

GUIDANCE DOCUMENT ON THE FUNCTIONS OF THE CERTIFYING AUTHORITY

for the 2007 – 2013 programming period

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1. Introduction

The objective of this document is to provide guidance on the functions of the certifying authority under Article 61 of Council Regulation (EC) No 1083/2006 and it is intended to serve as a guidance document for the Member States for the implementation of that Article. Member States are recommended to follow the guidance, taking account of their own organisational structures and control arrangements.

This is a Working Document prepared by the Commission services. On the basis of the applicable Community Law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the Cohesion policy on how to interpret and apply the Community rules in this area. The aim of the working document is to provide Commission's services explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice(s). However this guidance is without prejudice to the interpretation of the Court of Justice and the Court of First Instance or evolving Commission decision making practice. The applicable regulatory requirements are summarised in Annex I. The main issues addressed by the guidance note concern:

- the set-up and organisation of the certifying authority;
- the certification of statements of expenditure;
- the accounting and Monitoring Information system, the reliability of the accounting records and the audit trail;
- the debtors' ledger, recovery and withdrawal of irregular amounts.

The note provides examples of good practice on particular aspects of the requirement of the certifying authority to draw up and submit to the Commission certified statements of expenditure.

These are highlighted as representing examples of 'good practice'.

Lessons of the past

The European Court of Auditors in its Annual Report concerning the financial year 2006 referred to specific failures of the management and control system detected in Member States. It stated that:

“ The main weakness in the functioning of the paying authority was the failure to identify that the managing authority had not carried out adequate day to day checks.”

The European Court of Auditors cites an example where the paying authority continued to certify expenditure to the Commission although it was aware of serious errors detected by the audit body.

The Commission's auditors have also detected similar cases where the paying authority for programmes of the 2000-2006 programming period have continued to certify expenditure to the Commission notwithstanding clear evidence of deficiencies in the verifications carried out by the managing authority. Examples of such shortcomings are amongst others:

- Paying authorities which did not receive sufficient information from managing authorities and audit bodies to fulfil their responsibilities for certifying statements of expenditure to the Commission;
- Paying authorities which did not carry out sufficient checks on the expenditure statements received from managing authorities as a result of which the certification of expenditure was a pure formalistic matter without any added value with respect to the correctness of declared expenditure;
- Paying authorities which claimed to perform these checks adequately but which did not sufficiently record their work;
- Despite the checks carried out by the paying authority, certified expenditure was found systematically to contain material ineligible expenditure;
- The accounting records could not provide sufficient detail to make possible the reconciliation between the declared cumulative amount of expenditure to the Commission with underlying records that provide the financial information at project level;
- Failure to record adequately, or in a timely way, irregularities and/or insufficient reconciliation between the recovery procedures recorded in the debtors ledgers and the actual amounts recovered.

The guidance note takes account of these findings and proposes measures which, if applied, should reduce the possibility of their recurrence.

2. Main functions of the certifying authority

The responsibilities of the certifying authority for the programming period 2007-2013 are not changed significantly from those of the paying authority for the 2000-2006 period. The core function remains to draw up and to submit to the Commission certified statements of expenditure.

Certification means that the statements of expenditure are accurate, result from reliable accounting systems and are based on verifiable supporting documentation, and that expenditure declared complies with applicable Community and national rules.

Furthermore the certifying authority maintains the accounting records for the expenditure declared to the Commission in computerised form.

The certifying authority keeps an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the general budget of the European Union prior to the closure of the operational programme by deducting them from the next statement of expenditure.

Commission Regulation (EC) No1828/2006 sets in Annexe X the model to be used for the certificates. According to the prescribed wording in this model, the Certifying authority must be able to ensure that all expenditure in the attached statements is in compliance with the Community and national eligibility rules, that the amounts declared have been paid by the Beneficiaries¹, that all underlying transactions are lawful, and that supporting documents are available and will be available for at least three years after the closure of the Operational Programme and in case of partial closure for the operations concerned.

3. Set-up and organisation of the certifying authority

The key requirements for the set-up and organisation are the clear definition and allocation of functions and the adequate separation of functions between the certifying authority and the other authorities and within the certifying authority in conformity with Articles 58(a), 58(b) and 59(4) of Council Regulation (EC) No 1083/2006. The assessment criteria to evaluate the fulfilment of these requirements are:

1. Compliance with the principle of separation of functions between the certifying authority, the managing authority and the audit authority as well as within the certifying authority and its intermediate bodies;
2. A clear definition and allocation of functions (organisation chart, indicative number of posts, documented procedures and manuals), including the existence of a formal documented agreement setting out any tasks that are delegated by the certifying authority to the intermediate body/ies;
3. Existence of written procedures in the certifying authority to monitor the effective implementation of any delegated tasks.

Good practice is that the certifying authority is assigned to a different organisation from the managing authority and audit authority and any of the intermediate bodies reporting to them (e.g. CA = Treasure Department of Ministry of Finance; MA/intermediate bodies = Ministry of Economic Affairs; and Audit Authority = General Inspection Department of Ministry of Finance).

