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**Act**  
**on the National Management of Structural Fund Programmes**  
(1353/1999)

**Chapter 1**

**General provisions**

Section 1

*Scope of application*

- (1) This Act shall apply to the implementation of programmes co-financed from the Structural Funds of the European Community as well as to the management, supervision and control of contributions from the Structural Funds and of corresponding national co-financing.
- (2) Sections 17-23 of this Act shall not apply to the Financial Instrument for Fisheries Guidance.
- (3) Section 21(1)(1), (2) and (4-9), section 22(1)(2), to the extent it governs the regional cooperation document, and (4) as well as section 23 of this Act shall not apply to a Structural Fund programme submitted in respect of Objective 3 provided for in Article 1 of Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds.
- (4) The implementation of Community Initiative Programmes co-financed from the Structural Funds of the European Community and the management, supervision and control of contributions from the Structural Funds and of corresponding national co-financing shall be governed by separate provisions.

Section 2

*Relationship to other Acts*

- (1) This Act shall apply to measures of the regional development authority and the Ministry of the Interior financed by contributions from the Structural Funds of

the European Community and by corresponding national co-financing unless otherwise provided for in the Regional Development Act (1135/1993).

- (2) This Act shall apply to measures financed by the European Agricultural Guidance and Guarantee Fund, Guidance Section unless otherwise provided for in the Act on Structural Policy Measures in Agriculture and Forestry (1303/1994) or in Acts referred to in section 27(2) thereof.
- (3) This Act shall apply to measures financed by the Financial Instrument for Fisheries Guidance unless otherwise provided for in the Act on Implementing the Common Fisheries Policy of the European Community (1139/1994).
- (4) If another Act contains provisions derogating from the provisions of this Act, they shall be complied with instead of this Act.

### Section 3

#### *Relationship to European Community law*

This Act shall apply to the implementation of programmes co-financed from the Structural Funds of the European Community as well as to the management, supervision and control of Structural Fund resources unless otherwise provided for in a European Community act or a decision by an institution of the European Community made thereunder.

### Section 4

#### *Definitions*

- (1) For the purposes of this Act:
  - 1) a *Structural Fund* means the European Regional Development Fund, the European Social Fund, the European Agricultural Guidance and Guarantee Fund, Guidance Section and the Financial Instrument for Fisheries Guidance;
  - 2) *Structural Fund resources* mean the Structural Fund resources granted by the Commission of the European Communities to Finland from the budget of the European Communities;
  - 3) *national co-financing* means public and private co-financing corresponding to the Structural Fund resources;

- 4) *national public co-financing* means co-financing of the State, the municipalities and other public bodies corresponding to the Structural Fund resources;
- 5) *the general Regulation* means Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds;
- 6) *the control Regulation* means Commission Regulation (EC) No 2064/97 establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88 as regards the financial control by Member States of operations co-financed from the Structural Funds;
- 7) *the rural development Regulation* means Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) and amending and repealing certain Regulations;
- 8) *a Structural Fund programme* means a single programming document referred to in Article 19 of the general Regulation as well as related programme complements defined in Article 9(m) of the general Regulation;
- 9) *regional Structural Fund programmes* mean the programmes of Northern Finland and Eastern Finland submitted in respect of Objective 1 as well as the programmes of Western Finland and Southern Finland submitted in respect of Objective 2 provided for in Article 1 of the general Regulation;
- 10) *horizontal Structural Fund programmes* mean the programme submitted in respect of Objective 3 provided for in Article 1 of the general Regulation and the programme referred to in Article 2(2)(2) of Council Regulation (EC) No 1263/1999 on the Financial Instrument for Fisheries Guidance implemented in a region outside the regions covered by Objective 1;
- 11) *the ministry using Structural Fund resources* means the ministry which grants or itself uses Structural Fund resources or distributes them further to its own administrative sector or to the Regional Councils to be used or granted as assistance.

## Section 5

### *Crediting of Structural Fund resources*

- (1) The resources credited to Finland from Structural Funds shall be entered in the State Budget unless otherwise provided for by another Act, a European Community act or a decision by an institution of the European Community made thereunder.
- (2) Appropriations needed for the payment of expenses funded with the income entered in the State Budget and received from the European Community Structural Funds shall be entered in the State Budget.

## **Chapter 2**

### **Managing authorities, their tasks and competence**

#### Section 6

##### *Managing authorities*

The following shall act as managing authorities referred to in Article 9 (n) of the general Regulation:

- 1) with regard to Structural Fund programmes submitted in respect of Objectives 1 and 2 provided for in Article 1 of the general Regulation, the Ministry of the Interior;
- 2) with regard to a Structural Fund programme submitted in respect of Objective 3 provided for in Article 1 of the general Regulation, the Ministry of Labour;
- 3) with regard to a single programming document referred to in Article 2(2) of Council Regulation (EC) No 1263/1999 on the Financial Instrument for Fisheries Guidance, the Ministry of Agriculture and Forestry.

