



## Eligibility of expenditure in INTERREG III programmes

A TOOL for better use of the  
European Regional Development Fund





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INTERACT hopes this tool will contribute to “Sharing INTERREG experiences” and encourage other Community Initiative Programmes to share their skills and knowledge with INTERREG stakeholders through INTERACT.

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## HOW TO READ THIS DOCUMENT

At once both pragmatic and didactic, this study aims at providing INTERREG stakeholders with a basis of reflection on one of the technical aspects of the implementation of Structural Funds which is the eligibility of expenditure.

In order to carry out the present study, the following methodology was used:

- Desk research phase taking as a basis in particular Community texts as well as documents relating to the programmes in the sample (procedural guides, manuals for Lead Partners, etc.).
- Questionnaires filled by the programme managers from a sample of programmes (either Managing Authorities (MAs) or Joint Technical Secretariats (JTSs)).
- Quality control of the content of the study carried out by experts from the INTERREG Community.

Consequently the study begins by an important restatement of the principles and issues of the notion of eligibility of expenditure within the framework of Structural Funds, and the European Regional Development Fund (ERDF) in particular, in order to allow the reader to understand the legal framework in which project owners and programme managers work.

On the basis of contacts with a significant number of programmes, the different types of problematic expenses are listed. This has allowed us to appreciate, in particular, the appearance or not of systematic elements in the problems encountered.

Then, the study endeavours to determine good practices and to recommend, for the completion of the current phase and the beginning of the next programming period, a methodology allowing a balance between legal security for the programme authorities and Lead Partners, and a real cross-border/transnational added-value and a significant impact of supported projects.

In this context, in order to have the most representative vision possible of the impact of the eligibility rules on INTERREG programmes, INTERACT Point Tool Box, in collaboration with VIAREGIO, constituted the following sample group of programmes:

- Programme INTERREG IIIA Oresund Region.
- Programme INTERREG IIIA Greece – Italy.
- Programme INTERREG IIIA Ireland – Northern Ireland.
- Programme INTERREG IIIA PAMINA.
- Programme INTERREG IIIA Upper Rhine Centre-South.
- Programme INTERREG IIIA Wallonia – Lorraine – Luxembourg.
- Programme INTERREG IIIB ARCHIMED.
- Programme INTERREG IIIB Alpine Space.
- Programme INTERREG IIIB North West Europe (NWE).
- Programme INTERREG IIIB South-West Europe (SUDOE).
- Programme INTERREG IIIB Baltic Sea Region.
- Programme INTERREG IIIB Indian Ocean / Réunion Island.
- Programme INTERREG IIIB Caribbean Space.

- Programme INTERREG IIIC North Zone.
- Programme INTERREG IIIC South Zone.
- Programme INTERREG IIIC West Zone.

The 16 programmes represented therefore concern six programmes from Strand A, seven programmes from Strand B and three programmes from Strand C. This sample is sufficiently representative, as it covers the three Strands A, B and C, but it also ensures sufficiently broad geographical representation, considering that another INTERACT study on this topic covered the borders with the new Member States.

In the questionnaire transmitted to the programmes in the sample group, some answers to the questions were proposed thanks to the experience of those drafting the study and from the documentation available from the programmes and the national and Community authorities. In particular:

- 20 cases that can pose problems of eligibility.
- 7 types of tools and procedures targeting the questions of eligibility.
- 12 types of good practice that could potentially be exported to other programmes.

It goes without saying that these different propositions influenced the responses given by the managers but it appeared preferable to give a common framework to all programmes to facilitate the consultation process and be able to summarise them all together in a clear manner.

In the second part of the study, dedicated to the responses given by the programmes in the sample group, the choice was also made to comment on the eligibility rules that did not pose any specific problems to the respondents, in order to illustrate nevertheless that these cases could theoretically pose problems to the programme managers that will begin in the new programming period, with or without previous experience.

Finally, the third part which sums up the main points of this study in the form of a conclusion provides with some elements relevant to the eligibility of expenditure for the next programming period of 2007-2013.

For readers who so wish, further information is given in the Annex 1 as well as in the summarised glossary, referring, if necessary to the glossary developed by the INTERACT Programme.

At last, responses of the individual programmes, produced from a questionnaire (template in Annex 2), are to be found in the Annexes 3 and 4 of this study.

## INTRODUCTION

- **The role of INTERACT**

INTERACT is part of the Community Initiative INTERREG. The Programme seeks to build on the experience and lessons of INTERREG I and INTERREG II in order to increase the effectiveness of INTERREG III during the current programming period.

The INTERACT Programme was approved by the European Commission on 16 December 2002 and is financed by the European Regional Development Fund. INTERACT has a wide geographic scope covering the 25 EU Member States and neighbouring countries.

The core of the INTERACT Programme is to set up information and communication networks, to define information frameworks and flows, to proactively disseminate information and to stimulate exchange of experiences.

Thus, the study developed in this document about the eligibility of expenditure contributes to the diffusion of good practice in the INTERREG III programme managers' network.

- **Objectives of the study**

Determining the eligibility of expenditure within the framework of INTERREG programmes has two main functions:

- The first is to ensure that the aforementioned expenses comply with a whole series of legal and regulatory obligations, both at national and Community levels. National public bodies, as well as Community authorities are subject to this basic requirement of compliance with the proper use of public funds.
- The second is to have a conformity index for the expense, and thus for the action it represents, in relation to the objectives fixed by the Lead Partner and its partners and validated by the Steering Committee (SC). An expense can thus be declared ineligible, while respecting the legal rules in vigour, if it does not respect the framework fixed by the programming documents and included in the subsidy contract or grant offer letter that sanctions the granting of Community funds.

Although this study appears, at first glance, to be a very technical subject and reserved for the initiated, it thus affects central elements in the programme management.

## 1. ISSUES LINKED TO THE ELIGIBILITY OF EXPENDITURE

The notion of eligibility of expenditure is essential for every project financed by European Structural Funds. Indeed, within the framework of INTERREG III programmes co-financed by ERDF, as is the case for almost all the operations co-financed by European Structural Funds, payments are released on the basis of reimbursement of receipted invoices in the context of a project that has identified, before selection, a series of categories of eligible expenditures that could be open to Community financial assistance. The notion of eligible expenditure is thus particularly important in this subject, as it is precisely the eligible character of an expenditure that opens the rights to Community reimbursement.

A certain number of principles, in terms of eligibility of expenditure, are imposed by Community texts. Nevertheless, the difficulty of the subject comes from the fact that there is no exhaustive list of eligible or ineligible expenditure. Indeed the eligibility of expenditure is often assessed on a case-by-case basis, depending on the nature of the project, on the basis of the whole financial plan proposed in the application form.

Consequently, the notion of eligibility of expenditure is complex and protean, in particular in the specific context of the INTERREG III programmes, which act within several Member States which do not necessarily have the same practices on this field. Responding to the specificities of the INTERREG programme is not always easy when the Lead Partner associates other partners who come from a number of regions in the EU, and sometimes beyond, in the same project.

Finally, it is worth noting that the notion of eligibility of expenditure is closely linked to the controls carried out within the programmes at different levels. Indeed, the ultimate function of the controls is to verify certain expenditure with regards to the commitments undertaken by the Lead Partner when signing the subsidy contract with the Managing Authority (MA).

The object of the first part of this study is thus to tackle the questions that concur with the definition of the notion of eligibility of expenditure within the specific context of the INTERREG III programmes.

### ***1.1. The legal bases of eligibility of expenditure and the notion of subsidiarity***

The principle of eligibility of expenditure is not always easy to understand. Indeed, the question of knowing whether this or that expenditure enters into a programme's field of application is complex and is always found by cross referencing several levels of regulation and practice that must be combined. These four levels are as follows:

- a restrictive body of Community rules;
- national rules that can be more restrictive;
- eligibility rules that can be specific to programmes (within the Operational Programme (OP));
- rules linked to management of the programme.

It is worth detailing, in this paragraph, these different levels of rules that, taken together, allow judgement of the eligibility of a project within a programme.



### 1.1.1. Community rules

The first level of definition for eligibility rules is at Community level. The regulations framing the action of European Structural Funds impose numerous eligibility rules. To this end, five regulations are particularly relevant to varying degrees:

- General Regulation (EC) No 1260/1999, which lays down the main principles of intervention of Structural Funds for the 2000-2006 period;
- ERDF Regulation (EC) No 1783/1999, which lays down the general field of application of the ERDF;
- Regulation (EC) No 448/2004, which lays down eligibility rules applicable to all programmes;
- Regulation (EC) No 438/2001 as regards the management and control systems for assistance granted under the Structural Funds;
- Regulation (EC) No 1159/2000 on information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds.

Communications from the European Commission relating to the INTERREG Initiative should be added to this list, which, although they do not have the legal force of regulations, are nevertheless important insofar as they give indications from the European Commission.

Thus, some of the Community's principles relating to the question of eligibility of expenses are restated below.

#### a. Transversal priorities of the European Union

Within the legal corpus, it is worth emphasising the transversal priorities of the European Union and the accountancy principle. Indeed, all projects benefiting European Structural Funds aid must concur with, or at worst they must have a neutral impact on, the implementation of the European Union's major priorities.

These transversal priorities, restated in the texts, are the following:

- protection of the environment and promotion of sustainable development;
- the fight against inequalities between men and women and, in a general way, against discrimination;
- respect for competition rules and in particular the regulation of State aids;
- respect for public procurement rules.

These principles are also recalled in preambles No 4 and No 6 of Regulation (EC) No 1783/1999 defining the directions of ERDF.

#### b. Timeframe for eligibility and the notion of expenditure actually paid out

It is worth recalling here that the ERDF only intervenes by reimbursing incurred expenditure and that, as a result, the final beneficiary must justify this expenditure. Before proceeding to payment, the Managing Authority and then the Paying Authority (PA) ensure that the expenses were "actually paid". To this end, the "actually paid expenditure" corresponds to payments effected by the final

beneficiaries that are justified by receipted invoices or accounting documents of equivalent probative value. This rule is stated in Article 32 of Regulation (EC) No 1260/1999.

Beyond this principle, the General Regulation lays out the timescale rules for eligibility of expenditure. Indeed, to be eligible, the expense must occur in the timeframe laid down in Article 30(2) of Regulation (EC) No 1260/1999, which states that: *“Expenditure may not be considered eligible for a contribution from the Funds if it has actually been paid by the final beneficiary before the date on which the application for assistance reaches the Commission. That date shall constitute the starting point for the eligibility of expenditure [...]”*.

In other words, the first date for eligibility of expenditure is the date specified in the approval of the Operational Programme by the European Commission<sup>1</sup> and the final date is fixed as 31 December 2008.

Concerning project expenditure, programmes set the start date. The most common dates are either the date of approval or the date of contract. However, project expenditure is also technically eligible from the date of programme submission and some programmes allow expenditure incurred before the submission of the project application.

For example in certain INTERREG IIIA programmes or the IIIC Programme, expenditure linked to the preparation costs of a project occurring before the project begins is also considered eligible (eligibility of implementation costs once the operation is approved may be fixed by the Steering Committee of the concerned programme, depending on the approval date and the date on which the operation is supposed to start according to the application form). This expenditure is reimbursed if the project is approved, but there is always a ceiling, either as a percentage of the total cost, or in absolute value..

c. Total eligible costs / public costs (or equivalent expenditure)<sup>2</sup>

The notion of eligible cost in the framework of all the programmes co-financed by the European Structural Funds can be presented in two ways. Indeed, in accordance to the Article 29(2) of the Regulation (EC) No 1260/1999, it is possible for a programme to present its financial model in two ways:

- **Method No 1:** those responsible for the programme decided, while presenting the OP to the European Commission at the start, to calculate in terms of total costs. In this case, the ERDF participation is estimated with regard to the global co-financing (i.e. the national private and public match-funding). Therefore, valorisation of private funds either in the form of self-financing by the Lead Partner, by another private partner or by a (private) third party is possible.
- **Method No 2:** those responsible for the programme decided to calculate in terms of public costs only. In this case, the ERDF participation is calculated with regard to the national public match-funding (or the expenses equivalent to the public match-funding). Therefore, contrary to the option 1, private expenses cannot be valorised.

It is advisable therefore, to consider this element on a case-by-case basis and according to the INTERREG programme and to the choice that was made at the start of the programme as the consequences on the valorisation of the private match-funding can vary.

d. Specific eligibility rules

<sup>1</sup> INTERACT, *The MT Eligibility Handbook – eligibility of expenditure in managing transition's geographical area / INTERREG IIIA Programmes*, p. 19

<sup>2</sup> INTERACT, *The MT Eligibility Handbook – eligibility of expenditure in managing transition's geographical area / INTERREG IIIA Programmes*, p. 18

In addition to these framing elements, Regulation (EC) No 448/2004 subsequently details for all programmes co-financed by Structural Funds a common position for the eligibility of certain types of expenditure. These eligibility rules are detailed in the second part of this document which provides a summary of the contributions of the respondents to the survey.

#### 1.1.2. National rules that can be more restrictive

Numerous national rules are added to these Community rules and they govern eligibility rules to a large extent. Indeed, most questions of eligibility are not covered by the regulations cited above and thus refer to national legislation. These national rules can originate from:

- budgetary legislation (public finance) or be linked to public subventions;
- technical legislation (environmental or construction law, for example).

The importance of national rules in defining eligibility criteria is in fact recalled in Regulation (EC) No 1260/1999 itself, which lays out in Article 30(3) that *“The relevant national rules shall apply to eligible expenditure except where, as necessary, the Commission lays down common rules on the eligibility of expenditure [...]”*.

Consequently, the general principle is that, when the European Commission lays out eligibility rules at Community level, the Member States must follow them scrupulously and abstain from adopting less restrictive rules. Nevertheless, in these fields, the Member States can interpret Community rules in a more restrictive sense.

Furthermore, in instances where it is not deemed necessary for the good execution of the programme to adopt Community rules relating to the eligibility of a particular expenditure, it is up to Member States to do so and to fill in the possible legal vacuum in accordance with the principle of subsidiarity.

This principle, which occupies a large place in the functioning of the European Union, consists in leaving to the higher level, i.e. the European Union, only those tasks which the lower level, i.e. the Member States, cannot carry out in a more effective way. This principle was introduced into Community law by the Maastricht Treaty and only applies to questions of shared competence between the EU and its Member States, as is the case with European Cohesion policy.

#### 1.1.3. Eligibility rules specific to the programmes

Within the context of the regulatory principles of eligibility detailed above, the different programmes retained a certain number of priorities that also imply complementary eligibility rules. These rules correspond to the notion of regional policy itself and are written into the programming documents developed by the partners at the start of the programme and during the course of its execution.

The strategy chosen within the programme is reflected in these rules:

- The Operational Programme (OP), essential elements of the programming, comprise several essential criteria for determining the eligibility of expenditure, like for example, a forecasted expenditure (what will the programme focus on), or potential beneficiaries (are businesses eligible?). These elements of direction are also found in the calls for proposals when the programmes pre-select the type of projects.

- The subsidy contracts or the application forms retranslate the decisions of the Steering Committee and thus serve as a reference during the running of the project or for the controls linked to it.
- Methodology and advisory guidelines can also be published by the programmes and can serve as a direction guide as much for the project partners as for the programme managers.

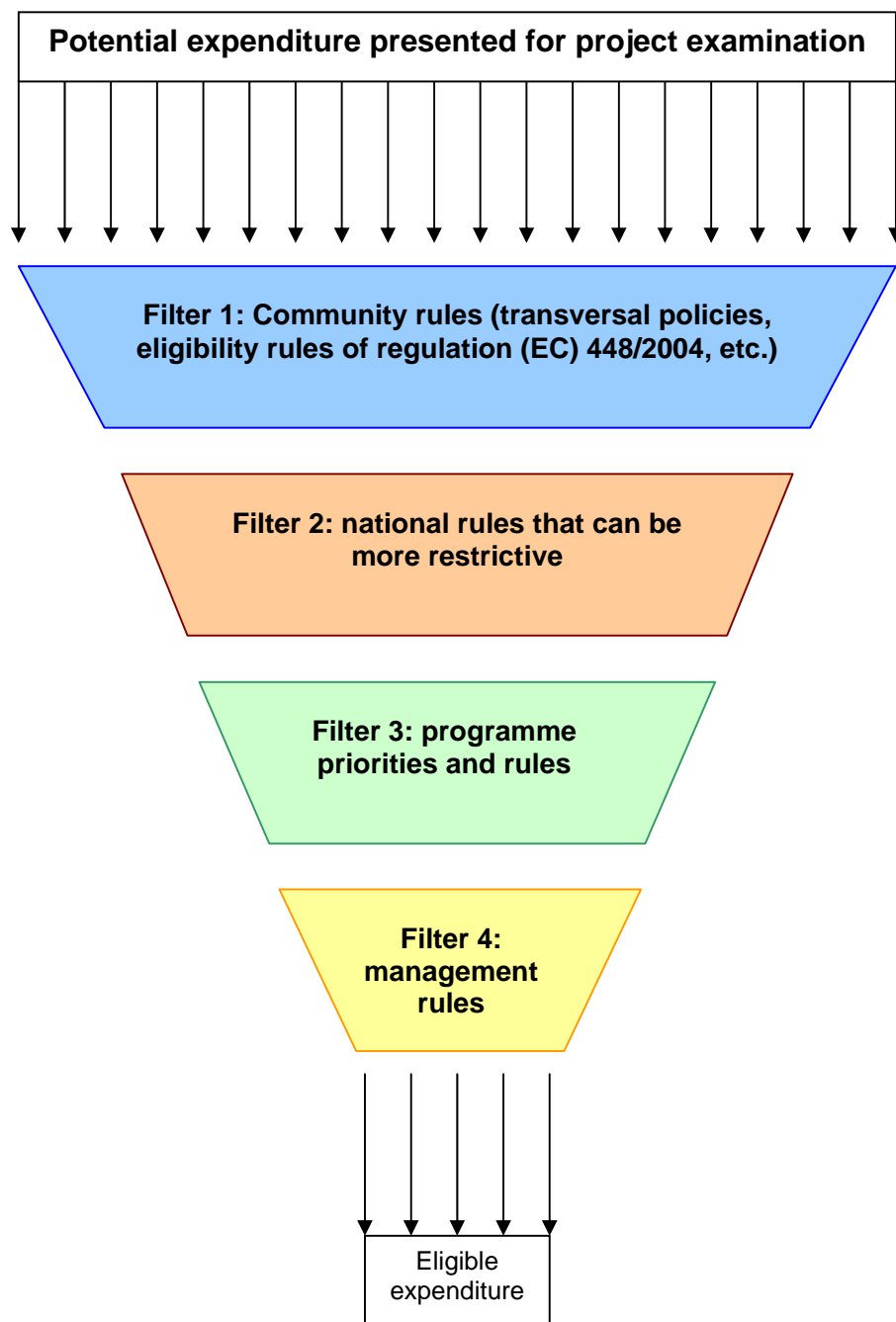
#### 1.1.4. Eligibility rules induced by management of the programme

Besides these elements of eligibility on the content of expenditure relating to the programmes, certain elements arise from management rules adopted by the programmes like, for example:

- normal length of projects;
- taking into account or not of certain types of expenditure (voluntary work, for example);
- possibility of carrying out expenditure outside the designated areas;
- permission to make amendments to the subsidy contract if the project is not respecting the provisional timetable;
- possibility of reallocation of funds between the different categories of expenditure of a project.

All these management rules relating to the programme form a sort of “jurisprudence” for the Steering Committee; this “jurisprudence” goes along with the national and Community eligibility rules.

Determining *a priori* the eligibility of expenditure is therefore not an easy thing to do as it necessarily comprises both appreciation and good understanding of the programming strategies established by each of the 81 INTERREG programmes.

**Different levels of eligibility of expenditure: 4 “filters”**

**Remark:** the different levels of “filter” were separated to allow clearer explanation. In practice, certain filters are combined. For example the programming documents (filter 3) restate elements of filter 1 and filter 2.

## **1.2. Specific context of the INTERREG III programmes**

It is useful to replace the notion of eligibility, common to all programmes co-financed by European Structural Funds, in the specific context of the INTERREG III programmes.

### 1.2.1. The particularity and the specific difficulty in determining the eligibility of expenditure in an INTERREG III programme

Although control on the eligibility of expenditure within the context of the programmes comes from the same Structural Funds regulation, the specific cross-border, transnational or interregional nature of INTERREG programmes complicates the legal analysis to be carried out on several points:

Generally speaking no single body is able to carry out all first or second level control work in the programme area. These tasks are instead carried out on a national basis (though there are a few exceptions).

- In the absence of Community rules (in particular those defined in Regulation (EC) No 448/2004) or in the case of more restrictive national rules, the latter are to be applied. There is thus a risk of a different understanding of an eligibility rule within the same project depending on the different legal basis of each of the States concerned.
- As well as a difference of legal basis, different control habits/cultures between national administrations concerned can make the situation complicated. These differences sometimes affect the nature of the bodies tasked with carrying out the controls. For example, in one State the second level control or even the certification of the final declaration of expenditure might be trusted to a private auditing body (in the Netherlands, for example), while this solution is unthinkable in another country (in France, for example). Even when public bodies carry out the same level of control in the two countries, methods and practices can vary (deadline for notification of the control to the Lead Partner, nature of the controls, right to legal recourse, etc.).
- Another point arises when the desk-officer in the Commission is changed or when a project is co-financed by two programmes (which sometimes happens in certain INTERREG IIIA programmes where the same project application is submitted to two contiguous programmes but with separate budgets and invoices and distinct decisions from the Steering Committees), the Commission's understanding of the issue may vary on certain points. However, it must be said that the risk of this happening has fallen with respect to the previous programming period as the Commission reminds the MA of its responsibilities and it did not seek to publish a text commenting on the Annex to Regulation (EC) No 448/2004 precisely because of the difficulties of getting 25 Member States to agree on these points. The project regarding future Community rules on eligibility is also heading in this direction with a drastic reduction in points dealt with at Community level, even though Member States and some programmes want supplementary instructions for the new Objective of European Territorial Cooperation.

In conclusion, all these points highlight the complexity and diversity of interpretations of eligibility of expenditure in the cross-border, transnational and interregional programmes.

### 1.2.2. Particular responsibility of the MA of the programme

In the context of the current programming period even more so than in the previous period, the MA is the body tasked with determining the eligibility of expenditure, or is responsible for ensuring that this determination is carried out.

This is not solely because the Community texts confer this responsibility on it, but also because the programmes are now familiar with the principle of a single MA and PA. However, differences in organisation appear between the programmes, with cases such as 1) the participation of delegated MAs and PAs (sometimes referred as “sub-MAs” and “sub-PAs”) in other zones of the programme (in particular, but not exclusively, in programmes linking new Member States), 2) the setting-up of integrated structures and 3) the delegation of this mission to one of the programme partners.

It is therefore up to the MA to establish efficient programme structures that will, firstly, allow it to select operations that conform to internal and external eligibility rules, then to ensure that expenditure presented by the Lead Partner has retained its initial eligible status all the way down the line.

### 1.2.3 Cooperation with programme partners

It is important for the MA to ensure coordination in questions linked to eligibility, taking into account the extent of its missions, which include:

- setting up a device for collecting financial and statistical data;
- instructing projects;
- selection and programming projects;
- controlling the regularity of operations;
- drafting monitoring, execution and completion reports for the programme;
- implementing evaluations;
- ensuring awareness, information and communication on the programme and respect for Community publicity rules.

At each of these stages, it is possible to deal with the question of eligibility of expenditure, it thus falls to the MA to ensure coordination of the interventions on this theme.

In order to perform this mission, the MA may request assistance from programme partners, and in particular from national authorities and from local government partners in the Member States. This assistance could consist in sharing the tasks cited above, but always under the ultimate responsibility of the MA.

It should be noted that most MAs have signed cooperation agreements with the Member States of their programme and sometimes a specific agreement with their own Member State, depending on the particular case, if the State has specifically delegated the MA and PA missions and responsibilities.

#### 1.2.4. Role of the European Commission

The European Commission has a particular responsibility in the execution of INTERREG programmes as it is responsible for the execution of Community budgets before the European Parliament, and it is subject to controls by the Court of Auditors on this matter.

The European Commission is involved at different points during the course of the programme in particular:

- when the Operational Programmes are adopted, the Commission conducts a preliminary verification that the programme partners have correctly outlined a strategy that conforms with Community transversal policies and strategic directions as well as with the General Regulation on Structural Funds, the ERDF Regulation and INTERREG Communications;
- upon reimbursement of the expenditure declarations transmitted by the PA;
- at the time of the request for payment of the Community balance for the assistance;
- during requests for modifications in the programme financial tables;
- during mid-term evaluation operations and their updates and during ex post evaluation;
- during special operations, affecting INTERREG ever more rarely, such as large investment or construction projects with venture capital funds.

However, the information required and provided by programmes during these processes does not contain details of the verification of eligibility of expenditure. The main role of the Commission in terms of commenting on eligibility comes therefore during analysis of the Article 13 reports from second level control and the Commission response to them. These can be expected to raise common eligibility problems being encountered in the programme and allow the Commission a chance to respond.

The Commission as well as the European Court of Auditors can also carry out additional controls in different ways:

- either on supporting documents, during the transmission of documents by the authorities concerned;
- or on-the-spot, in the offices of the MA or in those of the Lead Partner and the partners.

### ***1.3. Different types of controls within the framework of INTERREG III programmes<sup>3</sup>***

The question of eligibility of expenditure is very closely linked to that of controls implemented by the programme authorities: one of the main objectives of the controls is to verify, not only the reality, but above all the eligibility of expenditure co-financed by European funds. These controls on the Structural Funds assistance are of a different nature and occur at all stages of the life of the programme and projects. Furthermore, they bring in successive actors.

Nonetheless, these controls are not random but instead stem from a Community and national legal basis. This nevertheless leaves scope for a margin of interpretation or for some uncertainties. Consequently, it is up to the MA to delimit its discretionary powers of deciding the eligibility of a type of expenditure and to determine the measures to be taken in case of doubt.

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<sup>3</sup> A detailed presentation of the different levels of control is included in the Annex 1.

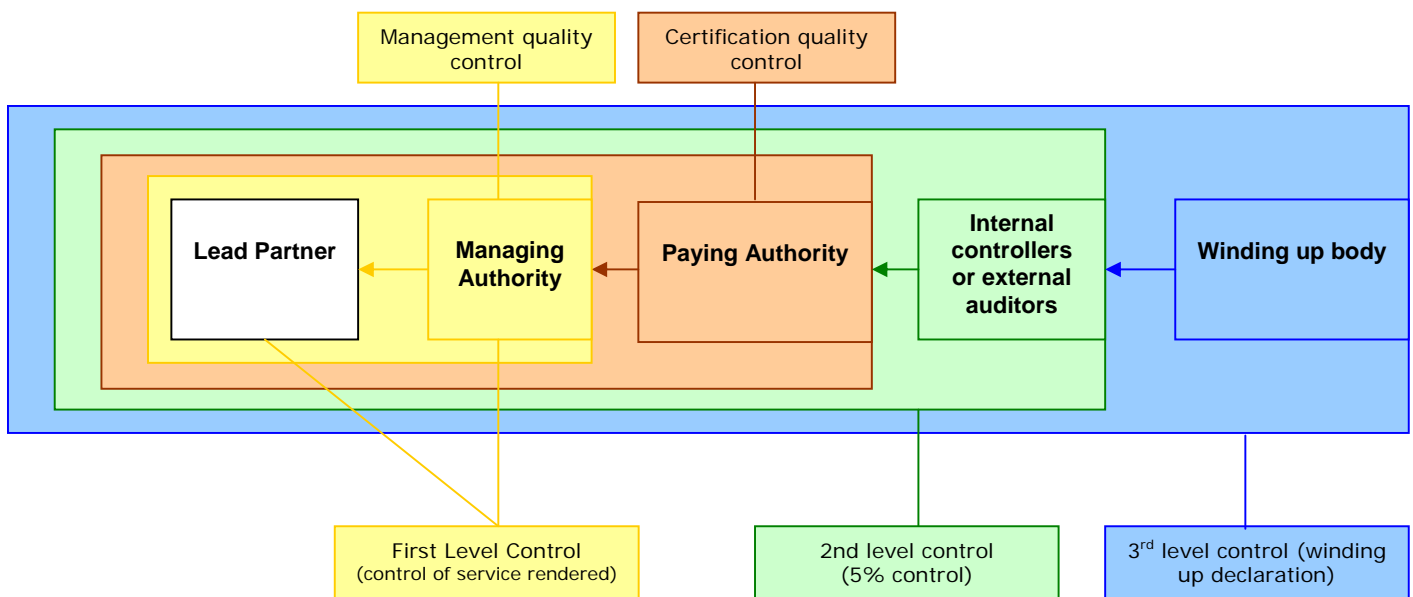


Indeed, it is useful to avoid legal insecurity at all costs at programme level, which can damage not only the Lead Partner and its partners, but also the MA, which runs the risk of financial and legal liability in case of difficulty.

The types of controls prescribed in the context of the programmes are not specific to each of the programmes. For the most part, they come from the General Regulation on Structural Funds. Indeed, one of the corollaries of increased decentralisation in the management of programmes has been to reinforce existing control devices in order to ensure that the management of operations is running properly at all times. Consequently, a series of mechanisms exists, notably on-the-spot controls to ensure that the use of funds is appropriate and represents value for money and to prove that the expenditure carried out is legal and regular. These control obligations were codified by Regulation (EC) No 438/2001, which defines and details the levels of control to be implemented in the context of Structural Funds.

Consequently, the basic principle is as follows: the Member State assumes general responsibility for the control and correction of irregularities. For that, it relies on the twin pillars, Managing and Paying Authority. This ensures the transparency of the financial flows and the regularity of operations.

The diagram below presents the different levels and types of controls implemented more or less systematically throughout the lifetime of the programmes and projects.



### 1.3.1. Control at the project examination stage

The first control, upstream, is not specified as such, although it falls within the competence of the MA as defined in Regulation (EC) No 1260/1999, and is carried out during the preparation of the projects.

The instruction service has to verify the formal eligibility of the project, eligibility of the content as well as conformity with the Operational Programme and Programme Complement.

#### 1.3.2. The contracting phase

An important step in the life of a selected project, the contracting phase (via subsidy contract or grant offer letter) allows the rights and obligations of the Lead Partner, and those of the programme authorities, to be fixed legally. It must be followed carefully as it is the guarantor of a properly run project and, consequently, programme.

#### 1.3.3. First Level Control (certification of service rendered)

Before the implementation of this first level control, it is important to remember that the Lead Partner is an essential link in the project's control procedure, as it is the responsible for compiling the certifications of all its partners.

The objective of the certificate of expenditure, defined in Regulation (EC) No 438/2001 (Article 4), also called first level control (FLC), is twofold: on one hand, it seeks to guarantee the physical completion of the subsidised operation and its conformity vis-à-vis the original description of the operation. On the other hand, it allows for verification of the reality of expenditure incurred and its eligibility through an exhaustive examination of invoices presented by the Lead Partner benefiting from the subsidy.