Where two authorities are part of the same body the following measures should be taken:

- Clear (written) mission statement and designation of functions for the unit assuming the certification function;
- Exclusion of the aforementioned unit from the direct hierarchical authority of the services in charge of programme management, in particular verification and approval of payment claims by beneficiaries.

¹ *expenditure unpaid can never be declared with the exception foreseen by Article 78 (1) of Council Regulation (EC) No 1083/2006 as regards aid schemes within the meaning of Article 87 of the Treaty*

3.1. Organisation of the certifying authority to ensure its independence and adequate separation of functions

The certifying authority should be designated and assigned its functions by a formal decision of the competent authority. The national legal and administrative framework should ensure that the certifying authority has the powers necessary for the execution of its tasks and guarantee its independence from the managing authorities and intermediate bodies dependent on the managing authorities. The test of the independence of the certifying authority is that it has the requisite authority to refuse to certify expenditure presented by a managing authority when it is not satisfied that all the conditions are met. The certifying authority must be provided with the necessary resources in order to exercise its functions successfully. In particular it must have the capacity to examine the reliability of the declared expenditure and the first level verifications reported by the managing authorities, through desk checks and where necessary on the spot at managing authority or intermediate body levels.

Good practice would be the establishment of the certifying authority by a legal act or ministerial decree that describes precisely its functions, its powers and organisation, and which provides expressly the power, in cases of non compliance with the applicable conditions, to suspend the certification of expenditure for the whole or part of an operational programme.

3.2. Specification and organisation of functions within the certifying authority

Within the certifying authority there should be an adequate segregation of duties and designation of functions, as for example between the task of drawing up the statement of expenditure and the checks carried out for the certification. The certifying authority should have a clear mission statement, and the staff should have clear job descriptions ensuring segregation of duties. There should be clear and detailed written procedures or manuals for each of the functions of the certifying authority. For certifying authorities responsible only for small programmes simpler types of organisation may be envisaged provided that there is no conflict of interest between the different tasks of the certifying authority.

Good practice for the internal organisation of the certifying authority suggests the following organisation, in proportion to the level of the tasks to be accomplished: (a) one section/unit responsible for checking the admissibility of claims, their completeness and correctness (numerical checks), and for drawing up of statements of expenditure and their submission to the Commission; (b) one section/unit responsible for checking the substance of the information provided (checks of conformity with the Community law, assessment of the management verifications carried out by the managing authority and intermediate bodies, examination of the results of audits carried out by the audit authority etc.) and (c) one section/unit responsible for maintaining the accounting system and for IT issues.

3.3. Functions formally delegated by the certifying authority

Past experience shows that Member States generally opt for centralising the certification functions and the certifying authorities do not delegate tasks to Intermediate bodies. The Commission recommends this practice. However, the certifying authority can choose to

entrust² certain tasks to intermediate bodies³. The certifying authority by delegating such tasks does not pass the overall responsibility to the intermediate bodies. On the contrary, the certifying authority remains fully responsible and must itself sign the certificate accompanying the statement of expenditure. Therefore, where certain tasks have been entrusted to other bodies, the certifying authority should, in its supervisory capacity, obtain assurance that the tasks have been properly carried out before it completes the certification. It can do this in a number of ways including:

- obtaining and reviewing information on work carried out in relation to certification of expenditure prepared by intermediate bodies,
- reviewing and approving in advance the procedure manual of the intermediate body,
- receiving audit reports on the work of intermediate bodies prepared in the context of Article 62(1)(a) and (b) of Council Regulation (EC) No 1083/2006, and
- performing its own quality reviews of tasks carried out by intermediate bodies.

The delegation of tasks should be recorded in a written document specifying the tasks, the obligations of the intermediate body to carry out them properly and the power of the Certifying authority to review them. This document may have attached, or refer to, the procedures manual of the intermediate body.

Good practice, in view of the direct responsibility of the certifying authority, is to avoid any delegation of the tasks, as far as possible. Where tasks are delegated formal arrangements are established in writing specifying the delegated tasks and indicating clearly the power of the certifying authority to withdraw the delegated tasks and specify the circumstances (i.e. insufficient resources compared to commitments taken or due to subsequent staff turnover, inadequate level of verifications, insufficient documentation of verifications carried out, no timely submission of statements. ...)

4. Certification of statements of expenditure

The key requirement for certification is that the certifying authority has received adequate information concerning the procedures operated by the managing authority and by intermediate bodies to verify the delivery of the co-financed products and services, the reality of the expenditure claimed, compliance with the applicable Community and national rules, that the expenditure declared has been incurred in respect of operations properly selected for funding and that an adequate audit trail has been maintained. To evaluate the fulfilment of this requirement the certifying authority should use the following assessment criteria:

² Where one or more tasks of a certifying authority are performed by an intermediate body, the relevant arrangements shall be formally recorded in writing.

