



QUESTIONNAIRE SUMMARY: PROGRAMME PERSPECTIVE

This document is a working document prepared by the CoR administration based on questionnaire contributions submitted by implementation experts. The document has not been endorsed politically by the organisers of the event but will inform the final report on the outcomes of the workshop and future work on simplification of ETC.

The document does not represent the views of the organisers of the event.

The workshop is organised in accordance with the Chatham House rules; i.e. no personalised recording of information.

The following document is the summarised list of **Programme perspective (Management Authorities of Interreg Programmes)** responses to the questionnaire: **Simplification of European Territorial Cooperation (ETC) in the post-2020 programming period**. 19 responses were received from Management Authorities across the EU, including national ministries and regional development agencies and local and regional authorities (acting as regional coordinators or Joint Secretariats).

Key	Description
Problem	The perceived problem that participants faced, in relation to the listed topic
Solutions	What would be a suitable solution?
I.	Solution as: changes of the Legal Base/Regulation/delegating/implementing acts
II.	Solution as: changes in the application of the existing rules
III.	Solution as: other measures

PROGRAMME MANAGEMENT

Designation Procedure (Art. 124 CPR)

Problem: Designation procedure is too lengthy, which consumed time and resources, was the main message from the responses received. No proportionality and the comparatively uneven procedural expectations between MS was, for some, also significant.

Solutions:

I. Significantly change, simplify or reduce the regulation/designation procedure is the main suggested solution here. In this, the following are the specific suggestions. Replace the designation audit with a documentary review of the management and control system description. Have designations based on a report and an opinion of an independent audit body, which only assesses those programme bodies that have changed to the previous period and only those procedures which are newly introduced. Remove Article 124. Have a single and comprehensive or harmonised regulation.

II. There was no agreed/uniform solution proposed. However, the following were specific suggestions. Well-functioning programmes should be exempt from another designation process if the systems and processes are mostly unchanged. Only EU regulations should be applicable, no national interpretations, as one participant stated, remove "the Prime Minister in the Notification process". Article 124 (2) should be strengthened, so that audit bodies dare to apply it. Designation procedure could be a part of ex-ante audit, made by AA. Removal of designation audit. Clearer distinction between Designation Procedure and Assessment of MCS description. Guidance should be more realistic and proportionate.

III. There were two suggestions that multiple participants put forth. These were: (I) broad simplification of process and that (II) regulations and guidelines should take into account the specificity of ETC. Other specific suggestions are as follows: designation should be done by the Commission and not AA. EC guidance and training for MA and AA on implementation. A horizontal measure, meetings or online communications between EC, AA and MA needs to happen on a regular basis.

Functions of the managing authority (Art. 125 CPR)

Problem: A common problem that was noted was that the programme reporting requirements have increased, adding to high administrative burden, because of using FLC. Other specific problems are as follows: Uneven regulations between MS. Imprecise requirements of annual summary. Issues in annual closure and management declaration. Having a rotating Monitoring Committee. Chair adds a layer of complexity in decision-making process. There is a lack of adaption to cross-border programmes.

Solutions:

I. Here, the general consensus is simplification, with all participants suggesting different areas that can and should be simplified. Such as reduce reporting frequency, reconsider, reduce or abolish annual closure, reform management verifications as FLC should not be connected to each single payment and should only be carried out on a risk-based sample and reform on-the-spot verifications. Reform entire audit system. Another specific response was that the MA should chair Monitoring Committee and not a representative from one of the MS.

II. There were three responses to this field, both suggested different solutions. These solutions are as follows: (I) apply different percentages for mainstream projects and Territorial cooperation projects. (II) Tailor MA functions to ETC programmes. (III) Modify existing rules to achieve less bureaucracy.

III. There were three valid responses to this field. They suggested the following: (I) Simplify by having no state aid regulations. Abolish annual summary and management declaration. (II) A horizontal measure, meetings or online communications between EC, AA and MA needs to happen on a regular basis. (III) Have more harmonisation with MA about some tasks.

Functions of the certifying authority (Art. 126 CPR)

Problem: A main problem highlighted is that the annual closure of accounts adds to the administrative burden, with one participant stating that Article 123 (3) adds nothing in the way of simplification. Two participants noted that there are duplicate checks carried out by MA and CA, and there is no further guidance on what to be done on the part of MA dealing with certification functions and what by rest of

MA. Another specific point made by a participant was that the MA/CA may have difficulties with ensuring coherent standards.

Solutions:

I. The following are the diverse solutions that have been proposed. Annual accounting system should be abolished. Specific ETC rules are needed. INTERREG Programmes should be exempt from drawing annual accounts, management declarations and annual summaries. Treatment of corrections should be simplified. Clarification for when an MA takes of functions of CA, was a point made by two participants.