#### 1.3.4. Second level control (5% checks)

The implementation of 5% checks defined within Regulation (EC) No 438/2001 (Article 10 and following) is an in-depth check on at least 5% of the total expenses. The objective is to check on the management and the monitoring of the dossier and this control is conducted by an instruction service or "SLC unit". This takes place locally at the beneficiary's premises. These checks are discussed before the report is finalised. These checks can be carried out by administrative departments coming under the authority of programme partners, but these departments must be separated from the project instruction services and from the departments responsible for first level control checks. Controls can also be carried out also by external auditors mandated by the programme.

#### 1.3.5. External checks or checks related to final certification (National and Community checks)

The external checks or checks related to final certification occur at different levels of competences:

- at the level of the national body in charge of the system audits;
- at regional Audit court level and at national Audit court level (not represented on the graph);
- at European Commission level (not represented on the graph);
- at European Audit court level (not represented on the graph).

It should be stressed that regional and national audits are outside the main framework: They can only be used to duplicate controls that have already been carried out as programme control must anyway cover 100% of funds including regional and national co-financing.

#### **1.4. The nature of checks undertaken**

Controls carried out within the steps identified above can be different in nature. Consequently, the list below presents the format that these controls can take.

- **Checks on documents**

The first kind of control that is done concerns the documents delivered in the application pack. This first type of verification is important as it allows identification in advance of elements that could subsequently create difficulties. Consequently, for the instruction of INTERREG projects, it is particularly important to verify the presence of letter of commitment signed by the potential participants. It is also important to pay attention to the funding request form and how it is completed. Elements linked in particular to the budget, the timetable and the quantification of expected results must also be subject to documentary checks.

The public co-financing statement of the project must also be added to this first list of documents to be checked, within the framework of verification on national match-funding of the project effected by the MA. Finally, according to the nature of the operation, and with regard to the specific nature of each INTERREG programme, complementary documents can also be requested, in particular the quotes, draft contracts or any other document that may help to appreciate the amount of provisional expenditure.

The projected expenditures mentioned in the application at the time of its submission are generally varying:

- staffing costs;
- overheads;
- financial charges;
- promotion costs;
- expertise costs;
- travel and accommodation costs;
- accountancy costs;
- investment costs;
- etc.

Documentary controls also cover the formal conformity of the documents, which must obligatorily cover certain elements. For instances in the case of invoices, the following elements have to be covered: the exact name of the final beneficiary and of the supplier, the denomination “invoice”, the emission date of the invoice, the product designation, the applicable VAT rate, the amounts inclusive and exclusive of all taxes as well as the means of payment.

Furthermore, for the accounting documents of probative and equivalent value, the following elements must be examined: the exact name of the Lead Partner or partner, the emission date, the designation of the product, the service and quantities as well as the sum inclusive of all taxes.

It is worth recalling here that, in terms of the documents requested, all the documents are not necessarily required with each expenditure declaration, but one can proceed by sampling provided this recourse is justified.

The controls can therefore be of a technical, administrative or financial nature. It is impossible to tackle all the possible typical cases here, taking into account the diversity of INTERREG programmes and their environment.

The method of determining the eligibility of an expense is therefore an essential phase of the management of a programme and is subject to the diverse influences from the Community and the Member States.

The mixture of national and Community rules, combined to the orientations of each of the programmes, allow for some of these expenses to be reimbursed to the Lead Partners, whereas others will be declared as non eligible and will not be the object of a reimbursement from the part of the programme authorities.

- **On-the-spot checks**<sup>4</sup>

The MA, except when resorting to a sampling procedure as outlined above, proceeds with an exhaustive control of documents for a significant number of operations and performs on-the-spot checks, through the intermediary of its control services, to verify the physical conformity of the operations. In addition, the MA can inform the Lead Partner of elements that the controllers have a right to claim or check during the on-the-spot visit. Consequently, the on-the-spot visit can, in particular, cover verification of the conformity of the expenditure with the documents in the dossier and with the physical progress of the project or the regularity of the documents relating to public procurement. Furthermore, the reality of publicity actions can also be checked.

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<sup>4</sup> This is only a short description of a procedure. The exact procedures best suited to on-the-spot checks are an issue that has created a lot of debate.

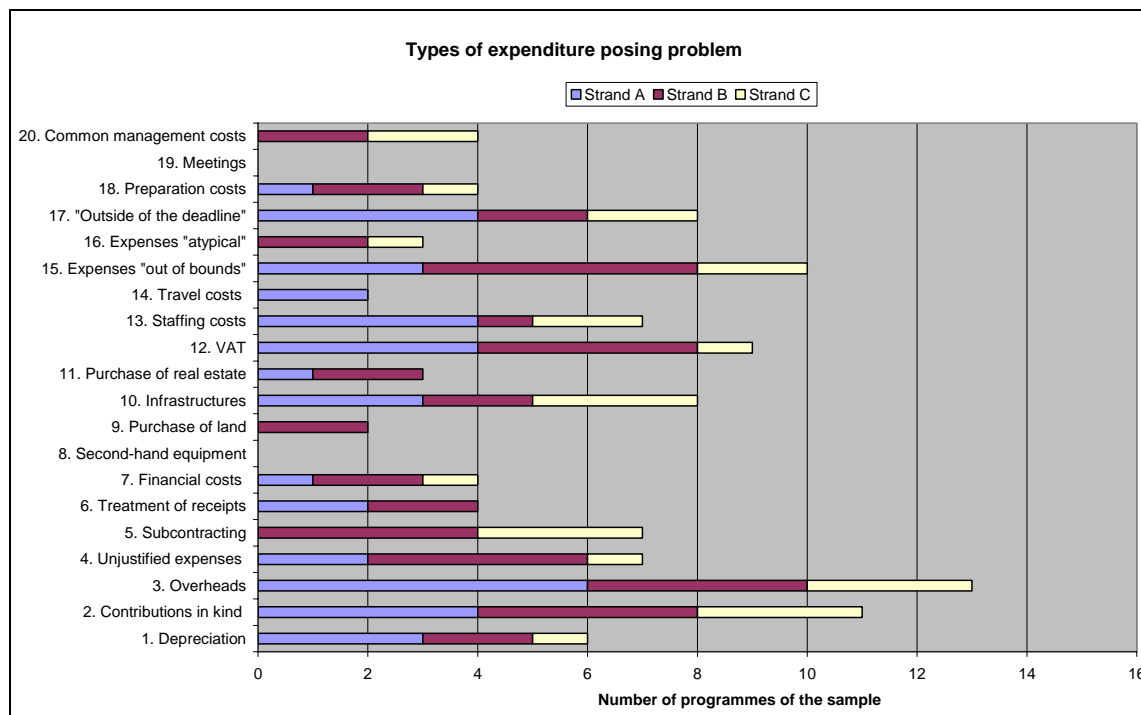
## 2. SUMMARY OF THE PRACTICAL IMPLEMENTATION OF THE PRINCIPLE OF ELIGIBILITY OF EXPENDITURE

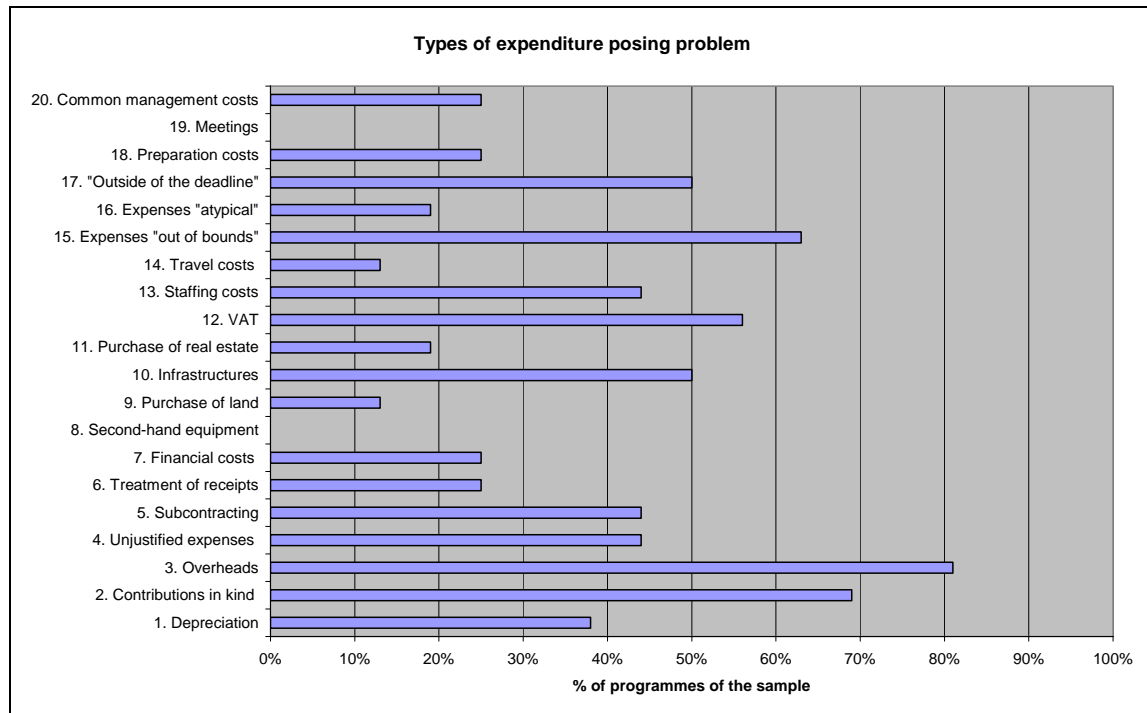
With the help of the programme survey, it was possible to estimate in the second part of this study the types of expenses which were in most cases problematic to the programme authorities.

After having made an inventory of the types of expenditure which cause problems, the programmes that have contributed to carry out this survey indicated which tools and practices they made use of, in order to reduce the interpretation difficulties and which practices they recommended in order to improve the eligibility of expenses covered by the ERDF.

### 2.1. Statistics of the data gathered within the framework of the sample

#### 2.1.1. Statistics on the types of expenditure posing problem





**Attention:** the types of expenditure mentioned above by the programme managers do not necessarily mean they encountered problems interpreting them..

**Commentary:**

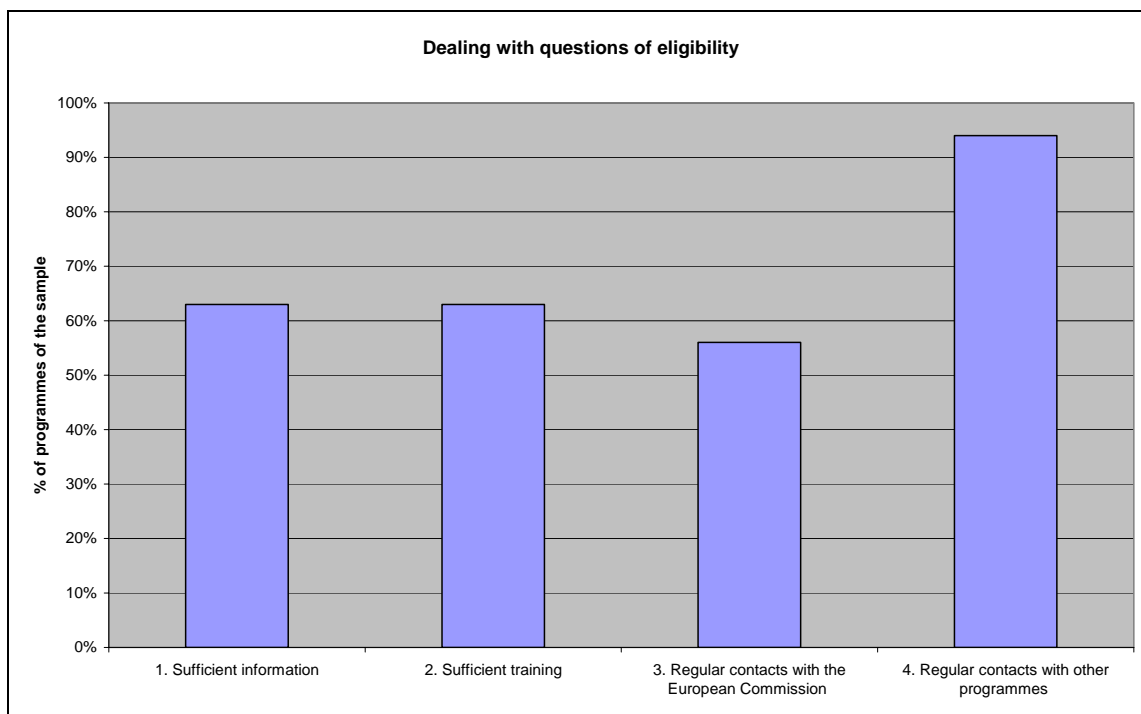
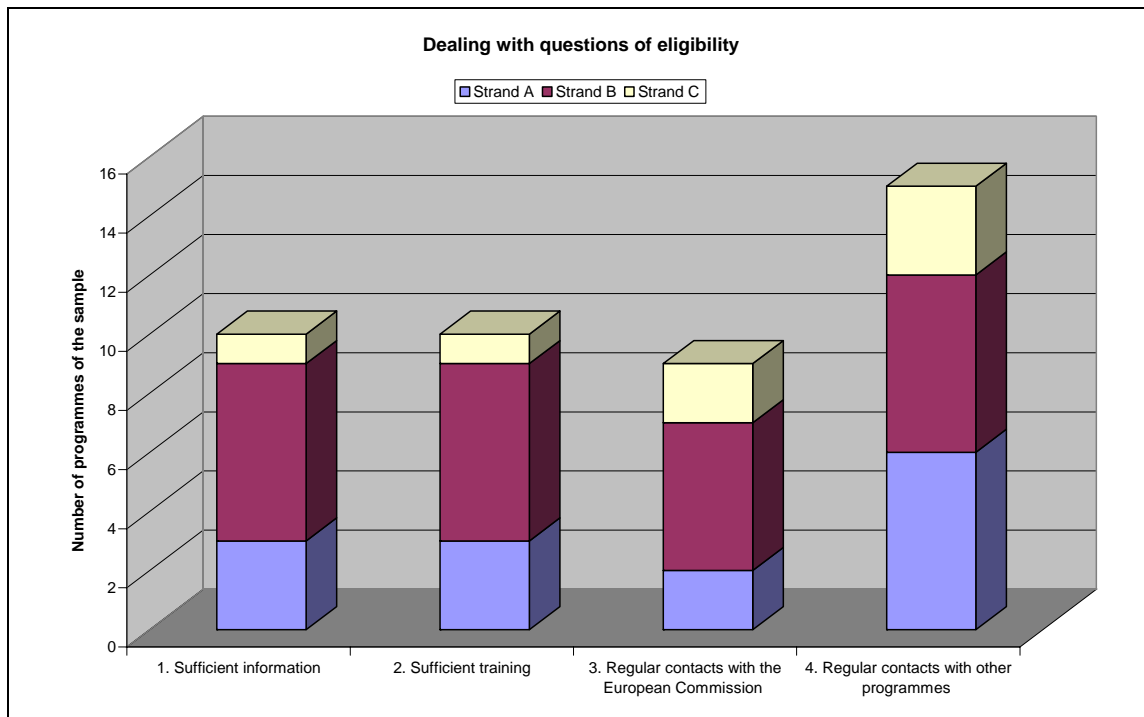
Programmes in the sample group from Strand A all raise overheads followed by staff costs as expenses to be watched quite particularly. They then cite contributions in kind, infrastructures/investments as well as expenditure outside the area. On the other hand, the question of subcontracting or purchasing second-hand equipment and land, common management costs or selected expenditure do not seem to pose them any problems.

For those in Strand B, the expenditure posing the main problem is that effected outside the programme area, followed by unjustified expenditure, then contributions in kind and overheads as well as VAT. Questions regarding the purchase of second-hand equipment or travel expenses or selected expenditure do not pose any problems.

For those in Strand C, it is contributions in kind; overheads and subcontracting that are watched particularly carefully by them. A large proportion of expenditure does not seem to pose them problems, like processing receipts, purchasing second-hand equipment or land, or travel expenses, for example.

In a general manner, overheads raise most questions in the programmes, followed by expenditure outside the area and contributions in kind. Purchasing second-hand equipment or processing selective expenditure do not cause any worries.

### 2.1.2. Statistics relating to the general way of tackling questions of eligibility



**Commentary:**

Faced with questions of eligibility, programmes were asked to specify the possible contacts they make and expertise they seek.

Those in Strand A overwhelmingly favour exchanges with managers of other programmes, but less than half of them felt sufficiently well informed or trained on this question. Only one programme in the sample group indicated having contacts with the European Commission on this point.

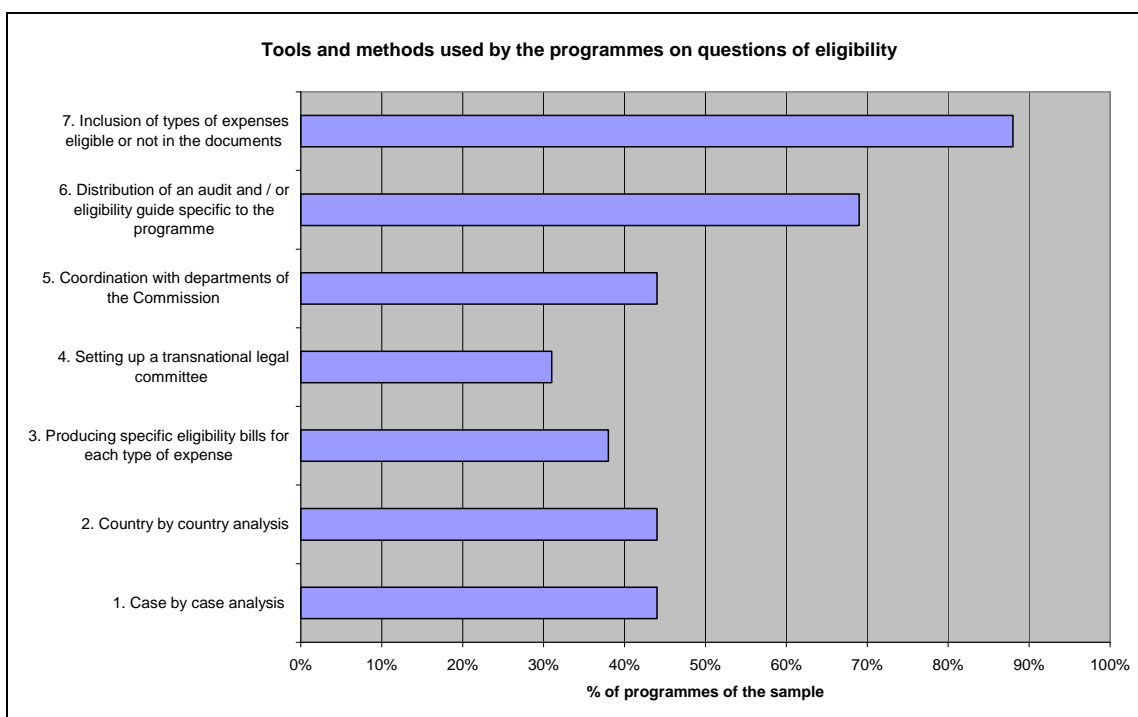
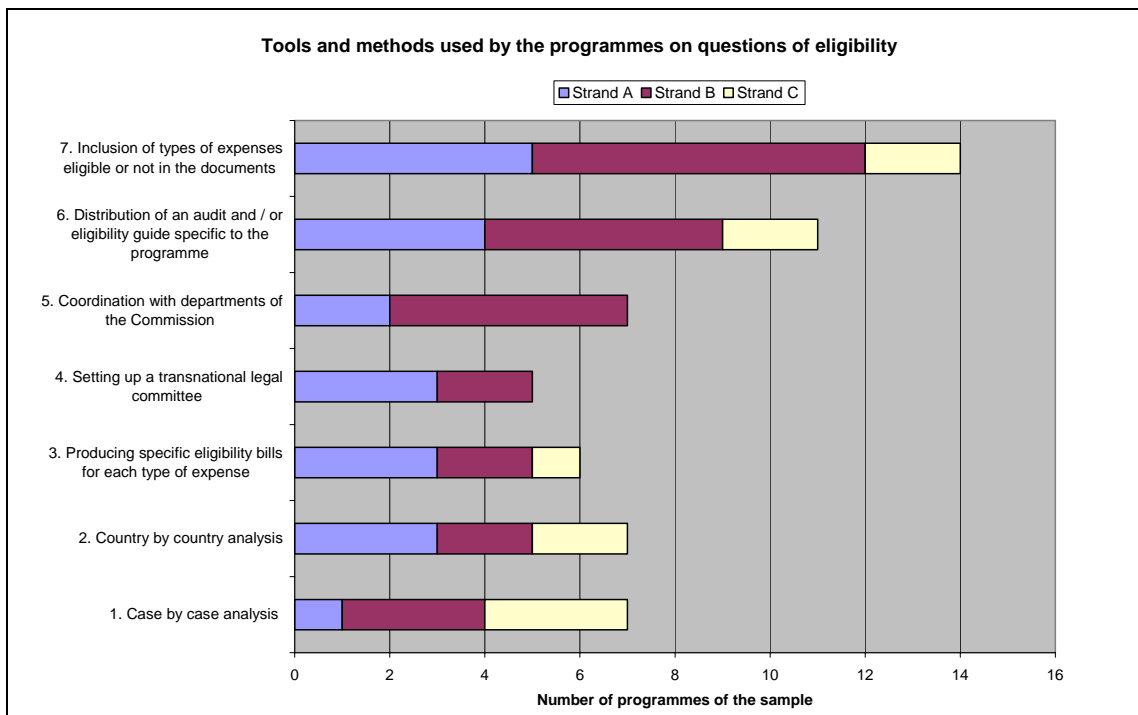
For those in Strand B, they feel sufficiently well informed or trained and have regular contacts with other programmes but a little less with the European Commission. This seems to be the best-networked Strand on this question.

Those in Strand C are in an intermediate position, all having contacts with other programmes (especially in the context of the coordination meetings of the Strand) and two third with Commission, but only one programme in this Strand feels sufficiently well trained or informed.

We can thus notice a difference between the three Strands, and in particular in contacts with the European Commission, which are rather rare for those in Strand A.



### 2.1.3. Statistics on the tools and methods used by the programmes on questions of eligibility



**Commentary:**

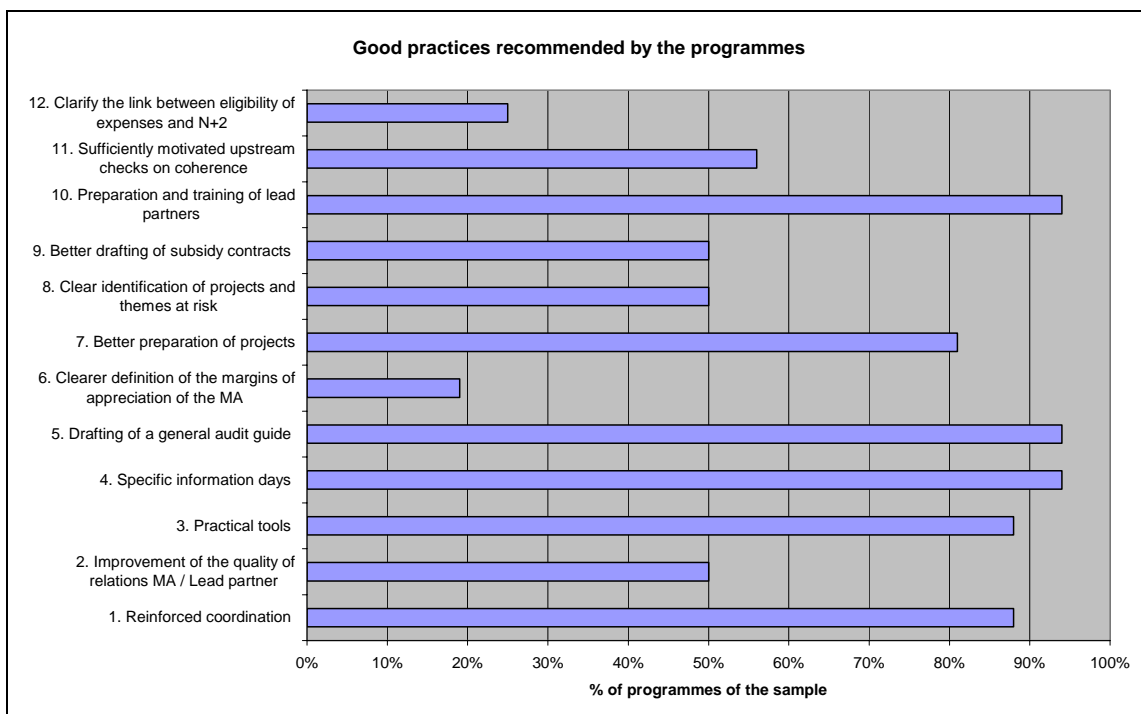
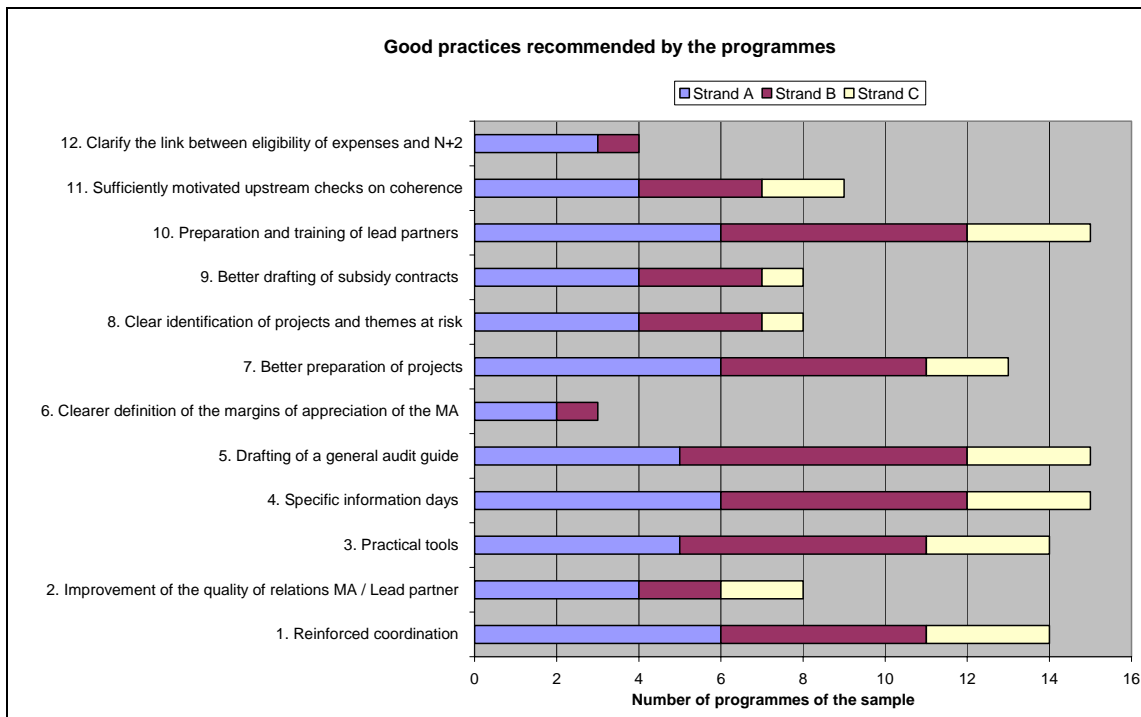
The responses vary between the Strands regarding the tools and methods used by the programmes.

For programmes in Strand A, they produce notes, disseminate a specific guide or, more rarely, make a country-by-country analysis of questions of eligibility or set-up of a cross-border legal committee.

For the programmes of Strand B, the integration of these questions in the documents for the attention of the Lead Partners and partners is also overwhelmingly favoured, followed by coordination with the services of the Commission or the diffusion of a specific guide.

For those in Strand C, analysis on a case-by-case basis is upheld by all, followed by a country-by-country analysis, diffusion of an audit guide or the integration of these questions in the documents for the attention of the Lead Partners and its partners. However, the creation of a transnational or cross-border legal committee and the coordination with the services of the Commission do not seem to be the most adequate solutions.

#### 2.1.4. Statistics on the good practices recommended by the programmes



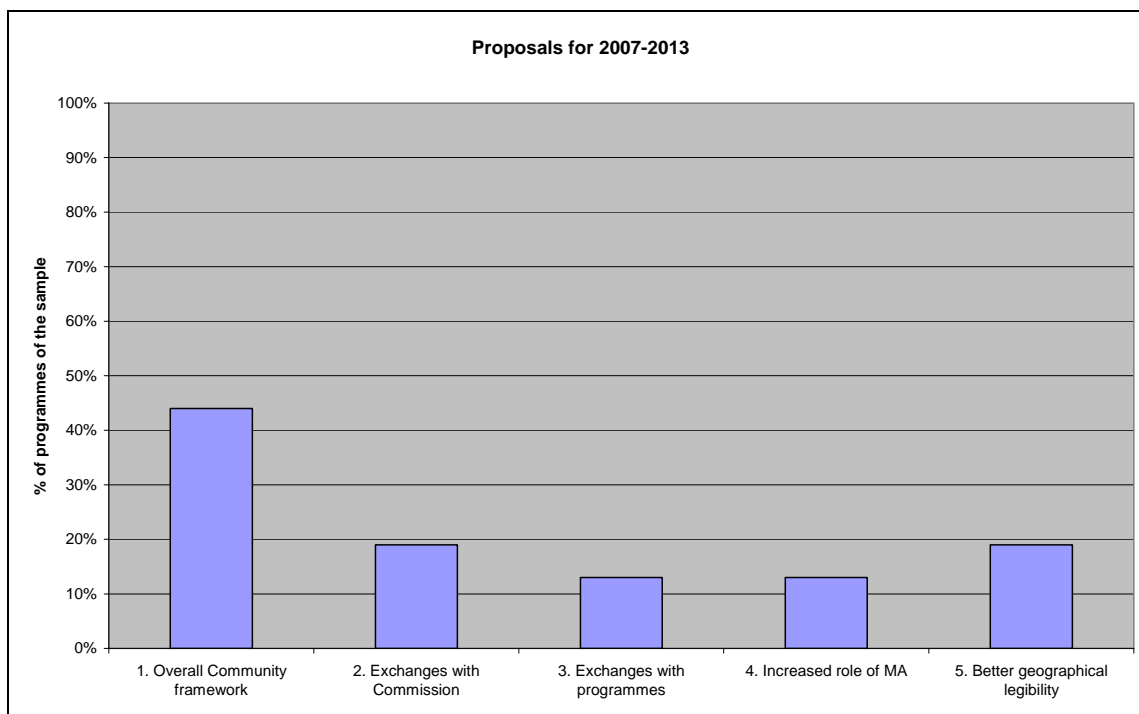
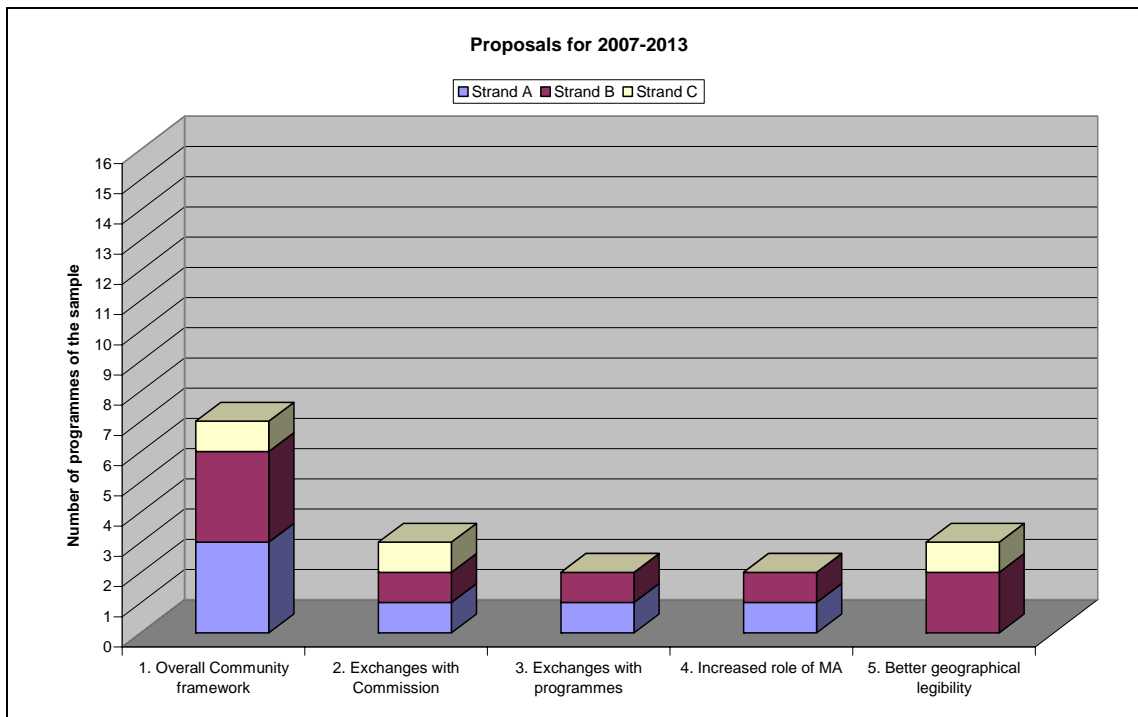
**Commentary:**

Regarding good practices recommended by the programmes, those from Strand A all support the implementation of reinforced coordination or specific information days, as well as better preparation of projects. They also hold to improving the quality of relations with the Lead Partners, the setting up of practical tools or the drafting of a specific audit guide.