³ Intermediate bodies are any public or private body or service which act under the responsibility of a managing or certifying authority, or which carry out duties on behalf of such an authority vis-à-vis beneficiaries implementing operations. They are responsible for establishing a system of internal control to guarantee the regularity and legality of the operations, their conformity with the terms of the Commission Decision and compliance with the relevant Community rules.

1. specify the information it requires on the procedures operated by the managing authority and by the intermediate bodies for the verification of expenditure and put in place agreed procedures with the managing authority to ensure that it receives that information on a regular and timely basis;
2. examine the reports drawn up by the managing authority or the intermediate bodies on the progress of implementation, including an assessment of the information on verifications carried out pursuant to Article 60 (b) of Council Regulation (EC) No 1083/2006 (all assessments should be documented);
3. examine the results of all audits pursuant to Article 62 of Council Regulation (EC) No 1083/2006 (all examinations should be documented);
4. ensure that the results of these examinations are properly taken into account in reaching a conclusion as to whether there is a sufficient basis for certifying that the expenditure being certified is legal and regular.
5. reconcile and carry out an arithmetical check of the payment requests.

The certifying authority must have adequate evidence to be able to conclude that it has sufficient assurance to submit to the Commission a certified statement of expenditure. The assurance should be based on evidence that the systems of the managing authority and intermediate bodies are functioning effectively to prevent, detect and correct irregularities. It obtains such evidence from, in particular, information from the managing authority on the execution of Article 60 (b) of Council Regulation (EC) No 1083/2006 (management verifications), from audit reports and the annual control report of the Audit Authority, as well as the audit reports of the Commission and the European Court of Auditors. The certifying authority should, when necessary, reinforce further its assurance by additional checks carried out by its staff at the level of the managing authorities and the intermediate bodies, or specialised companies as well as by taking into account other sources of information such as, for example, the checks of the national Court of Auditors.

Good practice is for the managing authority to send to the certifying authority regular reports (e.g. at least once per year) on its control activities with information on key indicators which demonstrate the functioning of the system and report the list of checks, their coverage, the detected irregularities, their type, the corrections made and information on the level of the error as well as significant infringements of the applicable rules.

4.1. Obtaining adequate information for the purposes of certification

The certifying authority reaches its conclusions for the purposes of certification principally on the information provided by the managing authority. It has therefore to ensure that it receives adequate information for this purpose. The information required is evidence that the control systems of the managing authority and intermediate bodies are functioning effectively. The information provided should therefore include:

- The description of the control systems, procedures applied, and checklists used;

- The methodology for sampling for verifications on the spot;
- The results of the risk analysis carried out;
- Data on the administrative and on-the-spot verifications carried out during the last reporting period, in particular number of on-the-spot verifications, percentage of operations covered, percentage of expenditure covered, level of error found, type of errors found and information on follow-up actions taken by the managing authority or intermediate bodies, e.g. corrections made.

Certain elements can be provided at the beginning of the period and need not be re-submitted with each claim unless there are changes. The certifying authority should specify the elements required, and a statement of expenditure submitted by a managing authority should be rejected if the required elements are not supplied.

Good practice is that the head of the managing authority formally declares to the certifying authority that the information provided is true, correct and complete, that the expenditure contained in the statement submitted has been subject to controls in accordance with the established system, and that he has reasonable assurance that the expenditure is free of material error.

4.2. Procedure by which statements of expenditure are drawn up, certified and submitted to the Commission

Given that the certifying authority should be able to confirm that "the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents", it should "own" the certification procedure and define the applicable procedural steps to draw up reliable and correct statements of expenditure, and certify them in accordance with the regulatory requirements.

The procedures and responsibilities of officials are established at each step and are accompanied by guidance notes, checklists and model documents to be followed by the staff of the certifying authority. It is advisable that procedures manual is compiled which is available to every person involved in drawing up, checking and preparing the certification of expenditure.

Good practice is that the responsibilities of each unit, and the flowchart of the procedures for all stages of the certification process should be set out in a detailed manual. A single financial circuit should be followed for all claims under all operational programmes of a Member State. The maximum use should be made of computerised system in relation to automated internal controls (i.e. numerical and logical checks made automatically by the IT system), and provision of audit trail.

