

Modifications to the Regulation – 14 March 2013

Article	Proposed text	Reason for change	Donor decision
2.2.2	<p>2. The Strategic Report shall provide:</p> <p>(a) an assessment of the contribution of the EEA Financial Mechanism 2009-2014 towards the reduction of social and economic disparities in the Beneficiary State;</p> <p>(...)</p> <p>(h) an assessment of the implementation of the communication strategy, in accordance with the Information and Publicity Requirements in Annex 4; and</p> <p>(i) a summary of irregularities detected and the measures taken as well as a summary of complaints received under the complaint mechanism referred to in Article 11.8; and</p> <p><u>(j) a summary of risk assessment carried out and the associated mitigation measures taken.</u></p>	<p>The Donors and the Beneficiary States have agreed that Risk Assessment shall be a topic on the agenda at Annual Meetings. In order to ensure that this is discussed in depth and on the basis of specific issues, it is considered necessary to include a section on risk assessment in the Strategic Report.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
2.3.3	<p>3. The timing of the annual meeting shall be set out in the MoU. If the date is later than 31 August, the Beneficiary State shall submit a brief update of the Strategic Report two<u>four</u> weeks prior to the annual meeting.</p>	<p>The current wording of ‘two weeks’ significantly hampers the ability of the FMO and Donors in preparing for the Annual Meetings.</p>	<p>The Donors have decided to adopt the change as proposed.</p>

3.3.3	<p>3. The tasks of the Cooperation Committee include:</p> <p>(a) advising on selection criteria and the texts for call(s) for proposals;</p> <p>(...)</p> <p>(e) reviewing the annual programme reports; and</p> <p>(f) advising the Programme Operator of any revision of the programme likely to facilitate the achievement of the programme's expected outcome(s) and objective(s); and</p> <p><u>(g) advising on the use and the set-up of the fund for bilateral relations at the programme level.</u></p>	<p>DPPs have requested that discussion about the bilateral fund is mentioned as a specific task of the Cooperation Committee. It is already included in the Bilateral Guideline, but it would strengthen the legal basis to include it in the Regulation.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
4.3.6	<p>6. The National Focal Point shall ensure that the programmes are implemented in accordance with this Regulation and monitor the progress and quality of their implementation. To this end, the National Focal Point <u>shall continuously and in a structured manner assess the risks to the implementation of the EEA Financial Mechanism 2009-2014</u> and may take the action it deems necessary and compatible with this Regulation, including to verify the quality and content of any documents provided to the FMC through the National Focal Point and request the necessary modification to such documents.</p>	<p>Risk assessment is an increasingly important tool at all levels of implementation of the Financial Mechanisms. It is considered necessary to integrate an explicit reference to the requirement for risk assessments into the core tasks of the National Focal Point.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
5.4.8	<p>8. The Programme Operator may propose a lower threshold in the following cases:</p>	<p>A lower and more flexible project size is justified for projects targeting Roma inclusion in order to facilitate grass-</p>	<p>The Donors have decided to adopt the change as proposed.</p>

	<p>(a) programmes under the programme areas “Funds for Non-governmental Organisations”, “Institutional Framework in the Asylum and Migration Sector” and “Promotion of Diversity in Culture and Arts within European Cultural Heritage”;</p> <p>(b) small grants referred to in Article 5.6, funds for bilateral relations referred to in Articles 3.5 and 3.6; and</p> <p>(c) scholarships and research projects; and</p> <p>(d) projects targeting Roma inclusion.</p>	<p>roots and smaller scale projects – at a local and regional level – as these are often the most effective.</p> <p>The FMO has consulted the Donors on this issue and on 20 March 2012 they gave their approval to a future amendment of the Regulation in this regard.</p> <p>This has been communicated to the Beneficiary States by letter of 12 April 2012. No objections were raised.</p>	<p>proposed.</p>
6.3.4	<p>4. The FMC and the National Focal Point shall be informed of all calls for proposals at least twofour weeks in advance of their announcement, and, at the same time, be provided with an English translation of the text of each call.</p> <p>5. In cases where the FMC considers that a call for proposals does not comply with the legal framework of the EEA Financial Mechanism 2009-2014 as defined in Article 1.4 of this Regulation, the FMC may, at the latest onetwo weeks prior to the intended announcement date, make a reasoned request for modification of the call for proposals. In such cases, the call for proposals shall only be announced when the FMC is satisfied that the call complies with the legal framework referred to</p>	<p>The call for proposals will define the type of activities ultimately funded by the FMs. With this in mind, it is considered prudent to introduce an optional review process, whereby perceived deviations from the legal framework in the call text can be rectified prior to the announcement of the open call.</p> <p>Existing remedies under Chapter 12 of the Regulation would cover such deviations; however their application would be disproportionate, may not prevent the announcement of the call and as such may not be suitably tailored to the intended aim of the</p>	<p>The Donors have decided to adopt the change, in a modified version.</p> <p>The Donors agree with a number of Beneficiary States that any reasoned requests for modification of the call documents should be made two weeks prior to the intended announcement date, as opposed to one week, as previously proposed. This is justified taking into account the need to not unduly delay the launch of calls for proposals and the extended time (from</p>