Those from Strand B all recommend using a specific audit guide. They also advise setting up practical tools or specific information days as well as more specific information for the Lead Partners.

The programmes in Strand C all want reinforced coordination between the different authorities as well as more specific information and training for the Lead Partners. They also recommend improvement in relations with Lead Partners, better instruction of projects and more specific information for the Lead Partners.

### 2.1.5. Statistics on the proposals of the programmes for 2007-2013



**Commentary:**

The programmes in the sample made few specific proposals for improving consideration of the question of eligibility of expenditure in the next programming period. Those that did make proposals recommend, above all, the setting-up of an overall Community reference framework by the European Commission..

## **2.2. Main types of expenditure posing problems**

It is worth identifying, in this paragraph, the types of expenditure that are likely to pose problems due to their interpretation. In this paragraph, it is useful to recall the rules laid out by Regulation (EC) No 448/2004 and to complete these with other elements, drawn notably from the survey carried out with the sample group from the programmes.

### 2.2.1. Depreciation of real estate or equipment (Rule No 1.6 of the (EC) Reg. 448/2004)

The depreciation of real estate and equipment constitutes the first type of expenditure that can pose a problem.

Consequently, the relative cost of the depreciation of real estate or equipment can be subject to ERDF co-financing by respecting the four cumulative conditions:

- the real estate or equipment must be directly linked to the operation in question;
- national or Community grants must not have contributed towards the purchase of such real estate or equipment. To this end, depreciation is eligible if it constitutes an alternative to a purchase;
- this cost must be calculated in accordance with the relevant accountancy rules;
- it must exclusively relate to the period of co-financing of the operation in question.

Calculation of this can vary from one State to another. But, in general, depreciation is calculated by dividing the original value by the lifetime of the capital goods in question. The depreciation is calculated pro rata for each category of depreciable asset for the forecasted time of use.

The fundamental question for programmes is whether to allow a project to claim purchase cost, depreciation over the life of the project or nothing at all (a decision usually heavily influenced by national rules). To make this decision, a distinction needs to be made between infrastructure and equipment (e.g. between signposts and computers) and whether the item concerned was purchased during the life of the project or before. Infrastructure is generally related only to implementation of the project and has no resale value afterwards – purchase cost is generally allowed. Equipment may well be used after the project and indeed some projects may be tempted to use up their budgets by re-equipping their offices just before the end of the project. In these cases allowing depreciation makes a lot of sense as it avoids abuses. In the case of e.g. computer equipment bought before the project starts, it can also be sensible to allow depreciation: The project needs this equipment to function and the host organisation should not be penalised for giving access to it. This sort of issue is often covered by national rules so the problems are unlikely to disappear: A better recommendation seems to be to improve clarity for project partners about what is allowed in each Member State

Nearly one third of the programmes pointed out that depreciation causes problems, like IIIB ARCHIMED or IIIA Wallonia-Lorraine-Luxembourg, which points out that different countries in the programme apply different rules on this matter. This type of problem leads numerous INTERREG programmes to consider depreciation ineligible.

### 2.2.2. Contributions in kind (Rule No 1, point 1.7 of the (EC) Reg. 448/2004)

Regulation (EC) No 448/2004 (Rule No 1, point 1.7) states that contributions in kind are eligible but that they must correspond to the following limited list:

- contribution of land or real estate;
- contribution of equipment or raw materials;
- contribution of research or professional activity or unpaid voluntary work.

These contributions can be subject to ERDF financing if all the following general conditions are met:

- they are not made in respect of financial engineering measures (refer to Rules No 8, 9 and 10 of the Annex of the (EC) Reg. 448/2004 for more details) ;
- their value can be independently assessed and audited;
- if necessary, they must respect the conditions relating to the purchase of land and real estate.

In addition, more specifically:

- in the case of the provision of land or real estate, the value is certified by an independent qualified expert or duly authorised official body;
- professional activity: for businesses, it is worth taking into account a barometer approved by the Steering Committee (maximum employer's salary cost).

In the case of unpaid voluntary work, the value of that work (for an association, for example) is determined taking into account the time spent and the normal hourly and daily rate for the work carried out. In the context of certain programmes, it is advisable for the associations to take into account a barometer approved by the Steering Committee (minimal hourly salary, for example).

As a rule, the maximum ERDF cannot be higher than total eligible expenditure minus contributions in kind. For example, the total costs of a project amount to EUR 200 000 with ERDF participation amounting to EUR 150 000 (i.e. 75%). If the project has EUR 100 000 in cash and EUR 100 000 in kind; the total eligible expenditure (EUR 200 000) minus contributions in kind (EUR 100 000) is EUR 100 000. As the 75% of EUR 200 000 (= EUR 150 000) exceeds the total eligible minus the contribution in kind (=EUR 100 000), the ERDF reimbursement will be of EUR 100 000 and not of EUR 150 000.

The question of eligibility of contributions in kind is one of the main issues encountered by two third of the programmes of the sample group. The IIIB South-West Europe (SUDOE) Programme notes down the issue of taking into account unpaid voluntary work in contributions in kind, while IIIC South Zone in fact feels that unpaid voluntary work should no longer be taken into account. The IIIB Baltic Sea Region Programme therefore demands a clearer definition and a more simple calculation for this type of expenditure.



### 2.2.3. Overheads and running costs (Rule No 1, point 1.8 of the (EC) Reg. 448/2004)

By virtue of the (EC) Reg. 448/2004 (Rule No 1, point 1.8), overheads can be financed by ERDF in the context of the INTERREG programmes. Nevertheless, in order to make ERDF financing possible, the following two conditions must be met:

- overheads must be linked to real costs of the operation co-financed by Structural Funds;
- they must be allocated pro rata according to a “duly justified fair and equitable method”.

It is useful to define what is meant by overheads. They are all costs for which we do not have a properly identified invoice relating to the project financed by ERDF, but instead a large number of general invoices (rent, telephone bills, postage costs, consumables, office equipment, photocopies, heating, electricity or any other administrative expense necessary for the proper fulfilment of a project) from which it is difficult to identify precisely the part concerned by the project.

These costs can be direct or indirect overheads. While we can identify direct overheads as directly part of a project, indirect overheads (overheads linked to the activities of the operation) are calculated pro rata according to a fair and equitable method that must remain the same throughout the implementation period. This means that costs are attributed to a project to the extent that they represent a fair share of the institution's administrative costs and that they are necessary for the proper fulfilment of the project. The method for calculating indirect overheads must be correctly documented.

When putting the theory into practice, a basic problem arises: how to calculate the pro rata according to a fair and equitable method? Is window cleaning for the building an acceptable cost? Opinions vary. What about the travel days used by the 3 people – should they pay office overheads on these days? Also it is not always possible to do pro rata on the basis of number of people: 6 people may use 50 m2 in the office while the three people use 60 m2 so here the appropriate split would be based on m2. All of these problems can be resolved with common sense but the real complaint is how long the calculations take and whether it is worth it. Also, because no common standards are in place, there are often disagreements between controllers and project managers about how costs have been calculated.

Overheads are, without doubt, the main problem faced by programmes in the sample group which feel, like IIIA Oresund Region, that project managers often find the pro rata mechanism difficult to understand. IIIC West Zone indicates that the Lead Partners sometimes have difficulties to understand this system, as in other Community programmes contractual accounting for this type of expenditure is possible. Lead Partners also sometimes make mistakes in calculations or in reports of this type of expenditure according to IIIA Ireland – Northern Ireland or IIIB NWE. The IIIA PAMINA and IIIB Alpine Space Programmes note the frequent absence of supporting documentary evidence.

### 2.2.4. Costs of subcontracting (Rule No 1, point 3.1 of the (EC) Reg. 448/2004)

Expenditure linked to subcontracting is eligible according to Regulation (EC) No 448/2004 (Rule No 1, point 3.1) but there are exceptions. Indeed, two categories of subcontracting are ineligible:

- subcontracting which adds to the cost of execution of the operation, without adding proportionate value to it (notion of economic appreciation of the operation);
- subcontracting with intermediaries or consultants whereby the payment is defined as a percentage of the total cost of the operation. Nevertheless, if the final beneficiaries justify the payment, this can be defined by reference to the actual value of the work or services provided.

Conditions of eligibility must be appraised by the project instruction service before passing the Steering Committee.

The general rule is that, for all subcontracting contracts, the subcontractors undertake to provide the audit and control bodies with all the necessary information relating to the subcontracted activities.

Regarding the particular case of subcontracting costs within third countries, refer to paragraph 2.2.13 which deals with geographical eligibility.

It is interesting to remark that although half the programmes in the sample group note down the issue of subcontracting, no Strand A programme consider this as an issue. IIIB NWE indicates that there was a debate between programme partners that led to consideration of this type of expenditure, whereas IIIB Baltic Sea Region or IIIC North Zone do not take it into account. IIIC West Zone, falling somewhere in between, feels that recourse to subcontracting should be exceptional.

IIIB Alpine Space points out that sometimes the rules for public procurement are not taken into account on this point, and IIIC South Zone signals the different cost of subcontracting in relation to typical market costs.

#### 2.2.5. Treatment of receipts (Rule No 2 of the (EC) Reg. 448/2004)

The treatment of receipts is tackled in Rule No 2 of the (EC) Reg. 448/2004, which details two distinct situations:

- **For investments:**

Regulation (EC) No 1260/1999 specifies in Article 29 that if investment in infrastructure is “generating substantial net receipts”, the contribution of European funds cannot exceed 25% of the total eligible cost. Revenue is considered “substantial” if its value, brought up to date and minus its exploitation costs, is at least equal to 25% of the investment. Exploitation costs are considered here as costs supported for the execution of an investment including maintenance costs excluding depreciation or equipment costs.

Receipts generated during the economic lifetime of the project must be taken into account, and not only those generated during the length of the agreement. This calculation is based on an *ex ante* evaluation of the project knowing that, once the level of participation has been decided, it is not adjusted according to actual development.

It should be noted that because of their nature, projects co-financed by INTERREG are only slightly affected by investment expenditure generating receipts.

- **For functioning receipts:**

Regulation (EC) No 448/2004 concerns all other projects generating receipts with the exception of investment projects. It targets in particular, receipts incurred through the sale, rental or inscription services or rights. In this example, the exact amount of revenue produced is known at the time of winding-up of the project. Consequently, the basis for calculating the contribution of funds is determined by deducting the revenue of the normally eligible cost. The more common difficulty however is revenue after the end of the project and how to monitor it. Furthermore, the rules do not

make any distinction between profit and operating costs (both count as revenues) but this fact is not always fully appreciated by project managers.

The taking into account of receipts does not pose a problem to programmes in Strand C, but it does a little more for those in Strands A and B.

#### 2.2.6. Financial, legal and other costs (Rule No 3 of the (EC) Reg. 448/2004)

The eligibility of financial, legal and other costs is detailed in Rule No 3 of the (EC) Reg. 448/2004. This rule distinguishes several types of costs:

- Purely financial costs: as a general rule, they are ineligible. This concerns notably debit interest (other than those participating in an accredited State aid regime), back and currency exchange charges. Nevertheless, the costs of transnational financial transactions, in the context of the INTERREG Initiative (or any other CIP), are eligible after deduction of the interest received for the instalments.
- Bank charges relating to opening and managing an account: these costs are eligible provided that the co-financing of Structural Funds necessitates the opening of one or several accounts for implementation of the operation.
- Costs of guarantees provided by a bank (or other financial institution): these costs are eligible provided that the guarantees are required by national or Community legislation or in the decision of the European Commission granting approval of the assistance.
- Costs of legal advice, notary fees, and costs of technical or financial expertise: this expenditure is eligible provided that it is directly linked to the operation and is necessary for its preparation and implementation.
- Accountancy or auditing fees: these costs are eligible provided that they are directly linked to the operation and are necessary for its preparation and implementation (or they arise from requirements set by the MA).
- Fines, financial penalties and expenses of litigation: this expenditure is never eligible. Likewise, interest on arrears paid by a Lead Partner in the event of late payment of an invoice is not eligible.

A little less than a third of the programmes in the sample group raised this type of expenditure. The IIIB Baltic Sea Region and IIIB North Programmes lay down the question of taking into account the costs of domestic transfers (as international costs are eligible).

#### 2.2.7. Purchasing of second-hand equipment (Rule No 4 of the (EC) Reg. 448/2004)

The purchasing of second-hand equipment is possible within the framework of Community regulations if the following three conditions are met (Rule No 4 of the (EC) Reg. 448/2004):

- the seller of the equipment shall provide a declaration stating its origin and confirm that at no point during the previous seven years has it been purchased with the aid of national or Community grants;
- the price of the equipment shall not exceed its market value and shall be less than the cost of similar new equipment;

- the material shall have the technical characteristics necessary for the operation and comply with applicable norms and standards.

This issue of the purchasing of second-hand equipment is one of the rare examples of expenditure that did not pose any problems to the programmes in the sample group.

#### 2.2.8. Purchase of land not built on (Rule No 5 of the (EC) Reg. 448/2004)

Regulation (EC) No 448/2004 (Rule No 5) lays down, as a general rule, that the cost of purchasing land not built on is eligible if the following three conditions are met:

- there must be a direct link between the land purchase and the objectives of the operation co-financed (no reserved area except for environmental conservation);
- land purchase may not represent more than 10% of the total eligible expenditure (except for environmental conservation, detailed below);
- a certificate shall be obtained from an independent qualified expert or duly authorised official body confirming that the purchase price does not exceed the market value.

Regarding the special case of environmental conservation operations, all of the conditions outlined below must be respected for the expenditure to be eligible:

- the purchase must be the subject of a positive decision by the MA;
- the land must be devoted to the intended use for a period determined in that decision;
- the land is not for agricultural purposes (except in duly justified cases by the MA);
- the purchase must be made by or on behalf of a public institution or body governed by public law.

Land purchases posed very few problems for the programmes in the sample group certainly because of the specificity of the INTERREG Initiative, which does not favour this type of acquisition. The IIIB NWE Programme indicates that, when this type of expenditure is forecast, it restates the Community rule cited above.

#### 2.2.9. Purchase of real estate (Rule No 6 of the (EC) Reg. 448/2004)

The purchase of buildings already constructed, and the land on which they are built, is eligible for Community co-financing if the following conditions are met (Rule No 6 of the (EC) Reg. 448/2004):

- a certificate must be obtained from an independent qualified expert or duly authorised official body establishing that the price does not exceed the official market value, and either attesting that the building is in conformity with national regulations or specifying the points that are not in conformity where their rectification by the final beneficiary is foreseen;
- the building must not have been subject to a national or Community grant within the previous 10 years, which would give rise to a duplication of aid in the event of co-financing of the purchase by Structural Funds;
- the real estate must be used for the purpose and for the period decided by the MA;
- there must be a direct link between the purchase and the objectives of the operation, i.e. the building can only be used in conformity with the objectives of the operation. In

particular, the building may be used to accommodate public administration services only where such use is in conformity with eligible activities.

Like land purchase, the acquisition of real estate has not posed any particular problems to the programmes in the sample group. The IIIB South-West Europe (SUDOE) Programme indicates, however, that it favours rentals.

#### 2.2.10. Fiscal charges (VAT and other taxes and charges) (Rule No 7 of the (EC) Reg. 448/2004)

This type of expenditure is governed by Rule No 7.

- VAT

As a general rule, VAT is not eligible. Indeed, recoverable VAT, by whatever means, is not eligible, even if the final beneficiary or individual recipient does not effectively recover it. To this end, Rule No 7 specifies that the status, public or private, of the final beneficiary or ultimate beneficiary does not enter into consideration for determination of the eligibility of VAT.

Nevertheless, there is an exception to this principle. Indeed, VAT can be eligible if it is really and definitively borne by the final beneficiary or individual recipient within the context of aid regimes relating to Article 87 of the EC treaty and in the case of aid granted by institutions designated by Member States.

The difficulty is to prove whether the VAT is definitively and irrecoverably borne by the final beneficiary. This makes confirmations of the eligibility of VAT claimed by a project extremely difficult. Second Level Control often uses declarations from national tax authorities to verify it but other control bodies may not have access to this information or the resources to collect it.

- Other taxes and charges

As with VAT, the general rule is that taxes and charges (in particular direct taxes and social security contributions on wages) cannot be the object of Community co-financing.

Nevertheless, there is an exception to this principle. Indeed, taxes and other charges can be eligible on the strict condition that they are genuinely and definitively borne by the final beneficiary or individual recipient.

Half the programmes in the sample group bring up the question of VAT. The IIIA Programmes Oresund Region, Upper Rhine Centre-South and Ireland – Northern Ireland cite, for example, variations in the rules of restraint from State to State, or over the course of time for the same partner. This all leads to complicated calculations for IIIB South-West Europe (SUDOE). This issue is also brought up by the IIIA Greece – Italy Programme.

#### 2.2.11. Expenditure linked to a leasing operation (Rule No 10 of the (EC) Reg. 448/2004)

Expenditure linked to a leasing operation can receive ERDF financing. Here, Regulation (EC) No 448/2004 distinguishes two cases: aid granted to the lessor and aid granted to the lessee. In the context of INTERREG, only the second example is relevant.

Consequently, if expenditure linked to a leasing agreement is eligible in principle, Community legislation frames this type of expenditure:

- the lessee must be the direct recipient of Community co-financing;
- what is eligible is the rent paid by the lessee to the lessor (accompanied by a receipted invoice or an accounting document of equivalent probative value).

Consequently, several situations are possible:

- in the hypothesis where the length of the contract overruns the final date foreseen for taking Community payments aid into account, only expenditure linked to rent due and actually paid out by the lessee until the final payment date (31.12.2008) is eligible. As a matter of fact, the Community aid is transferred in one or several instalments according to rent actually paid;
- if a repurchasing clause or a minimum rental period is included in the leasing contract, the maximum eligible amount must not exceed the market value of the equipment rented;
- if the contract does not contain a repurchasing clause or if the length is less than the period corresponding to the useful lifespan of the good that is the object of the contract, the rental is eligible for Community co-financing proportionate to the eligible period of the operation. Nevertheless, the lessee must be able to prove that the lease agreement was the most profitable way of getting use out of the good.

Nevertheless, taking into account the length of the programme, this type of assistance is not advised. At any rate, it is to be avoided at the end of the programming.

#### 2.2.12. Staff costs and travel expenses (Rule No 11 of the (EC) Reg. 448/2004)

The staff costs and travel expenditure within the context of the management and implementation of Structural Funds are either governed by the general rules of eligibility of expenditure for those not considered technical assistance or subject to the interpretation of the (EC) Reg. 448/2004, which, in Rule No 11, lays down the principles relating to technical assistance for the benefit of public administrations.

#### 2.2.13. Technical assistance for the programme

Expenditure linked to management, implementation, monitoring and control: for all of these interventions, the ERDF contribution should not be higher than 5% of the total Structural Funds contribution (Rule No 11 - point 2.5 indicates that this limit can be raised, in particular for INTERREG programmes, to take into account greater management and implementation costs; the limit must be fixed in the Commission's decision). This expenditure is subject to a specific measure in each programme. Eligible expenditure is as follows:

- expenditure relating to the preparation, selection, appraisal and monitoring of the assistance and of the operations (except expenditure on the acquisition and installation of computerised systems for management, monitoring and evaluation, Cf. other expenditure);
- expenditure on meetings on Monitoring Committees and sub-committees relating to the implementation of assistance. This expenditure may also include the costs of experts and other participants in these committees (including third country participants), where the chairperson of such committees considers their presence essential to the effective implementation of the assistance;

- Expenditure relating to audits and on-the-spot checks of operations.

Expenditure linked to salaries (including social security contributions) is eligible provided the period of appointment or employment does not exceed the final date for eligibility of expenditure fixed in the EC Decision approving the assistance. Civil servants must be appointed temporarily through a formal decision by the authority competent in the execution of such tasks (there must therefore be a secondment). Other contractual staff must be employed for the execution of these tasks.

Other conditions linked to technical assistance are not subject to these conditions. These concern, in particular, seminars, information actions, evaluation, acquisition and implementation of computerised management, monitoring and evaluation systems. In this context, expenditure linked to the salaries of civil servants or other public agents are not eligible.

- **Expenditure linked to the execution of programme operations (outside technical assistance)**

It is possible to have Community co-financing for some public administration expenditure linked to the execution of operations outside technical assistance. The general condition for being able to benefit from such ERDF financing is that this expenditure does not arise from statutory responsibilities of the public authority or day-to-day management, monitoring and control tasks. The specific rules stated below are also added to this general rule.

Consequently, the following expenditure is eligible:

- costs of professional services rendered by a public service in the implementation of an operation. Regarding this expenditure, the costs must either be invoiced to the final beneficiary (public or private), or certified on the basis of documents of equivalent probative value (in order to identify all the real costs paid by the public service concerned in relation to that operation);
- the costs linked to implementation of an operation, including the expenditure related to the provision of services borne by a public authority without recourse to outside engineers or other firms. The expenditure concerned must relate to expenditure actually and directly paid on the co-financed operation and must be certified on the basis of documents that allow identification of real costs paid by the public service concerned in relation to that operation.

Regarding the particular case of travel and accommodation expenses within third countries (non EU Member States),, please refer to paragraph 2.2.13 which deals with geographic eligibility.

Staff costs are brought up by half the programmes in the sample group which, like the IIIA Oresund Region Programme, must restate that staff overheads are not eligible. The IIIA PAMINA Programme points out the difficulty, sometimes, in producing wage slips because of the inclusion of confidential information (the religion of the employee in Germany, for example).

IIIA Upper Rhine Centre-South points out the question of the means of calculating the costs of people who do not work full-time on the project. Most programmes insist, moreover, on the necessity of producing statements of hours in this instance.

IIIC South Zone points out the particular case of provision of staff by one of the partners and the classification of this expense as staff costs or external expertise.



2.2.14. Expenditure “outside the area” and taking into account third countries with the INTERREG programme (Rule No 12 of the (EC) Reg. 448/2004)

The eligibility of operations depending on their location is detailed in Rule No 12 of the (EC) Reg. 448/2004.

The basic rule is that operations co-financed by Structural Funds must be located in the eligible area of the programme to which the assistance relates. Nevertheless, it is possible to finance beyond the eligible zone *stricto sensu*, in the case where a project covers a broader area, provided that the operation takes place in a contiguous zone (adjacent area).

It is consequently advisable to calculate the maximum expenditure of the operation in proportion to the anticipated benefits of the operation envisaged for the eligible area concerned (here, benefit is to be understood in the broadest sense, as a “return” for the zone). This evaluation of the benefit generated by the ERDF assistance, which takes into account the specific objectives of the assistance and its desired impact, could be carried out by an institution or service independent of the MA.

In addition, all the following conditions must be met to all such co-financing:

- at least 50% of the expected benefits must be carried out in favour of the eligible territory;
- eligible expenditure linked to operations carried out outside the eligible zone must not exceed 10% of total eligible expenditure for the measure;
- eligible expenditure for all operations carried out outside the eligible zone must not exceed 5% of total eligible expenditure for the assistance.

Operations accepted by the MA with this derogation must figure in the annual and final execution reports for the assistance. If these conditions are not met, the only remaining solution is to ask the State to make a request to European Commission, which approves on a case-by-case basis.

Beyond the general framework presented in Community regulation (EC) No 448/2004, certain problems of geographical eligibility can arise for programmes associated with third countries. To this end, travel and accommodation expenses can be subject to specific interpretation and must respect the enumerated conditions.

Regarding travel and accommodation on EU territory: partners and participants originating from third countries are eligible for ERDF co-financing if the following two conditions are met:

- the meeting or seminar must take place on EU territory;
- the seminar or meeting must be part of a project when this had been programmed;
- linked expenditure must be budgeted, accounted, paid and declared by a partner situated within the EU.

Regarding travel and accommodation costs in a third country, such costs for partners and participants originating from EU Member States are eligible for ERDF co-financing when a meeting or seminar takes place in a third country if the following conditions are met :

- the meeting or seminar must be necessary for the overall success of the project. Determination of the “vital” aspect of the meeting or seminar is left to the programme authorities;
- the meeting or seminar must be part of the programming and if this is not the case, the MA and the JTS must give prior authorisation to the eligible character of the demonstration. In this case, the request must be sent to the MA or JTS before the meeting takes place;



- these expenses must be budgeted, accounted, paid and declared by a partner situated within the EU.

The travel and accommodation expenses paid by EU partners to allow external experts to travel to third countries are also eligible. The IIIC Programme therefore allows consideration of these costs to be eligible.

Nevertheless, the following are not eligible for ERDF co-financing:

- costs for organising meetings, seminars outside the EU;
- travel expenses for partners or participants from third countries if the meeting takes place in a third country.

Finally, regarding the costs for external expertise or material from a company situated outside the European Union, an EU partner can subcontract expertise or buy material from third countries if the following four conditions are met:

- the service must be carried out within the territory of the EU. For expenditure on material, the material must be delivered on the EU territory;
- delivery of the service must be carried out according to the rules of the Member State concerned and the rules governing public procurement contracts in the EU;
- the subcontractor or service provider must not, at the same time, be a partner to the project;
- this expenditure must be budgeted, accounted, paid and declared by a partner from the EU.

This question of expenditure outside the area is the second greatest cause of worry for the programmes in the sample group, in particular those in Strand B. This is especially true when the expenditure is incurred in non-Member States and it is difficult to control the eligibility of such expenditure and to know which rules to apply. All the same, most of the programmes signal that they deal individually with this type of expenditure.

IIIA Wallonia-Lorraine-Luxembourg indicates that it is increasing instruction of projects on this point. IIIA Ireland – Northern Ireland furthermore wants clarification of the rules on this question and IIIB Alpine Space poses the question of taking into account seminars outside the programme area. IIIB NWE indicates that expenditure outside the area is, in principle, ineligible except if it is well justified and accepted in the instruction phase, which is also the case for IIIB South-West Europe (SUDOE).

IIIB Baltic Sea Region indicates that it has, for example, refused partners situated 10 km outside the eligible zone and IIIC South Zone would like to enlarge the possibilities of taking expenditure outside the programme area into account, favouring cooperation with third countries.

#### 2.2.15. Expenditure "out with deadlines": temporal ineligibility

For expenditure to be eligible temporally, two cumulative conditions must be met.

- firstly, the receipt must be dated between the adoption date and the end of the eligibility period;
- then it must be situated between the starting date and the closing date of the project, as specified in the subsidy contract signed between the MA and the Lead Partner.

Rules can differ regarding temporal consideration of certain expenditure. In certain programmes, preparatory work is taken into account, while in others this is not the case (like IIIB Baltic Sea Region). The IIIC East Zone Programme also takes into account the date the programme was adopted by the Monitoring Committee. Individual cases also arise when expenditure can only be effected after the end of the project (payment of certain social services as cited, for example, by IIIA Oresund Region, winding-up and audit costs, (cited by IIIA Ireland – Northern Ireland). To counter these problems, certain programmes allow a supplementary delay (three months, for example, for IIIA Upper Rhine Centre-South or two months for IIIA Wallonia – Lorraine – Luxembourg) at the end of the project for winding-up and gathering in all the receipts.

Taking into account the importance of the question, more than half the programmes in the sample group mentioned it (and one third specifically mentioned the question of preparatory costs), with the IIIB Alpine Space Programme indicating that there are sometimes misunderstandings with the Lead Partners regarding the start date of eligible expenditure.

#### 2.2.16. Non-justified or unjustified expenditure

Unjustified expenditure is that which was not foreseen at the beginning of the project and does not correspond to the type of project as adopted by the Steering Committee. Non-justified expenditure is that for which project partners were not able to produce payment receipts. Half the programmes signal this point, like the IIIB Programmes Indian Ocean / Réunion Island and Caribbean Space, by indicating that this expenditure was, in principle, ineligible.

One third of the programmes in Strands B and C mention this type of expenditure, although the IIIA Ireland – Northern Ireland Programme feels that, at this stage of programming, there is little chance of encountering it. The IIIB Baltic Sea Region Programme indicates that the procedure they follow is that Lead Partners seek authorisation to integrate this expenditure but that, considering the considerable administrative burden of dealing with these requests, it would be useful, perhaps, to foresee more flexible mechanisms authorising reallocations between budgetary lines of the project.

### **2.3. Consequences in case of doubt about the eligibility of expenditure**

Problems of ineligibility of certain expenditure can lead to two possible types of consequences for a programme: these problems can call the unity of the programme into question and they can entail legal and financial responsibilities for certain partners.

