



NATIONAL LEVEL PROCEDURES FOR FIRST LEVEL CONTROL

for the

**Serbian Interreg-IPA Cross-Border Cooperation and Trans-
National Cooperation Programmes**

under shared management

(FLC Manual and Annexes)

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Preface

This manual sets out the formal duties of the **Serbian First Level Control Unit** (hereinafter referred to as the "Control body") within the Department for Contracting and Financing of EU Funded Programs (CFCU) of the Ministry of Finance of the Republic of Serbia, with regards to the **IPA II financing of Cross-Border Cooperation (CBC) and Trans-National Cooperation (TNC) programmes under shared management i.e. Interreg-IPA CBC and TNC programmes.**

The **primary targeted audience** is First Level Controllers responsible for Serbian IPA II CBC and TNC shared management programmes;

Responsibility for preparation, review and revision of these procedures rests with the Control Body, and they are formally issued by its Head, and approved by the Head of the CFCU; they are therefore binding on all FLC staff, and shall apply to each of the aforementioned programmes until their final and formal closure by the EC.

The present **First Level Control (FLC) Procedure** provides information and guidelines on the minimum requirements of the controller's validation process and on the overall scope of the Controller's work. It describes who is entitled to carry out the FLC, what the role, responsibilities and practical work of the controller is, and what is expected of it.

It is developed to support the work of the Controllers involved in the verification of expenditure of the Serbian project partners under approved projects within the **Interreg-IPA CBC and TNC Programmes under shared management**, as well as to ensure common understanding on rules and procedures to be performed within the framework of these programmes.

The present Manual should be considered as summarised version of most control related issues laid down in different programme level documents, as well regulatory framework at EU and national level. However, every Controller should respect any individual requirements set up for the concrete Interreg-IPA CBC and TNC Programmes when performing verification checks.



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Glossary of Acronyms

ACRONYM	ENGLISH	SERBIAN
AA	Audit Authority	Revizorsko telo
AI	Adriatic Ionian Cooperation Programme 2014-2020	Jadransko-Jonski program transnacionalne saradnje
BG	Interreg IPA Cross-Border Cooperation Programme Bulgaria-Serbia	Interreg IPA program prekogranične saradnje Bugarska – Srbija
CBC	Cross-Border Cooperation	Prekogranična saradnja
CFCU	Department for Contracting and Financing of European Union Funded Programs , Ministry of Finance, Republic of Serbia	Sektor za ugovaranje i finansiranje programa iz sredstava EU, Ministarstvo finansija, Republika Srbija
CfP	Call for Proposals	Poziv za podnošenje predloga
DA	Danube Transnational Programme 2014-2020	Transnacionalni Program Dunav
EC	European Commission	Evropska komisija
ERDF	European Regional Development Fund	Evropski fond za regionalni razvoj
ETC	European Territorial Cooperation	Evropska teritorijalna saradnja
FA	Financing Agreement	Finansijski sporazum
FLC	First Level Control	Prvostepena kontrola
HR	Interreg IPA Cross-Border Cooperation Programme Croatia-Serbia	Interreg IPA program prekogranične saradnje Hrvatska – Srbija
HU	Interreg IPA Cross-Border Cooperation Programme Hungary-Serbia	Interreg IPA program prekogranične saradnje Mađarska – Srbija
IPA	Instrument for Pre-accession Assistance	Instrument za pretpristupnu pomoć
JMC	Joint Monitoring Committee	Zajednički odbor za praćenje



ACRONYM	ENGLISH	SERBIAN
JS	Joint Secretariat	Zajednički sekretariat
LP	Lead Partner	Vodeći partner
MA	Managing Authority	Upravljačko telo
MoF	Ministry of Finance, Republic of Serbia	Ministarstvo finansija, Republika Srbija
MoU/I	Memorandum of Understanding/Implementation	Memorandum o razumevanju/ sprovođenju
MS	Member State of the European Union	Država članica Evropske unije
NA	National Authority	Nacionalno telo
PP	Project Partner	Projektni partner
RO	Interreg IPA Cross-Border Cooperation Programme Romania-Serbia	Interreg IPA program prekogranične saradnje Rumunija – Srbija
RS	Republic of Serbia	Republika Srbija
MEI	Ministry of European Integration	Ministarstvo za evropske integracije
TA	Technical Assistance	Tehnička pomoć
TNC	Transnational cooperation	Transnacionalna saradnja



Glossary of Terms

TERM	DESCRIPTION
Managing Authority [MA]	The institution (Ministry, division within the Ministry, independent structure) in an EU Member State, which is responsible for the overall management of the Interreg IPA Cross-Border or Transnational Cooperation Programmes with shared management.
National Authority [NA]	The institution responsible for the coordination of the programme management in the partner (non-EU member) state and for setting up the control system in order to validate the expenditures at national level and ensuring co-financing. For Interreg-IPA CBC and TNC Programmes with shared management, the role of the National Authority in Serbia is ensured by the Ministry of European Integration (MEI).
Joint Secretariat [JS]	A structure assisting the Managing Authority, the Joint Monitoring Committee, and, when necessary, the Audit Authority and the Certification Authority related to the discharge of their duties regarding the implementation of the Programme. The JS is in charge with the day-to-day implementation of the Programme and acts as a liaison between the authorities managing and implementing the programme and the beneficiaries. The headquarters of the JS for the respective Interreg-IPA CBC programme are located in the relevant EU Member States, while 'antennae' offices are established on the Serbian territory across the respective CBC regions.
First Level Controller [FLC-er]	Officially nominated person, who is responsible for verifying the legality and regularity of the expenditure declared by each Serbian partner participating in approved Interreg-IPA CBC and TNC programmes. In Serbia the FLC functions are implemented by a designated body Division for FLC within the structure of the Department for Contracting and Financing of European Union Funded Programs (CFCU) within the Ministry of Finance of the Republic of Serbia.
FLC Certificate	The central output of the controller's work. It validates the overall correctness of the project's use of all funds (IPA and national co-financing) spent by the project partners. The FLC Certificate must be free from any conditions or added notes that limit the validity, strength or scope of the controller's declaration. By issuing the FLC Certificate, the controller is verifying expenditures requested for reimbursement and declares the proper use of funds.
FLC Report	Usually an annex to the FLC Certificate, containing the main findings and technical information related to non-verified expenditures and irregularities discovered.



TERM	DESCRIPTION
FLC Checklist	<p>This is the most commonly used instrument for performing control checks. It is a programme level document, listing the procedural steps to be undertaken (in most cases – consequently).</p> <p>After completion of each step or check, the compliance is marked with a ‘tick-mark’ [“yes”, “no” or “not applicable”]. Comments shall be provided if there is non-compliance, or appropriate action shall be recommended or taken to ensure it. Checklists’ templates try to cover most of the possible cases in a procedure and sometimes more than one procedure, therefore some of its parts might be considered not applicable for certain checks.</p> <p>Checklists, being also part of the project documentation and audit trail, should be kept by the Controllers in the respective project file.</p>
Audit Trail	<p>Simply this means keeping records to show how every EURO of the programme’s money has been spent! In most cases this is a matter of storing the invoices issued for products and services delivered. These documents have to be kept three years after the formal closure of the Interreg IPA CBC and TNC programme as to provide for the European Audit Bodies to carry out checks until then. Concrete dates are set in the specific programme manuals.</p> <p>The basic rule is: If you can’t prove it, it never happened!</p>
Technical Assistance	<p>In order to support quality implementation, each CBC and TNC programme under shared management includes a Technical Assistance (TA) priority axis, relevant funds usually corresponding to 10% of a programme’s allocation. Countries participating in a given programme therefore have to agree on what activities are to be financed under these TA priority axes, when they are to be performed, and which programme level (e.g. MA, Joint Secretariat (JS)) or national level (e.g. NA) body is to be responsible for which activity. Once agreement has been reached, the bodies assigned responsibilities have to make the necessary arrangements to ensure that TA activities are performed properly and on time.</p>



1. Introduction to European Territorial Cooperation

1.1. GENERAL

The European Union cohesion policy intends to strengthen the Community's economic and social cohesion in order to **promote a harmonious, balanced and sustainable development** of the Community, while at the same time reducing the economic, social and territorial disparities.

European Territorial Cooperation (ETC) in the context of EU cohesion policy is oriented towards strengthening of:

- **Cross-border Cooperation (CBC):** helps transform regions located on either side of internal or external borders of the European Union into strong economic and social poles.
- **Transnational Cooperation (TNC):** promotes cooperation among greater European regions, including the ones surrounding sea basins (e.g. Baltic Sea Region, North Sea, Mediterranean and Atlantic Area) or mountain ranges (e.g. Alpine Space).
- **Interregional Cooperation:** provides a framework for the exchange of experiences between local and regional actors from across Europe in order to contribute to the EU's strategies on growth, jobs and sustainable development.

ETC 'Joint' principle

Programmes must be implemented through **joint projects**. All project partners, from participating countries, must work together actively and ensure that cooperation is needed for achieving the outcomes and results of the project. The following **four cooperation criteria** have been established for projects:

<i>Joint Development</i>	↔ <i>The project must be designed in close cooperation of the partners from both side of the border.</i>
<i>Joint Implementation</i>	↔ <i>Activities must be carried out and coordinated among partners on both sides of the border.</i>
<i>Joint Staffing</i>	↔ <i>There should be a joint project management; the staff will be responsible for project activities on both sides of the border.</i>
<i>Joint Financing</i>	↔ <i>There is only one contract per project and there must therefore be one joint project budget. The budget should be divided between partners according to the activities carried out.</i>



ETC 'Lead Partner' principle

The ETC Programmes are designed to fund activities that require cooperation, be it cross-border, transnational or interregional. The *'Lead Partner Principle'* is an important and characteristic feature of these Programmes, whereby activities of a project are typically carried out by a number of partners of whom one acts as the *"Lead Partner"*. The term *"Lead Partner"* (LP) refers to an organisation with which an MA has concluded a grant under a programme. The term *"Project Partner"* (PP) refers to an organisation involved in the implementation of a grant contract but subsidiary to the grant contract's LP; the relationship between an LP and a PP is usually governed by some kind of agreement (often termed a "partnership agreement"). For the purposes of these procedures, the term "LP" also includes any Serbian institution that receives support under a programme's technical assistance priority;

Since the Lead Partner represents an administrative link between the project and the programme, and as such, bears responsibility for ensuring the project's implementation. The LP shall assume the following responsibilities:

- It shall lay down the arrangements for its relations with the other partners participating in the project in an *'Partnership Agreement'* comprising, inter alia, provisions guaranteeing the sound financial management of the funds allocated to the projects, including the arrangements for recovering amounts unduly paid;
- It shall be responsible for ensuring the implementation of the entire project;
- It shall ensure that the expenditure presented by the partners participating in the project has been incurred for the purpose of implementing the project and corresponds to the activities agreed between those partners;
- It shall verify that the expenditure presented by the partners participating in the project has been validated by the controllers;
- It shall be responsible for transferring funds to the partners participating in the project.

However, **the project partners are solely responsible for the correctness of their own actions and related expenditures.** All project partners are controlled independently in their own country by the designated Controller.

ETC funding

ETC, often termed Interreg, is one of the two goals of cohesion policy and provides a framework for the implementation of joint actions and policy exchanges between national, regional and local actors from different Member States. The overarching objective of ETC is to promote a harmonious economic, social and territorial development of the Union as a whole.

In accordance with the new design of the European Cohesion Policy 2014-2020 and the targets set out in Europe 2020, Interreg has significantly been reshaped to achieve greater impact and an even more effective use of the investments.

Key elements of the 2014-2020 reform are: 1/Concentration, 2/ Simplification and 3/Results orientation.



Main source of funding for the participating countries are European Regional Development Fund (ERDF) for Member States and IPA for potential candidate and candidate countries jointly called IPA countries.

The **Instrument for Pre-accession Assistance (IPA)** is the financial instrument for all pre-accession activities funded by the European Commission that has replaced previously existing pre-accession instruments: PHARE, ISPA, SAPARD, Turkey instrument and CARDS, thus uniting them under a single legal basis for all pre-accession assistance. The beneficiary countries are divided into two categories: **candidate countries** already undergoing the accession process, and **potential candidate countries**. It was designed to provide financial assistance through five channels (known as "components"): transition assistance and institution building, cross-border cooperation (CBC), regional development, human resource development and rural development.

