



INTERREG III B CADSES

INTERREG III B CADSES NP

Audit Manual

A guideline for the First Level Control bodies

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EUROPEAN COMMUNITY
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1. Introduction

In the framework of the regulations that discipline the management of Structural Funds, CADSES has set up a structure that had to take into account a number of elements arisen along with the implementation of the programme.

After four calls for proposals, the enlargement of the EU affecting to a large extent, the introduction of the Neighbourhood approach, the update of the Programme documents, the reallocation of funds, many a deal of rules, decisions, interpretations and principles have been grouped. In the field of financial control these additional elements have had an impact on the content of the projects approved, and at the same time the evaluation of the expenses and the assessment of the results of the projects have been exposed to new inputs, new framework conditions, new strategical choices.

These new circumstances, along with the basic requirements defined in the regulations, create a system of principles that, as of today, constitute the working reference in CADSES for the Programme's management bodies common to all the nine Member States and for the structures that have been established at National level. It has become essential the collection of these principles in one manual that has the aim of serving as reference for those who are involved in the management of CADSES, especially with respect to Financial control issues.

The first introductory chapter will describe the basic requirements that discipline the implementation of a project and the composition of an appropriate partnership, together with the main requirements that characterise the establishment of an appropriate control structure at programme level and the performance of checks on operations in compliance with the Commission Regulation (EC) 438/2001. The so-called first level control bodies represent a crucial element in the assumption of financial responsibility by the member State, and the relevance of this stage of financial control acquires a special meaning especially in CADSES, where different working cultures coexist along with different operational settings reflected in the opposition between centralised and decentralised systems.

The second part of the manual will refer to the important operational aspects of the article 4 verifications or on-the-spot visits to operations and to National control systems. The Managing Authority of the programme, in its supervisory role, is called to be guaranteed by the nine EU-Member States on the fulfillment of crucial conditions such as the independence of the controllers, the performance of on-the-spot visits, the appropriate documentation of the checks performed.

Within this chapter, a special section is dedicated to eligibility: it considers how the principles on eligibility set by the European regulations have been transported into the financial structure of a CADSES project, and how the CADSES budget items have been integrated by further decisions taken within the programme. Another crucial aspect of the issue is the extent to which National Regulations can be allowed in the definition of the concept of eligibility.

Last but not least, this manual is addressed primarily to the people working for the first level control, and should provide the elements necessary to frame correctly the expenses in definite

operational categories and frame their work in the wider context of the programme management.

Since first level control is a vital part for the life of a project, this book is addressed also to project financial managers. The principles laid down especially with regard to eligibility will be of help in the decision taking process.

1.1 Project implementation and requirements for the Lead Partners and project partners under INTERREG IIIB CADSES

Pursuant to the Programme documents, the projects funded under the framework of Interreg IIIB CADSES Neighbourhood Programme shall involve at least 2 financing partners from different Member States. Given the fact that most of the projects involve three and more project partners from different Member States and in recognition of the complexity of the administration of the transnational partnerships, special contractual arrangements have been adapted to make clear the financial responsibility for the projects and consequently guarantee that the implementation of the Programme is manageable and traceable.

The **Lead Partner principle** constitutes the core element of the management system: it assigns the overall responsibility for the implementation of the projects to the Lead Partners acting on behalf of the project partners vis-à-vis the Managing Authority. The Lead Partner is responsible for the entire project implementation including all project partners involved and remains financially liable for the ERDF-funded part of the project.

This definition of the Lead Partner's role and responsibilities holds also true for the projects approved under the 4th call for proposals executed under the framework of the Neighbourhood Programme, enabling the full involvement of the partners from the non-EU Member States of the CADSES area thanks to the coordination of the funding instruments under external EC-funds (Phare, Tacis, Cards) with the funding granted from ERDF. In case the projects approved under the 4th call combine ERDF and external funding, the project had to appoint financial Lead Partner(s) for external funding (ext.LP) among the project partner(s) from the non-Member State(s) concerned being financially liable and responsible for the part of the project granted under external funds. The function of the overall Lead Partner in these was assigned to the so-called Financial Lead Partner for ERDF.

In turn, the Lead Partner must establish **legal relations** with the project partners concerning the mutual division of tasks and the management and control systems to be set up by the partnership, so that the costs of the project are clearly identified, clearly allocated and thus traceable.

The establishment of these relations must be formalized in the form of the Joint Convention, signed on the one hand by the Lead Partner and on the other by the Project Partners. The signature of the subsidy contract must be accompanied by the submission of the Joint Convention.

The LP is obliged to retain for audit purposes all **files, documents and data** about the project for at least three years after the final payment from European Commission to the INTERREG III B CADSES Neighbourhood Programme, i.e. at least until 2013. The Subsidy Contract imposes explicitly on the LP an obligation to ensure that all relevant documents will be made available both by the Lead Partner and by the project partners to the responsible auditing bodies of the EU, and within their responsibility to the national auditing authorities.

Notwithstanding the obligations of the LPs with regard to audit, the LPs are obliged to produce and submit the reports on the progress in the implementation of the project within the timetable defined in the Subsidy Contract, giving a reliable description of the implemented activities and backed by the description of the incurred expenditures.

Moving on to the reporting obligations, LPs are obliged to submit the **progress reports** twice a year, i.e. within the deadlines 01/10 and 01/04 covering the reporting periods January-June and July-December respectively. In the progress reports the LPs provide a thorough description of the activities justifying the expenditures incurred and paid within the ending date of the reporting period and certified prior to the submission of the progress report. The expenditures quoted in the progress reports have to be in full compliance with the payment claims submitted within the deadlines 01/04 and 01/10, i.e. progress report shall just include the expenditures certified in line with the payment claims. The reports contain a detailed breakdown of expenditures certified by project partner, action, work package and budget line. The LPs have to ensure that the expenditures claimed are justified in a transparent way in the progress reports.

The LP can submit the **payment claims** to the Paying Authority within **2 regular deadlines, i.e. 01 April and 01 October**. The expenditures claimed are to be in full compliance with the progress reports submitted simultaneously to the payment claims. In case of necessary corrections, payment claims may be submitted within the following deadlines: 01 July, 01 December.

The payment claims are to be drawn up by the Lead Partners and gather certified expenditures of the Lead Partner himself and the certifications issued by the national certifying bodies for the PPs. They are the basis for the project to claim the reimbursement of ERDF funds.

The certifying bodies verify the compliance of the expenditures performed for the sake of the project's implementation with the relevant EU and National Regulations as well as with the provisions of the Subsidy Contract (of which the Application Form constitutes part) and of the Joint Convention. The LP is responsible for collecting all certifications of all project partners concerned and for ensuring the consistency of the certified expenditures with the description of activities in the progress reports. The certifying body of the LP does not have to carry out an audit of the expenditures certified by the certifying body of a PP. Therefore drawing up of the payment claim is subject to the LP's prior check of certification of expenditures of project partners.

The check of the compliance of the reported activities and expenditures with the Payment Claims is subject to the separate assessment carried out internally by the JTS and by the MA prior to the **execution of payments**.

With respect not only to the verification done by the certifying bodies, but also to general management principles reflected in the requirement to set up a sufficient audit trail (annex I to article 7 Reg. 438/01), the LP and all project partners have either to maintain a separate accounting system or an adequate accounting code for all transactions relating to the projects, allowing the identification of the expenditures incurred and the receipts/income generated by the project throughout its duration. The accounting documents of the Lead Partner and of the project partners related to the project have to be filed separately from other activities. The LP and the project partners have to ensure that the First Level Control bodies have all necessary documents to carry out the complete and accurate audit. Within the control process the

compliance with the audit and control regulations of the EC and with the relevant National Regulations is verified.

1.2 Structure of the control system under INTERREG IIIB CADSES Neighbourhood Programme

Provided that the Commission bears a general responsibility for implementing the Community budget as stated in article 274 of the Treaty, when it comes to the part of implementation that concerns the Structural Funds, the legislator has opted for the principle of “shared management”, which foresees a form of joint implementation having as main actors the Commission, on the one hand, and the Member States, on the other. This principle is given in the statement according to which “the Member States have an obligation to cooperate with the Commission to ensure that appropriations are used in accordance with the principles of sound financial management, which reflects the general obligation to cooperate correctly (articles 274 and 10 of the Treaty)”¹.

The Council Regulations (EC) 1260/99 of 21 June 1999, laying down general provisions on the Structural Funds specifies that the arrangements which should be adopted in the decentralised management structure are reflected in three main categories where the cooperation Commission-Member States is put into place: financial control, financial implementation and detection of irregularities. The abovementioned regulation is complemented by further regulations that give provisions on the implementation of these principles, covering aspects that range from the execution of financial control to the execution of information and publicity measures.

