55 Questions & Answers:

Eligibility of expenditure in cooperation programmes

Elaborated in consultation with the European Commission

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Disclaimer:

Answers to questions presented in this document have been drafted by INTERACT in consultation with the European Commission. They are meant to provide guidance on the interpretation of a number of provisions defined in the regulatory framework 2014-2020 (in particular rules on eligibility of expenditure set out in the Common Provisions Regulation (EU) 1303/2013, ETC Regulation (EU) 1299/2013, the Commission Delegated Regulation (EU) 481/2014) and practical application of the rules in cooperation programmes. This is by no means a legally binding document.

General questions on categories of costs

1. Can a programme use just two budget lines: "Staff costs" and "Other costs"? Is this in line with the Commission Delegated Regulation (EU) No 481/2014?

Yes, it is allowed for the programme to use just two budget lines, "staff costs" and "other costs", provided that under the notion of "other costs" the programme does not mix several cost categories among those foreseen in Commission Delegated Regulation (EU) No 481/2014 so as to circumvent the eligibility rules.
Each category of costs must form a separate budget line. Programmes may decide not to use one or more of the categories, i.e. costs falling under the excluded category are not eligible under one or more priority axes.
Programmes may establish additional cost categories for expenditure not covered by the 5 categories of costs set up in the EU Regulations. For example, an additional category of costs may be established to cover expenditure for the financing of infrastructure and construction works.

2. According to Article 1 of Commission Delegated Regulation (EU) No 481/2014, the programme can decide that expenditure falling under one or more categories is not eligible. Does it mean all expenditure falling under one category, or single expenditure elements can be excluded and treated as ineligible for the programme support?

The participating Member States in the programme monitoring committee can agree that one or more expenditure categories are not eligible under one or more priority axis. This concerns all expenditure elements falling under the given expenditure category.
When a category of costs is used, all expenditure falling under this category (as listed in the Commission Delegated Regulation (EU) No 481/2014) is eligible.

3. The Commission Delegated Regulation (EU) No 481/2014 does not include any category of costs for hard infrastructure. Is cost of infrastructure eligible?

Article 18(1) of Regulation (EU) No 1299/2013 (ETC Regulation) empowers the European Commission to establish specific rules on eligibility of expenditure for cooperation programmes with regard to the following 5 categories of expenditure: staff costs, office and administrative expenditure, travel and accommodation costs, external expertise and services costs, and equipment expenditure. Therefore, the Commission Delegated Regulation (EU) No 481/2014 does not mention infrastructure costs.
Infrastructure costs are eligible in line with Article 3 of Regulation (EU) No 1301/2013 (ERDF Regulation) and general provisions on eligibility of expenditure set up in the Common Provisions Regulation (EU) No 1303/2013 (CPR).
Moreover, not all cooperation programmes will finance investments in infrastructure. Those programmes that would like to support investments in infrastructure shall in accordance with Article 18(2) of the ETC Regulation establish an additional category of costs that covers expenditure for the financing of infrastructure and construction works.
In case of programmes supporting investments in the development of endogenous potential through fixed investments in equipment in accordance with Article 3(1)(e) of the ERDF Regulation, relevant costs are eligible under the Equipment category of costs ("…other specific equipment needed for operations").

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4. What is the understanding of gifts? Is there any limitation as to the number of gifts that can be provided to one person?

In accordance with Article 2 (2)(a) of Commission Delegated Regulation (EU) No 481/2014, which sets out specific eligibility rules for cooperation programmes supported by the ERDF under ETC, costs of gifts may be eligible provided the total value of each gift does not exceed 50 EUR and the gifts relate to promotion, communication, publicity or information. There is no limitation regarding the number of gifts that can be distributed. However, principles of sound financial management must be respected.

5. What category of costs should gifts be allocated to?

Gifts fall under the External expertise and services category of costs, as an example of a cost related to "promotion, communication, publicity or information linked to an operation or to a cooperation programme".

6. Article 2 of the Commission Delegated Regulation (EU) No 481/2014 stipulates that "…expenditure on legal disputes and litigation" are not eligible. How about costs of legal disputes and litigation incurred by the Managing Authority due to recoveries from a lead beneficiary or Article 27 of the ETC Regulation?

In all cases, fines, financial penalties and expenditure on legal disputes and litigation shall not be eligible.
Costs of legal consultancy (provided it is not for legal disputes and litigation) are eligible under the External expertise and services category of expenditure.

7. According to the 2007-2013 hierarchy of rules, beneficiaries must follow the strictest rules (e.g. based on national rules, the cost of taxi is not eligible). In 2014-2020, are programmes and/or individual Member States allowed to set rules that are stricter than rules defined in EU Regulations?

