



**INTERact**

*Sharing Expertise*

INTERACT POINT TURKU and INTERACT POINT VIENNA

# Financial Management of European Territorial Cooperation Programmes

8 - 9 September 2009, Ljubljana

**Day 1 – Financial Management**

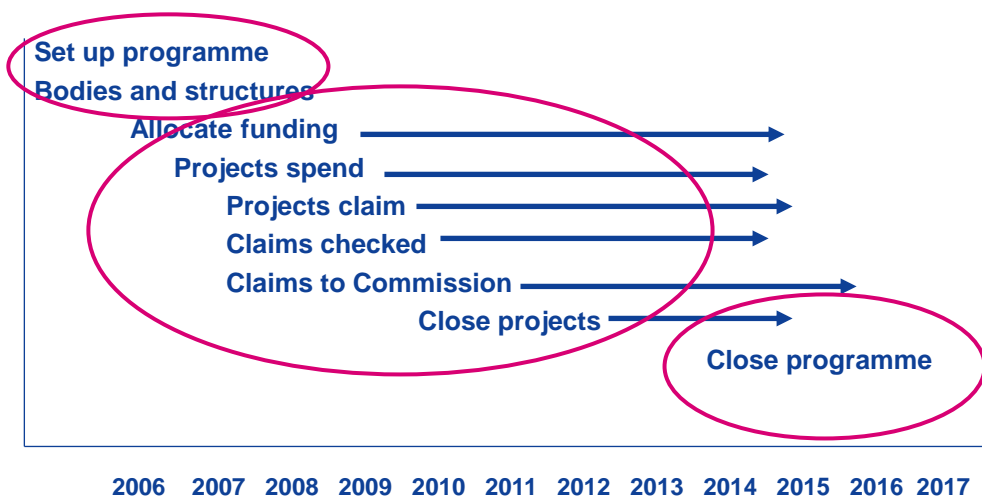


INTERACT is co-financed by the European Regional Development Fund (ERDF) | European Territorial Cooperation



*Sharing Expertise*

## THE PROGRAMME LIFECYCLE - FINANCIAL FLOWS





## I. Programme start up and financial structures

1. The importance of sound financial management
2. Financial structures, responsibilities and liabilities
3. Programme financial framework: co-financing sources, funding rates, technical assistance budget

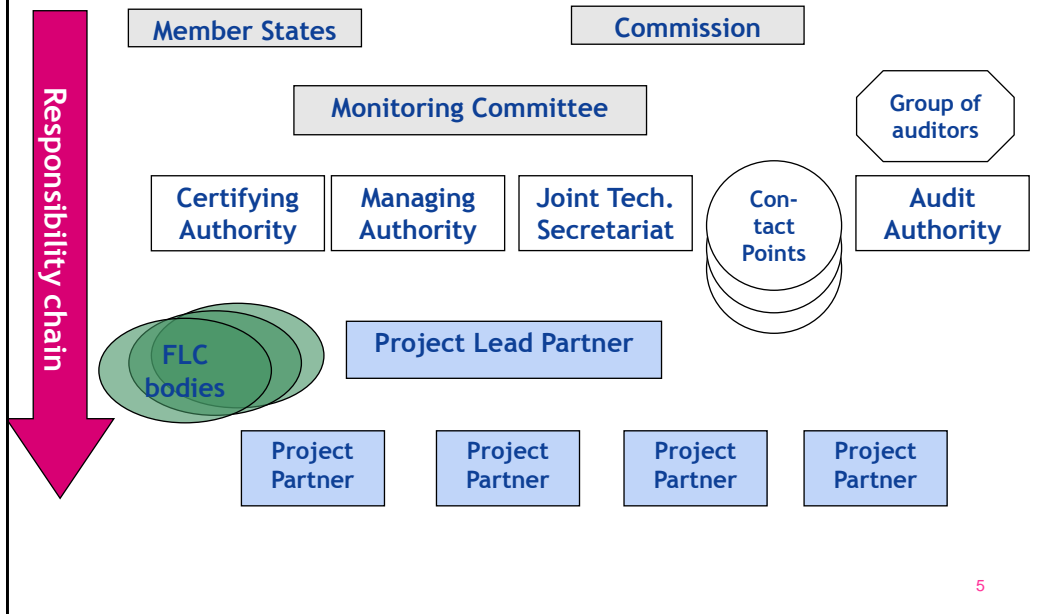


### **Key Point 1:**

Clear definition of roles and good cooperation within the programme are the first requirement for implementation.

### **Key point 2:**

The description of systems and procedures (*“Article 71 description”*) should define the standards expected for programme staff, the Commission and controllers



### Why discuss the obvious?

- Main cause of programme problems in the 2000-2006 period
- Consequence: tougher requirements for Article 71 description, aimed at introducing transparent and enforceable standards and deadlines
- Key information for all written procedures



## Programme Body Roles

- Presentation of responsibilities
- Select 2 critical areas - tell us why?



## The MA supervises the work of FLControllers

- Supervisory role of the MA can be expected to be strong because European Court of Auditors criticism of past MA work:
  - Too passive
  - Insufficient management verification in general and insufficient on-the-spot checks
  - Failure to check whether claims for payment were supported by appropriate evidence
  - Failure to identify weaknesses in the tender processes
- MAs cannot afford significant negative findings on first level control in programme systems audits
- MA must identify and manage programme risks - also at the control level



## The MA/JTS checks project activities and finances during monitoring

- Some 'FLC issues' can also be included in programme progress report checks. For example:
  - Compliance of activities with the programme decision
  - Financial and technical progress
  - Compliance with publicity rules, public procurement rules
- Activities of the MA/JTS can duplicate, supplement or replace FLC controls
- Vital to ensure that the interface is well defined and no checks are forgotten because it is assumed they will be taken care of at another level

9



## The Certifying Authority certifies the legality and regularity of expenditure declared to the EC (1)

Certification role of the CA can be expected to be stronger compared to previous period, because:

### **Paying Authorities 2000-2006 have also been criticised:**

- PAs certified expenditure relaying solely on the checks done by MA
- Failure of PA to identify when MA/FLC had not carried out adequate checks
- PAs had no overview of first level control checks and relied too much on information provided by others
- The coverage of checks by PAs was not specified

10



## The Certifying Authority certifies the legality and regularity of expenditure declared to the EC(2)

- CA ensures the reliability of the MA's work
- MA informs CA of the procedures implemented to:
  - Verify the delivery of products and services co-financed and the reality of expenditure claimed
  - Ensure compliance with the applicable rules
  - Maintain the audit trail
- CA is less likely to visit operations but takes a 'system' perspective (identified programme risks and measures to address risk; could also check that previous control and audit findings have been implemented).