New IPA financial perspective **for the period 2014-2020** so called **IPA II**, sets out a new framework for providing pre-accession assistance whereas the most important novelty is its strategic focus. **Indicative Country Strategy Papers** are the specific strategic planning documents made for each beneficiary for the 7-year period. These will provide for a stronger ownership by the beneficiaries through integrating their own reform and development agendas. A **Multi-Country Indicative Strategy Paper** addresses priorities for regional or territorial cooperation.

IPA II targets reforms within the framework of pre-defined sectors. These sectors cover areas closely linked to the enlargement strategy, such as democracy and governance, rule of law or growth and competitiveness. This sector approach promotes structural reform that will help transform a given sector and bring it up to EU standards. It allows a move towards a more targeted assistance, ensuring efficiency, sustainability and focus on results.

IPA II also allows for a more systematic use of sector budget support. Finally, it gives more weight to performance measurement: indicators agreed with the beneficiaries will help assess to what extent the expected results have been achieved.

Interreg-IPA CBC programmes closely mirror the rules of EU Structural Funds and thus provide a learning opportunity for Western Balkan countries and all actors involved (structures, potential/final beneficiaries), preparing them for the EU Cohesion Policy.

The **eligible beneficiaries** for ERDF/IPA funding under ETC objectives are legal entities:

- ➔ with public legal status;
- ➔ within the sphere of public legal entities;
- ➔ with non-profit status.

Subsidies **cannot** be received (valid for both LPs and PPs): by private persons; political parties; in form of direct subsidies for individual private companies; profit-orientated project organisations in general. However, the actions financed under the CBC and TNC programmes have to be of a non-profit nature. All revenues generated by an operation's activities during the implementation must be deducted from the eligible expenditures claimed in Statements of Expenditure within each Partner Progress Report.



1.2. INTERREG-IPA CBC AND TNC PROGRAMMES IN SERBIA

The Republic of Serbia participates in a number of **IPA funded CBC and TNC programmes**. This Manual covers only those programmes under shared management i.e. 4 CBC programmes with MS countries Bulgaria, Croatia, Hungary and Romania, and 2 TNC programmes – ADRION¹ and Danube. In **shared management** contracts are signed and payments are made by bodies with authority over the whole programme area ('joint' bodies) and these are always located in the relevant Member State.

2014-2020 allocations for Serbian IPA II CBC and TNC programmes under shared management

Programme	Type	Total € ²	IPA II € ³
Bulgaria/Serbia (BG)	CBC	34,102,256	28,986,914
Croatia/Serbia (HR)	CBC	40,344,930	34,293,188
Hungary/Serbia (HU)	CBC	76,616,474	65,124,000
Romania/Serbia (RO)	CBC	88,124,999	74,906,248
ADRION (AI)	TNC	117,918,198	15,688,887
Danube (DA)	TNC	262,989,839	19,829,192

The main actors in the potential candidate and candidate countries that participate in the programmes with Member States under shared management are the National Authority and the Control Body.

The National Authority

National level duties are performed or ensured by a National Authority (NA), appointed by each participating country. Among its tasks, the NA has to ensure that there is a system in place to verify that expenditure incurred by grant or TA beneficiaries is eligible - so-called "First Level Control" (FLC).⁴ While the NA does not have to perform this duty directly, it is the body to which the MA will turn if input from the participating country is found to be inadequate. Within Serbia, MEI is officially designated as the body responsible for ensuring the role of the NA for IPA II CBC and TNC programmes under shared management; most tasks are performed by its Department for CBC and TNC programmes; the Head of this Department is appointed as Head of the NA.

¹ An acronym for "Adriatic Ionian"

² Includes national co-financing (15% of the total), whether from state budgets or supplied by grant beneficiaries themselves

³ corresponds to overall IPA II contributions (i.e. not divided by participating countries)

⁴ See the Common Provisions Regulation (Regulation (EU) No 1303/2013), Article 125(4)(a), and the European Territorial Cooperation Regulation (Regulation (EU) No 1299/2013), Article 23(4).



The Control Body

The Control Body is the institution designated by countries participating in CBC/TNC programmes to verify that expenditure incurred by grant or TA beneficiaries is eligible - i.e. the body responsible for performing FLC duties. In Serbia, the Control Body is ensured by the Ministry of Finance's (MoF's) Department for Contracting and Financing of EU Funded Programs (more often referred to as the CFCU), with tasks actually performed by its FLC sub-unit. In the context of IPA II, the Serbian Control Body is responsible for verifying expenditure under the following CBC and TNC programmes (which are covered by this manual):

Interreg - IPA CBC 
Bulgaria - Serbia

Interreg-IPA Cross-Border Cooperation Programme Bulgaria-Serbia

<http://www.ipacbc-bgrs.eu/>

Interreg - IPA CBC  
Croatia - Serbia

Interreg-IPA Cross-Border Cooperation Programme Croatia-Serbia

<http://www.interreg-croatia-serbia2014-2020.eu/>

Interreg - IPA CBC 
Hungary - Serbia

Interreg-IPA Cross-border Cooperation programme Hungary-Serbia

<http://www.interreg-ipa-husrb.com/>

Interreg - IPA CBC 
Romania - Serbia

Interreg-IPA Cross-Border Cooperation Programme Romania-Serbia

<http://www.romania-serbia.net/>

Interreg 
ADRION **ADRIATIC-IONIAN**
European Regional Development Fund - Instrument for Pre-Accession II Fund

Adriatic Ionian Cross-Border Cooperation Programme

<http://www.adrioninterreg.eu/>

 **Interreg** 
Danube Transnational Programme

Danube Transnational Programme

<http://www.interreg-danube.eu/>



1.3. SHARED MANAGEMENT SYSTEM

Interreg-IPA CBC and TNC Programmes operate on both sides of the border on the basis of **one set of rules**, thus providing the opportunity for fully equal and balanced programming and decision-making structures between Member States and (potential) Candidate Countries. Therefore, Interreg-IPA CBC and TNC is meant to promote enhanced cooperation and progressive economic integration and coherence between the European Union and the (potential) Candidate Countries.

According to one of the key principles of the ETC objectives, Programmes are prepared and implemented by the partners on both sides of the border using **a single set of managing structures**:

<p>Joint Monitoring Committee [JMC]</p>	<ul style="list-style-type: none"> ↔ <i>Overseeing the implementation of the programme;</i> ↔ <i>Ensuring national, regional and local participation;</i> ↔ <i>Approves annual reports;</i> ↔ <i>Approves amendments to programme;</i> ↔ <i>Approves selection of projects.</i> <p><i>In the Joint Monitoring Committee representatives of the national, regional and local level of all countries involved should participate.</i></p>
<p>Managing Authority [MA]</p>	<ul style="list-style-type: none"> ↔ <i>Financial management of the programme and projects;</i> ↔ <i>Selection of projects;</i> ↔ <i>Ensuring compliance with EU and national rules;</i> ↔ <i>Ensuring programme evaluation;</i> ↔ <i>Providing information and reporting to JMC and EU.</i> <p><i>In the case of Interreg-IPA CBC and TNC Programmes, the MA is located in the Member State.</i></p>
<p>Certifying Authority [CA]</p>	<ul style="list-style-type: none"> ↔ <i>Certifying expenditure;</i> ↔ <i>Preparing and submitting payments claims to the EU;</i> ↔ <i>Tracking and recovery of funds.</i> <p><i>In the case of Interreg-IPA CBC and TNC Programmes, the CA is located in the Member State.</i></p>




Audit Authority [AA]	<ul style="list-style-type: none">↪ <i>Ensuring audits are carried out to verify the effective functioning of the programme's management and control system</i>↪ <i>Ensuring audits are carried out on projects</i>↪ <i>Issuing an opinion on whether the management and control system functions effectively</i> <p><i>In the case of Interreg-IPA CBC and TNC Programmes, the AA is located in the Member State, supported by a Group of Auditors comprising one representative of each participating country.</i></p>
Joint Secretariat [JS]	<ul style="list-style-type: none">↪ <i>Deals with the day-to-day management of the programme;</i>↪ <i>Assists the Monitoring Committee and the management structures in carrying out their duties;</i>↪ <i>(Usually) organises calls for projects, advises project partners and monitors the project implementation.</i> <p><i>The JS should have employees from both sides of the border thus providing different language skills, and specific background knowledge.</i></p> <p><i>The main JS office is usually located close to MAs, but has antenna/ branch offices in Serbia.</i></p>

Programme structures can involve extra bodies including national or regional contact points for each country participating in the programme. Additionally, **Memorandum of Understanding** or **Implementation** between the participating countries may be signed, in which they agree on important bilateral arrangements (e.g. delivery of national co-financing).

2. FIRST LEVEL CONTROL OVERVIEW

2.1. INTRODUCTION

The main objective of the First Level Control (FLC) is to guarantee that the costs charged under the Interreg-IPA CBC and TNC Programmes are justified and that payments claimed by the Project Partners are in accordance with the legal and financial clauses of the subsidy contract and within the rules governing the IPA programmes, the European Community regulations and the respective national legislation.

	<p>The First Level Control is the first step in the process of certifying projects' expenditures, and it is performed <u>before</u> the EC reimbursement takes place.</p> <p>It is the main and most extensive control level – covers 100% of expenditures⁵ made by project partners.</p>
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Checks need to be sufficient to confirm all aspects of the **eligibility, regularity and legality** of the expenditure in question. Therefore they **should cover all points of correctness and compliance** mentioned in the EC guidance note⁶ on management verifications including eligibility, compliance with public procurement rules and reference to the project's expenditure as originally approved.

2.2. FLC REGULATORY FRAMEWORK

EC legal basis

The main EU regulations relevant for the management of the Instrument for Pre- Accession Assistance (IPA) are as follows:

- **Regulation (EU) 231/2014** of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II)
- **Commission Implementing Regulation (EU) No 447/2014** of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II)
- **Regulation (EU) No 236/2014 of the European Parliament and of the Council** of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action
- **Regulation (EU) No 1303/2013** of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the ERDF, 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 ERDF,

⁵ Except for the simplified cost options budget lines (flat rate) where is checked only whether cost is properly encompassed with the report.

⁶ Guidance document on management verifications to be carried out by Member States on operations co-financed by the Structural Funds and the Cohesion Fund for the 2014 – 2020 programming period

http://ec.europa.eu/regional_policy/sources/docgener/informat/2014/guidance_management_verifications_en.pdf



the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006, (the Common Provisions Regulation, 'CPR')

- ➔ **Regulation (EU, Euratom) No 966/2012** of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002
- ➔ **Commission Delegated Regulation (EU) No 1268/2012** of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council
- ➔ **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 ERDF to the ETC goal⁷ (the ETC Regulation)
- ➔ **Commission Delegated Regulation (EU) No. 481/2014** of 4 March 2014 **supplementing 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 ERDF to the ETC goal.

National legal basis

Following is the list of most important Serbian legal and regulatory acts that need to be respected within the frame of performing First Level Control under IPA-CBC Programmes:

- ➔ **Law on the ratification of the Framework Agreement** concluded between the European Commission (EC) and Serbia on 23 December 2014, Official Gazette No 19 - International Contracts, from 29.12.2014.
- ➔ **Regulation** on the Scope and Contents of Responsibilities and the Authority of Bodies Responsible for Managing the Instrument for Pre-accession Assistance.
- ➔ **Law on VAT**, Official Gazette RS No. 84/04 , 86/04 -correction, 61/05, 61/07, 93/12, 108/13, 68/14, 142/14, 83/15,108/16, 113/17, 30/18
- ➔ **Rules for VAT exemption**, Official Gazette No. 107/2004, 65/2005, 63/2007, 107/2012, 120/2012, 74/2013, 66/2014
- ➔ **Labor Law**, Official Gazette RS No. 24/2005, 61/2005, 54/2009, 32/2013 , 75/2014, 13/2017, 113/2017
- ➔ **State Employee Act**, Official Gazette RS No. 79/2005, 81/2005 - correction, 83/2005 - correction, 64/2007, 67/2007 - correction, 116/2008, 104/2009, 99/2014, 94/2017
- ➔ **Public Procurement Law** (Official Gazette No.124/2012 , 14/2015, 68/2015) with subsequent modifications
- ➔ **Law on State Aid Control**, Official Gazette No. 51/2009) with subsequent modifications;
- ➔ **Law on Planning and Construction**, Official Gazette No. 72/2009, 81/2009 - corr., 64/2010 – Constit. Court decision, 24/2011, 121/2012, 42/2013 - Constit. Court decision, 50/2013 - Constit. Court decision, 98/2013 - Constit. Court decision, 132/2014 145/2014, 83/2018
- ➔ **Financing Agreements** for each programme between Republic of Serbia and the

⁷ OJ L 347, 20.12.2013, p. 259.