Member States participating in the programme monitoring committee may establish additional rules on eligibility of expenditure applicable to the programme as a whole (Article 18(2) of the ETC Regulation). Those additional rules must be without prejudice to the eligibility rules laid down in EU Regulations. For matters not covered by eligibility rules laid down in CPR, in the Commission Delegated Regulation (EU) No 481/2014 as referred to in Article 18(1) of the ETC Regulation or in rules established jointly by the participating Member States, the national rules of the Member State in which the expenditure is incurred shall apply.
National rules cannot abolish or restrict the rules established at a higher level (EU and programme rules).
Stricter programme and national rules may apply only in areas that are not precisely regulated at the EU level and where EU Regulations provide the Member States with a discretionary power to set such rules.
For the given example (travel cost by taxi), the Commission Delegated Regulation (EU) No 481/2014 does not explicitly mention the cost of taxi but gives several examples under the category of travel costs. It is therefore only up to the programme authorities to decide under which conditions taxi costs are eligible under Article 5 of Commission Delegated Regulation (EU) No 481/2014.

8. Can programmes limit the reimbursement options (forms of grants) and decide which options apply?

Each programme must decide on the reimbursement method applicable to a given category of costs. Article 67 CPR allowing for simplified cost declaration methods applies to ETC.
In line with Article 67(3) CPR if reimbursement options are combined, each option must cover different categories of costs or be used for different projects forming a part of an operation, or successive phases of an operation.
Programme authorities may set rules that define which options apply to certain projects and/or given types of beneficiaries.

Questions related to the Staff costs category of expenditure

9. Is it possible to apply Article 19 of the ETC Regulation on individual beneficiary level and thus not compulsory for all beneficiaries of the project? In order to calculate the eligible staff costs of the beneficiary, should the flat rate of (up to) 20% be multiplied by direct costs of the project or direct costs of the beneficiary concerned? Article 19 specifically mentions "…up to 20% of the direct costs other than the staff costs of that operation".

Programme authorities may decide that different staff costs declaration methodologies are applied on the programme level or operation by operation depending of the type of operation or type of beneficiaries. They might also choose to offer several costs declaration possibilities to beneficiaries of an operation on the condition that the choice is stated in the calls for proposals and clearly established at the latest in the grant agreement. If

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for a given operation some costs declaration options are given to some beneficiaries but not to others, this shall be justified on the basis of objective criteria and in line with the principle of equal treatment.

10. Staff costs are calculated based on a flat rate of up to 20% of direct costs other than the staff costs. Who should decide on the applicable percentage?

In case Article 19 ETC is used no justification to use the rate of 20% is needed since Article 3(3) of Commission Delegated Regulation (EU) No 481/2014 refers to three possible cost declaration methods including the Article 19 ETC Regulation method next to real costs method and costs declaration methods foreseen in Article 67 CPR (which on the other hand requires fulfilment of the conditions laid down in Article 67(5) CPR). However the programme authorities could decide on another applicable rate and set it on the programme level or by category of operations or beneficiaries.
The programme authorities could set different rates, e.g. a flat rate of 18% applies to beneficiaries in country A and a 20% flat rate in country B. Nevertheless, if the programme decides not to apply the same rate to all beneficiaries, the managing authority should be able to prove that the principle of equal treatment was respected (meaning equal treatment of beneficiaries in the same situation).

11. Staff costs are calculated based on real costs. Are time sheets or records from the time registration system required for staff working full-time on the project, and for staff working part-time with a fixed percentage of time worked per month?

In those two cases, there is no obligation to provide time sheets or records from the time registration system. For staff working full-time on the project, the employment document should provide sufficient evidence to establish that the person works 100% on the project. For staff working part-time on the project with a fixed percentage of time worked per month, there is no obligation to establish a separate working time registration system as stated in Article 3(4)(a) of Commission Delegated Regulation (EU) No 481/2014.

12. What documents are required in order to justify that staff costs of an employee relate to the project?

The employment document (e.g. employment/work contract, job assignment for officials) is the main reference document. In addition, tasks and responsibilities shall be specified in the job description of the staff member concerned.
Also, timesheets could be required sometimes. This is the case of the staff costs of the individuals who work on an hourly basis according to the employment document, since such costs are eligible applying the number of hours actually worked on the operation to the hourly rate agreed in the employment document based on a working time registration system (see Article 3(7) of Commission Delegated Regulation (EU) No 481/2014.
It is also required to provide timesheets in order to justify staff costs related to individuals who work on a part-time assignment on the operation with a flexible number of hours worked per month (number of hours worked on the operation varying from one month to the other) (see Article 3(4)(b) of Commission Delegated Regulation (EU) No 481/2014).
See also the reply to the above question 11: for staff working part-time on the project with a fixed percentage of time worked per month, there is no obligation to establish a separate working time registration system as stated in Article 3(4)(a) of Commission Delegated Regulation (EU) No 481/2014.

