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INTERREG VA POLAND-SLOVAKIA 2014-2020

CONTROL AND AUDIT GUIDANCE

for the Controllers

as referred in art 23 of Regulation (EU) No 1299/2013

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ABBREVIATIONS

AA	Audit Authority
CP	Contact Point
CPR Regulation	Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006
ERDF	European Regional Development Fund
EC	European Commission
ETC Regulation	Regulation (EU) No 1299/2013 of the European Parliament and of the Council of 17 December 2013 on specific provisions for the support from the European Regional Development Fund to the European territorial cooperation goal
EU	European Union
JTS	Joint Technical Secretariat in Krakow (Poland)
ICT	Information and Communication Technology
LP	Lead Partner
MA	Managing Authority
NA	National Authority
Programme Manual	Programme Manual of the Poland-Slovakia Programme
Poland-Slovakia Programme	Interreg VA Poland-Slovakia Programme 2014-2020

1. INTRODUCTION

The objective of this document is to provide guidance to the control system designated by Member States in the Poland-Slovakia Programme under the provisions of Article 23 (4) of ETC Regulation and therefore ensure that they fulfil the obligations arising from Article 125.5 of CPR as well as the Memorandum of Understanding signed among the participating Member States. It stipulates, therefore, the main obligations of the Controllers. It is also intended to serve as a reference document for NA/other bodies responsible how to organise the national financial control systems for the implementation of those Articles. Member States are recommended to follow the guidance, taking account of their own organisational structures and control arrangements.

The guidance covers the regulatory requirements, general principles and purpose of verifications, the bodies responsible for national control systems and informing on irregularities, the timing, scope and intensity of the verifications, the organisation of on-the-spot checks. Issues regarding public procurement and the functionalities of computerized system have also been covered. The document gives an overview and introduction on the organisation and process of project verification in the Poland-Slovakia Programme and tasks related to the above issues. The annexes as a set of working documents should be used in this process in order to provide the minimum harmonised baseline. Those involve compulsory templates (annex 1,6) of the declaration of impartiality and confidentiality and the notification on the irregular expenditure. Further documents (e.g. checklists for administrative and on-the-spot verifications, risk analysis, report on the results of the on-the-spot check) are presented as recommendations for facilitating the work of Controllers (annexes 2, 3, 4 and 5). They may be adjusted and amended to the concrete needs and scope within the individual countries and projects at the national levels or by the designated Controllers. The annexes 8-14 concern verification of durability. The annexes 7, 15, 16 have an informative and advisory purpose. The list of common mistakes in public procurement should be taken into account during the verification of the expenditure by the Controllers.

Due to the different national control systems set in the Member States it is not possible to cover every situation in this document. More in-depth information about specific issues relevant in the context of control system can be found in other programme documents as well as EC and national regulations (see chapter 2 for an account).

The information provided in this guidance will be continuously further developed and updated during the implementation of the Poland-Slovakia Programme.

2. FUNCTIONS AND LEGAL BASIS OF CONTROL SYSTEMS IN THE INTERREG POLAND-SLOVAKIA PROGRAMME

In order to approve the expenditure related to the implementation of projects within the Poland-Slovakia Programme, pursuant to Article 23 of the ETC Regulation and Article 125 (4)(a) of CPR each Member State shall set up a control system making it possible to verify that:

- the co-financed products and services have been delivered,
- the declared expenditure by the Partners has been paid,
- the expenditure complies with applicable law, the operational programme and the conditions for support of the operation.

For this purpose, each Member State in the Poland-Slovakia Programme shall designate the Controllers responsible for verifying the legality and regularity of the expenditure declared by each Partner participating in the project.

The verification of Partner's expenditure by national Controller is the first step in this process, ensuring the approval of the expenditure before the ERDF reimbursement takes place. It is the main and most extensive control level. The verifications are to be carried through by professional Controllers who have to be independent to the project, project activities and Partners. They have to be appointed by the participating Member States for verifying the expenditure that is incurred on the side of Partners located on their territory. The Controllers verifications are followed up by further verifications performed by the AA, EC or other entitled control bodies such as Court of Auditors, National Treasury Offices.

Furthermore, the AA ensures the effective functioning of the management and control system in the Poland-Slovakia Programme by carrying out sample verifications on approved and reimbursed expenditure of projects and auditing the control procedures of Controllers, JTS and MA.

The Controllers appointed by the Member States carry out the verifications in accordance with principles on financial control defined in documents of the European Union and the Poland-Slovakia Programme. The following documents have to be considered in the context of verifications of Partners' expenditure within the Poland-Slovakia Programme:

- CPR Regulation;
- ETC Regulation;
- Commission Delegated Regulation No 481/2014 of 4 March 2014 - Delegated Act on Eligibility for cooperation programmes supplements the ETC regulation and provides detailed rules for staff costs, office and administrative expenditure, travel and accommodation costs, external expertise;
- *Guidance for Member States and Programme Authorities Management verifications to be carried out by Member States on operations co-financed by the Structural Funds, the Cohesion Fund and the EMFF for the 2014- 2020 programming period;*
- Poland-Slovakia Programme approved on 17th of February 2015
- Up-to-date Programme Manual;
- Guidance on the eligibility of the Technical Assistance expenditures (if applicable)
- Control and Audit Guidance for the Controllers as referred in art 23 of Regulation (EU) No 1299/2013;
- National guidance on the control system (if applicable);
- National guidance on eligibility of expenditure (if applicable).

The Controllers obligations include the following:

- verification of the Partner's payment claim (activity and financial part) including filling in the *Checklist*,
- choosing the projects for on-the-spot checks based on the risk analyses,

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- drawing-up and up-dating annual plans of on-the-spot-checks and reporting on their completion if applicable,
 - carrying out of on-the-spot-checks, including filling in the *On-the-spot Control Report and Checklist*,
 - processing irregularities in accordance with the internal control process and passing information to the MA/NA on irregularities,
 - carrying out ad-hoc checks when necessary,
 - cooperating with the NA, JTS or MA with regard to the implementation of recommendations issued by external auditors, also after the project completion,
 - being the subject to audit by authorised auditors,
 - keeping the documentation connected with projects' implementation in accordance with Article 140 of the General Regulation.

All these procedures should be carried out using control documents and reports available in the SL2014. The above should be included in the agreement and/or internal procedures of the appointed Controllers.

3. THE CONTROL SYSTEM OF THE POLAND-SLOVAKIA PROGRAMME

In the centralised control systems in Poland and Slovakia, only specific public bodies are entitled to verify the expenditure of Partners located in these Member States. The control bodies designated by the governments are:

- **Poland:** Voivode of the Małopolskie Voivodeship (Kraków), Voivode of the Śląskie Voivodeship (Katowice) and Voivode of the Podkarpackie Voivodeship (Rzeszów) are responsible for verification of expenditure of Partners located in the territory of the respective voivodeship¹.
- **Slovakia:** Ministry of Agriculture and Rural Development of the SR, Department of Cross-Border Cooperation Programmes Implementation Control, Unit of Cross-Border Cooperation SK-HU, PL-SK and ENI Programmes Implementation Control (Bratislava)²..

Up-to-date contact details of the control bodies in Poland and Slovakia are available at the Programme website. The verification of Partners' expenditure is free of charge in Poland and Slovakia.

4. CENTRAL ICT SYSTEM AND THE ELETRONICAL EXCHANGE OF DOCUMENTS AND INFORMATION

4.1. General information

In the 2014-2020 perspective as a rule the exchange of documents and information related to the project's implementation between the partners and programme institutions is to be conducted electronically via a system designed for this purpose. Partners and the lead beneficiary have an obligation to use the designed system.