4.3. Steps to be performed by the certifying authority to ensure fulfilment of requirements under Article 61 of Council Regulation (EC) No 1083/2006

1. The certifying authority should verify for the programme concerned that the Member State has submitted to the Commission a description of the systems, and an opinion on their compliance with Articles 58 to 62 of Council Regulation (EC) No 1083/2006, in conformity with Article 71(2) of Regulation (EC) No 1083/2006 and Article 25 of Regulation (EC) No 1828/2006. The certifying authority should not certify a statement of expenditure for a programme unless an unqualified opinion has been given by the compliance assessment body, or, where the qualified opinion is limited to one priority axis, it should not certify expenditure relating to that priority axis.
2. The certifying authority on receipt of an expenditure claim checks firstly its admissibility and completeness and its conformity with the formal requirements, including the requirements it has laid down for information to be provided by the managing authority. If these formal requirements have been met, then the certifying authority examines the substance of the information provided in order to conclude, or not, that the expenditure claim can be certified.
3. Each expenditure claim is submitted by the managing authority to the certifying authority together with the evidence required by the certifying authority about the correctness and legality and regularity of the amount represented (i.e. in agreement with the certifying authority, the managing authority reports either periodically or per expenditure claim how the assurance is obtained). It is essential that the managing authority ensures that the certifying authority receives correct and complete information on the procedures and verifications carried out by it in relation to expenditure for the purpose of certification, as required by Article 60(g) of Council Regulation (EC) N° 1083/2006 and further outlined in the guidance document on management verifications to be carried out by Member States on projects co-financed by the Structural funds and Cohesion Fund for the 2007-2013 programming period (COCOF 08/0020/04-EN). More particularly, the managing authority provides for each application of payment documented evidence that:
 - a) the verifications carried out by the managing authority of the expenditure declared provide assurance that it complies with the applicable Community and national rules and has been paid in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and the applicable Community and national rules, in particular:
 - State aid rules;
 - Public procurement rules;
 - Rules on the justification of advances in the framework of state aid under Article 87 of the Treaty by expenditure paid out by the beneficiary within a three years deadline;
 - That the claimed expenditure does not contain any expenditure concerning major projects which have not yet been approved by the Commission.

Good practice is that the managing authority, in the report sent to the certifying authority with each expenditure declaration, includes a global conclusion on the assurance of the legality and regularity of the expenditure co-financed under the programme.

- b) the claimed expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents and the underlying transactions are lawful and comply with the rules and the procedures have been followed satisfactorily;

Good practice is that the managing authority makes a formal declaration to this effect with each expenditure declaration and indicates the procedures that have been followed satisfactorily.

- c) the expenditure claim takes account, where applicable, of any amounts recovered and of any interest received under Article 70(1.b) of Council Regulation (EC) N° 1083/2006, and of revenue accruing from operations financed under the operational programme;
- d) the breakdown of the underlying operations is properly recorded on computer files and is available to any control on request;

Good practice is that the certifying authority has access to the managing authority IT system in order to be able to carry out a sample examination of the computer records maintained by the managing authority

- e) the overall intensity of verifications, both desk-based and on-the-spot, is sufficient to give reasonable assurance of the legality and regularity of the expenditure co-financed under the programme. The managing authority, in agreement with the certifying authority, reports either periodically (e.g. at least once per year) or per expenditure claim how the assurance is obtained. When periodical reporting of the functioning of the systems is agreed, it is still required for every claim to be accompanied by a confirmation that the assurance for its legality and regularity is assured by the function of management and control systems implemented by the managing authority.
- f) any irregular amount recovered following either the verifications carried out by the managing authority or audits carried out by the audit authority, the European Commission or the European/National Court of Auditors have been excluded from the expenditure claim and have been reported to the certifying authority;

Good practice is that the managing authority, in the report sent to the certifying authority with each expenditure declaration, sets out the corrections which have been applied as a result of controls it has carried out or audits by other bodies

If the certifying authority is not satisfied about the legality and regularity of the whole, or part, of the expenditure claim, it should send the claim back to the managing authority with instructions for remedial actions. In order to satisfy itself whether the conditions for certification are met, certifying authority may proceed to an examination at managing authority or intermediate body level by using its own resources or by outsourcing.

Good practice is that the certifying authority performs periodic quality assessments at the level of the managing authorities and the intermediate bodies based on a sample selected by a risk analysis or randomly.

4. If the evidence provided justifies adequately the legality and regularity of the expenditure claim, and any questions raised have been resolved satisfactorily, then the certifying authority certifies the specific claim and submits it to the Commission. Concerning the format of the claim:
 - the certified statements of expenditure and payment applications referred to in Article 61(a) of Regulation (EC) No 1083/2006 shall be drawn up in the format in Annex X to Regulation (EC) No 1828/2006 and transmitted to the Commission.
 - for the partial closure of an operational programme, the certifying authority shall send to the Commission a statement of expenditure referred to in Article 88 of Regulation (EC) No 1083/2006 in the format set out in Annex XIV to Regulation (EC) No 1828/2006.

4.4. Specific issues on certification for claims cofinanced under European territorial cooperation objective (ETC).

The guidance and good practices presented in this note are applicable. There are certain additional obligations referred in Regulation (EC) No 1080/2006, as well as some specific issues to be addressed resulting from the cross-border, trans-national or interregional nature of the ETC objective. More particularly:

- As far as it concerns the designation of authorities, Member States participating in a European territorial cooperation programme shall appoint a single managing authority, a single certifying authority and a single audit authority, the latter being situated in the Member State of the managing authority. There should be formal arrangement in writing between the authorities and with the various Member States responsible for the control system described under Art. 16 of Regulation (EC) No 1080/2006 on issues relevant for the management and implementation of the programme including communication and information flows (e.g. the language of reports and other documents). As the certifying authority will base its own assurance, at least partly, on the reports drafted by the bodies mentioned above, it needs to receive their reports for the purposes of certification in an agreed language.
- The certifying authority shall receive the payments made by the Commission and, as a general rule, shall make the payments to the lead beneficiary. In order to fulfil this task the certifying authority should maintain an accounting system having the capacity of

recording the transactions in the various currencies used and the exchange rates used. No national sub-accounts are permitted.