13. In case of employees working part-time on the project according to a fixed percentage of time per month, what documentation will the first level control and the audit authority require?

The beneficiary must ensure that the following main documents are available for control purposes:

- Employment/work contract or an appointment decision/contract considered as an employment document.
- Document setting out the percentage of time to be worked on the project per month (if not specified in the contract).
- Job description providing information on responsibilities related to the project.
- Payslips or other documents of equivalent probative value.
- Proof of payment of salaries and the employer's contribution, e.g. extract from a reliable accounting system of the beneficiary organisation.

14. Does the document setting out the percentage of time to be worked on the project have to indicate the time to be worked per month? Or can the document include information on the fixed percentage to be worked on the project in general?

Part-time assignment with a fixed percentage of time worked per month is governed by paragraphs (1)(b), paragraphs (4)(a) and (5) of Article 3 of Commission Delegated Regulation (EU) No 481/2014. This requires only a

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document setting out the percentage of time to be worked on the operation (para 5) and this specified per month (para (1)(b)). There is no requirement for time registration (para (4)(a)). This method is a real simplification (no time registration), is fixed in advance and based on the assumption that the percentage corresponds to reality.
Where it is not possible to fix in advance a percentage, the flexible method under paragraphs (1)(c), paragraphs (4)(b) and (6) of Article 3 of Commission Delegated Regulation (EU) No 481/2014 should be chosen. That method requires time registration of 100% of the working time (para (4)(b)) which serves as supporting evidence to determine the eligible expenditure linked to the number of hours actually worked on the operation (para 6). Consequently only the latter method is appropriate where project labour intensity cannot be assessed ex ante and hence the number of hours varies from month to month.

15. A staff member works part-time on the project according to a fixed percentage of time per month. Can the percentage change during the project implementation?

Provided it is justified due to changes in tasks and responsibilities of the employee, the percentage of time to be worked on the project may change. The employer must issue an amendment to the document setting out the fixed percentage of time on the project.

16. Staff costs are calculated based on real costs. In case of employees working part-time on the project and a flexible number of hours per month, staff costs must be calculated based on an hourly rate. Can programmes limit the options to calculate the hourly rate and decide that only one method should be followed in all cases?

For the employees working part-time on the project with a flexible number of hours worked per month, Article 3(6) of Commission Delegated Regulation (EU) No 481/2014 envisages that the reimbursement of staff costs will be calculated on an hourly rate basis and it provides two options for the calculation: by dividing the monthly gross employment cost by monthly working time fixed in the employment document expressed in hours or by dividing the latest documented annual gross employment cost by 1720 hours in accordance with Article 68(2) CPR.
The monitoring committee of the programme may decide on one calculation method and set it at the programme level (e.g. in all cases the applicable hourly rate shall be calculated by dividing the latest documented annual gross employment costs by 1720 hours) or by category of operations or beneficiaries.
In case the programme allows using any of the two methods to calculate the hourly rate, the beneficiary must decide on the method applicable to each employee working part-time (and a flexible number of hours) on the project. Once selected, the same calculation method should apply to the employee for the entire project duration.

17. For staff employed by the beneficiary organisation on a limited contract (not 100%), can the hourly rate based on the standard number of 1720 hours/year still be used? For example, a person is employed to work 80% for the beneficiary organisation; the person will spend only part of the working time on the project.

(Legal service advice requested)

18. In cases when there is no data available on the latest annual gross employment cost (e.g. new staff), is it still possible to calculate the hourly rate based on the method that divides the latest documented gross employment cost by 1720 hours? In other words, is it possible to break down the annual reference period and use e.g. latest 6-month gross employment cost and 1720/2, or latest monthly gross employment cost and 1720/12, etc.?

(Legal service advice requested)

19. What is “the latest documented annual gross employment cost" when staff costs related to the January-June 2015 reporting period are declared to the programme on 1 October 2015:
    - previous calendar year, i.e. gross employment cost of January-December 2014?, or
    - July 2014 to June 2015? (what is the “latest documented annual gross employment cost” for the next reporting period July-December 2015 declared on 1 April 2016), or
    - accounting year (which in some countries ends in April, not in December)?

The latest annual gross employment cost does not have to refer to the calendar year. The latest available data from a period of one year (12 consecutive months) should be used to define the hourly rate that will be specified in the grant agreement. In the above example, it is presumed that the grant agreement will be signed before the

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start of the project, so before January 2015. Therefore the latest documented annual gross employment cost will relate to a period previous to that date.

20. Is there any recalculation of the staff costs necessary at the end of the year, when the option of 1720 hours per year is used? Are adjustments to the salary payments required once the actual total annual staff cost is known with regard to the year, during which work on the project was done?