With respect to the performance of the auditing process, the regulatory framework for the carrying out of the related process in the field of the Structural Funds is composed by the following:

- Council Regulations (EC) 1260/99 of 21 June 1999, laying down general provisions on the Structural Funds,
- Commission Regulation (EC) 1159/2000 on Information and Publicity measures to be carried out by the Member States concerning assistance from the Structural Funds,
- Commission Regulation (EC) No 448/2004 of 10 March 2004, amending regulation (EC) 1685/2000 laying down detailed rules for the implementation of Council regulation (EC) 1260/99 as regards the eligibility of expenditure of operations co-financed by the Structural Funds and withdrawing Regulation (EC) 1145/2003,
- Commission Regulation (EC) No 438/2001 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,
- Commission Regulation (EC) No 2355/2002 of 27 December 2002 amending Commission Regulation (EC) No 438/2001 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,

¹ Communication from the Commission to the European Parliament and the Council COM (2004) 580 final of 06.09.2004

- Commission Regulation (EC) No 2035/2005 of 12 December 2005 amending Regulation (EC) No 1681/94 concerning irregularities and recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field,
- Communication from the Commission to the Member States of 28.4.00 C(2000) 1101 - EN laying down guidelines for a Community Initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory INTERREG III,
- Communication from the commission to the Member States of 2 September 2004(2004/C 226/02) laying down guidelines for a Community initiative concerning trans-European cooperation intended to encourage harmonious and balanced development of the European territory INTERREG III,

Programme documents:

- Community Initiative Programme approved by the Commission Decision C(2001)4013 of 27th December 2001, modified by the Commission Decision C(2004)5411 of 17 December 2004 and by the Commission Decision C(2005) 4643 of 24 November 2005
- Programme Complement (version approved on 10 June 2005 and containing financial tables approved on 22 March 2006)
- Project Management Handbook (released by the programme in May 2006)
- Subsidy contract

The Council Regulation (EC) 1260/99, namely articles 34 and 38, and Commission Regulation (EC) 438/2001 set the milestones for the financial control structure.

The responsibility for the implementation of the Community budget lies within the Commission itself, but the way in which the legislator chose to have the Community budget implemented is the above mentioned shared management. The Council Regulation (EC) 1260/99 identifies several arrangements for the implementation of the budget according to the principles of a decentralised structure.

As regards financial control article 38 and 39 of the regulation regulate the matter. The article 38 ("General provisions") sets the boundaries for the action that each Member State has to undertake and lists the elements that mark and shape the Member States' responsibilities for the financial control. The Member states shall make sure that:

- Their management and control arrangements are set up in a way as to ensure that the Community funds are used efficiently and correctly, i.e. in line with the principles of sound financial management,
- They provide a proper description of these arrangements to the Commission,
- The declarations of expenditure presented to the Commission are accurate and result in turn from verifiable supporting documents,
- The arrangements include procedures to treat, recover and correct irregularities detected and inform the Commission on the actions performed,
- Present to the Commission, when the assistance is wound up, a declaration drawn up by a designated person having a function independent of the Managing Authority, summarizing the conclusions of the checks carried out during the previous years and assessing the validity of the application for the payment of the final balance and the legality and regularity of the transactions covered by the final certificate of expenditure,

- Co-operate with the Commission to ensure that Community funds are used in accordance with the principles of sound financial management.

Paragraph 2 of the article 38 introduces the principle according to which Commission officials or servants may carry out on-the-spot checks on the operations co-financed by the assistance.

The Member states and the Commission are also invited to co-operate in order to coordinate plans and resources –on the basis of a bilateral administrative agreement- so as to maximise the results of the checks carried out and ensure the highest degree of usefulness of the information collected.

As stated in article 39, the Member States have also to make the financial corrections required in connection with the detection of systemic or individual irregularities. This is further disciplined by the Commission Regulation (EC) 2035/2005 of 12 December 2005, amending the Regulation (EC) 1681/94, setting accurate definitions of basic concepts – firstly the one of “irregularity”, and at the same time giving an exhaustive list of the kind of details that shall characterise the transmission of the information on irregularities to the Commission.

The general principles on this matter given by the Council Regulation (EC) 1260/99 are turned into practice by Commission Regulation (EC) 438/2001.

The three levels of check that are foreseen in the implementation of the financial controls foresee the presence of control bodies independent one from another, from the programme management and from the operational level.

The **First Level Control** is referred to the check performed by an independent auditor verifying the delivery of products and services envisaged, the reality of the corresponding expenditure and the eligibility of the expenditure itself in conformity with the community and national rules on eligibility. The result of the first verification is the certification of expenditure, released for the project partners taking part in the operation.

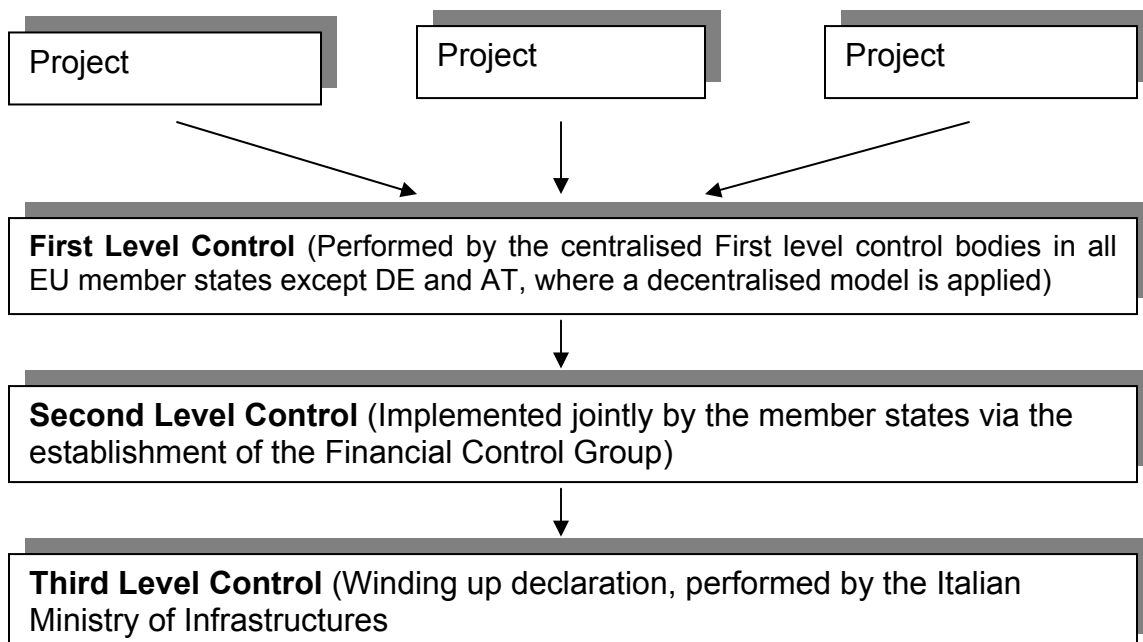
The check shall be performed not only on the administrative level, but also on the physical level and include on-the-spot checks that check the output of the work done. If this kind of checks does not cover all the operations but relies on a sample check, the sampling method shall be duly explained and communicated to the Managing Authority. Also the Managing Authority, in the framework of its supervisory role towards the Commission, can perform sample checks on the operation’s accounts.

The **Second Level Control** consists of a further series of checks performed by the National controlling authorities of the countries participating in the programme aiming at verifying the effectiveness of the management and control systems in place and the expenditure declarations made at the various levels. This further level foresees the identification of a definite number of projects, chosen randomly even if on the basis of certain risk and selection criteria. During the programme’s duration at least 5% of the total eligible budget shall be checked.

For the joint implementation of these checks, in CADSES the member States have established the *Financial Control Group whose responsibility is to verify the effectiveness of the management and control system in place, and to verify selectively, on the basis of a risk analysis, expenditure declarations made at the various levels concerned.*

The **Third Level Control**, referred to also as “Winding-up”, is disciplined under articles 15 to 17 of the Commission Regulation (EC) 438/01. In Cadses it is performed by a designated body belonging to the Italian Ministry of Infrastructures, based in Rome and independent from the management bodies of the Programme. In compliance with the principle of independence from the management bodies of the programme, it shall issue a declaration on the winding-up of the assistance after having conducted one further check according to internationally acknowledged accounting standards. The declaration is to be based on an examination of the management and control systems, of the findings of checks already carried out, and, when necessary, of a further sample check of transactions.

The following table reflects the structure of the control systems as set up in the Programme.



