

SECTION F
TEXT OF COMMUNITY LEGISLATION REFERRED TO IN REGULATION (EC) NO. 2222/2000 ON
FINANCIAL RULES FOR SAPARD ADAPTED FOR THIS AGREEMENT⁶

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Para-graph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
1	A	3	1	<p>The Commission may decide on the basis of a case-by-case analysis of national and sectoral programme/project management capacity, financial control procedures and structures regarding public finance, to waive the ex-ante approval requirement referred to in Item 2 and confer on implementing agencies in applicant countries management of aid on a decentralised basis. Such a waiver shall be subject to:</p> <ul style="list-style-type: none"> - the minimum criteria for assessing the ability of implementing agencies in applicant countries to manage aid and minimum conditions applicable to such agencies as set out in Item 3; - and specific provisions concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts and the implementation of Community public procurement directives, which shall be laid down in financing agreements with each beneficiary country.
2	F	Item 1		Project selection, tendering and contracting shall be subject to ex-ante approval by the Commission.
3	A	Article 3 and Item 1	1	<p>Minimum criteria and conditions for decentralising management to Implementing agencies in applicant countries</p> <p>1. Minimum criteria for assessing the ability of implementing agencies in applicant countries to manage aid.</p> <p>The following criteria shall be applied by the Commission in assessing which Implementing agencies in partner countries are able to manage aid on a decentralised basis:</p> <ul style="list-style-type: none"> (i) there should be a well-defined system for managing the Programme with full internal rules of procedure, clear institutional and personal responsibilities; (ii) the principle of separation of powers must be respected so that there is no risk of conflict of interest in procurement and payment; (iii) adequate personnel must be available and assigned to the task. They must have suitable auditing skills and experience, language skills and be fully trained in implementing Community Programmes. <p>2. Minimum conditions for decentralising management to implementing agencies in applicant countries.</p> <p>Decentralisation to applicant countries with ex-post control by the Commission may be considered for an implementing agency where the following conditions are met:</p> <ul style="list-style-type: none"> (i) demonstration of effective internal controls including an independent audit function and an effective accounting and financial reporting system which meets internationally accepted audit standards; (ii) a recent financial and operational audit showing effective and timely management of Community assistance or national measures of similar nature; (iii) a reliable national financial control system over the implementing agency; (iv) procurement rules which are endorsed by the Commission as meeting the requirements of Title IX of the Financial Regulation applicable to the general budget of the European Communities (see Article 14. 2.6. of Section A of the Annex to this Agreement);

⁶ OJ L 253, 7.10.2000, p. 5.

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>(v) Commitment by the National Authorising Officer to bear the full financial responsibility and liability for the Programme.</p> <p>This approach shall not prejudice the right of the Commission and the Court of Auditors to check the expenditure.</p>
4	A	Article 13	6	<p>Item 4</p> <p>The provisions of this Item shall not effect the applications in the Republic of Slovenia of rules relating to criminal proceedings or judicial co-operation between the applicant countries listed at Item 8 and the Member States.</p> <p>Sub-item 4.1</p> <p>Where the Commission decides to carry out on-the-spot checks and inspections under this Item, it shall ensure that similar checks and inspections are not being carried out at the same time in respect of the same facts with regard to the economic operators concerned (see item 6).</p> <p>In addition, it shall take into account the inspections in progress or already carried out in respect of the same facts with regard to the economic operators concerned, by the Republic of Slovenia on the basis of its legislation.</p> <p>Sub-item 4.2</p> <p>On-the-spot checks and inspections shall be prepared and conducted by the Commission in close co-operation with the authorities of the Republic of Slovenia, which shall be notified in good time of the object, purpose and legal basis of the checks and inspections, so that they can provide all the requisite help. To that end, the officials of the Republic of Slovenia may participate in the on-the-spot checks and inspections.</p> <p>In addition, if the Republic of Slovenia so wishes, the on-the-spot checks and inspections may be carried out jointly by the Commission and the Republic of Slovenia's responsible authorities.</p> <p>Sub-item 4.3</p> <p>On-the-spot checks and inspections shall be carried out by the Commission on economic operators to whom administrative measures and penalties may be applied pursuant to Item 6, where there are reasons to think that irregularities have been committed.</p> <p>In order to make it easier for the Commission to carry out such checks and inspections, economic operators shall be required to grant access to premises, land, means of transport or other areas, used for business purposes.</p> <p>Where strictly necessary in order to establish whether an irregularity exists, the Commission may carry out on-the-spot checks and inspections on other economic operators concerned, in order to have access to pertinent information held by those operators on facts subject to on-the-spot checks and inspections.