

Workshop	INTERREG - Financial Management
Venue	Warsaw, Poland
Date	29 – 30 March
Experts	Sheila Maxwell, Axel Senftleben, Vesna Caminades

Minutes

Main differences between INTERREG and PHARE

The abbreviation “PHARE” comes from “Poland and Hungary assistance for restructuring of the economy” (an other meaning is in French “lighthouse”). PHARE started in 1989, cross-border co-operation was added in 1994. The main problems came up due to the different kinds of funds on both sides of the border. To find a solution the EC proposed to split PHARE funds introducing PHARE CBC.

The main difference between PHARE and INTERREG programmes is the principle of joint programme structures and of joint project pre-selection (in PHARE the final decision still is made by the EC). Both programmes are strictly limited to their programme territory and therefore it is very difficult to realise cross-border projects.

It is important that the new Member States see that in INTERREG the responsibility for programmes lays within MS. They have to take the final decision on projects and regarding the interpretation of EU-regulation e.g., too. An example is the decision on the programme complement that has to be taken by the Monitoring Committee. The PC will be sent only for information to the EC (strong position of MS).

Regarding the eligibility of actions and the average size of project budgets, compatibility between the programmes is asked, but there is not a complete correspondence between both programmes. Also with regard to topics like contribution in kind, private partners, pre-assessment, financial system, etc. there have been differences.

In the New Neighbourhood Programmes (later in the New Neighbourhood Instrument) there shall be a single application form, joint project selection, contracting starting soon after approval by the Steering Committee, common budgets etc. In any case, the New Neighbourhood Instrument is extremely important to have one common instrument for cross-border co-operation.

Council Regulation 1260/1999 – General provisions on Structural Funds / N+2-rule

During the last programming period 1994/1999 the deadline for commitments was 31/12/1999, whereas payments had to be made within 31/12/2001. In order to install a better discipline, the EC has decided to introduce a new system the so-called “n+2-rule” or automatic de-commitment.

The main statements according to (EC) Regulation 1260/1999 art. 31, par. 2 are:
Commitments (...) shall be as a general rule effected annually.

The first commitment shall be made when the Commission lays down its decision approving the assistance.
Subsequent commitments shall be effected as a general rule by 30 April each year.

The Commission shall automatically decommit any part of a commitment which has not been settled by the payment on account or for which it has not received an acceptable payment application (...) by the end of the second year following the year of commitment (...).

The n+2-rule has its origin in the yearly commitments of the EC within its own budget according to the yearly tranches foreseen in each programme. I.e. year-by-year the EC commits the sums foreseen in the yearly financial plans of each programme. For this purpose the EC requests from the MS to submit a payments forecast by the 30 April of each year: “No later than 30 April of each year, the MS shall send the Commission their updated forecasts of applications for payment for the current year and the forecast for the following year.” (Council Regulation 1260/1999, art. 32, par. 7)

The n+2-rule applies on fund level and on programme level that means it does not operate at project level. This rule applies to individual projects, only if the MA of a programme decides so. It requires a very strict control mechanism to keep expenditure under control in order to avoid the automatic de-commitment. The following instrument supports the programme owner to respect n+2:

- Monitoring system
- Indicative financial plans already within the project applications
- Regular contacts with the intermediate bodies and / or final beneficiaries to speed up spending
- Cash flow checks per project

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Commitments and payments in EUR	2004	2005	2006	2007	2008
Funds p.a.	100	100	100		
Funds cumulated			100	200	300

Considering yearly commitments of EUR 100 according to the financial plan, you have to spend the first EUR 100 of 2004 by the end of 2006, the EUR 100 of 2005 by the end of 2007 and the EUR 100 of 2006 by the end of 2008. This way you will have spent by end December 2007 EUR 200, and by the end of 2008 EUR 300.

If you wish, you can also commit the whole sum of EUR 300 by the end of 2004. But in this case, a consequence will be, that you may claim only 100; the rest has to be covered in the meantime through national funds.

Besides, it has to be considered, that the EC has not laid down in written form that commitments have to be made by the end of 2006. Therefore, a MS could also choose to commit money in 2007 or 2008, always bearing in mind to spend it within 2008. On the other hand side the national budgetary mechanism and regulations have to be strictly observed.

