Common
First Level Control Manual

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GLOSSARY OF ACRONYMS

CP	Cooperation Programme
eMS	electronic Monitoring System
ERDF	European Regional Development Fund
ETC	European Territorial Cooperation
EU	European Union
FLC	First Level Control
JS	Joint Secretariat
LB	Lead Beneficiary
MA	Managing Authority
MS	Member State of the EU
NA	National Authority
PB	Project Beneficiary
PIM	Project Implementation Manual
PPR	Project Progress Report
PR	Partner Report
VAT	Value added tax

1. INTRODUCTION

The Interreg V-A Romania-Hungary (hereinafter referred to as the programme) is financed by the European Union through the European Regional Development Fund and co-financed by Romania and Hungary through contributions from state budget and from project beneficiaries.
The programme's eligible area includes 4 counties from Romania (Satu Mare, Bihor, Arad and Timis) and 4 counties from Hungary (Szabolcs-Szatmar-Bereg, Hajdu-Bihar, Bekes and Csongrad).

1.1. The control system and legal context

The main EU regulations and documents relevant for the setting up and the management of the control system and for the verification of expenditure of the Interreg V-A Romania-Hungary Programme are the followings: 1303/2013, 1301/2013 and 1299/2013, together with 966/2012.
These regulations are supplemented by implementing and delegated acts issued by the Commission: 480/2014, 481/2014, and 1268/2012.

The legal basis for the FLC work comes from the Common Provisions Regulation, Regulation (EU) no. 1303/2013, where the Article 125(4) states that the MA shall "verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid out and that complies with applicable law, the operational programme and the conditions for support of the operation".

According to the provisions of Regulation (EU) No. 1299/2013, article 23(4), in order to perform the verifications as provided for under article 125(4)(a) of Regulation (EU) No. 1303/2013, "*each Member State (…) shall designate the body or person responsible for carrying out such verifications in relation to beneficiaries on its territory ('controller(s)')… Each Member State or third country shall be responsible for verifications carried out on its territory".*

First Level Control of projects implemented within the frame of the Interreg V-A Romania-Hungary Programme shall be performed at national level for each project beneficiary.

The First Level Control Unit for Romanian project beneficiaries shall be set up within the Cross-Border Cooperation Regional Office Oradea for Romania-Hungary Border in line with Government Decree No 274/2015.

The First Level Control for Hungarian project beneficiaries will be ensured by Széchenyi Programme Office in line with Government Decree No 126/2016 (VI.7) on the implementation of programmes financed by the European Regional Development Fund and the Instrument for Pre-accession funds in connection with the European territorial co-operation in the 2014-2020 programming period.

1.2. Purpose and content of the Manual

The purpose of the Common (First Level) Manual is to ensure the coherence between the Romanian and Hungarian First Level Control, providing basic guidance to the First Level Controllers involved in the verification of expenditure declared by Project Beneficiaries (PB) of the ordinary and flagship projects, financed under the Interreg V-A Romania-Hungary Programme.

This Manual must be read together with[1]:

- Cooperation Programme (CP) Document, approved by the European Commission on 9th of December 2015;
- Guidelines for Applicants for relevant Call for Proposals;
- Projects' Implementation Manual;
- Reporting in the eMS Manual for lead partners and project partners[2];
- Relevant national level rules/regulations.

1.3. General principles and purpose

The purpose of the first level control is to ensure that no ineligible expenditure is included in applications for payment to the European Commission. This means that the first level controller will take a critical view at all project expenditure and verify that it is in line with all relevant regulations and guidelines.

The common agreement on the verifications falling under the responsibility of the Member States takes the form of:

- **carrying out mandatory 100% administrative verifications (desk-based check of reported documents uploaded in eMS);**
- **carrying out on-the-spot checks if the case according to national rules/legislation;**
- **determining detailed rules/processes at national level according to national rules/legislation**.

The FLC should check every item of expenditure entered in the partner report (exception flat rate costs), the supporting documents (such as invoices, bank statement, payrolls, etc.) and the costs per budget lines. Professional judgment should be used when doing the checks. The controller should look at key documents in the audit trail to make sure that the costs claimed by the beneficiary are real costs (exception flat rate costs), that the activities have taken place and that all eligibility rules are being followed.