</p> <p>Sub-item 4.4</p> <p>4.4.1. On-the-spot checks and inspections shall be carried out on the Commission's authority and responsibility by its officials or other servants, duly empowered, hereinafter called 'Commission inspectors'. Persons placed at the disposal of the Commission as national experts on secondment may assist in such checks and inspections.</p> <p>Commission inspectors shall exercise their powers on production of a written authorisation showing their identity and position, together with a document indicating the subject matter and purpose of the on-the-spot check or inspection.</p> <p>Subject to respect of this Agreement, they shall be required to comply with the rules of procedure laid down by the law of the Republic of Slovenia.</p> <p>4.4.2 Subject to respect of this Agreement, the Commission may, with the agreement of the Republic of Slovenia seek the assistance of officials from the other applicant countries listed at Item 8 as observers and call on outside bodies acting under its responsibility to provide technical assistance.</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>The Commission shall ensure that the aforementioned officials and bodies give every guarantee as regards technical competence, independence and observance of professional secrecy.</p> <p>Sub-item 4.5</p> <p>4.5.1. Commission inspectors shall have access, without prejudice to the provisions of this Agreement and under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.</p> <p>On-the-spot checks and inspections may concern, in particular:</p> <ul style="list-style-type: none"> - professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by economic operators, - computer data, - production, packaging and dispatching systems and methods, - physical checks as to the nature and quantity of goods or completed operations, - the taking and checking of samples, - the progress of works and investments for which financing has been provided, and the use made of completed investments, - budgetary and accounting documents, - the financial and technical implementation of subsidised projects. <p>4.5.2. Where necessary, it shall be for the Republic of Slovenia, at the Commission's request, to take the appropriate precautionary measures under national law, without prejudice to this Agreement, in particular in order to safeguard evidence.</p> <p>Sub-item 4.6</p> <p>4.6.1. Information communicated or acquired in any form under this Item shall be covered by professional secrecy and protected in the same way as similar information is protected by the national legislation of the country that received it and by the corresponding provisions applicable to the Community institutions.</p> <p>Such information may not be communicated to persons other than those within the Community institutions or in the Republic of Slovenia whose functions require them to know it nor may it be used by Community institutions for purposes other than to ensure effective protection of the Communities' financial interests in the applicant countries and Member States. Where the Republic of Slovenia intends to use for other purposes information obtained by officials participating under its authority as observers, in accordance with Sub-item 4.4. 2, in on-the-spot checks and inspections, it shall seek the agreement of the country where that information was obtained.</p> <p>4.6.2 The Commission shall report as soon as possible to the relevant authority of the State within whose territory an on-the-spot check or inspection has been performed any fact or suspicion relating to an irregularity which has come to its notice in the course of the on-the-spot check or inspection. In any event the Commission shall be required to inform the aforementioned authority of the result of such checks and inspections.</p> <p>4.6.3. Commission inspectors shall ensure that, without prejudice to the provisions of this Agreement, in drawing up their reports account is taken of the procedural requirements laid down in the national law of the Republic of Slovenia. The material and supporting documents as referred to in Sub-item 4.5 shall be annexed to the said reports. Where an inspection is carried out jointly, pursuant to the second subparagraph of Sub-item 4.2, the national inspectors who took part in the operation shall be asked to countersign the report drawn up by the Commission inspectors.</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>4.6.4. The Commission shall ensure that, when implementing this Item, its inspectors comply with Community and national provisions on the protection of personal data.</p> <p>4.6.5 Where the economic operators referred to in Sub-item 4.3 resist an on-the-spot check or inspection, the Republic of Slovenia, acting in accordance with national rules and without prejudice to the provisions of this Agreement, shall give Commission inspectors such assistance as they need to allow them to discharge their duty in carrying out an on-the-spot check or inspection.</p> <p>It shall be for the Republic of Slovenia to take any necessary measures, in conformity with national law.</p>
5	A	Article 13	1(b)	'irregularity` shall mean any infringement of a provision of this Agreement resulting from an act or omission by an economic operator (see Item 6), which has, or would have, the effect of prejudicing of the Community or by an unjustified Item of expenditure.
6	A	Item 4 and 5		Administrative measures and penalties may be applied to the economic operators namely all natural or legal persons or other bodies recognised by national law (private individuals, enterprises, public establishments or State regional and local authorities), where their activity may have led them via an irregular application of this Agreement to attempt or harm the Community contribution and also the natural or legal persons who have been involved in the commission of the irregularity or who are expected to answer for an irregularity to avoid it being committed.