11



## Audit Authority conducts audits of operations (SLC)

- Controllers are now an integrated part of programme systems - and will be included in systems audits
- Control will probably be the most checked part of programme systems
- Weak control may lead to exclusion of controllers and more programme audit
- Project audit sample size increases compared to the past 5%
- Expect Commission auditors likely to be more active!

12



## Relationships between control bodies

- **ALL**: Should be seen as one cooperating system with end goal of below 2% error rate
- **MA/FLC**: Feedback loops are essential - each part of the system needs to learn from the other parts
- **FLC/SLC**: Control audit trail should allow auditors to enter at any point and trace back to the actual control work carried out
- **MA/CA/AA/MS**: Supervisory roles have been toughened in the new regulations to address previous weaknesses

13



## Description of management and control systems

- Art 71 best done in dialogue with Audit Authority /CAB
- In case of reservations on any part of the Art 71 declaration, CAB should point out what needs to be corrected
- CAB should provide a positive opinion before first interim payment can be made by EC
- CAB may have many reservations and resolving them may delay the process of getting first payment
- **A few approved article 71 descriptions available on the INTERACT Website:**

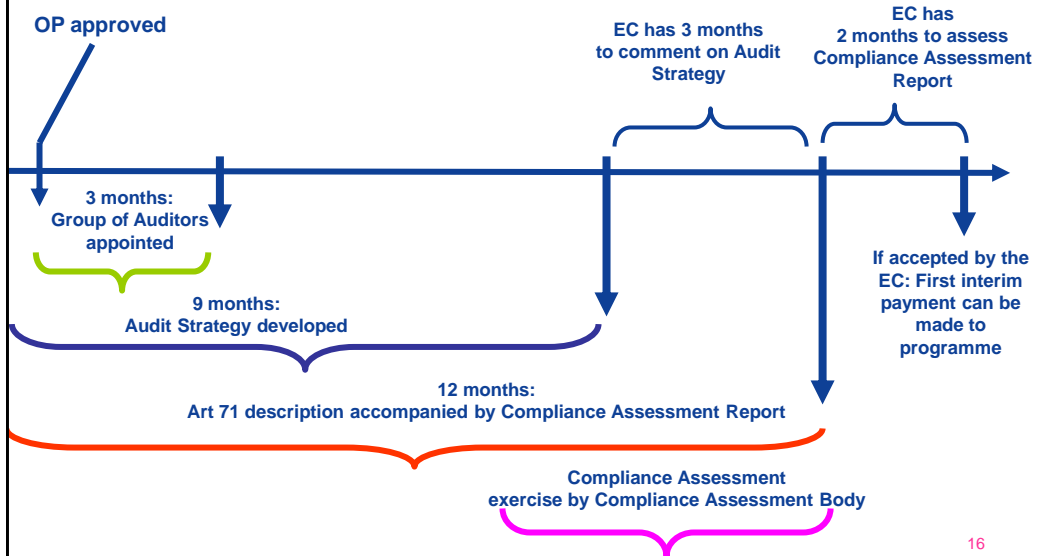
14

## THE ARTICLE 71 DESCRIPTION - EXTRACT FROM IVB NORTH WEST EUROPE PROGRAMME



Annex XII items from EU regulation 1828/2006	Answers to column 1 queries (in principle, only greyed areas should be filled in)	CICC observations, after discussions if need be	Answer of the Managing Authority
<b>2.3. In cases where the managing authority and the certifying authority are both designated in the same body, describe how separation of functions is ensured</b>			
	The managing authority and the certifying authority are two different bodies.		
<b>2.4. Public Procurement, State Aid, Equal Opportunities and Environment rules</b>			
2.4.1. Instructions and guidance issued on the applicable rules (date and reference)	As the programme covers several Member States, references are made to EU legislation and it is specified that partners should refer to their national legislation as well.  The programme also provides all partners with Guidance notes .	What about the public procurement requirement. How this requirement will be respected ?	Projects: it is up to the designated first level controllers to check the compliance with national requirements.  The first level controllers have to confirm with each report that the Partners complied with Community rules and policies including publicity, information, equal opportunities, protection of environment, state aid, competition and public procurement.  In a first step, the MS through their approval decision agree on the compliance of a project with community policies.  During project implementation, it is the task of the first level controller to check and confirm the compliance with Community policies (especially the compliance with public procurement rules).

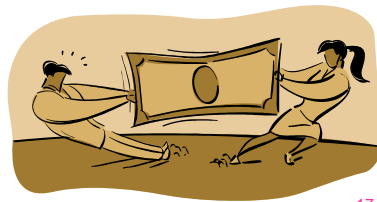
## PROGRAMME START-UP





- Cofinancing sources
- Funding rates
- Technical assistance budget

...?



17



#### 4 possibles sources of co-financing:

- Automatic co-financing
- Competition based co-financing
- Private co-financing
- Own contribution

PROS AND CONS...

18



- Maximums: 75%-25% or 85%-15% (programmes with at least one EU-14)
- Some programmes use lower ERDF rates e.g. 50% ERDF (programme decision)
- Minimum rate per priority: 20%
- Maximum rate per priority: 100%



*Use of different rates for different priorities?  
Expected impacts of use of lower/higher rates?*



**Use of different rates for different priorities:**

*Programme: 75%-25%*

	P 1	P 2	P 3	Total	
Reported expenditure by priority	€ 50	€ 75	€ 100	€ 225	
Total ERDF reported	€ 30	€ 56,25	€ 90	€ 176,25	=78,3%
Total co-financing reported	€ 20	€ 18,75	€ 10	€ 48,75	=21,7%

**NB!** Financial tables can be modified until 31.12.2013 only - after this date, priorities to be watched carefully



## TA co-financing

- No measures in TA budget in the new period
- 6% of ERDF allocation for all activities
- How much MS co-financing?



TA needs medium term planning. Use a **Business Plan** (2-year lifetime) covering:

- Progress update + developments
- Main administrative tasks to be carried out (number of projects to be assessed, reports processed etc)
- Main communication and publicity actions
- Additional tasks (e.g. evaluations)
- Resource implications + staff time analysis



## II. Avoiding decommitment, project start up and reporting

1. What is decommitment?
2. How can decommitment be avoided?
3. How can projects spend to plan and help in management of programme funds?