II. The following are the diverse solutions that have been proposed. It should not be necessary to have an own unit inside the MA to carry out functions of the CA. It should be clearly and explicitly written when it is possible that a CA may rely on control reports/statements/confirmations of other institutions.

III. There was two valid responses to this field that suggested that (I) only final closure of accounts, like 2007-2013 period, be provided and (II) there are difficulties for matching all national requirements and regulation interpretation.

Functions of audit authority (Art. 127 CPR)

Problem: Two participants mentioned that the provision of an audit strategy within 8 months is not realistic. The following are other specific problems highlighted. Work of AA complicates implementing programmes. Multiple audit system is complex and makes project quality worse and added value of this complexity cannot be explained. Responsibility for the quality of control systems in other MS is set by MA, which is a problem. There is a high administrative burden associated with each INTERREG Programme setting up its own AA. Nobody is there to audit an AA and there is therefore no guarantee, at programme level that an AA can perform functions under art. 127.

Solutions:

I. A solution suggested by two participants is to develop a realistic deadline for an audit strategy. Other specific suggestions included: sampling methods should be INTERREG specific. Powers of AA should be reduced. Implement the concept of Single-audit. Auditing should be more centralised and sampling should not be random but risk-based. A method of checking/auditing AA. Add validation of the eligibility of Simplified Cost Option (SCO) into AA (Audit Authority) tasks.

II. The responsibilities of AA should be clearly stated, to ensure MA doesn't have similar tasks was a response by two participants.

III. The two responses to this field suggested there be a horizontal measure, meetings or online communications between EC, AA and MA needs to happen on a regular basis. The other response suggested similarly, in relation to more dialogue and there should be technical meetings between auditors from different programmes.

General principles of management and control systems (Art 72)

Problem: The broad issue in the responses received is that management and control systems are too complex. Two responses noted that description of tasks and obligations of parties are not always clear and precise. Other specific responses were: management and control systems are too extensive and not practical. They don't account for the added complexity of an INTERREG Programme, compared to

other EU programmes. There is an added national burden, in a specific national case, where national regulations on verification of expenditures in EU programmes have been issued and these do not allow sampling of documents during the administrative verifications. General principles are not proportionate to ETC Programmes.

Solutions:

I. Clear and precise catalogue of tasks/obligations in Regulations is mentioned in two responses. Other specific responses were: have own regulation for management and control systems of ETC programmes. Have guideline details of descriptions, in certain areas need to be reduced (management and control system, anti-fraud measures and risk prevention). Have a realistic and more proportionate legal framework.

II. If system stays in place, keep up the designation for the management and control system. Simplify by imposing one single computerised system to all programmes.

III. There were three responses to this field. Two of which suggested fewer guidelines and documentation and the other suggested to have no state aid regulation and have only EU law on the matter.

PROJECT IMPLEMENTATION

Eligibility rules (Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014)

Problem: Two main problems were highlighted. Firstly, eight responses noted that there is a lack of clarity and high complexity in options for reporting of staff costs involved with the project, such as on flexi-time and holiday and sick leave. Secondly, five responses highlighted that there is a high risk of errors because of differing interpretations by differing bodies.

Solutions:

I. Four participants called for generally clearer rules and regulations in this matter. Simplify by keeping percentage for full-time and part-time was a response which came up twice. Other specific responses were: abandon the restriction of eligibility of expenditure, depending on location. Add works to the list of eligible expenditures

II. There were two responses to this field. (I) Have simplified rules in areas such as travel costs, which would invalidate Art 5 (5) – (8). (II) Have coherent and integrated guidance by EC.

III. There were three responses to this field. (I) have one law on the matter. (II) Have guidance documents from the EC. (III) Have continued training and cooperation etc. with the assistance of INTERACT and EC

Exchange rate (Art. 133 Reg. (EU) No 1303 and art. 28 Reg. (EU) No 1299/2013)

Problem: Three responses highlighted the issue that the definition of "incurred" not being clear and is a source of misunderstanding. Other specific problems following: ETC is not considered sufficiently in Art. 28 ETC regulations. Rules are simple but violate the principle of real costs. No possibility to convert the expenses according to what is paid by the beneficiary. Currency fluctuations impact project over time.

Solutions:

I. There were four valid responses to this field and they follow here. Clarify the meaning of "incurred" in Art 133. Art 28 of Regulation (EC) No 1299/2013 should either be abolished or emphasised. Where this is suggested as emphasised, it is also suggested that it can be changed to add the possibility to convert from a currency to Euro by using the rate according to what is paid by beneficiary. Use concept of "paid expenditure".

II. There were no responses to this field.

III. The one response to this field suggested informing beneficiaries about currency fluctuations.

State aid rules

Problem: There are several problems that, generally, are repeated numerous times in the responses received here. There were six responses that said that state aid rules made it difficult, particularly for small projects, because of administrative burden, while two responses stated that State aid rules are redundant because of other means preventing distortion. Two responses said that they cause uncertainty and discourage participation in INTERREG Programmes; with two others stating that this complexity means that there is not enough internal expertise on the matter and limited amounts of money is actually granted. Two responses said that it is difficult to explain, unlike other projects, why INTERREG projects need to undergo state aid assessments. One response stated that rules are interpreted differently at national level.