	<p>above.</p>	<p>review.</p> <p>It should be noted that this change would only allow for calls to be postponed where the call text is not in line with the legal framework (which includes the Programme Agreement). It is not intended that the review mechanism would act as ‘micromanagement’.</p> <p>It is proposed to change the date of information on call for proposal texts to four weeks (from the current two) in order to allow for more substantial evaluations to take place and, in those cases where further measures are necessary, to lessen the risk that the call for proposals is substantially delayed.</p>	<p>two to four weeks) prior to the intended launch of the call that the call text will be received.</p>
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6.5.2	<p>2. Each application that meets the administrative and eligibility criteria shall be reviewed by two independent and impartial experts appointed by the Programme Operator, <u>who shall be impartial and independent of the Programme Operator and the Selection Committee.</u></p>	<p>The interpretation of this Article has been subject to much discussion with the Beneficiary States, due primarily to an uncertainty as to which entities these experts should be independent of and impartial to.</p> <p>The FMO considers that these experts should be independent of the Selection Committee. This is based on their important role in performing the first step of qualitative assessment of project applications, the second step being taken by the Selection Committee. Should such experts be from the Programme Operator or other members of the Selection Committee, the integrity of the two-step process described in Article 6.5.2 would be compromised.</p> <p>For this reason, the FMO proposes to clarify the text in order to clearly delineate the independence of these experts.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
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<p>7.4</p>	<p>Indirect costs in projects (overheads)</p> <p>1. Indirect costs are all eligible costs that cannot be identified by the Project Promoter and/or the project partner as being directly attributed to the project but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project. They may not include any eligible direct costs. Indirect costs of the project shall represent a fair apportionment of the overall overheads of the Project Promoter or the project partner. They may be identified according to one of the following methods:</p> <p>...</p> <p>(c) in case of a project implemented within a research programme or within a <u>research component within any</u> programme, the Project Promoter and project partners that are non-profit public bodies, secondary and higher education establishments, research organisations and SMEs, which, due to the lack of analytical accounting, are unable to identify with certainty their real indirect costs for the project, may opt for a flat-rate of up to 60% of the total direct eligible costs, excluding its direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the Project Promoter. If these Project Promoters or partners change their status during the life of the project, this flat rate shall be applicable up to the moment</p>	<p>This change is necessary further to the changes proposed to Annex 12 to the Regulation, concerning specific treatment of indirect costs (overheads) in Research Programmes.</p> <p>It should be noted that, due to the limited scope of Annex 12, research components in non-research Programmes, will continue to be bound by the rules contained in the Regulation more generally, including Article 7.4.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
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	<p>they lose their status. ...</p> <p>5. In exceptional and duly justified cases, the Programme Operator may in its programme proposal suggest restricting the eligibility of indirect costs. Such restrictions, if approved by the FMC, shall be explicitly stipulated in the programme agreement.</p> <p><u>6. This Article shall not apply to projects and programmes falling within the scope of Annex 12 to this Regulation.</u></p>		
7.9.2	<p>2. The first date of eligibility of costs under this article shall be the date when the National Focal Point, in accordance with paragraph 4 of Article 4.2, designates the Programme Operator. The last date of eligibility shall be the <u>day preceding the date when the FMC approves the programme</u>day when the programme proposal is received by the FMC. By way of derogation from paragraph 3 of Article 7.2, costs that are eligible according to this</p>	<p>Following a number of requests for extension of the eligibility period for Programme Preparation costs to cover the appraisal period, on the basis that allowing for Programme Preparation costs to be eligible during the appraisal period may lead to more co-operation with POs during this short but crucial period and ultimately to the</p>	<p>The Donors have decided to adopt the change as proposed.</p>