### Definition of automatic decommitment

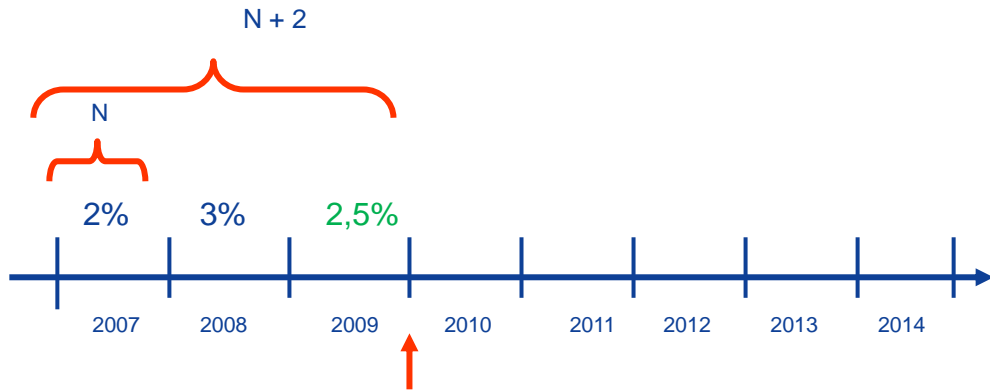
Council Regulation 1083/2006 article 93

*“The Commission shall automatically decommit any part of a budget commitment in an OP that has not been used for payment of the pre-financing or interim payments or for which an application for payment has not been sent in conformity with Article 86 by 31 December of the second year following the year of budget commitment under the programme (n+2)”.*

For EU12 MS the deadline is the 31<sup>st</sup> December of the third year following the year of the annual budget commitment from 2007-2010 (n+3).



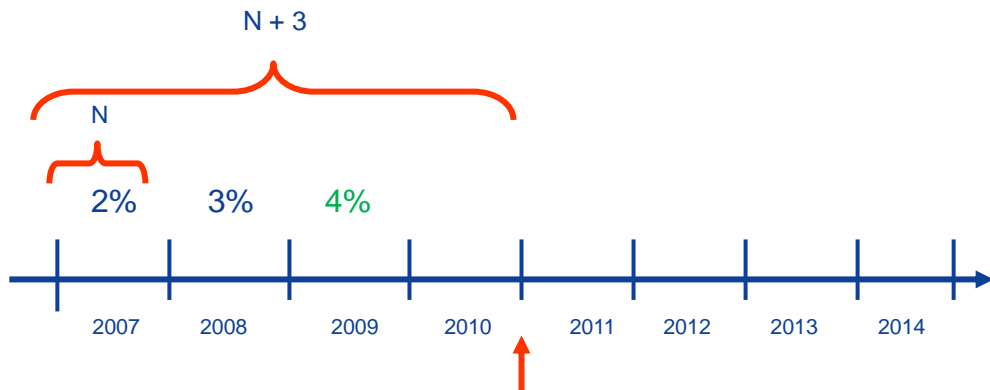
Programmes with EU-15 MS:



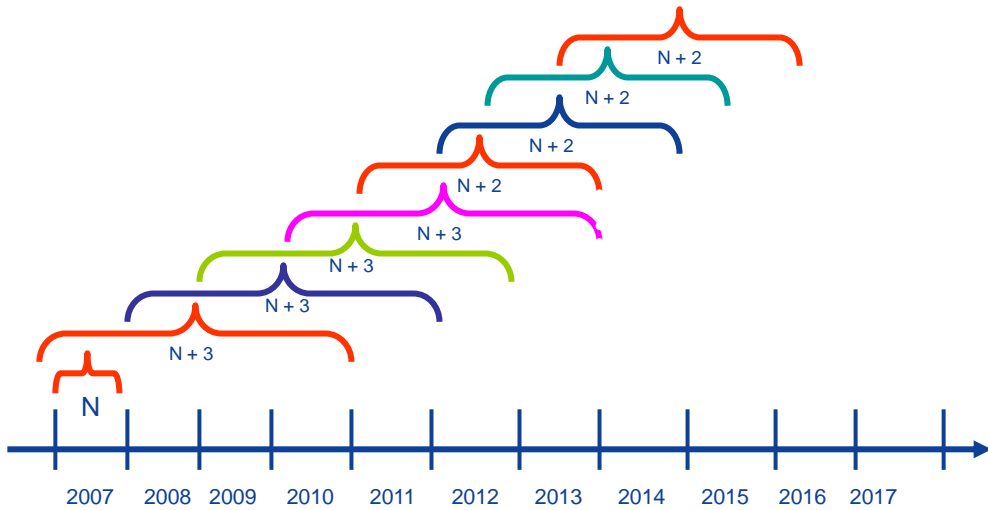
You can deduct 7,5% Advance Payment (ERDF) from the decommitment target amount



Programmes with EU-12 MS:

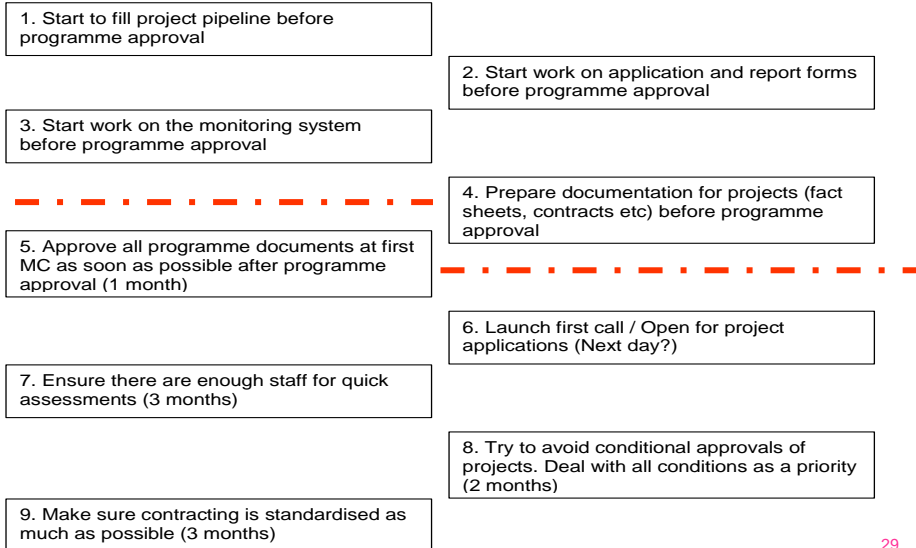


You can deduct 9% Advance Payment (ERDF) from the first decommitment target amount



## There are 3 main causes of decommitment:

- Slow commitment of programme funds to approved/contracted projects
- Slow project spending or slow submission of payment claims
- Slow certification and processing of project claims resulting in low value of payment claims to the EU



### Project and programme implementation

- Ensure projects start as soon as possible
- Monitor and analyse project spend, monitor and analyse project spend
- Concentrate on large projects spending a lot of funds
- Essential to have a close relationship with beneficiaries
- Keep projects ‘in reserve’

