



## Council regulation (EC) N:o 1260/1999

### Article 32 (4)

- (a) the paying authority submits to the Commission within six months of the deadline for payment laid down in the decision granting a contribution from the Funds, a certified statement of expenditure actually paid;
- (b) the final report on implementation has been submitted to and approved by the Commission
- (c) the Member State has sent the Commission the statement referred to in Article 38(1)(f).



### Article 32 (5)

- The final payment of the balance may no longer be corrected at the request of the Member State if the paying authority has not sent an application to the Commission within nine months from the date of transfer of the final balance

### Article 32 (6)

- The Member State shall designate the authorities empowered to issue the certificates and declarations referred to in paragraphs 3 and 4.



## Article 38 (1)

..the measures... shall include

- (f) presenting to the Commission, when each assistance is wound up, a declaration drawn up by a person or department having a function independent of the designated managing authority. This declaration shall summarise the conclusions of the checks carried out during previous years and shall assess the validity of the application for payment of the final balance and the legality and regularity of the transactions covered by the final certificate of expenditure. The Member States may attach their own opinion to this certificate if they consider it necessary;



## Article 53 (2)

- The Commission shall adopt detailed rules to implement Articles 30, 33, 38, 39 and 46, in accordance with Article 48(2)(a). It shall also, in accordance with the same procedure and where it appears necessary in unforeseen circumstances, adopt other rules for the implementation of this Regulation.



# Commission Regulation (EC) N:o 438/2001

## Article 3

The management and control systems of managing and paying authorities and intermediate bodies shall, subject to proportionality in relation to the volume of assistance administered, provide for:

- (a) a clear definition, a clear allocation and, as necessary to ensure sound financial practice, an adequate separation of functions within the organisation concerned;



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- (b) effective systems for ensuring that the functions are performed in a satisfactory manner;
- (c) in the case of intermediate bodies, reposting to the authority responsible on the performance of their tasks and the means employed.



## Article 5 (2)

The communication shall contain the following information in respect of each managing and paying authority and intermediate body:

- (a) the functions vested in them;
- (b) the allocation of functions between or within their departments, including between the managing and paying authority where they are the same body;



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- (c) the procedures by which claims for reimbursement of expenditure are received, verified, and validated, and by which payments to beneficiaries are authorised, executed and accounted for; and
- (d) the provisions for the audit of management and control systems.



## Article 15

The person or department designated to issue declarations on winding-up of the assistance under Article 38(1)(f) of regulation (EC) N:o 1260/1999 shall have a function independent of:

- (a) the designated managing authority;
- (b) the person or department within the paying authority responsible for drawing up the certificates referred to in Article 9(1);
- (c) intermediate bodies.



It shall conduct its examination according to internationally accepted auditing standards. It shall be supplied by the managing and paying authorities and intermediate bodies with all information required and be given access to the records and supporting evidence necessary for drawing up the declaration.



## Article 16

Declarations shall be based on an examination of the management and control systems, of the findings of checks already carried out and, when necessary, of a further sample check of transactions. The person or department issuing the declaration shall make all necessary enquiries to obtain reasonable assurance that the certified statement of expenditure is correct and that the underlying transactions are legal and regular.



Declarations shall be drawn up on the basis of the indicative model in Annex III and shall be accompanied by a report which shall include all relevant information to justify the declaration, including a summary of the findings of all checks carried out by national and Community bodies to which the declarant has had access.



## **Annex III: Indicative model for the declaration at the winding-up of an assistance**

To the European Commission, Directorate-General  
INTRODUCTION

1. I,...(state name in capitals, title and department), have examined the final statement of expenditure for ... (indicate name of assistance, Structural Fund concerned and period covered) and the application to the Commission for payment of the balance of the Community aid.

SCOPE OF THE EXAMINATION

2. I conducted the examination in accordance with the provisions of Chapter V of Regulation (EC) No ... I planned and performed the examination with a view to obtaining reasonable assurance about whether the final statement of expenditure and the application for payment of the balance of the Community aid are free of material misstatement. The procedure followed and the information used in the examination, including the conclusions of checks carried out in previous years, are summarised in the attached report.



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### OBSERVATIONS

3. The scope of the examination has been limited by the following: (a), (b), (c), etc. (Indicate any obstacles encountered in the examination, for example systemic problems, management weaknesses, lack of audit trail, lack of supporting documentation, cases under legal proceedings, etc.; estimate the amounts of expenditure affected by these obstacles and the corresponding Community aid).

4. The examination, together with the conclusions of other national or Community controls to which I have had access, revealed a low/high (indicate as appropriate; if high, explain) frequency of errors/irregularities. The errors/irregularities reported have been satisfactorily dealt with by the management authorities and they do not appear to affect the amount of the Community aid payable, with the following exceptions:

(a), (b), (c), etc. (Indicate the errors/irregularities which have not been satisfactorily dealt with, and for each case, the possible systemic character and extent of the problem and the amounts of Community aid which appear to be affected).



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**CONCLUSION**

Either:

If no obstacles were encountered in the examination, the frequency of errors found is low and all problems have been satisfactorily dealt with:

5(a) In the light of the examination and the conclusions of other national or Community checks to which I have had access, it is my opinion that the final statement of expenditure presents fairly, in all material respects, the expenditure incurred in accordance with the regulations and the provisions of the assistance, and the application to the Commission for payment of the balance of the Community aid appears to be valid.



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Or:

If certain obstacles were encountered in the examination but the frequency of errors is not high, or if some problems have not been satisfactorily dealt with:

5(b) Except for the matters referred to at point 3 and/or the errors/irregularities referred to at point 4 which do not appear to have been satisfactorily dealt with, it is my opinion, based on the examination and the conclusions of other national or Community checks to which I have had access, that the final statement of expenditure presents fairly, in all material respects, the expenditure incurred in accordance with the regulations and the provisions of the assistance, and that the application to the Commission for payment of the balance of the Community aid appears to be valid.



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Or:

If major obstacles were encountered in the examination or the frequency of errors found is high, even if the reported errors/irregularities have been satisfactorily dealt with:

5(c) In view of the matters referred to at point 3 and/or given the high frequency of errors reported at point 4, I am not in a position to express an opinion on the final statement of expenditure and the application to the Commission for payment of the balance of the Community aid.

Date, signature



## Article 19

In the case of forms of assistance where there are beneficiaries in more than one Member State, the Member States concerned shall agree with one another the necessary common arrangements to ensure sound financial management, taking account of national law, and shall inform the Commission of the arrangements agreed. The Commission and the Member States concerned shall provide one another with any necessary administrative assistance.



## Article 21

Nothing in this Regulation shall prevent Member States applying rules more rigorous than those prescribed herein.