	<p>article shall be invoiced and paid no later than one month after the last date of eligibility.</p>	<p>approval of better formed Programmes and also allow Programme Operators to be better prepared once the Donors' decision has been reached, the FMO proposed this change.</p> <p>The FMO has consulted the Donors on this issue and on 2 March 2012 they gave their approval to a future amendment of the Regulation in this regard.</p> <p>This has been communicated to the Beneficiary States by letter of 8 March 2012. No objections were raised. One modification has been made to the wording approved by the Donors at the time, namely, clarifying that preparation costs will be eligible until the day preceding the Donors' decision to approve a Programme. This is in order to avoid potential overlap with Programme Management costs, which become eligible on the date of the Donors' decision.</p>	
7.10.3	<p>3. The following categories of expenditure are eligible as management costs, provided that the expenditure is proportionate and necessary:</p> <p>(a) preparation of the implementation of the programme, including the development of procedures for project selection and financial</p>	<p>FMO has interpreted the Regulation in a way that costs related to organizing programme committee meetings would be eligible under Programme Management costs. This has been communicated to National Focal</p>	<p>The Donors have decided to adopt the change as proposed.</p>

	<p>flows;</p> <p>(...)</p> <p>(i) charges related to the establishment and operation of bank accounts required under this Regulation or the programme agreement, including costs of incoming and outgoing transfers; and</p> <p>(j) overheads, calculated in accordance with paragraphs 1(a) or (b) of Article 7.4, as appropriate, and subject to the requirements in paragraph 4 of Article 7.13; <u>and</u></p> <p><u>(k) expenditures related to the operation of the Cooperation Committee in the case of donor partnership programmes and expenditures related to the operation of the Programme Committee, when required in accordance with Annex 12 to this Regulation.</u></p>	<p>Points. A number of Beneficiary states have however contested this, since it was not explicitly mentioned under 7.10.3, and have charged these costs to the Bilateral fund at national level. This revision of the Regulation would bring it in line with the Bilateral Guideline.</p>	
7.11.3	<p>3. For costs of complementary action to be eligible the action must have been explicitly approved by the FMC and the total costs <u>must be</u> specified in the detailed budget of the programme, annexed to the programme agreement. Costs of complementary action may not exceed an amount equal to 20% of the management costs for the programme, except in the case of funds for NGOs where the ceiling shall be 30%, subject to the maximum ceiling in paragraph 4 of Article 7.10.</p>	<p>Complementary action is an important area of priority in the implementation of the Financial Mechanisms. Recognising the novel nature of such activities while at the same time not wishing to cause delays in Programme appraisal, it is proposed that the required level of detail on the specific actions to be taken is limited to an overall budgetary allocation.</p> <p>It should be noted that with this change, the power of the Donors to</p>	<p>The Donors have decided to adopt the change as proposed.</p>

		oversee complementary action becomes limited to a decision as to approval of its total amount and an ex post review of its conformity with the Regulation.	
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Annex 4 – Information and publicity requirements

2.2	<p>2.2.Preparation of the Communication Strategy</p> <p>With reference to paragraph 4 of Article 4.3 of the Regulation, the National Focal Point shall develop a Communication Strategy with the aim of creating awareness of the existence, the objectives, the possibilities for and actual bilateral cooperation with Donor State entities, the implementation and the overall impact of the financial mechanism in the Beneficiary State.</p> <p>The Communication Strategy shall include at least the following:</p> <p>(...)</p> <p>(d) a website dedicated to the financial mechanism(s) in the Beneficiary State, including the following information in the language(s) of the Beneficiary State and in English:</p> <p>i. information on the overall objectives of the financial mechanism(s);</p>	<p>It was the practice under the EEA and Norway Grants 2004-09 for the Focal Points to publish annual reports and minutes from annual meetings on their websites. This should continue and it would be beneficial to make this explicit in the requirements. The public access policy for the EEA and Norway Grants also requires the FMO to publish the strategic reports.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
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	<ul style="list-style-type: none"> ii. information on bilateral cooperation with Donor State(s); iii. information on all Programmes; iv. information on impact from the financial mechanism support; v. an overview of open calls under the Programmes; vi. relevant documents, including Strategic Reports and minutes from annual meetings; vii. a link to the website of the financial mechanisms [link]; viii. links to all Programme websites; ix. links to websites of other relevant institutions; x. contact information. 		
3.2	<p>3.2.Preparation of the Communication Plan</p> <p>Each Programme Operator shall include a Communication Plan in its Programme proposal, ref. subparagraph (a) of Article 4.7.2 of the Regulation.</p> <p>The Communication Plan shall aim to create awareness of the existence, the objectives, the possibilities for and actual bilateral cooperation with Donor State entities, the implementation and the overall impact of support from the financial mechanism through the Programme.</p> <p>The Communication Plan shall include at least the</p>	To adhere to the principle of transparency, the annual programme reports and the final programme report should be made available on the Programme Operators' websites.	The Donors have decided to adopt the change as proposed.