European Commission;

- ➔ **Memorandum of Understanding or Implementation (MoU/Is)** signed between Republic of Serbia and the respective participating countries for each programme.

For each programme under shared management (BG, HR, HU, RO, AI, DA), a single multi-annual FA is concluded between Serbia and the EC relating to all budgetary years (i.e. from 2014 to 2020). The duties and responsibilities of Serbia on the one hand and the lead MS on the other with regard to implementation and management and control issues are set out either in FAs themselves (RO, AI, DA), in which case the FAs are also signed by lead MSs, or in separate MoU/Is (BG, HR, HU).

	<p>All expenditures have to be in line with the EC regulations, the Programmes and relevant national rules and legislation.</p> <p>The list of regulations is not exhaustive. Rules and regulations may be amended during the programme implementation period.</p>
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2.3. FLC ORGANIZATION IN SERBIA

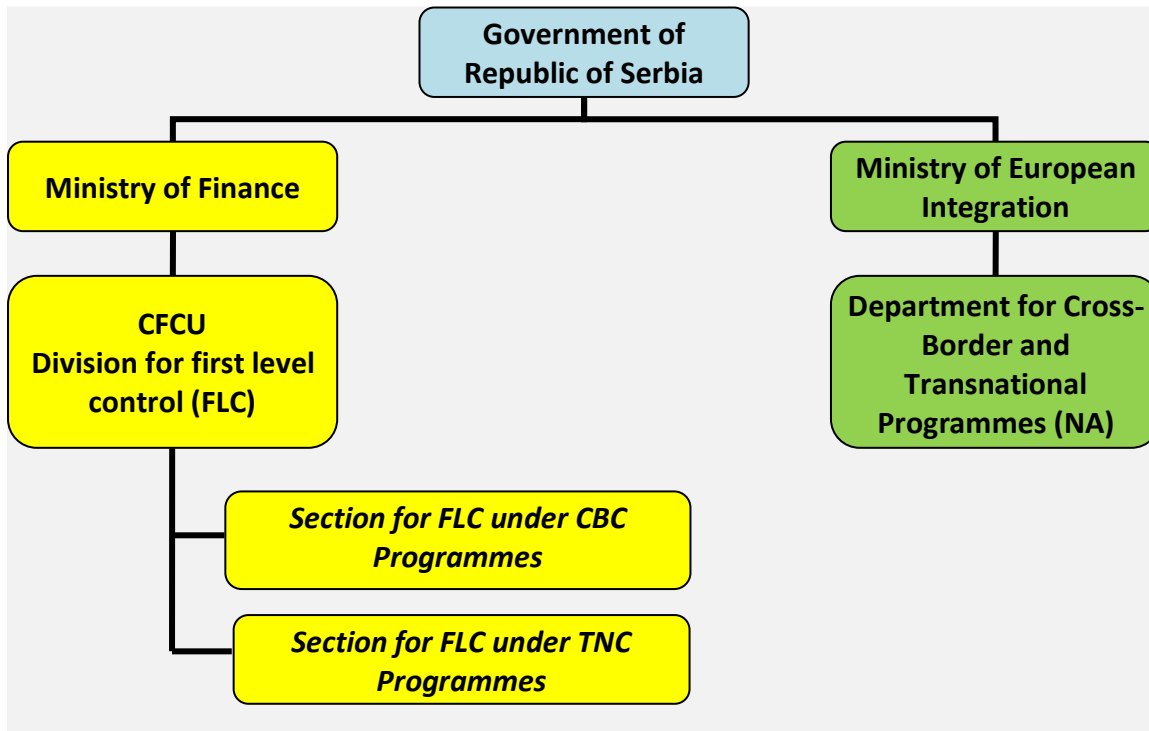
The control system set up for the purpose of validating expenditures of Serbian PPs is a **centralized one** (i.e control on national level by a public administrative body), located in the MoF. The MoF has been appointed to fulfil the responsibilities of the control body responsible for Interreg-IPA CBC and TNC Programmes by the Government conclusion 05 no.337-9895/2017 of 12.10.2017.

In line with the **Rulebook on Internal Organisation and Job Classification** in the Ministry of Finance, **the Department for Contracting and Financing of EU Funded Programs (CFCU)** is responsible for ensuring the functions of the Control Body for all IPA Cross-Border Programmes under shared management. Controlling activities are carried out by the **Division for FLC** within the CFCU; the Division consists of two Sections, for CBC and TNC Programmes, organisationally and functionally independent from each other. The Division for FLC is independent of other units in the MoF and other national level bodies involved in the management of CBC/TNC programmes.

First Level Controllers are in part civil servants financed from the state budget, and partly engaged through technical assistance funds on the programme level.

The controllers that are engaged through technical assistance funds of a particular programme do not participate in the TA expenditure verification although they can participate in the expenditure verification of the respective programme.

Figure 1 Serbian FLC system



The **Serbian Division for FLC** is responsible for verifying expenditure of Serbian PPs under the 6 shared management programmes involving Serbia, by performing the following tasks:

- ➔ Receipt of the partners reports through electronic data base,
- ➔ Assignment of controller through electronic data base,
- ➔ Check of expenditure as regards completeness, compliance, plausibility and reality – desk-based and on-the-spot,
- ➔ Issuing or re-issuing of FLC Certificates,
- ➔ Notifying on suspected irregularities and assisting in investigation of irregularity cases (through Irregularities Officer appointed by the NA),
- ➔ Maintaining the audit trail.

Apart from the above mentioned core functions related to verification of expenditure, the Division for FLC is also responsible for other tasks, i.e: development of documentation, proposing the modification of procedures, preparation and delivery of trainings, workshops etc.



3. FIRST LEVEL CONTROL PROCEDURES

The national controllers work in a ‘system’ put in place by the Interreg IPA CBC and TNC partner countries. However, the principal users of these national systems are the programme authorities, mainly the MA and the CA. According to the EC Regulations, the MA should check whether all payment requests from all partners have been properly checked. LPs are required to support this process by checking the existence of adequate controls at the level of PPs. The AA then, through audits of operations, reviews the work of the national controllers on a sample basis, and should have unlimited access to their reports and working papers. Finally, the national controllers should be involved in the system put in place by each partnering country for the communication of irregularities.

Only a national controller can confirm that all eligibility and compliance queries have been satisfactorily answered for a single payment claim.

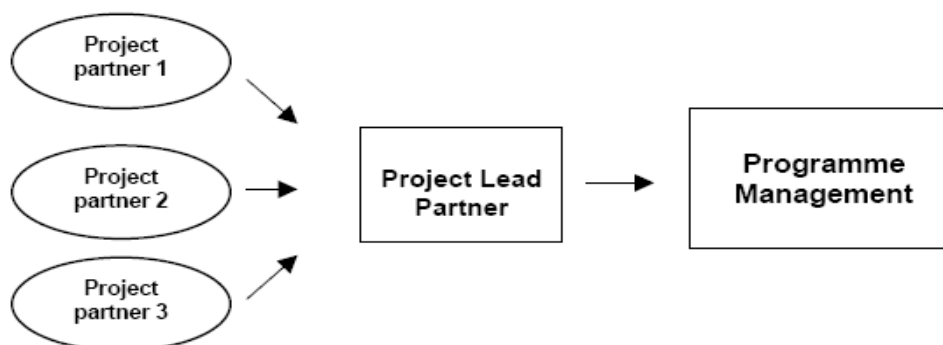
3.1. OVERVIEW OF THE FLC PROCESS

Let us first avoid common misunderstandings about these management verifications: they are not only to check whether or not the service was rendered, they do not intend only to ‘monitor’ the project against general output or impact indicators, and they are not set up only to confirm that the amount declared to the programme as eligible expenditure has been correctly entered by the beneficiary in its own accounts. **In reality they are all of these things and even more!**

The procedure for First Level Control in the Interreg-IPA CBC and TNC Programmes follows the “Lead Partner” principle, which means that the control of a project should be performed at national level for each project partner by the responsible Controller of the concerned partnering country. The Lead Partner shall collect the **FLC certificates** from all project partners, which will be the basis for the **Application for Reimbursement** of the Lead Partner.

FLC certificates are submitted in line with the project reporting procedures set up for each Interreg-IPA CBC and TNC Programme. Commonly, projects’ activity reporting is used by the programmes for monitoring the project’s implementation. Usually projects are reporting to programme management **on a 6-monthly or quarterly basis (or 4-monthly basis in case of HU)**. Financial report requirements vary but generally each partner provides information on the amount spent since the last report split according to the same budget lines as the ones in the application including any budget modification.

Figure 2 Project reporting procedure



The following sequential steps detail the **FLC process**:

1. Each Project Partner as well as the Lead Partner has to submit its expenditure relevant for a reporting period for validation to the designated Controller in its country of operation. Each project partner – including the Lead Partner – is responsible separately for having its expenditure validated by the designated Controller.
2. The Controller verifies the expenditure submitted by the Project Partner (in this case the Lead partner is also considered as Project Partner) on the basis of the invoices or accounting documents of equivalent probative value, verifies the delivery of the products and services co-financed, the soundness of the expenditure declared, and the compliance of such expenditure with Community rules and relevant national rules.
3. After verification, the Controller issues the FLC Certificate (“First Level Control Certificate”).⁸
4. Each project partner has to submit the FLC certificate to the Lead partner.
5. The Lead Partner is responsible to verify that the expenditure of its Project Partners is validated by the designated Controllers for the Interreg-IPA CBC and TNC Programme.
6. The Lead Partner has to submit an Application for Reimbursement (‘payment claim’) to the Joint Secretariat supported by the FLC Certificate of its Project Partners within a period of three months from the end of each reporting period.


First level controllers will check every item of expenditure entered in the programme accounts, supporting documents such as time sheets and the calculation of the totals for each budget line and the claim as a whole. The whole system is designed to provide guarantees of the **eligibility and correctness of all expenditure** declared and this **is the focus of the checks**.

As such, first level controllers will also look at key documents in the **audit trail** to make sure that the costs claimed are real costs, that the activities really took place (e.g. participant lists from seminars) and that rules are being followed (e.g. evidence of tendering procedures). The audit trail must allow controllers and auditors to enter the management system at any level and

⁸ It is to be noted that the conclusions of FLC Certificates may be disputed by LPs or PPs. When formal complaints (or appeals) against expenditure declared ineligible by the Control Body are received by MAs (it is assumed that such appeals will be submitted by LPs to MAs), they have to be considered at national level (since decisions of the Control Body are also taken at the national level). In Serbia, the NA is responsible for handling such appeals - for details, see the document “National Authority Procedures for Treating Appeals against Serbian First Level Control Decisions on Ineligible Expenditure under Serbian IPA I and IPA II CBC and TNC Programmes under Shared Management”.



eventually trace back all declared expenditure to the original invoices (or documents of equivalent value). A clear description of the accounting evidence to be held at each level is therefore essential as is communicating this information to everyone involved.

	<p>Every partner is checked!!!</p> <p>Control is to be carried out in each partner's own country to check compliance with the national rules governing that partner.</p>
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3.2. TYPES OF FLC CHECKS

In formal terms, the first level control of project expenditure should verify:

- **Delivery** of the products and services co-financed;
- **Reality** of the expenditure claimed;
- **Eligibility** of the expenditure;
- **Compliance** with the EU, programmes and national rules;
- Compliance with other national and Community rules including those on **public procurement, publicity and information, protection of the environment and equal opportunities**.

