



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY
The Director-General

Brussels,
REGIO.G.4/MB.ml/2037816

Dott. Sergio Negro
Managing Authority
Operational Programme Campania
Via Santa Lucia, 81
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**Subject: Italy: ROP Campania ERDF Programme (2007IT161PO009)
Case of *Force Majeure* due to flooding in Benevento in October 2015**

Ref.: Extension of eligibility period for expenditure set out under Article 56(1) of the General Regulation¹

Dear Dott. Negro

I refer to your letter of 30 December 2015, in which the Managing Authority for the Operational Programme 2007-2013 of the Campania Region in Italy (CCI 2007IT161PO009), asked the Commission to consider their explanations regarding the impossibility of complying with the eligibility period for expenditure set out under Article 56(1) of the General Regulation².

This request was made as a result of the exceptional meteorological conditions which hit the Benevento area in the Campania region between 14 and 24 October 2015, and the resultant flooding. In attachment to the abovementioned request, the Managing Authority also submitted a copy of the Decree issued by the Italian Government's Civil Protection Authorities declaring 77 *comuni* in the Campania Region to have been subject to these conditions and to the subsequent flooding. Further details regarding the individual projects (totalling 220) in the region were provided (Ares(2016)196565).

From among the operations subject to the request, operations having received support from the European Regional Development Fund (ERDF) and located in the area covered by the Decree were examined. In this respect,

- The project *Sistemazione, Adeguamento e ripristino delle Strade Rurali Padula – Vigne* submitted by the *Comune di ARIOLA* is still being assessed by the

¹ Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ("the General Regulation")

² Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ("the General Regulation")

competent service³ and the conclusions of the assessment will be communicated to the Italian authorities as soon as possible, and

- The projects submitted by the *Comune di SAN SALVATORE TELESINO (5)*, and by the *Comune di SAN MARTINO SANNITA (1)*, could not be considered since these localities were not included in the list of affected localities published in the Decree issued by the Italian Government on 1 December 2015.

When carrying out the assessment of the information submitted on a project-by-project basis, the following elements were taken into account: status of works carried out and payments made by the beneficiary by the time of the flooding, the implementation time schedule, and the impact of the floods on works.

The Commission accepts that the exceptional meteorological conditions which hit the Benevento area in the Campania region between 14 and 24 October 2015 can qualify as "*unusual and unforeseeable circumstances beyond the control of the party by whom it is pleaded*"⁴.

Based on the assessment undertaken in the light of the factual evidence presented by the Italian authorities, the Commission would agree with the assessment of the Italian authorities that in case of 161 projects⁵, expenditure, even if paid after 31 December 2015, would still be eligible since the beneficiaries were prevented, despite all due diligence, from fulfilling the requirement of Article 56 (1) of the General Regulation, that is to actually pay the expenditure, in order to be eligible for a contribution from the Funds, by 31 December 2015.

Consequently, for these projects the expenditure paid after 31 December 2015 will be considered eligible for the contribution from the ERDF.

In the case of the remaining 52 projects, on the basis of the information submitted by the national authorities, the Commission could not establish a direct link between the delays or the nature of the works in the projects and these exceptional meteorological conditions. There were cases of substantial delays over long-term projects which occurred well before the meteorological events, of works initiating on timeframes which rendered their completion by the deadline for admission of payments impossible even without the effect of the floods, and of nature of works which had no direct or secondary consequence from the occurrence of the abnormal conditions.

³ This case was referred to DG Agriculture since it is not an ERDF supported project but it is supported under Rural Development Programme for the Region for 2007-2013 (Ares(2016)1376295)

⁴ Joined Cases T-61/00 and T-62/00, APOL and AIPO v Commission, paragraph 74

⁵ The list of these projects is set out in Annex to this letter.

The Commission would like to remind the Italian authorities that the conclusions of this letter do not, in any way, constitute an exception to any of the rules applicable to the closure of 2007-2013 programmes or any other rules applicable to these projects. It is therefore the duty of the competent authorities to ensure that the payments related to the 161 projects at stake are made as swiftly as possible, so as to ensure that all necessary preparations, including audit checks, for the closure of 2007-2013 programmes are made on time.

Yours faithfully

Walter Deffaa

Annex: 1

BY SFC ONLY

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