



EUROPEAN COMMISSION
Regional Policy DG
Employment, Social Affairs and Equal Opportunities DG

Programming period 2007 2013

Calculating interim payments and payments of the final balance (Art.77 of Regulation (EC) No 1083/2006) and related audit issues

DISCLAIMER:

This is a 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.

This note has been prepared jointly by the Directorate-General for Regional Policy and the Directorate General for Employment, Social Affairs and Equal Opportunities.

1. Introduction

Several Member States sent questions related to requests for interim payments and payments of the final balance and the method for calculation of the subsequent EC contribution in the framework of Regulation (EC) No 1083/2006. This note aims to provide clarifications on the calculation of the EC co-financing due from the Structural Funds and the Cohesion Fund (hereinafter referred to as "the Funds") under the 2007-2013 programming period, as well as the related audit issues.

2. Principles and calculation method

2.1. Expenditure for the implementation of operations that serves as basis for the calculation of the Funds' rate of assistance can be private or public. The Funds' contribution is calculated on the basis of either the total eligible expenditure or the public eligible expenditure (Article 53(1) of Regulation (EC) No 1083/2006). The rate and the maximum amount of the Funds contribution for the operational programme ("OP") and for each priority axis are fixed in the respective Commission Decision (Article 53(6) of Regulation (EC) No1083/2006).

2.2. Regulation (EC) No 1083/2006 introduced a new and simplified system for the Commission's payments to the Member States.

According to its Article 77 of Regulation (EC) No 1083/2006 interim payments and payments of the final balance are calculated by application of the co-financing rate at the level of the priority axis of each OP to the eligible expenditure (total eligible expenditure or public eligible expenditure pursuant to Article 53(1) of Regulation (EC) No 1083/2006) declared under that priority axis in each statement of expenditure certified by the certifying authority.

Article 77 of Regulation (EC) No 1083/2006 specifies also that the contribution from the Funds through the interim payments and payments of the final balance shall not be, for each priority axis, higher than:

- (1) the public contribution, and
- (2) The maximum amount of assistance from the Funds laid down in the Commission Decision approving the OP.

The Funds' contribution to the OP is an overall contribution to the national public effort¹ to the priority axis, and not an EC reimbursement operation by operation² aggregated at priority axis level, as was the principle under previous periods. Moreover, the source of public co-funding committed to operations (either from a national, regional, local source or EC Funds) is not an

¹ Covering public expenditure made by the public beneficiaries themselves in accordance with Article 2 (5) of Regulation (EC) n° 1083/2006.

² However pursuant to Article 54 3 (c) of Regulation (EC) No 1083/2006 an operation shall not receive an assistance from a Fund higher than the total public expenditure allocated [to this operation].

issue for the calculation of the Community contribution. Payments of the Funds contribution are made at the rate set for the priority axis. There are various funding systems in place in Member States for the purpose of raising public funding and allocate Community funding at the level of operations. In this regard, it is open to a Member State to allocate Funds to operations at a rate lower or higher than the co-financing rate fixed for the priority axis. Whichever national funding system is applied it does not have an impact on the way Community contributions, payments to the Member States and automatic decommitments are calculated by the Commission.

2.3. Certificate and statement of expenditure and application for payment

As a consequence of the simplified system for the Commission's payments, the certificate and statement of expenditure are also simplified.

As indicated in Annex X to Regulation (EC) No 1828/2006, the amounts certified refer only to the total amount of eligible expenditure paid by beneficiaries and the corresponding public contribution at axis level. There is no reference to the amount of the Funds which participate to the composition of the "public contribution", nor any breakdown of the public eligible expenditure.

Except for State aids schemes where advances to beneficiaries might be included in the statement of expenditure, the total eligible expenditure paid by beneficiaries must have been incurred on the ground, at the level of the operations. The payment of the corresponding public contribution to the beneficiary may occur before or after certification to the Commission (see Article 78(1) and (2) of Regulation (EC) No 1083/2006)³. However, as regards State aid schemes, the public contribution corresponding to the total eligible expenditure paid by beneficiaries must have been paid to the beneficiaries by the body granting the aid.

As already mentioned in COCOF note 07/0029/01 on eligible expenditure in the 2007-2013 programming period, the statement of expenditure should be filled in the same way irrespective of the option chosen under Article 53(1) of Regulation (EC) No 1083/2006: the total amount of eligible expenditure paid by beneficiaries should appear in column "Total amount of eligible expenditure paid by beneficiaries" and the public part of this expenditure in column "Corresponding public contribution"⁴.

When calculating the contribution of the Funds, the Commission will apply the co-financing rate of the priority axis to the expenditure certified in column "Total amount of eligible expenditure paid by beneficiaries" when the basis for calculating Community contribution is the "total eligible expenditure" including public and private expenditure, and in column "public contribution" when the basis for calculating Community contribution is the "public eligible expenditure".