- The certifying authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead beneficiary. The beneficiaries shall repay the lead beneficiary any amounts unduly paid in accordance with the agreement existing between them. If the lead beneficiary does not succeed in securing repayment from a beneficiary, the Member State on whose territory the beneficiary concerned is located shall reimburse the certifying authority for the amount unduly paid to that beneficiary. All these transactions need to be recorded properly in the accounting system of the certifying authority, in the various currencies used and the exchange rates used.

5. Accounting and Monitoring Information system, the reliability of the accounting records and the audit trail

5.1. Accounting and Monitoring Information system

Articles 61(b) and 61(e) of Council Regulation (EC) No 1083/2006, and Article 15 of Commission Regulation (EC) No 1828/2006) require the existence of an adequate audit trail and computerised system. More particularly, it is required that:

- adequate accounting records should be maintained in computerised form of expenditure declared to the Commission
- the audit trail within the certifying authority should allow reconciliation of the expenditure declared to the Commission with the expenditure statements received from the managing authority/intermediate bodies.

Article 60(c) of Council Regulation (EC) No 1083/2006 provides that the managing authority shall be responsible for ensuring that there is a system for recording and storing in computerised form accounting records for each operation under the operational programme.

The use of a single electronic Monitoring Information System by the managing authority and the certifying authority is recommended. Where different systems have been developed, the certifying authority should lay down the content and format of the information that must be provided to upload to the certifying authority's system. This must be sufficient to ensure the production of statements of expenditure in full conformity with the requirements of Article 61 of Council Regulation (EC) No 1083/2006. The managing authority should provide all information in the requested format and within the deadlines mutually agreed.

Given that the certifying authority should be able to confirm that "*the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents*" the certifying authority should have full read-access to the managing authority system information.

Good practice in this area is a single electronic accounting and Monitoring Information system (MIS), used by the managing authorities, the Intermediary bodies, the certifying authority, the Audit Authority and where possible by beneficiaries, covering all the essential elements of the management and the financial circuits. Such a system could integrate several essential

functions of the management and control system required by the Regulations, by specifying for example that:

1. Each claim of the beneficiary is submitted by the beneficiary, through the MIS, to the managing authority or Intermediary body with the required supporting evidence of the amount represented by a number of invoices corresponding to the declared expenditure.
2. The managing authority/IB registers in the MIS the occurrence of its checks and the main conclusions (i.e. irregularities, error rate, etc.)
3. Following approval by the managing authority it is further submitted, via the MIS, to the certifying authority together with the supporting evidence, in electronic format (i.e. data of invoices, electronic copies of reports and checklists etc), justifying its correctness, legality and regularity.
4. Any irregularities detected at any level (managing authority, IB, Audit Authority, certifying authority, National Court of Auditors, European Commission, European Court of Auditors) are also registered in the MIS
5. The certifying authority has read-access to the information available on the MIS system and full access to the necessary information to prepare the certification of statements of expenditure to the Commission.
6. Once the certifying authority has received from the managing authority all necessary information and has satisfied itself that the conditions are fulfilled it draws up the statement of expenditure and submits it to the European Commission. The MIS, either directly or by using a dedicated application, should draw up automatically certified statements of expenditure and payment applications in the format in Annex X to Commission Regulation (EC) No 1828/2006.
7. The certifying authority keeps in the MIS, in conformity with Article 61(f) of Regulation (EC) No 1083/2006, an account of amounts recovered, pending recoveries and amounts withdrawn following cancellation of all or part of the contribution of each operation.
8. The MIS updates automatically the debtors ledger and is able to prepare the report required by Article 20(2) of Commission Regulation (EC) No 1828/2006.

5.2. Reliability of the data

IT audits on the systems should be carried out at the start up of the systems and periodically by the system's owner (i.e. the certifying or the managing authority) or by an external organisation on its behalf and/or by the Audit Authority. The certifying authority should receive the reports resulted by the IT audits confirming the reliability of the data.

IT audits consider matters such as the following:

- procedures to ensure that application software and subsequent modifications are authorised and tested before implementation;
- frequency of system modification and the reasons for it;

- whether IT programmes or procedures change are controlled and promptly documented;
- the review, approval, control, and editing of source transactions to ensure completeness and prevent error;
- the existence of current narrative system descriptions and flowcharts;
- reconciliation of output records with input entries;
- error detection and correction procedures;
- data user's views of data reliability;
- internal audit reports and other evaluations or studies; and
- physical security of the computer facilities and its components including restricted access.