The hourly rate calculated by dividing the latest documented annual gross employment cost by 1720 hours is a simplified method to determine the eligible staff costs when setting up the hourly staff cost in the document setting out the conditions for support. No recalculation of the staff costs should be done retroactively.
Nonetheless, further adaptation of the methodology to take account of increases in staff costs can be applied to future staff costs, but only if foreseen in the document setting out the conditions for support.

21. The employee works part-time on the project, with a flexible number of hours per month. The hourly rate is calculated by dividing the latest annual gross employment costs by 1720 hours. A time recording system is used to register 100% of the actual working time of the employee. In case the 100% actual working time exceeds 1720, is the cost of the working time over 1720 hours eligible?

(Legal service advice requested)

22. How to deal with a long sick leave and maternity/paternity leaves? Are such costs eligible?

Sickness costs, maternity and equivalent paternity costs are eligible, provided they are not recoverable by the employer; they are fixed in the employment document or by law; and they are in accordance with the legislation and standard practices in the country and/or organisation.
These costs are eligible provided they are paid by the beneficiary. For full-time staff and part-time staff with a fixed percentage of time worked on the project per month, the cost can derive directly from the employment document (and a document setting out the percentage of time to be worked on the project in case of part-time staff) or it may be determined by the law.
For part-time staff with a flexible number of hours worked on a project, eligible staff cost is the product of the hourly staff cost rate (fixed taking into account all kind of staff costs including social contributions) and the actual time worked on the project. The time spent on sick leave does not count as time worked but the costs of absences is, in accordance with national rules, integrated in the hourly rate.

23. Are lunch vouchers, relocation benefits, bonus payments eligible?

These types of payments (e.g. lunch vouchers, relocation benefits, bonus payments) may be eligible, as long as they are in line with the employment policy of the beneficiary organisation and laid down in the employment contract.

24. Staff costs are calculated based on real costs. Can payslips be considered as sufficient evidence to justify the payment of staff costs or any other proof of payment must be provided?

Payslips provide evidence of the expenditure incurred. Proof of payment is required in order to justify the actual defrayal of the salaries and the employer's contribution. This requirement has not changed compared to the period 2007-2013.

25. In case of programmes that finance in-kind contribution, does the eligible cost have to be allocated within the categories of costs defined in the Commission Delegated Regulation (EU) No 481/2013, or an additional category should be established for in-kind contribution?

In-kind contribution is not a separate category of cost. In kind contributions are eligible under the conditions laid down in Article 69 CPR including on condition that the programme and national rules provide for the possibility for the eligibility of such contributions (Article 69(1) CPR). Depending on the type of in-kind contribution, the costs should be allocated to the relevant cost category. For example, in-kind contribution provided in the form of works falls under *Staff costs*; provided in the form of services fall under the *External expertise and services* category of costs or provided in the form of goods falls under *Equipment* etc. (Article 1(1)(a), (d) and (e) of Commission Delegated Regulation (EU) No 481/2014).
There is also the possibility to provide in-kind contribution in the form of land and real estate which would be allocated under the additional category of costs *Infrastructure and works* used by programmes supporting investments in infrastructure.

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26. Voluntary work (in-kind contribution) is financed by the programme and the cost falls under the Staff cost category of cost. Are office and administration costs eligible if calculated at a flat rate of up to 15% of staff costs, being the voluntary work?

Office and administration costs, being indirect costs, can be calculated based on a flat rate of up to 15% of direct staff costs (Article 68(1)(b) CPR).Therefore, if the voluntary work (in-kind contribution) falls under direct staff costs, the office and administration costs can be calculated as a flat rate of up to 15% on the value of the voluntary work.

Questions related to the Office and administrative expenditure

27. What is the connection between Article 4 of Commission Delegated Regulation (EU) No 481/2014 and Article 68(1) CPR?

Article 4 of Commission Delegated Regulation (EU) No 481/2014 lists all office and administrative expenditure that are eligible under this category of costs. No distinction is made between direct and indirect costs. This means that indirect costs (declared through real costs or flat rate) could be limited to certain items listed under the "Office and administrative expenditure" or consist of all of them if relevant. Similarly some or all of these items could be listed as direct costs. However, in order to apply Article 68(1)(b) CPR it is necessary to have a clear definition of direct and indirect costs either in the grant letter, the call for proposals, the programme manual or the cooperation programme.

28. According to the programme rules, a flat rate of up to 15% of direct staff costs according to Article 68 (1)(b) CPR may be used to calculate indirect costs. Who should decide on the applicable percentage? Can each beneficiary set up its own flat rate?