■ Definition of “spent expenditure”

It is essential to define what “spent” exactly means?

- ERDF paid out by the EC following a claim for payment
- Receipt of a payment claim made by the PA

■ Definition of “payment in advance”

Council Regulation 1260/1999, art. 32, par. 2 says that (...) when the first commitment is made, the Commission shall make a payment on account to the paying authority. This payment on account shall be 7% (in the NMS 10% in 2004, plus 6% in 2005) of the contribution from the Funds to the assistance in question.”

This advance payment can be considered when calculating the spent expenditure for the first tranche according to the n+2-rule. In other words, it helps to achieve n+2.

Furthermore, the regulation states that “All or part of the payment on account (...) shall be repaid to the Commission by the paying authority if no payment application is sent to the Commission within 18 months of its decision to grant a contribution from the Funds.” (= n+18-rule).

■ Consequences if n+2 is not “reached”:

- The difference between the year amount and the payment claim will be deducted (=lost)
- Unless it is demonstrated that the EC has made a clear error or
- That there has been a force majeure.
- In case of deduction of funds, a new financial plan has to be set up by the MS and approved (= new EC decision), otherwise the EC deducts automatically and pro rata funds from each priority and measure.

■ What may affect the n+2 calculation?

- Pending EC decisions
- Financial arrangements
- Judicial procedures
- Irregularities
- Suspended payments by EC
- Reduced payments by EC

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Financial Flows

Council Regulation 1260/1999, art. 9 provides the following definition of “final beneficiary” ⇒ the bodies and public or private firms responsible for commissioning operations. In the case of aid schemes (...) the final beneficiaries are the bodies, which grant the aid.

Final recipient claims the payment of its expenditure; the final beneficiary (could be the LP) verifies the claim and forwards the payment claim to the MA. The MA verifies, too and forwards the claim documentation to the PA who prepares the request and sends it to the EC.

Council Regulation 1260/1999, art. 32, par. 3 remarks that “MS shall ensure that, as far as possible, application for interim payments are presented to the Commission in batches three times a year, the last application being presented no later than 31 October.”

That means the PA has to calculate very carefully the time needed to collect the payment claims by the final beneficiaries and to check them. The whole procedure from the claim by the final beneficiary to the different verifications and to the payment request by the Paying Authority will take 4 – 6 months.

On programme level it has to be decided whether the PA makes the request for payment only if the claims of all partners involved are at disposal or if the claim of one partner is enough.

In any case, the LP has to get the certification from the project partners and send it to the MA and PA. It is extremely important when the PP gets the funds from the PA. This mechanism will take approximately 4-6 months, calculating the time for verification by the Wojwod of the claim of the final beneficiary (approx. 30 days) and the check by the JTS.

Subject to available funds, the Commission shall make interim payments within no more than two months of receipt of an acceptable payment application.

Regarding the documentation the final beneficiary is the only responsible for the whole documentation. If the final beneficiary has the responsibility, but final recipients carry out the operational work, the documentary evidence is at the final recipients' place and must be available for checks.

Rates of contribution

In Poland the grant rates are usually 75% of the total eligible public costs, 25% correspond to the national co-funding. In case of Cohesion-Fund-covered areas, the rate may even reach 80%. When implementing a programme the MA has to consider the following aspects:

- Council Regulation 1260/1999 General provisions on the Structural Funds
- Council Regulation 1145/2003 now replaced by Council Regulation 448/2004 Eligibility of expenditure
- State aid limits
- Average rate per measure in case of different contribution rates for different measures within a priority. The contribution rate applies on programme level, but on project level there is certain flexibility. When winding-up the average rate has to be respected
- Infrastructure projects generating income have a limit of 45%-50%
- Direct investments in SMEs are limited to 35%.

According to the Structural Funds regulations ERDF shall be paid towards actually spent costs only. Council Regulation 1260/1999, art. 31, par. 2 defines “eligibility”:

“Expenditure may not be considered eligible for a contribution from the Funds if it has actually been paid by the final beneficiary before the date on which the application for assistance reaches the Commission. That date shall constitute the starting point for the eligibility of expenditure.”