5.3. Audit trail (Article 15 of the Commission Regulation (EC) No 1828/2006)

The audit trail described by Article 15 of Commission Regulation (EC) No 1828/2006 for the purposes of Articles 60(c), 60(d), 60(f) and 90 of Council Regulation (EC) No 1083/2006 is considered sufficient when it permits reconciliation of the summary amounts certified to the Commission with the individual expenditure records and supporting documents held at the appropriate administrative level.

The audit trail should permit:

- for each certified application for payment, the aggregate amounts certified to the Commission to be reconciled with the detailed accounting records and supporting documents. A record should contain the identity and location of bodies holding the supporting documents relating to expenditure and audits, which includes all documents required for an adequate audit trail;
- for each operation, verification of payment of the public contribution to the beneficiary;
- for each operation, the verification of application of the selection criteria established by the monitoring committee for the operational programme;
- for each operation, to view its technical specifications and financing plan, documents concerning the grant approval, documents relating to public procurement procedures, progress reports and reports on verifications and audits carried out.

Within the certifying authority the audit trail should permit the reconciliation of the expenditure declared to the Commission with the expenditure statements which the certifying authority has received from the managing authority, on the basis of the accounting records or the monitoring system and the supporting documents. This would include information on recoveries, pending recoveries and withdrawals.

In addition it should ensure that the accounting records of operations include the information set out in Annex III to Commission Regulation (EC) No 1828/2006.

Good practice is that the accounting records and the monitoring system have the capacity to provide complete information for all stages of the flow of each transaction, from its initial introduction in a payment claim up to the final cofinancing. The information on the flow of each transaction is complemented by information on how each authority has processed it and what operations have been performed on it in chronological order. It is important that the monitoring system keeps historical data of transactions in order that, each authority involved, is able to justify, specific actions taken by it (e.g. the withdrawal of a specific expenditure by the managing authority, its subsequent deduction from the next statement of expenditure submitted to the Commission and the commitment of the released amount to other operations).

6. "Debtors' ledger", recovery and withdrawal of irregular amounts

6.1. Centralisation of accounting and reporting of recoveries in certifying authority - single annual report

The responsibility for accounting for, and reporting on, withdrawals and recoveries is centralised in the certifying authority, which has to submit a single comprehensive report on the matter to the Commission once a year.

Under Article 61(f) of Regulation 1083/2006 the certifying authority is responsible for keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution to an operation. Article 20(2) of Regulation 1828/2006 requires the certifying authority to submit by 31 March each year a statement identifying for each priority axis of the operational programme the amounts withdrawn from statements of expenditure submitted during the preceding year, the amounts recovered which have been deducted from those statements of expenditure, and the amounts awaiting recovery at the end of the preceding year, classified by the year in which recovery orders were issued.

The accounting and reporting obligations of the certifying authority for withdrawn and recovered amounts require it to maintain a reliable "debtors' ledger" containing all the required data to monitor the different financial processes relating to the treatment of irregularities.

6.2. Withdrawals and recoveries

When they find irregular expenditure, Member States are required to correct it. The correction is implemented in one of two ways. Either they:

- withdraw the expenditure affected from the programme immediately by deducting it from the next statement of expenditure submitted to the Commission, thereby immediately releasing the EC funding for commitment to other operations (i.e. the expenditure is immediately withdrawn from the programme, independently of the recovery procedures, but it is expected that the Member States will follow up recovery at the beneficiary level); or they

- leave the expenditure for the time being in the programme pending the outcome of proceedings to recover the unduly paid amount from the beneficiaries (i.e. the expenditure is maintained in the program and the deduction will be only performed once the recovery is effective from the beneficiary. Recovery at the Member State level precedes the deduction from the statement of expenditure sent to the Commission). Recovery is effected either by obtaining repayment of the sums concerned or setting off the sums to be repaid against further payments due to the same beneficiary.

These two means of recording financial corrections are called "withdrawals" and "recoveries". The calculation of amounts withdrawn or recovered should take account, where applicable, of any interest received (Article 70 1(b) of Council Regulation (EC) N° 1083/2006). In addition to reporting withdrawals and recoveries, Member States must include in the annual report amounts awaiting recovery at the end of the preceding year.

The annual reporting of withdrawals, recoveries and pending recoveries is additional to the quarterly reporting on new irregularities, their follow-up and irrecoverable amounts under Articles 27-36 of Commission Regulation (EC) No 1828/2006.

6.3. Expenditure which has been declared to the Commission

The obligation to report withdrawals, recoveries and pending recoveries only applies to expenditure that has already been declared to the Commission. However, the debtors' ledger may also record the treatment of irregularities detected at stages before the certification of expenditure to the Commission.