1.3 Role and distinctive features of the article 4 verifications (First Level Control)

The Commission Regulation (EC) 438/2001 under article 4, dedicated to the First Level Control checks, foresees the fact that Member States' Management and Control Systems shall include procedures to verify the delivery of the products and services co-financed, plus the reality of the expenditure claimed and the compliance with the terms of the relevant EU and National Regulations. These verifications are meant to cover all aspects, whether of financial, administrative and technical nature, that have an impact on the use of the funds committed.

Such checks are not a merely administrative task, but are a crucial part of the control system of the process established to manage the Community funds. The basic principles are transferable also to less complex forms of organizations, and are in general aimed at verifying that the

working procedures are shaped to assure the respect of the principles of sound financial management.

A simple example, valid also for our programme, would be to compare goods actually delivered to the related purchase order in terms of quantity of goods, price and condition. This verification ensures that the actual quantity of goods ordered has been received at the agreed price and is of the desired quality.

In CADSES the performance of the article 4 checks has been entrusted, in some cases, to intermediate bodies, which perform their work in the framework of the responsibility of each Member States towards the Commission for the presence of a proper financial control system. It is an important point in the complex architecture governing the financial responsibility for the use of ERDF funds: at project level the responsible body for the correct use of the funds is the LP, but when it comes to controls, through the certifying bodies of each project partners the responsibility for the check of the effective use of the funds is transferred back to the single Member State.

The Managing Authority, in its capacity as responsible for the efficiency and correctness of management and implementation, may delegate to the single Member States the implementation of these checks, but it must be in position to show the Commission that they are being conducted effectively and properly, in a way that is satisfactory for the MA itself and therefore also for the Commission, according to the EC requirements. To do so it has to ascertain the presence and the functioning of these systems, either performing itself on-the-spot checks on the National first level control bodies, or on the basis of information reports provided by the 2nd level control checks performed by the National Authorities on the respective systems, or via reports prepared by the intermediate bodies.

Desk based checks are not enough to ensure that every aspect of the regularity of the expenditure are 100% fulfilled. Therefore article 4 checks shall also include on-the-spot visits, aimed especially at verifying the reality of the expenditure, the existence of the project, the presence of a working structure and of recording systems that allow a sound management of the operation.

Appropriate guidance must be provided by the National Authorities on how to perform the checks efficiently in line with the requirements set by the Managing Authority. Manuals and checklists constitute a basic element of the execution of article 4 checks.

2. Minimum Requirements concerning article 4 verifications (First Level Control)

The following chapter sets out the basic requirements concerning the article 4 verifications (First Level Control) in the EU-Member States involved in the implementation of INTERREG IIIB CADSES Neighbourhood Programme. It focuses on the compulsory aspects regarding the organisation of the First Level Control and it sheds light on the issues that are to be addressed in the course of the verifications.

2.1 Obligations with regard to the organisation of article 4 verifications

2.1.1 Independence of controllers

The First Level Control body in charge of article 4 verifications in the Member States is either appointed by the national governments or selected directly by the institutions of the lead and project partners involved based on the system of control established by the single Member States. For details concerning the First Level Control systems set up by the single EU-Member States of the CADSES area refer to the Programme's homepage (<http://www.cadses.net/en/programme/18countries.html>)

7 EU-Member States² involved in the implementation of the INTERREG IIIB CADSES Neighbourhood Programme have established centralised control systems with single authorities independent from the Programme's and from the project implementation entrusted with the task of the First Level Control. The independence of the authorities designated by these Member States is to be officially confirmed towards the Managing Authority of the Programme. The expenditures of the Lead and Project Partners located in these countries have to be certified by the bodies designated.

2 EU-Member States³ involved in the implementation of the INTERREG IIIB CADSES Neighbourhood Programme have set up decentralised control systems giving the Lead and Project Partners the possibility to appoint directly the First Level Control bodies pursuant to the defined requirements. Notwithstanding the detailed requirements imposed by the Member States concerned, the controllers have to be:

- Independent from the project's implementation and management. This can be ensured either by the involvement of a competent external body (accounting or auditing company) or by the clear separation of functions in case the First Level Control is carried out by an internal (in-house) controller. The latter has to be functionally independent from the unit involved in the implementation of the project (e.g. the control must not be carried out by the project's Financial Manager)
- Qualified to carry out the audit of the accounting documents and familiar with the EU-regulations and Programme documents governing the article 4 verifications
- Authorized to carry out the checks in compliance with the National Regulations of the countries concerned

² Czech Republic, Greece, Hungary, Italy, Poland, Slovak Republic, Slovenia

³ Austria, Germany

2.1.2 System of the checks (administrative check accompanied by on-the-spot checks)

All expenditure claims submitted by lead and project partners should be subject to desk-based (administrative) checks carried out on the examination of the claim itself and relevant supporting documentation such as invoices, delivery notes, bank statements, progress reports and timesheets. The nature of the documents submitted should be determined by the Member States based on the overall control system and the level of on-the-spot checks.

Basically the desk-based checks are considered not sufficient on their own to give assurance on all elements concerning the legality and regularity of expenditure. Thus it is of crucial importance to carry out the on-the-spot visits, in order to check the reality of the project, delivery of the product/service in full compliance with the terms and conditions of the Subsidy Contract, physical progress, respect for EC rules on publicity and fully compliant with the public procurement procedures.

In case owing to the number of the projects, it is not possible to check each project on-the-spot, the checks on the sample basis shall be carried out. In such cases the particular sampling method used should be described, justified and communicated to the MA. The sample could be defined based on the risk analysis, e.g. it could focus on the projects, where problems of irregularities have been detected previously or where particular transactions/expenditures have been identified in the course of the desk based checks that appear unusual and require further investigation. The sampling method used shall be reviewed and updated on a regular basis to take account of error rates and other known risk factors and to encompass the minimum standards of effectiveness of the checks as identified by the MA.

The execution of the on-the-spot checks is compulsory and is to be confirmed with regard to the certified expenditures. The First Level Control bodies are obliged to quote the date of the on-the-spot checks on the Certification of expenditures, in case on-the-spot check has been carried out for the specific project partner within the project funded under INTERREG IIIB CADSES NP. Considering the relevance of the on-the-spot checks and their obligatory character as highlighted by the art. 4 guidance of the audit unit of the DG-Regio and stressed in the course of the audit of the Management and Control Systems carried out by the officials of the European Commission in June/July 2006, it shall be ensured that at least 7% of the total amount of expenditures certified by a Single First Level Control body are verified on-the-spot.⁴ The update on the implementation of the on-the-spot checks along with the description of the sampling method (and its revision) is to be delivered by the Member States to the MA every year within 30 March. In turn, the MA communicates the necessary measures to be taken in order to ensure the minimum standard of effectiveness of the checks.

2.1.3 Documentation of the checks

The First Level Control checks are to be documented by the First Level Control bodies and the work records are to be retained for audit purposes for at least three years after the final payment from European Commission to the INTERREG III B CADSES Neighbourhood Programme, i.e.

⁴ The auditors of the audit unit of the DG-Regio consider the minimum threshold for the on-the-spot checks as inevitable to give guarantee that the checks are executed and that the requirements concerning art. 4 verifications are satisfied

by the end of 2013 (considering that the final payment will be issued in 2009 after the closure of the Programme in 2008). The records should state the work done, the results of the verifications as well as the measures taken in case of irregularities and errors.

A record of the article 4 verification might be a checklist guiding through the aspects addressed within the checks and stating the results of the checks⁵. The checklists used by the First Level Control bodies should be sufficiently and transparently detailed. When recording the verification on the eligibility of expenditure, it is for example not sufficient to have one box on the checklist stating that the eligibility of expenditure in the declaration has been verified. Instead a list of each of the eligibility points verified should be detailed (e.g. expenditure paid within the eligibility period, appropriate and reasonable allocation of overheads to the projects). Irregularities identified in the course of the verifications should also be recorded and any corrective and / or follow up action documented. Follow up action might include the submission of an irregularity report and / or a proposal for recovery of co-financing.

Photographs of billboards, copies of promotional brochures, training course materials provide the evidence of the verification of compliance with publicity requirements and should be kept on file along with the work records.

The records should bear the name and position of the person performing the verifications and the date they were carried out.

On-the-spot checks should also be properly documented considering the elements mentioned above. Owing to the fact that on-the-spot checks are often carried out on the sample basis (due number of projects/expenditures to be verified), the information concerning the sampling method is to be provided. In such cases the particular sampling method used should be described and justified and kept on the file for further controls from the side of the Managing Authority (and/or JTS) of the Programme, the Second Level Control body, and the officials of the European Commission. A record of the individual expenditures/transactions sampled should be maintained and the results of the checks recorded by the First Level Control body in concern.