In practical terms, it means that the tasks of each controller are:

- To verify that the declared expenditure relates to the approved project;
- To verify that co-financed goods and services have been delivered and the works have been performed;
- To verify the expenditure declared by the beneficiaries relates to the eligible period and has been paid. For simplified cost options to verify that conditions for payments have been fulfilled;
- To verify the compliance with applicable national law (including eligibility rules), relevant EU Regulations and the Operational Programme;
- To verify the compliance with Union and national policies – related to partnership and multi-level governance (transparency, equal treatment...); promotion of equality between men and women; non-discrimination; accessibility for persons with disabilities; sustainable development; public procurement legislation in force; EU-competition law/ state aids; environment rules and Publicity rules set at EU and Programme level;
- To verify the compliance of the expenditures with the approved project and signed financing/ co-financing contracts/ monitoring agreements;
- To check the avoidance of double financing;
- To check the correctness of the FLC request and of the beneficiary progress report;
- To verify the reality of the project, including physical progress of the goods/ services/ works purchased and compliance with the terms and the conditions of the contracts and with the output and result indicators – according to relevant procedures in force;
- To verify adequacy of supporting documents and of the existence of an adequate audit trail - the correctness of the invoiced goods, services and works regarding the eligibility and the evidence of the real spending of funds (the invoices contain eligible expenditure included in the contract which correspond to the objectives of the contract);
- To check the registration of the expenditure in the accounting system of the beneficiary, in separate analytical accounts for the project;
- To verify that the information and visibility requirements of the EU and the programme have been respected;
- To check the record-keeping and archiving rules for the documentary evidence related to the implementation of the project;



- Notification on suspicion of irregularities – if the case;
- To perform checks regarding the absence of conflict of interests of the persons involved in the procurement procedures;
- To apply financial corrections concerning the breach of public procurement in accordance with the applicable law.

The process of verification carried out by the FL Controllers at national level includes 100% desk based verification and on-the-spot verifications (administrative, financial, technical and physical checks), as appropriate.

Desk-based checks

All partner payment claims submitted by the PPs and the LP are subject to a desk-based check. Depending upon the documentation supplied, the desk based verifications should check:

- ➔ expenditures declared by the beneficiary are real and incurred for the project approved;
- ➔ expenditures declared by the beneficiary are supported by the necessary accounting documents;
- ➔ expenditures declared by the beneficiary have been paid;
- ➔ the products or services have been delivered in accordance with the contract, European and national legislation (if applicable);
- ➔ supporting documents presented by the beneficiary are complete, accurate and acceptable as to their form and content;
- ➔ expenditure declared by the beneficiary is eligible according to the common eligibility rules of the Programme as well as according to the relevant EU and national legislation;
- ➔ the part of the project implemented and expenditure declared by the beneficiary comply with the contract;
- ➔ the part of the project implemented and expenditure declared by the beneficiary are in line with Community rules, including public procurement rules, state aid rules, environment protection rules, equal opportunity requirements, publicity, etc.
- ➔ the part of the project implemented by the beneficiary receives financial contribution only under the respective Programme, i.e. double-financing of expenditure with other Community or national schemes and with other programming periods is avoided;
- ➔ the beneficiary maintains either a separate accounting system or an adequate accounting code for all transactions relating to the project;
- ➔ the beneficiary fulfilled the EU requirements concerning information, publicity and visibility;
- ➔ eventual revenues have been deducted from the total eligible expenditure of the project part implemented by the beneficiary or the beneficiary declares that no revenues have been generated;
- ➔ the VAT reported (where applicable) is eligible, in line with the subsidy contract, the VAT status of the beneficiary and the respective national VAT legislation;
- ➔ adequate audit trail is maintained by the beneficiary;



- ➔ expenditure declared by the beneficiary is not affected by irregularity or any suspected irregularity or fraud.

Desk-based check is **not** considered sufficient without the elaboration of the supportive documentation. Documents are provided by the LP/PPs by submitting the necessary documents together with the list of expenditures to the controller. If project partner has filled the reporting materials inadequately, documentation is missing or instructions have not been followed by project partner (e.g. timesheets have not been signed), FLC should ask project partners to correct the mistakes or clarify unclear issues. In general, all communication between the FLC and project partners should be performed in a clear, written, explanatory manner, with clear instructions and references, in order to enhance the implementation process but also to maintain transparency and audit trail.

Four eyes principle

According to specific programme requirements, first level control is performed by one or two controllers. This double check is known as “four eyes principle”, which is applied to 100% of expenditures or on sample basis, depending on programme.

In order to comply with the requirements of the quality check, additional checks on sample basis shall be performed by another employee of the Control Body, who will check 100% of expenditures included in the sample.

The minimum sample size shall be 5% of all LB/PP partner progress reports in the relevant reporting period, unless otherwise defined by programme rules. The sampling methodology should be based on risk analysis and may include random option, if applicable.

If the initial sample shows that the quality of the information provided is not as good as expected, the sample size shall be extended. In such cases, the expansion of sample size shall be determined by the Control Body.

Unless otherwise defined by programme rules, risk assessment methodology shall take into consideration one of the following criteria:

- Project partner has budgeted EUR 5.000 or more (without the VAT) in the expenditure category Equipment, or
- Project partner’s budget contains an investment in infrastructure/works of any value, or
- Any potential risk identified by the Control Body.

On-the-spot checks

On-the-spot checks of individual projects are the control carried out by the First level controllers on the bases of desk based check. Unless otherwise defined by programme rules, controllers conduct on-the-spot check at least once during the project’s lifetime or in any case that the controllers find it necessary, at the premises of the controlled lead beneficiary/project partner and/or in any other place where the project is being implemented (e.g. infrastructure, provision of services, etc.)

For projects conducting investments, one on the spot check could be performed during the early phases of the project, and additional one closer to the concluding phase, or even after that, if applicable

This type of checks means that the controller will actually **visit the project** and verify that certain



activities, purchases of services and products as well as investments have actually taken place in accordance with the approved application during the implementation, and that the related regulations have been respected.

In general, following aspects are to be included in the on-the-spot checks:

- The **reality** of the operation
- **Progress** of the activities
- **Delivery** of products, services and works in full compliance with the approved application as well as **compliance** with EU and national rules on visibility, public procurement, and all relevant horizontal issues
- **Accuracy of all information** provided by the beneficiary regarding physical and financial implementation of the operation
- **Accounting verification, i.e.** check that the expenditures made by the beneficiaries are registered in the accounting system, a separate account or all the expenditure have a specific code and can be identified in the accounting system, in accordance with Article 125 (4)-b) of Regulation (EU) No 1303/2013

On-the-spot verifications should be **planned in advance** to ensure that they are effective. Generally, notification of the on-the-spot verifications should be given in order to ensure that the relevant staff (e.g. project manager, engineer, accounting staff) and documentation (in particular, financial records including bank statements and invoices) are made available by the beneficiary during the verification.



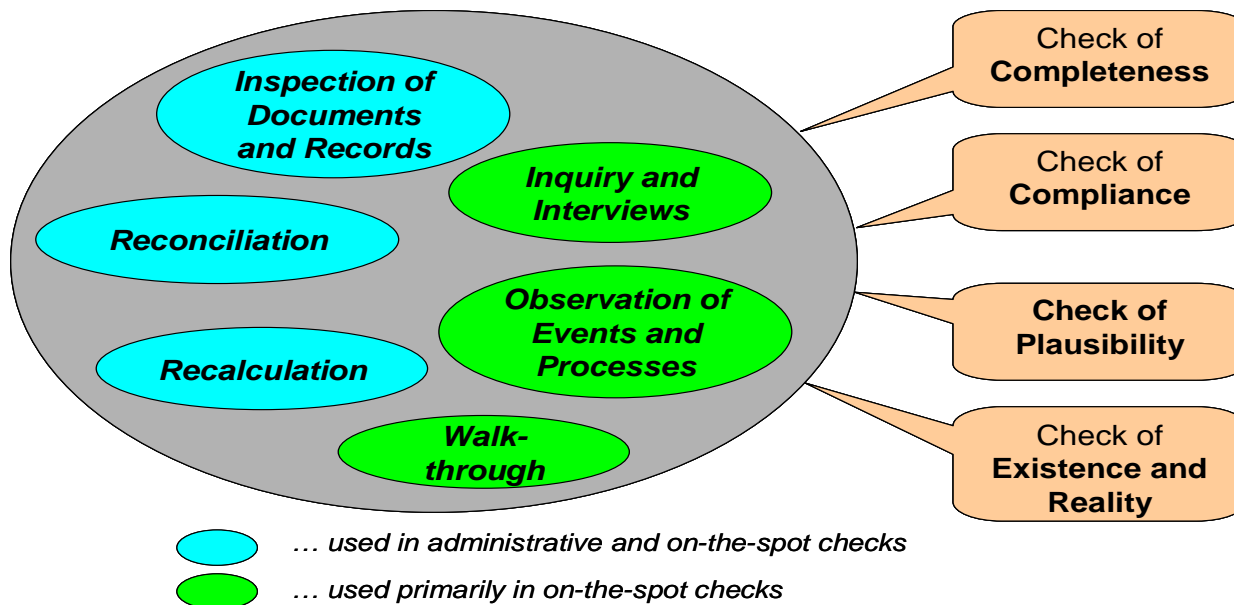
3.3. MAJOR AND SUPPORTING FLC PROCEDURES

Every desk based and on-the-spot check consists of a set of procedures that is applied by controllers. In practice, there are only a small number of key procedures that underlie checklists and control reports, namely the check of **completeness**, the check of **compliance**, the check of **plausibility** and the check of **existence and reality**. These key procedures have a clear control objective and are usually done with the explicit intention to determine the amount of eligible and ineligible expenditure.

Check of Completeness	<ul style="list-style-type: none">↪ Intend to check whether information provided by the PPs is complete.↪ This can relate, for instance, to the completeness of documents attached to the financial report but also to the completeness of revenues deducted.
Check of Compliance	<ul style="list-style-type: none">↪ Checks of compliance with legislation and rules governing the project.↪ Many compliance checks are straightforward, with a clear control objective, a clear outcome and immediate effects on eligibility (e.g. expenditure was incurred during the eligible time period).↪ Other compliance checks can be less straightforward such as those related to horizontal rules (e.g. 'equal opportunity and non-discrimination') or those related to more complex legislation such as public procurement or State Aid.
Check of Plausibility (acceptability)	<ul style="list-style-type: none">↪ Basically any check involving professional judgment on the side of the controller, such as checking value for money or the allocation of overheads, depreciations and staff costs to a project is a plausibility check.
Check of Existence and Reality	<ul style="list-style-type: none">↪ Checking if the beneficiary, the project, the product or service or a situation as described in project reports, project documents or oral explanations exist in reality.↪ They are often straightforward, with a clear control objective and clear outcome.

The key control procedures usually consist of a set of sub-procedures. As illustrated in the figure below, there is a quite well defined set of sub-procedures, which can underlie all substantive procedures:

Figure 3 Supportive control procedures



3.4. DOCUMENTING OF CHECKS

Experience has shown that sometimes controllers performed excellent control work but failed to document the work done in a way that would enable later audits (e.g. carried by audit authority, EC audit service, etc.) to fully understand what has been done.

Desk based and on-the-spot checks	Primarily in on-the-spot checks
<p>Inspection of documents and records</p> <p>↳ Reading and understanding of any relevant document, electronic record or print out of an electronic record.</p> <p>Reconciliation</p> <p>↳ Check whether or not a figure included in one document is identical with the same figure included in another document (e.g., staff costs in the financial report are identical to the sum included in the staff cost overview).</p> <p>Re-calculation</p> <p>↳ Aimed at verifying that a figure was calculated correctly. If figures cannot be re-calculated, controllers either reject the figure or require the beneficiary to present a clarification.</p>	<p>Inquiries and Interviews</p> <p>↳ Inquiries are documented discussions with beneficiaries. Extensive inquiries are often called interviews.</p> <p>Observation</p> <p>↳ Involve watching people while they execute project-related activities such as an event or an internal process. Observations can thus be conducted in the office of the beneficiary or at any other site of project activities.</p> <p>Walk-Throughs</p> <p>↳ Trace a specific process or transaction of the beneficiary step by step (e.g. a public procurement). Useful in order to gain a better understanding of the beneficiary, the beneficiary's processes and internal controls and potential error sources/risks.</p>

First level control documentation is a hard copy or electronic record of (1) the various controls performed by a controller, (2) the results and relevant evidence obtained through these controls and (3) the conclusions reached and corrective measures taken. It can include, for instance:

- Checklists;
- Control reports;
- Memos and Letters of confirmation;
- Correspondence concerning significant matters (including e-mails);
- Copies of the beneficiary's records (e.g. contracts and agreements, invoices, promotional brochures, training material, etc.);
- Lists of items provided by the beneficiary (e.g. list of invoices, revenues, purchased goods, contracts, etc.);
- Photographs;
- Others.

FLC documentation should provide a transparent basis for the FLC certificate and evidence that the work was performed in accordance with the applicable legal and regulatory requirements.



FLC documentation should also demonstrate the quality and transparency of the work done towards third parties (e.g. audit authority, EC audit service, etc.). It should enable auditors, who have no previous experience with the controller or beneficiary, to fully understand the controls performed, the evidence obtained and the conclusions reached.

