

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2009/0107(COD) Procedure completed
European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management Amending Regulation (EC) No 1083/2006	<a href="#">2004/0163(AVC)</a>
Subject 4.10.15 European Social Fund (ESF), Fund for European Aid to the Most Deprived (FEAD) 4.70.02 Cohesion policy, Cohesion Fund (CF) 4.70.07 European Regional Development Fund (ERDF)	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>REGI</b> Regional Development	S&D <a href="#">KIRILOV Evgeni</a> Shadow rapporteur Verts/ALE <a href="#">SCHROEDTER Elisabeth</a> ECR <a href="#">VLASÁK Oldřich</a>	05/10/2009
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>BUDG</b> Budgets	ALDE <a href="#">GODMANIS Ivars</a>	21/10/2009
	<b>CONT</b> Budgetary Control	The committee decided not to give an opinion.	
	<b>EMPL</b> Employment and Social Affairs		17/09/2009
		PPE <a href="#">BASTOS Regina</a>	
Council of the European Union	Council configuration <a href="#">Justice and Home Affairs (JHA)</a>	Meeting <a href="#">3018</a>	Date 03/06/2010
European Commission	Commission DG <a href="#">Regional and Urban Policy</a>	Commissioner HAHN Johannes	

Key events			
22/07/2009	Legislative proposal published	<a href="#">COM(2009)0384</a>	Summary
02/12/2009	Additional information		Summary
18/01/2010	Committee referral announced in Parliament, 1st reading		

18/03/2010	Vote in committee, 1st reading		Summary
23/03/2010	Committee report tabled for plenary, 1st reading	<a href="#">A7-0055/2010</a>	
20/04/2010	Debate in Parliament		
05/05/2010	Results of vote in Parliament		
05/05/2010	Decision by Parliament, 1st reading	<a href="#">T7-0125/2010</a>	Summary
03/06/2010	Act adopted by Council after Parliament's 1st reading		
16/06/2010	Final act signed		
16/06/2010	End of procedure in Parliament		
24/06/2010	Final act published in Official Journal		

### Technical information

Procedure reference	2009/0107(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 1083/2006 <a href="#">2004/0163(AVC)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 177-p1
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	REGI/7/00750

### Documentation gateway

Legislative proposal		<a href="#">COM(2009)0384</a>	22/07/2009	EC	Summary
Economic and Social Committee: opinion, report		<a href="#">CES1721/2009</a>	04/11/2009	ESC	
Committee draft report		<a href="#">PE438.425</a>	03/02/2010	EP	
Amendments tabled in committee		<a href="#">PE439.242</a>	26/02/2010	EP	
Committee opinion	<b>EMPL</b>	<a href="#">PE430.307</a>	17/03/2010	EP	
Committee opinion	<b>BUDG</b>	<a href="#">PE438.465</a>	17/03/2010	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A7-0055/2010</a>	23/03/2010	EP	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T7-0125/2010</a>	05/05/2010	EP	Summary
Draft final act		<a href="#">00009/2010</a>	16/06/2010	CSL	
Commission response to text adopted in plenary		<a href="#">SP(2010)3805</a>	24/06/2010	EC	

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

Final act
<a href="#">Regulation 2010/539</a> <a href="#">OJ L 158 24.06.2010, p. 0001</a> Summary

## European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

**PURPOSE:** to simplify the management of European Structural Funds in order to help regions counter the effects of the crisis.

**PROPOSED ACT:** Council Regulation.

**BACKGROUND:** in the context of the current crisis, ensuring a smooth implementation of Cohesion programmes is of particular relevance as they represent the most powerful and relevant lever for assisting the real economy. With total financial resources of EUR 347 billion for the period 2007-2013, Cohesion policy provides a powerful support for both budgetary stability and public investment in the Member States and the regions of the European Union. Experience shows that more effort is needed to facilitate the management of the Community funding in order to speed up the flow of the funding to the beneficiaries that are most affected by the economic downturn.

The December 2008 European Council agreed on a European Economic Recovery Plan (EERP), which envisages the initiation of priority action to enable European economies to adjust more rapidly to current challenges. Moreover, the Commission has endeavoured to contribute to the debate currently taking place within the Union and with its international partners on how best to react to the current financial crisis and to its socio-economic consequences. In particular, in the framework of its [recovery package](#), the Commission proposed a number of [regulatory changes to simplify the implementation rules for Cohesion Policy](#) and to increase the pre-financing (advance payments) to ERDF and ESF programmes. The additional advance payments have provided an immediate cash injection of EUR 6.25 billion in 2009 to pre-finance investment, within the financial envelope agreed for each Member State for the period 2007-2013. This amendment brings the total of advance payments in 2009 to EUR 11.25 billion. The Commission proposal was adopted by the Council in May 2009 and all advance payments now have been paid to Member States.