In order to facilitate the access to the work records of the First Level Control bodies it is recommended to store the records in a computerized system allowing the electronic transfer and processing of data.

2.2 Minimum requirements concerning the implementation of the First Level Control

2.2.1 Scope of the checks

The scope of the First Level Control is determined by the Council Regulation (EC) 1260/1999 and by the Commission Regulation 438/2001. The regulations clarify both the subject and the methodology of the checks, in other words, it defines what and how is to be checked.

Concerning the subject of the check (what is to be checked), pursuant to art. 4 of the above-mentioned Regulation the management and control systems must guarantee

⁵ The issues that should be addressed within the course of the First Level Control are stipulated in detail in §2.2.2 of the following manual

1. The verification of the delivery of products and services co-financed by the Programme
2. The verification of the reality and correctness of the expenditure claimed by the Project Partners
3. Compliance with the provisions of the relevant legislation both on the EU level and on the national level.

The Commission Regulation (EC) 438/2001 at the art. 7 defines further requirements having direct impact on the scope of the First Level Control, in particular the management and control systems applied in the Member State must include a sufficient audit trail, which means that the system must enable:

1. Reconciliation of the summary amounts certified with the individual expenditure records and supporting documents
2. Verification of the allocation and the transfers of the available Community and national funds.

Last but not least the Subsidy Contract between the Lead Partner and the Managing Authority of the Programme along with the Joint Convention (Partnership agreement) and Application Form both constituting a part of the Subsidy Contract are of crucial relevance for the definition of the scope of the First Level Control. These documents are particularly important for the assessment of the eligibility of expenditures and impose additional aspects to be verified in the certification process:

1. Compliance of the activities financed by the certified expenditures with the description in the Application Form and with the agreement foreseen in the Joint Convention
2. Compliance with the rules concerning the changes/modification of the project following the Subsidy Contract, the Manual on Project Changes and Financial Flexibility
3. Compliance of the allocation of expenditures between project partners, Work Packages, Budget Lines, years with the Subsidy Contract.
4. Compliance with the Programme requirements determining the eligibility of the expenditures (transnationality, eligibility deadline of the Programme)
5. Verification, whether the expenditures certified have been paid out in the eligible period following the provisions of the Subsidy Contract and the decisions of the Programme

2.2.2 Subject of the checks

Basically four groups of aspects are to be verified within the First Level Control, i.e.

- Reality and Correctness of the expenditures actually paid
- Actual delivery of products and services
- Eligibility of expenditures claimed
- Compliance with the relevant EU and national legislation

This manual sets out the aspects to be verified along with the detailed questions to be addressed within the First Level Control carried out in the EU-Member States involved in the implementation of the INTERREG IIIB CADSES NP. The list is not exhaustive; particularly the issues/requirements stemming from the National Regulations have not been set out explicitly and are to be considered additionally to the aspects addressed.

Subject of the check	Detailed questions	Yes No N/A	Audited by
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2.2.2.1 Reality and correctness of the expenditure actually paid out

<p>1. Have all expenditures claimed been paid out and are they backed by invoices or other documents of equivalent probative value</p>	<ul style="list-style-type: none"> ▪ Check whether the expenditure is supported by an invoice/statement of fees, payslips, timesheets or other documents of equivalent probative value ▪ Check whether the expenditure has been paid out based on the documents such as: payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip 		
<p>2. Are the documents submitted complete and have they been checked for accuracy in content and accounting terms</p>	<ul style="list-style-type: none"> ▪ Check, whether there are documents supporting all expenditures claimed. If not, check and confirm that the expenditures without supporting documents proving the payment have been excluded ▪ Check, whether the documents provided are correct (correct invoices, correct calculation of the staff costs) and whether they refer to the project partner and to the project concerned ▪ It is suggested to request/elaborate at least list of expenditures with the description of invoices/documents which support the claim. Verify and confirm, whether the list of expenditure with the description of invoices is available ▪ Check, whether additional documents required with regard to the applicable Budget Line, have been provided (<i>for details refer to the Section 3. of this manual concerning the evidence for the expenditures</i>) 		
<p>3. Does the project partner keep a separate account for the expenditures under the project or are they separately identifiable in the accounting system.</p>	<ul style="list-style-type: none"> ▪ The expenditures have to be identifiable and traceable in the accounting system; check whether the expenditures have been executed via a separate account or whether they can be easily identified in the accounting system, e.g. via a separate accounting code 		

Subject of the check	Detailed questions	Yes No N/A	Audited by
4. In case the receipts (revenues) were generated/received by the project, have they been identified and recorded.	<ul style="list-style-type: none"> ▪ Revenues (e.g. from a sale of a project publication, entrance fees to a project conference) generated in the duration of the project reduce the amount of eligible expenditures. Check, if the revenues were received by the project in the period concerned, whether they have been recorded in the accounting system and considered when preparing a payment claim 		
5. In case of project partners outside the Euro zone has the project applied the correct exchange rate to convert the expenditure made in national currency into Euro	<ul style="list-style-type: none"> ▪ It is recommended to choose and apply consequently one method for the determination of the exchange rate, e.g. 6 months or 1-month average rate (www.ecb.int), the exchange rate of the date of invoice or the date of payment (www.ecb.int). Check, whether the exchange rate has been applied consequently and correctly in compliance with the model chosen. 		
6. Are there any mechanisms for preventing more than one request being made for the assistance of the EC for the same expenditure/project?	<ul style="list-style-type: none"> ▪ The project partner must not finance the same expenditure more than once under EC assistance; check whether the procedures/mechanisms in place can prevent double funding of an expenditure under the assistance of the EC, e.g. whether there is a clear procedure/decision for secondment of the staff to the project, fixed periods for claiming expenditures preventing the expenditure from being claimed more than once and under different EC assistance. It can also be assured by marking the documents as audited. 		

2.2.2.2 Actual delivery of products and services

1. Have the products and services being a subject of the invoices supporting the expenditures claimed, been delivered	<ul style="list-style-type: none"> ▪ Check, whether the products/services have been delivered as quoted on the invoices or other documents of equivalent probative value and confirm the physical existence, e.g. if an invoice has been issued and paid for the set up of a website – verify, whether the website is existing 		
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Subject of the check	Detailed questions	Yes No N/A	Audited by
2. Has the delivery of products and services been verified on-the-spot	<ul style="list-style-type: none"> ▪ Physical verification of the products and services is inevitable for the reliability of the checks. Quote, whether the delivery could be verified on-the-spot and state the date of the checks. The First Level Control bodies shall ensure that at least 7% of the total amount of certified expenditures is verified on-the-spot. In case of a sample check, make sure that the sampling methodology has been described and justified and the description is stored in file and available for further checks. 		

2.2.2.3 Eligibility of expenditures claimed

1. Has the expenditure been paid within the eligibility period	<ul style="list-style-type: none"> ▪ Check, whether the expenditure has been paid within the eligibility period defined in the Subsidy Contract (with the foreseen exception of preparatory costs and project finalisation costs) ▪ In case of preparatory costs (incurred and paid before the starting date of the project) check, if these costs do not exceed 2% of the total budget in any case not more than 20.000 EURO. In case it is impossible to verify it on the level of project partner, check, whether the written approval of the Lead Partner for the preparatory costs claimed by the partner has been obtained ▪ In case of project finalisation costs (incurred within the duration of the project and paid at the latest within 60 days following the ending date of the project), check, whether these expenditures were borne in compliance with the conditions stipulated above 		
2. Are the activities conducted with the expenditures claimed in line with the Subsidy Contract along with the approved Application Form and Joint Convention	<ul style="list-style-type: none"> ▪ Check, whether the expenditures claimed with the corresponding activities are directly linked with the Action Plan of the project, whether the outputs produced are in line with those anticipated in the Application Form ▪ Check, whether the expenditures claimed are in line with the provisions of the Subsidy Contract and the Joint Convention, e.g. whether the share of the PP in the common (transnational) management costs is in compliance with the one agreed upon in the Joint Convention or in other written agreements. 		
3. Does the breakdown of expenditures claimed by project partner, Work Package and Budget Line respect the provisions of the Subsidy Contract and	<ul style="list-style-type: none"> ▪ Check, whether the total allocation of expenditure claimed (cumulatively) by project partner remain within the latest approved budget by the MA/SC ▪ Check, whether the distribution of the budget by Budget Lines is under the ceiling determined by the 20% rule. In case of project partners, check, whether the project partners have obtained the approval of the LP for the proposed distribution (20% rule applies on the level of projects and is to be coordinated by the LP) 		