#### 2.3.1 Differences of interpretation within the same programme or between neighbouring programmes

The risk of differences of interpretation is perhaps inherent in the way in which regulations foresee subsidiary application of eligibility of expenditure.

All the same, it can be very embarrassing for the cross-border image of the programme and cooperation between project partners if certain expenditures are not dealt with in same way according to their location.

The programmes that are part of the sample group in the context of this study have thus indicated that this case has been encountered in the mode of calculation of depreciation costs or the transmission of wage slips, for example.

The possibility of having different interpretations between two contiguous programmes that decide to co-finance the same project (with the previously mentioned caveat that the budgets presented to the two programmes must be distinct as must the preparation, selection and checking procedures) is added to this risk of a difference of interpretation within the same programme. For example, the IIIA Programmes PAMINA and Upper Rhine Centre-South have jointly financed a survey related to health indicators or a cross-border climate atlas.

### 2.3.2. Legal and financial risks for the MA, the Lead Partners, and even for national correspondents

According to Community rules, it is the MA that stakes its legal and financial (and political) responsibility in case of failure of the Lead Partner, its partners or national correspondents to the programme.

In cases of non-compliance with its obligations, and in particular in case of failure in executing the project, the MA may be held responsible in a number of ways:

- **Financial responsibility:** the MA is responsible *in fine* for the proper use of Community credits in the programme. If an unwarranted expenditure has escaped the nets of the different controls (especially first and second level controls), it is up to the MA to recover the unwarranted expenditure from the responsible project partner, the project Lead Partner if it is not directly involved or eventually from the national correspondent concerned. Where it is not possible to recover this sum, except where the unwarranted expenditure is not taken into account in the Community budget (procedure in Article 5 of Regulation (EC) No 1681/1994<sup>5</sup>), it falls to the MA to pay this sum back to the programme. It is thus in its interest to guarantee itself against this risk and the signing of a subsidy contract appears to be a useful protection.
- **Legal responsibility:** the MA's responsibility to the programme involves several types of legal risks. The first type of risk can, of course, arise between the MA and the Lead Partner (or possibly with one of the project partners) in case of disagreement over the payment of Community aid. The MA can also enter into litigation with the national authorities concerned and, primarily, with its State if it has been trusted with this mission. The MA also risks litigation with Community institutions concerned (depending on the share of responsibility between the MA and its Member State). Finally, the MA can also enter into conflict with third parties to the programme (non-subsidised competitive firms, individuals alleging damages due to operations co-financed by the programme, etc.).
- **Political responsibility:** poor execution of the programme can be translated into several forms (automatic decommitment, dissatisfaction of the Lead Partners and partners, insufficient impact of the projects on the region) and has political consequences for the MA, both with partners in its country and in the other countries. Legal risks are part of this family of events that play on this political image. As an example, we can cite the case of a regional level MA that was obliged to begin litigation against one of its own municipalities, which is, to say the least, problematical. Another potential political risk is that the political opposition

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<sup>5</sup> Commission Regulation (EC) No 1681/1994 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of structural policies and the organisation of an information system in this field.

within the MA could use an OLAF declaration or a Community report to discredit the execution of the programme by the majority bodies of the MA<sup>6</sup>.

Because of these risks, the MA is going to protect itself, firstly by contracting with project Lead Partners on the basis of the INTERREG III Communication, which, in Article 25, provides “The definition of a system of financial management permitting a transfer from the ERDF (and preferably also from the respective national co-financing agreements) to a single account for each programme and the rapid and transparent forwarding of this finance to the final beneficiaries; the joint arrangements may, for this purpose, include signature of an agreement between the various authorities of the countries participating in the programme as well as an obligation on the various partners at project level, to also sign an agreement concerning their mutual financial and legal responsibilities”<sup>7</sup>.

Article 31 also states that: “The ERDF contribution will be paid to a single bank account in the name of the Paying Authority (PA) or the Managing Authority (where it is also the Paying Authority). On the basis of decisions concerning the selection of projects by the Steering Committee or the Monitoring Committee acting as the Steering Committee, this ERDF participation will then, according to Article 32(1), last sub-paragraph, of the General Regulation be paid by the PA to the final beneficiaries or, as appropriate, to the authorities or bodies designated to implement the various sub-programmes and measures. In this case, these authorities will then make the payments to the final beneficiaries. In the case of operations involving partners in different Member States, the final beneficiary will be the partner in charge of the operation that will undertake the financial management and coordinate the various partners in the operation. This partner in charge will bear financial and legal responsibility to the MA. The partner in charge will establish with these partners, possibly in the form of an agreement, the division of mutual responsibilities”<sup>8</sup>.

The legal and financial risks are therefore not neutral for the Lead Partner and it must be alerted and prepared for these.

Finally the MA can also make an agreement with the authorities in charge of second level control operations, for example, and envisage, notably, that it is the Member States which are responsible for procedures for recovering unwarranted expenditure on their territory and the eventual repayment to the programme of the sums that can neither be recovered nor covered by the Community assistance.

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<sup>6</sup> INTERACT, *Recommendations for the implementation of INTERREG III Subsidy contracts*, 2005, p. 8.

<sup>7</sup> Communication of the Commission to the Member States of 2 September 2004 laying down guidelines for a Community initiative concerning transeuropean cooperation intended to encourage harmonious and balanced development of the European territory INTERREG III (2004/C 226/02), Art. 25.

<sup>8</sup> *Ibid*, Art. 31.

## ***2.4. Tools and methods implemented in the sample group to determine whether an expense is eligible***

### 2.4.1. Case-by-case and/or country-by-country analysis

Here, in instances of doubt over the eligibility of expenses, these should be analysed on a case-by-case basis without putting any specific tools in place. The advantage of this solution is individual treatment, which will guarantee an adapted response. The major disadvantage is that it can lead to different methods used depending on the projects or the national zones of the programme concerned. In addition, when there has been staff turnover, there is a risk of forgetting the ad-hoc solution previously found. It is therefore useful to archive properly the method used as well as the response given to the question of eligibility.

The survey of the sample group showed a broad variety of practices in the matter. Consequently, the IIIB South-West Europe (SUDOE) Programme carries out analysis on a case-by-case basis with common European Commission rules and national rules as a guide. The Programme also follows a country-by-country analysis on the basis of national rules, potential contacts with national control bodies and through debates in transnational technical meetings. The IIIB North West Europe Programme, although it practices case-by-case analysis, nevertheless does not follow a country-by-country analysis as, according to the programme managers, the same rules must be applied to everyone within the programme. Finally, the IIIA Oresund Region Programme operates an inverse policy as it does not practice case-by-case, but rather country-by-country analysis based on the Lead Partner Principle. Indeed, within the context of this programme, the rules applicable to all partners to a project are those applicable in the State where the Lead Partner is based.

### 2.4.2. Production of specific eligibility notes for each type of expenditure

This method is interesting and can, moreover, spring from legal committee meetings as it gives an overall vision of the question of eligibility to all the actors concerned and, in particular, the services in charge of animation as well as the partners and Lead Partners.

These eligibility notes will either be diffused internal to the programme stakeholders, or can be compiled and made available on the programme Website, for example, or in documents such as an audit or procedural guide.

The IIIA PAMINA and Upper Rhine Centre-South Programmes, for example, produced these types of notes in order to allow better knowledge of the rules for eligibility of expenditure. It is the same for the IIIB Caribbean Space Programme and the IIIC South Zone Programme which also resort to this tool.

### 2.4.3. Establishment of a cross-border legal committee to ensure common acceptance of the criteria for eligibility of expenditure

To respond to the disadvantages of dealing on a case-by-case basis with these eligibility problems, certain programmes have set-up the equivalent of a cross-border legal committee.

This is generally composed of the following members:

- members of the JTS;

- members of the MA;
- representatives of national partners to the programme.

Its role is to analyse the different types of cases of eligibility arising and to give a common response valid for all of the programme, which strongly limits the risks of using different methods and legal insecurity while clarifying the national rules of each of the States concerned.

This type of tool is not used much by the programmes of the sample group as only three programmes have set up such a system: the IIIA Programmes Wallonia – Lorraine – Luxembourg and PAMINA as well as the IIIB Programme South-West Europe (SUDOE).

#### 2.4.4. Coordination with European Commission services

Another possible solution for facing up to questions about the eligibility of expenditure consists in setting up regular coordination with European Commission services on this subject. For most of the programmes, this would consist of consultations on a case-by-case basis with the services of DG Regio when needed.

In the course of the survey, it came out that few programmes communicate regularly with the European Commission on the subject. A good number of programmes even note the difficulty understanding the European Commission on these questions.

Consequently, the IIIB Baltic Sea Region and Indian Ocean / Réunion Island Programmes figure among those that had the opportunity to seek advice from the European Commission in the field of eligibility of expenditure. Regarding the Baltic Sea Region Programme, these were in fact official questions on precise points, notably on questions relating to the eligibility of expenditure for third countries.

#### 2.4.5. Diffusion of a specific audit guide for the programme

This is a good response given to questions of eligibility that will, in this case, be compiled in a manual belonging to the authorities in charge of instruction and controls. This document can also, if required, be distributed to the assessment/instruction services or even, eventually, the Lead Partners of programmed operations or those who envisage making a request for financial assistance.

This practice is fairly frequent in the context of the different programmes in the sample group, as two third of the programmes surveyed completed and distributed this type of tool, such as for instance IIIA Ireland – Northern Ireland and IIIB Alpine Space. For the IIIB Programme, this was a guide relating to first level controls in particular. For the IIIA Programme, it consisted of guidance notes. For the two programmes, these documents were distributed notably via the Internet and are available on the programme Website.

#### 2.4.6. Inclusion of types of eligible or ineligible expenditure in the documents for the attention of project Lead Partners

Another variation in relation to integration of elements of ineligibility into an audit or procedural guide is that certain programmes directly present eligibility rules in the information documents for potential project participants.

This constitutes a precious help at the time of prior discussion between partners and the drafting of the request for INTERREG co-financing.

The disadvantage is that the drafting of the guide can lack clarity and lead to confusion as, from time to time, questions of eligibility are really specific to a project.

This solution was adopted by more than 75% of the programmes in the sample group. This is especially the case in the INTERREG IIIC North Zone and West Zone Programmes. Consequently, for the West Zone Programme, for example, expenditure is included by category of eligible cost in the progress reports. As for the North Zone Programme itself, in each document there is a link leading to a list of eligible expenditure.

#### 2.4.7. Elimination of ineligible expenditure

A radical measure adopted by certain programmes, so as to avoid difficult or contentious interpretations, is to declare certain types of expenditure, like consideration of overheads or depreciation, ineligible in principle.

This is certainly the simplest solution even if it deprives project participants of financial assistance for certain types of expenditure.



### 3. REVIEW: TOOLS FOR DETERMINATING THE ELIGIBILITY OF EXPENDITURE

From the study undertaken within the sample group covering all three Strands of the INTERREG Initiative, significant trends emerge regarding the good practices recommended by the programmes. This part, which addresses all the suggestions put forward by the different programme managers that responded to the survey, also contains some proposals as these suggestions concern existing programmes as well as future programmes that will start up in the course of next year. Consequently, these elements of good management that are the fruit of the experience of numerous programme managers could also turn out to be useful in the development of new programmes for 2007-2013.

#### ***3.1. Good practices to be implemented***

The good practices surveyed in the programmes of the sample group are numerous and can serve as a basis for good management, by limiting the risks of ineligibility of expenditure. These good practices recommended by the programme managers, although relatively homogeneous across the three Strands, were nonetheless not always given the same recognition in the course of the survey. In effect, they were not judged with the same degree of relevance by the different programmes. For this reason, the good practices must be distinguished using the following method:

- good practices slightly recommended, i.e. those that were expressed by less than one third of the managers questioned in the context of the sample group;
- good practices moderately recommended, i.e. those that were expressed by less than two third of the managers questioned in the context of the sample group;
- good practices strongly recommended, i.e. those that were expressed by more than two third of the managers questioned in the context of the sample group.

##### 3.1.1. Good practices slightly recommended

Firstly, the good practices that were not supported by a large number of programmes, but that are interesting all the same, can be identified as some of them were implemented within certain programmes.

##### a. Determination of the appraisal margins of the MA

The first good practice that has been recommended by a small group of managers consists in determining, in a clearer manner, the appraisal margins of the MA in instances of doubt on the eligibility or not of such and such expenditure. In effect, determination of the appraisal margins of the MA is to be discussed between programme partners and, notably, the national authorities concerned. This is to ensure proper understanding of the possibility of the MA declaring the ineligibility of expenditure during the instruction phase or during the verification of service rendered, for example, and the fact that all the partners accept this decision.



This good practice only appeared relevant to 21% of the managers' questions, which goes to show that this type of good practice did not really convince the respondents to the survey. Nevertheless, we can note that this type of practice works well in the framework of the IIIA Ireland – Northern Ireland Programme, especially through the distribution of framing notes and through the setting up of a working group tasked with procedural questions.

b. Clarification of the existing link between eligibility of expenditure and automatic decommitment

The question of clarification between the eligibility of expenditure and automatic decommitment can also be relevant as there is a risk for a programme, subject to a risk of automatic decommitment, to soften the rules on eligibility to "save" a more significant number of expenditure, which will reduce the potential decommitment. The risk here is of taking into account expenditure that is normally ineligible in order to avoid a potential decommitment. Consequently, it could be important to clarify these two notions.

The survey has shown that few of the programmes questioned (only 29%) judged this practice relevant and that a certain number of managers felt that the risk was limited. It is quite interesting to remark that of the programmes that suggested this good practice, nearly all of them belong to Strand A. The programmes in Strands B and C in the sample group almost never selected this good practice. Indeed, INTERREG IIIB Alpine Space is the only one outside Strand A to have recognised this good practice as relevant.

3.1.2. Moderately recommended good practices

The following four practices were underlined by at least half the managers questioned.

a. Identification of projects and themes at risk

The identification of projects and themes at risk, that was underlined by 43% of the people questioned, can be an interesting method for taking into account the eligibility or not of an expenditure – this practice may also contribute to avoid automatic decommitment. Overall, the projects or themes to watch out for more specifically would be those that:

- are likely to create receipts;
- necessitate public calls for tender procedures;
- are subject to public inquiry procedures;
- the timetable risks being called into question easily;
- intervene in the market sector;
- risk combining Community of national aid – outside the provisional financial plan or aid that is equivalent to State aid.

Although some programmes felt that there are not *a priori* themes that present greater "risks" than others, a certain number of programmes consider this practice useful, notably the IIIA Greece – Italy and PAMINA Programmes.

b. Upstream coherence controls that are sufficiently justified

The establishment of upstream coherence controls (before project selection) allows lessons to be drawn in terms of eligibility of expenditure on behalf of the project concerned. Furthermore, for all the operations of the programme it can constitute an interesting way of tackling the question of eligibility of expenditure for half the managers questioned. Consequently, for example, the INTERREG IIIB Caribbean Space Programme along with the INTERREG IIIC South Zone Programme judged this practice relevant.

c. Improvement in the quality of relations between the MA and the Lead Partner

The quality of relations between the MA and the Lead Partner is a key element in eliminating risks of ineligibility. Indeed, the Lead Partner has an important function of spreading information to the different partners of its project. In effect, although it is legally and financially responsible for undertaking its project, it must rely on the partners to implement their activities in the form prescribed on their respective territories.

It is therefore important that the relations and transmission of information between the programme authorities and the Lead Partners are open and transparent. These relations can be established outside financial and administrative periods (like the submission of reports or expenditure declarations), through information days, sending letters, etc.

To this end, nearly 57% of programme managers questioned consider that improvement in the relations between the MA and the Lead Partner constitutes an important good practice vector. It is interesting to note that this good practice was identified, above all, by managers from Strand A, notably the INTERREG IIIA Oresund Region and Wallonia – Lorraine – Luxembourg Programmes. The managers of programmes in Strands B and C proved to be hardly aware of the need for such a practice, judging notably the relations between the MA and the Lead Partner were already good.

d. Better drafting of the subsidy contract between the MA and the Lead Partner

The subsidy contract between the MA and the Lead Partner is designed to guarantee:

- the rights of the Lead Partner to obtain the Community, subsidy respecting the objective of the assistance as programmed by the Steering Committee;
- the rights of the MA;
- respect for national and Community rules;
- conformity of the project undertaken to the programming decision.

The subsidy contract between the MA and the Lead Partner is a key to avoiding problems of eligibility. Nevertheless, it has to be mentioned that a contract will never be able to cover all situations. Furthermore, attempting to do so can be dangerous as projects may assume that all expenditures not covered by the contract are by definition eligible. This may promote a tendency to look for loopholes and potential abuses.

To this end, for nearly 57% of the programme managers questioned, improvement in the drafting of subsidy contracts could have a positive impact in the field of eligibility of expenditure. For example, the INTERREG IIIB South-West Europe (SUDOE) Programme considers that it would be

worthwhile to include a more detailed explanation of the eligibility rules in the grant offer letter, with current agreements being not detailed enough in this area. The INTERREG IIIC North Zone Programme specifies that, rather than including eligibility notes directly in the contracts, it would perhaps be better to insert links in the agreement referring to separate documents dealing with eligibility that are frequently updated.

### 3.1.3. Strongly recommended good practices

Finally, four good practices were strongly recommended by the managers questioned. A good number of them received almost complete consensus and were considered very relevant.

#### a. Better preparation of projects

Good preparation of the projects is an essential element to avoid risks of ineligible expenditure and to allow “stabilising” of all expenditure afterwards in the subsidy contract. This preparation must allow identification, then clarification or elimination of the risk of ineligibility of expenditure. This operation is particularly important as it intervenes upstream. This practice is complementary to other practices identified hereafter, notably good information for the Lead Partners and the partners.

Consequently for nearly 80% of the managers questioned, better preparation of the projects constitutes a serious line to follow for better treatment of questions of eligibility. It is thus interesting to note that all the INTERREG IIIA programmes questioned underlined the relevance of this good practice, in particular Upper Rhine Centre-South.

This recommendation is, however, accompanied by a note of caution from some programmes. The desire for greater project preparation and improved evidence of this in application forms needs to be balanced against the need to allow project flexibility: No project is ever implemented as originally planned and the expenditure outlined in the application should not be used as an excessively restrictive framework during implementation.

#### b. Establishment of reinforced coordination between the different authorities of the programme concerned

The establishment of reinforced coordination between the different programme authorities affected by the question of eligibility of expenditure (MA, PA, JTS, national correspondents, etc.) allows upstream identification of the risks of ineligibility and to produce prior responses that can serve the animation, instruction and agreement and control services.

This good practice was mentioned by 86% of the managers questioned. All the managers of the programmes in Strands A and C within the sample group underlined the relevance of this good practice, like the INTERREG IIIC West Zone Programme.

c. Practical tools for programme animators or project partners and the drafting of a common audit guide

Setting up practical tools for programme stakeholders and project partners (in particular potential Lead Partners) is important for nearly 86% of the managers questioned. With regard to the possibility of completing a common audit guide, this proportion reaches near-unanimity. The tools can consist of drafting a common audit guide, a vade-mecum to help with setting up projects or, for example, specific eligibility leaflets for the project promoters (for example, how to calculate a distribution scale for the running costs for an administrative body). This can also take the form of communication tools, newsletters or the distribution of information through a Website.

To do this, numerous programmes have drafted practical guides for programme managers or Lead Partners. The distribution of such tools is often perceived as an efficient slant on the dissemination of information on eligibility of expenditure. To do this, for example, the IIIB North West Europe Programme published a collection of guidelines and suggests the distribution of a common audit guide for all the INTERREG programmes. Nevertheless, these tools are rarely sufficient by themselves, as they must be explained, especially to the Lead Partners. Consequently, as was done by the IIIA Ireland – Northern Ireland Programme, regular seminars can be organised in the field of eligibility of expenditure by using the tools as a support. With regards tools, this programme has a large range of communication tools, like a newsletter or the distribution of information via a Website.

d. Specific information days for the managers of the programmes and training for the Lead Partners

The programmes perceive the organisation of information days for programme managers on the theme of eligibility of expenditure as a necessary step. Indeed, nearly all those questioned underlined the importance of this practice, like the INTERREG IIIB Baltic Sea Region Programme in particular. The INTERREG IIIB South-West Europe (SUDOE) Programme indicates that it would be good to organise these types of days with members of the European Commission or with managers of other INTERREG programmes.

In addition, specific information and training for the Lead Partners of programmed projects on the question of eligibility of expenditure is also a complementary practice whose importance was underlined by nearly all the programme managers questioned, notably the INTERREG IIIB Indian Ocean / Réunion Island and ARCHIMED Programmes. This information could be provided during the project preparation phase, i.e. before its official submission, in order to inform the future Lead Partner on expenditure that could be taken into account by the ERDF. Training could also be organised. It could cover the clarity and traceability of documentary justification, the eligibility criteria of an invoice, what to do in case of doubt, informing project partners notably could intervene later, when project implementation has started.

### **3.2. *Proposals in view of the new European Territorial Cooperation Objective 2007-2013***

The whole legislative package relating to the Structural Funds programming period 2007-2013 has been published at the end of July 2006. Therefore, a certain number of elements can be put forward in terms of eligibility of expenditure for the new European Territorial Cooperation Objective 2007-2013.

Consequently, the new General Regulation<sup>9</sup> defines in Article 56 eligibility of expenditure by setting out firstly the temporal eligibility of future expenditure. Consequently, the date of eligibility of expenditure is fixed to start when the Operational Programmes are presented to the European Commission. The end of the eligibility period is fixed for 31 December 2015.

More fundamentally, Article 56(4) lays out the general principle that eligibility of expenditure rules will be established at national level, with exceptions foreseen in the specific regulations for each fund. They will affect all expenditure declared in the Operational Programmes. Nevertheless, the General Regulation, and above all the ERDF Regulation<sup>10</sup>, lay out some general rules regarding eligibility of expenditure.

Thus, Regulation (EC) No 1083/2006 lays out in its Article 56(2) the conditions for the eligibility of the following expenditure:

- in-kind contributions;
- depreciation costs;
- overheads.

In addition, in its Article 7, Regulation (EC) No 1080/2006 lays out the ineligibility of the following expenditure:

- debit interest;
- land purchases for an amount greater than 10% of total eligible expenditure for the operation concerned (with exceptions in the field of protection of the environment);
- the dismantlement of nuclear power stations;
- recoverable VAT.

This regulation also specifies in its Article 13, devoted to the European Territorial Cooperation Objective that national rules would apply in matters of eligibility of expenditure for future programmes.

It is useful to note that, following this first legislative package, the European Commission will adopt an implementing regulation at the end of 2006 or beginning of 2007 that will tackle, in particular, the following points:

- publicity and communication operations (equivalent to Regulation (EC) No 1159/2000);
- management and controls systems (equivalent to Regulation (EC) No 438/2001);
- eligibility of expenditure, in particular concerning the future Objective of European Territorial Cooperation (equivalent to Regulation (EC) No 448/2004).

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<sup>9</sup> Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.

<sup>10</sup> Regulation (EC) No 1080/2006 of the European Parliament and the Council of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999.

The upcoming Implementing Regulation could fix common rules of eligibility of expenditure at Community level for all European Territorial Cooperation programmes in the following areas:

- financial and guarantee costs (restate the ineligibility of litigation costs, fines and financial penalties);
- public administration expenditure linked to the implementation of operations;
- contributions in kind;
- general costs;
- depreciation.

To sum up, apart from the Community framework whose elements were presented above, it seems that eligibility rules will rely much more on national legislation for the 2007-2013 period than currently.

### **3.3. Conclusion**

It emerges from the survey carried out among actors of cross-border, transnational and interregional cooperation that the notion of eligibility of expenditure is a problem shared by all the programmes. This problem, however, is subject to different treatment and practices according to the specificities of each programme. Although, as indicated above, in dealing with the question of eligibility the accent is often placed on staff training and upstream information for project applicants, the survey has shown that the programmes, for the most part, regret the absence of regular contact with the European Commission on this point, with coordination and exchanges of good practices passing more through informal contacts between the programmes or via often cited INTERACT seminars.

It is also worth noting that a majority of programmes support a Single Community Framework (SCF) in terms of rules of eligibility of expenditure while, according to all responses, the programmes for 2007-2013 are heading, on the other hand, towards increased decentralisation of the eligibility rules, which, apart from a limited set of Community rules, will come from the Member States. The reason for this is that Community cannot impose a set of single rules that could contradict Member State sovereign powers in many areas.

Finally, the survey has shown that, far from constituting a single typical example when taking into account the eligibility of expenditure, the managers of the INTERREG programmes encountered noticeably the same difficulties as the managers of other programmes co-financed by the ERDF. If we exclude the specific case of expenditure outside the programme area, which is one of the main difficulties encountered in the framework of the programmes in the sample group and which, for the programmes linking third countries in particular, constitutes an INTERREG particularity, the other difficulties are encountered in all the programmes. This is mainly the case with the eligibility of overheads, contributions in kind (the valorisation of unpaid voluntary work also constituting a difficulty in certain programmes co-financed by the ESF, for example), expenditure outside the time limit and expenditure on infrastructure. Consequently, without a single Community framework, it will be important for the programmes that start up in 2007 to take into consideration the difficulties encountered during the current programming period and, according to the new priorities retained in the OP following the SWOT analysis and the ex-ante evaluation, to clarify as much as possible in advance the principles of the eligibility of expenditure that risk posing problems later.



## SUMMARY

### 1. Issues linked to eligibility of expenditure

The notion of eligibility of expenditure is essential for every project financed by European Structural Funds. Indeed, within the framework of the INTERREG III programmes co-financed by ERDF, as is the case for almost all the operations co-financed by European Structural Funds, payments are released on the basis of reimbursement of receipted invoices in the framework of a project that has identified, before being selected, a list of eligible expenses that could be open to Community financial assistance. The notion of eligible expense is thus particularly important in this subject, as it is precisely the eligible character of an expense that opens the rights to Community reimbursement.

Community texts impose a certain number of principles with regards to eligibility of expenditure. Nevertheless, the difficulty of the subject comes from the fact that there is no exhaustive list of eligible or ineligible expenses. Indeed the eligibility of expenditure is often assessed on a case-by-case basis, according to the nature of the dossier, on the basis of the whole financial plan proposed in the application.

Thus, the principle of eligibility of expenditure is not always easy to understand. Indeed, the question of knowing whether this or that expense enters into a programme's field of application is complex and is always the result of cross referencing several levels of regulation and practice that must be combined. These four levels are as follows:

- a restrictive body of Community rules: the first level of definition for eligibility rules is at Community level. Indeed, the regulations framing the action of European Structural Funds impose numerous eligibility and ineligibility rules. These are completed by communications from the European Commission relating to the INTERREG Initiative;
- national rules that can be more restrictive: numerous national rules are added to these Community rules. National rules govern to a large extent eligibility rules. Indeed, most questions of eligibility are not covered by EC regulations and thus fall within the scope of national legislation. These national rules can originate from budgetary or technical legislation;
- eligibility rules that can be specific to programmes (set in the OP): within the framework of the regulatory principles of eligibility, the different programmes retain a certain number of priorities that are also additional eligibility rules. These rules correspond to the notion of regional policy itself and are written into the programming documents developed by the partners at the start of the programme and during the course of its execution;
- rules linked to management of the programme: all these management rules relating to the programme form a sort of "jurisprudence" for the Steering Committee; this "jurisprudence" goes along with the national and Community eligibility rules.

### 2. Specific context of INTERREG III programmes

It is useful to note that the notion of eligibility, common to all programmes co-financed by European Structural Funds, takes a specific signification in the context of the INTERREG III programmes.

Actually, even though control of the eligibility of expenditure within the framework of the programmes comes from the same Regulation of Structural Funds, the specific cross-border, transnational or interregional nature of INTERREG programmes complicates the legal analysis to be done.

In addition, the MA is the body tasked with determining the eligibility of expenditure, or responsible for ensuring that this determination is carried out. It is therefore up to the MA to establish efficient programme structures that will, firstly, allow it to select operations that conform to internal and external eligibility rules, then to ensure all the way down the line of reimbursement of expenditure that the expenses presented by the Lead Partner have retained their initial eligible status.

The specific context of INTERREG implies also that the MA needs assistance from programme partners, and in particular from national authorities and from local government partners in the different Member States that participate in the programme. This assistance could consist of sharing the tasks, but always under the ultimate responsibility of the MA. It should be noted that most MAs have signed cooperation agreements with the Member States of their programme and sometimes a specific agreement with their own Member State, depending on the particular case, if it has specifically delegated the MA and PA missions and responsibilities.

Finally, the European Commission plays an important role in the context of INTERREG programmes. Actually, it gets involved at different moments in the life of the programme to verify, among other things, the eligibility of expenditure.

### **3. Different types of controls within the framework of INTERREG III programmes**

The question of eligibility of expenditure is very closely linked to that of controls implemented by the programme authorities: one of the main objectives of the controls is to verify, not only the reality, but above all the eligibility of expenditure co-financed by European funds. These controls on the Structural Funds assistance are of a different nature and occur at all stages of the life of the programme and projects. Furthermore, they bring in successive actors.

But for all that, these controls are not random and stem from a Community and national legal basis. This nevertheless leaves scope for a margin of interpretation or for some uncertainties. Consequently, it is up to the Managing Authority to delimit its discretionary powers of deciding the eligibility of an expenditure and to determine the measures to be taken in case of doubt.

Indeed, it is useful to avoid legal insecurity at programme level at all costs, which could damage not only the Lead Partner and its partners, but also the MA, which runs the risk of financial and legal liability in instances of difficulty.

The types of controls prescribed in the framework of the programmes are not specific to each of the programmes. For the most part, they come from the General Regulation of Structural Funds. Indeed, one of the corollaries of increased decentralisation in the management of programmes has been to reinforce existing control devices in order to ensure, at any moment, that the management of operations is running properly. Consequently, a series of mechanisms exists, notably on-the-spot controls that make it possible to guarantee adequate use of credits and to prove that the expenditure carried out is legal and regular. These control obligations were codified by Regulation (EC) No 438/2001, which defines and details the levels of control to be implemented in the context of Structural Funds.

Consequently, the basic principle is as follows: the Member State assumes general responsibility for the control and correction of irregularities. For that, it relies on the twin pillars which are the Managing and the Paying Authorities. This goes to ensure the transparency of the financial flow and the regularity of operations.

The different types of control are:

- control at the preparation stage of the project;
- the agreement between MA and Lead Partner (subsidy contract or grant offer letter);
- first level control (certification of service rendered);
- second level control (5% checks);
- external or third level controls (National and Community).