<p>following:</p> <p>(...)</p> <p>(d) information on a website dedicated to the Programme, including the following information in the language(s) of the Beneficiary State and in English:</p> <ul style="list-style-type: none"> i. information on the Programme and the financial mechanism; ii. an overview of open calls, including documents pertaining to the open calls; iii. information on selection criteria, procedures and deadlines; iv. information on all funded projects, including contact information, a description of the projects and their duration, the amount of funding allocated to the projects and information on cooperation with Donor State entities, v. information on impact from the Programme and financial mechanism support; vi. relevant documents, including the annual programme reports and the final programme report; vii. a link to the website of the financial mechanisms [link]; viii. a link to the website of the financial mechanism(s) in the Beneficiary State; ix. links to websites of donor programme partners 		
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	and other relevant institutions; and x. contact information.		
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Annex 12 – Rules for the establishment and implementation of donor partnership programmes falling under the Programme Areas “Research within Priority sectors” and “Bilateral Research Cooperation”

<p><i>Chapeau</i></p>	<p>Donor partnership programmes falling under the Programme Area “Research within Priority sectors” and “Bilateral Research Cooperation” shall be established and implemented in accordance with the Regulation and this Annex. The following articles of the Regulation will not apply to donor partnership programmes falling under the Programme Areas “Research within Priority sectors” and “Bilateral Research Cooperation”: article 3.3 Cooperation Committee, article 6.1 Modes of selection, article 6.3 Calls for proposals, article 6.4 Selection Committee, article 6.5 Selection procedures, article 7.4 Indirect costs in projects (overheads), article 7.13 Proof of expenditure, article 8.2 Advance payments and article 8.3 Interim payments.</p>	<p>Formal change necessary to exclude Research Programmes falling under the scope of Annex 12 from the application of Article 7.4 of the Regulation, further to the proposed introduction of new Article 5.4 in Annex 12.</p>	<p>The Donors have decided to adopt the change as proposed.</p>
<p>2.3.2</p>	<p>2.3.2 Calls for proposals (...) The FMC / NMFA shall be informed of all calls for proposals at least twofour weeks in advance of their announcement, and, at the same time, be provided with an English translation of the text of each call. In cases where the FMC / NMFA considers that a call for proposals does not comply with the legal framework of the EEA or the Norwegian Financial</p>	<p>The same as for Article 6.3.4 of the Regulation explained above.</p>	<p>The Donors have decided to adopt the change, in a modified version. The reasons given in the context of changes to Article 6.3.4 of the Regulation also apply here.</p>

	<p><u>Mechanism 2009-2014 as defined in Article 1.4 of this Regulation, the FMC / NMFA may, at the latest onetwo weeks prior to the intended announcement date, make a reasoned request for modification of the call for proposals. The call for proposals shall only be announced when the FMC / NMFA is satisfied that the call complies with the legal framework referred to above.</u></p>		
5.3	<p>5.3 Proof of expenditure</p> <p>Costs incurred by Programme Operators, Project Promoters and project partners shall be supported by receipted invoices, or alternatively by accounting documents of equivalent probative value.</p> <p>Where activities are implemented in the framework of competitive tendering procedures, payments by Programme Operators, Project Promoters and project partners shall be supported by receipted invoices based on the signed contracts. In all other cases, payments by Programme Operators, Project Promoters and project partners shall be justified by expenditure actually paid by the entities concerned in implementing the project.</p> <p>A <u>report-certificate</u> by an independent and certified auditor, certifying that the claimed costs are incurred in accordance with this Regulation, the national law and accounting practices of the project partner's country, <u>may-shall</u> be seen as sufficient proof of <u>costs-expenditure</u> incurred by a Project</p>	<p>These changes have been proposed in order to clarify certain matters related to proof of expenditure in research programmes. The rationale for the changes is to harmonize the rules applicable to research programmes under the Financial Mechanisms with projects receiving funding under the EU's 7th Framework Programme for Research. This is in line with Annex 12 which states that the objectives of the research partnership programmes include, inter alia, to "prepare Project Promoters, project partners and researchers for further research cooperation within the European Framework Programmes for research and technological development" (Annex 12, Article 1, fourth paragraph).</p>	<p>The Donors have decided to adopt the change, in a modified version.</p> <p>In line with the overall objective of simplifying rules for the submission of proof of expenditure, especially in Research Programmes, it is considered appropriate to limit the effect of the provision to those projects where no proof of expenditure is to be submitted. Requirements for proof of expenditure in projects where the total grant awarded is equal to or superior to EUR 350,000 should not be introduced in Annex 12.</p>