6.4. Corrections arising from irregularities

Only corrections arising from an irregularity as defined in Article 2(7) of Regulation (EC) No 1083/2006 are to be considered as covered by the obligation to report withdrawals and recoveries, not adjustments made because of clerical or technical errors, although these must also be corrected by the Member State. It should be noted, however, that the obligation concerns both corrections arising from irregularities which have been communicated under Articles 27-36 of Regulation 1828/1006 and those which are exempted from communication for example because they are below the threshold for reporting⁴.

6.5. Deductions from statements of expenditure

Statements of expenditure (Annex X of Regulation 1828/2006) have to show the expenditure that is the basis for co-financing. This may be total public expenditure or total eligible costs including private expenditure. Recoveries concern public expenditure, but also require adjustment of private expenditure declared in the statement of expenditure in the case of the second option referred to in point 6.2.

In the annual breakdown of expenditure in the statement of expenditure (annex X of the Commission Regulation (EC) No 1828/2006), the deduction of the withdrawn or recovered amounts should be made from the expenditure declared for the year in which the withdrawal or recovery was entered into the accounts of the certifying authority. For example, in the table indicating the breakdown by year of the total certified eligible expenditure an expenditure that

⁴ € 10.000 of the cofinanced part.

appears in the breakdown for the year 2008 and a part of it was recovered and registered into the accounts of the certifying authority in the year 2010 then the recovery should be considered as a negative payment of the beneficiary in 2010, and deducted from the expenditure declared for the year 2010.

Good practice is that the certifying authority identifies in its reports the amount of recoveries/withdrawals:

- resulting from audits carried out by the Commission or by the European Court of Auditors;
- resulting from controls and audits by national bodies.

Regulatory requirements

Functions of the certifying authority - Article 61 of Council Regulation (EC) No 1083/2006:

Functions of the certifying authority

The certifying authority of an operational programme shall be responsible in particular for:

- (a) drawing up and submitting to the Commission certified statements of expenditure and applications for payment;*
- (b) certifying that:*
 - the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;*
 - the expenditure declared complies with applicable Community and national rules and has been incurred in respect of operations selected for funding in accordance with the criteria applicable to the programme and complying with Community and national rules;*
- (c) ensuring for the purposes of certification that it has received adequate information from the managing authority on the procedures and verifications carried out in relation to expenditure included in statements of expenditure;*
- (d) taking account for certification purposes of the results of all audits carried out by or under the responsibility of the audit authority;*
- (e) maintaining accounting records in computerised form of expenditure declared to the Commission;*
- (f) keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid to the general budget of the European Union prior to the closure of the operational programme by deducting them from the next statement of expenditure.*

Obligation of the Managing Authorities to ensure that the Certifying Authority receives all necessary information - Article 60(g) of Council Regulation (EC) No 1083/2006:

Functions of the managing authority

The managing authority shall be responsible for managing and implementing the operational programme in accordance with the principle of sound financial management and in particular for:

- g) ensuring that the certifying authority receives all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;*

Acceptability of applications for payment - Article 86 of Council Regulation (EC) No 1083/2006:

Acceptability of applications for payment

1. Each interim payment made by the Commission shall be subject to the following conditions being met:

- a) the Commission must have been sent a application for payment and a statement of expenditure in accordance with Article 78;*
- b) no more than the maximum amount of assistance from the Funds as laid down in the decision of the Commission approving the operational programme has been paid by the Commission during the whole period for each priority axis;*
- c) the managing authority must have sent the Commission the most recent annual implementation report in accordance with Article 67(1) and (3);*

- d) *there is no reasoned opinion by the Commission in respect of an infringement under Article 226 of the Treaty as regards the operation(s) for which the expenditure is declared in the application for payment in question.*
2. *If one or more of the conditions referred to in paragraph 1 are not met, the Member State and the certifying authority shall be informed by the Commission within a period of one month so that the necessary steps can be taken to remedy the situation.*

Accounting records - Article 14 of Commission Regulation (EC) No 1828/2006:

Accounting records

1. *The accounting records of operations and the data on implementation referred to in Article 60(c) of Regulation (EC) No 1083/2006 shall include the information set out in Annex III to this Regulation. The managing, certifying and audit authorities and the bodies referred to in Article 62(3) of Regulation (EC) No 1083/2006 shall have access to that information.*
2. *At the written request of the Commission, the Member State shall provide the Commission with the information referred to in paragraph 1 within fifteen working days of receipt of the request, or any other agreed period, for the purpose of carrying out documentary and on-the-spot checks.*

Audit trail - Article 15 of Commission Regulation (EC) No 1828/2006:

Audit trail

For the purposes of Article 60(f) of Regulation (EC) No 1083/2006, an audit trail shall be considered adequate where, for the operational programme concerned, it complies with the following criteria:

- (a) *it permits the aggregate amounts certified to the Commission to be reconciled with the detailed accounting records and supporting documents held by the certifying authority, managing authority, intermediate bodies and beneficiaries as regards operations co-financed under the operational programme;*
- (b) *it permits verification of payment of the public contribution to the beneficiary;*
- (c) *it permits verification of application of the selection criteria established by the monitoring committee for the operational programme;*
- (d) *it contains in respect of each operation, as appropriate, the technical specifications and financing plan, documents concerning the grant approval, documents relating to public procurement procedures, progress reports and reports on verifications and audits carried out.*