#### Section 7

##### *Tasks of the managing authority*

The managing authority shall attend to the duties provided for in Article 34 of the general Regulation as well as to national tasks relating to the Structural Fund programme managed by it as provided for in sections 8 and 9, section 14(2) as well as in sections 26 and 29.

#### Section 8

*Guidelines and orders issued by the managing authority*

- (1) The managing authority may issue guidelines relating to the management, supervision and control of a Structural Fund programme to the paying authorities and other ministries using Structural Fund resources if the fulfilment of the obligations provided therefor in Article 34 of the general Regulation so require.
- (2) The managing authority may, subject to the prerequisites referred to in subsection (1), issue guidelines relating to the management, supervision and control of a Structural Fund programme to parties other than authorities who participate in the implementation of the Structural Fund programme.
- (3) The managing authority may issue general orders relating to the management, supervision and control of a Structural Fund programme to paying authorities and other ministries using Structural Fund resources if the fulfilment of the obligations provided therefor in Article 34 of the general Regulation absolutely so require. Prior to issuing the orders, the managing authority and the ministry shall negotiate on the matter.

Section 9

*Certain implementation arrangements*

- (1) With regard to issues which do not fall under legislation or otherwise require the consent of Parliament, the managing authority may, where necessary, in full understanding with the paying authorities of the Structural Fund programme and other ministries using Structural Fund resources, agree also on necessary arrangements deemed ordinary and relating to the implementation of the management tasks of the Structural Fund programme with the Commission of the European Communities, the authorities attending to Structural Fund tasks in the other Member States of the European Union or with other parties attending to these tasks in the Member States.
- (2) With regard to issues referred to in subsection (1), the managing authority may, in full understanding with the paying authorities of the Structural Fund programme and the other ministries using Structural Fund resources agree also on implementation arrangements absolutely required by the technical co-

ordination of the Structural Fund programme and a programme financed by the European Community and realised outside the European Union.

### **Chapter 3**

#### **Paying authorities, their tasks and competence**

##### Section 10

###### *Paying authorities*

The paying authorities referred to in Article 9(o) of the general Regulation shall be:

- 1) with regard to the European Regional Development Fund, the Ministry of the Interior;
- 2) with regard to the European Social Fund, the Ministry of Labour;
- 3) with regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, the Ministry of Agriculture and Forestry;
- 4) with regard to the Financial Instrument for Fisheries Guidance, the Ministry of Agriculture and Forestry.

##### Section 11

###### *Tasks of the paying authority*

The paying authority shall attend to the tasks provided for in Article 32 of the general Regulation as well as to national tasks relating to Structural Fund resources as provided for in sections 12 and 13, section 14(3) as well as in sections 15, 26, 30 and 38.

##### Section 12

###### *Allocation of Structural Fund resources for the use of other authorities*

- (1) The paying authority shall be responsible for the allocation of Structural Fund resources entered in the State Budget in its main class for the use of or further distribution by the ministries in whose main class the corresponding State co-financing has been entered in the State Budget.

- (2) For the financing of measures, the national public co-financing of which comes in part or in full from another source than appropriations in the State Budget, the paying authority shall allocate Structural Fund resources to be granted or further distributed by the ministries to the purview of which the appropriation is meant for.
- (3) The paying authority shall also be responsible for making available the Structural Fund resources referred to in Article 9(i) of the general Regulation and in Article 4(2) of Regulation (EC) No 1784/1999 of the European Parliament and of the Council on the European Social Fund directly to intermediaries referred to in the Articles.
- (4) The paying authority shall, without delay, submit to the managing authority information on decisions referred to in subsections (1)-(3) and relating to the allocation and payment of the resources.
- (5) In order to ensure flexibility in the use of the resources, the ministries using Structural Fund resources may leave part of the Structural Fund resources and corresponding State co-financing in programme reserve.

### Section 13

#### *Conditions, guidelines and orders relating to Structural Fund resources issued by the paying authority*

- (1) When allocating Structural Fund resources for the use of or further distribution by a ministry or another authority, the paying authority may, in the decision on the allocation of resources, set conditions relating to the use of the resources to be complied with by the authority when they are necessary for the fulfilment of obligations based on European Community legislation and for the proper attendance to the management, supervision and control of Structural Fund resources.
- (2) In cases other than those referred to in subsection (1), the paying authority may issue guidelines to the authority referred to in subsection (1) relating to the management, supervision and control of Structural Fund resources if the fulfilment of obligations based on European Community legislation and the proper attendance to the management, supervision and control of Structural Fund resources so require.