Promoter or a project partner whose primary location is in a Donor State or a Beneficiary State. Project Promoters and project partners falling under the scope of this annex may opt for a competent public officer to provide their proof of expenditure (certificate on financial statements) provided that the relevant national authorities have established the legal capacity of that competent public officer to audit that entity and that the independence of that officer, in particular regarding the preparation of the financial statements, can be ensured.

Proof of expenditure shall not be submitted by a project promoter or a project partner where the total grant from the programme to the respective project promoter or project partner is less than EUR 375,000. In cases where the total grant from the programme to a project promoter or project partner is equal to or superior to EUR 375,000, a proof of expenditure shall be submitted when, at the time of submittal of the periodic or final report, the grant from the programme to the respective project promoter or project partner is equal to or superior to EUR 375,000 when cumulated with all previous payments.

~~A proof of expenditure shall be submitted only if the project grant is equal to or superior to 375,000 euro. For projects of a duration of two years or less such proof of expenditure shall be submitted by the Project Promoter only for claims on final payments, if the project grant is equal to or superior to EUR~~

	<p>375 000 when cumulated with all previous payments.</p> <p>The report as regards flat rate overheads referred to in paragraph 2 of article 7.4 of the Regulation may be used for any subsequent projects implemented under the EEA Financial Mechanism 2009-2014 by the same Project Promoter and/or project partner, provided that the report's assumptions have not changed. Project Promoters and project partners who can document that they have had their legal and financial data, including their Indirect Cost Model (ICM), validated in the Unique Registration Facility (URF) of the European Framework Programme for research, and have received a Participant Identification Code (PIC), shall not be obligated to provide the Programme Operator with the report as regards flat rate overheads.</p>		
<p>New Article 5.4</p>	<p><u>5.4 Indirect costs in projects (overheads)</u></p> <p><u>1. Indirect costs are all eligible costs that cannot be identified by the Project Promoter and/or the project partner as being directly attributed to the project but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project. They may not include any eligible direct costs.</u></p> <p><u>Indirect costs of the project shall represent a fair apportionment of the overall overheads of the Project Promoter or the project partner. They may</u></p>	<p>These changes have been consulted with and approved by the Research Council of Norway, which acts as Donor Programme Partner in all research programmes. The changes made to Article 5.3 should be read in conjunction with the proposed new Article 5.4, described below.</p>	<p>The Donors have decided to adopt the change, in a modified version.</p> <p>The modification to the change proposed is in order to simplify the procedure to be applied.</p>

be identified according to one of the following methods:

(a) Project Promoters and/or project partners who can document that they have had their legal and financial data, including their Indirect Cost Model (ICM), validated in the Unique Registration Facility (URF) of the European Framework Programme for research, and have received a Participant Identification Code (PIC), shall apply the same indirect cost model in projects falling under the scope of this Annex.

(b) All other Project Promoters and/or project partners shall identify their indirect costs according to one of the following methods:

(i) based on actual indirect costs for those Project Promoters and project partners that have an analytical accounting system to identify their indirect costs as indicated above;

(ii) a Project Promoter and project partners may opt for a flat rate of 20% of their total direct eligible costs, excluding its direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the Project Promoter;

or

(iii) Project Promoters and project partners that are nonprofit public bodies, secondary and higher education establishments, research organisations

and SMEs, which, due to the lack of analytical accounting, are unable to identify with certainty their real indirect costs for the project, may opt for a flat rate of 60% of their total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the Project Promoter.

2. The application of the flat rates described in paragraphs 1(b)(ii) or 1(b)(iii) shall not be subject to the approval of a methodology of calculation.

3. The method of identifying the indirect costs and its maximum amount shall be determined in the project contract. The method of identifying the indirect costs of a project partner shall be stipulated in the partnership agreement between the Project Promoter and the project partner.

4. In exceptional and duly justified cases, the Programme Operator may in its programme proposal suggest restricting the eligibility of indirect costs. Such restrictions, if approved by the FMC / NMFA, shall be explicitly stipulated in the programme agreement.