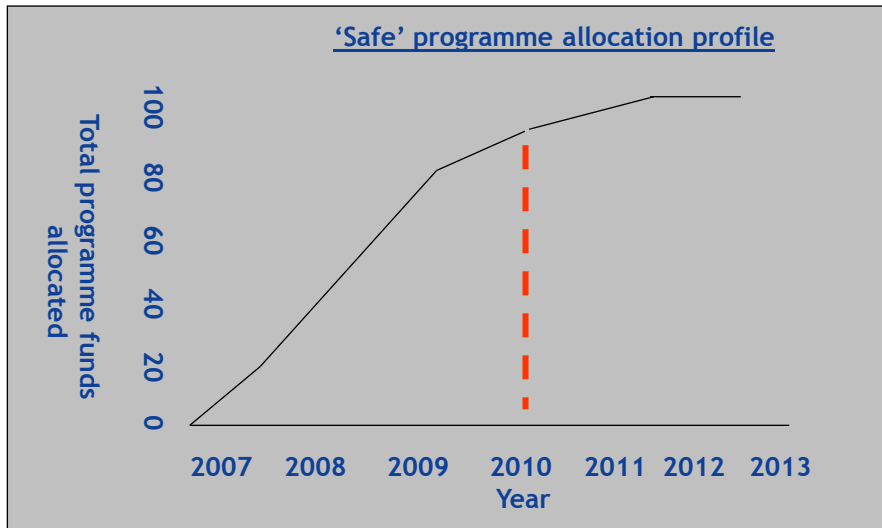


### Programme commitments:

- Cannot follow Commission budget commitments to the programme
- Needs to be fast - but not at the expense of quality?
- Needs to be linked to programme spending forecasts - based on reliable project spending forecasts
- Need to have targets for programme spend - linked to staff objectives?



- Commission budget commitments in OP Financial Table = Decommitment target
- OP Financial tables can be changed
- Programme spending forecast/target must be monitored regularly, allow for exchange rate variations
- Project spending forecasts are the building blocks for programme forecast
- Project spending normally very low for first year so large amounts have to be allocated (especially if programme approval is delayed). However rapid allocation of funds can lead to future audit problems



**Regulatory exceptions to automatic decommitment:**

- Interruption for major projects and state aid schemes where a Commission decision is needed
- Interruption for legal proceedings and administrative appeals
- Commission suspension or payment interruption or capping
- *Force Majeure*



## GROUP EXERCISE

### ASSESSMENT OF N +2 situation

- 1. What are the N+2 decommitment targets for the OP*
- 2. Will the target be met for the end of 2009 on the basis of the information provided*



### Challenging project budgets

#### What is an unrealistic project budget?

- Unrealistic spread of funds across project lifetime
- Uneven split of funds across partnership
- Partners not contributing co-financing
- Excessive staff costs
- Excessive external expert costs
- Unrealistic figures



### Project monitoring needs to:

- Monitor project actual spend
- Compare actual spend against forecast spend and act on any issues
- Keep a record of all payments to a project
- Keep a record of adjustments to claims, and all irregularities
- Track progress on physical activities - delivery of work packages, project objectives, indicators and targets
- Provide an opportunity for review meetings with beneficiaries or opportunity for MA/JTS/IB staff to be represented on project boards

37



### Possible responses to slow reporting/spending:

1. Communicate, communicate, communicate
2. Advice / Information / Warnings
3. Deadline for first spending (e.g. 3 months)
4. Budget / Time plan adjustment
5. Limit carry overs to 20% of annual budget?
6. Decommit project??? (e.g. if more than 25% underspent after 2 years - BUT: project decommitment clause must be included in subsidy contracts)

38



## Programme monitoring needs to:

- Combine project level information on allocations, targets and expenditure claimed (by priority and measure)
- Provide full records of TA expenditure
- Keep track of all changes to e.g. financial tables
- Separate allocations and spending for Non-MS



## Should programmes be actively managed?

- Decommitment - other measures to avoid decommitment
- Over-commitment
- Achieving the decommitment targets at the risk of ineligible expenditure or other audit issues
- Threat to quality/value for money
- Importance of training especially for beneficiaries



**Key Point 1:**

Almost all programmes complain that project budgets are unrealistic. This makes forecasting impossible and causes decommitment problems.

**Key Point 2:**

Project budgets will never be 100% accurate but they can be improved. Information must be provided to inexperienced partners.



**What is an unrealistic project budget?**

- Unrealistic spread of funds across project lifetime
- Uneven split of funds across partnership
- Partners not contributing co-financing
- Excessive staff costs
- Excessive external expert costs
- Unrealistic figures
- Etc
- Example: assessment of 6 project budgets



### III. Project and programme control

1. The importance of control - The different types of control and who does what?
2. Main eligibility issues
3. How to deal with irregularities and recoveries?



#### **Key Point 1:**

Clear definition of roles and good cooperation within the programme are the first requirement for implementation.

#### **Key point 2:**

The description of systems and procedures (Art. 71) should define the standards expected for programme staff, the Commission and controllers.



## Functions of control (1)

- Controllers' task is to **detect and correct errors** and to **prevent** the declaration of incorrect expenditure
  - Controllers should provide **assurance to programmes** that there are no errors in the expenditure declared
  - And **assurance to beneficiaries** that no errors will be found in their expenditure at a later stage: **manage a problem - not a crisis!**
- Controllers are the only people in the programme carrying out this essential task
- In large part the future of the programmes will be decided by the effectiveness of the controllers



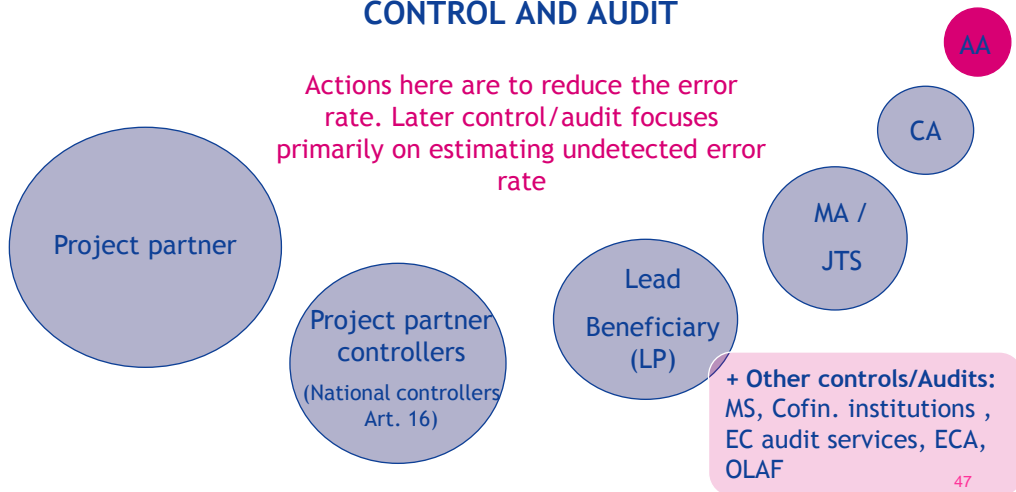
## Functions of control (2)