The following examples show how to calculate the ERDF contribution:

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Example 1:

Total eligible costs	EUR 500	(75% = EUR 375)
<u>In kind contribution</u>	<u>EUR 300</u>	
Actual costs	EUR 200	

ERDF may only contribute towards actual costs. Therefore, in this case the MS gets not EUR 375 as claimed, but only EUR 200.

25% national contribution may be in kind.

Example 2:

Total eligible costs	EUR 1.000	(when contribution rate is 50% then = EUR 500)
<u>In kind contribution</u>	<u>EUR 200</u>	
Actual costs	EUR 800	

ERDF paid out will be EUR 500, because the sum claimed is smaller than the actual costs of EUR 800.

Example 3:

Total eligible costs	EUR 1.000	(when contribution rate is 75% then = EUR 750)
<u>In kind contribution</u>	<u>EUR 250</u>	
Actual costs	EUR 750	

ERDF paid out will be EUR 750, because the claim does not exceed the actual costs of EUR 750. In any case, it is not worth to consider in kind contribution over 25% (if ERDF rate is 75%), because it would reduce the actual costs. The consequence would be that automatically the ERDF paid out would be less.

Therefore, in practice the in kind contribution should be no more than the national contribution rate. It is possible to cover 100% of the national contribution rate by in kind. However, it is complicated to record in kind contribution and to reach an amount of 25% through in kind contribution. Actually, meeting room costs etc. are usually not high enough.

It is important to ensure that payment claims may include a value for the in kind contribution. It may also happen, that the MA of a programme decides on programme level that a minimum of co-financing has to be cash (e.g. 10%).

Example 4:

Total eligible costs	EUR 1.000	(when contribution rate is 75% then = EUR 750)
<u>In kind contribution</u>	<u>EUR 400</u>	
Actual costs	EUR 600	

ERDF may only contribute towards actual costs, therefore in this case the MS gets not EUR 750 as claimed, but only EUR 600. In this case, it would be necessary to grant this project only 60%.

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Case Studies Programme INTERREG III A Ireland/Wales

Case study 1



Answers to the case study:

Total eligible costs	EUR 400	(when contribution rate is 75% then = EUR 300)
<u>In kind contribution</u>	<u>EUR 40</u>	
Actual costs	EUR 360	

ERDF paid out will be EUR 300, because the amount claimed is smaller than the actual costs of EUR 360. The request of EUR 320 is not correct, because 75% of the total eligible costs is 300 and not 320. The contribution is calculated based on the total eligible costs.

Staff costs are considered cash contribution if related to public subjects.

Case study 2 (financial plan is based on public costs, consider the Polish side of costs in the example)



Total costs	EUR 500
<u>Private cash contribution</u>	<u>EUR 100</u>
Total public eligible costs	EUR 400

Total public eligible costs	EUR 400	(when contribution rate is 75% then = EUR 300)
<u>Public in kind</u>	<u>EUR 25</u>	
Actual costs	EUR 375	

ERDF paid out will be EUR 300, because the amount requested is less than the actual costs of EUR 375. In kind contribution has always to be checked if it is calculated considering rule 1 of the Council Regulation 448/2004.

Case study 3

In this case, the project will generate revenue, therefore the contribution granted should be a maximum of 40% (in case of Poland up to 50%).



Purchase of land should not exceed 10% of the total eligible expenditure of the operation, unless a higher percentage is fixed in the assistance approved by the Commission (see Council Regulation 448/2004, rule no. 5).

There has also to be considered, that the planned car parking will be approved only if it is part of a whole project.

Case study 4



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Total costs PL	EUR 5.000	
<u>Private in kind</u>	<u>EUR 500</u>	
Total public eligible costs PL	EUR 4.500	
Total public eligible costs	EUR 4.500	(when 75% ERDF contribution = EUR 3.375)
<u>In kind contribution</u>	<u>EUR 1.125</u>	
Actual costs	EUR 3.375	

In this case, the coherence between costs and services must be checked carefully. The staff volunteer costs might be too high. Furthermore, private in kind contribution (here EUR 500) is cut. It must be checked whether the EUR 500 of equipment and materials are considered as private in kind contribution.