7	A	Article 13	6	<p>Sub-item 7.1</p> <p>7.1.1 Notification of irregularities arising out of Community financing shall be given in accordance with the provisions laid down in this Item.</p> <p>These provisions shall not affect the applications in the Republic of Slovenia of rules relating to criminal proceedings or judicial co-operation between the applicant countries listed at Item 8 and Member States in criminal matters.</p> <p>Sub-item 7.2.</p> <p>7.2. 1. The Republic of Slovenia shall communicate to the Commission within three months of conclusion of the Multi-annual Financing Agreement:</p> <ul style="list-style-type: none"> - the provisions laid down by law, regulation or administrative action for the application of the measures under Article 13 (1) of Section A of the Annex to this Agreement, - the list of authorities and bodies responsible for the application of the measures under the said Article 13 (1) Section A of the Annex to this Agreement, - the main provisions relating to the role and functioning of those authorities and bodies and to the procedures which they are responsible for applying. <p>7.2.2. The Republic of Slovenia shall communicate forthwith to the Commission any amendments to the information supplied in pursuance of Sub-item 7.2.1.</p> <p>7.2.3. The Commission shall study the Republic of Slovenia's communications and shall inform them of the conclusions, which it intends to draw therefrom. It shall remain in contact with the Republic of Slovenia to the extent necessary for the application of the provisions of this Item.</p> <p>Sub-item 7.3</p> <p>7.3.1. During the two months following the end of each quarter, the Republic of Slovenia shall report to the Commission any irregularities, which have been the subject of initial administrative or judicial investigations.</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>To this end they shall as far as possible give details concerning:</p> <ul style="list-style-type: none"> - the provision which has been infringed, - the nature and amount of the expenditure; in cases where no payment has been made, the amounts which would have been wrongly paid had the irregularity not been discovered, except where the error or negligence is detected before payment and does not result in any administrative or judicial penalty, - the total amount and its distribution between the different sources of financing, - the project and measure concerned, - the period during which, or the moment at which, the irregularity was committed, - the practices employed in committing the irregularity, - the manner in which the irregularity was discovered, - the national authorities or bodies which drew up the official report on the irregularity, - the financial consequences, the suspension of any of payments and the possibilities of recovery, - the date and source of the first information leading to suspicion that an irregularity was in evidence, - the date on which the official report on the irregularity was drawn up, - where appropriate, the Republic of Slovenia and the other countries involved, - the identity of the natural and legal persons involved, save in cases where such information is of no relevance in combating irregularities on account of the character of the irregularity. <p>7.3.2 Where some of the information referred to in Sub-item 7.3.1, and in particular that concerning the practices employed in committing the irregularity and the manner in which it was discovered, is not available, the Republic of Slovenia shall as far as possible supply the missing information when forwarding subsequent quarterly reports of irregularities to the Commission.</p> <p>Sub-item 7.4</p> <p>The Republic of Slovenia shall forthwith report to the Commission any irregularities discovered or supposed to have occurred, where it is feared that</p> <p>(a) they may very quickly have repercussions outside its territory, and/or</p> <p>(b) they show that a new fraudulent mal-practice has been employed.</p> <p>Such a report shall, where necessary, be sent simultaneously to the other relevant applicant countries and Member States.</p> <p>Sub-item 7.5</p> <p>7.5.1. During the two months following the end of each quarter, the Republic of Slovenia shall inform the Commission, with reference back to any previous report made under Sub-item 7.3., of the procedures instituted following all irregularities previously notified and of important changes resulting therefrom, including:</p> <ul style="list-style-type: none"> - the amounts which have been, or are expected to be, recovered, - the interim precautionary measures taken by the Republic of Slovenia to safeguard recovery of sums wrongly paid, - the judicial and administrative procedures instituted with a view to recovering sums wrongly paid and to imposing sanctions, - the reasons for any abandonment of recovery procedures; the Commission shall, as far as possible, be notified before a decision is taken,