The FLC verifications are done for each beneficiary's list of expenditures. For each reporting period the PB has to compile the Partner Report (PR) on its expenditures and send it with the necessary documentation together with a FLC Request to the FLC Body from the member state where the beneficiary is

[1] The documents are available at www.interreg-rohu.eu

[2] In eMS "Project partner" means "Beneficiary" and "Lead Partner" means "Lead Beneficiary".

located. The costs can be reported to the JS only by LB through the Project Progress Report (PPR) and after FLC certification.

After the FLC certificates are issued, the Lead beneficiary will aggregate the contributions from all the beneficiaries (including its own contribution) in order to submit to the JS the project progress report together with the corresponding certified expenditure.

The JS will perform an administrative verification of the project progress report (PPR), making sure that FLC reports corresponding to all expenditures included in the PPR are annexed and to verify if the financing is used according to the terms and conditions of the approved application form and of the financing contracts. JS is the first Programme body to have a complete overview of the project (the controller is concerned mainly with the part of project falling under the responsibility of the concerned beneficiary). Thus, the JS verification is the first opportunity of the programme to assess the overall quality of project implementation, including compliance with the terms and the conditions of the contracts regarding the output and result indicators, according to relevant procedures in force.

2. THE CONTROL PROCESS

2.1. Overview of the process

After a project is approved a Subsidy Contract is concluded between MA and the Lead Beneficiary (LB). A copy of the Subsidy Contract, the approved project application and annexes to the application will be available in the eMS.

The reporting period is defined in the Subsidy Contract, and the reporting procedures are defined in more detail in the *Project Implementation Manual*.

Beneficiaries upload information and documentation (including expenditure related ones) into the PR section of the eMS (view *Reporting in the eMS Manual for lead partners and project partners*) and shall request performance of FLC in maximum 15 calendar days from the end of the reporting period, respectively in maximum 45 calendar days from the end of the reporting period for the final report.

The work performed by the Controllers shall result in issuing in eMS the FLC Report (annex 2) and FLC Certificate (annex 3) concluding on verification made on all reported expenditures by Project Beneficiary, in order to guarantee to the MA and the project itself that expenditures co-financed under the programme are accounted for and claimed in accordance with the applicable legal and financial provisions.

FLCs perform verifications (including on-the-spot, where the case[3]) and issue using the eMS the FLC Report and FLC Certificate ***in maximum 30 working days*** after the submission of the partner report (PR).

- **Note:** *This period will be suspended when additional documents and/or clarifications will be requested from the beneficiaries. The deadline for submission in eMS for clarifications and/or additions is maximum 10 working days.*

After receipt of the FLC Report and FLC Certificate, in maximum 5 working days upon receipt, the beneficiary (B) sends them to the Lead Beneficiary (LB) for consolidation of the Project Progress Report (PPR) which includes the FLC certificates of the PBs.

- **Note:** *If the B doesn't agree with the findings of the FLC Report it can lodge a complaint as follows:*
  - **In Romania:** *to the FLC Unit, which will assign the complaint to a new team of FLC controllers to be solved[4];*
  - **In Hungary:** *according to the national legislation Government Decree 126/2016* (VI.7)*.*

PR is drafted and submitted in English and expenditures, which are usually incurred in RON (in Romania) and in HUF (in Hungary), are automatically converted into EUR using the monthly accounting exchange rate of the Commission (http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm) of the month during which that expenditure was submitted for verification to the FLC, in accordance with Article 28(b) of Regulation (EU) No 1299/2013.

- **Note:** *Declared costs for each reporting period and each budgetary line must be paid out in maximum 15 calendars days after the end date of the related reporting period[5]. In case the final reporting period the costs shall be paid within maximum 45 calendar days days after the end of implementing period, but no later than 31 December 2023.*

The first level control process will check the compliance of following rules by the PB:

- the eligibility of the expenditures (reality, legality and regularity), the compliance with the subsidy contract, with the European regulations, the Programme' rules and the national legislation, based on the partner report and the justifying documents supporting the payments;

[3] See Chapter 2.3.
[4] According to FLC Procedure.
[5] Exception: the expenditures postponed with "sitting duck" option.