European Commission specifically highlights:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations
- Prevention and detection of fraud



## Suggested relative responsibilities and workloads CONTROL AND AUDIT



## First level control fundamentals

- Many FL controllers check 100% of the items of expenditure. Though desirable this may not always be feasible.
- FLC usually certifies 100% correctness of expenditure but does NOT certify that 100% of the items of expenditure were checked.
- Especially for on-the-spot checks, a sampling method and risk factors must be used (e.g. value of items, type of beneficiary, past experience).
- Any risk-based sampling method must be well reasoned and documented



## The audit trail

- The most common problem detected in Commission audits
- Failure to understand this has led to recoveries of up to 85% of programme budgets
- Must allow auditing authorities to:
  - Trace all declared expenditure to original invoices (or documents of equivalent probative value)
  - Verify the transfer of funds to final beneficiaries
- Clear description of the accounting evidence at each level, and communicate this to everyone involved, including project partners



## Main problems in the period 2000-2006

- Complicated or unclear eligibility criteria or complex legal requirements have a considerable impact on the legality and regularity of underlying transactions. (ECA Annual Report 2006)
- Some Member States have provided very little information on their additional eligibility requirements
- Extensive confusion at project level about what is and is not allowed. Very difficult to get reliable confirmation
- Controllers or auditors are being asked to *interpret* eligibility rules: This is not their role



## Common errors 2000-2006

1. Project includes costs for services contracted before the start of the programme period or eligibility date
2. Project includes costs for non-agreed / non-relevant activities
3. Projects include costs that have not yet been paid
4. Projects include non-approved travel outside the area
5. Unused funds are used on new equipment unrelated to the project
7. Same cost included twice
8. No evidence/control for co-financing part of budget
9. Revenues not declared or deducted
10. Expenditure reported for organisations not in the partnership

51



## Commission approach to eligibility of expenditure 2007-2013

- Commission adopting a more hands-off approach than in the past
- Member States must establish their own rules: “...*eligibility rules laid down by MS and applicable to the Operational Programme*” 1828/2006 art. 22(g)
- General principle: if expenditure is not covered in European rules but national rules say it is OK, Commission will accept it
- Clear need for comprehensive and relevant national rules

52



## Territorial Cooperation challenges

- No exhaustive list of eligible or ineligible expenditure (ever)
- Projects involve partners from various MS with different rules, languages, practices and understanding of eligibility
- Eligibility can often only be assessed case-by-case depending on the project objectives, financial plan and approved application
- Other countries, programmes and funds (for example ESF) have different rules which may cause confusion



## Territorial Cooperation advantages

- National rules give more freedom to update rules
- National authorities provide a quicker source of reliable advice
- Majority of project actions quite similar
- Programme rules (where available) cover all basic issues



### Main related errors 2000-2006

- No documents or invoices only (AUDIT TRAIL!!!)
- No audit trail for national co-financing amount
- Inclusion of small ineligible items (check especially credit card payments, petty cash)
- No adequate calculation for part-time staff costs and/or overhead costs
- Ineligible costs included in overheads
- No attempt to reclaim VAT
- Inconsistent use of exchange rates
- Costs not related to the project
- Costs incurred outside eligible area / eligible timeframe

55



### Legal basis

- Community rules:
  - General Regulation (1083/2006),
  - ERDF Regulation (1080/2006),
  - Implementing Regulation (1828/2006)
  - Council Regulation 134/2008 (changes to article 55)
  - Council Regulation 284/2009 (response to financial crisis)
  - Corrigenda
- Programme documents - negotiated and agreed with Commission
- Community, national, programmes and internal rules on: State Aid, Public procurement, Community policies, publicity requirements
- National law and national rules
- Public finance accounting principles

*Checks carried out at project assessment stage and/or during project implementation*

56



## When in doubt - Essential eligibility questions

- Is the cost claimed **real**?
- Is there evidence it has been **paid out**?
- Is the **price** reasonable?
- Does it **add value** to the project?

---

*Will it deliver the **agreed benefit/output/result** to the programme area?*



## GROUP EXERCISE

### ELIGIBILITY

- Are those costs eligible?*
- Should any conditions be applied before accepting these costs?*



## Eligibility rules in the Community Regulations



### **Time eligibility - Regulation 1083/2006, Art. 56**

- Start date for eligibility 1 January 2007 or date of submission of OP (*check preparatory costs*)
- Final date 31 December 2015 (*check contract expenditure*)
- Expenditure - “actually been paid” between these dates
- Operations must not have been completed before the starting date for eligibility



## 10%-20% flexibility rules - 1080/2006 Art. 21

### 20% rule

- CBC programmes - Spending outside the programme area in adjacent areas up to 20% of programme ERDF
- Commission interpretation under preparation
- Transnational cooperation programmes - spending outside the programme area up to 20% of ERDF

### 10% rule

- Cross-border, transnational and interregional programmes: Spending outside EU up to 10% of programme ERDF
- All amounts by programme not by project
- Use made of these rules depends on the programme - check!

61



## Revenue-generating project - Regulation 1083/2006, Art. 55

1. Any operation involving an investment in infrastructure the use of which is subject to charges borne directly by users;
- or
2. Any operation involving the sale or rent of land or buildings;
- or
3. Any other provision of services against payment

→ Eligible expenditure is restricted

- Does not apply to projects subject to state aid rules
- New Regulation 1341/2008: EUR 1 million threshold
- Commission Guidance Note 07/0074/03 June 2008
- Proposal amendment 22 July 2009: apply to „NET REVENUES“

62



- **Funding-gap method for ex-ante calculation:** Eligible expenditure must not exceed the current value of the investment cost less the current value of the net revenue from the investment over a specific reference period.
- **Where it is not possible to calculate the revenue in advance:** the revenue generated within 5 years of the completion of the operation must be deducted from the expenditure declared to the Commission.
- **Where, at the latest 3 years after closure of the OP,** it is known that revenue has been generated which has not been taken into account, such revenue must be refunded to the general budget of the EU in proportion to the contribution from the funds.