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>- any abandonment of criminal prosecutions.</p> <p>The Republic of Slovenia shall notify the Commission of administrative or judicial decisions, or the main points thereof, concerning the termination of these procedures.</p> <p>7.5.2. Without prejudice to Article 14. 2.8 of Section A of the Annex to this Agreement, where the Republic of Slovenia considers that an amount cannot be totally recovered, or cannot be expected to be totally recovered, it shall inform the Commission, in a special report, of the amount not recovered.</p> <p>7.5.3 In the eventuality referred to in 7.5.2, without prejudice to the Article 14.2.8 of Section A, the Commission may expressly request the Republic of Slovenia to continue the recovery procedure.</p> <p>7.5.4 Where the authorities of the Republic of Slovenia decide, at the express request of the Commission, to initiate or continue legal proceedings with a view to recovering amounts wrongly paid, the Commission, without prejudice to the Article 14.2.8 of Section A, may undertake to reimburse to the Republic of Slovenia all or part of the legal costs and costs arising directly from the legal proceedings, on presentation of documentary evidence, even if the proceedings are unsuccessful.</p> <p>Sub-item 7.6</p> <p>Should there be no irregularities to report in the reference period, the Republic of Slovenia shall inform the Commission of this fact within the same time limit as is set out in Sub-item 7.3. 1.</p> <p>Sub-item 7.7</p> <p>7.7. 1. The Commission shall maintain appropriate contacts with the Republic of Slovenia for the purpose of supplementing the information supplied on the irregularities referred to in Sub-item 7.3 on the procedures referred to in Sub-item 7.5, and, in particular, on the possibility of recovery.</p> <p>7.7.2. Independently of the contacts mentioned in Sub-item 7.7.1. the Commission shall inform the Republic of Slovenia where the nature of the irregularity is such as to suggest that identical or similar practices could occur in other countries.</p> <p>7.7.3. The Commission shall organise information meetings for representatives of the applicant countries listed in Item 8 in order to examine with them the information obtained pursuant to Sub-items 7.3., 7.4. and 7.5., and pursuant to Sub-item 7.7., in particular with regard to the lessons to be learned therefrom in connection with irregularities, preventive measures and legal proceedings.</p> <p>7.7.4 At the request of the Republic of Slovenia or of the Commission, the Republic of Slovenia and the Commission shall consult each other for the purpose of closing any loopholes prejudicial to Community interests, which become apparent in the course of the enforcement of provisions.</p> <p>Sub-item 7.8</p> <p>7.8.1. The Republic of Slovenia and the Commission shall take all necessary precautions to ensure that the information which they exchange remains confidential.</p> <p>7.8.2. The information referred to in this Item may not, in particular, be sent to persons other than those in the Republic of Slovenia or within the Community institutions whose duties require that they have access to it, unless the country supplying it has expressly so agreed.</p> <p>7.8.3. The names of natural or legal persons may be disclosed to another applicant country listed in Item 8, Member State or Community institution only where this is necessary in order to prevent or prosecute an irregularity or to establish whether an alleged irregularity has taken place.</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>7.8.4. Information communicated, or acquired in any form whatever pursuant to this Item shall be covered by professional confidentiality and be protected in the same way as similar information is protected by the national legislation of the country that received it and by the corresponding provisions applicable to the Community institutions.</p> <p>In addition, that information may not be used for any purposes other than those provided for in this Item unless the authorities that have provided it have given their express consent, and provided that the provisions in force in the country in which the recipient authority is to be found do not prohibit such communication or use.</p> <p>7.8.5. Sub-items 7.8.1. to 7.8.4 shall not impede the use, in any legal actions or proceedings subsequently instituted for non-compliance with this Agreement, of information obtained pursuant to this Item. The relevant authority of the country which supplied this information, shall be informed forthwith of such use.</p> <p>7.8.6. Where the Republic of Slovenia notifies the Commission that a natural or legal person whose name has been communicated to the Commission pursuant to this Item proves on further inquiry not to be involved in any irregularity, the Commission shall forthwith inform all those to whom it disclosed that name pursuant to this Item of that fact. Such person shall thereupon cease to be treated, by virtue of the earlier notification, as a person involved in the irregularity in question.</p> <p>Sub-item 7.9</p> <p>The amounts recovered shall be shared by the Republic of Slovenia and the Community in proportion to the expenditure already incurred by them provided the debt has not been written off in accordance with the rule in Article 14.2.8 of Section A of the Annex to this Agreement.</p> <p>Sub-item 7.10</p> <p>7.10.1. Where the irregularities relate to sums of less than 4 000 euro equivalent in national currency charged to the Community budget, the Republic of Slovenia shall not forward to the Commission the information provided for in Sub-items 7.3 and 7.5, unless the latter expressly requests it.</p>