#### **4. Results of the analysis of the sample**

In this context, in order to have the most representative vision possible of the impact of the eligibility rules on INTERREG programmes, INTERACT Point Tool Box, Valencia and Maastricht, in collaboration with VIAREGIO, constituted the following sample group of programmes:

- Programme INTERREG IIIA Oresund Region.
- Programme INTERREG IIIA Greece – Italy.
- Programme INTERREG IIIA Ireland – Northern Ireland.
- Programme INTERREG IIIA PAMINA.
- Programme INTERREG IIIA Upper Rhine Centre-South.
- Programme INTERREG IIIA Wallonia – Lorraine – Luxembourg.
- Programme INTERREG IIIB ARCHIMED.
- Programme INTERREG IIIB Alpine Space.
- Programme INTERREG IIIB North West Europe (NWE).
- Programme INTERREG IIIB South-West Europe (SUDOE).
- Programme INTERREG IIIB Baltic Sea Region.
- Programme INTERREG IIIB Indian Ocean / Réunion Island.
- Programme INTERREG IIIB Caribbean Space.
- Programme INTERREG IIIC North Zone.
- Programme INTERREG IIIC South Zone.
- Programme INTERREG IIIC West Zone.

The 16 programmes represented here cover six programmes from Strand A, seven programmes from Strand B and three programmes from Strand C. This sample is sufficiently representative as it represents, on one hand, the three Strands of the INTERREG Initiative, on the other hand, it ensures sufficiently broad geographical representation.

#### **4.1. Main types of expenditure posing problems**

Analysis from the sample group has firstly allowed the identification of the different types of expenses that are likely to pose problems in their interpretation.

##### **4.1.1. Overheads and running costs**

This is the main area of expenditure posing problems or for which the programme authorities are most watchful. They are all costs for which there is no properly identified invoice relating to the project financed by ERDF, but instead a large number of general invoices (rent, telephone bills, postage costs, consumables, office equipment, photocopies, heating, electricity or any other administrative expense necessary for the proper fulfilment of a project) from which it is difficult to identify precisely the part concerned by the project.

Often project partners and Lead Partners show misunderstanding of the way in which these expenses must be accounted or how their settlement must be justified.

##### **4.1.2. Contributions in kind**

Contributions in kind are the second most significant area of risk expenditure for programme managers, especially as the value of the good or the contribution of the person has made to the project is difficult to calculate and check.

Regulation (EC) No 448/2004 (Rule No 1.7) states that contributions in kind are eligible but that they must correspond to the following limited list:

- contribution of land or real estate;
- contribution of equipment or raw materials;
- contribution of research or professional activity or unpaid voluntary work.

##### **4.1.3. Fiscal charges (VAT and other taxes and charges)**

The question of possible eligibility of paid VAT (and other taxes and charges) comes in third position for two main reasons:

- the heterogeneity of the fiscal regimes of partner States means that the tax applicable to the expenditure will not obey the same rules, depending on the geographical origin of a partner's expenditure;
- the fiscal status of the partner can sometimes be difficult to determine (rules of restraint can vary in the course of a project according to the nature of the partner and / or the request).

Programme bodies need the support of the national authorities or confirmed auditors to master this type of expenditure.

#### **4.1.4. Expenditure “outside the area” and taking into account third countries with the INTERREG programme**

Subsequently, it is expenditure outside the area of the programme that poses problems for all programmes involved on the internal or external borders of the EU. The main questions concern the consideration of contiguous zones of the programme and travel or events to or from third countries.

#### **4.1.5. Expenditure "outside deadlines": temporal ineligibility**

Expenditure outside deadlines pose problems to programme managers to the same extent as with expenditure outside the area for several reasons:

- how to determine the start date of a project? In this regard, several factors can be taken into consideration like the adoption date of the Operational Programme, the date of submission or adoption of the project, the date of signing of the subsidy contract, etc. Preparation costs can also be added to this;
- how to determine the winding-up date of the project? This can be made with reference to the closing date stated in the subsidy contract, the closing date for expenditure, the date of winding-up of the programme, etc.

The answer to these questions is a combination of national and Community rules as well as the jurisprudence of the Monitoring Committee.

### **4.2. Consequences in case of doubt about the eligibility of expenditure**

Problems of ineligibility of certain expenditure can lead to two possible types of consequences for a programme: these problems can call the unity of the programme into question, and the legal and financial responsibility of certain partners may be held.

#### **4.2.1. Differences of interpretation within the same programme or between neighbouring programmes**

The risk or differences of interpretation is perhaps inherent in the way in which regulations foresee subsidiary application of eligibility of expenditure. All the same, it can be very embarrassing for the cross-border image of the programme and cooperation between project partners if certain types of expenditure are not dealt with in same way according to their location.

#### **4.2.2. Legal and financial risks for the MA, the Lead Partners, and even for national correspondents**

According to Community rules, it is the MA that stakes its legal and financial (and political) responsibility in case of failure of the Lead Partner, its partners or national correspondents to the programme.

In cases of non compliance with its obligations, and in particular in case of failure in executing a project, the MA may be held responsible in a number of ways:

- financial responsibility;
- legal responsibility;
- political responsibility.

#### **4.3. Tools and methods implemented in the sample group to determine whether an expense is eligible**

##### **4.3.1. Case-by-case and/or country-by-country analysis**

Here, in instances of doubt about the eligibility of expenditure, they should be analysed on a case-by-case basis without putting any specific tools in place. The advantage of this solution is individual treatment, which will guarantee an adapted response. The major disadvantage is the inherent risk of leading to different treatments according to the projects or the national zones of the programme concerned. In addition, when there is staff turnover, there is a risk of forgetting the ad-hoc solution previously found. It is therefore useful to archive properly the treatment method as well as the response given to the question of eligibility.

##### **4.3.2. Production of specific eligibility notes for each type of expenditure**

This method is interesting and can, moreover, spring from legal committee meetings as it gives an overall vision of the question of eligibility to all the actors concerned and, in particular, the services in charge of programme animation as well as project partners and Lead Partners.

##### **4.3.3. Establishment of a cross-border legal committee to ensure common acceptance of the criteria for eligibility of expenditure**

To respond to the disadvantages of dealing on a case-by-case basis with these eligibility problems, certain programmes have instituted the equivalent of a cross-border legal committee

This is generally composed of the following members:

- members of the JTS;
- members of the MA;
- representatives of national partners to the programme.

##### **4.3.4. Coordination with European Commission services**

Another possible solution for facing up questions of eligibility of expenditure consists in setting up regular coordination with European Commission services on this subject. For most of the programmes, this would consist of consultations on a case-by-case basis with the services of DG Regio when needed.

#### 4.3.5. Diffusion of a specific audit guide for the programme

This is a good response given to questions of eligibility that will, in this case, be compiled in a manual belonging to the authorities in charge of instruction and controls. This document can also, if required, be distributed to the assessment/instruction services or even, eventually, the Lead Partners of programmed operations or those who envisage making a request for financial assistance.

#### 4.3.6. Inclusion of types of eligible or ineligible expenditure in the documents for the attention of project Lead Partners

Another variation in relation to integration of elements of ineligibility into an audit or procedural guide is that certain programmes directly present eligibility rules in the information documents for potential project participants.

This constitutes a precious help at the time of prior discussion between partners and the drafting of the request for INTERREG co-financing.

#### 4.3.7. Elimination of ineligible expenditure

A radical measure adopted by certain programmes, so as to avoid difficult or contentious interpretations, is to declare certain types of expenditure, like consideration of overheads or depreciation, ineligible in principle.

### **5. Good practices to be implemented**

From the study undertaken within the sample group covering all three Strands of the INTERREG Initiative, significant trends emerged regarding the good practices recommended by the programmes.

#### **5.1. Good practices slightly recommended**

Firstly, the good practices that were not supported by a large number of programmes, but that are interesting all the same, can be identified as some of them were implemented within certain programmes.

- **Determination of the appraisal margins of the MA:** the first good practice recommended by a small share of managers questioned consists in determining, in a clearer manner, the appraisal margins of the MA in instances of doubt on the eligibility or not of such and such expenditure. In effect, determination of the appraisal margins of the MA is to be discussed between programme partners and, notably, the national authorities concerned. This is to ensure proper understanding of the possibility of the MA declaring the ineligibility of expenditure during the instruction phase or during the verification of service rendered, for example, and also common understanding of the fact that all the partners accept this decision.

- **Clarification of the existing link between eligibility of expenditure and automatic decommitment**: the question of clarification between the eligibility of expenditure and automatic decommitment can also be relevant as there is a risk for a programme, subject to a risk of automatic decommitment, to soften the rules on eligibility to “save” a more significant number of expenditure, which will reduce the potential decommitment. The risk here is of taking into account expenditure that is normally ineligible in order to avoid decommitment. Consequently, it could be important to clarify these two notions.

### **5.2. Moderately recommended good practices**

The following four practices were underlined by at least half the managers questioned.

- **identification of projects and themes at risk**: the identification of projects and themes at risk, that was underlined by 43% of the people questioned, can be an interesting method for taking into account the eligibility or not of an expenditure – this practice may also contribute to avoid automatic decommitment.. Overall, the projects or themes to watch out for more specifically would be those that:
  - are likely to create receipts;
  - necessitate public calls for tender procedures;
  - are subject to public inquiry procedures;
  - the timetable risks being called into question easily;
  - intervene in the market sector;
  - risk combining Community of national aid – outside the provisional financial plan or aid that is equivalent to State aid.
- **upstream coherence controls that are sufficiently justified**: the establishment of upstream coherence controls allows lessons to be drawn in terms of eligibility of expenditure on behalf of the project concerned. Furthermore, for all the operations of the programme it can constitute an interesting way of tackling the question of eligibility of expenditure for half the managers questioned.
- **improvement in the quality of relations between the MA and the Lead Partner**: the quality of relations between the MA and the Lead Partner is a key element in eliminating risks of ineligibility. Indeed, the Lead Partner has an important function of spreading information to the different partners of its project. It is therefore important that the relations and transmission of information between the programme authorities and the Lead Partners are open and transparent. These relations can be established outside financial and administrative periods (like the submission of reports or expenditure declarations), through information days, sending letters, etc.



- **better drafting of the subsidy contract between the MA and the Lead Partner:** the subsidy contract between the MA and the Lead Partner is designed to guarantee:
  - the rights of the Lead Partner to obtain the Community subsidy respecting the objective of the assistance as programmed by the Steering Committee;
  - the rights of the MA;
  - respect for national and Community rules;
  - conformity of the project undertaken in conformity with the programming decision.

Nevertheless, the fact that the subsidy contract between the MA and the Lead Partner is the absolute key to avoiding problems of eligibility should not be neglected.

### **5.3. Strongly recommended good practices**

Finally, four good practices were strongly recommended by the managers questioned. A good number of them received almost complete consensus and were considered very relevant.

- **better preparation of the projects:** good preparation of the projects is an essential element to avoid risks of ineligible expenditure and to allow “stabilising” of all expenditure afterwards in the subsidy contract. This preparation must allow identification, then clarification or elimination of the risk of ineligibility of expenditure. This operation is particularly important as it occurs upstream.
- **establishment of reinforced coordination between the different authorities of the programme concerned:** the establishment of reinforced coordination between the different programme authorities affected by the question of eligibility of expenditure (MA, PA, JTS, national correspondents, etc.) allows upstream identification of the risks of ineligibility and to produce prior responses that can serve the animation, instruction and agreement and control services.
- **practical tools for programme animators or project partners and the drafting of a common audit guide:** these tools can consist of drafting a common audit guide, a vademecum to help with setting up projects or, for example, specific eligibility leaflets for the project promoters (for example, how to calculate a distribution scale for the running costs for an administrative body). This can also be communication tools, newsletters or the distribution of information through a Website.
- **specific information days for the managers of the programmes and training for the Lead Partners:** the programmes perceive the organisation of information days for programme managers on the theme of eligibility of expenditure as a necessary step. Indeed nearly all those questioned underlined the importance of this practice. In addition, specific information and training for the Lead Partners of programmed projects on the question of eligibility of expenditure is also a complementary practice whose importance was underlined by nearly all the programme managers questioned.

## **6. Proposals in view of the new European Territorial Cooperation Objective 2007-2013**

The new General Regulation (EC) No 1083/2006 defines in Article 56 the eligibility of expenditure by setting out firstly the temporal eligibility of future expenditure. Consequently, the date of eligibility of expenditure is fixed to start when the Operational Programmes are presented to the European Commission (or 1 January 2007 if the presentation date is before). The end of the eligibility period is fixed for 31 December 2015.

More fundamentally, Article 56(4) lays out the general principle that rules on eligibility of expenditure will be established at national level, with exceptions foreseen in the specific regulations for each Fund.

The new ERDF Regulation (EC) No 1080/2006 also specifies in its Article 13, devoted to the European Territorial Cooperation Objective that national rules would apply in matters of eligibility of expenditure for future programmes. In cases where different rules on eligibility of expenditure are foreseen depending on the Member States participating in a programme under the European Territorial Cooperation Objective, the broadest eligibility rules will be applicable in all the territory covered by the programme.

**GLOSSARY****A**

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***Additionality***

The principle of additionality (one of the four main Structural Fund principles) stipulates that European credits complement national public structural expenses and are not designed to substitute them but to act as a lever for them. Except in special circumstances, Member States must at least maintain a level equivalent to the last programming period of public spending for each Objective.

***Annual implementation report***

This annual report, established by the Managing Authority, is examined and approved by the Monitoring Committee and sent to the European Commission. This report states the main results of the previous year of the programme. The Commission, upon receipt of the report, can address recommendations for adoption to the authorities concerned seeking to improve programme efficiency in monitoring or managing methods. Depending on the case, the Joint Technical Secretariat can request progress reports on a more regular basis.

***Audit trail***

Document retracing all stages of a programme within the framework of a CIP INTERREG and, notably, reciprocal responsibility of all actors. Quality controls are rightly designed to test regularly good functioning of the system put in place. To be sufficient, an audit trail must allow certified summary accounts, notified to the European Commission, to be gathered together with statements of expenses and documentary proof thereof and to control the attribution and transfer of the Community and national funds available.

**C**

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***Certificate of service rendered***

The certificate of service rendered for the expenses presented by the final beneficiaries is delivered by the Managing Authority to the Paying Authority and is necessary for payment of Community funds.

### ***Community initiatives***

There are four specific Community initiatives aiming at supporting within the Structural Funds framework cross-border, transnational and interregional cooperation (INTERREG III), rural development (LEADER+), promotion of new practices to fight against all forms of discrimination and inequality in access to the employment market (EQUAL) and economic and social regeneration of crisis towns and suburbs in order to promote sustainable urban development (URBAN II).

### ***Compatibility (principle of)***

The principle of compatibility stipulates that operations funded by structural funds must respect Community regulations and policies such as environmental protection, promotion of equal opportunity, promotion of new technologies and the free market.

### ***Control on service rendered or first level control (FLC)***

Basic control carried out by the Managing Authority on the eligibility and regularity of operations funded by the structural funds concerned. The control on service rendered covers all expenses: it is the foundation of the entire inspection system and is the main guarantee of the feasibility of expenses for the European Commission. It seeks to verify:

- the reality and physical conformity of the operation with what was predicted;
- the reality and eligibility of expenses incurred;
- the respect for the prior financial plan.

## **E**

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### ***Effectively paid expenditure***

“Effectively paid expenditure” corresponds to payments executed by final beneficiaries that are justified by receipted invoices or accounting documents of equivalent probative value. Since the ERDF only intervenes by reimbursing a share of eligible effectively incurred and paid expenditure, reimbursement does not intervene until the Managing Authority, then the Paying Authority have ensured that the expenditure was “effectively paid.”

### ***Eligibility of expenditure***

Community rules to be respected to guarantee equitable implementation of European structural funds. The eligibility of expenses to the Community rules allows them to be taken into account on behalf of the structural funds concerned. The inspection on the eligibility of expenses is essentially made at the time of the control on service rendered.

### ***ERDF allocation***

ERDF contribution in the total allocation granted to an assistance or a project.

### ***EU regional (or cohesion) policy***

Important Community policy (35% of the EU budget) that seeks to reduce regional disparities and support less favoured people. The objective of EU regional policy is to promote the reduction of regional disparities, even development of European regions, fight against unemployment, improving work force qualifications and stimulating the spirit of enterprise.

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### ***European Territorial Cooperation Objective***

This is the name of the mainstream Objective that will succeed to the Community Initiative INTERREG III for the 2007-2013 period. As with INTERREG, this new Objective will include programmes covering the three existing Strands: cross-border, transnational, and interregional.

### ***Ex ante evaluation***

The *ex-ante* evaluation, carried out before adoption of the programme, is based on situational or environmental indicators to determine needs and consequently the intervention objectives as well as the programming strategy.

## **F**

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### ***Final balance***

ERDF contribution transferred to the final beneficiaries at the closure date of the programme (in most cases it corresponds to the last 5% of the ERDF grant, retained after closure of the projects). It is the financial settlement of the Community's commitments, which can be transferred to the final beneficiaries once all procedures have been carried out to close the programme properly and if no automatic decommitment has been stated.

### ***Final beneficiary***

This is the body and public or private firm responsible for commissioning operations. In the case of aid schemes pursuant to Article 87 of the Treaty and in the case of aid granted by bodies designated by the Member States, the final beneficiary is the body which grants the aid (Council Regulation (EC) No 1260/1999 of 21 June 1999, Article 9(l)).

### ***Final certified declaration***

The Member States, at the time of winding-up the assistance, present to the European Commission a declaration established by a person or body functionally independent of the designated MA. This declaration is a summary of the conclusions of the checks carried out over the preceding years and pronounces on the payment request for the Community balance as well as on the legality and regularity of the operations concerned by the final certificate of expenditure. The Member States attach their opinion to this certificate if they consider it necessary. (Regulation (EC) No 1260/1999 from the Council, 21 June 1999, Article 38(1)(f)).

### ***Final or ex post evaluation***

Carried out after closure of the operations, this evaluation allows evaluation of the impact of the programme in terms of variable statistics.

### ***Financial engineering***

All of the financial techniques that allow the objectives of financing, valorisation, investment, and management of the portfolio to be undertaken for a firm, or more generally, for an investor. In the context of INTERREG, this could be financing of venture capital for SMEs, for example.

### ***Financing plan***

The financing plan is carried out by the final beneficiary and approved by the programming Committee and constitutes one of the contractual elements to be respected.

## **G**

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### ***Grant offer letter***

Legal act by which the Managing Authority unilaterally notifies the project promoter of the Steering Committee's favourable decision. This act commits the Managing Authority to payment of the ERDF programmed and the project promoter to general respect for national and Community rules of public financing and to respect for the rules specific to the programme pointed out to it when it submitted the request form. An alternative to notification of a subsidy grant is the bilateral signing of a subsidy contract.

### ***Ineligible expenditure***

Expense presented for repayment on behalf of ERDF not having respected the conditions of attribution set out in the grant offer letter or in the bilateral agreement/subsidy contract (Cf. controls on service rendered).

### ***INTERREG III***

Community initiative seeking to favour the harmonious and even development of European territory by encouraging cross-border cooperation (Strand A), transnational cooperation (Strand B) and interregional cooperation (Strand C).

## **J**

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### ***Joint Technical Secretariat (JTS)***

The role of the Joint Technical Secretariat takes place upstream of the programme. It runs the territory of the programme and instructs on subsidy requests by final beneficiaries before submission of the dossier to the programming authorities.

## **L**

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### ***Lead Partner***

The Lead Partner has full financial responsibility for the entire operation including all partners and is responsible for the proper reporting of progress to the respective Joint Technical Secretariat as also stipulated in the subsidy contract.

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## M

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### ***Managing Authority (MA)***

Any public or private authority or body at national, regional or local level designated by the Member State, or the Member State when it is itself carrying out this function, to manage the INTERREG programme. If the Member State designates a Managing Authority other than itself, it shall determine all the modalities of its relationship with the Managing Authority and of the latter's relationship with the Commission. If the Member State so decides, the Managing Authority may be the same body as the Paying Authority for the assistance concerned.

### ***Mid-term evaluation (MTE)***

This evaluation registers the conditions of implementation, the progress and the results of the programme at the mid-term point. It is a more efficient way to monitor the programming. Its main objective is therefore to examine the first results of the implementation of the programme in relevance to the objectives which were primarily fixed and to propose any necessary adjustments.

### ***Monitoring Committee (MC)***

The Monitoring Committee for each programme is notably responsible for giving its agreement for the Programme Complement before its transmission to the European Commission. It also approves all modifications to the Programme Document (SPD/CIP) or to the Programme Complement.

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## N

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### ***National correspondents***

The national correspondents of an INTERREG programme work in direct collaboration with the MA in assuring, in particular, the certification of expenses of the partners of the projects that arise in the territory for which they are responsible. Furthermore, they verify the national match-funding during the instruction phase of the projects applications and they play a role in relaying to the JTS information, animation and support in project generation and preparation.

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## O

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### ***Operational Programmes (OP)***

Regional programmes coming from Community initiative programmes are registered in the operational programmes. They set action strategies within the framework of INTERREG III, URBAN II, EQUAL and LEADER+ and contain, notably, the strategies and priority axis of intervention for respective regional programmes as well as evaluation of expected impact.

### ***Overall allocation***

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Amount dedicated to the programme. This allocation is composed for one part of Community credits (ERDF) and for the other part of national match-funding.



## P

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### ***Partnership agreement***

Agreement signed between the Lead Partner and its partners for the implementation of the project.

### ***Partnership (principle of)***

The principle of partnership marks out the close cooperation between the European Commission, the Member State concerned and the authorities participating according to the terms of Community regulation and following their designation by the Member State, in preparation and carrying out of programmes.

### ***Paying Authority***

Authority charged with establishing and submitting payment requests and with receiving payments from the European Commission for the INTERREG programme. The Paying Authority transfers Community funds to final beneficiaries.

### ***Payment***

Execution of payment is carried out by a Paying Authority that, after verifying that there are no risks of suspension or blocking, releases payment to the final beneficiary according to its own internal rules.

### ***Programme Complement***

Document implementing the strategy and the priority axes of the intervention, containing the detailed elements concerning the measures, drawn up by the Member State and revised if necessary by the Monitoring Committee upon proposal by the Managing Authority. It is transmitted to the Commission for information.

### ***Steering or Selection Committee (SC)***

It is the organ in charge of selecting projects. With the help of the project examination services of the Joint Technical Secretariat (JTS) and the MA, it balances the list of retained projects, gives an opinion on these very projects and takes financing decisions. It then falls to the head of the MA to sign subsidy contracts with the leaders of retained projects authorising the transfer of European credits. In some programmes, pre-selection committees were set up on a much smaller cross-border geographical scale in order to prepare project selection in advance.

## S

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### ***Second level control (5% check)***

The implementation of second level controls, also called 5% checks, is done under the responsibility of the MA of the programme. These are undertaken by an independent department from those that carry out the instruction and monitoring of projects. This type of check can also be externalised by decision of the MA. The 5% control procedures cover both a control of the

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management and monitoring of the dossier by the instruction service as an on-the-spot check on the premises of the beneficiary. These checks are discussed before the report is finalised (Regulation (EC) No 438/2001, Article 10).

### ***Subsidy granting convention or Grant offer letter***

Legal act signed by the Managing Authority and the final beneficiary setting reciprocal commitments concerning the use of Community co-funding on behalf of the project. This act bilaterally links the Managing Authority on payment of the ERDF programmed and the project promoter on general respect of national and Community rules of public financing and on rules specific to the programme pointed out to him/her when the application was submitted.

### ***Subsidy request letter***

Document by which the Lead Partner requests an ERDF grant for undertaking its project.

### ***Substantial net revenue***

Revenue linked to the investment co-financed by ERDF, which amounts to at least 25% of the total cost of the co-financing.

### ***Systematic irregularities or systematic failing***

Structural dysfunction in the management of a programme is likely, to appear frequently. Indeed, there are errors that appear in a regular fashion within the framework of a Community programme (for example, publicity failings) and can lead the European Commission, upon detection, to a systematic correction, that is to say, a contractual reduction of the ERDF share allocated to an INTERREG programme. The statement of systematic failings must give rise to a quick correction and, if necessary, a modification of the audit trail in order to permanently improve its efficiency. Systematic corrections can, in addition to increasing the intensity of some inspection point or other of the audit trail, lighten other points if they turn out to be inefficient. The annual report produced by the Managing Authority will also cover an analysis of the systematic faults uncovered and the corrections made.

### ***System audit***

This audit is a check carried out with the aim of highlighting systematic dysfunctions (or errors) that can appear in the context of the management of a programme and are likely to reoccur. This audit allows the identification of errors.

## T

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### ***Third level control***

Procedure carried out at national level by the Court of Auditors or any other national body chosen by the Member State. This control allows the quality of the management of the programme to be assessed. There is also a fourth level control at European Commission and European Court of Auditors level.

## U

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### ***Unproven expenditure***

Expense presented for repayment on behalf of ERDF whose character cannot be proven (for example, copy of a cheque without a bank statement proving disbursement).

## W

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### ***Work timetable***

Document stating the important phases linked to the implementation of a project. It is compulsory for all projects. It has to be presented at the instruction phase of the project in order to set the project timetable and has to be respected.

## Z

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### ***Zoning***

For regionalised structural funds, Community aid is attributed to final beneficiaries according to a map of eligible zones for the duration of the programmes.

## ANNEX 1: ELIGIBILITY CHECKS OVER THE PROJECT LIFETIME

### *Control at the preparation stage of the project*

The first control, upstream, that is not specified as such, falls within the competence of the MA as defined in Regulation (EC) No 1260/1999, and is carried out during the instruction phase of the project applications.

It is up to the information service to verify the three main points described below.

- Formal eligibility of the project:

It is firstly useful to ensure that the Lead Partner has provided all the necessary elements to:

- justify its geographic eligibility (location of partners especially);
- justify its statutory eligibility (legal personalities of the partners, statutes, signatures of the legal representatives);
- justify its wish for partnership ((draft of) partnership agreement, national cofunding commitments/confirmations).

Consequently, the project instruction service will, firstly, verify the presence of all obligatory documents. It is important to note that the number of documents required varies according to the amount of the request for ERDF and can vary from one INTERREG programme to another. Consequently, in order to support the programming of small projects and to shorten the preparation delays, the number of documents necessary can be reduced below a certain threshold.

In the context of checks on the national match-funding, to this first series of official documents must be added public certifications of co-financing of the project.

- Eligibility of the content of the project

It is useful, then, during the preparation phase, to ensure that the Lead Partner is convincing on:

- the technical feasibility of the project (feasibility study, impact analysis, indicators...);
- temporal feasibility (schedule, timetable, etc.);
- the financial feasibility (budgetary balance in receipts/expenditure, value for money of the project, etc.).

It is important to recall that, generally, in the context of Structural Funds (and contrary to most selection procedures for Community programmes), the preparation procedure allows the Lead Partner to complete or to detail its information.

- Conformity in relation to the Operational Programme and Programme Complement

Once these two verifications have been carried out, a series of questions will be asked during examination of the project, relating to its conformity with the programming strategy and, more globally, to all the eligibility rules defined in the OP.

Consequently, the questions to ask are the following:

- does the project respect, in particular, the Regulations (EC) No 1260/1999, (EC) No 438/2001 and (EC) No 448/2004 as well as the Communications relating to the INTERREG Strand concerned?
- does the project respond to the programming objective?
- is the participant eligible according to the terms of the Programme Complement?
- is the geographical eligibility of the project assured? Is it located in a contiguous zone allowing co-financing of a share of the project?
- does the financial plan respect Community and national rules?
- are the rates of national and Community co-financing forecast in the corresponding measure (as set in the Programme Complement) respected (particularly when the rate of co-financing varies depending on the Member State of the programme or when third countries are associated to the programme)?

Constructive dialogue must be engaged between the project examination service and the applicant if the former feels there is a doubt on one of the questions above.

### ***The contracting process***

An important stage in the life of a selected project, the contracting (subsidy contract or grant offer letter) allows the rights and obligations of the Lead Partner and of the programme authorities, to be fixed legally. It must therefore be monitored with care as it guarantees the proper running of the project, and as a consequence, the programme.

The agreement/subsidy contract is the legal act by which the MA and the Lead Partner jointly agree to meet their obligations. This is one of the most important programming procedures and it determines, notably, the way in which questions of eligibility will be dealt with. Many control services indicate, indeed, that in case of litigation on the appraisal of the eligibility of expenditure, they refer to the subsidy contract.

The Lead Partner commits to undertake its project in the form described in its Community funds request. As for the MA, it commits to transfer the Community credits, via the PA to the final beneficiary, if it respects its obligations.

The main consequences of the agreement are as follows:

- The obligation to finish the project in the time prescribed, as approved by the Steering Committee. In general for INTERREG projects, the average length of projects is two years. Subject to conditions and with the necessary justification, the implementation phase can be prolonged by amendment before the expiration of the initial deadline.
- The obligation to lead and complete the project in the conditions and according to the objectives approved by the Steering Committee.
- To inform the MA of the state of progress of the project. This must be done at intervals fixed by the MA in the agreement. Particular attention will be brought to respect for the financial timetable and the submission of accounting documents and monitoring indicators.

- To establish a detailed statement of the work and expenditure carried out. The submission of accounting documents is done in the form of a detailed statement of work and expenditure carried out. The final beneficiary will certify this table and send it to the MA with receipted invoices and/or documents of equivalent probative value.
- The necessity for keeping separate accounting for the operation or to use an adequate accounting codification. This accounting can take the form of an extra-accounting system to bundle the supporting documents together, for example.
- The obligation to submit to all documentary or on-the-spot checks carried out by a national or Community authority partaking in the programme. The agreement will fix, in particular, the archiving conditions for supporting documents. The archiving period adhered to generally corresponds to the final date of Community checks on the programme, which is generally 30 June 2013<sup>11</sup>.
- To respect national and Community rules and policies in matters, notably, of eligibility of expenditure, information and publicity.

So that it is efficient, the subsidy contract must provide for the following:

- legal basis to be respected;
- procedures for transferring the Community aid;
- relations with project partners;
- rules for controls;
- minimum archiving period;
- reporting rules;
- publicity rules ;
- recovery of unwarranted expenditure;
- jurisdiction clause ;
- length of the agreement and modalities for anticipated cancellation;
- method for signing the contract (and information about third parties).

### ***First level control (certification of service rendered)***

Before implementing the first level control, it is important to remember that the Lead Partner is an essential link in the projects control procedure.

Indeed, although it has personal obligations to follow as a project partner, it is also responsible for ensuring respect by its partners of their obligations. In effect, in cases of unjustified expenditure on behalf of one of them, the Lead Partner is legally and financially responsible.

To limit all risks, the Lead Partner has every interest in signing a partnership agreement with its partners<sup>12</sup>.

There is a double objective of the control of service rendered, defined in Regulation (EC) No 438/2001 (Article 4), also called First Level Control (FLC).

It seeks on the one hand to guarantee the physical implementation of the subsidised operation and its conformity vis-à-vis the description of the ERDF subsidised operation.

<sup>11</sup> The INTERACT study “Recommendations for the implementation of INTERREG III subsidy contracts” (<http://www.interact-eu.net/download/application/pdf/900390>) has nevertheless shown that control deadlines are quite variable and spread out over time in the programmes.

<sup>12</sup> For more information on this, see INTERACT, *Good Practice INTERREG IIIA Partnership agreement*, 2005

On the other hand, it allows ,to verify the reality of the expenditure declared by the Lead Partner, final beneficiary of the subsidy. The First Level Control is performed by the project examination service, depending on the MA of the programme, and having, for the majority of cases, carried out assessment of the project before it was programmed. This control is carried out before each intermediary payment of the Community subsidy and before payment of the Community balance.