Subject of the check	Detailed questions	Yes No N/A	Audited by
of the Manual on the Project Changes	<ul style="list-style-type: none"> ▪ Check, whether the distribution of the budget by Work Packages is under the ceiling determined by the 20% rule. In case of project partners, check, whether the project partners have obtained the approval of the LP for the proposed distribution (20% rule applies on the level of projects and is to be coordinated by the LP). For further details refer to the section 2.2.3 of this manual. 		
4. Is the attribution of the expenditures claimed to the budget lines correct	<ul style="list-style-type: none"> ▪ Check, whether the expenditures claimed have been correctly attributed to the budget lines according to the definition of the eligible items (refer to the section 3 of this manual) 		
5. Do the expenditures match the eligibility rules stemming from (EC) reg. 448/2004 and from the National Regulations	<ul style="list-style-type: none"> ▪ Check whether the expenditures have been paid out and are backed by the invoices or other documents of equivalent probative value (rule 1 of the regulation 448/2004) ▪ Check, whether the allocation indirect costs (overheads) is based on the real costs and pro rata according to duly justified and equitable method (rule 1). Check, whether the method is in line with the specific National Regulations, if defined ▪ Check, whether the non-eligible VAT has been deducted from the expenditures claimed in concern (VAT is not eligible unless borne by final beneficiary, i.e. unless not recoverable. In case VAT can be recovered by a project partner, e.g. a company, it has to be deducted from the expenditures in concern) (rule 8) ▪ Check whether the revenues (income) received and recorded by the project (e.g. sale of publication, entrance fees to a project conference) within its duration have been deducted from the ERDF claimed (pursuant to rule 2) ▪ In case costs of depreciation – check, whether there is a direct link with the objectives of the project, if the depreciation is calculated in compliance with the relevant national accountancy rules and whether the linked costs relate to the approved project duration (rule 1). Check the compliance with the national rules, if stricter than these ones ▪ Check, whether the non-eligible expenditures have been excluded from the claim, e.g. fines, financial penalties (rule 3) ▪ In case of in-kind contribution, check, whether their value can be independently assessed and audited, the value of the work is determined taking into account the amount of time spent and the normal hourly/daily rate for the work carried out ▪ Check whether the expenditures claimed are located/relate to EU-territory of the 		

Subject of the check	Detailed questions	Yes No N/A	Audited by
	<p>CADSES area and whether the expenditures linked to the project activities outside the EU-territory can be considered as accepted exceptions from the territoriality pursuant to rule no 12 of the regulation. The Programme accepts explicitly 2 exceptions from this rule, i.e. travel and accommodation costs of the EU-partners to the parts of the project that take place in non-EU countries, provided the travel is inevitable for the success of the project. The second allowed exception constitute the travel and accommodation costs of the non-EU-partners to the meeting/seminar when it takes place in the EU and is part of the approved project, provided the related expenditures will be paid by the EU-partners and that these include the respective expenditures in the expenditures claimed</p> <ul style="list-style-type: none"> ▪ Further eligibility rules are to be taken into consideration, whenever applicable, e.g. Rule 4 purchase of second-hand equipment, rule 5: purchase of land, rule 6 purchase of real estate 		

2.2.2.4 Compliance with the relevant EU and national legislation

<p>1. Are the expenditures claimed in line with the EC and national public procurement rules</p>	<ul style="list-style-type: none"> • The purchase of goods and of services, as well as the order for public works, by public services or other bodies is subject to Community and national procurement rules which aim at securing transparent and fair conditions for competition (principles of equality of treatment, non-discrimination, transparency free movement) within the common market. These rules have to be considered by project partners in case of hiring consultants or experts or purchasing goods for the project. European Community rules on procurement apply to contracts that are financed or part financed by Structural Funds grants. Pursuant Community Directives 92/50/EEC, 93/36/EEC, 93/37/EEC, 97/52/EC and the directive 2004/18/EC repealing the previous ones, contracts above certain limits must be advertised in the Official Journal of the European Communities (OJEC). Bids for contracts must be assessed on an objective basis and contract awards should be published in the OJEC. Check, whether the services/products/works have been procured in compliance with the requirements applicable to the amount contracted both according to the EU-regulations and to the National Regulations (if stricter). Check, whether the launch of the tender as well as the process of selection and awarding of the contract is properly documented. • Further information relevant for the verification of this aspect (against the EC public procurement rules) can be found in the guide on the Community rules for public 		
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Subject of the check	Detailed questions	Yes No N/A	Audited by
	procurement elaborated by the European Commission and available under http://ec.europa.eu/internal_market/publicprocurement/guidelines_en.htm		
2. Are the expenditures claimed in line with the Community and national rules and policies in particular on state aid, protection of environment and equality of opportunity	<ul style="list-style-type: none"> As it is required in Article 12 of the General Regulation for the Structural Funds (EC) No 1260/1999 and in point 7 of the Guidelines for INTERREG III (OJ C 143), in the framework of the INTERREG IIIB CADSES NP, State aid provisions of Articles 87 and 88 of the EC Treaty will be respected. The Programme document (CIP) declares that the state aid will not be granted within the INTERREG IIIB CADSES NP. For further information concerning state aid aspects, please refer to the national bodies in charge of monitoring state aid. Check whether the expenditures claimed have been paid with respect to the EU and national policies on protection of environment and equality of opportunity 		
3. Have the publicity measures been adapted with regard to the products of the project pursuant to the Commission Regulation (EC) 1159/2000	<ul style="list-style-type: none"> The project partners have to implement the publicity measures in order to increase visibility of the projects funded under INTERREG IIIB CADSES NP. Check, whether the project partners implemented respective measures with regard to the expenditures claimed pursuant to article 6 of the regulation (EC) 1159/2000 (e.g. whether the project's publications contain on the title page a clear indication of the European Union's participation and that of the ERDF as well as the Community emblem if the national or regional emblem is also used) – the regulation can be downloaded from the Programme's homepage http://www.cadses.net/media/files/regulation1159-2000_01.pdf 		

2.2.3 The scope of the certification with regard to project changes

Although the implementation of the projects is very much determined by the Subsidy Contract along with the Application Form (AF) that have a legally binding character for both contracting parties, i.e. for the MA and for the Lead Partners, certain changes/adjustments to the approved AF might become necessary in the course of implementation of the project, in order to safeguard the achievements of the anticipated results.

Given the fact that the Application Form constitutes the key document taken into consideration in the project selection process, just limited possibilities are given for the changes to the projects. The management of the project changes under INTERREG IIIB CADSES NP is governed by 2 documents defining the principles and procedures for application and approval of the project changes, i.e. Subsidy Contract concluded between the Lead Partners and the Managing Authority of the Programme as well as the Manual on the Project Changes and Financial Flexibility being an integral part of the Project Management Handbook available online under http://www.cadses.net/en/projects/proimplent/Project_changes.html.

The Programme defines 3 types of changes that might occur within the project implementation:

- Project modifications – severe changes to the project (changes to the project duration, changes to the partnership, budgets shifts between the partners, budget shifts between periods) affecting the conditions under which the approval of funds was granted to the project. This type of changes requires an official approval either by the Managing Authority and/or by the Steering Committee of the Programme.
- Financial Flexibility Rule (20% rule) – budget shifts between Budget Lines and/or Work Packages up to 20% of the total budget. These changes do not require the official approval by the Managing Authority and/or Steering Committee and are deemed to be approved automatically. Nonetheless these changes are to be communicated to the MA by the Lead Partners
- Administrative changes – changes not affecting the project implementation (e.g. change of the contact information, change of the bank details) - these changes are to be communicated by the Lead Partners by an official letter and will be updated automatically by the JTS in the databases storing the information relevant to the projects.

The knowledge of the different types of changes and the applicable procedures is of crucial relevance for the First Level Control bodies particularly for the check of eligibility of expenditures as quoted under §2.2.2.3 this manual (questions 1-3). Just the expenditures that are explicitly approved or deemed to be approved based on the rules defined can be recognized eligible. First Level Control bodies should verify whether the changes identified in the course of verifications have been approved or are deemed to be approved. This step is one of the pre-condition for issuing the certification of expenditures. The scope of activities of the First Level Control bodies varies depending on the kind of the change identified. In case of project modification the controllers has to verify whether the official approval of the Managing Authority or Steering Committee has been granted and whether the Addendum to the Subsidy Contract formalising the changes is available prior to issuing the certification of expenditures. In case of budget shifts between Budget Lines and Work Packages under 20% rule it has to be verified whether the Lead Partner approved the shifts executed by a certain Project Partner in writing

prior to the certification of expenditures. The changes with the corresponding actions to be taken by the First Level Control bodies are reflected in the tables below.