See question 10

29. Under the category of Office and administrative expenditure, the programme intends to use a flat rate of up to 15% of direct staff costs, according to Article 68(1)(b) CPR. Is it possible to use a flat rate of 10% for technical assistance, as applied by the programme in 2007-2013 (and without any further justification) and a flat rate of 8% for projects under other priority axes – the same flat rate applied in 2007-2013?

Programmes that have been using simplified cost options in 2007-2013 may apply the same schemes for 2014-2020, provided that such a scheme is in line with new legal framework for the period 2014-2020, the programme applies the same system and continues to support the same types of operations, in the same geographic area[1]. The 2007-2013 schemes were based on a fair, equitable and verifiable method which means that in case of control of the system, the 8% or 10% rates should be documented by the Managing Authority. However, under the 2014-2020 regulatory framework the legal basis for such rate is Article 68(1)(a) CPR which means that the flat rate is calculated on the basis of eligible direct costs, not direct staff costs.
Another option is to make use of Article 68(1)(b) CPR which is a new option not offered by the 2007-2013 legal framework and which does not require that Member States perform a calculation to determine the applicable rate. As also stated in the answer to question 10: programme authorities may decide on the applicable rates by category of beneficiaries or operations – this includes operations grouped under one priority axis.

30. Is it possible for a beneficiary to apply Article 68(1)(b) CPR in combination with Article 19 of the ETC Regulation?

It is possible to combine both options as long as Article 67(3) CPR is respected, i.e. each option covers different categories of costs. Provided that staff costs calculated at a flat rate in line with Article 19 of the ETC Regulation are limited to direct costs (as set out in the Commission Services Guidance on simplified costs options (see also answer to question 8 above), these costs can still form the basis for calculation of indirect costs at a flat rate of up to 15% of direct staff costs, according to Article 68(1)(b) CPR.

31. If real office and administration costs of a beneficiary exceed the flat rate of 15 % of staff costs (e.g. the actual rate is 30 %), does the beneficiary have to calculate the costs on a real costs basis?

Flat rates are simplified cost options. They involve approximations of costs. One of the main purposes of using flat rates is to lower the administrative burden related to calculation, reporting and control of project costs.

[1] See section 6.4.1.2. of the Guidance on Simplified Cost Options (SCOs):Flat rate financing, Standard scales of unit costs, Lump sums, of 6/10/2014, EGESIF 14-0017 final.

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If at the programme level, the options to declare costs at a flat rate or to use real costs declaration are both foreseen, Programme Authorities may decide to apply a flat rate in line with Article 68(1) CPR or reimburse office and administration costs as real costs to the beneficiaries while respecting the principle of equal treatment.

32. According to Article 4 of Commission Delegated Regulation (EU) No 481/2014, charges for transnational financial transactions are eligible under Office and administrative expenditure. What about charges for national financial transactions (e.g. transfers of funds from the lead beneficiary to other beneficiaries located in the same country)? Are such costs eligible?

The category of *Office and administrative* expenditure includes only charges for transnational financial transactions. Charges for national financial transactions are not eligible under Article 4 and this cost category cannot be expanded since Article 4 lays down that office and administrative expenditure are limited to the list of Article 4.

33. Article 4 of Commission Delegated Regulation (EU) No 481/2014 stipulates that "Office and administrative expenditure shall be limited to the following elements…". What about specific costs borne by the beneficiary itself (no related to external expertise and services), e.g. purchase of education/guidance books to facilitate project management, coffee/biscuits for small project meetings, etc.

Such costs fall under the Office and administrative expenditure category. Coffee/biscuits for internal meetings related to the project are eligible under the "office supply" item. Other examples of office supply may include guidance books to support project management.

34. Article 4 of Commission Delegated Regulation (EU) No 481/2014 includes costs related to general accounting provided inside the beneficiary organisation. The Regulation does not mention costs of legal advice provided inside the beneficiary organisation. Were such costs should be assigned to?

Legal consultancy provided by an external expert is eligible under the External expertise and services category of expenditure.

With regard to costs of legal advice provided inside the beneficiary organisation, it cannot be included under Office and administrative expenditure. The cost of legal advice provided inside the beneficiary organisation (e.g. by a legal department of the beneficiary organisation) is eligible as Staff costs as long as this cost is linked to the implementation of the project.

35. The cost of "IT systems" is listed under Article 4 of the Commission Delegated Regulation (EU) No 481/2014 (Office and administrative expenditure) and Article 6 (External expertise and services). What is the difference?

IT system support purchased or leased by the beneficiary organisation to support delivery of the project activities is an eligible cost under the category of Office and administrative expenditure. In situations when an external expert is contracted to carry out certain tasks/activities within the project related to development, modifications or updates of the project IT system or a website, such a cost falls under External expertise and services. The cost of IT software is eligible under the Equipment category of costs.

