



**INTERact**

*Sharing Expertise*

## INTERACT Seminar

Decommitment and application of N+2 / N+3 rule in ETC Programmes

28 January 2010, Porto

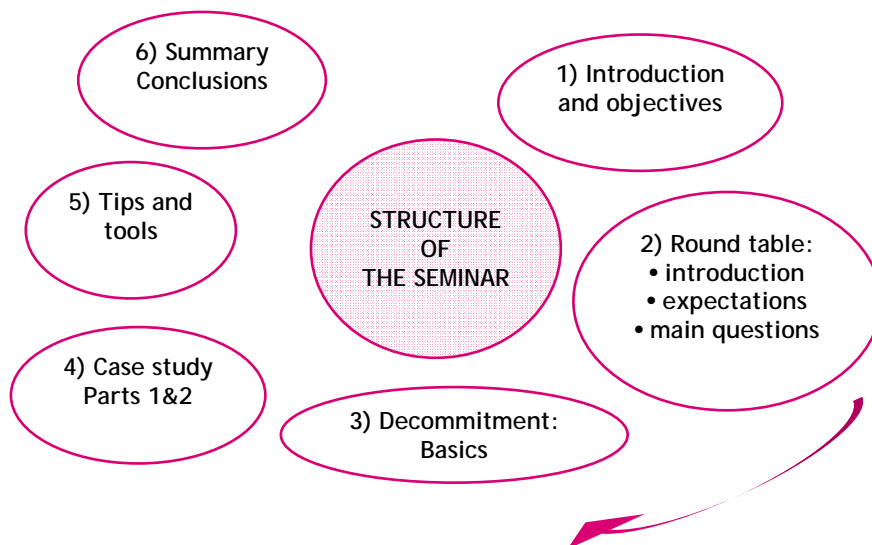


INTERACT is co-financed by the European Regional Development Fund (ERDF) | European Territorial Cooperation



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Structure of the seminar





## Content of the presentation

1. What is decommitment?
2. Experience from INTERREG III
3. Decommitment procedure
4. Bottlenecks resulting in decommitment?
5. How can decommitment be avoided?



## DECOMMITMENT - WHAT IS IT AND HOW DOES IT WORK?





## The basics of the decommitment rule

*“Decommitment is not meant as a punishment...”*



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## The basics of the decommitment rule

*“Decommitment is rather a mechanism to speed up the implementation of programmes.”\**



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\* Recital 71 of Regulation 1083/2006



## 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)".*

→ *This money is definitively lost for the programme*

For EU12 MS (plus GR and PT) 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).

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## Background and rationale

- Rule adopted by European Council Berlin 1999
  - Compromise between MS and COM: more decentralised management versus closer monitoring/reporting
- First application in 2000-2006 period (N+2 for all programmes)
- Confirmation of the rule for 2007-2013, minor adaptations (incl. N+3)

## Objectives

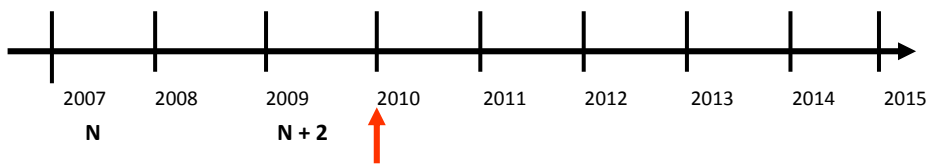
- Activate spending funds and prevent keeping funds frozen and inactive for many years
- Avoid financing of weakly structured projects
- Encourage long-term planning and value for money

## Main issues

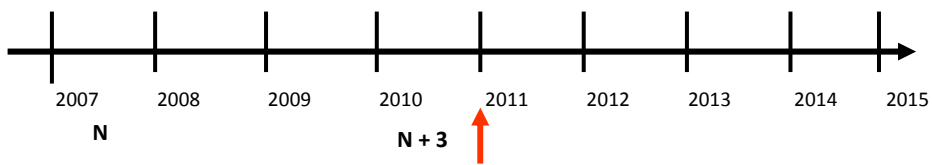
- N+2/3 philosophy not always in line with MSC priorities (may favour equal commitments throughout programme period)
- 8 • N+2/3 may put quality at risk