Solutions:

I. INTERREG should be exempt; given small levels of funding involved was the response of ten participants. Other responses were to call for simplification in different areas. Simplify by applying the same standards of funding across programmes and simplify state aid rules for ETC programmes to take into account the small allocation and local characteristics of activities.

II. Of the valid responses to this field, three called for a General Block Exemption revision.

III. There were two valid responses to this field. (I) Different approach to state aid is needed to make SME-projects in ETC possible. (II) Offer more training/support/guidance.

Procurement rules and procedures

Problem: Five responses highlighted that there are different regulations between MS and in different regions is an issue and they are often stricter than EU rules. Three noted the general complexity of public procurement, in general, particularly for small authorities. Other specific problems are: (I) a perceived as high burden and not enough information for beneficiaries. There is a lack of systematic solutions concerning approach to the control of certain aspects of public procurements.

Solutions:

I. Two responses said that there should be simplification to allow for greater flexibility and have a more result orientated focus. Other specific responses follow: have the possibility to define a specific threshold for ETC Programmes, applying to all beneficiaries, in the same way, regardless of which MS in. Establish methods to avoid gold plating. Have a formal statement about the application of public procurement rules in case of private partners.



- II.** Two responses called for there to be EU-wide procurement rules for ETC. Other specific responses included: have a check on gold plating and ensure the equal application of the Directive. Have easy rules regarding correction due to non-respect of procurement rules and procedures
- III.** Three responses called for Clearer and more helpful guidance. The final response here said that private partners should be informed on the requirements implement ETC projects.

Simplified cost options (Guidance on Simplified Cost Options EGESIF 14-0017)

Problem: The issue of SCO remaining too complex was highlighted by five participants. Two responses highlighted the issue that documents are not very detailed and lack clarity in certain areas. Other responses to this field were : 10% of programme funds are reported on paid based on simplified cost options. ENI Programmes don't have specific regulations related to SCO. There are still issues in technical matters. There are too few off the shelf options. Historical data is not easy to find.

Solutions:

- I.** Have more off the shelf cost options. Make a truly simple rule. There should be more examples of ETC programmes to fully use the SCO's potential with more off the shelf examples, including one tailored to INTERREG. Simplify the rules for reporting staff costs for people with flexible involvement with the project. Relax the rule of compliance between Public procurement and SCO. Regulations should provide for simple options, based on good practises from programmes. SCO should be aligned with options available for Horizon 2020. More off the shelf examples should be provided. New options to the achievement of results, rather than expenditure should be introduced. Reintroduce EC's role in the setup of new SCO. Increase off the shelf options. AA should validate them. Establish a more equal interpretation of rules for all actors.
- II.** Add SCO for travel and accommodation costs. The description needs to be simplified. Expand guidance documents on SCO.
- III.** Promote the principle of proportionality to reduce the size of the administrative burden. More assurance details would be beneficial. Better coordination between EC and programmes on interpretation. More training/guidance/support for programme authorities and control bodies. Guidance should be developed as a result of asking MS what are the problems and not developed unilaterally by the EC.

Gold plating by Member States

Problem: There were a number of specific problems highlighted in this field, with no uniform answer. These were: national laws apply additionally to ETC Programmes. This is especially a problem in relation to state aid. It is an issue and is down to lack of trust. Regulatory burdens because, in many cases, the implementation guidelines are not drafted at EC level until programmes are carried out, meaning that MS are forced to develop their own guidelines, different from those of the EC. Issue is also with EC guidelines, which, certain aspects of which, were designed without taking proportionality into account and without consulting stakeholders. Simplification of this is felt at EC level and not transferred down, internally, within the MS. One participant noted that the problem has decreased because of more clearly defined rules.

Solutions:

- I.** There were three specific responses to this field. Provide clear and exact EU rules to limit this. Gold plating should be, somehow, reduced. A formally established and periodical dialogue should be started, with all relevant bodies, to define EC guidelines in a more inclusive way.
- II.** The one response to this field suggested having checks for gold plating by part of any system and EC audit.
- III.** There were four specific responses to this field that were: only EU-regulations should be binding, no link to national rules. Because of the transnational dimension of INTERREG, it should serve as a perfect example allowing to compare implementation provisions and procedures existing in different MS, with analyses on this matter that could be prepared by the EC or INTERACT. ESIF guidelines must be drafted at the same time as the guidelines. Have more horizontal dialogue between EC, AA and MA, more regularly

AUDITING

Minimum requirement for the audit trail, scope and content of audits of operations deficiencies in the effective functioning management and control systems (Commission delegated regulation (EU) No 480/2014 of 3 March 2014)

Problem: Currently, they don't sufficiently take into account the specificities of ETC programmes, as noted by two participants. The specific problems highlighted by other participants were: the number of requirements for the management and control system is unmanageable. Depth of regulation means different interpretation and high level of error rate. The question of which are the minimum requirements for audit trails in SCO. INTERREG Programmes have to conform to the same audit requirements designed for mainstream programmes worth billions of Euro. Beneficiaries can be subject to several types of controls, which can overrule the conclusions of a previous control/audit, creating legal uncertainty for beneficiaries.