Voluntary costs can be considered public costs, if the financial plan considers only total public costs and not private contribution, too.

Council Regulation 1260/1999- Additional information on private participation

Council Regulation 1260/1999, art. 29, par. 2 states “The contribution from the Funds shall be calculated in relation to either the total eligible cost, or the total public or similar eligible expenditure (national, regional or local, and Community) under each assistance.”

This shall be a decision on programme level before submitting the programme. Most Polish programmes are based on public expenditure. This means, that in projects where nevertheless private subjects participate, their contribution does not attract ERDF money.

In case of project costs of EUR 100 with 75% public contribution and 25% private contribution, the ERDF (75%) you get will be:

- a) In case of total cost basis ⇒ EUR 75 from 100 (if the private renounces on reimbursement the project can be totally funded without national public contribution)
- b) In case of total public cost basis ⇒ only EUR 56,25 (=75% from the 75% public contribution) are totally reimbursed to the public subject. In this case 18,75 EUR must be contributed by public national budget. Private contribution does not generate ERDF money in this cas

Generally, the MA decides whether a body is considered “public like” or not considering if the subject generates income or not. E.g. public universities are normally considered as public like.

In case of “public like expenditure”, national rules apply. I.e. if according to national law, a subject is public like (i.e. public equivalent body like a Chamber of Commerce), also its contribution is considered “public like expenditure”.

In some programmes you find the following specific definition of “public equivalent body” (e.g. programme manual INTERREG III C East, page 17 “(...) in the interpretation of the EU legislation on public procurement, means any legal body governed by public or private law:

- Established for the specific purpose of meeting needs of general interest, not having an industrial or commercial character¹, and
- Having legal personality, and
- Either 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,

¹ This definition does not exclude bodies partly having an industrial or commercial character, which deal with public tasks. These bodies may be asked to submit a clarification statement issued by national authorities.

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- 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.

State Aid

State aid is a very complex topic, and since sometimes support from the Structural Funds turns out to be state aid it is essential to get an overview on the principles. The main sources of information can be found on the website of the EC:

http://europa.eu.int/comm/competition/state_aid/legislation/



art87_en.htm



art88_en.htm



"de minimis.htm"



"guidance deminimis.htm"



"Procedural regulation.pdf"



"horizontal aids.pdf"



"R&D 364_2004.pdf"



"training aid 363_2004.pdf"

Please note that R&D and Training aid have recently been amended.

In the following document "Vademecum – Community Rules on State Aids" (see document attached below) you can find the definition of state aid and in which cases notification of laws is necessary and in which cases there are exemptions. All operations within a programme must be conforming to state aid ceilings. The MS has the responsibility to monitor on national level whether the rules are respected, whereas the MA has the responsibility to check it on programme level. As this task requests a very complex system, in some programmes state aids are excluded ex-ante.

In general, state aids are forbidden as they distort or risk to distort market competition between the MS.



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State aids are defined as such, if four criteria are fulfilled:

- Transfer of state resources
- Economic advantage
- Selectivity
- Effect on competition and trade

Exemptions from the general ban of state aid can be allowed by the EC in some cases where the proposed aid schemes may have a beneficial impact in overall EU terms. E.g.:

- Regional aid (e.g. aid to facilitate the development of certain economic areas)
- Horizontal rules (or cross-industry rules for SMEs, R&D, environmental protection, rescue and restructuring of firms in difficulty, employment and training aid)
- Sectoral rules (industry-specific rules for sensitive sectors, agriculture or transport).

"MS are required to inform the EC of any plan to grant or alter state aid and they are not allowed to put such aid into effect before it has been authorised by the EC (ex ante notification). In other words, MS cannot grant any state aid unless it has been notified and authorised by the EC. (...)"

"In order to simplify the procedures, the EC has adopted the so-called "block exemption regulations" for state aid. With these regulations the EC can declare certain categories of state aid compatible with the Treaty if they fulfil certain conditions, thus exempting them from the requirement of prior notification and EC approval."

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“Three of these regulations create exemptions for aid to SMEs, employment aid and training aid. The fourth one is called “de minimis” and it establishes that aid to an enterprise that is below the threshold of EUR 100,000 over a period of three years and that respects certain conditions, does not constitute state aid (...) as it is deemed not to affect trade or distort competition. (...)” (⇒Vademecum).