This chapter provides general information on what the system is, how it works and provides information as to the most important obligations of partners with regard to its use. The detailed information on how to use the system, its functionalities and technicalities is to be included in *SL2014 Institution Employee Manual*, especially Manual dedicated to the Control Module, or other instructions/tips given by the MA. It is the MA that ensures functioning of the ICT system, which is necessary for monitoring, evaluation, financial management, verification and audit.

The tool comprises of:

¹ In Poland Technical Assistance expenditure of Contact Points is also verified by Voivodship Offices.

² In Slovak Technical Assistance expenditure of the NA is verified by the Unit of Cross-Border Cooperation SK-CZ, SK-AT Programmes Implementation Control within Ministry of Agriculture and Rural Development of the SR.

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- SL2014 application;
 - identity management system;
 - reporting application (enables generating reports with data gathered in SL2014).

4.2. SL2014

The SL2014 application ensures among others:

- support for ongoing management, monitoring and evaluation of the Programme;
- collection and storage of data on subsidy contracts, Partners' and payment claims as well as data on the verification and approval process of payments claims.

The SL2014 ensures different processes and communication between Partners and Controllers and between Lead Partners and the JTS/MA, in particular in terms of:

- collection and transfer of data on partners' and project progress reports, their approval, amendment, rejection or withdrawal,
- collection and transfer of data on financial schedules, their verification, including approval, amendment or withdrawal,
- collection and transfer of data on public procurement and contracts awarded in line with the programme and national tendering rules,
- for partners and LPs to submit their reports using a dedicated functionality, i.e. application for the progress report processing.

The access to the data stored in the SL2014 is being granted to:

- employees of all institutions participating in the implementation of the Programme, i.e. among others the MA, JTS, Controllers, NA, AA, to the extent necessary for the proper performance of their tasks;
- Partners and Lead Partners, with regard to data on their projects, and persons they authorise to manage projects on their behalf.

4.3. Identity management system

The identity management system ensures coherent and secure identity management of users of the central ICT system who are employees of institutions belonging to the Programme implementation system.

4.4. Reporting application

This application allows to create certain reports - based on the data entered into the SL2014, inter alia, the information on the level of EU spending under the Programme, expenditure forecasts, information on implementation of the Programme, information on the administrative verifications and one-the-spot checks etc.

In order to use the central ICT system, Controllers do not have to install any special software. However, they must have access to the Internet. The main SL2014 application software is available via the following web browsers: Mozilla Firefox, Internet Explorer and Google Chrome.

4.5. Obligations of Controllers with regard to work in SL2014

4.5.1. Designation of authorized persons

In Poland the Controllers and in Slovakia – the NA designates controllers in the SL2014. The designation and change of authorised persons should be carried out in line with the procedure described in *User manual on working in the SL2014 system*.

4.5.2. Obligation to work in the system

As already mentioned the Controllers have an obligation to use the SL2014 system for carrying out their obligations.

In case of a system failure, when the time for restoring the normal operation of the SL2014 system does not allow to submit the payment claim on time, Partners or the Lead Partner submits the documents in paper, in line with the template available on the Programme's website.

In principle the SL2014 is to be used to support beneficiaries, the Controllers, the JTS and the MA in carrying out their tasks.

The Controllers will use the system mainly to:

- carry out administrative verification of the payment claim, within which:
 - a. giving a suitable number of the payment claim,
 - b. informing each Partner of a sample of expenditure for verification if not a 100% check of expenditures performed,
 - c. withdrawing, asking for corrections/additional information or approval the payment claim,
 - d. registering the results of the administrative verification and attaching scan versions of completed and signed checklists:
- correspond with the Partner in the SL2014,
- register the results of the ex-post procurement check and on-the-spot checks and attach scan versions of completed and signed checklists and control report,
- record the final results of audits or external controls.

Detailed description of the method of performing the above mentioned actions is presented in *User manual on working in the SL2014 system*, made available by the MA. The MA may issue additional instructions or tips with regard to working in the system.

5. KINDS OF VERIFICATIONS

In accordance with Article 125 (5) of CPR Regulation the project verification includes:

- administrative verifications
- on-the-spot checks

5.1. Tasks and scope of the verifications³

Based on the invoices or other documents with equivalent value of proof both during the administrative and on-the-spot checks, the Controller verifies above all the following aspects with respect to the project implementation:

- if Lead Partner fulfills the obligations specified in ETC Regulations,
- if the products and services co-financed have been delivered,
- if expenditure declared by the Partner is in line with the approved Application Form, the Subsidy Contract and the Partnership Agreement,
- if the payment claim provides accurate information regarding the activity and financial progress of the project,
- if supporting documents to the payment claim are complete and correct (if there are documents proving the expenditure, invoices or other documents with equivalent value of proof, bank account statements, delivery notes, copies of contracts with service contractors),

³ According to the programme rules, if the expenditure incurred by the partner in the given period is equal or less than 1000 EUR, the partner includes it in the next payment claim. The payment claim for the given period is prepared by the partner and checked by the Controller without the expenditure below 1000 EUR.

- if invoices and other financial documents with equivalent value of proof are correctly described and whether they correspond with and prove the expenditure paid out,
- if eligibility rules have been respected (in particular whether the expenditure has been incurred within the eligibility period in relation with activities described in the Application Form, whether the national and EU rules on eligibility of expenditure have been respected),
- if the expenditure is essential for project implementation, and in compliance with the national and EU rules (in particular with public procurement and fair competition, environment protection, state aid, equal opportunity as well as publicity and information requirements), the amounts of the expenditure seem adequate for achieving the purpose of the project,
- if conditions for payments have been fulfilled for simplified cost options;
- if the amounts of the expenditure seem to follow sound financial management and are in line with principles of economy, efficiency, effectiveness and purposefulness
- if Partner and other entities engaged in the project implementation maintain a separate accounting system or adequate accounting code for all transactions relating to the project without prejudice to national accounting rules,
- if double financing did not occur when the same Partner implements more than one project at the same time or a project receives funding under various forms of support,
- if an adequate audit trail exists (spotted in internal procedures).

For the lump sums the Controllers will check whether the conditions for reimbursement set in the subsidy contract have been met, in particular, whether the agreed methodology has been correctly applied. In addition, the Controller should verify that the project/ activity is not totally procured when using the lump sums.

In case of flat rate financing, where applicable, the Controller should also check whether:

- expenditure has been correctly allocated to a given category,
- there is no double declaration of the same expenditure item in different budget categories,
- the flat rate has been correctly applied
- the amount charged based on flat rate has been proportionally adjusted in case the the value of the category of expenditure to which it was applied had been modified.

Moreover, during the administrative verification the Controller checks in particular that:

- the payment claim has been properly completed (formal check) and covers the adequate reporting period,
- the payment claim is correct with regard to the accounting part and was submitted by a person authorised by the beneficiary,
- the payment claim illustrates the progress of the project, including the implementation of indicators (if the Partner is responsible for the implementation of a specific indicator).

Furthermore, Polish Controllers check how Polish Beneficiaries accomplish their obligations with regard to the indirect aid, according to the rules set in Chapter 4.5 of the Programme Manual.

The MA evaluates whether any - direct or indirect, public or *de minimis* - aid occurs in the project. If the indirect aid occurs, the Controller verifies if the aid has been granted accordingly to the obligations specified in the subsidy contract or partnership agreement.

The Controller verifies whether the aid granting entity:

- obtained from the entity applying for the aid documents specified in the subsidy contract or partnership agreement which are required to confirm permissibility conditions;
- issued the certificate on *de minimis* aid
- fulfilled the reporting obligation in the scope of the granted *de minimis* or public aid.
- submitted all information required by the forms published on the Programme website.