36. Article 6 of Commission Delegated Regulation (EU) No 481/2014 includes costs of "promotion, communication, publicity or information…", when provided by external experts or service providers. Which category of costs should costs of promotion, communication, etc. when provided by the beneficiary itself be assigned to? For example, the beneficiary prints 500 brochures about the project for promotion purposes.

The purchase of paper and toner falls under "Office supply" under Office and administrative expenditure. Working time of staff involved in this activity should be reported under Staff costs.

Questions on expenditure incurred outside the Union part of the programme area

37. Can ERDF be allocated to beneficiaries outside the EU?

Beneficiaries located outside the EU may receive ERDF, provided the provisions of Article 20(2) of the ETC Regulation concerning operations implemented outside the Union (and not beneficiaries located outside the EU) are respected.

38. In accordance with Article 20 of the ETC Regulation, ERDF expenditure can be incurred "outside the Union part of the programme area". What does this term mean?

ERDF expenditure may be incurred outside the Union part of the programme area, in line with Article 20 of the ETC Regulation. "Outside the Union part of the programme area" covers:

- non-EU countries or regions that are part of the programme area (e.g. Norway is part of the North Sea Region Programme but not an EU country);
- EU countries or regions outside the programme area (e.g. Poland is not part of the North Sea Region Programme; Paris is outside any CBC programme around France);
- non-EU countries or regions outside the programme area (e.g. Belarus is not an EU country and it is not part of the North Sea Region Programme).

39. In case of IPA cross-border programmes, does ERDF expenditure have to be monitored against the 20% threshold if incurred in the IPA country of the programme?

IPA cross-border programmes combine ERDF and IPA funds and they monitor the programme budget as one fund (IPA cross-border cooperation rules apply). In such a case, expenditure incurred in the IPA country of the programme is considered as inside the eligible programme area.

Article 44 of Commission Implementing Regulation (EU) No 447/2014 sets rules on eligibility depending on the location with regard to operations supported by IPA cross-border programmes. According to that provision, operations shall be implemented in the "programme area" that comprises the part of the territory of the participating countries (including both IPA countries and Member States) as defined in the relevant cross-border cooperation programme.

In justified cases, operations may be implemented outside the "programme area", provided conditions laid down in Article 44(2) of Commission Implementing Regulation (EU) No 447/2014 are fulfilled.

40. According to Article 20(2)(b) of the ETC Regulation, the threshold of 20% (or 30% in case of programmes covering outermost regions) applies at programme level. Are Member States participating in the programme monitoring committee allowed to set the ceiling at the project level? Can the programme decide not to finance projects that are entirely implemented outside the Union part of the programme area?

Article 20(2)(b) of the ETC Regulation sets out a ceiling of 20% (or 30% in case of programmes covering outermost regions), i.e. **up to** 20%/30% of the ERDF support at programme level. It is therefore possible to set the ceiling at a lower level, on the level of a priority axis or even on project level. In such a case, no more than 20% of the ERDF allocated to each project can be incurred outside the Union part of the programme area, but this should be allowed on an exceptional basis, when it is necessary to support and facilitate effective cross border, transnational and interregional cooperation with Union's neighbouring third countries or territories in case where there is necessity to ensure that regions of the Member States are effectively assisted in the development of these Union's neighbouring third countries or territories. Also, the fulfilment of the conditions set out in Article 20(2)(b) of the ETC Regulation should be ensured. Furthermore, setting the ceiling at the project level should not exclude the projects to be implemented only in one country. The Commission recommends to keep the flexibility of up to 20%/30% at programme level.

41. According to Article 20(3) of the ETC Regulation, promotional activities and capacity-building do not have to be monitored against the ceiling of 20% of ERDF support at the programme level (30% in case of programmes covering outermost regions). Are Member States participating in the programme monitoring committee allowed to set stricter rules and decide that no exception applies to promotional activities and capacity-building, i.e. all activities outside the Union part of the programme area fall under the 20% threshold?

It is not possible to rule out provisions of Article 20(3) of the ETC Regulation via the application of stricter rules. Contrary to Article 20(2) of the ETC Regulation allowing for some flexibility below the ceiling of up to 20%/30%, for the activities listed in Article 20(3) of the ETC Regulation that provision establishes an eligibility rule at EU level. Consequently there is neither any ceiling applicable nor is there scope for flexibility. Each programme is responsible to provide clear guidance to beneficiaries in order to avoid any misinterpretation and facilitate correct application of this exemption to promotional activities and capacity-building.