Finally, preparing good documentation also enhances the quality of the FLC work itself: It can be useful in planning and performing FLC work and enables supervisors or peers to review the work done (in case of four-eyes principle). It also provides a solid basis to effectively follow-up on errors detected.



3.5. REPORTING TO AND CONTROL BY THE NA

Countries participating in a CBC or TNC programme under shared management are required to ensure that its management and control system is properly established and continues to operate satisfactorily. In connection with functions secured at national level in Serbia, the NA is responsible for performing the necessary checks on the management and control system for each of the 6 programmes in question; such checks concern, primarily, the Control Body for the FLC function. Modalities, which are laid down in section 3.3 of the “National Authority Manual for Serbian IPA II CBC and TNC Programmes under Shared Management”, foresee formal analysis of information by and discussions between the NA and the Control Body every 6 months (reporting periods corresponding to the first and second semesters in each year). The process results in a report drafted by the NA.

In order to allow for examination by the NA, the Control Body shall ensure that the NA has, within 1 week of the end of each reporting period, information current at 30 June and 31 December concerning declared and certified expenditure for all Serbian project partners under all IPA II CBC and TNC programmes under shared management; the standard method shall be for Control Body staff to upload the necessary data (in excel and in a pre-defined and agreed form) to MEI’s electronic management system, ISDACON. In addition, the Control Body shall also ensure that such data is updated at least every week, so that information in ISDACON is relatively up-to-date. See Annex 1 - FLC7.

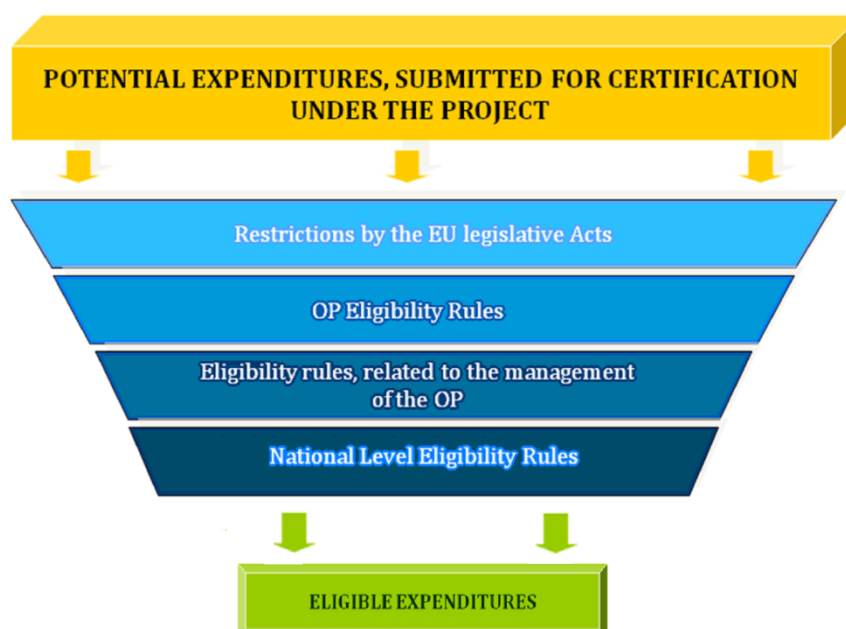
4. VERIFICATION OF EXPENDITURE

The 4-levels of eligibility rules

As noted above, there is no single, exhaustive legislative source for the eligibility of the expenditures under the Interreg-IPA CBC and TNC programmes. Instead four levels of eligibility rules exist⁹, which must be taken into account in their combination:

- A. The restrictions stipulated in the respective EU legislation,
- B. The eligibility rules of the Programme, which can be specific,
- C. The eligibility rules, related and enforced in relation to the management of the Programme, which again may be specific,
- D. The eligibility of the national rules, which may be more restrictive than those on EU level.

Figure 4 Eligibility rules



The basic level of determining the eligibility of certain expenditure is **at the EU level**. The related Regulations are as follows:

- ➔ **Regulation (EU) 231/2014** of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-accession Assistance (IPA II),
- ➔ **Commission Implementing Regulation (EU) No 447/2014** of 2 May 2014 on the specific rules for implementing Regulation (EU) No 231/2014 of the European Parliament and of the Council establishing an Instrument for Pre-accession Assistance (IPA II).

⁹ Actually this division is provisional, as in practice each level below contains the restriction of the previous level – for example the national rules repeat or refer to all the restrictions from the EU regulations, the texts of the Programme documents repeat or refer to all the restrictions from the EU regulations and the national rules and so on. In case of contradiction between the abovementioned rules, the stricter rule shall apply.

The **EU Horizontal Priorities** should also be considered as part of the common EU eligibility rules – i.e. all projects, receiving financing by the EU, must have positive or at least neutral effect towards the following main priorities of the EU:

- Environment protection and sustainable development,
- Non-discrimination,
- Adherence to competition rules and state aid rules,
- Adherence to procurement rules.

The **national rules** have most often two sources:

- Budget legislation, related to public expenses,
- Technical legislation (e.g. environment protection, construction, etc.).

A cartoon character with a yellow face, blue eyes, and a white hand pointing upwards. Above the character, the text "Don't FORGET!" is written in red and black.	<p>The main principle is that when EC creates eligibility rules at EU level, the Participant states should follow them strictly and not to elaborate rules with less restrictive force in the area. But there is no restriction for the Participant states to create rules with more restrictive force than the required by the EU.</p>
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For Serbia the applicable eligibility rules for IPA programmes laid down in the **Framework Agreement** between Government of the Republic of Serbia and the Commission of the European Communities on the rules for co-operation concerning EC financial assistance to the Republic of Serbia in the framework of the implementation of the assistance under the Instrument for Pre-accession Assistance (IPA) and in the **Financing Agreements** concluded between Serbia and the EC for every single Interreg-IPA CBC and TNC Programme.

Besides EU and national legislation, the **Interreg-IPA CBC and TNC Programmes** contains several important criteria for determination of the eligibility of the expenditures, for example according to the planned expenditures by priorities (onto which activities the Programme focuses and therefore which activities will be eligible) or depending on the potential beneficiaries (which beneficiaries will be eligible). The different methodological, informational, etc. guidelines, published by programme level authorities are also a source of information regarding the specific eligibility rules.

Besides these elements of eligibility, contained in the Programme documents, there are elements contained in the **Application Package of each Call for proposals** (mainly in the Application Guide and the Subsidy Contract), approved by the authorities of the Programmes, for example:

- the standard duration of the projects,
- the allowance or not of some types of expenditures,
- the possibility to make expenditures outside of the defined areas of the Programme,
- the possibility to make changes in the Subsidy Contract with the Lead partner for extension of the project duration,
- the possibility for reallocation of funds between the different categories of expenditures in the framework of the project.



Territorial eligibility

Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council sets specific rules on eligibility of expenditure for Cooperation programmes.

One of the conditions for the participation in the CBC and TNC programmes is the eligibility area requirement. Each Operational Programme defines the eligible area in terms of the whole programme and specific priority axes. However, the Programme may finance activities performed outside the Programme area up to the limit of 20% of the support from the Union at Programme level.

Eligibility in time

As stated in the Article 43 of the Commission Implementing Regulation for IPA II No 447/2014, project expenditures are eligible for EU funding if they are incurred:

- ➔ by a beneficiary from a Member State and paid between 1 January 2014 and 31 December 2022; or
- ➔ by a beneficiary from an IPA II beneficiary and paid after the submission of the cross-border cooperation programme to the European Commission.

Ineligible costs in general

Ineligible costs in principle are defined in the relevant regulations and specific sectorial or financing agreements. **Expenses not included in the list below are not automatically eligible.**

The following expenditures shall not be eligible for funding in line with Article 43(2) and (3) of **Commission Implementing Regulation (EU) No 447/2014:**

- **interest on debt;**
- **value added tax (VAT)** except where it is non-recoverable under national VAT legislation;
- the **decommissioning** and the construction of **nuclear power stations;**
- investment to achieve the **reduction of greenhouse gas emissions from activities falling under Annex I to Directive 2003/87/EC** of the European Parliament and of the Council;
- the manufacturing, processing and marketing of **tobacco and tobacco products;**
- undertakings in difficulties as defined under **Union State aid rules;**
- investment in **airport infrastructure** unless related to environmental protection or accompanied by investment necessary to mitigate or reduce its negative environmental impact;
- the **purchase of land not built on and land built on exceeding 10% of the total eligible expenditure** for the operation concerned shall not be eligible for funding under IPA II cross-border cooperation assistance. For derelict sites, for sites formerly in industrial use which comprise buildings and **for operations concerning environmental conservation, this limit shall be increased to 15%;**
- operations shall not be selected for IPA II assistance where they have been physically



completed or fully implemented before the application for funding under the CBC programme is submitted by the beneficiary to the MA, irrespective of whether all related payments have been made by the beneficiary.

In line with Articles 65(11) and 69(1) of the **Regulation No 1303/2013 of the European Parliament and Council (CPR)** the following expenditures shall not be eligible for funding:

- the expenditure item included in the Statement of Expenditure which is **supported from another Fund or Union instrument**, or support from the **same Fund under another programme or state budget**,
- **Contributions in kind.**

In line with Article 2 of **Commission Delegated Regulation (EU) 481/2014** supplementing Council Regulation (EU) 1299/2013 with regard to specific rules on eligibility of expenditure for cooperation programmes:

- Fines, financial penalties and expenditure on legal disputes and litigation;
- Costs of gifts, except those not exceeding EUR 50 per gift where related to promotion, communication, publicity or information;
- Costs related to fluctuation of foreign exchange rate.

Furthermore, **other ineligible expenditures shall be defined by the specific Programme.**

Exchange rates

All expenditure reported in the Statement of expenditure must be denominated in Euro. This means that all project partners must convert the expenditure, which was incurred and paid in the national currency into Euro: *“The amount shall be converted into euro using the monthly accounting exchange rate of the Commission in the month in which the expenditure was submitted by the final beneficiary to the controllers. This rate shall be published electronically by the Commission each month.”*

<http://ec.europa.eu/budget/infocurrency/index.cfm?Language=en>

Thus, the same exchange rate will be applied per reporting period to all expenditure regardless of their payment or invoice dates. The application of correct exchange rate shall be verified by the Controller. Costs related to fluctuation of foreign exchange rate are not eligible as already described under above section related to *„Ineligible costs in general“*

In the case of **foreign exchange gain/loss**, the difference can occur not only from the moment of payment until the reporting, but also ones that derive from the contracts with foreign exchange clause, regardless of the budget line.



4.1. BUDGET LINES

Commonly, the Interreg-IPA CBC and TNC projects' expenditures may be eligible under the following budget headings:

- *Preparation/ closure costs*
- *Staff costs*
- *Office and administration*
- *Travel and accommodation*
- *External expertise and services*
- *Equipment/ Supply*
- *Infrastructure/ Works*

In the sections to follow, those budget heading will be described as regards some basic principles for control verifications to be carried out. For concrete projects' verifications, Controllers should always refer to Programme's specific requirements.

Preparation costs and closure costs

Preparation costs represent a special category of eligible expenditure that may be incurred during the preparation/ development phase of the project i.e. date of submission of the Draft Co-operation Programme to the European Commission until the start date of the project implementation period. They must be clearly identified in the project proposals (costs foreseen in WPO except for the Interreg-IPA CBC Bulgaria-Serbia) and show the direct connection to the approved project activities. This category includes expenditure on the preparation of projects (meetings between partners, consultations, studies, and translation of documents, taxes and other charges) or purchase of equipment necessary for the preparation of the project activities carried out before signing the subsidy contract.

In case when there is a difference of more than one accounting year between the cost had occurred and the project approved, so that they couldn't be registered on the special project accounts, but are registered in the general accounts of the beneficiary, they are deemed to be accepted as eligible, given that satisfactory supporting evidence has been presented.

Supporting documents for the preparation costs are the same as for such type of cost under the approved project. **These costs are eligible if they comply with the general eligible rules as well as the specific time eligibility frames for the specific Interreg-IPA CBC and TNC Programme.**

Should the programme allow, in case that during preparatory period, the procurement rules on the programme level had not been defined, the procurement procedures will be deemed eligible if they respect general rules covering the transparency, non-discrimination, publicity, equal treatment etc.

Apart from the preparation costs as special category of eligible expenditure, under programmes **closure costs** may be allowed as eligible costs with detail applicable rules. The closure costs are related to activities of the preparation and submission of the final progress report. This amount aims to compensate the work related to the operation closure after the end date of the operation implementation period.