Moreover, the Controller verifies whether:

-
- the amount of granted aid is in line with the conditions set out in the subsidy contract or partnership agreement;
 - the Lead Beneficiary or the Project Partner granted unallowable *de minimis* or public aid as a result of the implementation of activities not in accordance with the project application (changes in the project).

The Controller confirms the compliance with the obligations of the beneficiary granting public aid by completing the checklist for administrative control.

5.2. Documents required for verification

Verification of expenditure of Partners should be carried out based on the following documents:

- Application Form;
- Subsidy Contract; all Annexes and Registers of changes;
- Partnership Agreement between the Lead Partner and the Partners of the project;
- Partner's payment claim (including reports without expenditures).

In addition the verification is carried out on the basis of following documents proving the eligibility of expenditure:

- invoices or other documents with equivalent value of proof for example payslips including the amount eligible for the calculation of an expenditure in the project;
- contracts signed with contractors (including the annexes);
- delivery notes (for example a protocol of reception of products and services);
- documents proving the payment (a bank transfer, a bank abstract or a warrant);
- job descriptions or timesheets with a description of activities performed by the staff;
- employment contracts, payslips, calculation of salary and/or hourly rate;
- documents on the public procurement carried out in compliance with national and community provisions;
- statements of account reflecting the exchange of the amounts declared in national currency into Euro;
- other documents necessary for verification of expenditure, for example information on eligibility of VAT;
- other documents required by the Controller.

As part of the expenditure verification, Controller uses publicly available data collected in various IT systems, eg. national court register, public aid information access system, economic information database, fiscal administration system.

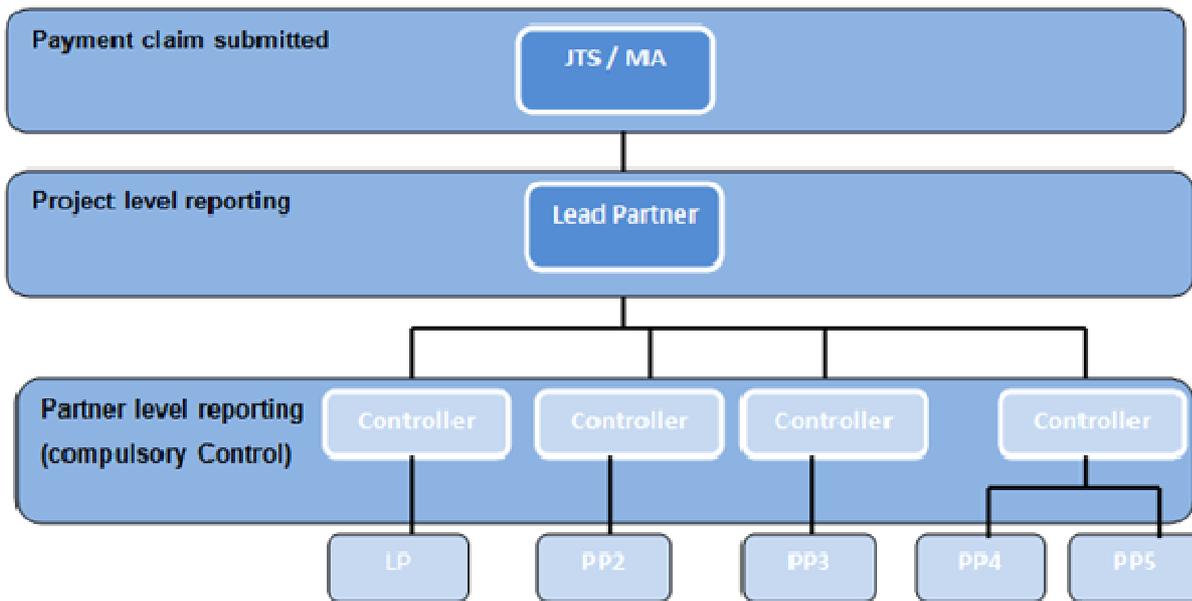
5.3. Administrative verifications

The Partner's payment claim presents the activities and list of expenditure of one Partner for the given reporting period. The payment claim should be supported by the scan versions of the documents for individual expenditure items indicated by the Controller if the verification is carried out based on the sample proving the eligibility of expenditure if not incurred based on flat rates.

Partner's payment claims have to be compiled by all Partners, including the Lead Partner. Therefore, in justified cases, in particular in the case of system failure confirmed by the MA, it can be possible to verify the partner-or project payment claim submitted to the Controller in paper version. The MA provides partners with the template of these payment claims on the Programme website.

After deleting the cause of failure the missing information is immediately included or updated in the SL2014.

Figure 1: Levels of administrative verification



5.3.1. Sequence and timing of administrative verifications

In the Poland-Slovakia Programme the reporting periods base on 3 months cycles. The first reporting period starts on a day of launching the implementation of project activities and ends 3 months after the date of signing the Subsidy Contract. From the end of the reporting period the deadlines for submitting the payment claims to the Controller start as it was presented in Figure 2.

The last reporting period ends with the date of completion of the project activities specified in the Subsidy Contract.

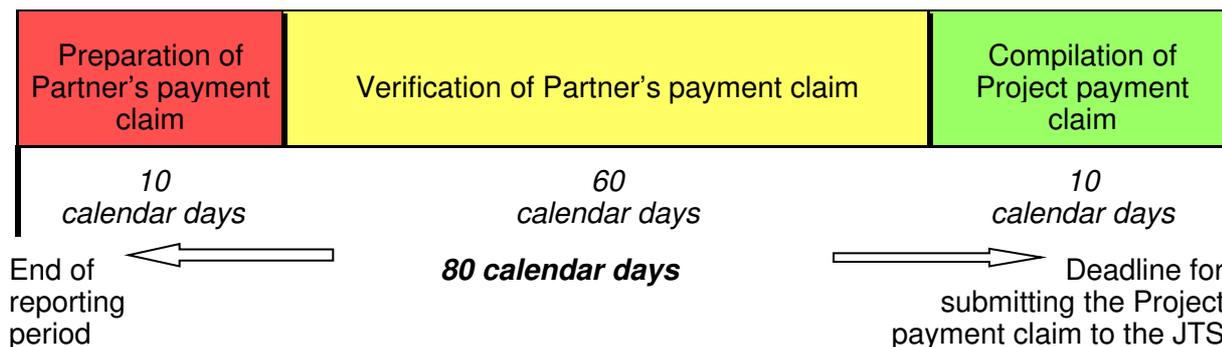
In justified cases the MA may decide to shorten or prolong the reporting periods of the project or agree to submit a payment claim covering different period than the standard one. The Controller should be aware of this fact and ask the Partner for explanation if it is not notified in the submitted payment claim.

The process of preparing the payment claims and confirming expenditure by the Controller has to be organised within these time frames in order to keep up with the programme requirements.

The obligatory deadlines for proceeding the regular payment claim are as follows:

- The Partner submits the Partner's payment claim to the Controller within 10 calendar days after the end of reporting period. The Partner's payment claim is submitted via SL2014;
- The Controller completes verification the Partner's payment claim within 60 calendar days from the day of submission of the Partner's payment claim. In order to assure this, Partners are obliged to prepare necessary documentation to be ready at the day of submission of the Partner's payment claim to the Controller. It will allow to provide the Controller immediately with the requested documents;
- The compilation of the Project payment claim and the submission to the JTS in SL2014 has to be done until 80 calendar days after the end of the reporting period. It is recommended that the Lead Partner schedules 10 calendar days for compiling the Project payment claim after receiving the Partner's payment claim. This period ensures an appropriate time for aggregating the data and drafting the summary activity part, as well as a buffer in case of difficulties in the delivery of the Partner's payment claim or needs for corrections.