If an INTERREG project contains state aid elements the MA has to check

- Has the relevant aid scheme been notified and approved by the EC? In this case, the aid can be granted.
- If not, do the block exemptions apply? In this case the aid can be granted without ex-ante notification).
- If not, the aid has to be notified by the MS and approved by the EC.

When the MS finances infrastructures in partnership with the private sector (“Public Private Partnerships” PPP), the project may entail consideration under state aid rules. In such cases, the public support should be arranged so that it is compatible with state aid rules. In cases where there are doubts whether or not a PPP arrangement entails state aid, it is advisable to notify the project concerned.

Council Regulation 448/2004 – Eligibility of expenditure

Generally, regarding eligibility national rules apply unless EU-rules are more rigorous. Please find the main relevant rules of Council Regulation (EC) 448/2004 listed below:

Rule no. 1 – Expenditure actually paid out

This rule defines the concept of “expenditure by final beneficiary”. Payment claims can only be made based on actually occurred expenditure; advance payments made to final beneficiaries cannot be considered as actually paid out expenditure.

Therefore, only if the final recipient gets a pre-financing from the final beneficiary, and if he really spends this money, the final beneficiary may claim the expenditure. Payments based on contractual advances can be considered actual expenditure (see interpretative note of the Commission Services CDRR/01/0069/01 EN).



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Document

After decision on the programme, the EC pays 10% in advance of the total funds to the PA. Then - following each payment claim - the PA pays 75% of the declared total eligible expenditure.

Generally, payments have to be in cash, but there are some exemptions:

Point 1.6 Depreciation of real estate or equipment

Point 1.7 In kind contribution:

- Provision of land or real estate
- Voluntary unpaid work
- Equipment or materials
- Research or professional activity

Point 1.8 Overheads

Staff costs internal hours are contributions in cash.

There is an upper limit for contribution in kind. If contributions in kind form part of the payment, the EU contribution is limited. The limit is up to the total eligible expenditure minor contribution in kind. This means that contributions in kind should only have the level of the national co-financing otherwise the EU-contribution is reduced. Examples:

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Total eligible costs	EUR 1.000
<u>In kind contribution</u>	EUR 300 (= more than 25% national contribution)
Actual costs	EUR 700

In this case the upper limit for the ERDF reimbursement is EUR 700, therefore the request by the PA of EUR 750 corresponding to the contribution rate of 75% will not be considered as such. The reason is that the EC wants to avoid that there is more cash than you had before. In other words, the EC does not reimburse in kind, it only helps to attract ERDF money.

Example Sheila:

Total eligible costs	EUR 500 (75% of 500 = EUR 375)
<u>In kind contribution</u>	EUR 300
Actual costs	EUR 200

Also in this case the request of EUR 375 as ERDF contribution will not be considered, the upper limit for reimbursement will be EUR 200.

So, it pays out to have in kind contribution only up to 25% (= national contribution).

Example:

Total eligible costs	EUR 1.000
Overheads	EUR 100
Depreciation	EUR 100
<u>In kind</u>	EUR 100
Actual costs	EUR 900

So the ERDF grant amount to 75% of EUR 1.000 and the PA will be paid the whole EUR 750, because it is less than 900.

To calculate the actual costs you do not have to deduct all not-cash payments, but only the in kind contribution. Depreciation and overheads can be considered as actual costs, because they have in a certain way already been paid in cash.

In the case of in kind contribution it is extremely important, that the amounts have been calculated on the basis of independent and traceable price lists, etc.

Voluntary work must be expressed using certain rates that are conforming to the task carried out and not to the role or status of the person.

It has to be beard in mind that the 75% ERDF contribution must not be calculated on actual costs, but on total eligible costs.

Example (programme based on public expenditure):

Total eligible cost	EUR 1.000
Private contribution	EUR 200
<u>In kind contribution</u>	EUR 250
Actual costs	EUR 550

(1000- 200) – 250

In this case the upper limit for the reimbursement is 550, therefore the PA will not get 75% ERDF (= EUR 750), but only 550.