- (3) The paying authority may issue general orders relating to the use of Structural Fund resources to the authority referred to in subsection (1) if the fulfilment of the obligations based on European Community legislation and the proper attendance to the management, supervision and control of Structural Fund resources necessarily so require. Prior to issuing the orders, the paying authority and the authority in question shall negotiate on the matter.
- (4) When allocating Structural Fund resources for the use of or further distribution by a party other than an authority, the paying authority may, in the decision on the allocation of the resources, impose on the recipient conditions relating to the use of the resources and supplementing the obligations of the recipient provided for by an Act which are necessary for the fulfilment of obligations based on European Community legislation and for the proper attendance to the management, supervision and control of Structural Fund resources. Under the same conditions, the paying authority may in other cases issue guidelines relating to the management, supervision and control of Structural Fund resources to a party other than an authority.

#### Section 14

##### *Conditions, guidelines and orders relating to Structural Fund resources and corresponding State co-financing issued to Regional Councils*

- (1) When allocating Structural Fund resources and corresponding State co-financing for the use of and further distribution by Regional Councils, the Ministry of the Interior may, in its decision on the allocation of the resources, set conditions on the use of the resources to be complied with by the Regional Councils when they are necessary for the fulfilment of obligations based on European Community legislation as well as for the proper attendance to the management, supervision and control of Structural Fund resources and corresponding State co-financing.
- (2) In cases other than those referred to in subsection (1), the Ministry of the Interior may issue guidelines and general orders referred to in section 8 to the Regional Councils under the conditions provided for in the said section when the Ministry of the Interior acts as the managing authority or when the managing authority has, under section 8, issued a guideline or a general order referred to in

section 8 to the Ministry of the Interior and the issuing of such to the Regional Councils is necessary.

- (3) In cases other than those referred to in subsection (1), the Ministry of the Interior may issue guidelines and general orders referred to in section 13 to the Regional Councils under the conditions provided for in the said section when the Ministry of the Interior acts as the paying authority or when the paying authority has, under section 13, issued a guideline or a general order referred to in section 13 to the Ministry of the Interior and the issuing of such to the Regional Councils is necessary.

## Section 15

### *Liability for the use of Structural Fund resources*

- (1) When the paying authority has allocated Structural Fund resources for the use of or further distribution by another ministry than the paying authority itself, the ministry shall be liable to ensure that the resources are used and managed appropriately and that any errors detected are corrected. The ministries shall notify the paying authority of measures taken for the correction of the errors detected. The Regional Councils shall notify the Ministry of the Interior of these measures.
- (2) If measures necessary with regard to the quality and extent of the error have not been taken, the paying authority may obligate the ministry to take measures to correct the error or to prevent its reoccurrence. The paying authority may, where necessary, set the ministry a time limit within which it shall take the measures. With regard to the Regional Councils, the competence referred to herein shall lie with the Ministry of the Interior.
- (3) The paying authority shall, without delay, notify the managing authority of measures taken to correct an error.

## Chapter 4

### **Preparation and implementation of Structural Fund programmes**

## Section 16

### *Preparation of Structural Fund programmes*

The procedure provided for in the Regional Development Act shall apply to the preparation of Structural Fund programmes unless otherwise provided for in another Act.

#### Section 17

##### *Regional management committee*

- (1) Each region shall have a regional management committee for the implementation of Structural Fund programmes and the co-ordination of measures with an effect on the development of the region.
- (2) The management committee shall be appointed by the Board of the Regional Council and the term of the management committee shall continue until the Commission of the European Communities has approved the final implementation report referred to in Article 37 of the general Regulation. The term may be continued if so required by attendance to the duties of the management committee. The representatives of the parties referred to in subsection (3)(1) shall, however, with regard to the Regional Council and its member municipalities, be elected for the term of the Municipal Council and, with regard to Sami Parliament, for the term of the Sami Parliament.
- (3) The composition of the management committee shall be adjusted so that the representatives represent equally:
  - 1) the Regional Council and its member municipalities as well as in the Province of Lapland, also the Sami Parliament;
  - 2) the State authorities and other organisations of State administration financing the programme;
  - 3) the labour market and trade organisations that are the most important with a view to the development of the region.The parties to be represented shall submit proposals for their representatives as well as for their personal deputies.
- (4) In addition to the members, the Board of Directors of the Regional Council shall appoint the chairman for the management committee, who shall be an elected official referred to in the Local Government Act (365/1995) as well as, on proposal of the parties referred to in subsection (3), three deputy chairmen, who shall be members of the management committee.

- (5) The management committee may call experts to the management committee.
- (6) The management committee shall appoint a division for the co-ordination of the Objective 3 programme and the Objective 2 programme. The chairman of the division shall be a representative of the Employment and Economic Development Centre. The tasks and composition of the division shall be determined in more detail in the rules of procedure of the management committee.
- (7) The management committee shall appoint a division for the co-ordination of the regional rural development plan co-financed by the European Agricultural Guidance and Guarantee Fund, Guidance Section and the Objective 2 programme. The management committee may, where necessary, also appoint a rural division in areas outside the regions covered by Objective 2. The chairman of the division shall be a representative of the Employment and Economic Development Centre. The tasks and composition of the division shall be determined in more detail in the Government Decision issued under the Act on the Financing of Rural Trade (329/1999) and the rules of procedure of the management committee.
- (8) The management committee may, where necessary, also appoint other divisions.