Staff costs

Staff costs are the costs of the actual time worked by the persons directly carrying out the work under the project and directly employed by the partners. They can be claimed as real costs or flat rate costs (depending on the specific programme rules). Programme authorities may decide that different staff costs declaration methodologies are applied on the programme level or operation by operation depending of the type of operation or type of beneficiaries. Therefore, always consult eligibility rules of expenditure related to specific programme.

In general, the following staff costs can be reimbursed:

- **Real costs:** where the Beneficiary must document that expenditure has been incurred and paid,
- **Flat rate:** Staff costs of an operation may be calculated at a flat rate of up to 20 % of the direct costs other than the staff costs of that operation. In some programmes there is possibility to use 10% flat rate in case of investment projects, therefore, since staff costs may differ from programme to programme due to the programme specific rules, please consult relevant programme manual for further details. In case of flat rate costs, no supporting documents are required.

In case of the real costs, the following options may be applied:

- Full-time in the project where employee works 100 % of the working time on a project, regardless of the number of hours he/she was hired for (no need for timesheets);
- Part-time in the project where person who works additionally in other projects or fulfils non-project related duties in the company (part-time with a fixed percentage of time per month dedicated to the project (no need for timesheets) and part-time with a flexible number of hours worked per month on the project (timesheets needed));
- Contracted for project purposes on an hourly basis (timesheets needed).

The calculation is done on the following basis:

- Remuneration costs charged should be **taken from payroll accounts** and should be **the total gross remuneration plus the employer's portion of social charges**. Remuneration costs must be calculated individually for each employee and must be based on the monthly pay slip. All remuneration related costs, such as travel cost reimbursement, membership in professional bodies and chambers, board wages, annual leave contribution etc. are deemed to be accepted as eligible costs related to the remuneration package, unless defined ineligible in the respective programming rules.
- Working time must be recorded throughout the duration of the action. **Estimations of hours/days worked are not acceptable**. The maximum acceptable working hours cannot exceed the maximum time defined in the Labour Law which is **40 hours per week, whatever type the contract is in question**. The Law also defines possible overtime, the maximum being 8 hours per week. In addition, an employee cannot work more than 12 hours per day including overtime. When it comes to the type of contract, the Law recognizes several types of contracts between employer and employee i.e. employment contracts for regular employer's job posts that is primarily full-time type of the contract but in some cases, it could be part-time as well; service



contract related to delivery of specific services not under employer's competences. Either way it is prohibited to charge same days/ hours twice, even though in case of service contracts it is allowed to have more than one contract at the same time. In case it is discovered that same working days/ hours are also charged on another project/ basis, the declared amount should be deemed ineligible. For staff working full-time on the project and for staff working part-time with a fixed percentage of time worked per month there is no obligation to provide time sheets. Timesheets could be required sometimes in case of the staff costs of the individuals who work on an hourly basis according to the employment document. It is also required to provide timesheets in order to justify staff costs related to individuals who work on a part time assignment on the operation with a flexible number of hours worked per month (number of hours worked on the operation varying from one month to the other).

- ➔ In case that the working outside of the regular place of work has not been proscribed in the contract, the working hours reported in such way shall not be accepted as eligible.
- ➔ If a new position (full-time or part-time) is created in the organization solely for implementation of the project, the gross salary rates for this position shall correspond to similar positions and qualifications in this organization. If the organization did not employ the staff before the project (e.g. NGO having only voluntary workers), it can create new positions and establish gross salaries which correspond to average rates in the country in the sector, taking into consideration the market situation and national legislation regulating the rates of the salaries.

The following documentation has to be submitted to the First Level Control:

- employment/labour contracts;
The contracts have to correspond with the project in terms of timing, duration, scope and activity they have to be signed by both parties and properly registered. The controllers shall check the following:
 - Employment/work contract or an appointment decision/contract considered as an employment document and their addenda/ modifications
 - Document setting out the percentage of time to be worked on the project per month (if not specified in the contract)
 - Job description providing information on responsibilities related to the project.
- payslips or other accounting documents where the personnel costs are clearly detectable;
- proofs of payments of salaries and the employer's contribution;
- time- sheets.

The following information must appear on the time sheets:

- be filled in separately for each employee and worker involved in the project;
- contain information on a monthly basis about the hours/days worked for the project;
- state briefly the activities performed within the project;
- information about the total hours/days worked per month for the project;
- be signed by the employee and his/her supervisor;



- any other document that the First Level Controller might require for checking compliance with national legislation.

Office and administration

As administrative (overhead) costs should be considered the so called '**indirect cost**', usually associated with day-to-day running a business, but not considered directly applicable to the current line of goods and services produced.

The overheads are defined on the respective programme level as flat rate in relation to the direct costs and there is no need for proof documentation.

The type of costs most commonly refers to:

- Renting of the premises,
- Utilities (electricity, heating, water),
- Mailing / Postage,
- Photocopies,
- Phone, fax and internet costs,
- Office supplies.

Travel and accommodation

Travel and accommodation costs must be clearly linked to the operation and be essential for effective delivery, promotion and/or sustainability of the operation activities. Travel and/or accommodation costs should be in line with the principle of sound financial management i.e. it should be chosen as the most economical travel option or otherwise duly justified. In this budget line, the following costs are eligible:

- ➔ **Travel costs** directly related to and essential for the effective delivery of the project and covering the economy class travel on public transport or rented/own vehicles only for project staff members. As a general rule, the most economical way of transport must be used. However, if the most economical way of transport can't be justified (for ex. it takes twice much time or multiple exchange of means of transport), the most efficient way of transport can be accepted if the beneficiary can clearly justify the choice of travel.

Travel costs will usually cover expenses for: airplane tickets, train tickets, bus tickets, rent of vehicle for the operation, car/mini-bus travels (expenditure for fuel/ kilometre, vehicle maintenance, green cards, motor way taxes, vignettes, etc.), medical insurance, etc.

In the case of the fuel cost for the **private vehicle** used for the needs of the project, relevant proof documentation should contain issued decision for the use of car for specific travel.

In case of **company car** relevant proof documentation should contain average consumption of fuel for the type of vehicle used and Car log.

- ➔ **Accommodation costs** should also be most economical travel option and within the national limits set under national regulation such as "*Decree on reimbursement of costs for civil servants and appointees*," mentioned above. The public authorities must



comply with the rules applicable in country. Therefore, accommodation in hotels with a rating higher than 4* in principle is not eligible, only in exceptional cases regulated by *the Decree*. In any case it should be duly justified;

Note: FLC officers should consult relevant programme documentation during the process of verification of such expenditure, since, in certain cases, specific restrictions are laid down at programme level (see, for example, the PIM for BG).

- ➔ **Daily allowance** for project's staff occurring from project work related travel. The daily allowance must not exceed the usual daily allowances of the public authorities of the project partner's country and must comply with the rules applicable in the country. Despite of the project's partner legal status, the daily allowances rates of the public authorities have to be followed. In case of travel through multiple countries, whereas the person didn't exceed 8 hours, the total allowance will be calculated on the basis of the country where the main activity will take place.

The payment of daily allowance/per diems can be done through advance payment or upon return from the business trip. The payment in local currency can be executed in cash or by bank transfer. Advances in foreign currency can be made either in cash or via bank transfer; by contrast, foreign currency payments against final calculation of travel expenses can only be made via bank transfer. Upon the return from the business trip, the final balance is done where the difference or reimbursement are calculated and executed.

All organizations should define in their internal acts the modalities of calculation and payment of Per diems. In case that the project partner fails to submit the relevant document, the eligibility of costs shall be calculated based on the same basis as for the project partners that are budgetary users (the reference document for the public organizations is the "Decree on reimbursement of costs for civil servants and appointees" (Official Gazette No.98/2007, 84/2014, 84/2015) adopted by Government of Serbia with subsequent modifications regulating method for calculation and payment of per diems for in-country and abroad travel).

Other relevant legislation includes:

- Law on foreign exchange operations,
- Income tax Law.

It should be noted that external services (i.e. travel agencies) are not eligible under this budget line. Moreover, any element which is covered by a daily allowance shall not be reimbursed in addition to the daily allowance.

For travel costs, the following documentation has to be submitted to the First Level Control:

- travel order,
- calculation of travel costs,
- agenda /programme for the meeting/event,
- the travel report or equivalent memo,
- original tickets and all other original documentary evidence for the travel (i.e. boarding pass, invoices/other equivalent documents for accommodation, in the case of e-tickets without its standard flight ticket, an e-mail with the booking number serves as a proof etc.),



- proofs of payment,
- any other document that the First Level Controller might require for checking compliance with relevant legislation.

Public procurement

For the funds in approved project budget for the external services, supply and/or works partners are obliged to conduct procurement procedure in line with the applicable procurement rules.

The application of external public procurement rules is one of the most challenging issues currently faced by Interreg-IPA CBC and TNC programmes.

According to the IPA general and implementing regulations, Interreg-IPA CBC and TNC programmes under shared management between Candidate/Potential Candidate Countries and Member States are implemented according to a system effectively identical to the Structural Funds approach. Therefore, when it comes to the public procurement a specific set of *“rules and procedures for service, supply and works contracts financed from the general budget of the European Communities for the purposes of cooperation with third countries”* has to be applied. Public procurement provisions are defined in **Article 45 of the IPA II Implementing Regulation (EC) No. 447/2014**, that states:

“For the award of service, supply and work contracts, by beneficiaries the procurement procedures shall follow the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012 which apply in the whole programme area, both on the Member State and on the IPA II beneficiary/ ies' territory.

For the award of service, supply and work contracts by the managing authority under the specific budget allocation for technical assistance operations, the procurement procedures applied by the managing authority may either be those referred to in paragraph 1 or those of its national law.”

Public procurement covers purchase of services, supplies and works financed from the project budget with the aim of implementation of the project activities.

In national legislation under Article 7, point 2 of the Public Procurement Law it is regulated application of other than national procurement rules. In line with this it is allowed to proceed in accordance with the regulations mentioned above.

The procurement process itself is considered to cover activities from the planning stage until performance of the contract has been completed. **The procurement process consists of the following main stages:**

1. Tendering (preparation, publication and clarification stage until submission deadline),
2. Evaluation and contracting (nomination of the evaluation committee, evaluation process and award decision until signature of the contract),
3. Project/Contract implementation of the services, supply or works (implementation of the activities and delivery of the final outputs in line with the contract).

All contracts awards must be carried out respecting the **principles of fair and transparent competition, equal treatment, non-discrimination, publicity, contractor nationality and goods origin, avoiding conflict of interest.**



Fundamental to the above is the following:

- advertising the intended procurement;
- equal treatment of all tenderers;
- use of the relevant procurement procedure defined on programme level;
- application of clear and objective criteria, notified to all interested parties, in selecting tenderers and awarding contracts;
- use of non-discriminatory Terms of Reference or Technical Specifications;
- allowing sufficient time for submission of expressions of interest or tenders;
- evaluation committee must comprise of an odd number of members (minimum 3) that must be technically competent to evaluate the bids received and be free of any conflict of interest vis-a-vis all tenderers. The deliberations of the evaluation committee must be confidential;
- The evaluation procedure should be conducted in the efficient manner having in mind the tender validity period, it should be properly documented and conducted in accordance with the relevant procedures.

For purpose of facilitating the work of the Serbian controllers when verifying expenditures subjected to procurement procedures, a summarized table of procurement steps vs. documents to be checked is presented in Annex 2.

INTERACT Point Vienna has developed a Procurement manual covering procedures for service, supply and works contracts for Interreg-IPA CBC and TNC programmes under shared management. This manual can be a useful tool as information source and its current version can be downloaded from:

<http://www.interact-eu.net/download/file/fid/579>

In case there is a decision to implement national procurement procedures, especially in the case of single tenders or engagement of staff, the national procurement regulations must be respected.

With the exception of procurement not exceeding 2,500 EUR (where payment may be simply made against an invoice), **the following documentation has to be submitted to the First Level Control, regardless of the type of procedure:**

- Procurement plan (not obligatory for every programme),
- Complete Tender dossier,
- All received offers,
- In case of cancellation, Cancellation notice,
- In case of negotiated procedure, criteria on the bases of which project partner chose potential bidders to dispatch tender dossier (at least 3),
- All relevant correspondence,
- Evaluation report and award decision.

Documentation related to the contract implementation that must be provided to the controller depends on the type of contract and project activities undertaken which is further described below in the sections related to external services, supply and works.



