

Council Regulation (EEC) No 4255/88 (19 December 1988)

Caption: Council Regulation (EEC) No 4255/88 of 19 December 1988 laying down provisions for implementing (EEC) No 2052/88 as regards the European Social Fund (ESF).

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Council Regulation (EEC) No 4255/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the European Social Fund

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 126 and 127 thereof,

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

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

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

Whereas Article 3 (4) of Council Regulation (EEC) No 2052/88 of 24 June 1988 on the tasks of the Structural Funds and their effectiveness and on coordination of their activities between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁴⁾ provides for the Council to adopt the specific provisions governing operations under each Structural Fund;

Whereas it is appropriate to define the various types of measures to be supported by the European Social Fund (hereinafter referred to as 'the Fund'), including those which represent new tasks, in context of the Fund's contribution to the attainment of the five objectives provided for in Article 1 of Regulation (EEC) No 2052/88;

Whereas objectives 3 and 4 are applicable to the whole of the Community's territory;

Whereas expenditure eligible for assistance from the Fund should be defined;

Whereas expenditure trends should not be allowed to diverge and average indicative amounts should be introduced by stages for contributions by the Fund towards operating costs in respect of training;

Whereas Article 10 (1) of Regulation (EEC) No 2052/88 requires the Commission to establish guidelines for the attainment of objectives 3 and 4 laid down in that Regulation;

Whereas arrangements should be specified for the submission of the plans to be drawn up by Member States pursuant to Regulation (EEC) No 2052/88;

Whereas it is necessary to define the forms of assistance to be granted by the Fund and to specify the content of applications relating to operations to be carried out within the framework of Member States' Labour market policies;

Whereas arrangements should be laid down for the submission and approval of applications for assistance from the Fund, as should details of the arrangements for monitoring;

Whereas the transitional provisions should be specified,

HAS ADOPTED THIS REGULATION:

Article 1

Eligible operations

1. Under the conditions laid down by Council Regulation (EEC) No 2052/88 and Regulation (EEC) No 4253/88 of 19 December 1988 laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments⁽⁵⁾ and those

specified in this Regulation, the Fund shall contribute to the financing of the following:

- (a) vocational training operations, accompanied where necessary by vocational guidance;
- (b) subsidies towards recruitment into newly created stable jobs and towards the creation of self-employed activities.

2. In this connection, the Fund shall also contribute up to 5 % of its annual budget to the financing of the following:

- (a) operations of an innovatory nature which are intended to test new approaches to the content, methods and organization of vocational training and more generally the development of employment, with a view to establishing a basis for subsequent Fund assistance in a number of Member States;
- (b) preparatory, accompanying and management measures needed for the implementation of this Regulation; such measures shall include studies, technical assistance and the exchange of experience which has a multiplier effect, and follow-up to and detailed evaluation of, measures financed by the Fund;
- (c) measures aimed, within the framework of social dialogue, at staff from undertakings in two or more Member States, concerning the transfer of special knowledge relating to the modernization of the production apparatus;
- (d) guidance and advice for the reintegration of the long-term unemployed.

3. Vocational training within the meaning of paragraph 1 (a) means any measure aimed at providing the skills necessary to carry out one or more specific types of employment, with the exception of apprenticeship schemes, and any measure with the relevant technology content required by technological change and requirements and developments on the labour market.

4. By way of derogation from paragraph 3, vocational training shall include, in the regions concerned by objectives 1, 2 and 5 (b), any vocational training and further training measure required for the use of new production and/or management techniques in small and medium-sized enterprises.

5. By way of derogation from paragraph 3, vocational training shall include, in the regions concerned by objective 1:

- the theoretical portion of apprenticeship training given outside the firm,
- in specific cases to be defined according to the particular needs of the countries and regions concerned, that part of national secondary, or corresponding education systems specifically devoted to vocational training following compulsory full-time schooling where that part meets the challenges posed by economic and technological changes.

6. In the regions concerned by objective 1, and for a period of three years following the entry into force of this Regulation, recruitment subsidies shall be extended to non-productive projects which fulfil a public need involving the creation of additional jobs of at least six months' duration for the long-term unemployed aged over 25.

Article 2

Scope

In accordance with Article 3 (2) of Regulation (EEC) No 2052/88, Fund assistance shall be granted:

- (a) as regards its priority objectives (3 and 4), throughout the Community, to operations intended to:

- combat long-term unemployment by means of the occupational integration of persons aged over 25 who have been unemployed for more than 12 months; this period may be reduced in specific cases to be decided upon by the Commission,

- facilitate the occupational integration of persons under 25 from the age at which compulsory full-time schooling ends, however long or short the period during which they have been seeking employment;

(b) as regards objectives 1, 2 and 5 (b), to measures intended to:

- encourage job stability and develop new employment possibilities, organized for persons:

- who are unemployed,

- who are threatened with unemployment particularly within the context of restructuring requiring technological modernization or substantial changes in the production or management system,

- employed in small and medium-sized enterprises,

- facilitate vocational training for any working person involved in an operation which is essential to the achievement of the development and conversion objectives of an integrated programme.

(c) as regards objective 1, operations for persons:

- training for persons under apprenticeship contracts qualifying under the first indent of Article 1 (5),

- trained under national secondary vocational education systems, in accordance with the second indent of Article 1 (5),

- employed within the framework of the operations referred to in Article 1 (6).

Article 3

Eligible expenditure

1. Fund assistance may be granted only towards expenditure to cover:

(a) the income of persons receiving vocational training;

(b) the cost:

- of preparing, operating, managing and assessing vocational training operations including vocational guidance, including the costs of training teaching staff,

- subsistence and travel costs of those covered by vocational training operations;

(c) the granting, for a maximum period of 12 months per person, of subsidies towards recruitment into newly created stable jobs and towards the creation of self-employed activities together with subsidies of at least six months' duration per person, for recruitment as referred to in Article 1 (6);

(d) the cost of operations which receive assistance from the Fund under Article 1 (2) (b) (c) and (d).