### Monitoring revenue-generating projects

1. Establish a system to allow MA to monitor and quantify project revenues. As part of on-the-spot checks and after completion of operation MA should check on a sample basis the accuracy of the revenues reported by beneficiaries.
2. Who will check revenues generated after the completion of the project/completion of the programme?
3. What about revenue generated by ERDF projects of less than EUR 1 million? Different programme approaches



### Substantial modifications - Regulation 1083/2006, Art. 57

- Expenditure can be considered ineligible (i.e. need to be repaid) if an operation undergoes a substantial modification within 5 years from the completion of the operation.
- The modification must affect its nature or its implementation conditions or give a firm or public body an undue advantage

and

- Result from either a change in the nature of ownership of an item of infrastructure or the stop of a productive activity.



### Ineligible costs - Regulation 1080/2006, Art. 7

- Interest on debt
- Purchase of land for an amount exceeding 10% of the total expenditure for the operation (except for some environment projects)
- Recoverable VAT
- Decommissioning nuclear power stations

### Limited eligibility

- Expenditure on housing in new Member States
- **Amendment of 1080/2006 Art. 7 (397/2009):** eligibility of expenditure on energy efficiency improvements and use of renewable energy in existing housing for all Member States (max. 4% of ERDF allocation).



**If in any doubt about the eligibility of VAT the answer should be not eligible**



**Eligibility rules for expenditure,  
Regulation 1828/2006, Articles 49 - 53**

- Financial charges and guarantee costs
- Public authorities expenditure
- In-kind contributions
- Overheads
- Depreciation



## Financial charges and guarantee costs - Article 49

### Eligible costs

- Charges for transnational financial transactions
- Bank charges for opening and administering a separate account(s) - if required by the programme / for the operation
- Legal consultancy fees, notary fees, technical and financial experts, accountancy and audit costs - directly linked to the operation, needed for its preparation or implementation or for accountancy and audit required by the MA
- Cost of bank guarantees if required by national or Community legislation

### Ineligible costs

- Fines, financial penalties and expenditure on legal disputes

69



## Public authorities expenditure excluding technical assistance - eligible costs - Art. 50

1. Costs of professional services provided by a public authority other than the beneficiary in the preparation or implementation of an operation.
2. Costs of the provision of services relating to the preparation and implementation of an operation where the public authority is the beneficiary acting on its own behalf.

### Conditions:

- For 1): Costs must be invoiced or certified in a way which permits identification of the real cost to the public authority.
- For 2): Costs must be additional costs and relate to cash (actually and directly paid for the co-financed operation) or in-kind contribution. Real costs must be identified.

70



## In-kind contributions - Art. 51

### Eligible costs:

- Provision of land or real estate, equipment or raw materials, research or professional work or unpaid voluntary work
  - A contribution for which no charge is made
- Value can be independently assessed and audited
  - For land or real estate value certified by independent qualified valuer or equivalent
  - Unpaid voluntary work - value of the work to take into account the time spent and the hourly/daily rates of pay for equivalent work

71



### Eligible in-kind costs

- ERDF reimbursement is limited by a maximum rate: Total eligible expenditure minus contributions in-kind
- Documentation of such costs notoriously unreliable - some countries do not accept these costs
- Unpaid voluntary work most common - requires reliable time sheets and fair hourly rate
- Value of other contributions needs to be objectively assessed

72



## In-kind contributions - the capping system

### Example:

Capping in a programme with ERDF co-financing rate 85%

- Project financing = €100.000 in cash + €100.000 in-kind
- Total project expenditure = €200.000
- 85% of total project expenditure (ERDF share) = €170.000
- **But** maximum ERDF contribution = Total eligible costs - in kind  
= € 100.000
- Consequence: Payment to this project is capped at €100.000 ERDF

In-kind contributions are rarely large enough to cause capping



## In-kind questions

- Are in-kind contributions eligible in the programme/country concerned?
- Does the contribution belong to one of the accepted categories: Land, real estate, equipment, professional work, unpaid voluntary work?
- Has the value of in-kind contribution been certified by an independent qualified valuer or duly authorized body?
- Is the amount of the in-kind contribution supported by accounting documents of adequate probative value?
- Is the value of unpaid voluntary work determined by comparing it with an equivalent work?
- Was the total eligible amount corrected by deducting in-kind contribution? Is the claimed ERDF co-financing correct?



## Overheads - Art. 52

- Eligible if based on 1) real costs or on 2) the average real costs attributable to operations of the same type
- What is an operation of the 'same type'? Is there such a thing in European Territorial Cooperation?
- Flat rates not to exceed 25% of the direct costs of an operation (usually staff costs) which can affect the level of overheads
  - Calculation of flat rates to be properly documented and reviewed

75



## The basic overheads rules

- Overheads must be based on real and necessary costs incurred by the project - just like all other costs
- Allocation of overheads has to be transparent and plausible (pro rata)  
- Calculation method must be available for control
- Declared costs have to be updated for every claim

### To be considered carefully:

- Beware of inclusion of costs in overheads which should be allocated directly to the project (e.g. staff costs exceeding limits)
- Beware projects including in overheads costs which are ineligible under national and EC rules (e.g. financial charges)

76



## Overheads eligible if based on real, actually paid necessary costs. What is 'necessary'?

- Overheads include: Office supplies and photocopies, office furniture, electricity, heating, other utilities (water etc), charges for phone, fax and internet services, cleaning, IT support for computers / printers etc., rent if the building is not owned by the host organisation, taxes on the building, insurance for the building
- Overheads do not include: Costs for snacks, drinks, meals etc, social events, works of art
- Do overheads include: Window cleaning, security guards, plants in offices etc.?
- For details, national rules apply
- Some national rules exclude overheads that cannot be charged as a direct cost

77



## The 25% rule\* Example:

- Overheads (1 year) in project 1 = € 15.000
- Staff costs (1 year) in project 1 = € 90.000 over same period
- Flat rate =  $\frac{\text{Overheads}}{\text{Staff costs}} = \frac{€ 15.000}{€ 90.000} = 16.66\%$  of staff costs
- Therefore 'same type' projects in this organisation may use 16.66% of staff costs for overheads without additional calculation.
- Still requires at least one real cost calculation
- Must be 'periodically reviewed' (How often? Will need to be calculated for every claim)
- Beware projects assuming that they can just use 25% flat rate

\* Interpretation provisionally approved by the Commission

78



## Overheads - Related errors 2000-2006

- Notorious areas for problems because interpretations can vary so widely
- Common problems due to insufficiency / lack of calculation method (e.g. use of flat rates). Agree the calculation method from the start
- Confusion in projects because some programmes (e.g. Framework Programmes) allow flat rates
- Disagreement about what can be included (standardisation/approval of methods in projects could be a way forward)