This control is formalised by establishing a certificate of service rendered, carried out after examination of the documents sent to the Lead Partner. For a significant number of projects, checks on the documents is mixed with an on-the-spot visit, before the checking the balance of invoices, in order to conclude that the project has been concretely undertaken in conformity with the agreement granting the subsidy.

In addition, whenever invoices are checked, the project instruction service ensures that receipted invoices submitted by the Lead Partner fall within the eligible timeframe for the project, and checks their conformity with the description of the subsidised objective, described in the subsidy contract and its annexes. Before payment of the Community balance, the information service ensures that all the information that had to be sent by the final beneficiary along the project lifecycle has been properly saved on the monitoring software (national match-funding, evaluation indicators, information and publicity actions, etc.).

The most frequently stated irregularities are, for example:

- expenditure not foreseen in the subsidy contract, and thus not eligible;
- expenditure paid outside the eligibility period (this risk will grow at the end of the programming period with the final deadline for submitting receipted invoices of 31 December 2008), outside of forecasted dates in the agreement;
- expenditure recorded inclusive of tax for a subsidy granted exclusive of tax;
- over-financing of national match-funding not in conformity with the initial financial plan, additional subsidies not pointed out by the beneficiary;
- an information plate above a project not specifying EU co-financing (the logo of the European Union is, in fact, obligatory). It is the same for signs on construction.

### **Second level control (control 5%)**

The implementation of 5% checks, also called “sample checks” defined by Regulation (EC) No 438/2001 (Article 10 and following), falls under the responsibility of the MA. These are carried out by an independent service from that which carries out the instruction and monitoring of the projects. This type of check can also be externalised with a decision from the MA.

Article 10(1) of Regulation (EC) No 438/2001 states that<sup>13</sup> : *“Member States shall organise checks on operations on an appropriate sampling basis designed in particular to: verify the effectiveness of the management and control systems in place; verify selectively, on the basis of risk analysis, expenditure declarations made at the various levels concerned”*.

The 5% checking procedures cover both a management and monitoring check of the dossier (check on documents) by the instruction service, and an on-the-spot check on the premises of the beneficiary. These checks are discussed before the report is finalised.

The list of files checked is established by the “5% checking service”. They cover all measures and priorities of the Operational Programme, including technical assistance. Likewise, the checks should be regularly spread out over the programming period, namely 2000-2006. Checks are undertaken according to a plan defined in advance by the MA and in such a way that at the end of the programming, the sample of projects checked represents a minimum of 5% of total eligible

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<sup>13</sup> Regulation (EC) No 438/2001 of the Commission of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds

expenditure of the programme, as required in sub-paragraph 2 of Article 10 of the above-mentioned Regulation<sup>14</sup>. The MA approves the proposed annual checking programme.

The MA will initially be able to inform the Lead Partners of the selection procedures of projects for the second level controls – this selection being carried out, as described above, by the MA.

Consequently, the projects most susceptible to be the object of a sample check fulfil the following criteria:

- complex project with multiple sources of financing;
- major projects ;
- existence of a doubt about the validity of a justification of expenditure or incoherence in the documents justifying expenditure;
- existence of suspicions following a national check on another project lead by the same Lead Partner not included in the Community programme;
- final cost of the project not in conformity with the programming (with a margin of +/- 20%);
- non-respect for the project's provisional timetable;
- article 11 of the same regulation specifies the obligatory content of the normalised report that must be submitted after the sample check. This allows deducing the elements that, in the eyes of the Commission have to be checked within the framework of second level controls.

In addition, the MA will be able to inform the Lead Partner of the elements that the controllers have a right to request or verify during the on-the-spot visit. Consequently, the on-the-spot check will be able to cover:

- on-the-spot verification of justifications of expenditure;
- verification of the conformity of the expenditure with the documents in the dossier and the undertakings of the project;
- the reality of the deliberations and decisions taken by the co-financers;
- the regularity of documents relating to public procurement procedures (calls for tender, official report of the opening of tenders, potential amendments, service orders, etc.);
- annual implementation report;
- verification that the same national expenditure was not taken into account for co-financed projects in the programme of from a Community initiative;
- verification of the impact of the project and the validity of transmitted indicators;
- verification the agreement with the first level control;
- verification of the reality of publicity actions.

Finally, once it has established its control plan, the MA must warn the selected Lead Partners of the visit of the control services within a reasonable delay. Likewise, the Lead Partner will be informed, once the control has been carried out and the report drafted and validated, and be able to make its observations known.

### ***External control (national and Community)***

By virtue of Regulation (EC) No 1260/1999, the Member States are primarily responsible for the financial checks on assistance through Structural Funds. For this, they designate the MA and PA and address orientations to the different contributors to the programme for the establishment of management and control systems.

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<sup>14</sup> The 5% checks is based on 5% of the total programmed expenditure and not on the number of dossiers or the amount of aid granted.



In this context, the Member States are invited to designate a national organisation in charge of system audits, also called “third level controls”. The objective of these checks is to give an appraisal of the manner in which the monitoring, managing and control systems of the programme function.

Third level controls enter into different levels of competence:

- at the level of the organisation (national level) in charge of system audits,
- at the level of the Regional Court of Auditors and of the competent National Court of Auditors;
- at the level of the European Commission ;
- at the level of the European Court of Auditors.

a. Controls at the level of the body in charge of system audits

At this stage of the controls, audits are called “system controls” as their main function is to lead to external controls of the administrative and financial managers of INTERREG programmes.

The functions attributed to the national body in charge of system audits equates to reinforcing the audit missions of Structural Funds described in Article 38(1)(f) of Regulation (EC) No 1260/1999. This article states the obligation of *“presenting to the Commission, when each assistance is wound up, a declaration drawn up by a person or department having a function independent of the designated management authority. This declaration shall summarise the conclusions of the checks carried out during previous years and shall assess the validity of the final balance and legality and regularity of the transactions covered by the final certificate of expenditure. The Member States may attach their own opinion to this certificate if they consider it necessary.”*

b. Checks by Regional Auditors Courts (or their equivalent) and the National Court of Auditors

Regional Auditors Courts (or their equivalent) and the National Court of Auditors are entitled to check the direct beneficiaries of European aid and in particular the use of Community aid retraced in the accounts of bodies under their competence, when they oversee operations benefiting from this European aid.

c. Checks by the European Commission

Following Article 38 of Regulation (EC) No 1260/1999, the main responsibility of the European Commission is to verify the existence and proper running in the Member States of management and checking systems allowing Community funds to be used in a regular and efficient manner.

To this end, the Commission’s civil servants can, on the basis of bilateral administrative arrangements with the Member States, and with a minimum notice of one working day, carry out checks, on-the-spot or through a survey, of operations and also management and control systems. The Commission can also request representatives of Member States to take part in the checks or to carry them out on its behalf.

d. Checks by the European Court of Auditors

The European Court of Auditors is an independent institution that controls the financial management of the European Union, its institutions, its bodies and the beneficiaries of European Union aid<sup>15</sup>. It allows the European Union to have an external control body, distinct from the financial management managers within the same institutions.

More generally, the functions of the Court of Auditors<sup>16</sup> are the following:

- it examines the legality and regularity of receipts and expenditure of the European Union;
- it ensures good financial management of the institutions ;
- it allows the Parliament to give final approval to the Commission for execution of the budget.

The Court of Auditors is thus authorised to control the financial management of programmes led by the European Commission. To do this, it carries out on-the-spot checks at operation or programme level.

The Court of Auditors is thus brought to control the regularity and proper use of European Funds by controlling the viability of accounts as well as the legality and regularity of underlying operations. At the end of these controls, and if no irregularity was found, the Court of Auditors will publish an assurance declaration on the viability of European accounts for the attention of the European Parliament.

### ***Final declaration***

The final declaration, which comes at the time of winding up of the assistance is defined in Regulation (EC) No 438/2001 (Article 15 and following).

The time of payment of the final Community balance the Lead Partner is to be considered carefully by the MA and the PA.

A certificate of service rendered for the balance is published at this time and it is advisable for the MA to verify, in case of an advance payment, if this was covered by the receipted invoices and if the national match-funding was properly transferred to the project and in the conditions foreseen in the particular agreement.

So that the balance of the Community assistance can be transferred to the programme by the Commission, three additional steps to the rules in force for interim certification must be taken:

- Transmission of the final execution report: the MA drafts and transmits this final report, after approval by the Monitoring Committee, to the Commission which will approve it or request additional information.
- Final certified declaration for the entire programme: this declaration made by the PA must cover all expenditure effectively paid under the assistance and must reach the Commission in the six months following the deadline for payment of final expenditure.
- Report of the external national controls: this report, drafted by an external national authority, is addressed to the Commission. This authority comes to a conclusion both on the validity of the request for payment of the final balance, and on the regularity of operations cited in the final certified declaration.

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<sup>15</sup> We understand by "EU institutions", the European Commission, the European Parliament, the Council of the European Union, the Court of Justice and the European Investment Bank. We understand, by "bodies of the European Union" agencies, institutes, foundations, observatories, etc.

<sup>16</sup> For more information on the European Court of Auditors see: [http://www.eca.europa.eu/index\\_en.htm](http://www.eca.europa.eu/index_en.htm)

**ANNEX 2: QUESTIONNAIRE USED AS A BASIS FOR THE SURVEY**

The questionnaire, used as a basis for the survey carried out on the sample group, is presented below. This questionnaire drawn up in an electronic form gave the opportunity to answer to closed questions (for example yes/no) through the use of pull-down menus and to open questions (for example comments) allowing to give more detailed answers.

Date: 20 March 20 2006

## QUESTIONNAIRE – Eligibility of expenses – Reg. (EC) No 448/2004

This template has been elaborated by INTERACT Point Tool Box in collaboration with VIAREGIO in order to issue the **TOOL “Good Practice INTERREG III Eligibility Criteria of Expenditure”**.

You will need only 15 minutes to fill it.

Contact person : Mr. Patrice Herrmann ([patrice.herrmann@viaregio.com](mailto:patrice.herrmann@viaregio.com))

### CONTACT DETAILS

Member State :	
INTERREG Strand : [Empty]	Programme :
Organisation / Department :	
Function :	
Contact person :	
Address :	
Telephone (Office) :	(Cell phone):
Email :	Fax :

### PROGRAMME FEATURES

(PLEASE GIVE A BRIEF FEED-BACK ON THE FOLLOWING ISSUES)

Select the  
answer

Text zone for observations

#### A. Do you encounter problems with the eligibility of expenses ? In what fields ?

	Select the answer	Text zone for observations
1. Depreciation	[Empty]	
2. Contributions in kind : unpaid voluntary work, provision of land and real estate	[Empty]	
3. Overheads / administrative costs pro rata	[Empty]	
4. Unjustified expenses (invalid invoices, unsettled expenses...)	[Empty]	
5. Subcontracting	[Empty]	
6. Accounting treatment of receipts	[Empty]	
7. Financial costs and charges for transactions	[Empty]	
8. Purchase of second-hand equipment	[Empty]	
9. Purchase of land	[Empty]	
10. Infrastructures / investments	[Empty]	
11. Purchase of real estate	[Empty]	
12. VAT	[Empty]	
13. Staffing costs	[Empty]	
14. Travel costs / vehicles handling	[Empty]	
15. Expenses "out of bounds": geographical ineligibility	[Empty]	
16. Expenses "atypical", unforeseen in the Operational Programme	[Empty]	
17. Expenses "outside of the deadline": social security contribution, final payment of audit...	[Empty]	
18. Expenditures relating to preparation	[Empty]	
19. Meetings / occasional events	[Empty]	
20. Common management costs	[Empty]	
21. Others	[Empty]	

**B. Does the issue of eligibility affect:**

1. The entire area of the programme?	[Empty]	
2. One or several States in particular?	[Empty]	
3. Do you consider yourself sufficiently informed / trained on the interpretation of eligibility of expenses?	[Empty]	
4. Are you in regular contact with the European Commission on this subject?	[Empty]	
5. Are you in regular contact with other programmes on this subject?	[Empty]	

**C. What tools or methods do you use to define your eligibility criteria ?**

1. Case –by-case analysis	[Empty]	
2. Country-by-country analysis	[Empty]	
3. Producing specific eligibility bills for each type of expense	[Empty]	
4. Setting up a transnational legal committee to ensure common acceptance of eligibility criteria	[Empty]	
5. Coordination with departments of the Commission on this question	[Empty]	
6. Distribution of an audit and / or eligibility guide specific to the programme	[Empty]	
7. Inclusion of types of expenses eligible or not in the documents for the attention of the project Lead Partners (request forms, subsidy contracts, expenses declaration forms...)	[Empty]	

**D. Good practices to be implemented in order to avoid problems of ineligibility of expenses**

In your opinion, to improve the processing of the question of eligibility of expenses, what practices would you recommend among these below ? Please comment, if necessary.

1. Putting in place reinforced coordination between the different programme authorities affected by this question (MA, JTS, national correspondents, other actors...)	
2. Improvement of the quality of relations between the MA and the Lead Partner or exchanges of technical information	
3. Practical tools for programme actors and project partners (in particular, potential Lead Partners)	
4. Specific information days for the programme managers	
5. Drafting of a general audit guide or one dealing specifically with the eligibility of expenses	
6. Clearer definition of the margins of appreciation of the MA in instances of doubt on the interpretation of expenses	
7. Better preparation of projects	
8. Clear identification of projects and themes at risk	
9. Better drafting of subsidy contracts between the MA and the Lead Partners	
10. More specific preparation and training of Lead Partners of programmed projects (clarity and traceability of verifiable evidence, eligibility criteria for an invoice, what to do in case of doubt, preparation of project partners...)	
11. Sufficiently motivated upstream checks on coherence	
12. Clarify the link between eligibility of expenses and automatic decommitment	

**E. What would your proposals be for the next programming period 2007-2013?**

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**ANNEX 3: SUMMARY OF THE DATA GATHERED WITHIN THE FRAMEWORK OF THE SAMPLE**

<b>A. TYPES OF EXPENDITURE POSING PROBLEMS</b>																				
<b>Name of the programme</b>	<b>1. Depreciation</b>	<b>2. Contribution in kind</b>	<b>3. Overheads</b>	<b>4. Unjustified expenses</b>	<b>5. Subcontracting</b>	<b>6. Receipts</b>	<b>7. Financial costs</b>	<b>8. 2<sup>nd</sup> hand equipment</b>	<b>9. Land purchases</b>	<b>10. Infrastructure</b>	<b>11. Real estate</b>	<b>12. VAT</b>	<b>13. Staffing costs</b>	<b>14. Travel costs</b>	<b>15. Expenses "out of bounds"</b>	<b>16. Atypical</b>	<b>17. Out with deadlines</b>	<b>18. Preparation costs</b>	<b>19. Meetings</b>	<b>20. Common management costs</b>
<b>INTERREG IIIA Oresund Region</b>			X							X		X	X	X			X			
<b>INTERREG IIIA Greece – Italy</b>	X	X	X									X								
<b>INTERREG IIIA Ireland – Northern Ireland</b>		X	X	X		X	X			X	X	X			X		X			
<b>INTERREG IIIA PAMINA</b>	X		X	X									X							
<b>INTERREG IIIA Upper Rhine Centre-South</b>		X	X			X						X	X	X	X		X			
<b>INTERREG IIIA Wallonia – Lorraine – Luxembourg</b>	X	X	X							X			X		X		X	X		
<b>Sub-total Strand A</b>	<b>3 50%</b>	<b>4 66%</b>	<b>6 100%</b>	<b>2 33%</b>	<b>0 0%</b>	<b>2 33%</b>	<b>1 17%</b>	<b>0 0%</b>	<b>0 0%</b>	<b>3 50%</b>	<b>1 17%</b>	<b>4 66%</b>	<b>4 66%</b>	<b>2 33%</b>	<b>3 50%</b>	<b>0 0%</b>	<b>4 66%</b>	<b>1 17%</b>	<b>0 0%</b>	<b>0 0%</b>
<b>INTERREG IIIB ARCHIMED</b>	X	X	X									X								
<b>INTERREG IIIB Alpine Space</b>			X		X		X					X			X			X		

<b>INTERREG IIIB North West Europe (NWE)</b>		X	X	X	X	X			X	X	X	X	X		X					X
<b>INTERREG IIIB South-West Europe (SUDOE)</b>	X	X		X	X	X			X		X	X			X	X	X	X		
<b>INTERREG IIIB Baltic Sea Region</b>		X	X		X		X			X					X	X	X			X
<b>INTERREG IIIB Indian Ocean / Réunion Island</b>				X											X					
<b>INTERREG IIIB Caribbean Space</b>				X																
<b>Sub-total Strand B</b>	<b>2 29%</b>	<b>4 57%</b>	<b>4 57%</b>	<b>4 57%</b>	<b>4 57%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>0 0%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>4 57%</b>	<b>1 14%</b>	<b>0 0%</b>	<b>5 71%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>0 0%</b>	<b>2 29%</b>
<b>INTERREG IIIC North Zone</b>		X	X		X		X			X						X	X			X
<b>INTERREG IIIC South Zone</b>	X	X	X		X					X		X	X		X					
<b>INTERREG IIIC West Zone</b>		X	X	X	X					X			X		X		X	X		X
<b>Sub-total Strand C</b>	<b>1 33%</b>	<b>3 100%</b>	<b>3 100%</b>	<b>1 33%</b>	<b>3 100%</b>	<b>0 0%</b>	<b>1 33%</b>	<b>0 0%</b>	<b>0 0%</b>	<b>3 100%</b>	<b>0 0%</b>	<b>1 33%</b>	<b>2 66%</b>	<b>0 0%</b>	<b>2 66%</b>	<b>1 33%</b>	<b>2 66%</b>	<b>1 33%</b>	<b>0 0%</b>	<b>2 66%</b>
<b>TOTAL</b>	<b>6 38%</b>	<b>11 69%</b>	<b>13 81%</b>	<b>7 44%</b>	<b>7 44%</b>	<b>4 25%</b>	<b>4 25%</b>	<b>0 0%</b>	<b>2 13%</b>	<b>8 50%</b>	<b>3 19%</b>	<b>9 56%</b>	<b>7 44%</b>	<b>2 13%</b>	<b>10 63%</b>	<b>3 19%</b>	<b>8 50%</b>	<b>4 25%</b>	<b>0 0%</b>	<b>4 25%</b>

## B. DEALING WITH QUESTIONS OF ELIGIBILITY

Name of the programme	1. Sufficient information on questions of eligibility	2. Sufficient training on questions of eligibility	3. Regular contacts with the European Commission on questions of eligibility	4. Regular contacts with other programmes on questions of eligibility
INTERREG IIIA Oresund Region	X	X		X
INTERREG IIIA Greece – Italy	X	X	X	X
INTERREG IIIA Ireland – Northern Ireland	X	X	X	X
INTERREG IIIA PAMINA				X
INTERREG IIIA Upper Rhine Centre-South				X
INTERREG IIIA Wallonia – Lorraine – Luxembourg				X
<b>Sub-total Strand A</b>	<b>3 50%</b>	<b>3 50%</b>	<b>2 33%</b>	<b>6 100%</b>
INTERREG IIIB ARCHIMED	X	X	X	X
INTERREG IIIB Alpine Space	X	X		X



INTERREG IIIB North West Europe (NWE)	X	X	X	X
INTERREG IIIB South-West Europe (SUOE)	X	X	X	X
INTERREG IIIB Baltic Sea Region	X	X	X	X
INTERREG IIIB Indian Ocean / Réunion Island	X	X		
INTERREG IIIB Caribbean Space			X	X
<b>Sub-total Strand B</b>	<b>6 86%</b>	<b>6 86%</b>	<b>5 71%</b>	<b>6 86%</b>
INTERREG IIIC North Zone	X	X	X	X
INTERREG IIIC South Zone				X
INTERREG IIIC West Zone			X	X
<b>Sub-total Strand C</b>	<b>1 33%</b>	<b>1 33%</b>	<b>2 66%</b>	<b>3 100%</b>
<b>TOTAL</b>	<b>10 63%</b>	<b>10 63%</b>	<b>9 56%</b>	<b>15 94%</b>

## C. TOOLS AND METHODS USED BY THE PROGRAMMES ON QUESTIONS OF ELIGIBILITY

Name of the programme	1. Case-by-case analysis	2. Country-by-country analysis	3. Production of eligibility bills for each type of expense	4. Setting up a transnational legal committee	5. Coordination with departments of the Commission	6. Diffusion of an audit and/or eligibility guide specific to the programme	7. Inclusion of types of eligible or non eligible expenditure in the documents for the attention of project participants
INTERREG IIIA Oresund Region		X				X	X
INTERREG IIIA Greece – Italy		X		X	X	X	X
INTERREG IIIA Ireland – Northern Ireland					X	X	
INTERREG IIIA PAMINA	X		X	X			X
INTERREG IIIA Upper Rhine Centre-South			X				X
INTERREG IIIA Wallonia – Lorraine – Luxembourg		X	X	X		X	X
<b>Sub-total Strand A</b>	<b>1 17%</b>	<b>3 50%</b>	<b>3 50%</b>	<b>3 50%</b>	<b>2 33%</b>	<b>4 66%</b>	<b>5 83%</b>

INTERREG IIIB ARCHIMED		X		X	X	X	X
INTERREG IIIB Alpine Space						X	X
INTERREG IIIB North West Europe (NWE)	X					X	X
INTERREG IIIB South-West Europe (SUDOE)	X	X	X	X	X		X
INTERREG IIIB Baltic Sea Region	X				X	X	X
INTERREG IIIB Indian Ocean / Réunion Island					X	X	X
INTERREG IIIB Caribbean Space			X		X		X
<b>Sub-total Strand B</b>	<b>3 43%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>2 29%</b>	<b>5 71%</b>	<b>5 71%</b>	<b>7 100%</b>
INTERREG IIIC North Zone	X					X	X
INTERREG IIIC South Zone	X	X	X				
INTERREG IIIC West Zone	X	X				X	X
<b>Sub-total Strand C</b>	<b>3 100%</b>	<b>2 66%</b>	<b>1 33%</b>	<b>0 0%</b>	<b>0 0%</b>	<b>2 66%</b>	<b>2 66%</b>
<b>TOTAL</b>	<b>7 44%</b>	<b>7 44%</b>	<b>6 38%</b>	<b>5 31%</b>	<b>7 44%</b>	<b>11 69%</b>	<b>14 88%</b>

## D. GOOD PRACTICES RECOMMENDED BY THE PROGRAMMES TO BE IMPLEMENTED WHEN DEALING WITH QUESTIONS OF ELIGIBILITY

Name of the programme	1. Implementation of reinforced coordination between the different programme authorities concerned	2. Improvement in the quality of relations between the MA and the Lead Partner	3. Practical tools for the programme animators and project partners	4. Specific information days for the programme managers	5. Drafting of a general audit guide or one dealing specifically with the eligibility of expenditure	6. Clearer determination of the margins of appreciation of the MA in cases of doubt in the interpretation of expenditure	7. Better preparation of projects	8. Clear identification of projects and themes at risk	9. Better drafting of subsidy contracts between MA and Lead Partners	10. More specific information and training for Lead Partners of programmed projects	11. Sufficiently motivated Upstream coherence controls	12. Clarify link between automatic decommitment and eligibility of expenditure
INTERREG IIIA Oresund Region	X	X	X	X	X		X		X	X		X
INTERREG IIIA Greece - Italy	X		X	X	X		X	X		X	X	
INTERREG IIIA Ireland – Northern Ireland	X	X	X	X	X	X	X	X	X	X	X	X
INTERREG IIIA PAMINA	X	X	X	X			X	X	X	X	X	X
INTERREG IIIA Upper Rhine Centre-South	X			X	X		X			X		
INTERREG IIIA Wallonia – Lorraine – Luxembourg	X	X	X	X	X	X	X	X	X	X	X	
<b>Sub-total Strand A</b>	<b>6 100%</b>	<b>4 66%</b>	<b>5 83%</b>	<b>6 100%</b>	<b>5 83%</b>	<b>2 33%</b>	<b>6 100%</b>	<b>4 66%</b>	<b>4 66%</b>	<b>6 100%</b>	<b>4 66%</b>	<b>3 50%</b>

INTERREG IIIB ARCHIMED	X		X	X	X		X	X		X	X	
INTERREG IIIB Alpine Space			X	X	X	X	X	X				X
INTERREG IIIB North West Europe (NWE)	X		X	X	X					X		
INTERREG IIIB South-West Europe (SUDOE)	X	X	X	X	X		X		X	X		
INTERREG IIIB Baltic Sea Region	X	X	X	X	X		X	X	X	X	X	
INTERREG IIIB Indian Ocean / Réunion Island					X		X			X		
INTERREG IIIB Caribbean Space	X		X	X	X				X	X	X	
<b>Sub-total Strand B</b>	<b>5 71%</b>	<b>2 29%</b>	<b>6 86%</b>	<b>6 86%</b>	<b>7 100%</b>	<b>1 14%</b>	<b>5 71%</b>	<b>3 43%</b>	<b>3 43%</b>	<b>6 86%</b>	<b>3 43%</b>	<b>1 14%</b>
INTERREG IIIC North Zone	X	X	X	X	X		X	X	X	X	X	
INTERREG IIIC South Zone	X	X	X	X	X					X	X	
INTERREG IIIC West Zone	X		X	X	X		X			X		
<b>Sub-total Strand C</b>	<b>3 100%</b>	<b>2 66%</b>	<b>3 100%</b>	<b>3 100%</b>	<b>3 100%</b>	<b>0 0%</b>	<b>2 66%</b>	<b>1 33%</b>	<b>1 33%</b>	<b>3 100%</b>	<b>2 66%</b>	<b>0 0%</b>
<b>TOTAL</b>	<b>14 88%</b>	<b>8 50%</b>	<b>14 88%</b>	<b>15 94%</b>	<b>15 94%</b>	<b>3 19%</b>	<b>13 81%</b>	<b>8 50%</b>	<b>8 50%</b>	<b>15 94%</b>	<b>9 56%</b>	<b>4 25%</b>

## E. PROPOSALS BY THE PROGRAMMES FOR THE FUTURE 2007-2013

Name of the programme	1. Overall Community framework	2. Exchanges with Commission	3. Exchanges with programmes	4. Increased role of MA	5. Better geographical legibility
INTERREG IIIA Oresund Region	X				
INTERREG IIIA Greece – Italy	X				
INTERREG IIIA Ireland – Northern Ireland	X	X	X		
INTERREG IIIA PAMINA					
INTERREG IIIA Upper Rhine Centre-South				X	
INTERREG IIIA Wallonia – Lorraine – Luxembourg					
<b>Sub-total Strand A</b>	<b>3 50%</b>	<b>1 17%</b>	<b>1 17%</b>	<b>1 17%</b>	<b>0 0%</b>
INTERREG IIIB ARCHIMED	X				
INTERREG IIIB Alpine Space	X				
INTERREG IIIB North West Europe (new)	X				

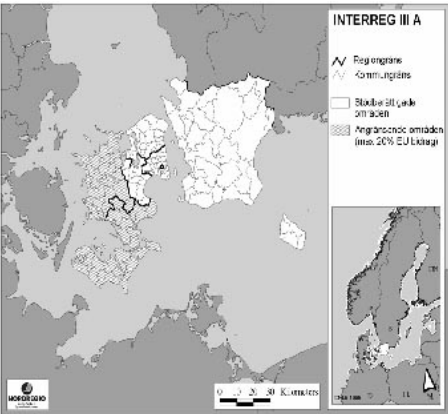
<b>INTERREG IIIB South-West Europe (SUOE)</b>		X	X	X	
<b>INTERREG IIIB Baltic Sea Region</b>					X
<b>INTERREG IIIB Indian Ocean / Réunion Island</b>					X
<b>INTERREG IIIB Caribbean Space</b>					
<b>Sub-total Strand B</b>	<b>3 43%</b>	<b>1 14%</b>	<b>1 14%</b>	<b>1 14%</b>	<b>2 29%</b>
<b>INTERREG IIIC North Zone</b>					X
<b>INTERREG IIIC South Zone</b>		X			
<b>INTERREG IIIC West Zone</b>	X				
<b>Sub-total Strand C</b>	<b>1 33%</b>	<b>1 33%</b>	<b>0 0%</b>	<b>0 0%</b>	<b>1 33%</b>
<b>TOTAL</b>	<b>7 44%</b>	<b>3 19%</b>	<b>2 13%</b>	<b>2 13%</b>	<b>3 19%</b>

## ANNEX 4: CONSIDERATION OF THE ELIGIBILITY OF EXPENDITURE IN THE PROGRAMMES OF THE SAMPLE GROUP

The objective of this annex is to present in detail the responses provided by the programmes of the sample to the questionnaire that was transmitted to them in the framework of this study.

### 1. Programme INTERREG IIIA Oresund Region

#### a. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b> * <b>Oresund Region</b></p> <p style="text-align: center;"><i>Denmark, Sweden</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p style="text-align: center;">Greater Copenhagen Authority (Valby – Denmark) - HUR</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p style="text-align: center;">Swedish Business Development Agency (Stockholm – Sweden) - NUTEK</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p style="text-align: center;">EUR 62 530 076</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 31 265 038</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p style="text-align: center;">EUR 25 775 196                      82.44 %</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p style="text-align: center;">EUR 14 112 042                      54.75%</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">106</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Interreg-sekretariatet Öresundskomiteen (Stockholm Sweden)</p>



b. Existence of a problem of eligibility of expenditure on particular themes

The Oresund Region Programme encounters several types of eligibility problems:

- Overheads: the pro rata mechanism is often difficult to understand for Lead Partners of operations as the one used within the context of the INTERREG programme does not completely correspond to that generally applied within the national regulatory framework.
- Investments: such type of expenditure is limited in a variable way within the framework of eligibility of computer equipment to software but not to hardware.
- The VAT regime certainly poses a problem when it concerns paying an invoice across the border. In certain cases the invoice is subject to VAT and in other cases it is not, this complicates the accounting monitoring of the projects and, thus, eligible expenditure.
- The programme does not take staff overheads into account, which is sometimes not properly understood by the project partners
- Travel expenses also raise questions as, on one hand, the Lead Partners have not always specified that the partners want to travel outside the area of the programme, on the other hand, the programme tries to limit travel expenses as certain projects want travel expenses for 30-odd people going to study good practices in another European cross-border region to be taken into account. The programme, therefore, only takes into account the costs of travel and accommodation for key people.
- Expenditure outside the area does not *a priori* pose any difficulty but the case arose with external organisations that wanted to participate in the programme.
- Expenditure outside the deadline also poses worries like, for example, holiday bonuses paid to staff employed in an INTERREG project after winding-up. Another question also arises regarding the taking into account of other social services such as maternity leave.

c. What area of the programme is affected by questions of eligibility?