Example: Operations, implemented under a priority axis with a co-financing rate of 50%, were allocated by the managing authority a public contribution of € 600 corresponding to € 1000 of eligible expenditure. Eligible expenditure was incurred for € 900 corresponding to a public contribution of € 540. The statement of expenditure will show 900 in column "Total amount of eligible expenditure paid by beneficiaries" and 540 in column "Corresponding public contribution".

³ As regards financial engineering instruments, the statement of expenditure shall include the total expenditure paid in establishing or contributing to these instruments.

⁴ Except for major projects and revenue-generating projects where the total eligible expenditure to be certified is the amount to which the co-financing rate for the priority axis of the operational programme applies (total eligible expenditure minus net revenues)

Priority axis	Basis for calculating Community contribution (public or total)	2007 - 2015	
		Total amount of eligible expenditure paid by beneficiaries	Corresponding public contribution
Priority axis	T	900	540
Priority axis	P	900	540

Depending upon the option chosen under Article 53 of Regulation (EC) No 1083/2006 the Funds' contribution will be calculated as follows:

- a) If the Fund contribution to the priority axis is calculated on the basis of total eligible expenditure: $900 \times 50\%$ (co-financing rate of the priority axis) = 450.
- b) If the Fund contribution to the priority axis is calculated on the basis of public eligible expenditure: $540 \times 50\%$ (co-financing rate of the priority axis) = 270.

In the case where the Fund contribution to the priority axis is calculated on the basis of total eligible costs, if the result is higher than the amount of public contribution certified in column "Corresponding public contribution", the contribution of the Funds reimbursed by the Commission will be capped at the amount of public contribution certified, in accordance with the second paragraph of Article 77.

On the basis of the assumptions of the previous example which is based on total eligible expenditure (see point a) above), if the rate of the priority axis is 70% instead of 50%, then the calculated Fund contribution would be: $900 \times 70\% = 630$. Given that the corresponding public contribution certified is 540, the amount reimbursed by the Commission would be limited to 540.

This calculation is not linked to the Funds' amounts that could be eventually allocated to individual operations as monitored by national detailed monitoring / accounting systems. Therefore it is not possible to lodge in the computer system for data exchange between the Member States and the Commission a payment request above or below what is calculated by this mathematical formula. Not following the calculation method foreseen in Article 77 of Regulation (EC) No 1083/2006 would imply that the Funds reimbursements are linked to the amounts of Community Funds allocated to individual operations and that Community authorities can verify these amounts at operation level, in order to reconstitute the Fund contribution requested by the Member State. It is clearly not the intention of the Regulations to require such data at operation level (see below, audit trail at operation level).

Example concerning State aids where advances to beneficiaries are included in the statement of expenditure: Operations are implemented under a priority axis with a co-financing rate of 50%. State aids of €400 are granted to undertakings (for an amount of eligible expenditure of €1000). The body granting State aid paid the beneficiaries half of the aid, €200, as an advance and the beneficiaries submitted a bank guarantee for the same amount.

As no eligible private expenditure (supported by invoices and receipts) has yet been submitted, the expenditure to be certified would be as follows:

Priority axis	Basis for calculating Community contribution (public or total)	2007 - 2015	
		Total amount of eligible expenditure paid by beneficiaries	Corresponding public contribution
Priority axis	P or T	200	200

Both in the case where the Fund contribution is calculated on the basis of total eligible expenditure and on the basis of public eligible expenditure, the Funds' contribution will be calculated as: $200 \times 50\%$ (co-financing rate of the priority axis) = €100.

The operations are fully implemented within 3 years of the payment of the advance, with a total eligible expenditure of € 900 and public contribution **paid** to the beneficiary of 360 (public contribution due to be paid to the beneficiary cannot be certified in the case of aid schemes). The expenditure to be certified would then be as follows:

Priority axis	Basis for calculating Community contribution (public or total)	2007 - 2015	
		Total amount of eligible expenditure paid by beneficiaries	Corresponding public contribution
Priority axis	P or T	900	360

a) If the Fund contribution to the priority axis is calculated on the basis of total eligible expenditure, the Funds' contribution will be calculated as: $900 \times 50\%$ (co-financing rate of the priority axis) = 450, capped at €360 which is the amount of paid public contribution certified. As €100 were already paid when the advances were certified, the additional payment will be €260.

b) If the Fund contribution to the priority axis is calculated on the basis of public eligible expenditure the Funds' contribution will be calculated as: $360 \times 50\%$ (co-financing rate of the priority axis) = 180. As €100 were already paid when the advances were certified, the additional payment will be €80.