42. How to effectively monitor costs of travel and accommodation incurred outside the Union part of the programme area?

Without prejudice of Article 5(8) of Commission Delegated Regulation (EU) No 481/2014, any travel and accommodation costs incurred outside the Union part of the programme area and related to technical

assistance, promotional activities and capacity-building should not be monitored against the threshold laid down in Article 20(2) of the ETC Regulation.
Travel and accommodation costs incurred in relation to other activities in relation to operations fully or partially located outside the Union part of the programme area fall under the threshold laid down in Article 20(2) of the ETC Regulation.
Programmes should put in place monitoring systems that allow proper monitoring of costs incurred outside the Union part of the programme area.
According to Article 5(8) of Commission Delegated Regulation (EU) No 481/2014, all travel and accommodation costs of staff of the beneficiaries located in the Union part of the programme area who travel to the location of an event or an action outside the Union part of the programme area are not counted towards the 20% ceiling.

Additional questions on simplified cost options

43. Is the use of simplified cost options subject to prior approval by the European Commission?

If simplified cost options are used, they shall be established by the programme authorities based on the methods defined in Article 19 of the ETC Regulation and Article 67 and 68 CPR. No prior approval by the European Commission is required.

44. According to Article 67(1)(c) CPR, lump sums cannot exceed EUR 100 000 of public contribution. Does the limit of EUR 100 000 apply per project or can several lump sums (up to EUR 100 000 each) be allocated to one project?

It is to be noted that the ceiling for the lump sum does not apply to the beneficiary or the body receiving the grant, contrary to what is stated in the Guidance note on SCOs, but to an operation and, when an operation includes a group of projects, the lump sum ceiling applies to each project within that operation. This, *de facto*, means that - on the basis of the document setting out the conditions for support (e.g. grant agreement) - one beneficiary can declare more than EUR 100 000 in lump sums, provided each lump sum is clearly linked to a separate project in order to avoid double funding and provided that they have been established in accordance with Article 67(5) CPR. This interpretation is based on Article 67(3) CPR that provides that it is possible to combine the different options set out in Article 67(1)(c) CPR under certain conditions, including that they are used for different projects forming a part of an operation.

45. Which category of costs do lump sums belong to?

There is no general rule that indicates for which category of costs lump sum can be used so there is no limitation of the use of lump sums to certain costs categories. However lump sums are more appropriate to some type of operations/projects than other given the "binary effect", whereby the grant is only paid if the predefined terms of agreement on activities/outputs are fully completed (unless the document setting out the conditions for support makes explicit reference to a 'performance scale' with intermediate goals). For small operations where some quantities could be defined (e.g. Provide advices to 100 SMEs), the authorities would most likely chose standard scales of unit costs rather than lump sums.

46. What are the tasks of first level controllers and the audit authority in case simplified cost options are used?

Detailed guidance on tasks and responsibilities of controllers and auditors is provided in section 6.5 of the Guidance on Simplified Cost Options (SCOs): Flat rate financing, Standard scales of unit costs, Lump sums, of 6/10/2014, EGESIF 14-0017 final.

47. Can simplified cost options be used by beneficiaries of technical assistance?

There is no restriction in the use of simplified cost options to technical assistance.

48. Can simplified cost options be used for operations subject to public procurement? Can simplified cost options be used if only certain activities within the project are covered by contracts of public procurement?

According to Article 67(4) CPR simplified cost options do not apply to projects that are exclusively subject to public procurement. However, if only certain parts of the project are implemented through public procurement, simplified cost options can be used.

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49. Can simplified cost options be used where programmes offer advance payments to beneficiaries under strict conditions, i.e. can the amount of the advance payment be calculated by using one of the simplified cost options?

Advance payments are independent from the use of simplified cost options. The percentage/amount of the advance is defined in the programme or at the level of each operation and is independent of the SCOs established in the same programme/operation. However the use of simplified cost options, depending on their design, can speed up the declaration of the expenditure to the Commission given that the triggering factor for the eligibility may be different (expenditure incurred and paid versus realization of outputs/results).

50. Do beneficiaries using simplified cost options have to register those costs on a separate account? What about beneficiaries using real costs and simplified cost options for different categories of costs?

EU Regulations do not require from beneficiaries to register expenditure financed in the form of simplified cost options on a separate account. It is required only when real costs are used (Article 125(4)(b) CPR). However a proper audit trail should always be maintained.

Questions on revenue generating operations

51. What is the difference between revenue and net revenue? Which one should be reported to the programme and deducted from the total eligible expenditure?

