) subcontracting that adds to the cost of the project without adding proportionate value to it;
 - (c) subcontracting with intermediaries or consultants where payment is defined as a percentage of the total cost of the project, unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided.
- 3. For all subcontracts, subcontractors shall undertake to provide all audit and control bodies with all the necessary information relating to subcontracted activities.

II.1.7. Costs deriving directly from the requirements linked to EU co-financing

Costs needed to meet the requirements linked to EU co-financing, such as publicity, transparency, evaluation of the project, external audit, bank guarantees, translation costs, etc., are eligible as direct costs.

II.1.8. Expert fees

Legal consultancy fees, notarial fees and costs of technical and financial experts are eligible.

II.2. Indirect eligible costs

1. Indirect costs relate to categories of expenditure that are not identifiable as specific costs directly linked to the project. A fixed percentage of the total amount of *direct eligible costs* may be eligible as indirect costs, provided that:
 - (a) the indirect costs are kept to a minimum and the exact percentage of indirect costs is set by the Member State in relation to needs;
 - (b) the indirect costs are anticipated in the forward budget of the project;
 - (c) the indirect costs do not include costs assigned to another heading of the budget for the project;
 - d) the indirect costs are not financed from other sources. Organisations receiving an operating grant received from the EU budget and/or from the Member States cannot include indirect costs in their forward budget;
 - (e) as a general rule, the fixed percentage of indirect costs in relation to the total amount of direct eligible costs does not exceed 5 %. However, the fixed percentage of indirect costs shall not exceed 2,5 % in any of the following situations:
 - where the responsible authority acts as an executing body as defined in Article 7(3), or
 - where the combined total of subcontracting (II.1.6) and procurement (points II.1.3 and II.1.4) exceeds 40 % of the eligible direct costs.
2. The percentage allocated to indirect costs shall cover the following costs in particular:
 - (a) staff costs that are ineligible as direct costs as per point II.1.1.1 (1);
 - (b) administration and management expenses, such as costs identified in II.1.5.2;
 - (c) bank fees and charges (except bank guarantees as defined in section II.1.7);
 - (d) costs for real estate and maintenance costs when linked to day-to-day administrative operations, such as costs identified in II.1.4.4;
 - (e) all costs linked to the project but excluded from section II.1 — 'Direct eligible costs'.

III. Ineligible expenditure

The following costs are not eligible:

- (a) VAT, except where the final beneficiary can show that he is unable to recover it;
- (b) return on capital, debt and debt service charges, debit interest, foreign exchange commissions and exchange losses, provisions for losses or potential future liabilities, interest owed, doubtful debts, fines, financial penalties, litigation costs, and excessive or reckless expenditure;

- (c) entertainment costs exclusively for project staff. Reasonable hospitality costs at social events justified by the project, such as an event at the end of the project or meetings of the project steering group, are permitted;
- (d) costs declared by the final beneficiary and covered by another project or work programme receiving a Community grant;
- (e) purchase of land;
- (f) staff costs for officials who contribute to project implementation by accomplishing tasks that are part of their normal routine;
- (g) contributions in kind.

IV. Costs covered by assigned income

1. In duly substantiated cases, co-financing of the project as regards the contribution from the final beneficiary and the partners in the project may be made up in part of contributions in terms of work carried out by permanent officials employed by these bodies and involved in the project. In this case these costs are not eligible as direct or indirect staff costs as defined under points II.1.1 and II.2 but as costs covered by assigned income.
2. Such contributions shall not exceed 50 % of the total contribution given by the final beneficiary. In this case, the following rules shall apply:
 - (a) tasks of public officials are specifically linked to implementation of the project and do not arise from the statutory responsibilities of the public authority;
 - (b) public officials entrusted with implementing a project are seconded by a duly documented decision of the competent authority;
 - (c) the value of the contributions can be audited and may not exceed the costs actually borne and duly supported by accounting documents of the public authority.

V. Technical assistance at the initiative of member states

1. At the initiative of each Member State, the following technical assistance measures are eligible for each annual programme, within the limits specified in Article 18 of the basic act:
 - (a) expenditure relating to the preparation, selection, appraisal, management and monitoring of actions (including computer equipment and consumables);
 - (b) expenditure relating to audits and on-the-spot checks of actions or projects;
 - (c) expenditure relating to evaluations of actions or projects;
 - (d) expenditure relating to information, dissemination and transparency in relation to actions;
 - (e) expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of the Funds;
 - (f) expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions. This expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where their presence is essential to the effective implementation of actions;
 - (g) expenditure on salaries, including social security contributions, although only in the following cases:
 - civil servants or other public officials seconded by duly documented decision of the competent authority to carry out tasks referred to in points (a) to (f),

- other staff employed to carry out tasks referred to in points (a) to (f),
 - the period of secondment or employment may not exceed the final date for the eligibility of expenditure laid down in the decision approving the assistance.
2. Technical assistance may finance expenses incurred by any of the following bodies: responsible authority, delegated authority, audit authority, certifying authority.
 3. Activities linked to technical assistance must be performed and the corresponding payments made after 1 January of the year referred to in the financing decision approving the annual programmes of Member States. The eligibility period lasts until the end of June of the year N ⁽¹⁾ + 2 or any later date compatible with the deadline for the submission of the final report on implementation of the annual programme.
 4. Any procurement must be carried out in accordance with national procurement rules established in the Member State.
 5. Member States may implement technical assistance measures for this Fund together with technical assistance measures for some or all of the four Funds. However, in that case only the portion of the costs used to implement the common measure corresponding to this Fund shall be eligible for financing under this Fund, and Member States shall ensure that:
 - (a) the portion of costs for common measures is charged to the corresponding Fund in a reasonable and verifiable manner; and
 - (b) there is no double financing of costs.

VI. Special transit scheme

The following specific rules shall apply in the case of the Special Transit Scheme:

- (a) the eligibility period for expenditure shall be in accordance with Article 40 (3) of this Decision;
- (b) by virtue of Article 6(2)(c) of the basic act, costs for staff specifically implementing the special transit scheme are considered as eligible direct costs in accordance with the general rules described in point II.1.1.1, paragraphs 2 and 3;
- (c) by virtue of Article 6(2)(c) of the basic act, travel and subsistence costs for staff specifically implementing the special transit scheme are considered as eligible direct costs;
- (d) point II.1.3.1 paragraph 2 shall not apply;
- (e) point II.1.4.4 shall not apply;
- (f) point II.1.5 paragraph 2 shall not apply;
- (g) indirect costs (Section II.2) shall be ineligible;
- (h) Section III, point (f) shall not apply.

⁽¹⁾ Where 'N' is the year referred to in the financing decision approving the annual programmes of Member States.