- the delivery of services, goods and works (products/goods purchased are physically available on the premises of the project beneficiary and are used in line with the project purpose, and infrastructure and works exists, are in progress or have been completed);
- double financing;
- the operations are compliant with the European and national requirements regarding information and publicity, fair competition, equal opportunities and non-discrimination, sustainable environment, public procurement, state aid;
- the generation of net revenue**.**

The verifications will cover administrative (financial and technical) and physical (only for the on the-spot checks) aspects of the projects. On-the-spot verifications shall be carried out if the case according to national rules/legislation.

Each controller will sign a declaration of impartiality and confidentiality for each project beneficiary and project he/she is assigned to; the declaration will be attached to the FLC report.

2.2. FLC Administrative verifications

The administrative checks will be performed by the controller at its own premises ("desk-based checks") once the request is submitted by the beneficiary and the documentation of the expenditure was uploaded in eMS for verification.

The main task of the first level control is to ensure that the works, products and services paid for have been delivered and costs paid out as well as compliance with all relevant regulations and programme rules. This verification shall cover every single cost item reported by the Project Beneficiary with the exception of flat rate expenditure.

It must be possible to clearly identify which expenditure has been reported in the context of the project and to exclude the possibility of reporting the same cost twice (e.g. in two different budget lines, reporting periods, or projects/funding schemes), with the exception of flat-rate costs.

When one PB is involved in more than one project in the ROHU Programme it should be subject to special checks[6] so as to avoid double financing of activities and items of expenditure.

[6] Special check: The controller – in case if not all project parts of the given PB are checked by him/her – should request information from the other controller(s) verifying the given PB's other project parts in the ROHU Programme – those expenditure which may be subject to double financing and/or irregularities should be cross-checked. In case of doubt, the controller is entitled to ask for additional information from the beneficiary in relation to the expenditure in question. Furthermore, the controller has also the right to ask for a declaration signed by the legal representative of the PB confirming that none of the activities have been double financed.

The PB/LB must have a separate accounting system or an adequate accounting code for all transactions relating to the project[7]; the accounting system must be in line with the national legislation. Project costs should be visible in project accounting before they can be included into partner reports.

All partner reports together with justifying documents submitted by the PBs and the LB into eMS are subject to an administrative check. Support documentation[8] shall include at least the following:

- copies of the original invoices and other accounting material (in electronic form);
- bank statements showing actual payments;
- certification that VAT is not recoverable if VAT is included in the project costs and the certification has not been submitted earlier (can be submitted electronically);
- adequate documentation for staff costs:
  - employment contracts or similar;time registration of the employees working on an hourly basis or part-time with a flexible number of hours worked per month;
  - payrolls;
  - payment orders/bank statements for the paid-out salaries.
- documentation for travel and accommodation costs in accordance with the national legislation;
- copies of project related contracts, public procurement documents and related material to verify purchasing processes;
- specimens of booklets, outputs etc. which are produced by the project;
- the existence of JS approval of information and communication materials[9];
- participant lists with signatures of project related activities (seminars, working groups, meetings, etc.).

➢ **Note:** *The above list is not exhaustive.*

The task of the controller is to confirm the information contained in these eMS sections, using sufficient evidence to be obtained a reasonable opinion on at least:

- the correctness of the partner report, including the correct split between financing contributions (partner contribution, national co-financing and ERDF co-financing);
- that expenditure relates to the eligible period and has been paid out;
- that the expenditure is needed for the approved project;

[7] Exception flat rate costs.

[8] See also PIM (chapter 4.4.1) and Reporting in the eMS Manual for lead partners and project partners.

[9] In case the ex-ante endorsement of information and communication materials has not been obtained from the JS, the beneficiary will be required to get such endorsement before the related expenditure is validated conditioned by compliance with the Visual Identity Manual rules.

- compliance with the approved budget;
- avoidance of double financing;
- compliance with the relevant eligibility rules and Community and national rules on public procurement, State aid, environment, sustainable development, publicity, equal opportunity requirements, non-discrimination);
- the reality of the project, including physical progress of the products/service and compliance with the terms and the conditions of the Subsidy Contract (performance indicators);
- the expenditure declared and the existence and compliance of the audit trail;
- the separate accounting system or an adequate accounting code for all transactions relating to the project[10];
- the record-keeping and archiving rules for the documentary evidence related to the implementation of the projects;
- adequacy of supporting documents and the existence of an adequate audit trail;
- that the information and publicity requirements of the EU and the programme have been respected;
- notification of irregularities/frauds – if the case;
- lack of conflict of interest of the persons involved in the procurement procedure (checking the Declaration of the conflict of interests and the Register of the conflict of interest declarations – for storing and monitoring declarations of absence of conflict of interest, against other sources of information);
- that the principles of transparency, equal treatment and effective competition have been complied with.