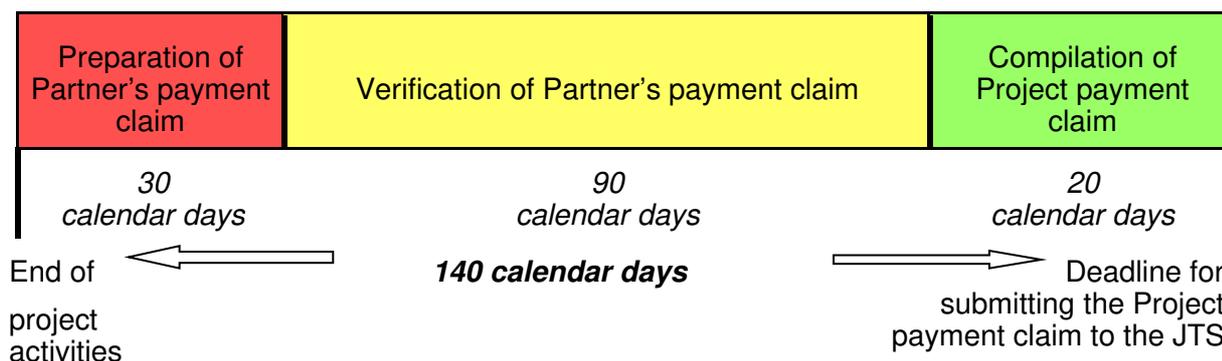
Figure 2: Timing and sequence of administrative verifications for a regular payment claims



The obligatory deadlines for proceeding the final payment claim is as follows:

- The Partner submits the Partner's payment claim to the Controller within 30 calendar days from the day of completion of all activities defined in the Subsidy Contract. The Partner's payment claim is issued via SL2014;
- The Controller completes verification of the expenditure in the Partner's payment claim within 90 calendar days from the Partner's payment claim submission.
- The compilation of the Project payment claim and submission to the JTS in SL2014 has to be done until 140 calendar days after the end of the reporting period. The Lead Partner schedules 20 calendar days for compiling the Project payment claim after receiving the approved Partner's payment claims by the Controller.

Figure 3: Timing and sequence of administrative verifications for the final payment claim



The above-mentioned terms are maximum. All participants in the process should make all effort to carry out their duties in the shortest possible time.

5.3.2. Administrative verification of umbrella projects

The Controller carries out the verification of expenditure incurred under the umbrella project on the terms specified in this document for regular projects. The payment claim is submitted by the Partner to the Controller until 45 days after the end of reporting period.

In addition during the administrative verification of the payment claim of an umbrella project, the Controller should be concerned of the following:

- 1) In relation to the expenditure settled on the basis of real costs, the Controller verifies the expenditure incurred on the basis of:
 - the sample of documents confirming the regularity and eligibility of expenditure, indicated separately for: the cost of umbrella project management, each common microproject, each Partner's own microproject;
 - the sample of the unilateral microprojects indicated by the Controller; then in relation to each selected microproject, the NA indicates the sample of expenditure which are

subjected to verification on the basis of documents confirming the regularity and eligibility of expenditure.

2) With regard to expenditure incurred as lump sums the Controller verifies:

- all costs of umbrella project management, all costs of each common microproject and each own microproject, on the basis of all documents that ensure the existence of the audit trail referred to in Art. Paragraph 25. point 1 of the Delegated Act 480/2014;
- the sample of the unilateral microprojects indicated by the NA; then in relation to each selected microproject the Controller shall verify all documents that ensure the existence of the audit trail referred to in Art. Paragraph 25. point 1 of the Delegated Act 480/2014.

On this basis, the Controller decides whether to verify the rest of expenditure in order to obtain reasonable assurance that other elements in the population (expenditure or tasks) are free from errors or irregularities.

If the Controller detects irregular expenditure in an amount equal to or higher than 15% of the value of the expenditure presented in the payment claim he/she may:

- a. carry out an ad hoc verification (during the ad hoc verification the Controller follows the procedure for on-the-spot checks) or
- b. decide on a verification of a larger sample of documents.

5.3.3. Steps to be taken by Controllers

Before starting the control tasks the Controller should sign the *Declaration of impartiality and confidentiality*, constituting annex 1 to these guidelines, and attaches to his/her tasks' description.

The Controller starts the process of verification from the date of receiving the report in SL2014.

The Controller, as a rule, carries out the verification on an electronic version of invoices or accounting documents of the equivalent probative submitted by the Partner.

The controller may decide to carry out an administrative verification based on paper versions of documents confirming the incurred expenditure if:

- preparation of the electronic version of the document, because of its size, is particularly burdensome for the beneficiary (e.g. construction documentation, extensive acceptance protocols, etc.),
- the quality of the electronic version of the document does not allow for detailed and appropriate verification of the expenditure,
- it is possible to carry out the verification of the document during the on-the spot check instead of the administrative verification.

In coordination with the project partner the Controller may organise the verification relating to 100% of the expenditure items declared in the list of expenditure or on the basis of a sample on the expenditure items declared in the list of expenditure. The Controller informs the partner which expenditures were selected for verification⁴.

Before informing the Partner on the results the verification the Controller explains the questioned expenditure and/or asks for additional documentation. The time given to the Partner for explanations does not suspend the time limit established in the programme for the Controllers for the verification of expenditure.

The Controller approves the expenditure and informs the Partner on the result of the verification in the SL2014.

In exceptional cases if the partner is not able to deliver necessary explanations and additional documents proving the eligibility of expenditure as part of the clarifications to the Controller within the set deadline the Controller deems this expenditure ineligible in a given reporting period and finalises the work (accepts only the costs that were not questioned). Related expenditure after final

⁴ In Slovak Republic, First Level Controllers verify 100% of supporting documents according to national regulations. Therefore a sampling method is not applied.

examination and approval by the Controller can be claimed in the next reporting period. In case of Polish partners it may concern the expenditure that is the subject of the complaint procedure. However, this rule does not refer to the final payment claim submitted by the partner. In case of preparatory costs they can be presented only in the first report.

As a rule the Controller approves the progress report in SL2014 by giving his/her electronic acceptance and informs the beneficiary on results of the verification (including the information on ineligible expenditure). The Controller documents in a written form the explanation on the legality and regularity of expenditure. Information on the excluded expenditure should be provided to the partner through the SL2014 and included in the checklist. If the verification of expenditure has been carried out based on the sample the Controller should describe the applied sample method in the checklist.

In order to facilitate and document the verification process, the MA has prepared a template of the checklist for administrative verification (see annex 2). The questions in the checklist include sections that should be covered by the administrative verifications performed by all Controllers. Controllers are recommended to make a necessary adjustment of the checklist with regard to the national provisions and in respect to the control system.

The Controller should accomplish the work within a period of 60 calendar days in order to allow the Lead Partner to submit the Project payment claim to the JTS within the deadlines defined by the Poland-Slovakia Programme. The terms should be included to Controller's internal procedures.

Controllers follow the national rules and procedures concerning the complaints submitted by the Partners with regard to the result of the verifications. If the complaint procedure takes place before the final approval of the expenditures, the Controller should be aware of that established timing of the administrative verification (additional see annex 15 - process of verification of payment claims – flowchart).

5.3.4. Applying a sampling method

Verification of the supporting documents such as invoices and other documents with equivalent value of proof may be carried out, where justified, on the basis of a sample of transactions.