Project modifications (examples)	Actions of the First Level Control body
Partner change (replacement)	<ul style="list-style-type: none"> • Verification of the availability of the official approval by the MA/SC, • Check of the availability of an Addendum to the Subsidy Contract and of the updated Application Form formalizing the changes
Exceeding of the total budget of the project partner	
Budget shifts between project partners	
Exceeding of the total budget assigned to the Budget Lines and/or Work Packages resulting in the shift over 20% of the total budget of the project	
Content-related changes to actions/outputs, e.g. adding a new pilot action, new investment measure	
Expenditures paid outside the eligibility period (after the completion date of the project) – changes to the project duration	

Budget shifts between the BLs and WPs under 20% rule	Actions of the First Level Control body
Exceeding of the total budget assigned to the Budget Lines and/or Work Packages resulting in the shift under 20% of the total budget of the project	<ul style="list-style-type: none"> • Verification of availability of written confirmation directly from the Lead Partner that the shift anticipated by a project partner are accepted and under the threshold of 20% of the total budget • The Programme has launched a login-section on the Programme's homepage that should serve as a communication platform between the First Level Control bodies for the sake of monitoring of the compliance with the Financial Flexibility Rule (20% Rule). The instructions on the access and the use of this instrument have been distributed to the First Level Control bodies.

3. Eligibility of expenditures – definition, documentary evidence.

3.1 Introduction

The First level controllers are called to perform a check on the expenditures with the aim to verify the reality and correctness of the expenditure paid out, the delivery of the products and services deriving from such expenditures, the eligibility of the expenditure claimed and the compliance with the relevant EU and National Legislation.

The concept of eligibility comprises the principles that contribute to qualify whether expenditure was:

- really paid out and supported by the invoices or other documents of equivalent probative value
- performed in order to carry out an activity matching with the programme's activities,
- and according to principles of sound financial management.

Therefore “eligibility”, applied to expenditures, encompasses a number of criteria responding mainly but not only to accounting principles, and defining whether some activity was carried out to achieve the strategic goals of the programme.

In this paragraph we will examine the existing regulatory framework of eligibility, and how, given such a regulatory framework, these rules include further requisites with respect to time, territory and activity.

* * *

The general linguistic explanation defines the expression “eligibility” as “the status of being suitable, or deserving to be chosen”, in order to be part of definite mechanism, whose functioning is subordinate to a number of pre-defined conditions. The status of eligibility is applicable to many situations in everyday life: eligibility criteria to take part in a competition, to apply for a job, to be member of an association.

In Structural funds, and more precisely in Cadses, the concept of eligibility goes along with the possibility for an expenditure to be eligible, or suitable, for being admitted into the mechanism of reimbursement via the ERDF funds as governed by the existing regulations. This is subject to a number of requisites that will be dealt with in this chapter.

The **Council Reg. (EC) 1260/99**, laying down general provisions on the Structural Funds, sets the basis for the definition of the concept of eligibility.

For the sake of clarification of some basic issues, the Commission has issued the Regulation **(EC) 448/2004 of 10 March 2004** setting the so-called “**12 eligibility rules**”. These identify the common rules on eligibility of expenditure of operations co-financed by the Structural Funds, and serve as a common background for the Member States in the evaluation of eligibility as such and as a framework in which the national rules shall fit. Such rules have been transferred into a set of budgetary items and basic conditions for other overarching topics (depreciation, in-kind contribution, overheads) that have been adopted in Cadses for the budgeting of the projects. These rules have been depicted in § 2.2.2.3 “Eligibility of expenditures claimed”

whereas the following part of the manual focuses on the most crucial aspects determining eligibility of expenditures and on the definition of the eligible items and documentary requirements with regard to the expenditures of a specific kind.

3.2 General eligibility principles of the expenditures co-financed under INTERREG IIIB CADSES Neighbourhood Programme

3.2.1 Eligible activities

As regards approved projects (“in respect of operations”) only expenditure related to **eligible activities** is suitable for reimbursement via the Structural Funds. In our case for a specification of these activities we refer to Interreg Guidelines C(2000)1101 of 28 April 2000 as modified by the EC Communication of 2 September 2004, to the Community Initiative Programme CADSES and the corresponding Programme complement. Here the eligible activities are specified, and listed as activities that are performed with the common aim of achieving the targets foreseen by the Community. These activities can be carried out only in the so-called **eligible areas**, i.e. in the Cadses area (see below, the principle of territoriality within §3.2.3).

It is important to add that these documents do not provide a detailed list of actions or activities eligible for assistance from Structural Funds. Necessarily it is not possible to foresee in advance all the possible actions that a project is willing to perform, especially when it comes to the definition of Small Scale Investments or the items grouped under “Other costs” (see next chapter on the Cadses budgetary items). The eligibility of an activity, even if not listed in the programme documents, shall be assessed on the basis of its coherence and functionality to the achievement of the scopes and results of the project, whose approval was also done with the scope of achieving the wider targets set by the programme.

More concrete on the project level, eligible are activities of the project as foreseen in the Subsidy Contract along with the Application Form constituting an integral part of it.

3.2.2 Eligibility in time

In general, the expenditure must be performed while the programme is in force (**eligibility in time**): but with focus on Projects, expenditures are eligible for ERDF reimbursement if incurred during the lifetime of the project itself, i.e. between the start date and the end date stated in the approved Application Form. The Programme allows 2 exceptions from this rule, i.e.

- Preparatory costs, i.e. costs incurred and paid before the official starting date of the project are eligible also before the official starting date of the project. These costs may account for 2% of the total budget and must not in any case exceed 20.000 EURO. In any case, costs must have arisen after March 12th 2001 (official starting date of the programme INTERREG IIIB CADSES)⁶. Different eligibility dates apply for the following countries: Czech Republic, starting date of eligibility is 1st May 2004; in the case of Poland activities subject to public

⁶ In case of partners from Austria, Germany, Greece, Italy

procurement law are eligible as of 2nd March 2004; in the case of Slovak Republic, Hungary and Slovenia after 1st January 2004)

- Project finalisation costs (pursuant to the Communication of the Managing Authority of the Programme to the Lead Partners dated 19/06/2006) – project costs necessary to close the projects arisen within the project duration, where the payments must be executed within 60 days following the closing date of the projects.

3.2.3 Eligibility of expenditures with regard to the location.

In general, Structural Funds assistance is for use within the territory of the European Union. This means that a *territoriality principle* applies, which in general excludes — also within the INTERREG Initiative — the possibility that non-Member States have access to ERDF funds. Regulation (EC) 448/2004 (Rule No 12: eligibility of operations depending on the location) states that operations co-financed by the Structural Funds shall be located in the region to which the assistance relates.

This general rule has exceptions⁷. The travel and subsistence expenses by **partners and participants from EU Member States** on parts of operations that take place in a Non-EU-Member State and are vital for the success of the project as a whole are also eligible for ERDF assistance.

To ease the co-operation as much as possible, travel and subsistence expenses of **partners or participants from non-EU Member States** of the CADSES space can be eligible costs for a project when the meeting or seminar takes place in the EU and is part of an approved project.

The territoriality principle does not exclude the possibility that, in accordance with EU, national and international public procurement law, services or equipment used for implementing a project within the EU can also come from the non-EU Member States of the CADSES space.

The territoriality principle includes that, as a general rule, projects co-financed by the ERDF resources for CADSES, shall be located in the area established for the Programme co-operation. That means that **Lead Partners and Project Partners**, who want to participate as official partner (**listed under §2 “List of partners”** of the Application Form) in an INTERREG III B CADSES Neighbourhood project, **must have their seat inside the CADSES programme area**. There may be an exemption for certain partners outside the area, provided that the results of a project are for the benefit of the eligible area. This applies, for instance, to public bodies who are based outside the eligible area, but whose competencies also relate to territories within the eligible area – e.g. ministries, federal agencies, government departments, statistical offices, national research bodies, etc.

In all other cases, expenditure incurred by parties, external to the CADSES programme area cannot be considered as eligible. External parties may however participate as sub-contractors to implement certain actions or activities within a project, under contract with a partner located in the CADSES co-operation space.

Private organisations or institutes located outside the CADSES space may only be eligible partners where they have branch offices located inside, which would act as partners.

⁷ A smoother interpretation of the territoriality principle was first set by Interim Report COM(2002)660 of 29th November 2002.