Moreover, in June 2009 the Commission presented a Communication on "A Shared Commitment for Employment" (COM(2009)0257) in which it proposed additional measures to strengthen the creation of jobs and to counter the effects of the crisis on employment.

Therefore, this proposal includes further elements of simplification, with the overall objective of accelerating co-financed investments in Member States and regions and increasing the impact of the funding on the economy as a whole.

**IMPACT ASSESSMENT:** this proposal completes a series of regulatory and non-regulatory adjustments which all seek to stimulate the implementation of cohesion programmes on the ground. The proposal to provide Member States in the case of operational programmes co-financed by the ESF an option to reimburse interim payment claims at 100% for a limited period (up to the end of 2010) will ensure that all certified expenditure of 2009 and 2010 can be paid back without creating a gap in national budgets.

Further simplification and clarification of rules governing cohesion policy will undeniably have a positive impact on the pace of programme implementation, particularly by providing national, regional and local authorities clearer and less bureaucratic rules that will allow more flexibility to adapt the programmes to the new challenges.

**CONTENT:** the new measures presented by the Commission aim to simplify certain rules governing cohesion policy. The main changes are as follows:

- in 2009 and 2010, as part of its 'anti-crisis' measures, the Commission may at the request of the Member States reimburse 100% of the public costs declared by the Member States for projects financed by the ESF. Specifically, Member States will not be obliged to provide national co-financing, thus speeding up the implementation of projects to support employment. This option does not call into question the distribution of the Funds between the Member States, nor the total budget for the Funds, nor the obligation for Member States to provide subsequent co-financing;
- the Commission proposes establishing a single category of 'major project'. Previously, the Commission's approval was required for projects where the total cost exceeded EUR 25 million for the environment and EUR 50 million for other sectors. The threshold for approval is now set at EUR 50 million for all areas. Given the Community importance of the investments in environment as such, the Commission will ask Member States: (i) to ensure an appropriate monitoring of all the investments, including those below the threshold provided in the Regulation; and (ii) to inform the Commission about the implementation progress in the annual reports on operational programmes. Another modification consists of creating the possibility that a single major project is co-financed by more than one programme. This is of particular relevance for projects of nation-wide scope or Community importance, which straddle several regions, and which in the absence of this possibility would have to be artificially separated in multiple projects;
- the rules relating to 'revenue-generating' projects (for example, toll motorways or projects involving the leasing or sale of land) are also simplified in order to reduce the administrative burdens on the Member States. The proposed modifications intend to simplify the monitoring of revenues and to align this with the overall life-cycle of programmes. Therefore, the duration of the provisions on monitoring revenue is now limited to the date of submission of the closure documents of a programme;
- Cohesion Policy programmes may be simplified by Member States to take account of the new realities. In addition, certain provisions concerning the obligation to maintain investments over a five-year period will not apply to undertakings which go bankrupt;
- a proposed modification intends to clarify that in the context of advance payments on State aids admissible guarantees include guarantees by banks or other financial institutions, but also a facility provided for this purpose by public institutions and the Member States themselves;

- investments in sectors linked to energy efficiency and the use of renewable energies in housing will be encouraged, given their considerable potential to provide growth and jobs;
- the Commission proposes a modification aimed at increasing flexibility with regard to the rules on decommitment. For example, grants for a major project will in principle be protected as soon as the Member State submits the project to the Commission. Grants are currently only protected once the Commission has approved the project;
- the European Regional Development Fund (ERDF) will be able to support the renovation or construction of housing for communities faced with social exclusion, particularly Roma, in both rural and urban areas. Previously, the construction of housing was ineligible under the ERDF and only housing in urban areas was eligible for renovation.

**BUDGETARY IMPLICATIONS:** there is no impact on commitment appropriations since no modification is proposed to the maximum amounts of ESF financing provided for in the Operational Programmes for the programming period 2007-2013.