Questions of eligibility affect the entire area of the Oresund Region Programme and are set out in the same way in Denmark as in Sweden, even though different national rules exist.

d. Training/information on the question of eligibility of expenditure

Programme managers feel that they are well trained on questions of eligibility of expenditure.

e. Contacts made on the question of eligibility of expenditure

The programme is only occasionally in contact with the European Commission on questions of eligibility of expenditure.

However, Oresund Region Programme managers have regular meetings with the network of other INTERREG IIIA programmes affecting Nordic countries.

f. Tools and methods used

In order to determine the eligibility of an expenditure that might pose a problem, the programme decided to resort to the following methods:

- Country-by-country analysis. As the programme adopted the Lead Partner Principle, the national eligibility rules of the Lead Partner (in addition to Community) apply to all the expenditure of the project, even to that incurred in the neighbouring State.
- Distribution of an audit and/or eligibility guide specific to the programme, with the interesting particularity that the programme provides two different versions for the Swedish and Danish Lead Partners.
- Inclusion of the types of expenditure that are eligible or not in the documents for the attention of the project participants. This is partly done in the subsidy contract but, above all, in the guide for applicants and the monitoring guide (on reimbursement requests).

g. Recommended good practices

The managers of the Oresund Region recommend the following good practices:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.). The managers feel that only one set of eligibility rules is needed for all partners in the two countries (even an INTERREG directive at Community level). But, according to them, the future orientations of the Commission do not seem to be heading this way by conferring final responsibilities to the Member States.
2. Improvement in the quality of relations between the MA and the Lead Partner or exchanges of technical information. Clear directions for this should be given to the Lead Partner.
3. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners). These tools should be sufficiently clear to be used properly.
4. Specific information days for programme managers. This is a good idea for programme managers who implement it themselves.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure. Drafting of a general or specific guide on questions of eligibility are two good recommendations for the programme managers.
6. Clearer determination in the appraisal margin of the MA in case of doubt in the interpretation of expenditure. The programme managers feel that there will always be a “grey” area for certain types of expenditure that should continue to be treated on a case-by-case basis.
7. Better preparation of the projects. This is also a good recommendation for the programme managers.
8. Clear identification of the projects and themes at risk. The programme managers do not feel that eligibility of expenditure is thematic but feel that it should be as clear as possible for all the programme actors.
9. Better drafting of the subsidy contracts between the MA and the Lead Partners. This is a good recommendation for the programme managers.

10. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.). This is also a good recommendation for the programme managers.
11. Clarify the link between automatic decommitment and eligibility of expenditure. This is a very important recommendation for the programme managers but, unfortunately, it seems to them that there is more focus on the question of automatic decommitment than on the quality of selected projects.

h. Proposals for the next programming period

The programme managers propose a precise INTERREG communication on the question of eligibility of expenditure. There should not be room for diverging national interpretations. This would allow the project promoter to have a programme that is efficient and easy to understand and not, as seems to be taking shape, a programme that will be above all easy to control and audit. In their opinion, there is an excessive strong focus on the question of controls.

2. Programme INTERREG IIIA Greece – Italya. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b> * <b>Greece – Italy</b></p> <p style="text-align: center;"><i>Greece, Italy</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p>Greek Economy and Finance Ministry (<i>Athens, Greece</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p>Greek Economy and Finance Ministry (<i>Athens, Greece</i>)</p>
<p style="text-align: center;"><b>Total funding for programme</b></p> <p style="text-align: center;">EUR 157 940 670</p>	<p style="text-align: center;"><b>ERDF funding for programme</b></p> <p style="text-align: center;">EUR 84 477 035</p>
<p style="text-align: center;"><b>Programming status 31.12.2005</b></p> <p style="text-align: center;">EUR 121 341 000                      83.71 %</p>	<p style="text-align: center;"><b>Consumption status 31.12.2005</b></p> <p style="text-align: center;">EUR 27 574 660                      19.02 %</p>
<p style="text-align: center;"><b>Number of programmed projects 31.12.2005</b></p> <p style="text-align: center;">7 (EUR 63 797 739 ERDF)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p>Greek Economy and Finance Ministry (<i>Athens, Greece</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme encountered the following problems:

- Depreciation costs.
- Contributions in kind.
- General costs / fixed rate application of administrative costs.
- VAT.
- Preparation of the new institutional and administrative framework for implementing actions arising from the State aid regime.

c. What area of the programme is affected by questions of eligibility?

The entire area of the programme is affected by questions of eligibility. Both partner countries encounter the same problems.

d. Training / information on the question of eligibility of expenditure

The programme managers feel that they are sufficiently well informed on the question of eligibility of expenditure.

e. Contacts made on the question of eligibility of expenditure

The programme has regular contact with the European Commission and other INTERREG programmes on questions of eligibility of expenditure.

f. Tools and methods used

The programme uses five types of methods and tools in the area of eligibility of expenditure:

- Country-by-country analysis.
- Implementation of a cross-border legal committee to ensure common acceptance of eligibility criteria.
- Coordination with Commission departments on this question.
- Distribution of a specific audit and/or eligibility guide for the programme.
- Integration of types of eligible or ineligible expenditure in the documents for the attention of project participants.

g. Recommended good practices

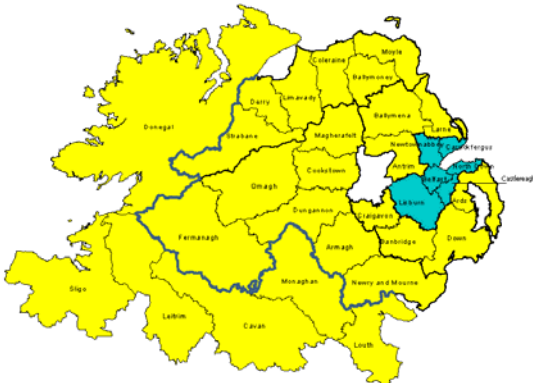
The programme managers recommend the following good practices:

- Greater coordination between the different programme authorities affected by this question.
- Practical tools for programme animators and project partners.
- Specific information days for programme managers.
- A common audit guide or one dealing specifically with questions of eligibility.
- Better preparation of projects.
- Clear identification of projects and themes at risk.
- More specific information and training for the Lead Partners of programmed projects.
- Sufficiently motivated upstream coherence controls.

h. Proposals for the next programming period

The programme proposes, as a general rule, better coordination between the rules for the “internal” and “external” components.

3. Programme INTERREG IIIA Ireland – Northern Irelanda. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b> * <b>Ireland – Northern Ireland</b>  <i>Ireland, United Kingdom</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p>	<p style="text-align: center;"><b>Paying Authority</b></p>
<p style="text-align: center;">Special EU Programmes Body– SEUPB (Monaghan – Ireland)</p>	<p style="text-align: center;">Special EU Programmes Body– SEUPB (Belfast– Ireland)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p>
<p style="text-align: center;">EUR 182 695 763</p>	<p style="text-align: center;">EUR 137 021 821</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p>
<p style="text-align: center;">EUR 157 662 000                      75 %</p>	<p style="text-align: center;">N/C    N/C</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p>
<p style="text-align: center;">243</p>	<p style="text-align: center;">Special EU Programmes Body– SEUPB (Monaghan – Ireland)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme managers note that the following eligibility questions either pose problems or necessitate particular attention:

- Expenditure in kind necessitates clear identification in the management of the project and to remain fixed on the percentages and levels fixed at the beginning of the operation.
- Overheads sometimes induce errors in reporting costs and poor calculations of the fixed repartition scale.
- Unjustified expenditure is, by its very nature, ineligible.

- Subcontracting does not pose any problems as long as the conditions for implementation, foreseen at the start, are respected.
- Taking into account receipts is done under the control of the MA.
- Normal banking costs are eligible but financial penalties are not.
- For land purchases, the programme holds strictly to the Community 10% rule and on the control of State aid.
- For infrastructures and investments, the programme applies the same rule as for land purchases. A certain grey area exists regarding receipts or the valorisation of the operations (price estimate by State services).
- Real estate purchases are subject to the same rule, but only in co-financing. Its value is fixed to a precise percentage and is assigned to the purchase price or to the value of local real estate.
- For VAT, there are risks of confusion if the project changes fiscal status or if the VAT certificate is not available in the project file.
- For part-implementation of a project outside the geographical perimeter of the programme, a specific percentage must be approved in advance. The MA, moreover, would like clearer instructions on this point.
- At this stage of programming there is little risk of encountering “atypical” or unforeseen expenditure.
- Certain expenditure poses problems as it appears outside the eligible timeframe and is, for example, related to unforeseen expenditure or ex post audits.
- The organization of a common meeting or common management costs do not pose any problems provided they are correctly foreseen at the beginning of the project.

c. What area of the programme is affected by questions of eligibility?

The area concerned passes that of the programme if the project includes areas beyond the 6 Irish border counties.

d. Training/information on the question of eligibility of expenditure

Continuous training to keep up with the regulations.

e. Contacts made on the question of eligibility of expenditure

The programme managers contact when necessary the European Commission as well as managers of the PEACE and URBAN programmes in particular.

f. Tools and methods used

There are two types of tools and methods used by the programme:

- Coordination with the Commission's communication services when necessary;
- The diffusion of specific guidance notes that are available on the programme Website.

g. Recommended good practices

The programme managers recommend the following good practices:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.). Clear framing notes are distributed during multilateral meetings and re-explained during bilateral meetings. On this point, the MA has requested an information return from the selection and preparation services of the projects in the framework of a group of procedures. The information gathered was very useful in the development or modification of the technical accompaniment by the MA.
2. Improvement in the quality of relations between the MA and the Lead Partner or information exchange techniques. The MA has regular contact with the implementation services during bi- or multilateral meetings. Day-to-day management of the projects is ensured by the implementation services, the MA being a little withdrawn. In addition, workshops are organised when necessary.
3. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners). The good practices are sent out through communication tools like email or the programme Website. Forums for the project participants as well as other meetings allow information exchanges on questions of eligibility of expenditure, among other things.
4. Specific information days for programme managers. This would be useful for the MA and, in particular, for new arrivals depending on the management of the programme. For the implementation services, a procedural guide is in place and information seminars are organised when necessary.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure. A framing note dealing specifically with the question of eligibility was addressed to all agents tasked with implementing the projects. Financial seminars took place and allowed questions relating to the eligibility of expenditure to be asked.
6. Clearer determination of the appraisal margins of the MA in case of doubt regarding the eligibility of expenditure. Framing notes, after being developed are sent out to the implementation services which then add their comments before definitive adoption. In this context, the establishment of a working group on procedures was very useful.
7. Better preparation of the projects. The MA does not have direct control over the projects. These are managed by implementing agents who organise workshops, training courses or on-the-spot visits and who monitor and evaluate the projects.
8. Clear identification of the projects and themes at risk. The MA periodically evaluates the programme and makes recommendations for improvement to the Monitoring Committee, which then transmits this to the Commission. Regular meetings are organised with agents responsible for implementation to hear their opinion.



9. Better drafting of the subsidy contracts between the MA and the Lead Partners. Here too, framing notes, after being developed, were diffused to the implementation services, that added their comments, before final adoption. In this context, the establishment of a working group on procedures was very useful.
10. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.). Framing notes were implemented by the implementation services. Financial seminars, attended by the project participants, also allowed exchanges of information and good practices. During these events, presentations were given by the programme auditors and implementations services.
11. Sufficiently motivated upstream cohesion controls. Standard on-the-spot checks should allow this objective to be reached at project and implementation services level with reconciliation of the results between each level.
12. Clarify the link between automatic decommitment and eligibility of expenditure. Expenditure is only eligible in the temporal framework of the project fixed by the grant offer letter. At the end of this delay, the funds are deprogrammed automatically and reallocated to another project in the same measure. If this is not possible, reallocation to another measure is possible by passing through the Monitoring Committee.

h. Proposals for the next programming period

The Commission should survey the best practices of each programme and make them available to all programmes.

Interpretation of eligibility rules would be improved if they were accompanied by practical examples.

There should be unified interpretation among the administrators in the Commission. This would be possible thanks to less complex and bureaucratic rules and by the adoption of similar systems between the Member States.

Good practices and exemplary processes in current programmes should serve as a basis for the next programming period.

Greater flexibility in the reallocation of funds between the measures and priorities within the programme is needed.

More differentiated and realistic start-up dates for rule N+ 2 are also needed depending on different opening dates within the same programme.

The communication process on questions of eligibility should become obligatory in the ext programming period.

Less concentration on the requests made to the authorities to implement the gathering of 100% of the expenditure receipts and more of an accent on visits provided for in Article 4 and of support visits to the projects.

Early indications on the winding up of the programmes and the expectations, so that the MA can make sure that it is part of the discussions at the start of the programme.


Greater flexibility at the time of the winding-up of the programme to take into account fluctuations of the change rates as well as the orientations on this question.

INTERREG programmes should only be managed in one currency, the euro.

Community rules should be simpler and more “user-friendly”.

The winding-up of programmes must be phrased so as not to interfere with the kick-off of the new generation.

4. Programme INTERREG IIIA PAMINAa. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b></p> <p style="text-align: center;">*</p> <p style="text-align: center;"><b>PAMINA</b></p> <p style="text-align: center;"><b>Germany, France</b></p>	 <p style="text-align: center;">(Zone in blue)</p>
<p style="text-align: center;"><b>Managing Authority</b></p>	<p style="text-align: center;"><b>Paying Authority</b></p>
<p style="text-align: center;">Local Grouping of Cross-border Cooperation PAMINA (<i>Lauterbourg, France</i>)</p>	<p style="text-align: center;">Local Grouping of Cross-border Cooperation PAMINA (<i>Lauterbourg, France</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p>
<p style="text-align: center;">EUR 14 105 329</p>	<p style="text-align: center;">N/C</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p>
<p style="text-align: center;">EUR 11 195 891                      79 %</p>	<p style="text-align: center;">EUR 5 731 387                      41 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p>
<p style="text-align: center;">59</p>	<p style="text-align: center;">Local Grouping of Cross-border Cooperation PAMINA (<i>Lauterbourg, France</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The PAMINA Programme considers that the following types of expenditure pose questions of eligibility:

- Depreciation;
- Overheads, as little expenditure can be justified by regular supporting documents;
- Unjustified expenditure;
- Staff costs, as according to French and German national authorities, staff costs must be proved by the production of wage or salary slips. Now, this constitutes a major confidentiality problem, notably in Germany where religious denomination appears on this document.

c. What is the area of the programme affected by questions of eligibility?

The whole area of the programme is affected by these questions of eligibility.

d. Training/information on the question of eligibility of expenditure

The programme managers do not feel sufficiently well informed as Regulation (EC) No 448/2004 lacks sufficient clarity on certain points. This was the main cause of a very strict interpretation of eligibility rules by the Member States. Unfortunately, these interpretations only became known several years after the start-up of the programme and often placed the MA in a difficult position.

e. Contacts made on the question of eligibility of expenditure

The European Commission does not respond to the practical questions of eligibility of expenditure encountered by the MA. It is indeed rigorously impossible to collect an official interpretation of the rules from the Commission, which constitutes an important cause of legal insecurity for the MA.

Relations were established with the neighbouring INTERREG IIIA Programme Upper Rhine Centre-South, which is faced with the same problems of eligibility.

f. Tools and methods used

There are numerous methods used and they go from a case-by-case method to the inclusion of information in the documents for the attention of project participants, passing through the production of specific notes or the establishment of a cross-border legal committee.

However, coordination with the Commission is impossible because of its internal organisation.

g. Recommended good practices

The managers of the PAMINA Programme recommend the following good practices:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.).
2. Improvement in the quality of relations between the MA and the Lead Partner or exchanges of technical information.
3. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners).
4. Specific information days for programme managers.
5. Better preparation of the projects.
6. Clear identification of the projects and themes at risk.
7. Better drafting of the subsidy contracts between the MA and the Lead Partners.

8. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).
9. Upstream coherence controls that are sufficiently well motivated.
10. Clarify the link between automatic decommitment and eligibility of expenditure.


On the other hand, the PAMINA Programme managers did not uphold the following good practices, judging them to be of little relevance:

- Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
- Clearer determination of the appraisal margins of the MA in instances of doubt regarding the interpretation of expenditure.

h. Proposals for the next programming period

The programme did not put forward any proposals on this matter.

5. Programme INTERREG IIIA Upper Rhine Centre-Southa. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b> * <b>Upper Rhine Centre-South</b>  <b>Germany, France, Switzerland</b></p>	 <p style="text-align: center;">(Zone in grey)</p>
<p style="text-align: center;"><b>Managing Authority</b></p>	<p style="text-align: center;"><b>Paying Authority</b></p>
<p>Alsace Regional Council (<i>Strasbourg, France</i>)</p>	<p>Caisse des dépôts et consignations (<i>Strasbourg, France</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p>
<p style="text-align: center;">EUR 64 136 733</p>	<p style="text-align: center;">EUR 32 068 366</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p>
<p style="text-align: center;">EUR 83 020 690                      129.4%</p>	<p style="text-align: center;">N/C    74.55</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p>
<p style="text-align: center;">78 (for an ERDF sum of EUR 28 771 283)</p>	<p>Alsace Regional Council (<i>Strasbourg, France</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme notes the following difficulties:

- Contributions in kind pose the following questions: what cost to uphold? How to calculate the value of unpaid voluntary work?
- Overheads: It is impossible, in principle, to accept fixed prices but the programme team is, in fact, obliged to as it is often difficult to recover the share corresponding to true expenditure (they are generally only available after the end of the eligibility period).

- Accountancy treatment of receipts: the fact that there will be receipts *in fine* is not always specified at the start-up of the project, which often leads to large transfers at the end of the project.
- VAT: the team highlights a certain difficulty to assess the exact fiscal situation of each partner and the impossibility of verifying it (secret of the fiscal services).
- Staff costs: regarding people who do not work full-time on the project, the following questions can be asked: can we take an estimated cost for a full-time work place and apply the work-rate (e.g. part-time for the project)? Or must the real expenditure be taken (but probably with social charges, etc.) and, in this case, request very specific time sheets?
- Travel expenses: must the fixed fiscal charge or real expenditure be accepted (knowing that the former will perhaps be higher than the real expenditure)?
- Expenditure "outside the area": expenditure outside the area is accepted when it has been carried out by a project partner who is based in the programming zone.
- Expenditure outside the deadline: to resolve this problem, the programme has dissociated completion periods and eligibility periods (+ 3 months to develop the final report, pay social charges, etc.).
- Preparation costs do not pose any particular problems: the programme does not take into account expenditure carried out before official submission of a complete application form.
- Specific meetings and events do not pose any particular problems either if they are foreseen in the provisional budget or if they are part of a sustainable concept.

c. What area of the programme is affected by questions of eligibility?

There are differences of interpretation between France and Germany.

d. Training/information on the question of eligibility of expenditure

The programme did not give any indications on this subject.

e. Contacts made on the question of eligibility of expenditure

No contact was established with the German authorities before 2004. Neither was there any contact with the Commission.

f. Tools and methods used

The production of eligibility notes: this was done at the start-up of the programme on eight specific points among which: VAT, till receipts, etc.

There is no audit guide, so to speak, but there is a note on the official documents to be presented for each type of expenditure, which is handed over to the Lead Partner and its partners at the start-up of the project.

g. Recommended good practices

The following good practices caught the attention of the programme:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.).

2. Specific information days for programme managers.
3. Drafting of a common audit guide, or one dealing specifically with eligibility of expenditure.
4. Better preparation of the projects.
5. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).

However, the following good practices did not seem relevant to the programme:


- Improvement in the quality of relations between the MA and the Lead Partner or exchanges of technical information.
- Practical tools for the programme animators and the project partners (in particular, potential Lead Partners).
- Clearer determination of the appraisal margins of the MA in instances of doubt regarding the interpretation of expenditure.
- Clear identification of the projects and themes at risk.
- Better drafting of the subsidy contracts between the MA and the Lead Partners.
- Upstream coherence controls that are sufficiently well motivated.
- Clarify the link between automatic decommitment and eligibility of expenditure.

h. Proposals for the next programming period

Each programme must be left to define its own rules on eligibility of expenditure and to have them validated at the start of the programme by the competent authorities (national authorities and Commission) and, above all, to stick to them throughout the programming. Retroactivity must be avoided at all costs as a source of insecurity: either an expense is eligible at moment X, or it is not eligible and then one should stick to that rule.



6. Programme INTERREG IIIA Wallonia – Lorraine – Luxembourga. Summary table

<p style="text-align: center;"><b>INTERREG IIIA</b> * <b>Wallonia –Lorraine – Luxembourg</b></p> <p style="text-align: center;"><i>Belgium, France, Luxembourg</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p>Walloon Regional Ministry, Department of external relations (<i>Brussels – Belgium</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p>Caisse des Dépôts et Consignations – Direction Régionale Nord-Pas-de-Calais (<i>France</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p style="text-align: center;">EUR 56 861 004</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 25 141 949</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p>EUR 25 550 807 (ERDF)      102 %</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p>EUR 25 550 807 (ERDF)      48 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">75</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Intercommunale IDELUX (<i>Arlon – Belgium</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme noted the following questions of eligibility:

- Different rules for depreciation costs according to the country.
- Contributions in kind: those are subject to differences of interpretation between the Community regulations and the three national sides involved in the programme.
- Subcontracting, which is possible but which necessitates reminding operators each time to respect public procurement rules.
- Infrastructures/investments, whose level was hardly specified at the beginning of the programme by the programme partners.
- Staff costs, which are subject to a request of time calculation when the working rate is less than 100%.
- Expenditure outside the area, which is subject to very strict instructions.

- Expenditure outside the deadline: a solution was developed at programme level that leaves two extra months after the end of the project to settle final expenditure.
- Preparatory costs whose eligibility depends on the start date of the project.
- Eligible common management costs.

c. What area of the programme is affected by questions of eligibility?

The whole programme is affected by these questions and a common methodology was laid out at the beginning of the programme, but these rules remain specific to each country.

d. Training/information on the question of eligibility of expenditure

The programme managers have difficulties being properly informed as there are 17 certification units on the Walloon side, one in France and one in Luxembourg. It is therefore difficult to know all the differences of interpretation.

e. Contacts made on the question of eligibility of expenditure

The programme is not in contact with the Commission but it is in contact with the neighbouring IIIA Programme France-Wallonia-Flanders.

f. Tools and methods used

Tools and methods used are:

- A case-by-case analysis, but only for certain projects with specific problems.
- A country-by-country analysis with a common note and general rules but different adaptations that can be done differently by each side.
- The production of specific eligibility notes.
- Establishment of a national legal committee.
- Diffusion of a guide specific to the programme.
- Inclusion of types of expenditure in documents for the attention of the project promoters.

g. Recommended good practices

Good practices recommended by the programme are the following:

1. Implementation of reinforced coordination between the different programme authorities.
2. Improvement in the quality of relations between the MA and the Lead Partner or exchanges of technical information.
3. Practical tools for the programme animators and the project partners.
4. Specific information days for programme managers.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
6. Clearer determination of the appraisal margins of the MA.
7. Better preparation of projects.
8. Clear identification of the projects and themes at risk.


9. Better drafting of the subsidy contracts between the MA and the Lead Partners.
10. More specific information and training for the Lead Partners of programmed projects.
11. Upstream coherence controls that are sufficiently well motivated.

Clarification of the links between automatic decommitment and eligibility of expenditure, all the same, does not seem useful to the programmes managers.

h. Proposals for the next programming period

The programme does not formulate any particular proposals.

7. Programme INTERREG IIIB ARCHIMEDa. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>ARCHIMED</b></p> <p style="text-align: center;"><b><i>Greece, Italy, Cyprus, Malta (+ Turkey, Lebanon, Syria, Israel, Jordan, Egypt, Libya-Gaza)</i></b></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p style="text-align: center;">Greek Finance and Economy Ministry (<i>Athens, Greece</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p style="text-align: center;">Greek Finance and Economy Ministry (<i>Athens, Greece</i>)</p>
<p style="text-align: center;"><b>Total funding for the programme</b></p> <p style="text-align: center;">EUR 119 578 200</p>	<p style="text-align: center;"><b>ERDF funding for programme</b></p> <p style="text-align: center;">EUR 79 536 200</p>
<p style="text-align: center;"><b>Programming status 31.12.2005</b></p> <p style="text-align: center;">EUR 90 037 470                      75.30 %</p>	<p style="text-align: center;"><b>Consumption status 31.12.2005</b></p> <p style="text-align: center;">EUR 2 950                                      0.06 %</p>
<p style="text-align: center;"><b>Number of programmed projects 31.12.2005</b></p> <p style="text-align: center;">0 (72 projects approved in 2006)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Greek Finance and Economy Ministry (<i>Athens, Greece</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme encountered problems with the following types of expenditure:

- Depreciation costs.
- Contributions in kind.
- General costs / fixed rate application of administrative costs.
- VAT.
- Preparation of the new institutional and administrative framework for implementing actions arising from the State aid regime.

c. What area of the programme is affected by questions of eligibility?

The whole area of the programme is affected by questions of eligibility.

d. Training / information on questions of eligibility

The programme managers feel sufficiently trained on questions of eligibility of expenditure.

e. Contacts made on the question of eligibility of expenditure

The programme has regular contact with the European Commission and other INTERREG programmes on questions of eligibility of expenditure.

f. Tools and methods used

The programme uses 5 types of tools and methods in the area of eligibility of expenditure:

- Country-by-country analysis.
- Implementation of a transnational legal committee to ensure common acceptance of eligibility criteria.
- Coordination between the departments of the Commission on this question.
- Distribution of a specific audit and/or eligibility guide for the programme.
- Integration of types of eligible or ineligible expenditure in the documents for the attention of project participants.

g. Recommended good practices


The programme managers recommend the following good practices:

- Put in place greater coordination between the different programme authorities affected by this question.
- Practical tools for programme animators and project partners.
- Specific information days for programme managers.
- Drafting of a common audit guide or one dealing specifically with eligibility of expenditure.
- Better preparation of the projects.
- Clear identification of the projects and themes at risk.
- More specific information and training for the Lead Partners of programmed projects.
- Sufficiently motivated upstream cohesion controls.

h. Proposals for the next programming period

The programme proposes, as a general rule, to improve coordination between the rules for the “internal” and “external” components.

8. Programme INTERREG IIIB Alpine Spacea. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>Alpine Space</b></p> <p style="text-align: center;"><i>Germany, France, Austria, Italy, Slovenia, Switzerland, Liechtenstein</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p>Land of Salzburg – Regional Development Unit and regional policy (Salzburg – Austria)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p>Land of Salzburg – Economic Unit and technical research (Salzburg – Austria)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p style="text-align: center;">EUR 125 065 916</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 60 683 037</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p style="text-align: center;">EUR 120 365 803                      96.25 %</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p style="text-align: center;">N/C    N/C</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">57 (EUR 113 034 in total costs and EUR 51 585 659 of ERDF)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Joint Technical Secretariat – JTS – INTERREG IIIB Alpine Space Programme (Rosenheim – Germany)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The main questions of eligibility encountered by the IIIB Alpine Space Programme are as follows:

- Running costs that are regularly not calculated on the basis of effectively supported costs.
- Subcontracting, for which public procurement and competition rules are not always respected.
- Banking transactions.
- It is not always clear whether the public partner is subject to VAT.
- Participation in seminars outside the EU poses the question of geographical eligibility of projects.
- For start up expenses for projects, there is sometimes misunderstanding over the start date for eligibility of expenditure.

c. What area of the programme is affected by questions of eligibility?

The question of eligibility affects the whole area of the programme, but is more prevalent in countries that have decentralised first level controls.

d. Training/information on the question of eligibility of expenditure

The programme managers feel sufficiently well informed through analysis of the regulations, practical experience as well as through INTERACT tools and seminars.

e. Contacts made on the question of eligibility of expenditure

The programme is not in contact with the European Commission on this subject, but it does have selective contact with colleagues in other programmes on specific questions.

f. Tools and methods used

The tools used concern, above all, the use of a general manual on first level controls as well as national documents on this subject and the inclusion of elements in the guide for applicants (guide to complete the application).

g. Recommended good practices

The programme recommends the following good practices:

1. Clearer determination of the margins of appreciation of the MA in instances of doubt regarding the interpretation of expenditure.
2. Better preparation of projects.
3. Clear identification of the projects and themes at risk.
4. Clarify the link between eligibility of expenditure and automatic decommitment.

Furthermore, the programme implemented the following good practices:

- Practical tools for programme animators and project partners (in particular potential Lead Partners).
- Specific information days for programme managers.
- Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.

Finally, the programme feels that the following recommendations are not adapted:


- Implementation of reinforced coordination between the different programme authorities affected by this question (MA, JTS, national correspondents, animators...).
- Improving the quality of relations between the MA and the Lead Partner or of exchanges of technical information.
- Improved drafting of subsidy contracts between the MA and the Lead Partners.
- More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).
- Sufficiently motivated upstream coherence controls.

h. Proposals for the next programming period

It would be very important to have all the programming documents at disposal before launching the first call for proposals. It would be ideal to produce documents that would not have to be revised during the implementation phase of the programme.



9. Programme INTERREG IIIB North West Europe (NWE)a. Summary table

<p><b>INTERREG IIIB</b></p> <p><b>*</b></p> <p><b>North West Europe (NWE)</b></p> <p><i>United Kingdom, Ireland, France, Belgium, Luxembourg, Netherlands, Germany, Switzerland</i></p>	
<p><b>Managing Authority</b></p>	<p><b>Paying Authority</b></p>
<p>Région Nord Pas-de-Calais (<i>Lille – France</i>)</p>	<p>Caisse des Dépôts et Consignations – Direction Régionale Nord-Pas-de-Calais (<i>France</i>)</p>
<p><b>Overall funding of the programme</b></p>	<p><b>ERDF funding for the programme</b></p>
<p>EUR 655 688 562</p>	<p>EUR 330 578 096</p>
<p><b>Status of programming at 31.12.2005</b></p>	<p><b>Consumption status at 31.12.2005</b></p>
<p>EUR 649 131 676                      99 %</p>	<p>EUR 288 502 967                      44 %</p>
<p><b>Number of programmed projects at 31.12.2005</b></p>	<p><b>Joint Technical Secretariat</b></p>
<p>99</p>	<p>Joint Technical Secretariat (<i>Lille – France</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The NWE Programme encounters the following eligibility problems:

- Contributions in kind that sometimes lead to confusion on behalf of certain partners who consider that their staff costs are contributions in kind that they bring to the budget as project receipts.
- Overheads also pose a problem as they are frequently the object of calculation errors or they are regularly included in staff costs. A frequent error for project promoters is to take a fixed fee as a basis for overheads rather than expenditure actually incurred.
- In certain cases unjustified expenditure appears in the form of the presentation of supporting documents that do not correspond to the action plan approved by the Steering Committee.
- With regards to subcontracting that affects certain projects, the question was asked about taking it into account within the framework of the programme. After discussions at programme authorities level, subcontracting was definitively accepted.
- For the taking into account of receipts, the programme managers must remind the project promoters that all revenue generated during the life of the project must be deducted from the amount of expenditure presented for reimbursement.
- For the purchase of land, the programme authorities need to restate the 10% rule.
- The question of the eligibility of investments and infrastructures is subject to case-by-case analysis by the preparation service.
- The purchase of real estate is subject to a reminder that housing is not an eligible expenditure under ERDF, but there are very few problems on this matter.
- For VAT, the programme always refers to national rules that can vary from one Member State to another.
- Staff costs, when they concern part-time posts, require the systematic production of detailed timesheets.
- Expenditure outside the geographical area is, in principle, ineligible except if it has prior justification and if it has received the ok from the JTS.
- For expenditure outside the deadline, the programme eligibility rule is very clear: the end date for the project corresponds to the end of its activities. The project then has three months to finalise the reimbursement request for the balance and prepare the winding-up of the project, for which the operations are eligible.
- For the common management costs of the project, the programme requests that they are presented by the partner who has incurred them. Internal invoices between partners are not eligible for INTERREG, which is not always properly understood by the latter.

c. What area of the programme is affected by questions of eligibility?