3.3 Definition of the budget lines, eligible items⁸

The budget of the projects funded under INTERREG IIIB CADSES NP are to be conceived along 8 Budget Lines defining the types of eligible items and describing also different resources to be used for the implementation of the project. The following chapter gives a definition of the eligible expenditures along the Budget Lines defined as well as some further instructions concerning the documentary evidence required with regard the expenditures of a certain Budget Line. This part has been prepared taking into consideration the available provisions of the Programme and the preliminary results of the First Level Control bodies Roundtable.

BL.1 Project co-ordination

Eligible items

Costs for project co-ordination comprise administrative costs that accrue in relation to the overall management of the project and are not calculated under overhead costs. They cover for instance legal fees (e.g. for partnership contracts), fees for bank guarantees, notarizations, insurance fees, courier services, etc.

Additionally it can contain the so called **project preparatory costs** (i.e. costs for the preparation of the project, which were incurred before the official project start) up to a maximum of 2% of the overall budget, but not exceeding 20.000€ can be calculated under this cost category as eligible expenditure in relation to ERDF funding. Anyway the eligibility dates of the programme (see B.4) have to be respected.

This budget lines comprises also the costs linked to the participation in transnational working groups and other programme events of the CADSES Programme. For these activities a lump sum of 3000 € per year and project may be calculated under this Budget Line (this provision applies only for projects approved under III and IV call).

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, invoice, statement of fees) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip). Other documentary requirements defined by the Member States are to be observed.

BL2. Personnel (including overhead costs)

Eligible items

This section includes all fees of the Project Partners' staff to be paid in the context of the project, provided that they are based on contracts, legal acts of formal institutional agreements.⁹

⁸ Following the results of the CADSES First Level Control bodies' roundtable held from 18th to 19th Sep. 2006 in Rome, this part of the manual will be consulted with the FLCB, in order to ensure the standardisation of the provisions on eligibility of expenditures.

⁹ External staff must be budgeted under "External expertise and audit".

Eligible are gross salaries (actual cost of employing a person within the context of the project) including social contributions/payroll taxes, national insurance contributions etc. and may not include a profit margin. Only real costs (i.e. actually paid out, excluding internal operations posted on expense accounts) can be taken into consideration – based on payslips or other documentation of similar probative value. The personnel costs are to be charged to the project on the hourly basis calculated by dividing the total staff costs (salaries, social insurance, fringe benefits, if applicable) by the total number of working hours. The eligible personnel costs shall be based on the transparent records of the working hours for the entire work period (e.g. timesheets) with plausible allocations to the project and the areas of work.

Additionally eligible within this Budget Line are overhead costs that are the fixed running costs of an institution (e.g. heating, electricity, security, water supply). The overhead costs must be based on real costs, which directly relate to the implementation of the operation. The overhead costs should in this case be allocated pro rata to the operation according to a duly justified fair and equitable method, e.g. considering the office space used by the project, number of personnel involved in the project in comparison to the total number of employees of the office/institution. The Member States may apply specific rules on the calculation and eligibility of overhead costs. These provisions are to be complied with.

Documentary evidence

Personnel costs should be supported by the timesheets or other work records reflecting the working time and the tasks of the personnel involved in the project implementation and by the documents giving a proof of payments (salary slip or other documents of equivalent probative value). Other documentary requirements defined by the Member States are to be observed.

With regard to the documentation of the overhead costs – these should be backed by the documents confirming the total amount of overheads costs and the information/justification concerning the method for allocation of overheads to the project. Other documentary requirements defined by the Member States are to be complied with.

BL3. Meetings and conferences

Eligible items

Eligible within this budget line are the costs of organisation of meetings and conferences approved in line with the Subsidy Contract along with the Application Form constituting a part of the contract. Eligible are particularly: the costs of rental of the venue, rental of equipment, documents, translators and interpreters and meals if not covered by daily allowances.¹⁰

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, invoice, statement of fees) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip).

¹⁰ The fees of trainers, speakers, and facilitators should be mentioned under the “external expertise” header. This provision applies only for projects approved under II, III and IV call.

Moreover it is advised to provide further documents facilitating the traceability of the expenditures and their allocation to the project (list of participants – signed, the agenda of the meeting, description of the objectives of the meeting and of the target group, minutes/report on the meeting). Other documentary requirements defined by the Member States are to be observed

BL4. Travel and accommodation

Eligible items

This Budget Line comprises travel and accommodation costs of project staff or beneficiaries related to international or national travels necessary for the project implementation. Project partners may charge either direct costs (train, flight tickets, costs of stay at the hotel) and/or allowances paid in line with the relevant national regulations. Allowances are paid to project staff or beneficiaries (e.g. trainees, participants in a study tour, etc.) who have to travel abroad or stay away from their usual place of work for more than one day for the purpose of the project. Allowances are usually intended to cover accommodation, meals and sundry expenses (such as tips, laundry, toiletries, buses and taxis). Per diem rates shall not exceed those paid to experts on missions undertaken in the course of an EC-funded external aid contract. For the effective rate please refer to: http://europa.eu.int/comm/europeaid/perdiem/liste1_en.htm.

Please note that flight tickets should be economy class. The project partners shall preferably use the public means of transport. Travelling with taxi is to be avoided and in case the corresponding costs are charged, it has to be thoroughly justified (e.g. no public means available).

If the travel costs of an expert occur with regard to further services delivered and are included the invoice issued by an external expert also covers his travel expenditures, than these travel expenditures are to be declared under the BL 6 External expertise and audit along with the fees for the delivery of service, product, etc.

Pursuant to the territoriality principle according to rule 12 of the Commission Regulation (EC) the costs outside the EU territory are basically not eligible unless they are well justified and vital for the success of the project. The Programme has defined the interpretation of this rule with regard to the BL 4. Pursuant to the Applicants Manual eligible are travel and subsistence expenses by partners and participants from EU Member States on parts of operations that take place in a Non-EU-Member State and are vital for the success of the project as a whole and travel and subsistence expenses of partners or participants from non-EU Member States of the CADSES when the meeting or seminar takes place in the EU and is part of an approved project.

National requirements/limitations concerning the eligibility of travel and accommodation expenditures are to be complied with.

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, hotel invoice, statement of fees, calculation of allowances) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip).

Moreover the travel expenditures are to be backed by the train tickets, boarding passes. It is also advised to provide further documents facilitating the traceability of the expenditures (description of the purpose of the travel/target groups, authorization of the business trip, minutes of the meeting, mission report). The documents mentioned might be compulsory depending on the requirements defined by a certain Member State. Other documentary requirements as laid down by the Member States are to be observed.

BL 5. Promotion and publications

Eligible items

Eligible within this budget line are expenditures necessary for the promotion of the project and its results, e.g. costs of a stand at a fair, publication/project flyer, project book, costs of preparation/editing, translation and printout of a poster.

With regard to the promotional material/publications publicity measures as defined in the Commission Regulation (EC) 1159/2000 (e.g. information about the participation of the assistance of the EU) are to be implemented.

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, hotel invoice, statement of fees) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip).

Additionally the project partners are obliged to provide information on the nature of promotion activities or publications and justification with relation to the anticipated project activities. For each important promotion activity it is furthermore compulsory to provide information on the target group, expected outcome, deliverables, total budget etc. For each important publication it is necessary to specify the purpose, target group, number of copies, number of pages, language(s) used and to give the total budget per document including costs for editing, translation, printing, mailing, etc.

Other documentary requirements of the Member States remain unaffected and are to be complied with.

BL 6. External expertise and audit

Eligible items

Eligible under this Budget Line are costs of subcontracting of external staff, speakers for workshops, trainers, web designer, studies, services, etc.). The award of a contract is to be executed in compliance with the EC public procurement rules¹¹ and with the national public procurement rules, if stricter. The principles of equality of treatment, non-discrimination, transparency free movement and competition are to be respected with regard to the process of subcontracting.

Expenditures for auditing, if any, shall be budgeted in an amount of approx. 3 to 5 % of the total costs (this provision applies only for projects approved under II, III and IV call).

¹¹ For further instructions concerning EC public procurement rules refer to http://ec.europa.eu/internal_market/publicprocurement/guidelines_en.htm

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, statement of fees, calculation of allowances) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip).

The expenditures should be accompanied by the reports on the launch, selection and award of contract, ensuring that the relevant tendering procedure was complied with. For each assignment or contract its content, total budget, expected deliverables, and should be clearly described.

Other documentary requirements of the Member States remain unaffected and are to be complied with.

BL 7. Others**Eligible items**

Any other costs, which do not fit under any of the other headings, should be fully detailed (description, number of units, unit rate), e.g. PC-equipment. Eligible are expenditures quoted in the Application Form in the relevant table (BL7 Others). Owing to the character of the expenditures on durable equipment under the BL7 (e.g. a notebook for the sake of the administration of the project) eligible can be considered only the proportion of depreciation of the item corresponding to the duration of the project.