79



## Amendment to Regulation 1080/2006 - Art. 7: Extension of the flat-rate possibility

- The 25% rule for overheads remains applicable (if selected)
- 3 new options, can be used retroactively (Regulation 397/2009):
  - Indirect costs, declared on a flat-rate basis, of up to 20 % of the direct costs of an operation;
  - Flat-rate costs calculated by application of standard scales of unit cost as defined by the Member State;
  - Lump sums to cover all or part of the costs of an operation (max. €50,000).
- Combination only if each applies to a different cost category or for different projects within the same operation
- Costs shall be established in advance on the basis of a fair, equitable and verifiable calculation.
- Must be in line with national rules incl. accountancy rules

80



### Depreciation - Art. 53

- Expenditure eligible if the asset(s) are directly used for an operation and incurred during the period of co-financing
- Acquisition of the asset(s) cannot be declared as eligible expenditure



### Double-funding check - 1828/2006, Art. 13(2)

- Verifications ‘...shall include procedures to avoid double financing of expenditure with other Community or national schemes and with other programming periods.’
- Check of accounting systems should verify that same item cannot be included twice
- Will not detect fraud with invoices where recommended reliable procedure is to stamp all invoices included in every claim



### Relation to the approved operation

- Is expenditure in line with the approved application and the activities included in the interim report?
- How often should an interim report be prepared?
- Can the Lead Beneficiary also confirm this from its own checks?
- Are there activities outside the eligible area? Have they been approved in advance and do they comply with programme limits?



### Cost-sharing / project management costs

- Justifiable where one partner carries out activities on behalf of other partners
- Relationship between partners is not a supplier - provider relationship: No invoices, no VAT, no profit!
- Any payments should be regarded as reimbursements
- Shared costs are still based on real costs
- Be aware of sub-contracting between partners
- Where consultants are used for project management, selection must be based on non-discriminatory tendering process



## Cost-sharing - Example from IVB Alpine Space Programme (“Common Transnational Activities”)

- Must be transparently documented and agreed in the application and partnership agreement
- The “Implementing partner” implements, pays and has activities controlled by its FLC (a separate certification template is used)
- JTS provides a file that indicates the contribution of each PP to the CTA, broken down into cost categories
- A copy of the FLC certificate is distributed to the other partners, together with a request for reimbursement of their share (as fixed in the application form)
- Request for reimbursement must be treated as document of equal probative value to an invoice
- Partners reimburse their share to the implementing partner

85



## Compliance with EU ‘horizontal objectives’

*“...the Community shall contribute to the harmonious, balanced and sustainable development of economic activities, the development of employment and human resources, the protection and improvement of the environment, and the elimination of inequalities, and the promotion of equality between men and women”.*

86



## Checks against environmental rules - general

- Water, air, nature, waste and chemicals are the main (but not the only) themes
- OP includes a Strategic Environmental Assessment (SEA) highlighting the main issues
- Should also contain compulsory indicators for monitoring environmental impacts
- National procedures for approving investments should take full account of EU environmental rules (including Environmental Impact Assessment and public consultation)
- Project approval decision should be regarded as an initial acceptance of project's environmental aspects



## Checks against environmental rules

- Management Verifications Guidance note contains examples of the legislation most commonly relevant to programmes
- Some Operational Programmes contain additional lists of national legislation
- Checks should focus on whether the correct approvals have been obtained



## Checks against equal opportunities

- Use programme indicators
- Equal opportunities apply to sex, racial or ethnic origin, religion, belief, disability, age, sexual orientation
- Check especially non-discrimination in access to the Funds
- Many aspects of implementation can be checked to ensure non-discrimination



## Publicity and information

- Beneficiaries must inform the general public of the role played by the EU in regional development (Art. 69 EC 1083/2006)
- Implementing rules in EC 1828/2006 Art. 8+9.
- A breach in publicity rules will result in the reduction of the project budget (flat rate)
- Breaches of publicity rules: a common problem spotted in Commission audits - particularly but not only failure to put proper logos on publications



## Main publicity requirements for projects (1828/2006)

- Displaying permanent plaques (visible and significant size) no later than 6 months after completion for all projects over EUR 500.000 + whenever infrastructure is involved
- Display a billboard during construction with information on the EU funding taking no less than 25% of size
- Where projects involve service provision to third parties, they must be informed that the service has been funded by the ERDF and this must appear on all documents
- 1828/2006 Annex 1 has technical information on the EU emblem to be displayed
- All items except small promotional items must also include reference to ERDF funding and a programme slogan chosen by the MA
- For ETC EUR 500.000 threshold should be applied per partner?

91



## What is an irregularity?

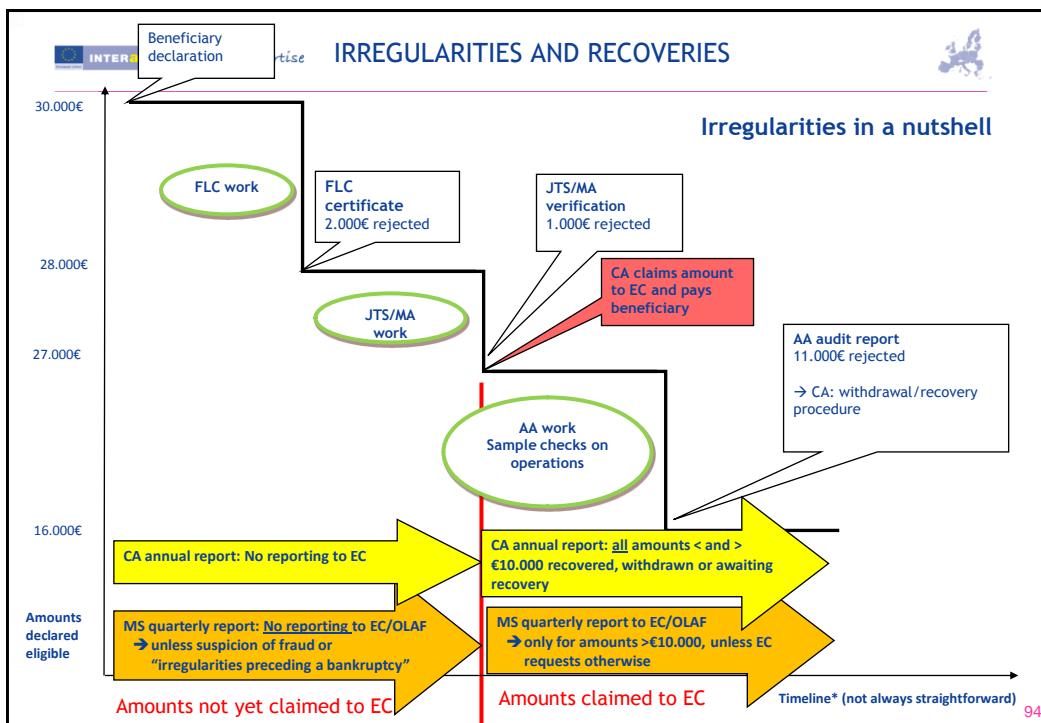
- An irregularity is essentially an action that affects or could affect the European Community budget.
- Where the irregularity is as a result of a deliberate act or omission then it is a fraud
- Most irregularities and most findings of ineligible expenditure are a result of mistakes.