8	A	Article 14	2.6	<p>Republic of Bulgaria, the Czech Republic, Republic of Estonia, Hungary, Republic of Latvia, Republic of Lithuania, Poland, Romania, Republic of Slovakia and Republic of Slovenia</p>
9	A	Article 12	3	<p>Sub-item 9.1</p> <p>9.1.1 The tasks of the Conciliation Body shall be:</p> <p>(a) to examine any matter referred to it by the Republic of Slovenia which, following findings pursuant to Article 12 of Section A of the Annex to this Agreement and bilateral discussion of those findings, receives formal notification from the Commission, with reference to Article 12 of Section A and this Item of this Section, of the conclusion that certain items of expenditure incurred by the Republic of Slovenia are not chargeable to the Programme,</p> <p>(b) to try to reconcile the divergent positions of the Commission and the Republic of Slovenia, and</p> <p>(c) at the end of its investigations, to draw up a report on the outcome of its efforts at reconciliation, making any remarks it deems useful should all or some of the points of dispute remain unresolved.</p> <p>9.1.2. For the purposes of the subsequent stages of the clearance of accounts procedure:</p> <p>(a) the position of the Body shall be without prejudice to the Commission's final Decision on the clearance of the accounts;</p> <p>(b) the fact of not referring a matter to the Body shall not be prejudicial to the country which receives notification from the Commission within the meaning of Sub-item 9.1.1 (a).</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<p>Sub-item 9.2</p> <p>9.2.1. The Republic of Slovenia must refer a matter to the Body within thirty working days of its receipt of notification as referred to in Sub-item 9.1.1 (a), by sending a reasoned request for conciliation to the Secretariat of the Conciliation Body, the address of which will be notified to the Republic of Slovenia in that Communication.</p> <p>9.2.2 A request for conciliation is admissible only where the financial adjustment recommended by the Commission in respect of a measure:</p> <p>either,</p> <ul style="list-style-type: none"> - exceeds EURO 0,5 million; or - represents more than 25% of the Republic of Slovenia's total annual expenditure under the measure concerned. <p>In addition, if, during the bilateral discussions referred to in Sub-item 9.1.1 (a), the Republic of Slovenia claims, and demonstrates, that the matter is one of principle relating to the application of Community rules, the Chairman of the Body may declare a request for conciliation to be admissible.</p> <p>9.2.3. The Secretariat of the Body shall acknowledge receipt of the request for conciliation.</p> <p>9.2.4. The Body shall conduct its investigations as informally and promptly as possible, basing itself on the evidence in the dossier and on a fair hearing of the Commission and national authorities concerned. At the end of its investigations it shall send them the report referred to in Sub-item 9.1.1 (c).</p> <p>9.2.5. Where, within four months of a case being referred to it, the Body has failed to reconcile the positions of the Commission and the Republic of Slovenia, the conciliation procedure is deemed to have failed. The report referred to in Sub-item 9.1.1 (c) shall state the reasons why the positions could not be reconciled.</p> <p>9.2.6. The report drawn up within the stipulated limit shall be sent:</p> <ul style="list-style-type: none"> - to the country which referred the matter to the Body; - to the other applicant countries; and - to the Commission when the clearance of accounts Decision is proposed. <p>Sub-item 9.3</p> <p>9.3.1. The Body shall meet at the headquarters of the Commission. The secretariat of the Body shall be provided by Commission staff.</p> <p>9.3.2. No member may take part in the work of the Body or sign a report if, in an earlier office, they have been personally involved in the matter at issue.</p> <p>9.3.3. Without prejudice to Sub-item 9.3.2, reports must be adopted by an absolute majority of members present, the quorum being three.</p> <p>The reports shall be signed by the Chairman and members who have taken part in the deliberations. They shall be registered by the secretariat.</p> <p>Sub-item 9.4</p> <p>9.4.1. The members of the Body shall carry out their duties independently, neither seeking nor accepting instructions from any government or body.</p> <p>9.4.2. The members of the Body may not disclose any information acquired by them in the course of their work for the Body. Such information is confidential and covered by the obligation of professional secrecy.</p>
10	A	Article 14	2.7	<p>Public Bodies covered by the award of public works contracts shall be the State, regional or local authorities, bodies, governed by public law, associations formed by one or several of such authorities or bodies governed by public law; A body governed by public law means any body:</p>

(a)	(b)	(c)	(d)	(e)
Item No.	Section	Article (or item no.)	Paragraph	Provisions to be applied by the Republic of Slovenia as provided for in the Agreement
				<ul style="list-style-type: none"> - established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character, and - having legal personality, and - financed, for the most part, by the State, or regional or local authorities, or other bodies governed by public law, or subject to management supervision by those bodies, or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities or by other bodies governed by public law.”