Rule 2 – Accounting treatment of receipts

Receipts are defined as revenue received by an operation during the period of its co-financing (...) from sales, rentals, services, enrolment/fees or other equivalent receipts with the exception of (...)

c) Contributions from the private sector to the co-financing of operations, which appear alongside public contributions in the financing tables of the relevant assistance.

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According to this rule, receipts represent income which reduces the amount of co-financing.

Therefore, they have to be deducted from the eligible expenditure before the Structural Funds' participation is calculated (...)" I.e. if the financial table is based on total costs the private contribution can be considered as sponsoring (=private contribution) is considered part of the national contribution.

There has to be paid attention to another kind of revenues. In case of projects generating entrances Council Regulation 1260/1999, art. 29, par.4 explains how to deal with such substantial revenues, whereas rule 2 does not apply to investments.

Rule 3 – Financial and other charges and legal expenses

Debit interest, charges for financial transactions, foreign exchange commissions and losses and other purely financial expenses are not eligible for co-financing.

However, charges for transnational financial transactions within e.g. Community Initiatives are eligible after deduction of interest received on payment on account.

Rule 4 Purchase of second hand equipment

Purchase of second-hand equipment is eligible under three conditions:

- The seller of the equipment shall provide a declaration stating its origin (...) i.e. it is enough to get a written confirmation, but it is not requested to make further researches regarding the origin. In case of untrue information it is obviously fraud. I.e. there should be a document stating the name of the seller in case of new goods, and in case of second hand items it should be clear who was the previous owner. In any case it has to be declared, that the equipment has not been purchased with any contribution.
- The price of the equipment shall not exceed its market value.
- The equipment shall have the technical characteristics necessary for the operation.

Rule 7 VAT and other taxes and charges

VAT does constitute eligible expenditure, when it is genuinely and definitely borne by final beneficiary. If he has to pay VAT it is eligible and must be indicated in the application form. If the final beneficiary is allowed to deduct VAT, this does not represent an eligible expenditure. Even if the final beneficiary has the right to reclaim, but does it not, then it is not eligible.

Rule 11 – Costs incurred in managing and implementing the Structural Funds

Costs incurred in MS in the management, implementation, monitoring and control of the Structural Funds are ineligible for co-financing except as provided in point 2 (...). Point 2.1 says that expenditure relating to the preparation, selection, appraisal and monitoring of the assistance (...) are eligible excluding expenditure on acquisition and installation of computerised systems for management, monitoring and evaluation.

But point 3 mentions among further expenditure under technical assistance, which is eligible studies, seminars, information actions, evaluation and the acquisition and installation of computerised systems for management, monitoring and evaluation. Therefore, these are eligible costs.

The costs for the implementing the 2nd level control are financed under technical assistance. The upper limit for technical assistance is (a negotiable) 5% for all categories under rule 11, par. 2.

Generally, the financial plan indicates a division into TA 1 (5% par. 2) and TA 2 (referring to par. 3) for other expenditure not comprised under par. 2 and without any limitation (e.g. for monitoring systems).

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Rule 11, par. 4 states that expenditure for public staff is eligible and it is considered as cash contribution. It must be indeed an activity for ERDF and not a routine activity. I.e. the duties must be continuously carried out for ERDF, proved by pay rolls and timesheets if a person is working part-time.

Rule 12 Territoriality

This rule applies on project level and says that usually operations co-financed shall be located in the eligible area. If e.g. an institution is situated in Warsaw (provided Warsaw is not considered eligible area), but the operating part of this institution is located within the eligible area, then the activity is eligible.

The same occurs if a university who does the application is not located in the eligible area, but their activity is carried out in the eligible territory. Please find attached a working paper on rule 12:



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Document

Question: Preparation costs of a project

Generally, if the preparation costs are part of the project they can be considered eligible if they can be attributed to the project. Most of the programmes have restrictions. In some programmes preparation costs are not eligible, in some programmes they are eligible to a certain limit (IIIC individual project and networks EUR 25,000 and RFO EUR 50,000). In other programmes they are eligible from a well-defined period in the past. Anyway the starting point for the new MS is 1 January 2004.