The Controller may use the sampling method approved in their institution or provided by the Member State (NA responsible for establishing the control system) they are located in. In case of sampling, the verifications must be comprehensive in relation to the various expenditure categories and take account of all statistic methods. It is recommended that basic sample includes a minimum of 10% of the amount of expenditure declared in the payment claim (however not less than 5 single items) and at least one expenditure from each category. The Controller should analyse the chosen sample in order to assess:

- if it includes expenditure which amount considerably exceeds the average amount of all declared expenditure,
- if verification of selected expenditure provides a reasonable assurance that other items of the population are free from errors/irregularities (e.g. identified during previous administrative or on-the-spot checks of the project).

A reasonable assurance does not mean the absolute assurance, however it can be sufficient to conclude that based on the sample other expenditure items are not affected by errors/irregularities. If the Controller detects any errors/irregularities in the chosen basic sample that may have an impact on other expenditure out of the sample he/she determines the size of the complementary sample based on his/her professional judgment. The assessment of the detected findings should also provide with information if they result from the management and control system (systematic nature of findings). In such a case the Controller should describe it in comments to the checklist and notify it immediately to the MA by sending the checklist as scan via e-mail.

The sampling method developed by the Controller shall be reviewed annually with regard to the size of the sample and the risk in different type of Partners and projects. The chosen sample of expenditure is independent of the verification of procedures of public procurement.

The applied sample method is always documented by the Controller, in particularly as regards:

- population,

-
- random method,
 - list of expenditure randomly selected in the basic sample,
 - list of expenditure randomly selected in the complementary sample,
 - justification for complementary sample.

The documentation stays at the Controller's institution and has to be made available upon request. The Controller should describe the sampling method and specify the expenditure that was selected to the sample in the checklist, for the purpose of the external audits of the Controller system set in the Member State (e.g. carried out by the European Commission).

In case the verification is carried out on a sample, Partners have to submit only the supporting documents related to the expenditure found in the sample to the Controller.

5.4. On-the-spot checks – steps to be taken by Controller

On-the-spot checks complement the administrative verifications. Their purpose is to further minimise the risk of irregularities by implementing verifications of the place of the project implementation or in the venues of the Partners. They should focus in particular on reassuring administrative verifications in terms of the reality of deliverables, the accounting systems in place as well as the processes and procedures in the Partner's organisations connected to keeping an adequate audit trail. The on-the-spot checks may also include visiting the events organized by the Partner such as conferences or trainings (however these visits are additional verifications not replacing the Controller task to perform the on-the-spot check in the project).

In contrast to the administrative verifications, not all projects and Partners are the subject to on-the-spot checks. Instead, the Controller of each Partner may decide on the necessity of on-the-spot check on the basis of a risk analysis for the type of the Partners and the projects concerned.

In order to provide a reasonable assurance as to the legality and regularity of the expenditure, the risk analysis should refer to project-related criteria (e.g. the amount of ERDF budget, the amount of expenditure calculated by flat rates, the participation of the Partner in other projects etc.), Partner-related criteria (e.g. type of the Partner, previously detected irregularities on the side of the Partner, type of expenditure and activities of the Partner etc.) as well as the experiences and results from the administrative verifications and external audits (e.g. high number of items considered irregular, quality of the documentation provided by the Partner, expenditure has been identified during the desk-based verifications that appear unusual and require further examination, irregularities detected by the AA). If a particular Partner is involved in a number of projects implemented within the Poland-Slovakia Programme, it is compulsory to carry out at least one on-the-spot check at the level of such a Partner. The example of the risk analyse is given in annex 3. On-the-spot checks may be carried out on a sample of documents, however, as a rule documents verified during previous controls are not subject of verification within the same scope. The Controller decides whether to verify 100% of the documents or use a sample based on e.g. the results of the previous administrative verifications. The method chosen is described in the checklist for on-the-spot check.

The procedure of on-the-spot checks should be based on international audit standards. The Partner should be informed by the Controller in advance about the date of a planned on-the-spot check and about the legal basis for the concerned verification.

In order to facilitate and document the verification process, the MA has elaborated a standard checklist for on-the-spot check (see annex 4). It is recommended that it shall be used and filled in by the Controllers. However, the Controllers are free to use their own or national checklists alternatively.

As soon as the verification is accomplished, the Controller draws up a *Report on the result of the on-the-spot check* (see annex 5) with recommendations for improvements. The Controllers are free to use their own or national templates alternatively. It should be agreed between the parties and signed by both sides. The communication is done via the SL2014. It is recommended the Partner should be given at least 14 calendar days since receiving the payment claim for the notification of its motivated objections to the content of the document. This period may be extended by the Controller at the request of the Partner submitted before the deadline indicated for giving the objections to the report. The valid *Report on the result of the on-the-spot check* should be registered in the SL2014 by the Controller. If during the on-the-spot check irregularities are

detected the Controller formulates follow-up recommendations and sets the time for their implementation by the Partner.

In case of receiving the information on irregularities in the project or a reasonable suspicion of irregularities the Controller can perform an ad hoc verification.

The aim of such a verification is to verify the received information or the suspicion on irregularities in reality and confirm if there are facts that may lead to consider the expenditure as irregular.

The procedure for carrying out the ad-hoc check is the same as for on-the-spot check except the deadline for informing the Partner about the control visit. The notification sent to the Partner on the ad-hoc verification is not required.

5.5. Procedure and timing of on-the-spot checks

The purpose of on-the-spot checks is to ensure correctness of the implementation of the project as well as the correctness of verification of delivery of products and services co-financed. They have to be carried through by the appointed Controllers who decide on the timing and intensity of on-the-spot checks, if applicable with reference to the national requirements.

Controllers should set the time and the number of the verifications taking into account the indicative project timetable and the level of the project spending in order to achieve the maximum effectiveness and efficiency during the verification process. The scope and intensity of on-the-spot checks shall depend on the nature of the project in the programme (or priority/measure) and the type of the documentation that is forwarded by the Partner. Alternatively, a random representative sample could be selected. Where problems are identified in the verifications carried out on a sample of projects the size of the sample of the population should be increased in order to determine whether similar problems existed in the previously unchecked projects. The Controller should be in a position to demonstrate, through adequate documentation of the management verifications carried out, that the intensity of on-the-spot checks is sufficient to give reasonable assurance of the legality and regularity of the expenditure and projects co-financed under the Poland-Slovakia Programme.

On-the-spot checks may be carried through either during the implementation or upon the completion of the project, or both during and upon the completion of the project. It has to be taken into account that it may be too late to effect any necessary corrective action if an on-the-spot check is carried out when the project has been completed. With regard to that, it is recommended the Controller considers carrying out an on-the-spot check upon the following three conditions:

- timing of the control activities is the most effective taking into account the project implementation and
- the Partner presented for a verification at least 25% of the total amount of expenditure from the Partners budget and
- the on-the-spot check will take place before approval of the final payment claim by the Controller.

5.5.1. Follow up verification of on-the-spot check

If the on-the-spot check resulted in reservations and recommendations for the further project implementation, the Controller is obliged to verify whether the proposed measures have been implemented by a so-called follow-up verification.

That means that the Controller sets a deadline for the Partner to implement the recommendations. After this deadline, the Controller verifies if the issued recommendations have been implemented. This can be done either within the scope of another on-the-spot check or an administrative verification, depending on the nature of findings and proposed measures. As a rule, the follow-up verification of the measures to be implemented by the Partner should take place within 2 months since the day of issuing the recommendations at the latest, but no later than before the next regular administrative verification.

Afterwards, the Controller registers the information on the results of follow-up verification in SL2014.