All areas of the programme are affected.

d. Training/information on the question of eligibility of expenditure

The programme managers are sufficiently trained, in particular thanks to the INTERACT seminars as well as by responses given by the DG Regio (when there are any).

e. Contacts made on the question of eligibility of expenditure

On rare occasions and above all at the beginning of the programme, there are contacts with the European Commission and also from time to time with other INTERREG IIIB programmes (e.g. North Sea).

f. Tools and methods used

The tools and methods used by the NWE Programme to settle questions of eligibility are as follows:

- Case-by-case analysis according to the regulation in force.
- Diffusion of a practical guide “NWE audit guidelines”, which is available online on the programme Website.
- The inclusion of eligibility rules in the official documents (e.g. subsidy contract) for the attention of the Lead Partners.

g. Recommended good practices

The programme recommends the following good practices:

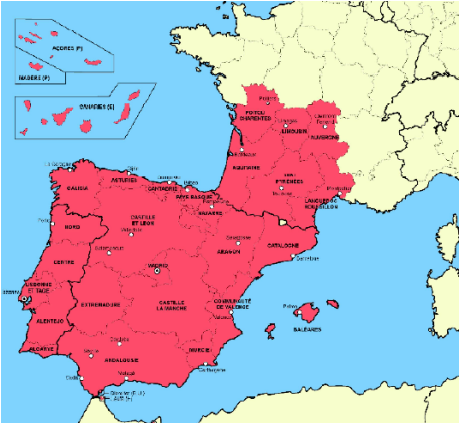
1. Setting up reinforced coordination between the different programme authorities affected by this question (MA, JTS, national correspondents, animators...). The programme participates, via INTERACT, in the Financial Managers Network for INTERREG programmes.
2. Practical tools for programme animators and project partners (in particular potential Lead Partners). Consequently the programme organises seminars for the Lead Partners.
3. Specific information days for programme managers. To this end, the programme also organises specific information days for programme managers.
4. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure. The NWE Programme has a general guide but feels that it would, perhaps, be useful to have a common guide for all INTERREG projects.
5. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.). This recommendation is particularly interesting for the programme managers.

The other good practices proposed in the questionnaire did not seem relevant to the programme.

h. Proposals for the next programming period

The NWE programme managers propose a common approach to the question of eligibility of expenditure for all INTERREG programmes in Europe.

10. Programme INTERREG IIIB South-West Europe (SUDOE)a. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>South-West Europe</b> <b>(SUDOE)</b></p> <p style="text-align: center;"><i><b>Spain, France, Portugal, United Kingdom</b></i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p style="text-align: center;">Autonomous Community of Cantabria – Department of Economy and Commerce (<i>Santander – Spain</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p style="text-align: center;">Ministry for Economy and Finance – General Department for European Funds and Regional Development (<i>Madrid – Spain</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p style="text-align: center;">EUR 111 705 142</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 67 248 575</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p style="text-align: center;">EUR 111 705 142                      100 %</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p style="text-align: center;">EUR 46 195 156                      41.35 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">76 (EUR 102 264 584 in total costs and EUR 61 603 206 in ERDF)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Autonomous Community of Cantabria – Department of Economy and Commerce (<i>Santander – Spain</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme surveyed several types of expenditure that pose questions of eligibility or that necessitate particular treatment:

- Complicated calculation methods for depreciation.
- Contributions in kind: those are also difficult to calculate, especially for unpaid voluntary work.
- Unjustified expenditure atypical expenditure are not accepted.
- Accountancy treatment of receipts poses a problem when they were not foreseen from the start in the project budget.
- The same problem of calculation applies for the purchase of land, if it does not appear in the funding request.
- As for the purchase of real estate, the programme prefers rental agreements.
- VAT also poses complex calculation problems.
- Expenditure outside the area is eligible provided that it is justified.
- In the winding-up period of the project, it is advisable to monitor expenditure, especially administrative expenditure that risks falling outside the timeframe.
- Preparatory costs are eligible, provided they have been forecast at the start.

c. What area of the programme is affected by questions of eligibility?

The whole area of the programme is affected with, nevertheless, variations in dealing with eligible expenditure, for example taking into account unpaid voluntary work, whose valorisation varies according to the administrative and accounting rules in each State.

d. Training/information on the question of eligibility of expenditure

*A priori*, the managers feel sufficiently informed, even though the programme logically suffers from its lack of experience in the management of INTERREG.

e. Contacts made on the question of eligibility of expenditure

Numerous email or telephone contacts are made with the Commission or with the managers of the regional Operational Programme or with INTERREG programmes from other regions.

f. Tools and methods used

The techniques used by the programme are numerous:

- Case-by-case analysis according to the national rules of each State.
- Country-by-country analysis with eventual contact with national control bodies and debates in national technical meetings.
- Production of specific notes that allow comparison with other national correspondents and other programmes.
- Setting up of transnational technical meetings and eventual arbitration by the Monitoring Committee if necessary (in which the European Commission participates).
- The programme also has an instruction manual for certification requests but does not have a specific tool for eligibility of expenditure.
- A common form.

g. Recommended good practices

The programme recommends the following good practices:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.). That is necessary to allow for the exchange of experience between all the programme actors.
2. Improvement in the quality of relations between the MA and the Lead Partner or exchanges of information techniques. It would be possible to integrate a more detailed explanation of the eligibility rules into the grant agreement.
3. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners).
4. Specific information days for programme managers. These days must be organised with the managers of other programmes as well as the European Commission.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
6. Better preparation of projects.
7. Better drafting of the subsidy contracts between the MA and the Lead Partners.
8. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.). Such training should be extended to all the partners of the projects.

The programme did not uphold the following good practices as they were considered poorly adapted:

- Clearer determination of the appraisal margins of the MA in instances of doubt regarding the interpretation of expenditure.
- Clear identification of the projects and themes at risk.
- Upstream coherence controls that are sufficiently well motivated.
- Clarify the link between automatic decommitment and eligibility of expenditure.


h. Proposals for the next programming period

Development of a guide on eligibility of expenditure (rules, nature, etc.) to be distributed on two occasions: during project preparation to potential project promoters, then during project/programme implementation, down to the project partners.

Maintain certain flexibility, allowing a case-by-case approach to appreciate the eligibility of expenditure, with regard to the regulations and specificity of the project and of its partners and the Member States concerned. If needed, exchanges of experience with other programmes or the Commission would be welcome.

## 11. Programme INTERREG IIIB Baltic Sea Region

## a. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>Baltic Sea Region</b></p> <p><i><b>Poland, Estonia, Lithuania, Latvia, Germany, Denmark, Finland, Sweden, Norway, Russia, Belarus</b></i></p>	
<p style="text-align: center;"><b>Managing Authority*</b></p>	<p style="text-align: center;"><b>Paying Authority</b></p>
<p style="text-align: center;">Investitionsbank Schleswig-Holstein (Rostock – Germany)</p>	<p style="text-align: center;">Investitionsbank Schleswig-Holstein (Rostock – Germany)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p>
<p style="text-align: center;">EUR 214 600 000 (INTERREG IIIA included)</p>	<p style="text-align: center;">EUR 147 600 000 (INTERREG IIIA included)</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p>
<p style="text-align: center;">EUR 214 600 000</p> <p style="text-align: right;">100 % of which 72.7 % for the two IIIA</p>	<p style="text-align: center;">EUR 49 700 000 (funds sought from the Commission for the two IIIA programmes)</p> <p style="text-align: right;">33.7% (of the ERDF funding)</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p>
<p style="text-align: center;">120 projects IIIB and 59 projects IIIA (EUR 75 400 000 in total costs and EUR 39 400 000 in ERDF)</p>	<p style="text-align: center;">Investitionsbank Schleswig-Holstein (Rostock – Germany)</p>

\* The Managing Authority is also in charge of two IIIA programmes (Estonia – Latvia – Russia and Latvia – Lithuania – Belarus).



b. Existence of a problem of eligibility of expenditure on particular themes

The programme cites the following problems:

- Contributions in kind for which a clearer and more specific definition should be given and for which the calculation is delicate.
- Overheads for which often no limit is fixed. In addition, calculation of overheads is rarely based on real costs, but on pro rata sums (which is not allowed). Finally, certain types of expenditure are included in general costs, although they do not directly concern the project.
- Subcontracting is not authorised by the programme and sometimes the Lead Partners are not up-to-date on the rules for public procurement in this area.
- The programme raises the question of taking into account charges for domestic transfers (while international charges are eligible).
- On the question of geographical eligibility, the programme had to refuse partners situated 10km outside the eligible zone.
- For atypical expenditure, the rule is that programme managers seek authorisation for modification from the JTS (that must in some cases be approved in written procedure by the Monitoring Committee). However, these requests cause significant administrative reinstruction work and it would be advisable, perhaps, to use a more flexible formula, like with the IIIC Programme that allows, for example, a budgetary line of 5% to be passed.
- The question of expenditure outside the deadline arises particularly at the end of the programming period.
- Preparatory costs are not eligible in the programme but they will perhaps be in the future. Instead the programme uses a "Seed Money Tool". The disadvantage was the very high administrative cost for the small projects.
- Common management costs are in general difficult to manage. Finally, the programme produced a note for the projects defining how the procedure should be set up and how to ensure a sufficient audit trail.

c. What area of the programme is affected by questions of eligibility?

The question of eligibility only affects one part of the programme.

d. Training/information on the question of eligibility of expenditure

The programme informs itself through exchanging experiences with other programmes, notably during workshops organised in particular by INTERACT.

e. Contacts made on the question of eligibility of expenditure

Contacts took place notably with the reporter at the Commission and during INTERACT events.

f. Tools and methods used

The main tools and methods used by the programme are:

- A case-by-case analysis which often allows a general rule to be defined for the programme.
- A country-by-country is not carried out but could be useful, although the programme does not have the means to analyse the national rules.
- Specific information requests were formulated to the Commission, for example on expenditure outside the area.
- A programming manual was published.
- All documents for the attention of the project promoters contain links with eligibility rules.

g. Recommended good practices

The programme recommends the following good practices:

1. Implementation of reinforced coordination between the different programme authorities.
2. Improvement in the quality of relations between the MA and the Lead Partner.
3. Practical tools for the programme animators and the project partners.
4. Specific information days for programme managers.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
6. Better preparation of projects.
7. Partially, clear identification of the projects and themes at risk.
8. Better drafting of the subsidy contracts between the MA and the Lead Partners: on this point, the programme proposes instead to put links to other interpretation documents for eligibility of expenditure, which are regularly updated, into the subsidy contracts.
9. More specific information and training for the project Lead Partners.
10. Upstream coherence controls that are sufficiently well motivated.

The other good practices proposed in the questionnaire were judged to be of little relevance with regard to the eligibility of expenditure.

h. Proposals for the next programming period

The programme formulated the following proposals:

- Better coordination between the programmes concerning the interpretation of Community rules. This is crucial, notably for the zones covered by several programming zones.
- Better coordination between the programmes on their specific rules as well as on the documents used, structuring of budgets, types of budgetary lines, etc.
- The level of co-financing could be increased for projects (up to 85%); the programmes could then decide to limit certain expenditure in a stricter way (for example, no viable co-financing of overheads).
- Better assistance and less complicated rules for certain types of cost (for example, calculation of overheads could no longer be based on real costs but on a fixed price, though with stronger limitation, for example, 2% of the project budget).
- Better coordination with the national authorities regarding eligibility rules.

12. Programme INTERREG IIIB Indian Ocean / Réunion Islanda. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>Indian Ocean / Réunion Island</b></p> <p style="text-align: center;"><i>Réunion Island, Madagascar, Seychelles, Comoros, etc.</i></p>	
<p style="text-align: center;"><b>Managing Authority*</b></p>	<p style="text-align: center;"><b>Paying Authority</b></p>
<p>Région Réunion (<i>Sainte Clotilde – France</i>)</p>	<p>Caisse des Dépôts et Consignations Locale (<i>France</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p>
<p style="text-align: center;">EUR 5 986 815</p>	<p style="text-align: center;">EUR 5 088 792</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p>
<p style="text-align: center;">EUR 4 566 642                      76 %</p>	<p style="text-align: center;">EUR 1 792 148                      30 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p>
<p style="text-align: center;">87 for EUR 3 819 939 (ERDF)</p>	<p>AGILE (managing agency for local initiatives in European matters) (<i>France</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme points out two types of particular eligibility problems, they are the appearance of unjustified expenditure due to invalid invoices, or invoices not directly linked to the co-financed action or the presence of expenditure outside the geographic area.

c. What area of the programme is affected by questions of eligibility?

The Indian Ocean / Réunion Island programme managers point out that their ultimate aim is to encourage cooperation between Réunion and the neighbouring States. However, Réunion is the only European region in the Indian Ocean. Cooperation with non-European countries therefore poses problems of eligibility of expenditure on non-Community territory.

d. Training/information on the question of eligibility of expenditure

In order to ensure circulation of the information, there are guides and intervention frameworks as well as the presence of several specialised services (JTS/European affairs department as well as the experienced Selection Committee, etc.).

e. Contacts made on the question of eligibility of expenditure

The programme points out that the European Commission was contacted by mail twice on questions of eligibility regarding a particular expenditure.

f. Tools and methods used

Apart from the selective requests made to the Commission, the programme has published an intervention framework that specifies the eligible expenditure for each sub-measure of the programme.

The project promoters also have access to the intervention frameworks that were put online on a Website. Moreover, the agreements, especially through their financial annexes, specify the eligible expenditure upheld and the expenditure declared ineligible.

g. Recommended good practices

The programme recommends the following good practices:


1. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure. The drafting of intervention frameworks allows reducing the risk of ineligible expenditure.
2. Better preparation of projects. Targeting, from the preparation stage, expenditure posts on which Community financing intervenes allows for a reduction in the risk at the time of the balance of the project.
3. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).

All other good practices suggested in the questionnaire were judged by the programme to be either unfounded or not relevant.

h. Proposals for the next programming period

Better visibility on geographical eligibility, notably for programmes that have to cooperate with non-European States.

13. Programme INTERREG IIIB Caribbean Spacea. Summary table

<p style="text-align: center;"><b>INTERREG IIIB</b> * <b>Caribbean Space</b></p> <p><i>Guadeloupe, Guyane, Martinique</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p>Région Guadeloupe (<i>Basse-Terre – France</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p>Caisse des Dépôts et Consignations Locale (<i>France</i>)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p>EUR 24 353 101</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p>EUR 12 213 100</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p>N/C N/C</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p>N/C N/C</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p>N/C</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p>Région Guadeloupe (<i>Basse-Terre – France</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme signals questions on the taking into account of unjustified expenditure.

c. What area of the programme is affected by questions of eligibility?

The programme did not answer this point.

d. Training/information on the question of eligibility of expenditure

The programme does not feel that it is sufficiently up-to-date on this question.

e. Contacts made on the question of eligibility of expenditure

Regular contacts are made with the Commission or other programmes.

f. Tools and methods used

Practices developed by the programme are the production of eligibility notes, coordination with the Commission services as well as the inclusion of questions of eligibility in the documents for the attention of the project promoters.

g. Recommended good practices

The programme recommends the following good practices:


1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.).
2. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners).
3. Specific information days for programme managers.
4. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
5. Better drafting of the subsidy contracts between the MA and the Lead Partners.
6. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).
7. Upstream coherence controls that are sufficiently well motivated.

The other proposed good practices in the questionnaire were not upheld by the programme.

h. Proposals for the next programming period

The programme did not answer this point.

14. Programme INTERREG IIIC North Zonea. Summary table

<p style="text-align: center;"><b>INTERREG IIIC</b> * <b>North Zone</b></p> <p><i>Denmark, Finland, Germany, Sweden, Estonia, Lithuania, Latvia, Poland, Norway</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p style="text-align: center;">Investitionsbank Schleswig-Holstein (Rostock – Germany)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p style="text-align: center;">Investitionsbank Schleswig-Holstein (Rostock – Germany)</p>
<p style="text-align: center;"><b>Overall funding of the programme</b></p> <p style="text-align: center;">EUR 50 500 000</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 35 500 000</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p style="text-align: center;">EUR 50 500 000      100 % (EUR 500.000 left to be programmed)</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p style="text-align: center;">EUR 14 700 000 (funds sought from the Commission)      29.10 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">35 (EUR 54 300 000 in total costs and EUR 31 600 000 in ERDF)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Joint Technical Secretariat (Rostock – Germany)</p>



b. Existence of a problem of eligibility of expenditure on particular themes

The programme points out that the following questions of eligibility are subject to specific treatment:

- Unpaid voluntary work is not taken into account as a contribution in kind
- Overheads for which often no limit is fixed. In addition, calculation of overheads is rarely based on real costs, but on pro rata sums (which is not allowed). Finally, certain types of expenditure are included in general costs, although they do not directly concern the project.
- Subcontracting is not authorised by the programme and sometimes the Lead Partners are not up-to-date on the rules for public procurement in this area.
- The programme raises the question of taking into account charges for domestic transfers (while international charges are eligible).
- For infrastructures/investments, the programme refuses acquisitions that project promoters often wish to do just before the closing date of the project.
- For atypical expenditure, the rule is that programme managers seek authorisation for modification from the JTS (that must in some cases be approved in written procedure by the Monitoring Committee). However, these requests cause significant administrative reinstruction work and it would be advisable, perhaps, to use a more flexible formula, like with the IIIC Programme that allows, for example, a budgetary line of 5% to be passed.
- The question of expenditure outside the deadline arises particularly at the end of the programming period.
- Common management costs are in general difficult to manage. Finally, the programme produced a note for the projects defining how the procedure should be set up and how to ensure a sufficient audit trail. The situation is complicated because in certain Member States specific rules also define the modalities of sharing common costs.

c. What area of the programme is affected by questions of eligibility?

The whole area of the programme is concerned by these questions.

d. Training/information on the question of eligibility of expenditure

The programme feels that it is sufficiently informed and trained through its own experience, exchanges with other programmes in the course of workshops (especially those given by INTERACT). Nevertheless, additional training courses as well as increased exchanges with the other programmes would be very useful.

e. Contacts made on the question of eligibility of expenditure

The programme is in contact with the DG Regio and its reporter as well as in the context of INTERACT events or in the framework of the coordination of Strand C programmes.

f. Tools and methods used

The tools and methods used are:

- A case-by-case analysis, which allows a general rule to be defined for the programme.
- A country-by-country analysis, which is not carried out but which could be useful - however the programme does not have sufficient means to analyse national rules.
- Specific information requests were formulated to the Commission, for example on expenditure outside the area.
- A programming manual was published.
- All documents for the attention of the project promoters contain links with eligibility rules.

g. Recommended good practices

The programme recommended the following good practices:

1. Implementation of reinforced coordination between the different programme authorities.
2. Improvement in the quality of relations between the MA and the Lead Partner.
3. Practical tools for the programme animators and the project partners.
4. Specific information days for programme managers.
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
6. Better preparation of projects.
7. Partially, clear identification of the projects and themes at risk.
8. Better drafting of the subsidy contracts between the MA and the Lead Partners, but the programme proposes instead to put links to other interpretation documents for eligibility of expenditure, which are regularly updated, into the subsidy contracts.
9. More specific information and training for the project Lead Partners.
10. Upstream coherence controls that are sufficiently well motivated.

The other good practices proposed in the questionnaire were judged to be of little relevance with regard to the eligibility of expenditure, notably that relating to clarification of the links between eligibility of expenditure and automatic decommitment.

#### h. Proposals for the next programming period

The following elements were raised by the programme managers, as for the next programming period:

- Better coordination between the programmes concerning the interpretation of Community rules. This is crucial, notably for the zones covered by several programming areas.
- Better coordination between the programmes on their specific rules as well as on the documents used, structuring of budgets, types of budgetary lines, etc.
- The level of co-financing could be increased for projects (up to 85%); the programmes could then decide to limit certain expenditure in a stricter way (for example, no or only restricted co-financing of overheads).
- Better assistance and less complicated rules for certain types of cost (for example, calculation of overheads could no longer be based on real costs but on a fixed price, though with stronger limitation, for example, 2% of the project budget).
- Better coordination with the national authorities regarding eligibility rules.

15. Programme INTERREG IIIC South Zonea. Summary table

<p style="text-align: center;"><b>INTERREG IIIC</b> * <b>South Zone</b></p> <p><i>France, Greece, Italy, Portugal, Spain, United Kingdom, Malta, Cyprus</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p>Generalitat Valencia – Economy department (<i>Valencia – Spain</i>)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p>Ministry for Economy and Finance – General Department for Community Funds and regional development (<i>Madrid - Spain</i>)</p>
<p style="text-align: center;"><b>Overall funding for the programme</b></p> <p>EUR 205 175 817</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p>EUR 139 173 541</p>
<p style="text-align: center;"><b>State of programming at 31.12.2005</b></p> <p>N/C</p>	<p style="text-align: center;"><b>State of consumption at 31.12.2005</b></p> <p>N/C</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p>N/C</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p>Joint Technical Secretariat of the South Zone (<i>Valencia – Spain</i>)</p>

b. Existence of a problem of eligibility of expenditure on particular themes

The programme encounters the following eligibility problems:

1. Regarding depreciation, certain Member States accept them while they are passed as a form of written depreciation and other States accept the whole investment as eligible. There are also different thresholds in Member States for deciding whether depreciation or total cost is applicable. This is also the same for expenditure related to infrastructures and investment.
2. Unpaid voluntary work poses a problem as it is difficult to calculate. It appears simply as a profit, whose eligibility must therefore be called into question.
3. Regarding overheads, it is advisable to ask partners to create a transparent and demonstrable repartition scale.
4. Subcontracting does not pose a problem of eligibility but rather a problem of cost in relation to the market.
5. VAT poses the problem of whether beneficiaries are subject to it or not.
6. Staff costs pose questions of eligibility when they concern institutions attached to the project, like municipalities, which do not directly participate but make their staff available for a municipal association, for example. The question is then raised of how to take this into account: as a form of direct staff costs or as external expertise?
7. The rule is quite strict regarding expenditure outside the area and does not favour cooperation with third countries as it does not allow sufficient consideration for travel expenses.
8. For expenditure outside the deadline, it is advisable to be quite flexible and to warn the Lead Partners in advance of the risks occurred and the procedures to follow. Atypical or unjustified expenditure is, by its very nature, ineligible.
9. Common management costs are a preoccupation for the programme managers as for all Member States, as it is a difficult question to resolve.

c. What area of the programme is affected by questions of eligibility?

The whole area of the programme is affected by these questions of eligibility.

d. Training/information on the question of eligibility of expenditure

The programme managers do not feel they are sufficiently trained or informed as the interpretation rules often change and differ in their interpretation.

e. Contacts made on the question of eligibility of expenditure

The programme truly regrets that there are not regular meetings with the auditors of the European Commission.

However, regular contacts exist via INTERACT or with other JTSs of Strand C Programmes.

f. Tools and methods used

Various tools and methods are used and go, firstly, from a case-by-case analysis, to a country-by-country analysis of the problems of eligibility (while regularly informing the Steering Committee via the Transnational Secretariat), or finally, through the production of specific eligibility notes, (undertaken, if possible, in common with the three other JTSs of Strand C).

The establishment of a legal committee seems to them to be an interesting idea, as well as coordination with the Commission services, which is absolutely necessary.

Finally, the audit guide is updated regularly and the project promoters are also regularly informed through regular financial seminars.

g. Recommended good practices

The following good practices were judged positive by the programme:

1. Establishment of reinforced coordination with the different programme authorities concerned by this question (MA, JTS, national correspondents, animators, etc.).
2. Improvement in the quality of relations between the MA and the Lead Partner or exchanges of technical information.
3. Practical tools for the programme animators and the project partners (in particular, potential Lead Partners). This is in fact necessary, as few project partners actually know the rules when they decide to go for a European project.
4. Specific information days for programme managers
5. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
6. More specific information and training for the Lead Partners of programmed projects (clarity and traceability of supporting evidence, eligibility criteria of an invoice, what to do in instances of doubt, information for project partners, etc.).
7. Upstream coherence controls that are sufficiently well motivated.

However, the programme avoided the following recommendations:


1. Clearer determination of the appraisal margins of the MA in instances of doubt regarding the interpretation of expenditure.
2. Better preparation of projects.
3. Clear identification of the projects and themes at risk.
4. Better drafting of the subsidy contracts between the MA and the Lead Partners.
5. Clarify the link between automatic decommitment and eligibility of expenditure.

h. Proposals for the next programming period

The following proposals were formulated for the next programming period:

1. Intensify in-depth training for potential project partners, beside the simple presentation of the benefits of European programmes.
2. Organise a proper network of financial managers through INTERACT seminars. These seminars could lead to the drafting of guides, sheets. Today, a lot of interesting information is exchanged but the question could be asked the practical follow up.
3. Organise regular exchanges with the audit departments of the European Commission.

16. Programme INTERREG IIIC West Zonea. Summary table

<p style="text-align: center;"><b>INTERREG IIIC</b> * <b>West Zone</b></p> <p style="text-align: center;"><i>Belgium, France, Germany, Ireland, Luxembourg, Netherlands, United Kingdom</i></p>	
<p style="text-align: center;"><b>Managing Authority</b></p> <p style="text-align: center;">Regional Council of Nord Pas de Calais (Lille – France)</p>	<p style="text-align: center;"><b>Paying Authority</b></p> <p style="text-align: center;">Caisse des Dépôts et Consignations – Direction Régionale Nord-Pas-de-Calais (France)</p>
<p style="text-align: center;"><b>Total funding for the programme</b></p> <p style="text-align: center;">EUR 142 900 000 (reduced to EUR 114 100 000)</p>	<p style="text-align: center;"><b>ERDF funding for the programme</b></p> <p style="text-align: center;">EUR 96 200 000 (reduced to EUR 79 600 000)</p>
<p style="text-align: center;"><b>Status of programming at 31.12.2005</b></p> <p style="text-align: center;">EUR 77 600 000 (ERDF)      97 % (after N+2)</p>	<p style="text-align: center;"><b>Consumption status at 31.12.2005</b></p> <p style="text-align: center;">EUR 24 200 000 (funds sought from the Commission)      30 %</p>
<p style="text-align: center;"><b>Number of programmed projects at 31.12.2005</b></p> <p style="text-align: center;">75 (EUR 73 000 000 ERDF)</p>	<p style="text-align: center;"><b>Joint Technical Secretariat</b></p> <p style="text-align: center;">Conseil Régional Nord Pas-de-Calais (Lille – France)</p>



b. Existence of a problem of eligibility of expenditure on particular themes

The programme notes a series of expenditure that require particular attention:

1. Contributions in kind: The programme points out that only unpaid voluntary work is eligible under INTERREG IIIC while some of them think that this type of contribution in kind can be provided by third-party institutions. But the rule stipulates that these third-party contributions can only be eligible as a form of external expertise or as a type of unpaid voluntary work provided that those that provide it become project partners.
2. Overheads: Certain partners think that they can use fixed tariffs (as is sometimes possible in other programmes like the Framework programme for research and technological development (FPRTD)) while in the context of Structural Funds only actually incurred expenditure is eligible and must be justified, which can prove difficult and time-consuming for the partners. This means that some of them decide not to include such costs in their financial claims for Community reimbursement.
3. Unjustified expenditure: Certain project partners refuse to provide wage slips to the Lead Partners' controllers for reasons of confidentiality.
4. Subcontracting: The use by the project of unforeseen external expertise must be exceptional and justified.
5. Investments: Unforeseen investments must be exceptional, justified and show an added interregional value.
6. Staff costs: Only costs actually borne by the operation are eligible. Justification can prove to be difficult and time-consuming for certain partners.
7. Expenditure outside the area: Travel expenses outside the EU are only eligible under certain conditions. Costs for meetings and events that take place outside the EU are, however, not eligible within the context of INTERREG IIIC.
8. Expenditure outside the deadline: Payments after the final date are not eligible, which means that the final audit and related expenditure must be affected before this date.
9. Preparatory expenditure: This is only eligible before submission of the funding application form. Preparatory costs coming between the submission of the application and the decision of the Steering Committee are not eligible.
10. Common management costs: The rules applied by the national controllers can vary. Some of them do not accept shared costs between partners if there is not an effective reimbursement procedure put in place. For some controllers, shared staff costs are not eligible.
11. Other expenditure: It is sometimes difficult for the Lead Partner to know in what budgetary line to file certain expenditure. It is also sometimes difficult for him/her to know how to deal with receipts generated after the end of the project.

c. What area of the programme is affected by questions of eligibility?

The whole area of the programme is affected, but certain national auditors apply the rules more strictly than others.

d. Training/information on the question of eligibility of expenditure

For the programme managers, eligibility rules are drafted broadly and not always in clear terms. On certain questions, the interpretation of the European Commission would be welcome.

e. Contacts made on the question of eligibility of expenditure

The programme establishes contact through its Commission reporter and through INTERACT Point Qualification and Transfer.

The programme also has contact with the other zones of Strand C thanks to the established common coordination, as well as with the IIIB NWE Programme, whose JTS is situated in the same building and which has the same MA.

f. Tools and methods used

The tools and methods used by the programme are:

1. A case-by-case analysis as the eligibility of an expenditure also depends on what is foreseen in the project's request for co-financing.
2. A country-by-country as certain countries have specific national rules.
3. The diffusion of documents such as procedural manuals, audit and control guides, as well as financial notes, is possible by downloading from the programme Website. Seminars are also organised for the auditors and the financial managers of Lead Partner institutions.
4. Inclusion in the documents for the attention of the Lead Partner of a mention relating to eligibility like, for example, the mention of different categories of costs eligible in activity reports.

g. Recommended good practices

The good practices recommended by the programme are numerous:

1. Implementation of reinforced coordination between the different programme authorities.
2. Practical tools for the programme animators and the project partners.
3. Specific information days for programme managers.
4. Drafting of a specific audit guide, or one dealing specifically with eligibility of expenditure.
5. Better preparation of projects.
6. More specific information and training for the Lead Partners of programmed projects.

h. Proposals for the next programming period

Clearer drafting of eligibility rules by the European Commission and the Member States. Eligibility rules are of particular importance to INTERREG programmes and it is therefore advisable to have a minimum number of common rules for all partners.

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