Solutions:

- I.** There were six responses to this field, all suggesting different solutions. Leave coverage rate to AA's judgement and reduce minimum number of audits in the context of statistical sampling. There should be own regulation for ETC. The same data doesn't need to be checked twice by different Institutions; establish a system in which there is only one check of a random sample. Adapt regulations to the requirements and complexities of ETC Programmes. Limit number of controls and clarify scope of each to avoid overlaps. Apply the Single audit principle.
- II.** There was no response to this field
- III.** The one response to this field suggested that subsidiarity should be better applied in the implementation of ESIF.

System audits and audits of operations (Art 74 and Art 75 CPR)

Problem: The difference between system audit and operations audit is not clear was a response noted by two participants. Other specific responses were: the treatment of errors detected during audits is not adapted to ETC reality. Number of audits related to individual projects is too high. The 2% materiality level acceptance for INTERREG does not take into account that INTERREG Programmes have a

complex control system, across several countries. High error rates possible from the extrapolation of the error rate in the ETC context.

Solutions:

I. There were two responses to this field, both suggested different solutions. Firstly, the maximum acceptable materiality level threshold should be raised. Secondly, increase materiality of error rate above the 2% present error rate. Clarify the difference between system audit and operations audit.

II. There were no responses to this field

III. There were no responses to this field

Audit work of the Commission (Art 75 CPR)

Problem: The one response to this field noted a problem being that the EC checks Programmes, dealing directly with AA.

Solutions:

I. Fostering the single audit approach was the suggestion to three of five participants. The other two suggestions were that, firstly, audit of EC should be focused on the results achieved by the projects and the Programme and, secondly, audits should also deal with MA.

II. There were no responses to this field

III. There were two responses to this field. Firstly, audit should be simplified; taking into consideration the specificities of ETC. Secondly, auditing should not only indicate deficiencies but also unnecessary regulations/procedures introduced in the system, aiming to solve issue of additional administrative requirements.

Sampling methods/guidance on statistical sampling

Problem: All responses here noted different problem. These were: different regulations in different member states, at national level, compared to regional level/at the level of federal states. Actual sampling methods can lead to unrealistic failure quotes and unnecessary payment stops. The 30 minimum units, when using statistical sampling only raises audit costs. The EC guidance *recommends* either statistical or non-statistical but AA, in one example, uses an aggregated payment claim instead and the level of checks done by the AA here is constantly above 50% of all expenditures.

Solutions:

I. There were two responses to this field. Firstly, audit work should be centralised for more INTERREG Programmes. Secondly, make the application of a simplified sampling method mandatory for INTERREG Programmes,

II. There were two responses to this field. Firstly, sampling methods should be INTERREG specific. Secondly, increase the threshold for statistical sampling.

III. There were two responses to this field. Firstly, sampling and error extrapolation methods should not discriminate smaller projects, where statistical sampling is difficult due to the small size of the statistical population. Secondly, more clear guidance in order to speed up verification costs process.

Anti-fraud measures (Art 125 4 CPR)

Problem: Four responses to this field noted the issue of the tool being, not justifiably, too extensive. There were two specific responses. Firstly, the existing measures add to the climate of distrust.

Secondly, ARACHNE has no clear guidance on all risks (when to act and when not to) and that means some Programmes are reluctant to use this system.

Solutions:

I. There were two responses to this field. Firstly, anti-fraud measures should be totally deleted. Secondly, realistic guidance is needed, adapted to the nature of ETC Programmes.

II. Anonymous reporting should be an exception because it encourages "impression management", rather than combating fraud. Ensure and define proportionate anti-fraud measures, considering the low value of investments in INTERREG.

III. Should not be extended and instead, past experiences should be taken into account in the requirements for the assessment of fraud risks. Clear guidance on which risks to act on and which not to.

REPORTING

Progress report (Art.52 CPR)

Problem: There were two responses to this field. Firstly, the progress report is too long and costly. Secondly, the 2014-2020 period has increased reporting requirements.

Solutions:

I. The one response to this field suggested that the reporting requirements need to be reduced.

II. There were no responses to this field

III. More technical assistance, not just mass streams of information is needed was the one response received for this field.