2.4. Modification of the co- financing rate of a priority axis

Revision of OPs in accordance to Article 33 of Regulation (EC) No 1083/2006 could lead to the modification of the co-financing rate at the level of the priority axes. Given that the certification and the statement of expenditure are cumulative, any modification to the co-financing rate of a priority axis that would receive the approval from the Commission through a decision will have a retroactive impact on expenditure already certified in the past.

As the computer system calculates the Fund's contribution on cumulative basis, Member States should expect a reduction in the amounts already paid in case of reduction of the co-financing rate, or an increase in the reimbursements from the Funds for expenditure declared in the past, in case of increase in the co-financing rate.

2.5. Community contribution to the Member States and amounts paid to beneficiaries by the national authorities

The amount of the Community contribution requested by the Member State should be calculated in accordance with the provisions in Article 77 of Regulation (EC) No 1083/2006.

On the basis of an application for payment compliant with Article 86 of Regulation (EC) No 1083/2006, the Commission will make a payment from the Community budget to the body designated under the OP to receive the Funds contributions corresponding to the amount resulting from the application of Article 77 of Regulation (EC) No 1083/2006.

Pursuant to Article 80 of Regulation (EC) No 1083/2006, the Member States must satisfy themselves that the bodies responsible for making the payments ensure that the beneficiaries receive the total amount of the public contribution as quickly as possible and in full. The Funds' contribution paid by the Commission to the national authorities will represent a part of the public contribution to the priority axis of the OP. The flow of the public contribution to the beneficiary, regardless of its composition is under the sole responsibility of the Member States. Member States' authorities must execute payments in line with the respective grant decisions. In order to have a genuine economic impact, contributions from the Funds must increase and not replace the national public contribution.

In supporting and complementing the effort of the national authorities by an overall financial contribution to each priority axis of the Operational Programmes, the Funds participation contributes to the implementation of operations on the ground and, by the end of the programming period, to the achievement of the strategic objectives as set out in the OP.

3. Automatic decommitment

It is not possible to submit interim payment applications with a contribution from the Funds which goes beyond the result of the calculation of Article 77 of Regulation (EC) No 1083/2006. This limitation might have an impact in case of automatic decommitment.

Pursuant to Article 93 of Regulation (EC) No 1083/2006, the amounts automatically decommitted are the Funds not used for payment of pre-financing or interim payments or for which an application for payment has not been sent in accordance with Article 86 of Regulation (EC) No 1083/2006 by the end of the second or the third year following the year of budget commitment. Given that the application for payment is the result of the calculation "rate of the priority axis" multiplied by "eligible expenditure", the Commission will not be able to take into account applications for payments different from those calculated in accordance with Article 77 of Regulation (EC) No 1083/2006.

In the event that the Member States allocate Funds to operations at a rate systematically different from the co-financing rate fixed for the priority axis, the n+2 targets should be closely monitored by the national authorities.

- *Example 1:* considering the case of an OP with only one single priority axis, co financed at 80% by a Fund and with an annual instalment for this Fund of €80 million. If we assume that all the operations selected by the managing authority benefit 50% from the Fund and 50% from the national public sources and that the total certified expenditure amounts €100 million, then according to Article 77 of Regulation (EC) No 1083/2006, the Fund's contribution reimbursed

by the Commission will be € 80 million (€100 million x 80%). As a consequence, in this particular example there is no n+2 amount at risk.

- *Example 2:* if we consider the case of another OP with only one single priority axis, co-financed at 75% by the Fund and with an annual instalment for this Fund of €80 million. If we assume that all the operations selected by the managing authority benefit 80% from the Fund and 20% from the national public sources and that the total certified expenditure also amounts €100 million, then the Fund's contribution reimbursed by the Commission will be €75 million (€100 million x 75%). As a consequence, the n+2 amount at risk will be €5 million.

4. Audit issues

4.1. Audit trail at the level of operations

The abovementioned provisions have an impact on the requirements for an adequate audit trail at operation level according to Article 60(f) of Regulation (EC) No 1083/2006. As the calculation of the Community contribution is done at priority axis level, verifying the co-financing rate at operation level is not relevant or required. The adequacy of the audit trail goes down to the total amount incurred and paid by beneficiaries for the implementation of the operation and the corresponding public expenditure allocated and paid or to be paid to that operation (Article 78(1) of Regulation (EC) No 1083/2006). Indicating the composition of the public contribution allocated for the audited operations is not a requirement and will not be verified by auditors. This is clearly illustrated in Annex III to Regulation (EC) No 1828/2006, as amended by Commission Regulation (EC) No 846/2009, where reference is only made to the public contribution.

4.2. Contribution from the Funds allocated by national funding systems to operations and recoveries from a Community perspective (Article 28 of Regulation (EC) No 1828/2006).