Documents submitted by the certifying authority - Article 20 of Commission Regulation (EC) No 1828/2006:

Documents submitted by the certifying authority

1. *Certified statements of expenditure and payment applications referred to in Article 61(a) of Regulation (EC) No 1083/2006 shall be drawn up in the format in Annex X to this Regulation and transmitted to the Commission.*
2. *By 31 March each year as from 2008, the certifying authority shall send to the Commission a statement, in the format in Annex XI, identifying for each priority axis of the operational programme:*
 - a) *the amounts withdrawn from statements of expenditure submitted during the preceding year following cancellation of all or part of the public contribution for an operation;*
 - b) *the amounts recovered which have been deducted from those statements of expenditure;*

- c) *a statement of amounts to be recovered as at 31 December of the preceding year, classified by the year in which recovery orders were issued.*
 3. *In order to proceed to the partial closure of an operational programme, the certifying authority shall send to the Commission a statement of expenditure referred to in Article 88 of Regulation (EC) No 1083/2006 in the format set out in Annex XIV to this Regulation.*

Date of presentation of applications for payment and payment delays- Article 87 of Council Regulation (EC) No 1083/2006:

Date of presentation of applications for payment and payment delays

1. *The certifying authority shall satisfy itself that requests for interim payments for each operational programme are grouped together and sent to the Commission, as far as possible, on three separate occasions a year. For a payment to be made by the Commission in the current year, the latest date on which a application for payment shall be submitted is 31 October.*
2. *Subject to available funding, and the absence of a suspension of payments in accordance with Article 92, the Commission shall make the interim payment no later than two months after the date on which a application for payment meeting the conditions referred to in Article 86 is registered with the Commission.*

Specific issues on certification for claims cofinanced under European territorial cooperation objective, in conformity with Regulation (EC) No 1080/2006:

Designation of authorities (Article 14)

1. *Member States participating in an operational programme shall appoint a single managing authority, a single certifying authority and a single audit authority, the latter being situated in the Member State of the managing authority. The certifying authority shall receive the payments made by the Commission and, as a general rule, shall make the payments to the lead beneficiary. The managing authority, after consultation with the Member States represented in the programme area, shall set up a joint technical secretariat. The latter shall assist the managing authority and the monitoring committee, and, where appropriate, the audit authority, in carrying out their respective duties.*

Financial management (Article 17)

1. *The ERDF contribution shall be paid into a single account with no national sub-accounts.*
2. *Without prejudice to the Member States' responsibility for detecting and correcting irregularities and for recovering amounts unduly paid, the certifying authority shall ensure that any amount paid as a result of an irregularity is recovered from the lead beneficiary. The beneficiaries shall repay the lead beneficiary any amounts unduly paid in accordance with the agreement existing between them.*
3. *If the lead beneficiary does not succeed in securing repayment from a beneficiary, the Member State on whose territory the beneficiary concerned is located shall reimburse the certifying authority for the amount unduly paid to that beneficiary.*

Model of an interim payment (part containing the legal commitments) - Annex X of Commission Regulation (EC) No 1828/2006:

CERTIFICATE

I, the undersigned,
representing the certifying authority designated by (1)

hereby certify that all expenditure included in the attached statement complies with the criteria for eligibility of expenditure set out in Article 56 of Regulation (EC) No 1083/2006 and has been paid by the beneficiaries on the implementation of the operations selected under the operational programme in accordance with the conditions for granting of public contributions under Article 78(1) of Regulation (EC) No 1083/2006

after(2)

		20...
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and amounts to:

euro ³	
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(exact figure to two decimal places)

The attached statement of expenditure, broken down by priority, is based on accounts provisionally closed on

		20...
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and forms an integral part of this certificate

I also certify that operations are progressing in pursuance with the objectives laid down in the Decision and in accordance with Regulation (EC) No 1083/2006, and in particular that:

- (1) the expenditure declared complies with the applicable Community and national rules and has been paid in respect of operations selected for funding in accordance with the criteria applicable to the operational programme and the applicable Community and national rules, in particular:
 - State aid rules;
 - Public procurement rules;
 - Rules on the justification of advances in the framework of state aid under Article 87 of the Treaty by expenditure paid out by the beneficiary within a three years deadline;
 - no declaration of expenditure concerning major projects which have not yet been approved by the Commission;
- (2) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents;
- (3) the underlying transactions are lawful and comply with the rules and the procedures have been followed satisfactorily;
- (4) the statement of expenditure and the payment application take account, where applicable, of any amounts recovered and of any interest received, and of revenue accruing from operations financed under the operational programme;
- (5) the breakdown of the underlying operations is recorded on computer files and is available to the relevant Commission departments on request.