Information on a major project (Art. 101 CPR)

Problem: There were no responses to this field

Solutions:

I. There were no responses to this field

II. There were no responses to this field

III. There were no responses to this field

Reporting on the joint action plan (Art 106)

Problem: The one response to this field noted that Article 106 is not relevant to ETC.

Solutions: There were no responses to this field

I. The one response to this field noted that JAP, ITI, local groups, if not applied in ETC programmes 2014-2020, mechanisms should be reconsidered.

II. There were no responses to this field

III. There were no responses to this field

Implementation reports (Art. 50 CPR and Art 111)

Problem: The large number of indicators is a time and resource consuming administrative burden for both the beneficiaries and the programme authorities was a problem highlighted by three participants. Three other responses noted the specific positives of this. Two responses noted that the creation of

more accurate guidance on content has significantly simplified the process of preparing reports. The third noted that requirements are reasonable and implementable

Solutions:

I. Two participants noted that further simplification is needed, specific, for one, relating to the template and removal of points with similar content. There were three other specific responses. Make yearly report biannual. More flexibility is needed here. Implementation reports could have same deadline, to make it easier to organise the MC.

II. The one response to this field noted the need to reduce the number of indicators and focus on those that are more relevant to the programme.

III. There were no responses to this field

Evaluation Plan (Art 56 + 114 CPR)

Problem: There were four responses to this field. Is this needed at all, as the TA is spent to artificially subsidise the consulting industry for specialisation in EU funded programmes. The evaluation plan is too extensive. Requirements are reasonable and implementable. Evaluation Plan is well defined but the difficulty is still the low level of use of evaluation results.

Solutions:

I. There were two responses to this field. Firstly, remove the Evaluation Plan. Secondly, the requirements need to be simplified as they were extended since the last programming period.

II. There were no responses to this field

III. There were no responses to this field

Models for submission of reports (Commission implementing regulation (EU) 2015/207 of 20 January 2015)

Problem: There were three responses to this field. It is too extensive. Late implementation in SFC and this resulted in limited time to finalize reporting. There is frequent reporting of the same type of data.

Solutions:

I. There were three responses to this field. The requirements need to be simplified as they were extended since the last programme period. Have SFC implemented earlier in the process. Change art. 130 and 134 of the CPR and art. 7 of the 1011/2014 (with attachment 7).

II. There were no responses to this field

III. There were no responses to this field

Models for submission of information to the Commission (Commission implementing regulation (EU) No 1011/2014 of 22 September 2014)

Problem: There were three responses to this field. It is too extensive. Models are clear but IT implementation is partly difficult. There is frequent reporting of the same type of data.

Solutions:

I. There was one response to this field. It noted that the requirements need to be simplified as they were extended since the last programme period. Appendices 2, 3 and 4, Annex VII should be removed and Page 1 of Annex VII should be added with "accounts closed on..."

II. There were no responses to this field



III. Clear guidance and cooperation/consultation between desk officers of different programmes is needed was the one response received to this field.

Reporting on Financial instruments (Commission implementing regulation(EU) No 821/2014 of 28 July 2014)

Problem: There were no responses to this field

Solutions:

- I. There were no responses to this field
- II. There were no responses to this field
- III. More guidance is needed.

Reporting of irregularities (Art 122 CPR +Commission implementing regulation (EU) 2015/1974 of 8 July 2015 + Commission delegated regulation (EU) 2015/1970 of 8 July 2015)

Problem: There were three responses to this field. In principal, this is clear. Drawing on multiple sources to deal with the issue of irregularities and the EC guidelines are not clear in the matter. Definition of "irregularity", in specific reference to when ineligible expenditure can be classified as irregularity.

Solutions:

- I. There were two responses to this field. Firstly, it is recommended that a statement that MS are not obligated to recover amounts concerning irregularities under €250 be included and that the EU budget bears the cost of such irregularities. Secondly, more clearly define "irregularities" as errors detected by the programme bodies, after certification of expenditures and corrections made by project partners, FLC or JS before certification should not be considered "irregularities".
- II. The one response to this field noted that there should be clarification of when ineligible expenditure should be classified as an irregularity.
- III. There were no responses to this field

Information and Communication (Art 115, 116 CPR)

Problem: There were three responses to this field. Some provisions here are not efficient, and the focus should not be on logos/posters/information tables. Mostly clear but Article 4 (3) a) of regulation EY821/2014 is hard to implement in practise. Communication strategy is rarely used and cost-value of preparing this is not justified.

Solutions:

- I. There were three responses to this field. Detailed provisions such as the A3-poster should be left out of regulation and programme-specific rules should be developed in cooperation with COM and programme experts. Delete "the Union emblem and the reference to the Union shall be visible when landing on the website" from Article 4 (3) a) of regulation EU821/2014. Requirements should make the Communication Strategy shorter, simpler and more relevant to the needs of the programme, by adding this as an annex to the programme.