Usually there is stated a level for the preparation costs. On programme level, it is possible to state a time limit for consideration of the preparation costs e.g. half a year before you present the project. In any case they are only reimbursed if the project itself is approved.

Council Regulation 438/2001 Management and control systems

Art. 2

It is responsibility of the MS that the MA and the PA get a guidance regarding the rules for the implementation of such a system.

Art. 3

There are certain requirements that have to be observed subject to the principle of proportionality, i.e. complex programmes will have a more complex control system, too. Generally, the person approving the payment must not be the responsible person for the checks.

Art. 4 (First level control)

This is the check of the actual realisation of a project. Whereas the MA bears the responsibility for the programme towards the EC, each partner and above all the LP has the responsibility for the first level control of the declared expenditure.

Checks have generally to be made on the spot, the relevant documentation has to be identified. There is the possibility to choose between two options:

100% checks or
sampling

This decision can be changed during the programming period by amending the programme document. It has to be decided who carries out the art. 4-checks, in Wales it is a specialised team, in Ireland measure leads.

For soft projects no on the spot checks are necessary.

Before carrying out such a check the project owner should be notified so that he may have the opportunity to prepare the documentation. All relevant collaborators should be present. Such a check might take e.g. four hours at the minimum. After the visit a report will be sent and the findings discussed.

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Example: Art. 4 – Checklist

Information on the project:

- Name of programme
- Organisation name / details
- Project name reference
- Contact person
- Project datestime
- SC agreement
- Contract date
- Value of contract
- Who is present, date and time

Compliance checks

- With the application
- Eligibility rules (national and EU)
- Management checks
- Programme checks
- Procurement procedures (if the national procurement law do not limit to EU area, you can buy from outside the EU)
- Co financing sources
- Finance system – payments – invoices timesheets – payment claims (i.e. recreate the final payment claim using all the invoices mentioned) there is no obligation to send the invoices together with the payment claim!
- Outputs schedule
- In kind contribution / staff costs check
- Publicity
- Community policies
- State aid
- Equal opportunities
- Environment
- “Joint” project?
- Government law-e.g. planning law
- Exchange rate PHARE / problems (daily rate of the Bank of England) PA gets money in Euro but pays the final beneficiary in Sloty, there might be losses. Management of exchange rate by PA on programme level. If there are losses, they have to be carried by the PA, i.e. by the national budget. If there is a gain in terms of exchange rate, then it is money of the PA as well.

Art. 5

The MS has the obligation to inform the EC within three months of the approval of the assistance or the entry into force of the Regulation of the organisation of the managing and paying authorities and intermediate bodies, of the management and control systems in place in these authorities (...).

Art. 7

Audit trails permit to assess the check procedures of the MA and PA as well as the check itself of the claims of the final beneficiaries. Documentation has to be kept at least until the end of 2012.

Art. 8

Decision regarding the recovery of funds should be taken in a very short time. The fastest solution is to deduct the amount from the claim towards the EC.

Art. 9

Certification and implementation of payments must absolutely be divided between PA and MA. The PA must agree with the work carried out and the system set up by the MA. Generally a person or department within the paying authority that is functionally independent of any services that approve claims shall draw up the certification of interim and final expenditure.

Art. 10 (Second level control “check the checker”)

Workshop	INTERREG - Financial Management
Venue	Warsaw, Poland
Date	29 – 30 March
Experts	Sheila Maxwell, Axel Senftleben, Vesna Caminades

The sample checks on 5% of the total eligible expenditure have to be carried out before the programme is wound up. They assess the effectiveness of management and the declaration of expenditure. The following criteria have to be considered:

- Mix of type and size of projects
- Risk factors
- Check of the main intermediate bodies and final beneficiaries

Art. 15

The declaration of winding-up has to be made by a person functionally independent from the MA and PA.

Art. 18

A computerised system should be implemented considering the requirements of form and content of information stated by EC.

Art. 21

MS may apply even more rigorous regulations than this one.

Council Regulation 2355/2002 amends the Council Regulation 438/2001 as follows:

- Definition of supporting documentation
- Documentation has to be held as original document or on commonly accepted data carriers
- Documentation has to be held in accordance with art. 38/6 of the Council Regulation 1260/1999.