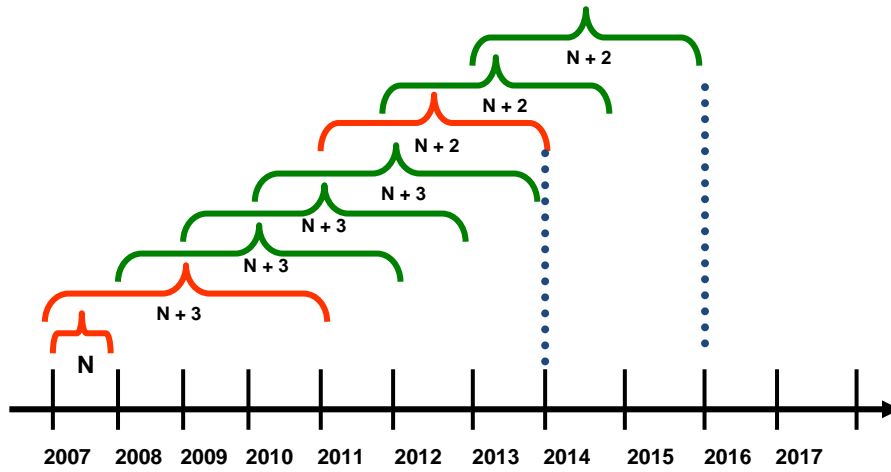


### Programmes with EU-15 MS ( except for GR and PT)



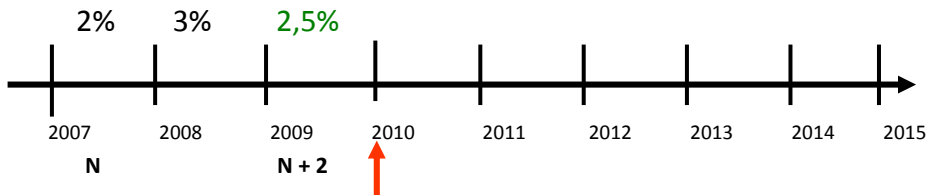
### Programmes with EU-12 MS (plus GR and PT)





The first decommitment target

Programmes with EU-13 MS

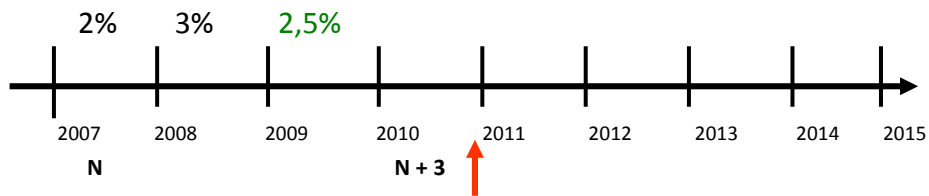


You can deduct 7,5% Advance Payment (ERDF) from the decommitment target amount



The first decommitment target

Programmes with Greece and Portugal:

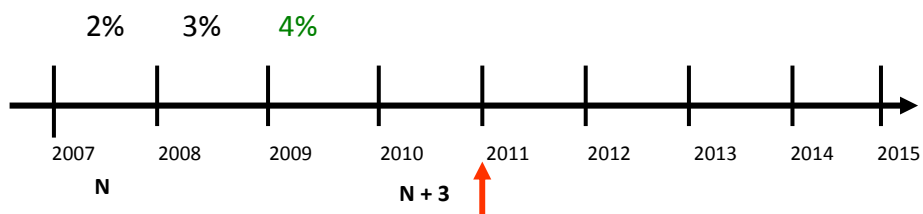


You can deduct 7,5% Advance Payment (ERDF) from the decommitment target amount



The first decommitment target

Programmes with EU-12 MS



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



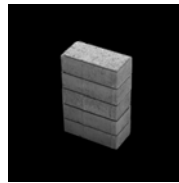
- Commission budget commitments in OP Financial Table = Decommitment targets

Decommitment targets usually vary from year to year,

→ In most OPs they increase. E.g. CBC BE-NL:

2007	12.449.392
2008	12.748.718
2009	13.106.383
2010	13.525.627
2011	13.956.396
2012	14.344.500
2013	14.742.545
totaal	94.873.561

- Project spending forecasts are the building blocks for programme forecasts



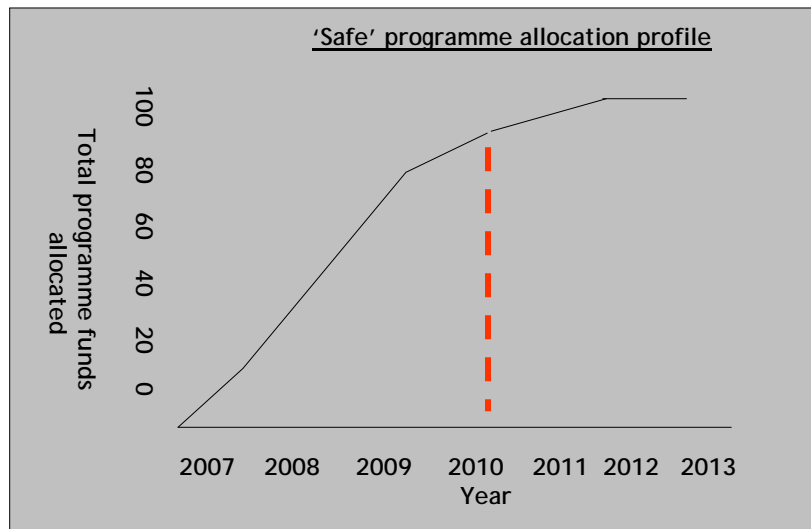
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### Programme commitments:

- Must be quicker than Commission commitments to the programme: the earlier you reach the annual target the better - you can start committing next target
  - Need to be fast - but not at the expense of quality
  - Need to have targets for programme spend - linked to staff objectives
- Art. 76 1083/2006: Programmes must send forecast of payments for year N and N+1 by 30 April each year.