## Section 18

### *The position of the members of the regional management committee*

- (1) The members of the regional management committee and the divisions appointed by it shall attend to their duties subject to civil-servant liability. The provisions of the Local Government Act on elected officials shall, where applicable, apply to the members of the management committee. A person who has a permanent employment relationship with the Regional Council may, however, be elected a member of the management committee.
- (2) The provisions of the Local Government Act on elected officials shall, where applicable, apply to the fees and compensation for loss of income payable to the representatives referred to in section 17(3)(1) and (3) as well as to compensation for travel costs and other expenses incurred by their attendance to their duties. The fees and compensations payable to the representatives referred to in

paragraph (2) of the said subsection shall be the liability of the party that the member represents.

### Section 19

#### *Secretariat of the regional management committee*

- (1) The regional management committee shall summon persons employed by the authorities represented in the regional management committee as secretaries so that the representation of the authorities is equitable.
- (2) The secretaries shall attend to the preparation, presentation and implementation of the issues of the management committee subject to civil-servant liability.

### Section 20

#### *Decision-making and administrative procedure in the regional management committee*

- (1) Unless otherwise provided, the provisions of section 50 and 53-62 of the Local Government Act shall apply to decision-making and administrative procedure in the regional management committee. In other respects, the Administrative Procedure Act (598/1982) shall apply to administrative procedure in the management committee.
- (2) The Regional Council shall confirm the rules of procedure of the regional management committee approved by the management committee, which shall specify the preparation, presentation and decision-making of an issue in the management committee. In other respects, the provisions of the Local Government Act on rules of procedure shall, where applicable, apply to the rules of procedure.
- (3) The management committee shall aim at unanimity in its decision-making. If a decision cannot be made unanimously, the decision shall be the opinion seconded by two-thirds of those voting.
- (4) The party responsible for the financing may not grant Structural Fund support for a project in a matter referred to in section 21(1)(5) if the management committee has not supported the project. The support of the management committee does not, however, bind the party responsible for the financing. If the party responsible for the financing intends to make a negative financing decision

in spite of the support of the management committee, it shall inform the management committee thereof. The decisions of the management committee relating to an opinion may not be appealed against separately.

## Section 21

### *The tasks of the regional management committee*

- (1) The regional management committee:
  - 1) shall co-ordinate the allocation of Structural Fund resources and of corresponding national co-financing of the following budgetary year to the State authorities financing the Structural Fund programme in the region, the Regional Council and other parties participating in the financing of the Structural Fund programme; a document signed by all the actors financing the programme in the said region shall be approved thereof (*the regional cooperation document*);
  - 2) shall direct the financing from Structural Funds and the corresponding national co-financing allocated to the region by reviewing the regional cooperation document after the Government has submitted its budget proposal to Parliament as well as, where necessary, after the State budget has been approved by Parliament and also at other times where necessary with regard to the implementation of the Structural Fund programme;
  - 3) shall, in connection with the drawing up and review of the regional cooperation document, be notified of reports on the financing of the rural development plan from the European Agricultural Guidance and Guarantee Fund, Guidance Section and on the financing of the Objective 3 programme from the European Social Fund and ensure co-ordination of the different measures and the participation of the different funds in the implementation of extensive projects which are significant with regard to regional development;
  - 4) may, in the regional cooperation document, decide on the regional application of the selection criteria of projects included in the Structural Fund programme;
  - 5) may handle large regional or supra-regional projects or projects which are otherwise significant with regard to regional development prepared by the ministry granting the financing, an authority of its administrative sector or another actor or by the Regional Council and issue an opinion thereon to the party granting the financing; the projects to be handled in the management

committee shall be defined in more detail in the rules of procedure; business projects containing information subject to business secrecy may, however, not be handled in the management committee;

6) shall undertake responsibility for measures necessary to ensure that the possible environmental effects of projects to be approved for financing are ascertained before the financing decisions are made;

7) shall prepare and present as provided for in section 16, any needs for changes to the Monitoring Committee and the managing authority as well as report thereto in accordance with the Structural Fund programme;

8) shall inform of the implementation of the Structural Fund programme;

9) shall, for the allocation of support, submit a proposal of support measures referred to in Articles 4-8 and 25-28 of the rural development Regulation as well as disclose the information necessary for the assessment of the extent of the operations;

10) may attend also to other necessary tasks relating to the co-ordination of the implementation of Structural Fund programmes and measures affecting regional development or to related tasks, which shall, where necessary, be specified in the rules of procedure unless the said tasks have been prescribed to other authorities.