2. The Commission shall determine each year, within the framework of the partnership, the maximum eligible amount per person and per week granted under paragraph 1 (c). This amount shall be based on 30% of the average gross earnings of industrial workers in each Member State, determined in accordance with the harmonized definition of the Statistical Office of the European Communities; it shall be published in the Official Journal of the European Communities in good time to be included in the applications submitted in

accordance with Articles 7 (1) and 9 (3).

3. The Commission shall ensure that Fund expenditure for operations of the same type does not develop in different ways. To this end, after the Committee referred to in Article 28 of Regulation (EEC) No 4253/88 has delivered its opinion, it shall determine for each Member State, in cooperation with that State and progressively, the indicative average amounts for such expenditure to be borne by the Fund according to the type of training involved; it shall order their publication in the Official Journal of the European Communities. They shall be applicable during the following financial year.

Article 4

Guidelines

1. In accordance with Article 10 (1) of Regulation (EEC) No 2052/88, the Commission shall establish before 15 February 1989, for a period of at least three years, the guidelines concerning action under objectives 3 and 4 which it will follow in defining the Community support frameworks; it shall order their publication in the Official Journal of the European Communities.

2. Any amendments necessitated by substantial changes on the labour market shall be made before 1 February of a financial year; they shall apply to the new Community support frameworks or amended frameworks in respect of the following financial years.

3. The guidelines shall establish the training and employment policies covering measures that may be eligible for Fund assistance; apart from regions covered by objectives 1, 2 and 5 (b), priority shall be given to Community financing for measures that meet the requirements and prospects of the labour market.

Article 5

Plans

The plans referred to in Articles 8 to 11 of Regulation (EEC) No 2052/88 shall, in particular, indicate in the part concerning the Fund, estimates with respect to:

- the disparity between job applications and vacancies, including, as far as possible, data concerning female employment,
- the nature and characteristics of unfilled vacancies,
- the occupational opportunities which appear on labour markets,
- the measures to be implemented or under way in regard to training and employment,
- the number of persons concerned per type of measure.

Article 6

Forms of assistance

1. In accordance with Article 5 of Regulation (EEC) No 2052/88, applications for Fund assistance shall be presented in the form of operational programmes, global grant schemes or action within the meaning of Article 1 (2) (b), (c) and (d). The operational programmes and global grant schemes may include associated preparatory, accompanying, management and assessment measures.

2. The Member States shall communicate the information necessary for the examination of measures, in particular the information specified in Article 14 (2) of Regulation (EEC) No 4253/88 and the information specifically related to the European Social Fund (location, number of persons, duration of the operation for each person, occupational level concerned), specifying as a general rule:

- in the case of unemployed persons and others without jobs, their occupational qualifications at the beginning of the operations,
- in the case of employed persons, the nature and scope of proposed occupational conversion operations,
- in the case of operations involving conversion or economic restructuring, the volume and type of investment planned and changes in products or production systems.

Article 7

Submission and approval of applications for assistance

1. Applications for assistance shall be submitted at least three months before the start of operations. They shall be accompanied by a form drawn up, within the framework of the partnership, using computerized means listing the particulars for each measure so that it can be monitored from budgetary commitment to final payment.
2. The Commission shall decide on these applications before the beginning of operations and shall inform the Member State concerned.

Article 8

Monitoring

In accordance with Article 23 (2) of Regulation (EEC) No 4253/88, the Commission may carry out on-the-spot checks. These checks may take the form of representative sample checks. In this case, after consultation with the Member State concerned, the Commission shall establish the proportion of samples taken in the light of the material and technical conditions of the operation concerned. If, after the results have been checked in the framework of the partnership, the sample reveals insufficient implementation, the Commission may make a suitable reduction, which may be applied as a proportion of the total amount for which payment is requested, after the Member State has had an opportunity to submit its comments.

Article 9

Transitional provisions

1. In accordance with Article 15 (4) of Regulation (EEC) No 2052/88, applications for assistance for 1989 submitted before 21 October 1988 shall continue to be covered by Council Decision 83/516/EEC⁽⁶⁾, as amended by Decision 85/568/EEC⁽⁷⁾, and the provisions implementing it.
2. The first plans shall cover a period beginning on 1 January 1990. Plans concerning objectives 1, 2 and 5 (b) shall be presented not later than 31 March 1989. Plans concerning objectives 3 and 4 shall be presented within four months of the publication in the Official Journal of the European Communities of the guidelines referred to in Article 4.
3. Applications for assistance for operations to be implemented in 1990 shall be submitted before 31 August 1989.

Article 10

Entry into force

1. This Regulation shall enter into force on 1 January 1989. Subject to the transitional provisions laid down in Article 9, it shall be applicable as from that date.
2. Subject to Article 15 of Regulation (EEC) No 2052/88 and Article 33 of Regulation (EEC) No 4253/88, Regulation (EEC) No 2950/83⁽⁸⁾ is hereby repealed.

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

Done at Brussels, 19 December 1988.

For the Council
The President
Th. PANGALOS

- (1) OJ No C 256, 3. 10. 1988, p. 16.
- (2) OJ No C 326, 19. 12. 1988.
- (3) OJ No C 337, 31. 12. 1988.
- (4) OJ No L 185, 15. 7. 1988, p. 9.
- (5) See page 1 of this Official Journal.
- (6) OJ No L 289, 22. 10. 1983, p. 38.
- (7) OJ No L 370, 31. 12. 1985, p. 40.
- (8) OJ No L 289, 22. 10. 1983, p. 1.