5.5.2. On-the-spot checks of umbrella projects

The Controller uses the standard procedure for on-the-spot checks of regular projects. In addition the Controller should be concerned of the following procedure.

The Controller carries out on-the-spot checks of the umbrella project minimum once a year. As a rule the Controller performs on-the-spot check of the umbrella project on the basis of documents held by the Partner of the umbrella project.

During on-the-spot check the Controller verifies the obligations arising from the Subsidy Contract provisions in particular:

- organization of calls for microprojects,
- proceeding with the complaint procedures concerning the selection of micro-projects (if applicable),
- supporting microbeneficiaries during the implementation of micro-projects,
- the process of signing the subsidy contract and annexes,
- the use of advance payment,
- eligibility of expenditure submitted for reimbursement under the umbrella project. For this purpose the Controller:
 - selects the sample of microprojects which were included in the payment claims of the umbrella project, which have been approved since the date of the selection of the sample for the previous on-the-spot check in the project,
 - indicates the sample of expenditure presented in each selected microproject for on-the-spot check report of the umbrella project,
 - unlike regular projects carries out on-the-spot check of selected micro-projects only in terms of verifying that the goods or services were delivered. The Controller includes those checks in the Control Report for the umbrella project verification. The Controller does not prepare a separate Control Report with respect to the control activities carried out at the premises of the microbeneficiary,
 - verifies the transfer of payments to microbeneficiaries and the recovery of amount unduly paid,
 - verifies obligations in terms of document storage and information and promotion.

5.6. Verification of compliance with principles of public procurement and competitiveness

Whenever a project purchases services, goods, equipment, etc. externally, public procurement rules must be adhered to, including European public procurement rules and the relevant national rules.

Verifications should be carried out as soon as possible after the particular process has occurred as it is often difficult to take corrective actions at a later date. It is very important that the public procurement function is discharged honestly, fairly, and in a manner that secures best value for public money. This is in line with EU Treaty principles and EU Directives on public procurement. Essential principles to be observed in conducting the procurement function include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment.

In order to ensure the quality of public procurement procedure Controller may perform the ex-ante verification of the public procurement before the procedure has been initiated by the Partner upon the Partner's request. Such a procedure takes place in Poland and Slovakia. The ex-ante verification, as a rule, is rather a preventive measure which aims at avoiding the potential findings and negative effects of possible infringements of the provisions of public procurement. This should ensure that problems with the initial tendering as well as additional works/supplementary contracts during the project implementation are eliminated. The Controller, however, does not take the

responsibility for proceeding with the public procurement by the Partner's institution. Positive results of the ex-ante verification does not exclude the possibility of issuing reservations on the level of the ex-post verification of the public procurement.

The Controller should carry out the verification based on the checklist. The Controller does not carry out ex-ante verification for public procurement of micro-projects.

The fundamental principles of public procurement (transparency, non-discrimination and equal treatment and effective competition) also apply to purchases of services and goods below the EU-threshold and national values. For contracts or purchases below the EU and national threshold values less formal procedures may be appropriate.

However it is recommended the Controller verifies if the contract meets the principle of sound financial management and competitiveness in particular if:

1. the threshold results from the public procurement law in respective Member State and national rules on fair competition,
2. the offer was advertised in line with the national or organisational rules on competitiveness,
3. selection of the best bid based on the established criteria if applicable,
4. the contract was awarded to an entity which is not related with the Partner personally or financially,⁵
5. the Partner has signed an agreement with the contractor selected taking into account the fair competition and equal treatment of contractors.

Public procurement and competitiveness rules should be verified based on the detailed questions on application of national rules. The Controller may prepare a separate checklist which should be additional to the administrative checklist or add questions to the administrative checklist. The checklist should reflect all Controllers' comments to the procurement procedure and indicate the amount of detected irregularity. The previous verification of the public procurement carried out by other external control bodies should be taken into account.

Due to the fact that major irregularities are detected in public procurement the Controller should take into account during verifications of expenditure the most frequent irregularities in the application of public procurement procedures detected in projects with EU co-financing listed in annex 7 and follow the national rules on financial corrections⁶ or Commission Decision of 19.12.2013 *on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement* (C (2013) 9527 final).

5.7. Informing on irregularities detected by Controllers

The term irregularity is defined according to Art. 2 (36) of CPR Regulation as follows: *any breach of Union law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the EC by charging an unjustified item of expenditure to the budget of the EC.*

In case the Controller of the partner assumes or detects an irregular expenditure after the report has been approved the Controller, it is obliged to send this information by e-mail to the MA and to the attention of the JS. The MA verifies whether the report has already been approved by the JS and refunded (or if it has been part of a payment claim to the EC or not), if so the procedure of recovery of undue payments needs to be applied.

⁵ It is recommended to follow the working documents issued by OLAF experts "Identifying conflicts of interests in public procurement procedures for structural actions. A practical guide for managers".

⁶ In Poland the following legal act is applied: Ordinance of the Minister of Economic Development conditions for lowering the value of financial corrections and expenses incurred incorrectly with regard to the award of contracts from 26 of January 2016, as amended (Rozporządzenie Ministra Rozwoju z dnia 26 stycznia 2016 r. w sprawie warunków obniżania wartości korekt finansowych oraz wydatków poniesionych nieprawidłowo związanych z udzielaniem zamówień, z późn. zm.).

The MA will inform the Controller via e-mail as well as the JS and the NA/other bodies responsible for establishing the national first level control systems on the status of the expenditure (if it has already been refunded or not/if it has been part of a payment claim to the EC or not). In case the payment has been released/report has been part of a payment claim to the EC, the Controller immediately sends the *Notification on irregular expenditure* (annex 6) both as a scan version to the following e-mail address: kontrola@miir.gov.pl and the paper version to the following address:

Territorial Cooperation Department

Ministry of Investment and Economic Development

Wspólna 2/4

00-926 Warsaw, Poland

The electronic copy of the notification should be also forwarded to the JS and the NA responsible for reporting the irregularities to the EC according to art 122 of CPR Regulation

The abovementioned process is presented in annex 19 – recovery flowchart.

It should be notified to the EC if the irregularity exceeds 10 000 EUR. As a rule the MA asks the LP to repay the irregular amount based on the issued request for payment. Upon the request of the partner and in accordance with the Subsidy Contract provisions, the MA may, however, reduce the amount of the irregularity from the reimbursement of ERDF for the project.

6. THE ROLE OF CONTROLLERS IN AUDIT PROCESS (SECOND LEVEL CONTROL)

If irregularities are detected by auditors the Controller may be involved in the process of explaining the findings within the contradictory procedure. The contribution of Controllers in formulating remarks/comments on findings during the contradictory procedure is of crucial importance and has a positive impact on the reduction of Programme's error rate. The Controller may be asked for clarifications on detected irregularities directly by the auditors in charge.

However the MA on the level of the draft of the annual control report issued by the AA may also need an up-to-date confirmation or information that:

- the contradictory procedure has been finalised with the auditor;
- the Controller will not present new or further objections against the audit result.

If the Controller keeps rejecting the opinion of auditors the MA will not confirm the irregularities to the AA. The position of the Controller along with eventual additional argumentation will be forwarded by the MA to the AA and presented to the Group of Auditors. It will be verified if the irregularity is still a subject to ongoing bilateral procedures between the Controller and the auditor in charge.

If the AA includes the irregularity in the annual control report, the Controller prepares the notification on irregular expenditure (see chapter 5.7) even if the clarification process with the auditor in charge is ongoing. The Controller verifies if any other expenditure of the concerned partner is also affected by the same type of irregularity detected by the auditors and consequently reports on the total amount of the irregularity. The notification will serve the MA for issuing the request for payment.