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Current situation in ETC programmes

- 40% of the Programmes are concerned by N+2:
  - Have to reach first decommitment target by 31.12.2009
- 60% of the Programmes are concerned by N+3:
  - Have to reach first decommitment target by 31.12.2010
  - Double target at 31.12.2013
- First annual target:
 

Programmes can deduct the total of the pre-financing from the first target, **IF** the programme has already sent a financial claim to the Commission within 24 months of payment of the first pre-financing (Which is only possible if Art. 71 DMCS has been officially submitted) - no matter the amount of the claim

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### Current situation in ETC programmes - proposal to amend 1083/2006

(13) Article 93 is amended as follows:

a) Paragraph 1 is replaced by the following:

"1. The Commission shall automatically de-commit any part of the amount calculated in accordance with the second subparagraph in an operational programme 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, with the exception mentioned in paragraph 2.

For the purpose of the automatic de-commitment, the Commission shall calculate the amount by adding one sixth of the annual budget commitment related to 2007 total annual contribution to each of 2008 to 2013 budget commitments.

b) the following paragraph 2a is inserted after paragraph 2:

"2a. By way of derogation from paragraph 1, first subparagraph, and paragraph 2, the deadlines for automatic decommitment shall not apply to the annual budget commitment related to 2007 total annual contribution"

*Interinstitutional File 2009/0107 (AVC)*

<sup>19</sup> <http://register.consilium.europa.eu/pdf/en/09/st16/st16490.en09.pdf>



### Future of the decommitment rule - 2014 - 2020 - Proposals

#### Barca Report

"Flexible spending deadlines: the automatic decommitment rule should be retained but at the level of the Member State, to ensure that it does not discourage innovative interventions and projects."

#### Commissioner Samecki's Orientation Paper

"In the future, it could be considered applying more differentiated de-commitment rules tailored to the type of investments or a blanket rule with a longer time-period but covering all types of expenditure and providing for no interruptions or exceptions. The application of the de-commitment rule at national level, as proposed by the Barca report, could also be considered."

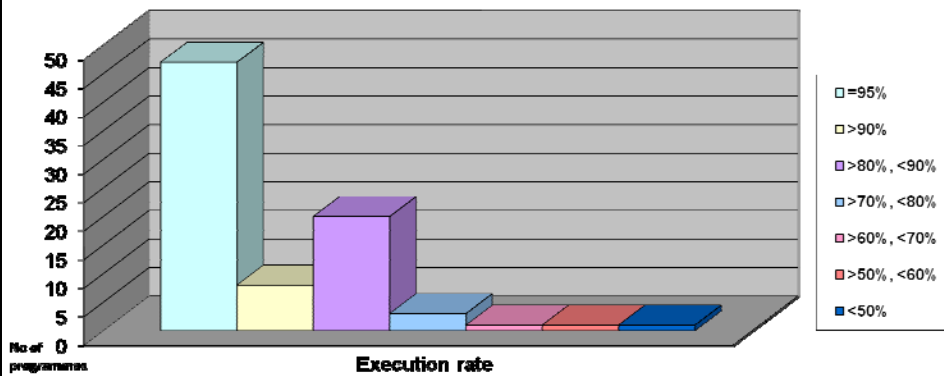


# INTERREG III - EXPERIENCE



## Decommitment in INTERREG III

Execution rates in INTERREG III programmes 2000 - 2006





## Decommitment in INTERREG III

- Average commitment rate: 89,88%
- 31 (out of 81) programmes (38%) experienced decommitment
- Average decommitment rate: 12,66%
- But wide range: 0,13% - **66,31%**
- The reason for highest decommitment rates often difficult political situation between MS
- But also ineffective management structures!
- Trends in decommitment (INTERACT study):
  - Repeated decommitment (twice)
  - Second decommitment higher than first one

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## DECOMMITMENT PROCEDURE



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Before 31.12, EC informs programme authorities about decommitment risk (in good time)



Certifications issued by CA and sent to the EC via SFC



31 December n+2 / n+3

Start of the formal procedure (next slide)

EC informs programme authorities about the decommitment risk specifying the amount to be decommitted