II. There were two responses to this field. Firstly, clarify the definition of irregularities (define irregularities to those errors detected by programme actors). Secondly, focus of provisions should be on European Added value

III. There were no responses to this field

Submission of information- Accounts, management declaration, audit opinion (Art 138 CPR)

Problem: All responses highlighted the issue of additional administrative burden; the specific of which follow: Management Declaration has no benefits and leads to extra burdens. Heavy demand on staff resources in MA, CA and AA in annual accounts. This is an additional burden of no added value. The fact there are two different time scales, one for accounting reporting on irregularities, implementing audit of operations and one for Annual reports and Decommittment is complex and adds additional work for MA. Reporting requirements for the MA are a drain on resources. Additional elements introduced increase the complexity and administrative burden.

Solutions:

I. Five out of six responses here highlighted the need to generally simplify and shorten. A number of the specific suggestions were: The regulations and guidelines on the topic need to be reduced. Delete the obligation of an MA to prepare the Management Declaration and/or annual. Annual summary should be reduced by keeping only the quality checks carried out by the programme bodies, while analysis of FLC corrections should be abandoned. The final response suggested to clearly define the scope of work of the AA with regard to the information that is expected by the EC.

II. There was one response to this field that suggested the scope of information should stay under the sole responsibility of the AA, not the MA.

III. There was one response to this field that suggested to have multi-annual accounting to reduce the reporting obligations.

Availability of documents (Art 140 CPR)

Problem: There were two responses to this field. Firstly, clear but it is a challenge to inform beneficiaries a long time after the end of the project. Secondly, it is difficult to explain to beneficiaries how long they have to keep documents.

Solutions:

I. There were two responses to this field. Firstly, should be possible and sufficient to inform the beneficiaries together with the approval of the aid. Secondly, add three year period after End of the Operation.

II. There were no responses to this field

III. There were no responses to this field

Reporting requirement linked to non-Cohesion policy legislation

Problem: The one response to this field noted that reporting on state aids for ETC Programmes, through several MS is complicated and time-consuming was the only response to this field.

Solutions:

I. There were no responses to this field



II. Possibility to concern INTERREG projects out of the regulation of state aids.

III. There were no responses to this field

COMPATIBILITY WITH OTHER REGULATIONS

Overall coherence of ESIF requirements with other areas of EU legislation

Problem: The one response to this field noted that there are no clear rules on how to deal with state aid in INTERREG, compared to Horizon 2020 because projects *should* be small enough to be exempted, but are not.

Solutions:

I. There were four responses to this field, all suggesting specific solutions. Ensure the compatibility with other regulations should be a task of the COM. Simplify rules here. MS should apply national rules. Like Horizon 2020, exempt INTERREG Programmes from state aid.

II. The one response to this field suggested more explicit guidance should be given to MS on application of PRAGUE rules.

III. The one response to this field suggested specificities of ETC should be recognised by the legal framework.

Coherence of ESIF definitions with other areas of EU legislation

Problem: There were no responses to this field

Solutions:

I. There were no responses to this field

II. There were no responses to this field

III. The one response to this field suggested specificities of ETC should be recognised by the legal framework.

Coherence of ESIF procedures with other areas of EU legislation

Evaluation:

Problem: There were no responses to this field

Solutions:

I. There were no responses to this field

II. There were no responses to this field

III. The one response to this field suggested specificities of ETC should be recognised by the legal framework.

OTHER COMPLEXITY ISSUES

Response 1

Problem: There were no responses to this field.

Solutions:

I. Keep N+3 rule in the ETC context: setting spending targets to be reached within 3 years seems to fit the TEC context on the one hand (time needed to get a programme going in a multi-MS context). On

the other hand, it helps to accelerate programme commitments and payments to beneficiaries without compromising programme quality standards.

II. There were no responses to this field.

III. A stronger dialogue and partnership approach between EC and programme actors would help to improve legal certainty, exploit the full potential of practitioners' knowledge, find solutions adapted to ETC reality.

The programme actors MS/CA/MA/JS are operating for the European interest and are the EC antenna on the ground to implement actions in compliance with the EU-rules and legislator intention. Programme actors are thus not only subjects of audits but also partners in ensuring a correct application of rules on beneficiary level. This potential could be further exploited by the EC by

- reinforcing the dialogue with ETC programmes and in this context acknowledging more the role of Interact as promoter of mutual understanding between ETC programme
- ensuring a better representation of ETC in EGESIF or platforms like RETIF eg.

To making EGESIF documents and discussions more transparent through a wider distribution and input gathering among ETC programmes through the participation of Interact as an observer representing ETC programmes adopting a partnership approach and mutual trust between EC and programme actors.