- (2) In regions falling outside the regional objective programmes, the management committee shall co-ordinate regional development measures, be notified of reports on the financing of the rural development plan from the European Agricultural Guidance and Guarantee Fund, Guidance Section and on the financing of the Objective 3 programme from the European Social Fund and ensure co-ordination of different measures and the participation of the different funds in the implementation of extensive projects significant with regard to regional development as well as handle other tasks provided for it in the rules of procedure.

## Section 22

### *Granting of financing and related tasks*

- (1) Unless otherwise provided for elsewhere in the law, the central tasks of the ministry using Structural Fund resources, an authority, agency and institution

belonging to its administrative sector as well as of a special financing company referred to in the Act on a State-owned Special Financing Company (443/1998) or a corresponding company owned in full or in part by the State as well as of the Regional Council shall be:

- 1) to prepare the financing decisions of the projects subject to civil-servant liability;
  - 2) to grant, in accordance with national legislation, the European Community legislation, the Structural Fund programme and the regional cooperation document, both the Structural Fund contribution and corresponding national public co-financing or solely the Structural Fund contribution if the national public co-financing is acquired from elsewhere than from State Budget appropriations; if the project is handled in the regional management committee under section 21(1)(5) prior to decision-making, the provisions of section 20(5) shall be complied with;
  - 3) to undertake responsibility for the monitoring of the projects;
  - 4) to report to the regional management committee on the use of Structural Fund resources and corresponding national co-financing and to the Ministry of Labour on the use of Structural Fund resources and corresponding national co-financing of the Objective 3 programme;
  - 5) to undertake responsibility for the supervision and control of the projects as well as the recovery of funds as provided for in sections 25-28, 31-33 and 37.
- (2) With regard to the Objective 1 programme of Northern Finland, the Sami Parliament shall, on request of the authorities, evaluate the projects relating to the Sami language and culture and present them for financing by issuing an opinion thereon to the authority granting the financing.

### Section 23

#### *Management of supra-regional projects*

The main contributor shall be responsible for the management of a supra-regional project unless it refers the management to another party.

### Section 24

#### *Monitoring committees*

- (1) The Government shall set up a Monitoring Committee referred to in Article 35 of the general Regulation for a Structural Fund programme, the term of which shall continue until the Commission of the European Communities has approved the final implementation report referred to in Article 37 of the general Regulation. The term may be extended if the handling of the tasks of the Monitoring Committee so requires.
- (2) When setting up the Monitoring Committee, the Government shall decide on its composition taking into account the provisions of Articles 8 and 35 of the general Regulation.
- (3) The Monitoring Committee may call experts to the Monitoring Committee.
- (4) The competent members of the Monitoring Committee shall attend to their duties subject to civil-servant liability.
- (5) The rules of procedure prepared by the Monitoring Committee under Article 35(2)(2) shall specify the preparation, presentation and decision-making of an issue in the Monitoring Committee. The provisions of the Administrative Procedure Act shall apply to administrative procedure in the Monitoring Committee.
- (6) The Monitoring Committee shall aim at unanimity in its decision-making. If a decision cannot be made unanimously, the decision shall be the opinion seconded by two-thirds of those voting.

## **Chapter 5**

### **Supervision of Structural Fund resources**

#### Section 25

##### *Responsibility for supervision and control of the party granting Structural Fund resources*

The party granting Structural Fund resources shall have primary responsibility for the supervision and control of the Structural Fund resources it has granted. Each ministry shall be responsible for the proper arrangement of supervision and control in its administrative sector.

#### Section 26

*Access to information*

- (1) Notwithstanding the secrecy obligation, the managing authority and the paying authority shall have the right to obtain from another authority which grants, mediates or uses Structural Fund resources information and accounts on the use of the resources necessary for the attendance to their duties as well as on the implementation and control of a programme or project. The ministry using Structural Fund resources shall have the same right to obtain information from the managing authority, the paying authority and the authorities of its own administrative sector which grant, mediate and use Structural Fund resources as well as the Ministry of the Interior also from the Regional Councils.
- (2) The managing authority, the paying authority and the ministry using Structural Fund resources shall, notwithstanding the secrecy obligation, have the right, on request, to obtain from an authority other than one referred to in subsection (1) information on a natural or legal person necessary for the attendance to their duties. The information needed as well as its purpose of use shall be specified in the request. The information obtained in this manner may not be used for another purpose than that requested.
- (3) If the granting or mediation of Structural Fund resources is assigned to a party other than an authority, the managing authority, the paying authority and the ministry using Structural Fund resources shall, notwithstanding the secrecy obligation, have the right to obtain therefrom the information necessary for the attendance to their duties. The provisions of subsection (2) shall apply to the request and use of the information.
- (4) The ministry using Structural Fund resources shall have the right, notwithstanding the secrecy obligation, to obtain information or accounts necessary for the attendance to its duties from the recipient of financing granted in its own administrative sector as well as the Ministry of the Interior also from the recipient of financing granted by the Regional Council. The managing authority and the paying authority shall, in each individual case, have the right to obtain information necessary for the attendance to their duties via the ministry using Structural Fund resources from the recipient of financing granted in its own administrative sector as well as via the Ministry of the Interior from a recipient of financing granted by the Regional Council.