Where Member States decide to make use of the option to request 100% reimbursements during 2009 and 2010 there will be an impact on payment appropriations. The analysis of the Member States' payment forecasts and the payment appropriations available in the budget for 2009 and the Draft Budget for 2010 show that the maximum additional payment appropriations to be paid under the 100% reimbursement option in 2009 and 2010 for the ESF programmes would represent approximately EUR 6.6 billion. This will be compensated by a reduced need for payment appropriations later in the programming period.

The Commission will set up a monitoring tool to supervise closely the consumption of the additional credits for the European Social Fund. For the payment claims submitted as of 1 January 2011, the regular co-financing rate agreed in the programme decision will apply. The Commission believes that the proposed measures to simplify the implementation may significantly increase the pace of expenditure on the ground and consequently accelerate the submission of interim payments to the Commission.

## European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Regulation amending Regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis - Treaty/EC/Art.161 ? became Art. 177 of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old assent procedure (AVC), was classified as an ordinary legislative procedure (COD).

## European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

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The Committee on Regional Development adopted the report by Evgeni KIRILOV (S&D, BG) on the proposal for a regulation of the European Parliament and of the Council amending regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards provisions relating to financial management.

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission proposal as follows:

**Additional pre-financing:** the committee proposes to include a new amendment stipulating that due to exceptional circumstances and given the serious and unprecedented impact of the current economic and financial crisis on the budgets of Member States, an additional pre-financing instalment for 2010 is needed for the Member States worst hit by the crisis in order to allow for a regular cash flow and to facilitate payments to beneficiaries during programme implementation. Members propose that the Member States that were granted medium-term assistance in accordance with Council Regulation (EC) No 332/2002 and Member States with a GDP decrease in 2009 of more than 10 % in real terms in comparison to 2008, may receive advance payments in 2010 of 2% from the European Social Fund and 4% from the Cohesion Fund.

**Interim payments and final balance:** Members deleted the proposed amendment concerning the common rules for calculating interim

payments and payments of final balance. In doing so, they rejected the most pertinent of the Commission's proposal concerning the suggestion which would allow Member States to apply for 100% reimbursement of interim payments from the European Social Fund during 2009 and 2010.

Decommitment rules: these rules have been eased. The committee states that it is appropriate to extend the deadline for the calculation of the automatic decommitment of the annual budget commitment related to 2007 total annual contribution to improve the absorption of funds committed for certain operational programmes. Such flexibility is necessary due to slower than expected start up and late approval of the programmes.

The Commission shall automatically decommit any part of the amount calculated in an operational programme that has not been used for payment of the pre-financing or interim payments or for which an application for payment has not been sent by 31 December of the second year following the year of budget commitment under the programme. For the purpose of the automatic decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to 2007 total annual contribution to each of 2008 to 2013 budget commitments. By way of derogation, the deadlines for automatic decommitment shall not apply to the annual budget commitment related to 2007 total annual contribution.

Adaptation to the Lisbon Treaty: the committee clarifies that following, inter alia, the change in the decision-making process resulting from the entry into force of the Lisbon Treaty, amendments provided for by this Regulation have not been introduced in time to prevent the application of current Article 93(1) of Regulation 1083/2006. Consequently, decommitments made by the Commission would result, pursuant to Article 11 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities in cancelling appropriations of financial year 2007 which should be spread over the financial years 2008 to 2013 in implementation of the rules introduced by this Regulation.

It is therefore appropriate, as a transitory measure, to provide for the possibility to reconstitute, as necessary, the corresponding appropriations for the purposes of implementing the amended decommitment rules.

## European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

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The European Parliament adopted by 519 votes to 83, with 33 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending regulation (EC) No 1083/2006 concerning general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards provisions relating to financial management.

It adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure).

Parliament amends the Commission's proposal as follows:

Additional pre-financing: Parliament underlines that due to exceptional circumstances and given the serious and unprecedented impact of the current economic and financial crisis on the budgets of Member States, an additional pre-financing instalment for 2010 is needed for the Member States worst hit by the crisis in order to allow for a regular cash flow and to facilitate payments to beneficiaries during programme implementation. Members propose that the Member States that were granted medium-term assistance in accordance with Council Regulation (EC) No 332/2002 and Member States with a GDP decrease in 2009 of more than 10 % in real terms in comparison to 2008, may receive advance payments in 2010 of 2% from the European Social Fund and 4% from the Cohesion Fund.