A more bottom-up approach through reinforced dialogue (instead of more delegated acts and guidance) would allow

- to have more legal certainty about the interpretation of certain parts in the regulation
- to agree on interpretations that are more practice oriented and adapted to the ETC context and reality.
- to turn guidance notes into advisory notes that are not becoming mandatory to follow in practice but rather disseminate good practices implemented in member states/programmes.

Response 2

Problem: National laws apply additionally to ETC Programmes.

Solutions:

I. There were no responses to this field.

II. There were no responses to this field.

III. There were no responses to this field.

Response 3

Problem: Annual settlement of the programme:

1. The accounting year is not compatible with:

- n + 3 rule and
- performance framework, set for calendar years.

2. It creates difficulties in managing financial liquidity, difficulties in assigning amounts to be withdrawn and recovering and monitoring amounts of irregularities up to EUR 250.

It causes short deadline for submitting documents for annual settlement (February 15th)

Solutions:

I. Art. 2 point 29 of the CPR

II. We propose to give up the accounting year (1/07/n-30/06/n+1) for the calendar year

III. In accordance with applicable provisions of the Regulation, the MA submits to the EC an annual statement of expenditure by 15 February of year n + 1.

This term is taken into consideration of audits conducted by the AA. Some of the AA, to be prepared to summarize the audits, will press on the programmes to certify expenditure for the financial year at the latest, e.g. February, March, April of year n.

For the CA, this deadline is unacceptable, due to the need to provide liquidity and reimbursement for beneficiaries.

Problem: INTERREG (Regulation No. 1299, Art. 18) – ETC – Eligibility rules: Too many sources of documents for eligibility rules (EU guidelines, programme guidelines, national rules). Problems with hierarchy of these documents

Solutions:

I. Eligibility rules should be the same for all MSs participating in the same programme. The best way to achieve this would be to have as detailed as possible EU guidelines supported by programme guidelines.

II. There was no response to this field.

III. COM guidelines should be very detailed as well as leave no room for different interpretation.

Problem: Operations with big number final implementers (Small Project Fund) definition/regulation: Sometimes Interreg programmes use more complex operations under which a big number of final implementer's receive support from a beneficiary (granted). There is no definition of such operation in the regulations and sometimes this way of implementing the operations is questioned.

Solutions:

I. There is a need for strengthening the legal certainty. Maybe a good base would be to use to some extent as an example art 32-35 CPR?

II. There was no response to this field.

III. There was no response to this field.

Problem: Financial management, Budget commitments, payments and recoveries, art 27 (2) (3) of ETC Reg: The article obliges the MA to recover the unduly paid funds from the Lead Beneficiary. The whole procedure assumes that the LB is involved in the process.

In practical terms such procedure causes risks both for the MA and the LB. Assuming that it is a partner responsible for irregularity and it doesn't pay back to the LB, it is the MA and LB that have to deal with the issue. Although the article assumes responsibility of the member state to pay back for their beneficiaries, in practice, they request the MA to prove that all means have been used (including court cases) to recover the funds from the LB. Such situation results in additional administrative burdens, huge financial risk and losses, even LBs declaring bankrupt, when the court case lasts few years. The approach of member states and their willingness to take over the responsibility and pay back for their beneficiaries varies across programmes: the same member state (even institutions) agrees on provisions that they will pay back e.g. after two unsuccessful calls for payment from the MA, while in other programmes they request that court case against the LB should take place.

Solutions:

I. Regulation should clearly lay the rules on when (at which stage, e.g. after two unsuccessful calls for payment) the member state takes over the liabilities for beneficiaries located on their territory, in order to eliminate long-lasting recovery proceeding between the MA and the LB. Other option would be to exclude the LB from the procedure.

II. There were no responses to this field

III. There were no responses to this field

Problem: ETC Reg 1299 Art. 20.2.c . Eligibility of operations depending on location: Signing a contract with a relevant institution in the 3rd country sometimes is a challenge – which institution to address, who would take the responsibility for confirmation of eligibility of partners (in cases when it is a difficulty for a JS), what if the institution would not sign this contract (the only possible outcome of this currently is a drop-out of a partner). Also it is not possible for the MA country to take responsibility for audit and control system in a 3rd country partner esp. in terms of FLC and eligibility of costs.

Solutions:

I. A solution would be to prepare at the DG level a list of institutions which deal with EFSI or ETC (regardless of whether it is A, B or C) and would take up the tasks regarding the audit and control system for their partners in different countries as well as to engage this country to follow the rules of a programme automatically (not negotiate the terms) – not additional contract would be needed.

II. There were no responses to this field

III. There were no responses to this field

Problem: ETC 1299 Reg Art. 23.2 Functions of the MA (JS set up): A clarification or better description of JS' tasks would be required. There are programmes that delegate the tasks which should be JS' tasks to a 3rd body (not even mentioned in a CP). Competences are overlapped.