## Section 27

*Right to control of a ministry using Structural Fund resources*

- (1) A ministry using Structural Fund resources shall conduct controls of the use of Structural Fund resources distributed and granted by it which are directed at the intermediaries and grantors as well as the recipients of financing. When conducting a control of an individual project, the right to control shall cover the project and its financing in its entirety to the extent required in the control Regulation.
- (2) For the proper performance of the supervision and controls referred to in section 25, the ministry may by its decision empower another authority or an independent auditor to conduct, on its behalf, the controls referred to in subsection (1) on the use of Structural Fund resources which are directed at the intermediaries and grantors as well as at the recipients of financing. The auditor shall be a chartered public finance auditor or audit organisation, an auditor or an audit organisation certified by the Central Chamber of Commerce or an auditor or an audit organisation certified by a Local Chamber of Commerce. The auditor shall attend to his duties subject to civil-servant liability.
- (3) The provisions of section 10 of the Administrative Procedure Act shall apply to the disqualification of an auditor. The auditor shall also otherwise have prerequisites for conducting an independent control. In the absence of the prerequisites for conducting an independent control, the auditor shall refuse to accept the task or waive it.
- (4) When conducting a control, attention shall be paid to the fact that the person engaged in or responsible for the operations subject to the control may present his own opinions to the person conducting the control in his own native language, in Finnish, Swedish or Same. If the person engaged in or responsible for the operations does not have knowledge of the language to be used in accordance with the Language Act (148/1922), the authority shall ensure that the control is conducted so that the interpretation or translation necessary in accordance with section 22 of the Administrative Procedure Act is arranged. The rights of the person conducting the control and the liabilities of the person subject to the control shall be governed by the provisions of section 32 unless otherwise provided for in section 2.

## Section 28

### *The right to control of an actor belonging to the administrative sector of a ministry and of the Regional Council*

- (1) An authority belonging to the administrative sector of the ministry using Structural Fund resources and another actor granting Structural Fund resources shall conduct controls directed at the recipients of financing granted by it from Structural Fund resources. Upon the control of an individual project, the right to control shall cover the project and its financing in its entirety to the extent required in the control Regulation.
- (2) The right of the Regional Council to conduct controls of the use of Structural Fund resources granted by it shall be governed by the provisions of the Regional Development Act and the Regional Development Decree (1315/1993).
- (3) For the proper performance of the supervision and control of Structural Fund resources, an authority belonging to the administrative sector of the ministry using Structural Fund resources, another actor granting Structural Fund resources and the Regional Council may, by their decisions, empower another authority or an independent auditor to conduct, on their behalf, controls of the use of Structural Fund resources granted by them directed at the recipients of the financing. The provisions of section 27(3) and (4) shall apply to the auditor. The rights of the person conducting the control and the liabilities of the person subject to the control shall be governed by the provisions of section 32 unless otherwise provided for in section 2.

## Section 29

### *Right to control of the managing authority*

- (1) The managing authority may conduct controls directed at the intermediaries and grantors of financing as well as at the recipients of financing of the use of Structural Fund resources used in the Structural Fund programme managed by it. The managing authority may conduct controls of the administrative sectors of other ministries only on request of the Commission of the European Communities, due to a serious neglect of controls of Structural Fund resources

or for another weighty reason. A managing authority other than the Ministry of the Interior may conduct controls of Structural Fund resources used or granted by the Regional Councils only for the said weighty reason. Upon the control of an individual project, the right to control shall cover the project and its financing in its entirety to the extent required in the control Regulation.

- (2) The managing authority may, by its decision, empower another authority or an independent auditor to conduct, on its behalf, a control referred to in subsection (1) of the use of Structural Fund resources directed at the intermediary and grantor as well as the recipient of financing where necessary for the fulfilment of an obligation based on European Community legislation or if the proper conduct of the control of Structural Fund resources so requires for another reason. The provisions of section 27(3) and (4) shall apply to the auditor.