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, statement of fees) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip, depreciation booking).

Other documentary requirements of the Member States (e.g. that a durable equipment was not acquired with the contribution of EU-funds within 5 years prior to the declaration of the related expenditures within the project) remain unaffected and are to be complied with.

BL 8. Small Scale Investments**Eligible items**

This category comprises small-scale physical infrastructure investments proposed by transnational strategic concepts and approved by the Steering Committee of the Programme (explicitly quoted in the Application Form with the detailed description, number of units and unit rate) demonstrating concrete, innovative and visible results. Motorway, main road construction and other similar infrastructures must not be considered eligible within the INTERREG IIIB CADSES NP projects. The need for the investment is to be thoroughly justified in the Application Form. Only equipment or works that is strictly necessary for the implementation of the project can be included in the project budget. Only infrastructure with a transnational impact in compliance with the INTERREG III guidelines (Art. III 14) can be taken into consideration).

The eligibility of expenditure should be determined based on the verification of satisfaction of the above-mentioned criteria, of the requirements stemming from article 30 (4) of the Council Regulation (EC) 1260/1999 and on the date of purchase. Positive results of the verification can justify the acknowledgment of the purchase costs eligible rather than the proportion of depreciation of the item corresponding to the duration of the project.

EC procurement rules are to be observed with regard to the expenditures under this budget line.

Documentary evidence

These expenditures should be backed by the documents justifying the incurred expenditures (contract, statement of fees) and by the documents giving a proof of payments (payment confirmation for cash payment, bank transfer payment confirmation, cash payout confirmation slip, depreciation booking, if applicable).

It is advised to state clearly who will retain the ownership of the investments at the end of the project.

Other documentary requirements of the Member States remain unaffected and are to be complied with.

4. Procedure on detecting and reporting of irregularities to the MA; recovery procedure and the role of the First Level Control bodies in the process.

Like other activities performed by the EU for the achievement of its policies and its strategic targets, also CADSES is an instrument to reach objectives of common interest and as such it is financed via taxpayers' money. The danger of an improper use of these financial means may damage the European taxpayers in the sense that the Community budget may contain untrue information and therefore not reflect the interests of the EU citizens anymore.

At the same time, "The Commission shall implement the budget (...) on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management (...)" (article 274 Treaty). Provided that for the implementation of Structural Funds the Commission has opted for the shared management model, the Commission is enabled to assume its final responsibility for the implementation of the budget if it can apply "clearance-of-accounts procedures or financial correction mechanisms" (article 53 financial regulation Euratom).

The European institutions therefore act as effectively as possible against fraud given their duty to guarantee, with regard to the taxpayer, the best use of their funds. This covers activities concerning the detection and monitoring of frauds in the customs field, misappropriation of subsidies and tax evasion, insofar as the Community budget is affected by it, as well as the fight against corruption and any other illegal activity harmful to the financial interests of the Community.

In order to intensify this action, the Community Institutions established the European Anti-Fraud Office (known by its French acronym - OLAF) in 1999. Over and above the protection of financial interests, the responsibility of the Office concerns all the activities connected with safeguarding Community interests against irregular behaviour likely to lead to administrative or penal proceedings.

With respect to the implementation of Structural Funds, the adoption of these mechanisms is disciplined by article 39 of Regulation 1260/99, dealing with financial corrections and more specifically governing the treatment of irregularities.

Before continuing with the description of the content of this article, it is necessary to set a definition of irregularity.

In general, an irregularity is an act or a behaviour that must result in the infringement of a provision of Community law. The Commission Regulation (EC) No 2035/2005¹², states the following: "irregularity means any infringement of a provision of Community law resulting from an act or omission by an economic operator¹³ which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget";

¹² Commission Regulation (EC) No 2035/2005 of 12 December 2005 *amending Regulation (EC) No 1681/94 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field*

¹³ Any natural or legal person or other entity taking part in the administration of assistance from the Funds

By means of this definition every behaviour, intentional or not (act or omission) performed by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget.

The legal framework determining the principles and procedures concerning the detection, reporting of irregularities and recovery of sums wrongly paid is defined by the following documents:

- Council Regulation (EC) no 1260/99 (article 38)
- Commission Regulation (EC) no 438/2001
- Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field (OJ L 178, 12.7.1994, p. 43)
- Commission Regulation (EC) No 2035/2005 of 12 December 2005 amending Regulation (EC) No 1681/94 concerning irregularities and recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field
- Memorandum of Understanding between the EU Member States and the Italian Ministry of Infrastructures and Transport acting as Managing Authority and as Paying Authority on the Implementation of the Community Initiative "INTERREG IIIB CADSES NEIGHBOURHOOD PROGRAMME"

Pursuant to the above-mentioned documents, the irregularities might be detected by the following institutions: PP, LP, First Level Control body, National Coordinators (members of the Monitoring Committee), JTS, MA, PA, 2nd Level Control body, European Commission. The responsibility for reporting the irregularities lies with the Member States in which the expenditure was incurred. The irregularities are to be reported by the Member States to the European Commission (on the quarterly basis, in case irregularities exceed 10.000 EURO). At the same time the Managing Authority, Paying Authority and Winding-up body of the Programme shall be informed about the irregularities detected regardless the amount affected. The scope of the reports concerning irregularities has to be in line with Article 1 of the Commission Regulation (EC) No 2035/2005.

The following manual focuses on the irregularities that may be detected with regard to the projects approved under priorities 1 – 4 of INTERREG IIIB CADSES Neighbourhood Programme. An irregularity might be detected on different stages determined by the payment situation to the project, i.e.

- In the course of preparation of the Payment Claim
- After an interim disbursement of ERDF-funding and, in any case, before the execution of the final payment to the project affected by an irregularity
- After the execution of the final payment claim to the project

The table below reflects the scope of activities along with the body responsible with regard to the irregularities identified at different stages of processing the payments to the projects. The tasks and activities of the First Level Control bodies are limited to the reporting of the irregularities to the National Authorities pursuant to its requirements for the sake of reporting the irregularities as foreseen by the Commission Regulation (EC) No 2035/2005.

**Procedure for Detection and Reporting of Irregularities, Financial Corrections
pursuant to the Memorandum of Understanding**

Stage		Action	Responsible
Preparation of the Payment Claim	Errors ¹⁴ detected by the course of certification of expenditures	The partner concerned is requested to correct the payment claim and to submit the correct documents	First Level Control body
Interim Payment Claim already paid	Errors, irregularities detected after interim disbursement of ERDF and before the final payment	The irregularities detected are to be reported to the National Coordinators (members of the Monitoring Committee) of the country	First Level Control body
		National Coordinators report the irregularity to the Managing Authority, Paying Authority, winding-up body and to the Lead Partner concerned	National Coordinators (members of the Monitoring Committee)
		The ERDF-amount affected by the irregularity has to be registered and deducted from the next ERDF-disbursement (depending on the actual stage of implementation and amount due a recovery procedure can be started)	MA
		The MA informs the PA, Project Partner and Lead Partner as well as the National Authorities concerned about the amount to be deducted from the next Payment Claim: The repayment can be also charged against the amount of the subsidy withheld as a final balance of assistance granted (5% of the sum awarded pursuant to the Subsidy Contract).	MA/PA for amending the payment request
Final Payment Claim to the project executed	Irregularities detected after the Final disbursement of ERDF to the project	The irregularities detected are to be reported to the National Coordinators (members of the Monitoring Committee)	First Level Control body

¹⁴ Errors of calculation, cancellations, technical and accounting adjustments: compare §4 of the Commission Regulation (EC) 2035/2005 and §2 of the working document of the Commission: Requirement to notify irregularities: practical arrangements, see <http://ec.europa.eu/dgs/olaf/mission/legal/irreg/en.pdf>.

Stage		Action	Responsible
		National Coordinators report the irregularity to the Managing Authority, Paying Authority, winding-up body and to the Lead Partner concerned	National Coordinators (members of the Monitoring Committee)
		The ERDF-amount affected by the irregularity has to be registered and recovery procedure should be launched pursuant to §9 of the Memorandum of Understanding	MA
		The MA informs the PA, winding-up body and the Lead Partner as well as the National Authorities concerned about the amount to be recovered.	MA
Reporting irregularities to OLAF	In case of irregularities of more than 10.000 EURO	Notwithstanding the reporting obligations of the Member States to the MA, PA, winding-up body, the national coordinators should additionally report irregularities to OLAF pursuant to article 3 of the Commission Regulation (EC) No 2035/2005.	National Coordinators