In all public procurement procedures, the professional judgement about what value and leading principle should prevail by the responsible contracting bodies, as well as by controllers and auditors, is not to be avoided!

Case-by-case analysis

Does the irregularity bring real consequences to the result of the tender?

For purpose of facilitating the work of the Serbian controllers when verifying expenditures subjected to procurement procedures, a summarized table of procurement steps vs. documents to be checked is presented in **Annex 2**.

External expertise and services

External expertise and services covers costs paid on the basis of contracts and against invoices that are acquired to carry out certain tasks or activities, linked to the delivery of the project. The work done by external experts and service providers must be essential to the project.

Each project partner is responsible for ensuring that EU and national public procurement rules are respected and that all contracts comply with the basic principles of transparency, non-discrimination and equal treatment as defined in the EC Treaty and the EU Financial Regulation no. 966/2012. No sub-contracting between project partners is allowed.

All additional costs related to external experts (e.g. travel and accommodation expenses for external experts) must be foreseen in the service contract and recorded under this budget line:

- ➔ The work of external experts/service providers is **essential to the implementation of the project**;
- ➔ **Rates charged** by the external experts/service providers **are reasonable** and are in relation to the level of experience and expertise, as well as to the quality of the service offered;
- ➔ The selection of the experts/service providers is in **compliance with the public procurement rules** and regulation in force;
- ➔ The external expertise is **not** provided by the Lead Beneficiary, by a Project Partner or by an Associated Partner.

The following cost categories can be taken into account depending on the specific programme documents:

- Elaboration of technical plans;
- Preparation of studies, statistics, databases and researches, etc.;
- Conferences, seminars (lecturers / performers / trainers / experts). The budget line can include the fees of lecturers / performers / trainers / experts, as well as costs related to the organisation of the conference/seminar, i.e. rental costs, catering costs, travel and accommodation of the lecturers / performers / trainers / experts, translation / interpretation costs, etc.;



- Conferences, seminars, trainings (participants) – expenditure related to the participation of people on events organised by the project (e.g. travel costs and accommodation of members of the target group);
- Project events/meetings (for project team members and partners) – e.g. rental of location. Catering expenses for internal project management meetings are only eligible if minimum two partner organisations are represented in person on the meeting;
- Services related to project management – In case the Lead Beneficiary or the Project Partner(s) do not have the required qualified personnel/staff necessary for the direct management of the project, they have the possibility to outsource direct project management activities;
- Costs related to the implementation of procurement procedures – costs of public procurement experts if they are directly linked to the project and are necessary for its implementation;
- Costs of supervisor of engineering;
- Auditing costs (for project parts exclusively if required by national legislation);
- Costs related to publicity, promotion and communication – costs related to all aspects of promotion, visibility and publicity activities of the project, based on applicable visibility rules;
- Other services – the type of expenditure must be defined in the project application and has to be directly related to the project.

The following documentation has to be submitted to the First Level Control (depending on whether the service contract in question is fee-based or global price in nature):

- Evidence of compliance to public procurement rules at EU, Programme level and national level, depending on the estimated amount of purchase;
- Contract laying down the services to be provided with a clear reference to the project. For experts paid on the basis of a daily fee, the daily rate together with the number of days contracted and the total amount of the contract must be provided. Any changes to the contract must comply with the public procurement rules and must be documented;
- An invoice providing all relevant information in line with the applicable accountancy rules;
- Mission reports and relevant time-sheets;
- Outputs of the work of external experts or service deliverables, with the beneficiary's proof of acceptance;
- Proof of payment;
- Any other document that the First Level Controller might require for checking compliance with national legislation.

For expenditure under or equal to 2500 Euro, the invoices and proof of payment must be presented to the FLC.



Equipment/Supply

Purchase or rental of equipment is **eligible only if it is essential and directly related to project implementation** and if listed in the approved project budget. All equipment shall be necessary and shall exclusively be used for the implementation of the project having a clear contribution to the achievement of the project's objectives. Supplies should be selected with regard to the relevant **public procurement rules**.

Exclusively the purchase of new equipment, as well as the rent of equipment can be included under the budget line. Costs related to **second-hand equipment are not eligible**.

Full purchase cost of equipment is eligible, if it is used solely for the purpose of the project or the target group in line with objectives of the project and incurred and paid within the eligible period.

Partners are entitled to charge to the project the corresponding depreciation of the equipment over the part of its useful economic life that falls within the project. The amounts claimed annually should be based on the amount of depreciation that is incurred annually for the equipment, using their usual depreciation policy. Only the part of the equipment (percentage used and time of use) dedicated to the project may be charged. If allowed by the respective national rules, even if the depreciation period exceeds the duration of the project, it is still possible to accept the entire amount of expenditure for purchased equipment under the condition that the PP provides a declaration that it will be used by the PP for the same purpose for at least 5 years after project closure.

Equipment cannot be purchased from another project partner of the respective project.

The following costs are eligible:

- Equipment necessary and directly related to the professional implementation of the project (they have been included in the approved AF, part of the subsidy contract)
- If no other EU funds have contributed towards financing of the same expenditure item, (i.e. no double funding is allowed)
- Office equipment (purchase of computers, office furniture etc.) shall be eligible in duly justified cases, if related to the project management and if necessary for the implementation of the project.

The following documentation has to be submitted to the First Level Control:

- Evidence of the procurement process (announcement, selection, award) in line with the applicable procurement rules, depending on the estimated amount of purchase;
- Contract laying down the equipment to be provided, with clear reference to the project and the programme;
- Invoice (or a supporting document having equivalent probative value to invoices) providing all relevant information in line with the applicable accountancy rules;
- Provisional and/or final Acceptance procedure as well as relevant certificates;
- Proof of payment;
- Proofs of rule of origin fulfilment (declarations, certificates);
- Depreciation plan (showing the percentage of amortization during project lifetime);
- Proof that the goods have been properly registered as asset;



- Proofs of visibility¹⁰.

For expenditure under or equal to 2,500 Euro, the invoices and proof of payment must be presented to the FLC.

Purpose of the on-the-spot checks of equipment is to verify whether:

- Equipment declared within the project has been **purchased in reality, and exists and is in operation at the place** traceable from the Application;
- Equipment is in **line with** the description given in the approved **Application Form**;
- Equipment is used only **for the project purposes**;
- Purchases and rent of equipment are **properly accounted and documented** in the Project Partner's accounting system and related files;
- **Visibility** rules are fulfilled.

Infrastructure/Works

Infrastructure and works covers costs related to investments in infrastructure that do not fall into the scope of other budget lines. This includes costs for site preparation, delivery, handling, installation, renovation, when applicable.

Construction shall be in **accordance with all legislative provisions** including documentation and certifications needed for the utilization i.e. must comply with the applicable national and EU rules as well as programme and visibility rules. All compulsory requirements set by the EU and national legislation related to the respective investment in infrastructure must be fulfilled (e.g. feasibility studies, environmental impact assessments, building permission, etc.).

Documents specifying the property/ ownership/ any other right under the real property law for the land and/or building/ item of infrastructure where the works will be carried out must be provided. Legally binding building permits are preconditions for contracting.

The following costs are eligible:

- ➔ **Construction** of buildings, works, and infrastructure – these costs comprise expenditure related to construction activities.
- ➔ **Reconstruction/renovation** of buildings, works, and infrastructure - these costs comprise expenditure related to works needed for the alteration, reconstruction, expansion of an already existing building.
- ➔ Only expenditure of the investment/works explicitly **described in the approved Application Form** can be verified. Major changes related to investment/work – in case it is a substantial change in the content of the project - have to be approved by the programme management bodies.
- ➔ Costs of infrastructure and construction works are eligible if no other EU/ national funds have contributed towards financing of the same expenditure item in the last 5

¹⁰ The [communication and visibility manual for European Union external actions](#) mainly covers the written and **visual identity of the EU**. It sets out **requirements** and **guidelines** for briefings, written material, press conferences, presentations, invitations, signs, commemorative plaques and all other tools used to highlight EU participation.



years, i.e. no double funding is permissible.

The following documentation has to be submitted to the First Level Control::

- Evidence of the procurement process (announcement, selection, award) in line with the applicable procurement rules, depending on the estimated amount of purchase;
- Contract laying down the works/infrastructure to be provided, with clear reference to the project and the programme;
- Invoice providing all relevant information in line with the applicable accountancy rules;
- All documents related to the works carried out such as: Building permits, Notice of the commencement of works, Introduction of the constructor to the site, Construction log book and diary;
- Proofs of payment (Interim and Final payments certificates);
- Provisional and/or final Acceptance procedure as well as relevant certificates issued by Supervising Engineer;
- Proofs of rule of origin fulfilment (declarations, certificates)
- All additional documents required by the national law such as location and building permits, technical acceptance, Inspection acceptance certificate etc.

For expenditure under or equal to 2,500 Euro, the invoices and proof of payment must be presented to the FLC.

When carrying out the on the spot, the controller shall request from the responsible beneficiary the technical documentation and cost-estimations. The controller is obliged to check whether implemented infrastructure/ works are in compliance with application form/ last approved application form, technical documentation and cost-estimations for planned infrastructure/ works. If during the verification, controller identifies that beneficiary has implemented works that were not planned in the latest approved application form/ addendum to the subsidy contract, technical documentation as part of the project application, the controller cannot approve related costs as eligible costs.

During on- the- spot check, the controller should verify that:

- Investment/work declared within the project has been **implemented in reality**, and **exists at the place** traceable from the Application;
- Investment/work components are **in line with the description** given in the approved Application;
- Investment/work is used only **for the project purposes**;
- Investment/work is **properly accounted** and documented in the Project Partner's accounting system and related files;
- According to the evidence obtained, the **visibility requirements** of the Programme are respected;
- The requirements concerning **durability** of investment-type projects (5 years from the final payments), including those related to **ownership**.



Application of financial corrections by FLC

FL Controllers may apply financial corrections related to public procurement procedures according to COMMISSION DECISION C(2013) 9527 of 19.12.2013 and its Annex Guidelines for determining financial corrections to be made to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement, https://ec.europa.eu/regional_policy/sources/docoffic/cocof/2013/cocof_13_9527_annexe_en.pdf.

When a controller detects non-compliance with the rules on public procurement, he/she may use the mentioned Guidelines and apply financial correction. Decision about financial correction has to be properly explained and justified in the FLC Certificate and relevant annexes.

Percentage of the financial corrections is determined for the contracted amount and applied by FLC controller whenever expenditure regarding contract concerned has been reported.

Financial correction determined for each specific case should be recorded in Register of financial corrections (see Annex 1 – FLC2).



4.2. ACCOUNTING

The responsibility for keeping the accounting records and preparing the financial reports lies with the project partners. Project partners are obliged to use an accounting system that provides accurate, complete and reliable information in a timely and regular manner clearly distinguishing costs accepted and payments made. Records should be identifiable and verifiable. Accounting documents must be properly prepared, and contain data in accordance with the Programme and national rules.

In order to ensure the proper follow up and control, project partners/ budgetary users in accordance to the national legislation have to maintain either a separate account or an adequate accounting codification (sub accounts) for all transactions relating to the project, namely:

- Budgetary users keep their accounting against the sources of financing;
- Indirect budgetary users e.g. municipalities maintain their accounting through activities shown in their yearly financial plans. Their analytical accounts are listed by activities related to the project.

The costs reported have to be presented in the currency they have occurred. The date of payment is the date of the bank statement and the proof of payment is the foreign currency statement. Direct budgetary users don't have the obligation to keep analytical accounts for the project purposes.

Eligible costs are costs actually incurred and should be identifiable, verifiable and documented (e.g. contract, invoice, order form etc.), in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost accounting practices of the beneficiary. Therefore, it represents indispensable part of the audit trail that provides evidence of the expenditure claimed and enables tracing the financial data to its source i.e. provides clear description of the accounting evidence, related to the specific budget lines. It is a sequence of information/systems that provides detailed information about expenditure actually incurred. Such records show the date of creation, the amount of each item of expenditure, the nature of the supporting documents and the date and method of payment.

Therefore it is important for the Controller to be familiarized and competent in international and national accounting standards and accountancy in general.