The same approach shall apply during the audits carried out by the EC or other authorised institutions such as the Court of Auditors.

The MA informs the AA (and if applicable the EC) on implemented follow-up measures and the irregular amounts recovered.

7. FACILITATION AND MONITORING OF THE CONTROL PROCESS

A smooth functioning of the Controller requires that the involved parties do not only fulfil their respective tasks as defined in this document, but that they cooperate efficiently. This implies

especially a proper coordination, communication and information among them. In addition, the Controllers are encouraged to cooperate and communicate with one another. In general, the MA/JTS highly recommends the Controllers to attend seminars, workshops or other meetings organised for them on specific topics on:

- EU level (events organised for example by Interact or EC services),
- Programme level (seminars/workshops mainly for the project Partners and/or Controllers),
- national level (seminars for Controllers of the particular country),

7.1. The Controllers, the Joint Technical Secretariat, as advisors for Partners in eligibility issues

The most problems and discussions concerning the eligibility of expenditure should be solved with the support of the JTS and the Controllers. For the programme rules the JTS should be addressed with certain questions while in case of interpretation of the national rules only Controllers should be in charge to assist the Partners. In case not all issues can be clarified during the verification of the expenditure the interpretation of certain provisions arising from national act and ordinance may be necessary to be obtained from the institutions responsible for issuing the concerned legislative act.

The SL2014 will provide a separate module dedicated to the exchange of correspondence between Partners and their Controllers as well as to exchange correspondence between lead partners and the JS. It will be possible to keep contact with the relevant institutions, send comments to payment claims etc. All correspondence will be visible in the system with regard to the implemented project in order to provide the audit trail.

7.2. Support and coordination by Programme bodies

Effective control systems and processes with no control delays at the level of all participating Member States will be a key factor for the financial performance of the projects and the Poland-Slovakia Programme as a whole. In order to assure this, programme bodies implement the following coordination, monitoring and information measures:

- The Controllers performance is coordinated by the NA responsible for setting up national financial control systems in a given Member State. As far as Programme implementation is concerned, the NA supports the MA in coordination of the established financial control systems and co-operation with the control bodies.
- Regular training seminars or individual consultations shall be organised at the national level in order to provide the Controllers with the necessary information on the implications of a control system in compliance with the ERDF, national rules and the Programme characteristics. Regular seminars should be also a platform to share the experience gained by the Controllers as well as to evaluate the established national control system.

8. VERIFICATION OF DURABILITY OF PROJECTS

Verification of durability is carried out by the Controllers (on the Polish side) and the unit(s) indicated by the NA (refers to Slovak side only). The Controller/unit indicated by the NA⁷ checks, while carrying out verification of durability, if in the project has not appeared one of the circumstances referred to in Art. 71 of the General Regulation. During the verification of durability, the Controller/unit indicated by the NA verifies whether:

- occurred the presence of double financing, especially in the context of the possibility of changing the eligibility of tax on goods and services,
- the project generate the income (if applicable),

⁷ By „NA” also NA of Partner Country is understood.

- project objective has been maintained, defined by achieving and maintaining result indicators,
- storage of documents is correct,
- the appropriate measures for project information and promotion were applied,
- the principles of granting state aid were applied.

8.1. Legal basis for the project durability test

Article 71 of the General Regulation: in case of an operation comprising:

- (a) a cessation or relocation of a productive activity outside the programme area;
- (b) a change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
- (c) a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives

sums unduly paid in respect of the operation shall be recovered by the Member State in proportion to the period for which the requirements have not been fulfilled, subject to art. 27 (2)2 of the ETC Regulation.

8.2. Selection of projects and microprojects for durability tests

8.2.1. Selection of projects for durability tests (not applicable to microprojects and Technical Assistance projects)

Project durability tests are carried out by Controllers/unit indicated by the NA exclusively during the on-the-spot verification of durability. The verification is carried out on a sample selected by the MA from among all projects completed for which a final payment was transferred in a given accounting year⁸ and as a rule shall cover the entire project (all parts of the project and all Partners). The selected sample constitutes:

- at least 10% of the number of projects completed for which a final balance was paid in a given accounting year
- and
- at least 10% of the EU contribution in projects completed for which a the final balance was paid in a given accounting year.

The sample of projects for the durability test is selected based on risk analysis.

Description of the risk analysis algorithm

- After the completion of a project by a given Partner, the relevant Controllers/unit indicated by the NA⁹ fills in the *Risk analysis spreadsheet for the Partner* (Annex 8) and submits it to JTS only in an electronic form. All spreadsheets for projects completed in a given accounting year should be submitted to the JTS no later than September 30th following the given accounting year¹⁰.
- The JTS, for each project, completes the *Risk analysis spreadsheet for the Project* (Annex 9)

⁸ From 1st July to 30th June.

⁹ The *Risk analysis spreadsheet for the Partner* should be filled in by a unit which is most familiar with the given part of the project and the conditions for its implementation and, therefore, will be the most competent in the scope of answering the questions included in the *Spreadsheet*.

¹⁰ *Risk analysis spreadsheet for the Partner* in projects completed by 30th June 2019 should be prepared by the Controller/unit indicated by the NA and submit to the JTS no later than by 30th September 2019, etc.

which is supplemented with data included in the *Risk analysis spreadsheets for the Partner* submitted by the Controllers/unit indicated by the NA. The Spreadsheets for projects completed for which the final balance was paid in a given accounting year should be submitted to the MA by the JTS no later than November 30th following the accounting year¹¹.

- The MA maintains, in respect of each programme, a *Risk analysis spreadsheet for the Programme* for each accounting year (Annex 10) which is supplemented with data included in the *Risk analysis spreadsheets for the Project*. The list of projects is arranged according to the “Average risk for the project” column¹², from the largest to the smallest value. The projects with the largest value of average risk — so that the condition of 10% the number and 10% of the value of projects is met — will undergo the on-the-spot verification of durability. On-the-spot verification of durability is conducted at all Partners of the projects selected for such verification (on the Polish side: by the Controllers, in Partner Countries by the unit indicated by the NA). In special cases, on-the-spot verification of durability can be performed only at certain (not at all Partners). Such situation may take place if in the *Risk Analysis spreadsheet for the Partner* the Controllers/unit indicated by NA indicated a high risk of failure to maintain the durability of a part of the project only (e.g. at one of the Partners). In such cases, the MA allows for durability tests to be carried out only with respect to these parts of the project (not to the entire project). The decision is made by MA and then transferred to the Controllers (on Polish side) and unit indicated by the NA and to the attention of the NA along with information about the project parts planned for verification of durability. In special case the on-the-spot verification may be carried out at the partners not selected through a random draw (e.g. upon the reception of information on the initiation of prosecutorial proceedings, information from a third party on the suspicion of irregularities as regards the durability of the projects, etc.).
- Subsequently, the MA prepares a schedule of the on-the-spot verification of durability for each selected project. The schedule of all controls planned for the next accounting year is submitted to the Controller and unit indicated by the NA and to the attention of the NA by January 31st following the accounting year¹³. The schedule should be included in the Annual Plan of Control (if the Controller is required to draw up such a Plan). Generally, the MA will attempt to conduct on-the-spot verifications of durability in the fifth year following the date of the final payment to the Lead Partner (in the fourth year following the payment of the final balance to the Lead Partner at the earliest)¹⁴.

8.2.2. Selecting microprojects for durability tests

Microproject durability survey is conducted by the Controller in the form of *Survey to monitor ensuring sustainability of microproject* (Annex11). The sample *Survey* may be further elaborated by the Controllers. The control is carried out on a sample selected by the Controller in a random manner from among all completed microprojecties for which a final balance was paid in a given accounting year. The selected sample constitutes at least 40% of the number of microprojects eligible for verification.