The EU Regulations applicable to 2014-2020 period do not provide for a definition of "revenue" as only "net revenue" needs to be taken into account for the calculation of eligible expenditure (in accordance with Article 61 CPR for operations that generate net revenue after their completion and Article 65(8) for operations which generate net revenue during their implementation and to which Article 61(1) to (6) CPR do not apply). Taking this into account, Article 61 (1) CPR sets out a definition of "net revenue" which is applicable to operations generating revenue after completion - they may also generate revenue during their implementation- with the exception of the cases set out in Article 61 (7) CPR. According to Article 61 CPR "net revenue means cash in-flows directly paid by users for the goods and services provided by the operation, such as charges borne directly by the users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period." In addition, operating cost-savings generated by the project shall be treated as net revenue (except where the operation cost-savings are the only source of revenue for the operation). The eligible expenditure of the operation shall be reduced taking into account the expected net revenue by applying one of the methods set out in Article 61(3) (or alternatively Article 61(5)). The calculation of revenue is specified further in Article 16 of Commission Delegated Regulation (EU) No 480/2014.

52. What happens to operating costs ("…less any operating costs and replacement costs of short-life equipment incurred during the corresponding period"), when revenue has been generated during project implementation but not foreseen at the application stage? Do operating costs increase the total eligible expenditure of the project? Or should such costs be treated as part of the beneficiary contribution (no change to the total eligible budget of the project, and no change to the amount of ERDF committed by the programme to the project)?

Operating costs and replacement costs of short-life equipment (as referred to in Article 17 of Commission Delegated Regulation (EU) No 480/2014) decrease the net revenue in case the revenue remains unchanged (see definition of 'net revenue' in Article 61(1) CPR, i.e. cash in-flows directly paid by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period).

Under Article 61 CPR if it is objectively possible to determine the potential net revenue in advance based on any of the methods foreseen in Article 61(3) to (5) CPR, then operating costs identified only during project implementation but not foreseen at the application stage, will not lead to a recalculation of the total eligible expenditure of the project. Accordingly, cost increases have to be covered by the beneficiary if not anticipated ex-ante.

Alternatively, in accordance with Article 61(6) CPR, where it is objectively not possible to determine the net revenue in advance based on any of the methods foreseen in Article 61(3) to (5) CPR, the net revenue generated within three years of the completion of an operation or by the deadlines for the submission of documents for programme closure shall be deducted from the expenditure declared to the Commission. In this case the

operating costs and replacement costs of short-life equipment will be taken into account for calculating the net revenue (in accordance with Article 61(1) CPR.

53. According to Article 61(7)(b) CPR, in case of projects with a total eligible cost below EUR 1 000 000, net revenue does not have to be deducted. Are all ETC projects with the total eligible cost below 1.000.000 EUR excluded from the obligation to report on net revenue?

Article 61(7)(b) CPR exempts projects below EUR 1 000 000 of the total eligible costs from the ex-ante calculation of net revenue according to the methods specified in point 3 of the same Article.
However, for operations which generate net revenue during their implementation and to which Article 61(1) to (6) CPR does not apply (Article 61 CPR is about operations that generate net revenue after their completion) the net revenue generated only during their implementation and not taken into account at the time of the approval of the operation must still be deducted from the eligible expenditure, in line with Article 65(8) CPR, no later than at the final payment claim submitted by the beneficiary.

54. Article 61(7)(f) CPR mentions that paragraphs 1 to 6 of this Article are not applicable to "operations for which public support takes the form of lump sums or standard scale of unit costs". How broad can this be interpreted? If one beneficiary uses a standard scale of unit costs for its staff costs, can the whole project be exempt from declaring net revenue? Or does this apply only to the beneficiary concerned?

The exemption according to Article 61(7)(f) CPR applies only to those activities that generated net revenue and which costs are covered based on lump sums and standard scales of unit costs. For example, if a lump sum is used to finance a set of activities that lead to a concrete output, any net revenue generated by these activities does not have to be reported to the programme as they should already be included in the unit cost or lump sum.
The exception would apply only to the beneficiary concerned, or to the part of the operation for which simplified cost options are used.

55. Article 61(8)(b) CPR mentions that paragraphs 1 to 6 of this Article are not applicable to "operations for which support under the programme constitutes compatible aid to SME, where an aid intensity or an aid amount limit is applied in relation to State aid". Does this mean that if only one beneficiary implements activities compatible with State aid under GBER, the entire project is exempt from reporting on net revenue? Or does this apply only to the beneficiary concerned? Or only this beneficiary in relation to State aid activities covered by GBER?

The exemption set out in Article 61 (8) (b) applies to operations for which the support under the programme consists of compatible State aid to SME, where an aid intensity or an aid amount limit is applied in relation to State aid. This is the case of aid provided to SME under the GBER provided that the limits set out in that Regulation are respected. Any other activities (not covered by the GBER) carried out within the operations by the beneficiaries that do not fall under the GBER (or that do not respect the limits set therein) are not exempted and are therefore subject to the rules set out in Article 61 (1) to (6).This means, if net revenue is generated in the context of such activities, it must be reported to the programme and it shall result in a reduction of the project total eligible expenditure.

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