Programme institutions (MS, MC, MA, CA) express joint opinion (agree with the amount, inform about pending payments, legal proceedings etc.) - (Within 2 months from the receipt of info)



EC issues a decision on decommitment (within 9 months from 31 December of the respective year)



1) MC decides to which priority axis/axes the decommitment will be applied, adjusts the financial plan in the OP respectively (the year concerned), the updated OP is sent to the EC for reapproval; or  
2) In the absence of revised plan submitted by the programme, EC decommits from each priority proportionally



The EC issues a decision on the reapproval of the programme



### What counts against the decommitment target?

Interim payments received by the programmes  
 +  
 Pre-financing: considered as incurred expenditure  
 +  
 Amounts claimed by the CA to the EC until 31.12  
 (amounts as registered in SFC) and not reimbursed yet



### What DOES NOT count against the decommitment target?

- Amounts only certified by FLC - so called „certifiable“ amounts
- Project pre-financing - only incurred costs of projects
- Project revenues (when indicated ex-ante in application form)
- Amounts withdrawn or recovered (e.g. following Second Level Control)

#### Calculation

Calculation based on ERDF rate at priority level (no reference to contribution rate at project level)

→ Close monitoring needed of projects approved at a different rate than priority rate



## Regulatory exceptions to automatic decommitment

- Interruption for legal proceedings and administrative appeals
- Commission suspension or payment interruption or capping
- *Force Majeure*: "when delays in implementation result from circumstances which are independent of the party concerned, abnormal or unforeseeable and whose consequences cannot be avoided despite the diligence shown" (Recital 71 of Reg. 1083/2006)



Regulatory exceptions to automatic decommitment, to compensate for programme interruptions not caused by the programme:

- Interruption for major projects and state aid schemes where a Commission decision is needed - to compensate for the interruption in programme implementation

		Notif	Decision						
	2007	2008	2009	2010	2011	2012	2013	2014	2015
ERDF allocation	100	100	100	100	100	100	100		
Sannual amounts SA		20	20	20	20	20			
Target (normal)*			100	200	300	400	500	600	700
Target (with SA)		N+2	100	180	300	400	500	600	700
				-20	+20				

\* Pre-financing to be deducted if applicable

See Information note to the COCOF 07/0073/01, 23.04.2008



### Consequences

- Reduction of budget for the year concerned
- Reduction of total programme budget - except if MS decide to compensate the ERDF lost by increased national contribution
- Reporting in subsequent annual implementation report

### Different scenarios:

- At programme start: Reduction from remaining available budget and/or from weak approved projects and/or from TA
- At programme end: Reduction from already approved projects cannot be avoided, unless programme funds are under-committed. E.g.: decommit from least performing projects first

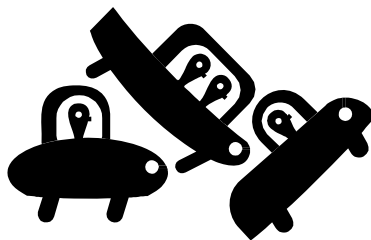
### Decommit from approved projects?

- Projects chosen on the basis of criteria set up by MC
- Must be covered by subsidy contract
- Meetings with projects recommended (INTERREG III experience, Austria)
- Mix of options also possible...

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## BOTTLENECKS



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**There are 5 main causes of decommitment:**

- Long programme set up (e.g. some programmes reluctant to start approving projects until validation of their DMCS)
- Limited interest in the programme (complexity, financial crisis)
- 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



**METHODS TO AVOID DECOMMITMENT**





## 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



### 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.



## Phase 1: Project development

- Ensure project applicants submit realistic applications with realistic budgets - feedback loops on draft budgets
- Support partnership development:
  - e.g. financing of preparatory costs
- Requirements in terms of preparatory actions
  - e.g. in case of infrastructure, building authorisations
  - e.g. require a communication plan
  - e.g. require projects to define work packages and milestones in the AF



## Phase 2: Project and programme implementation

- Ensure projects start as soon as possible
- Help projects financially:
  - e.g. eligibility of preparatory costs
  - e.g. pre-financing
- Monitor and analyse project spend, monitor and analyse project spend (fixed reporting deadlines)
- Concentrate on projects able to spend funds
- Essential to communicate with beneficiaries
- Speed up certification process
- Keep projects 'in reserve'



## 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)



## How to manage the end of the programming phase?

### Recycling:

- Unspent amounts are likely to return to the programme (project underspending, ineligible expenditure/corrections etc)
- Project closure: the earlier the better - to be able to reallocate these funds to final projects - avoid endless prolongations of running projects.
- Final projects: smaller, shorter - how to ensure quality and contribution to programme objectives?
- Other option: approve phase 2 of successful projects - if added-value can be proven!

Thank you very much for your attention.

Please don't hesitate to contact us  
for further information or visit  
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