92



### What is important to consider?

- ALL Irregularities must be detected and corrected, no matter if intentional or not
  - ALL irregularities detected in a programme must corrected until programme closure
  - Irregularities can be detected by different bodies, not just by controllers or auditors.
  - SOME irregularities need to be reported, others not
- Whether an irregularity needs to be reported usually depends on the time of the detection and its extent.





- Quarterly reporting by the Member States to EC (art.28):
  - For irregularities subject to primary administrative or judicial finding
  - No need to report amounts <EUR 10.000 unless required by EC (art. 36)
  - If suspected fraud, must be mentioned in the report
  - No need to report on following cases:
    - Bankruptcy of the beneficiary
    - Cases brought to the attention of the MA or CA by the beneficiary directly - either before or after payment of the contribution
    - Cases corrected by the MA or CA before payment of the contribution to the beneficiary and before declaration to the EC, unless there is a suspicion of fraud  
= most cases detected during FLC or JTS/MA/CA checks

95



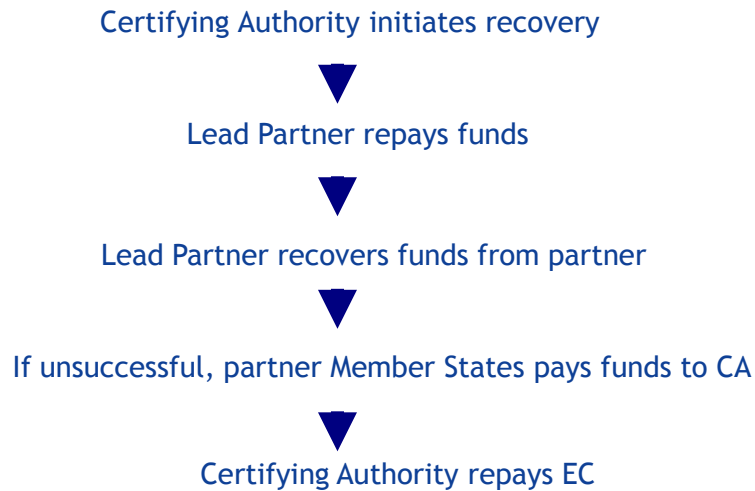
### Annual reporting by the CA to EC (art. 20, 1828/2006)

- By 31 March every year
- The statement must indicate for each priority axis
  - 1) Amounts withdrawn from statements of expenditure submitted to the EC in the previous year,
  - 2) Amounts recovered which have been deducted from statements of expenditure submitted to the EC and
  - 3) Amounts to be recovered as of 31.12 of preceding year

96



## The recovery procedure



**Recovery procedures** set out how to deal with irregularities at various stages in the project lifecycle including:

- A clear definition of who does what, when and how
- A clear definition of who must be informed and in which cases
- Deadlines defining when a MS should take over
- The completion of a standard form to inform the National Authority of an irregularity



## IV. How to achieve swift and effective closure of projects and programmes?

1. How do projects claim final payments and what information needs to be retained?
2. Situations we want to avoid running into at programme closure



### Effective closure depends on:

- Quality and outputs of first and second level controls
- Follow up on control and audit findings
- Cooperation between controllers, auditors, MS and the programme bodies
- Swift completion of all processes



- Early completion of all project controls
- Not only control but also finalise all follow-up actions (resolve or quantify all problems)
- Depending on programme, final project control may require certification of total project expenditure and/or assessment of general budgetary performance
- May reveal new problems. No longer possible to ‘wait and see’
- Project retention now limited to amount claimed with final report and only until approval of project closure
- MA role in project closure:
  - Is there an adequate audit trail down to final recipient level for Community and national funds?
  - Have all errors and irregularities been treated satisfactorily?



**Projects to be made aware of post-closure requirements and rules:**

- Inform all projects of closure date - 3-year document retention period starts from then (until March 2020 at least)
- Make sure Lead Partners inform all partners (and sub-partners)
- Inform about rules on change of ownership or other substantial modification within 5 years - (for projects with investment in infrastructure or productive investment) -(art.57 1083/2006) - subject to recovery
- Revenue generated after project closure (5 years) to be returned to the programme - requires monitoring



## Situations we want to avoid running into at programme closure (1)

- Unclosed projects with open items (irregularities etc) or with several prolongations
- Insufficient programme cash-flow to close projects
- Objectives of certain priorities not reached
- Output and result indicators not reached
- Lack of TA budget available for closure activities and expenditure (e.g. staff, audit costs etc)
- Non-reconciliation between programme accounting records and amounts claimed to EC
- More than 2% difference to the latest approved financial table (at priority level)

103



## Situations we want to avoid running into at programme closure (2)

- A negative or qualified opinion of the winding-up body:
  - **Qualified opinion:** For example, sampling technique is weak, there is no formal procedure for identifying and treating systemic errors
  - **No opinion or adverse opinion:** e.g. failure to carry out SLC checks, failure to check down to final recipient level, failure to check main IB and/or beneficiaries, serious management weaknesses not addressed.
- Both delay the final payment and request to quantify amount affected and reduce final claim accordingly (how much money to deduct?)
- Demand for further audit more or less certain

104



## **2% error rate is the limit:**

- Based mainly on the findings of the Audit checks
- Taking account of the findings of other checks

**If error rate is more than 2% - Winding up Body expresses qualified opinion unless MA and CA can take effective corrective actions**



**Most important to avoid systemic problems,  
since they could lead to  
cut in funding for all priorities where these systems /  
procedures are in place  
if corrective action cannot be taken**

Thank you very much for your attention!



*Sharing Expertise*



INTERACT Point Turku  
P.O.Box 236  
Ratapihankatu 36 | TE Centre  
20101 Turku  
Finland

[ip.turku@interact-eu.net](mailto:ip.turku@interact-eu.net)  
[www.interact-eu.net](http://www.interact-eu.net)

INTERACT is co-financed by the European Regional Development Fund (ERDF) | European Territorial Cooperation



*Sharing Expertise*



INTERACT Point Vienna  
Museumstrasse 3/A/II  
1070 Vienna  
Austria

[ip.vienna@interact-eu.net](mailto:ip.vienna@interact-eu.net)  
[www.interact-eu.net](http://www.interact-eu.net)

INTERACT is co-financed by the European Regional Development Fund (ERDF) | European Territorial Cooperation