### Section 30

#### *Right to control of the paying authority*

- (1) The paying authority may conduct controls of the use of Structural Fund resources directed at the intermediaries and grantors as well as the recipients of financing. The paying authority may conduct controls of the use of Structural Fund resources allocated by it to other ministries only on request of the Commission of the European Communities, due to a serious neglect of controls of Structural Fund resources or for another weighty reason. A paying authority other than the Ministry of the Interior may conduct controls of Structural Fund resources used or granted by the Regional Councils only for the said weighty reason. Upon the control of an individual project, the right to control shall cover the project and its financing in its entirety to the extent required in the control Regulation.
- (2) The paying authority may, by its decision, empower another authority or an independent auditor to conduct, on its behalf, a control referred to in subsection (1) of the use of Structural Fund resources directed at the intermediary and grantor as well as the recipient of financing where this is necessary for the fulfilment of an obligation based on European Community legislation or if the

proper conduct of controls of Structural Fund resources so requires for another reason. The provisions of section 27(3) and (4) shall apply to the auditor.

### Section 31

#### *Methods and principles relating to controls*

The controls and other supervision of the management and use of the financing granted to Finland from the European Community Structural Funds and of corresponding national co-financing shall be governed by measures and principles which can ensure compliance with obligations based on European Community legislation and the requirements of sound financial management.

### Section 32

#### *The rights of the person conducting the controls and the liabilities of the party subject to the controls*

- (1) For conducting a control referred to in sections 27-30, the party subject to the control shall, without undue delay and free of charge, present to the person conducting the control all the necessary accounting records and other material relating to the use of Structural Fund resources and of corresponding national co-financing as well as also otherwise assist in the control. The person conducting the control shall have the right to take possession of the accounting records and other material referred to above if the implementation of the control so requires. The material shall be returned when it is no longer needed for conducting the control. On request of the person conducting the control, the party subject to the control shall submit also other information necessary for the proper implementation of the control.
- (2) The person conducting the control shall have the right, to the extent required by the task, to examine all the circumstances forming the preconditions for the granting and payment of financing as well as, for this purpose, have access to the premises managed or used by the party subject to the control. A control examination may, however, not be carried out in a place subject to domiciliary peace.

### Section 33

#### *Executive assistance*

The police, the customs authorities and the tax authorities shall, free of charge, grant executive assistance necessary for conducting the controls referred to in sections 27-30.

### Section 34

#### *Presentation of a statement*

The statement referred to in Article 38 of the general Regulation and in Article 8 of the control Regulation shall be presented to the Commission of the European Communities:

- 1) with regard to the European Regional Development Fund, by the Ministry of the Interior;
- 2) with regard to the European Social Fund, by the Ministry of Labour;
- 3) with regard to the European Agricultural Guidance and Guarantee Fund, Guidance Section, by the Ministry of Agriculture and Forestry;
- 4) with regard to the Financial Instrument for Fisheries Guidance, by the Ministry of Agriculture and Forestry.

## **Chapter 6**

### **Miscellaneous provisions**

#### Section 35

##### *Delegation of competence in Structural Fund issues*

The Ministry of Education may, by its decision, delegate its competence in Structural Fund issues to authorities handling tasks belonging to its administrative sector.

#### Section 36

##### *Data systems of Structural Fund programme monitoring*

- (1) The ministries using Structural Fund resources shall maintain registers relating to projects financed in their administrative sectors and undertake responsibility for submitting information necessary for the project preparation, decision-making, financing and result monitoring of the said programme to be entered in the monitoring registers maintained by the managing authorities of Structural Fund programmes.
- (2) The right of inspection of a data subject shall be governed by the provisions of the Person Data Act (523/1999). The personal data referred to in the Personal Data Act and included in the data system referred to in subsection (1) shall be erased at the latest three years from the date on which the last payment instalment of the relevant Structural Fund programme has been made from the Commission of the European Communities to Finland.

### Section 37

#### *Recovery of Structural Fund resources and corresponding State co-financing*

- (1) The authority or another party granting financing to a project shall order that the payment of Structural Fund resources and corresponding State co-financing be terminated when the final recipient thereof is an authority, agency or institution other than one subject to State budget financing as well as order repayment of the amounts already paid out if:
  - 1) incorrect or misleading information has been submitted for the granting, payment or supervision of the financing or if information to be given for the granting, payment or control of the financing has been concealed and the submission of the incorrect or misleading information or the concealment of information has had an effect on the receipt of the financing;
  - 2) the submission of information, documents or other material necessary for the payment or supervision of the financing has been refused or if, in connection with conducting controls, the fulfilment of the other obligations prescribed in the law on the recipient of the financing has been refused;
  - 3) the financing has been used for a purpose other than that granted for;
  - 4) the recipient of the financing has materially neglected to comply with the conditions set in the financing decision; or if