Interim payments and final balance: Parliament deleted the proposed amendment concerning the common rules for calculating interim payments and payments of final balance. In doing so, it rejected the most pertinent of the Commission's proposal concerning the suggestion which would allow Member States to apply for 100% reimbursement of interim payments from the European Social Fund during 2009 and 2010.

Decommitment rules: these rules have been eased. Parliament states that it is appropriate to extend the deadline for the calculation of the automatic decommitment of the annual budget commitment related to 2007 total annual contribution to improve the absorption of funds committed for certain operational programmes. Such flexibility is necessary due to slower than expected start up and late approval of the programmes.

The Commission shall automatically decommit any part of the amount calculated in an operational programme that has not been used for payment of the pre-financing or interim payments or for which an application for payment has not been sent by 31 December of the second year following the year of budget commitment under the programme. For the purpose of the automatic decommitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to 2007 total annual contribution to each of 2008 to 2013 budget commitments. By way of derogation, the deadlines for automatic decommitment shall not apply to the annual budget commitment related to 2007 total annual contribution.

Adaptation to the Lisbon Treaty: Parliament clarifies that following, inter alia, the change in the decision-making process resulting from the entry into force of the Lisbon Treaty, amendments provided for by this Regulation have not been introduced in time to prevent the application of current Article 93(1) of Regulation 1083/2006. Consequently, decommitments made by the Commission would result, pursuant to Article 11 of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities in cancelling appropriations of financial year 2007 which should be spread over the financial years 2008 to 2013 in implementation of the rules introduced by this Regulation.

It is therefore appropriate, as a transitory measure, to provide for the possibility to reconstitute, as necessary, the corresponding appropriations for the purposes of implementing the amended decommitment rules.

## European Regional Development Fund, European Social Fund and Cohesion Fund: simplification of certain requirements; financial management

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**PURPOSE:** to simplify further the rules governing cohesion policy to help accelerate investments in Member States and regions and to increase the impact of the funding on the economy.

**LEGISLATIVE ACT:** Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010 amending Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund as regards simplification of certain requirements and as regards certain provisions relating to financial management.

**CONTENT:** the Council adopted this Regulation facilitating access to EU structural funds in order to counter the economic crisis, following a first-reading agreement with the European Parliament. The Czech, Maltese, Polish, Slovenian, Slovakian and UK delegations abstained. The Regulation aims at ensuring the liquidity of the Member States worst hit by the crisis, improve the absorption of funds for certain operational programmes and simplify the rules for the management of the structural funds.

The main points are as follows:

**Additional pre-financing:** in order to tackle cash flow problems, five Member States (Estonia, Latvia, Lithuania, Hungary and Romania) will receive additional advance payments for an amount totalling EUR 775 million, by increasing the advance payments from the European Social Fund (ESF) by 4% and from the Cohesion Fund by 2%.

**Decommitment rules:** in a reaction to the slower than expected start up and late approval of programmes, the decommitment rules are eased. By way of derogation, the deadlines for automatic decommitment will not apply to the commitment appropriations of 2007. It is recalled that under the N+2 decommitment rule, commitment appropriations for 2007 are automatically decommitted if the money is not spend by the end of 2009. This rule applies to the 15 Member States that were members of the EU before 1 May 2004 except for Portugal and Greece.

One sixth of the amount of the annual commitments for 2007 will be added to the budget appropriations for each of the years between 2008 and 2013. This will avoid Member States losing a total amount of about EUR 220 million (EUR 125 million for Spain, EUR 56 million for Italy, EUR 20 million for territorial cooperation between several Member States, EUR 9 million for the United Kingdom, EUR 6 million for Germany and EUR 4 million for the Netherlands).

**Simplification:** the Regulation also provides for a simplification of the rules for the structural funds in order to facilitate the management of EU funding, to help accelerate investments in Member States and regions and to increase the impact of the funding on the economy. This includes, inter alia, the introduction of uniform thresholds for the definition of major projects. The text now states that the ERDF and the Cohesion Fund may finance expenditure comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and whose total cost exceeds EUR 50 million (a major project).

Under this Regulation, a single major project may be co-financed by more than one programme. The latter amendment is of particular relevance for projects of nation-wide scope or EU importance, which cover several regions, and which in the absence of this possibility would have to be artificially separated in multiple projects.

**ENTRY INTO FORCE:** 25/06/2010. However, certain articles will apply from 01/08/2006, 01/01/2007, and 10/06/2010 respectively.