As said above, the contribution of the Funds is the result of the calculation of the rate of EC assistance at the level of the priority axis (Article 77 of Regulation (EC) No 1083/2006). Recoveries of the EC financial assistance however refer to individual operations. Therefore, for recovery purposes, individual operations are deemed to be funded at the rate of assistance of the priority axis. National accounting and monitoring systems may display a different rate of Fund contribution for the various co-financed operations, but the Commission will not take this into account.

- *Example:* An individual operation was allocated by the managing authority a public contribution of €60 and the incurred total eligible expenditure amounts to €100. If a detected irregularity requires the full recovery of the public contribution declared to the Commission, after certification of this expenditure and payment from the Funds, the irregular expenditure has to be deducted from the next statement of expenditure.

Assuming that the total cumulative expenditure paid by beneficiaries under the priority is 1300, and the corresponding public contribution is 800. The statement of expenditure before deduction of the irregular expenditure would be:

Priority axis	Basis for calculating Community contribution (public or total)	2007 - 2015	
		Total amount of eligible expenditure paid by beneficiaries	Corresponding public contribution
Priority axis	P or T	1300	800

As a result of the deduction, the corrected statement of expenditure will be:

Priority axis	Basis for calculating Community contribution (public or total)	2007 - 2015	
		Total amount of eligible expenditure paid by beneficiaries	Corresponding public contribution
Priority axis	P or T	1200	740

a) the co-financing rate of the priority axis is 50%

- if the Fund contribution to the priority axis is calculated on the basis of total eligible expenditure, the Commission will consider that it must recover €50 $((1200 \times 50\% = 600) - (1300 \times 50\% = 650)) = - 50$
- if the Fund contribution to the priority axis is calculated on the basis of public eligible expenditure, the Commission will consider that it must recover €30 $((740 \times 50\% = 370) - (800 \times 50\% = 400)) = - 30$

b) the co-financing rate of the priority axis is 75%

- if the Fund contribution to the priority axis is calculated on the basis of total eligible expenditure, the Commission will consider that it must recover €60 $(1200 \times 75\% = 900, \text{ capped at } 740) - (1300 \times 75\% = 975, \text{ capped at } 800) = - 60$
- if the Fund contribution to the priority axis is calculated on the basis of public eligible expenditure, the Commission will consider that it must recover €45 $(740 \times 75\% = 555) - (800 \times 75\% = 600) = - 45$.

This is an example that illustrates how the Commission will calculate payments in accordance with article 77 when the certifying authority deducts amounts from a statement of expenditure. This is a simplified system as the amounts deducted by the Member State will be automatically corrected regardless the co-financing rates of the underlying individual operations.

ANNEX: MAIN CHARACTERISTICS OF THE FINANCIAL MANAGEMENT SYSTEMS IN THE PROGRAMMING PERIODS 2000-2006 AND 2007-2013

2000-2006	2007-2013
STATEMENTS OF EXPENDITURE	
<ol style="list-style-type: none"> 1. Expenditure broken down by source of co-financing (Community, National Public, Private) 2. Expenditure certified according to option for calculation of the Fund contribution : if the option chosen is Public costs, only the public expenditure is to be certified 3. State aids : advances cannot be included in the statement of expenditure 4. Expenditure on major projects cannot be certified before Commission decision fixing the level of Community contribution 5. Projects generating substantial net revenues: total eligible cost of the major project is reported in the statement of expenditure 	<ol style="list-style-type: none"> 1. Expenditure broken down only between total eligible expenditure and corresponding public contribution 2. Total eligible expenditure from beneficiaries to be certified regardless of the option for calculation of the Community contribution 3. State aids : advances can be included in the statement of expenditure 4. Expenditure on major projects can be certified as of the date of eligibility of the programme 5. Revenue-generating projects: only the amount to which the co-financing rate of the priority axis applies is reported in the statement of expenditure.
CALCULATION OF CONTRIBUTION FROM THE FUNDS	
<ul style="list-style-type: none"> • Reimbursement at the rate of the operations (Community contribution certified in the Statement of Expenditure) or at the rate of the measure, whichever is the lower 	<ul style="list-style-type: none"> • Contribution calculated at the rate of the priority axis without reference to Community contribution at the level of operations
AUTOMATIC DECOMMITMENT	
<ul style="list-style-type: none"> • Certified and admissible amounts corresponding to the contribution of the Funds taken into account even if they have not given rise to a payment by the Commission 	<ul style="list-style-type: none"> • Only amounts paid and payable by the Commission in accordance with the calculation described in Article. 77 of Regulation (EC) No 1083/2006 can be taken into account
WITHDRAWALS AND RECOVERIES / IRREGULARITIES	
<ul style="list-style-type: none"> • Community contribution deducted by MS at the rate of the operation in the statement of expenditure 	<ul style="list-style-type: none"> • Community contribution deducted by Commission at the rate of the priority axis (by application of Article 77 of Regulation (EC) No 1083/2006 to corrected statement of expenditure)