Solutions:

I. There were no responses to this field

II. There were no responses to this field

III. A clear explanation that if a 3rd body is involved in a programme it has to be described in the CP with clear tasks division between all institutions. It should be clear that if an institution is not mentioned in a CP, a MA cannot delegate tasks to it, not to mention it has to be agreed between participating countries.

Problem: CPR 1303 Reg Art. 5.1.a-c: Programmes that have not granted voting rights to partners defined in 5.1.b-c CPR now are facing issue of lack of interest or withdrawal of these partners from the MC. While from the legal point of view it is not an obligation to grant them, desk officers fail to explain it during the MC that it is a perfectly legal to grant these partners only an observer/advisor status with no voting rights.

Solutions:



I. A perfect solution would be to introduce this as obligation in the reg., leaving the final composition (division of topics covered by these partners) to the MSs (ex. 1 representative for environmental issues for the whole area of the programme, not 1 rep. for country A and 1 for the same issue for country B in the same programme).

II. There were no responses to this field

III. There were no responses to this field

Problem: CPR 1303 reg art. 47: MAs are facing the issue of being liable for the programme having almost no influence on the programme at the same time due to majority voting system.

Solutions:

I. To introduce the “consensus” rule as voting system in all MC (or at least in ETC).

II. There were no responses to this field

III. There were no responses to this field

Problem: SPF issue and MC membership: Involvement of euroregions as SPF administrators should be clarified but also their membership in MCs. Currently it happens very often that 1 euroregion has 2 voting members (ex. 1 for country A and 1 for country B in the same CBC programme). This gives a huge leverage (esp. where there are more than 1 euroregion in a CP) for “local” partners over art. 5.1a or c partners while it is not justified enough.

Solutions:

I. This should be clearly stated in the reg.

1. As such if there is 1 SPF project (obviously covering both sides of area of CBC CP) membership in the MC should be granted to 1 representative of such SPF project.

2. If there is no SPF project but there are euroregions involved in a CP, even if they are not corporate (as in a joint body with one institutional structure, covering both sides of the border), they should be granted 1 vote regardless.

II. There were no responses to this field

III. There were no responses to this field

Problem: General remark related to the responsibilities of the MA vs. member states in ETC programmes: The enhancement of the responsibilities of the member states in ETC programmes could be considered. Practical examples:

1) Regulation 1303/2013 art. 125 (3) (d): “(The MA)...satisfy itself that the beneficiary has the administrative, financial and operational capacity to fulfil the conditions referred to in point (c) before approval of the operation”. The MA may define rules/provisions, however, without support from member states it is extremely difficult to find out about each country specifics (not to mention knowledge of languages – as some information may be available in national languages only). In some programmes, member states refuse such support, arguing that it is the MA’s responsibility.

2) Regulation 1303/2013 art. 125 (4) (c): “(The MA shall)... put in place effective and proportionate anti-fraud measures taking into account the risks identified”. In practice the MA has

no legal basis to request the member state to use the worked-out measures by member states with respect to their control systems.

3) Recovery of funds, 1299/2013 Regulation art. 27 (2)(3) – already explained in separate point.

It is suggested that the COM conducts a survey among the MAs in order to identify such fields of conflicts (MA's responsibilities vs. member state responsibilities).

Response 4

Problem: There was no response to this field.

Solutions:

- I. Keep n+3 rule for ETC programmes.
- II. There were no responses to this field
- III. There were no responses to this field

Response 5

Problem: Revenue: Article 61 of 1303/2013 foresees calculation of discounted net revenue for projects which plan to generate revenue after the project completion and whose total eligible cost before application exceed EUR 1 000 000. The rule is not considered as fair to ETC projects which have total project budget more than 1 million EUR however this total project budget is divided between at least 2 partners, in many cases even with 5 or more partners. It means, that even if in the project there are 2 different partners having 510 000 EUR budget each, discounted net revenue should be calculated for each of partner as total budget for project (operation) exceeds 1 million. However, in case of mainstream structural funds such an obligation falls to projects exceeding 1 million eligible budget being implemented by one beneficiary.

Solutions:

- I. There was no response to this field.
- II. There was no response to this field.
- III. In order to have equal approach between mainstream funds and ETC projects, regulation should be changed saying that discounted net revenue should be calculated for each beneficiary participating in revenue generating project and exceeding its total budget 1 million EUR.

Response 6

Problem: Legal framework for ESIF and in particular for ETC Programmes much more complex than the former Programming Period (2007-2013). Number of regulations increased dramatically (Main Regulations: 1303/2013 + 1299/2013 + 1301/2013 Numerous of Delegated Acts, Implementing Regulations and Guidance Notes). Very difficult for the Managing Authorities to ensure legal certainty to the beneficiaries.

Solutions:

- I. Reduce the number of regulations (delegated and implementation regulations). Reduce the number of guidance notes and their complexity (additional rules in the guidance notes, which are supposed not to be mandatory).
- II. There was no response to this field.
- III. There was no response to this field.