4.3. VISIBILITY

The IPA Implementing Regulation defines the communication requirements for Lead Beneficiaries and Project Partners. Also taking into consideration Commission Regulation (EC) No.1236/2011, LP and PPs are required to:

- Ensure that those taking part in the operation have been informed of the funding under an Operational Programme co-financed by the IPA;
- Specify in every notice or publication concerning the project - including those given at a conference or seminar - that the project has received EU funding;
- When communicating on matters related to the project, the LP and PPs should use their normal stationery in letterheads or fax headers sheets, however, must add the phrase *"This project is funded by the European Union"* as well as include the EU flag and the logo of the respective programme.

It is also useful to consult the "Visual Identity Manual for beneficiaries of Cross Border Cooperation Programmes in Serbia" document.

Information and publicity requirements specified for the respective Programme are described in details in the programme documents, manuals and guidelines published on the Programmes' Web-pages. These requirements are also specified in the Subsidy Contract concluded between MA and the LP. In case visibility rules and requirements are not applied properly, incurred costs will be deemed ineligible.

The overall visibility requirements for EU funded projects are also regulated by **the "Communication and Visibility Manual for European Union External Actions"** - mainly covers the written and visual identity of the EU. It sets out requirements and guidelines for briefings, written material, press conferences, presentations, invitations, signs, commemorative plaques and all other tools used to highlight EU participation. In addition, it offers tools designed to enable the development of a dynamic communication strategy that will highlight the achievements of EU support.

The Controllers have to verify the followings related to information and publicity:

- In all official communication of the project and on all project deliverables (e.g. any notice, publication, website, project events, conferences, seminars, project brochures, studies, etc.) it must be **clearly specified and expressed by the Project Partner** that the project has received funding from the EU, within the framework of the respective Interreg-IPA Cross-border Co-operation Programme;
- The **EU logo** and the **Programme logo** must be properly displayed (according to any published Programme Guidelines for visibility or the general EU Visibility Guidelines);
- Large infrastructure or construction activities must use **billboard** during construction and a **permanent explanatory plaque** has to be set up on the premises of the construction.



4.4. HORIZONTAL PRINCIPLES

Environment

Projects should also be coherent with the objectives of protection and improvement of the environment foreseen. This requirement is especially relevant for those **projects foreseeing the realisation of investments**.

Depending on the nature of the investment, all compulsory requirements set by Community and national legislation related to the respective investment, and ensuring the respect of environmental policies (e.g., feasibility study, environmental impact assessment, building permission, etc.), must be fulfilled.

The Controllers have to verify the followings related to requirements related to environment:

- Evidence is provided by the Project partner that specific compulsory requirements by Community or national legislation are fulfilled (e.g., feasibility study, environmental impact assessment, building permission, etc. are available);
- Statement of the Project partner is available stating the respect of all community and national laws in terms of environmental impact.

Equal opportunities

The implementation of projects approved under Interreg-IPA CBC and TNC Programmes should be in line with the requirement treating equal opportunities for men and women as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

The Controllers have to verify the followings related to requirements related to the requirements on equal opportunities:

- Statement of the Project partner is available stating the respect of the principle of equal opportunities. These statements should cover at least the followings:
 - *Project staff recruitment processes carried out in the project adhere to the principles of equal opportunities; Equality is promoted in the project's internal management structures, e.g. project steering committees, working groups, etc;*
 - *Project events do not represent any barrier to participation (e.g. location favoring accessibility);*
 - *No other barriers to participation (e.g. disability);*
 - *All national rules on the issue of equal opportunities have been respected.*
- In the case of specific project activities, the principles of equal opportunities should be particularly ensured. In this respect, further checks should be performed by the controllers by examining - for example - the list of participants.



Avoiding double financing

In accordance with Article 5 (4) EC No. 231/2014, verifications shall include procedures to **avoid double-financing of expenditure** with other Community or national schemes and with other programming periods.

The practice of verifying original invoices and accounting documents of probative value by stamping shall be defined within each Programme.

4.5. IRREGULARITIES

General

As a participating country in CBC and TNC programmes, Serbia has to ensure that its legal obligations with regard to detecting, correcting and reporting irregularities are fulfilled. The majority of such obligations are to be found in EU legislation which is transposed into national law via agreements concluded between the EC and Serbia; such agreements include IPA II Framework Agreement and Financing Agreements. Key terminology for the irregularity portfolio is indicated in Article 51(5) of the IPA II Framework Agreement;¹¹ of particular importance are the terms “irregularity”, “fraud”¹² and “primary administrative or judicial finding”, which are defined as follows:

- **“Irregularity** means any infringement of a provision of applicable rules and contracts resulting from an act or an omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Union by charging an unjustified item of expenditure to the general budget”;
- **“Fraud** means any intentional act or omission relating to: the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the Union or budgets managed by, or on behalf of, the European Union, non-disclosure of information in violation of a specific obligation with the same effect or the misapplication of such funds for purposes other than those for which they were originally granted”; **“Suspicion”** is a situation in which there are data that indicate the possible infringement of the relevant law (alert, complaint/report or other sources of verification/audit, etc.) in which not all facts and circumstances are clear and further clarifications/information/documentation is needed. **“Suspected fraud”** means an irregularity giving rise to the initiation of administrative or judicial proceedings at national level in order to establish the presence of intentional behaviour.
- **“Primary administrative or judicial finding** means a first written assessment by a competent authority, either administrative or judicial, concluding on the basis of specific facts that an irregularity has been committed, without prejudice to the possibility that this conclusion may subsequently have to be revised or withdrawn as a result of developments in the course of the administrative or judicial procedure”.



Fraud is a crime, and therefore a given action can only be qualified as fraud by a court. Before the court delivers a ruling, the action must be considered a suspicion and all parties must observe the rules for confidentiality of information.

The **detection of irregularity or suspected fraud** can occur as a result of:

¹¹ i.e. “errors”, “irregularity”, “economic operator”, “systemic irregularity”, “fraud”, “suspected fraud”, “active corruption”, “passive corruption”, “conflict of interests”, “primary administrative or judicial finding”

¹² Which is a subset of irregularities – i.e. all cases of fraud constitute irregularities, but most irregularities do not constitute fraud.



- ➔ monitoring visits,
- ➔ notification by grant recipients,
- ➔ detailed checking of progress reports,
- ➔ management verification visits,
- ➔ local knowledge (press/members of the public), and
- ➔ National and EU audit reviews.

Common general types of **irregularities related to procurement/sub-contracting** at project level (the list is not exhaustive) may be:

- ➔ Application of the wrong/lesser procedure,
- ➔ Non-compliance with the formats required by the procedure,
- ➔ Artificial division of envisaged works/supplies/services in order to use the lesser procedure,
- ➔ Non-compliance with the requirement of an adequate degree of advertising and transparency,
- ➔ Presence of conflict of interest between / breach of ethics clauses by Contracting Party and Tenderer/Contractor,
- ➔ Breach of the principle of equal treatment,
- ➔ Failure to state all the selection and contract award criteria in the tender documents or tender notice,
- ➔ Application of unlawful/discriminatory contract award criteria,
- ➔ Unlawful selection and/or contract award criteria laid down in the tender procedure,
- ➔ Insufficient or discriminatory definition of the subject-matter of the contract,
- ➔ Reduction of the scope of the contract without reduction of the budget,
- ➔ Attribution of contracts or additional works and services without competition in the absence of extreme urgency brought about by unforeseeable events.

However, the concept of irregularity covers a wider range of issues rather than just strictly procurement issues. Therefore, common general types of **irregularities at project level** (the list is not exhaustive) may be:

- ➔ Ineligible costs,
- ➔ Inflated project costs,
- ➔ Activities already funded from other sources,
- ➔ Non-compliance with the publicity rules or archiving rules,
- ➔ Incorrectly calculated overheads/staff salaries,
- ➔ Administrative errors,
- ➔ Failure to maintain records,
- ➔ Breach of the terms and conditions of the Subsidy Contract,
- ➔ Failure to respect deadlines,



- Lack of supporting documents to support expenditure,
- Retention/withholding of documents,
- False claim/false supporting documents e.g. failure to provide adequate and correct information in the Progress Reports.

Detected irregularities will imply follow-up actions by Programme and national authorities, e.g. withdrawal or reduction of the subsidy or recovery of the granted funds. For Interreg-IPA CBC and TNC shared management programmes the detecting, establishing and reporting of irregularities to the respective MAs and European Commission is the obligation of the Participating Countries hosting the Project Partners and managed on national level. It means that the irregularity procedure will be conducted by that responsible organisation of the Participating Country, on whose territory the Project Partner concerned is located.

Procedure for irregularities detected by FLC

In the case of Serbia, the responsibility for the irregularity portfolio rests with the NA, specifically with the Irregularity Officer appointed by the Head of the NA. Any suspected irregularities identified by staff of the Control Body are therefore to be communicated to the Irregularity Officer appointed by the NA in line with the relevant internal procedure established for the Control Body (see **Annex 1 - FLC6**). For details on how the irregularity portfolio is managed by the NA, including definitions, treatment and reporting of irregularities, see the document “National Authority Irregularity Procedures for Serbian IPA I and IPA II CBC and TNC Programmes under Shared Management”. Once the NA has taken a decision on whether a suspected irregularity is or is not an irregularity in fact, the Control Body is always informed and acts in line with its scope of responsibilities.

In the context of FLC and irregularities, the following should be noted:

1. In contrast to the joint management structures of CBC and TNC programmes, the Controllers do not report an irregularity. They only notify the NA appointed Irregularities Officer of a suspected irregularity regarding the elements outside of categories of verified or non-verified costs using the template provided (see Annex 1 - FLC6). The actual reporting of irregularities to MA/JS and EU/OLAF is done by the Irregularities Officer appointed by the NA.
2. The Controllers check and verify expenditures of PPs **before** any reimbursement by EU funds has taken place, i.e. no harm to the EU General Budget was done at this stage. In this case any non-verified amounts may not constitute irregularity and need not to be notified. Such amounts are not verified mostly as a result of an error or non-compliance by the PP to the requirements.
3. As exception to the above – all cases when there is **suspected fraud** must be notified to the Irregularities Officer appointed by the NA. The cases when the Controllers discover that for previous partner claims **reimbursement has wrongly taken place** because of an irregularity – they must also be notified to the Irregularity Officer appointed by the NA.

FLC has a very important role regarding detection and support in establishing irregularities, since they are the only body performing 100% check of project expenditures. They also have an important role for prevention of irregularities by proposing improvements to the financial management and control system and assist to a certain extent the provision of support to beneficiaries.



4.6 CHECK AND VERIFICATION OF TA PROJECTS

The budget allocated to the Technical Assistance Priority Axis in each of the shared management programmes is used to ensure the sound basis for the implementation of the respective Programme. The activities are related to Programme management, implementation, monitoring and evaluation, control, as well as communication, promotion, publicity and visibility. The beneficiaries of the Technical Assistance projects are the Programme management bodies, such as MA, NA, FLC, JS, CA, AA and others involved in project implementation (JMC members, GoA members, drivers, etc.).

The Technical Assistance expenditure also needs to be verified by the responsible Controllers of the Participating States depending on the location (country) of the TA Beneficiaries. ***The controllers that are engaged through technical assistance funds of a particular programme do not participate in the TA expenditure verification although they can participate in the expenditure verification of the respective programme.***

The control requirements given in the present Manual are also relevant for the verification of TA expenditure, using the respective programme specified templates for FLC certificates and checklists.

It needs to be borne in mind that some programmes (e.g. AI, HU, DA), for verification of TA costs, require FLC certificate and checklist templates which differ from those used for “normal” (i.e. non-TA) projects.



5. Modification of the Manual

When modifications of the present Manual are made in its final approved version, the following rules shall be observed:

- The version of the Manual is indicated by 2 digits, separated by a dot (i.e. the present final version when approved is 1.1)
- Any subsequent additions and amendments made in the body of the **Manual** are indicated by increasing the 1st digit (**i.e. 2.1**) and indicating the date of approval
- Any subsequent additions and amendments of the **Annexes** are indicated by incrementing the 2nd digit (**i.e. 1.2**) and indicating the date of approval
- Modifications enter into force with the date of approval

In this way any user of the Manual can recognise what changes have taken place and to what extent in general.

Proposals to modify the Manual can be made by the FLC Unit itself, the JS, the Serbian Control Body (CFCU), the NA, the MA/CA/AA, external auditors and evaluators, technical assistance teams, to which the Manual was made available.

The procedure for modification of the Manual is given in **Annex 1 – FLC8**.

If any modifications have an impact on any other manuals, guidelines or other documents that are referring to the present Manual, the Head of FLC Unit notifies the respective responsible persons, who will decide on amending these documents.