Description of the procedure

- After each accounting year, the Controller / unit indicated by the NA shall request the Polish Euroregions and Slovak Self-governing regions to provide information on completed microprojects for which a final balance was paid in a given accounting year. The information includes at least the project number, its title, the name of the entity responsible for implementing the microproject and the date of the final payment. Information should be

¹¹ *Risk analysis spreadsheet for the Project* in completed projects, for which the final balance was paid until 30th June 2019 should be prepared by the JTS and submitted to the MA no later than by 30th November 2019.

¹² The average risk for the project is determined based on the total risk for each of the partners (total risk/number of partners).

¹³ The schedule of controls for completed projects for which a final balance was paid until 30th June 2019 will be transferred to the Controller/unit indicated by the NA and to the attention of the NA no later than by 31st January 2020.

¹⁴ The date of payment in accordance with SL2014.

provided by the Euroregions by September 30th following the accounting year¹⁵.

- The Controller/unit indicated by the NA selects each year a random sample of microprojects (40%) from the list of completed microprojects received from Euroregions. In special situations, the on-the-spot verification can be carried out at the entity responsible for implementing the microproject not selected randomly (e.g. upon the reception of information on launch of prosecutorial proceedings, information from a third party on the suspicion of irregularities as regards the durability of the project, etc.).
- Surveys should be sent not later than in the fifth year following the payment of final balance to the entity responsible for implementing the microproject (in the fourth year following the payment of the final balance to entity responsible for implementing the microproject at the earliest).

8.3. Carrying out the on-the-spot verification of durability

8.3.1. On-the-spot verification of durability of project implementation (not applicable to microprojects and Technical Assistance projects)

- The Partner should be notified of the date of the on-the-spot verification of durability at least 3 business days in advance. The legal basis which should be indicated in the letter notifying the Partner of the verification is Article 71 of the General Regulation. The verification of durability is carried out on the basis of an appropriate authorisation.
- During the on-the-spot verification of durability, *the Report on the on-the-spot verification of durability* (Annex 12), comprising a set of questions should be applied.
- The *Report on the on-the-spot verification of durability* may be signed by both sides, directly after the completion of activities verifying project durability, on the spot, at the Partner's premises, or submitted to the Partner within 21 calendar days from the completion of the activities. A statement in which the Partner undertakes to inform the Controllers/unit indicated by the NA of all modifications in the project as well as the lack of compliance with the project objectives, output and result indicators within 5 years from the date of the payment of final balance to the Lead Partner¹⁶, constitutes an integral part of the *Report on the on-the-spot verification of durability*.
- If any irregularities are detected, the Controller/unit indicated by the NA formulates post-verification recommendations regarding the verification of durability of the project and indicates the appropriate time limit for their implementation. Next, the Controller/unit indicated by the NA verifies the implementation of remedial measures and puts the relevant information in the *Report on the on-the-spot verification of durability*.
- If it is found that the funds should be recovered, as a result of detected irregularities, the Controller/unit indicated by the NA immediately provides the MA with comprehensive information on the results of the durability control and the *Report on the on-the-spot verification of durability*. The MA sets the amount to be recovered. The MA may request the Controller/unit indicated by the NA to prepare a *Notification on irregular expenditure* in accordance with the procedure described in subchapter 5.7
- The results of the verification are archived by the Controllers/unit indicated by the NA.
- The results of the performed on-the-spot verification of durability are registered in the SL2014 system in "Controls" module.
- In cases not governed by this Procedure, in relation to activities related to on-the-spot verification of durability, the principles of control as defined in the General Principles for the Controllers as referred in art. 23 of Regulation (EU) 1299/2013 / Principles for the National

¹⁵ Information on completed microprojects, eligible for control for which a final balance was paid until 30th June 2018, the Euroregions / Slovak Self-governing regions passes to the Controller/unit indicated by the NA by 30th September 2018.

¹⁶ The date of payment in accordance with SL2014.

Controllers in European Territorial Cooperation programmes 2014-2020 (*Wytyczne dla Krajowego Kontrolera w programach Europejskiej Współpracy Terytorialnej 2014-2020*) are applied.

8.3.2. Carrying out the verification of durability of microprojects implementation

- Controllers/unit indicated by the NA by sending a *Survey monitoring the durability of project* to the the entity responsible for implementing the microproject sets the date of submission of a filled survey. The legal basis which should be indicated in the letter notifying forwarding the *Survey* is Article 71 of the General Regulation.
- After the reception of filled surveys from the Partners, Controllers/unit indicated by the NA verify the received information.
- If any irregularities are found, or take into doubt scope of the lack of project durability Controllers/unit indicated by the NA ask the the entity responsible for implementing the microproject for further clarifications. It is also possible to carry on on-the-spot verification of project. On-the-spot verification is carried out in the presence of the beneficiary of the umbrella project. During the verification, the *Report on the on-the-spot verification of durability* (Annex 12), containing a set of questions, is used. Report on the on-the-spot verification of durability in the SPF can be signed by both parties immediately after verifying the durability of the project activities on-the-spot at the the entity responsible for implementing the microproject or handed over to him within 21 calendar days from the completion of activities.
- In the case of need to formulate recommendations Controllers/unit indicated by the NA forward them to the the entity responsible for implementing the microproject in written version and set a deadline for implementation of recommendations. Then Controllers/unit indicated by the NA are obliged to verify the implementation of the recommendations by the the entity responsible for implementing the microproject.
- If it is found that the funds should be recovered, as a result of detected irregularities, the Controller/unit indicated by the NA immediately provides the MA with comprehensive information on the results of the durability control and the *Report on the on-the-spot verification of durability* (Annex 12). The MA sets the amount to be recovered. The MA may request the Controller/unit indicated by the NA to prepare a *Notification on irregular expenditure* in accordance with the procedure described in subchapter 5.7
- The results of the verification are archived by the Controllers/unit indicated by the NA.
- The results of the performed on-the-spot verification of durability are registered in the SL2014 system in “Controls” module.
- In cases not governed by this Procedure, in relation to activities related to on-the-spot verification of durability, the principles of control as defined in the *General Principles for the Controllers as referred in art. 23 of Regulation (EU) 1299/2013 / Principles for the National Controllers in European Territorial Cooperation programmes 2014-2020 (Wytyczne dla Krajowego Kontrolera w programach Europejskiej Współpracy Terytorialnej 2014-2020)* are applied.

8.4. Managing the results of durability tests

8.4.1. Managing the results of durability tests of the project

- Controllers/units indicated by the NA shall manage the results of the on-the-spot verification of durability. Within the deadline set by the MA, Controllers/unit indicated by the NA submit the *Summary of the results of the on-the-spot verification of durability for the project* (Annex 13), to the MA.
- The MA collects information received from all Controllers/units indicated by the NA for each

project and completes the *Summary of the results of the on-the-spot verification of durability for the project* (Annex 14).

- The MA carries out a verification at the seat of Controllers (on the Polish side) aimed at verification of the Controllers performance of obligations connected with the examination of project durability.

8.4.2. Managing the results of durability tests of the microproject

- Controllers/units indicated by the NA shall manage the results of the verification of durability of a microproject. Within the deadline set by the MA, Controllers/unit indicated by the NA submit *Summary of the results of the on-the-spot verification of durability for the project* (Annex 13), containing information on the selected sample, microprojects verified and the results of the surveys.
- The MA carries out a check at the seat of Controllers (on the Polish side) aimed at verification of the Controllers' performance of obligations connected with the examination of durability of microprojects.

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