- 5) the provisions of European Community legislation on the freedom of competition require that the payment be terminated and that the amounts paid be repaid.
- (2) The authority or another party granting financing for the project shall order that annual interest be paid on the amount to be recovered in accordance with subsection (1) from the date of payment of the amount in accordance with the rate of interest referred to in section 3(2) of the Interest Act (633/1982) added by three percentage points. Unless the amount to be repaid is paid at the latest on the due date set, annual interest on arrears shall be paid thereon in accordance with the rate of interest referred to in section 4(3) of the Interest Act.
- (3) If the Commission of the European Communities, in cases other than those referred to in subsection (1), takes action against a Member State to make the financial corrections referred to in Article 39 of the general Regulation, the ministry using Structural Fund resources may order that the payment of the Structural Fund resources and corresponding national co-financing be terminated as well as that the amounts already paid or part of them be repaid.
- (4) The ministry using Structural Fund resources may, in accordance with subsection (3), order that annual interest be paid on the amount to be recovered from the date of payment of the funds, the amount of which shall correspond to the basic interest rate, valid from time to time, added by four percentage points. Unless the amount to be repaid is paid at the latest on the due date set, annual interest on arrears shall be paid thereon in accordance with the rate of interest referred to in section 4(3) of the Interest Act.
- (5) A dispute relating to an issue referred to in this subsection may be referred to the Administrative Court to be settled as an administrative dispute as provided for in the Administrative Judicial Procedure Act (586/1996).

### Section 38

#### *Obligation to pay based on the right to recovery of the State*

- (1) If the State, under Article 39 of the general Regulation, is obliged to repay Structural Fund resources to the Commission of the European Communities, the paying authority may obligate an authority, agency or institution other than one subject to State budget financing to repay to the State the amount the State has

repaid to the Commission in full with expenses. The performance shall be ordered if the repayment of the funds has been due to erroneous action by the party to be obliged to perform or if, on the basis of a decision of the Commission of the European Communities, the party to be obliged to perform is directly responsible to the Commission for the use of the funds.

- (2) Unless the amount repayable is paid on the due date set, annual interest on arrears shall be paid thereon in accordance with the rate of interest referred to in section 4(3) of the Interest Act.
- (3) A dispute relating to an issue referred to in this subsection may be referred to the Administrative Court to be settled as an administrative dispute as provided for in the Administrative Judicial Procedure Act.

### Section 39

#### *Appeal*

- (1) A decision made by the managing authority, the paying authority and a ministry using Structural Fund resources and by the Monitoring Committee shall be subject to appeal to Helsinki Administrative Court as provided for in the Administrative Judicial Procedure Act. An appeal shall not postpone the enforcement of a decision unless otherwise ordered by the Administrative Court.
- (2) A decision by the regional management committee shall be subject to appeal to the Administrative Court as provided for in the Local Government Act on an appeal against a decision of a joint municipal board.

### Section 40

#### *Secrecy obligation*

- (1) The secrecy obligation of a person attending to duties in accordance with this Act shall be governed by the provisions of the Act on the Openness of Government Activities (621/1999).
- (2) Notwithstanding the secrecy obligation provided for in the Act on the Openness of Government Activities, information obtained in performing the functions referred to in this Act on the financial status or a business or professional secret

of a private person or an organisation or on a private circumstance of a private person may be disclosed to:

- 1) authorities responsible for the implementation of this Act for performing functions in accordance with this Act;
  - 2) another authority or an outside auditor conducting controls referred to in this Act;
  - 3) a prosecuting, police and customs authority for the investigation of a crime;
  - 4) a institution of the European Community if the fulfilment of an obligation provided for in a European Community act or in a decision of the institution so requires.
- (3) The information shall be submitted to an institution of the European Community by the managing authority, the paying authority or a ministry using Structural Fund resources.

#### Section 41

##### *Application to the Structural Fund programmes of 1995-1999*

The supervision, control and recovery of financing granted to Finland from the European Community Structural Funds in 1995-1999 in respect of Objective 2, 3, 4, 5b and 6 programmes as well as of corresponding national co-financing shall be governed, where applicable, by sections 2, 25-28 and 30-40. The provisions of the said sections on the paying authority shall, where applicable, apply to the ministry responsible for the management of Structural Fund resources in relation to the European Community institutions (*the responsible ministry*). The provisions of section 38 shall be applied if the State, on the basis of the liability of a Member State referred to in Article 23 of Council Regulation (EEC) No 2082/93 amending Regulation (EEC) No 4253/88 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, is liable to repay Structural Fund resources to the Commission of the European Communities.

#### Section 42

*Further provisions*

Further provisions may be issued by Decree on:

- 1) the contents of the regional cooperation document;
- 2) the review of the regional cooperation document and on related deadlines;
- 3) the distribution of Structural Fund resources and State co-financing and on related deadlines;
- 4) the programme reserve;
- 5) the monitoring system of Structural Fund programmes;
- 6) the management of supra-regional projects;
- 7) the fees and compensations payable to the competent members and experts of the Monitoring Committee;
- 8) the preparation of the statement referred to in Article 38 of the general Regulation and Article 8 of the control Regulation.

**Chapter 7****Entry into force**

## Section 43

*Entry into force*

This Act enters into force on 1 January 2000.

Measures necessary for the implementation of the Act may be undertaken before its entry into force.