If case the information provided by the beneficiary in the PR is not complete, or not entirely correct, documentation is missing or instructions have not been followed by Project Beneficiary (e.g. documents not been signed) FLC should ask beneficiary to correct the mistakes or clarify unclear issues.

In case ineligible cost items or deficiencies are found, they must be deducted by the controller and these must be documented in the FLC checklist (*annex 1*) and FLC Report (*annex 2*) via eMS. The Romanian and Hungarian controllers perform the first level control in the eMS.

Note: *To allow a transparent work flow within the audit trail, the controllers will mention the date of the clarification letters sent to the beneficiaries and the days when the beneficiary uploaded the answers/documentations into eMS. Clarification letters and e-mails sent out to the beneficiaries will be uploaded in the FLC documents/attachments section of the eMS.*

[10] Exception flat rate costs.

Note: *During the validation process, the total amount of the budget line shall prevail and not the estimated amounts for each reporting period. The controllers will take into account the total amount of the budget line and the unitary prices/values mentioned in the budget description, and not the estimated amounts for each reporting period.*

Once the check has been completed, the controller will submit its Report and Certificate of the partner report into the eMS.

The programme has chosen simplification in the form of flat rates as a **flat-rate of maximum 15%** of eligible staff costs for *office and administrative expenditure.* By applying the flat-rate option, beneficiaries do not need to document if the expenditure has been incurred and paid, or that the flat-rate corresponds to the reality.

After the administrative checks, and before issuing the FLC Report (*annex 2*) and the FLC Certificate (*annex 3*), where the case[11], the controllers will carry out the on-the-spot checks (mandatory two controllers), in order to verify the correspondence of the original documents with the uploaded ones and the actual status of the project implementation, including actual delivery of co-financed products or services or performance of works, the accounting system and the existence and compliance of the audit trail.

On-the-spot checks are carried out in order to check the reality of the project, the delivery of the product/service in full compliance with the terms and conditions of the Subsidy Contract, the physical progress, the respect for Community rules on publicity, and their full compliance with public procurement procedures.

2.3. On-the-spot checks

According to the Article 125(5) and (6) of regulation No. 1303/2013 the verifications shall include on-the-spot verification operations. The controllers are responsible for conducting of on-the-spot checks to 100% of all beneficiaries at least once during the total project life cycle. Exact timing and number of on-the-spot check of the project in question shall be determined in line with national rules/legislation[12].

The main scope of on-the-spot checks is to check the compliance of the reports and the supporting documents with the actual implementation of activities and with original documents.

During the on-the-spot checks the first level controllers (mandatory two) will fill the *Section On-the-spot verifications* into Annex 1 and On-the-spot Check Report.

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[11] According to FLC Procedure.

[12] See also *PIM, chapter 4. Validation of eligible expenditure*.

Generally, notification of the on-the-spot checks should be given to PBs in time in advance (minimum 5 days), in order to ensure that the relevant staff (e.g. project manager, engineer, accounting staff) and documentation (in particular, financial records including account statements and original invoices) are made available by the PBs during the check.

The on-the-spot checks shall cover at least the followings:

1. that expenditure relates to the approved project, to the eligible period and has been paid out;
2. that there is a separate accounting system or an adequate accounting code for all transactions relating to the project and the reported expenditure is correctly recorded and sufficiently supported;
3. that all the original invoices, receipts, travel orders or other supporting documents with equivalent probative value, etc.[13] are stamped by the beneficiary with the project code, reported amount and the Programme name, and are accurately recorded in the project's accounting system (in order to avoid double-financing of expenditure);
4. that the original documents related to the expenditure already reported are available;
5. that there is evidence that the reported activities have taken place and are in compliance with the project activities mentioned in the application form, including the physical progress of the products/service/works;
6. that the delivery of services, products and works is clearly documented (products/goods purchased are physically available on the premises of the beneficiary and are used in line with the project purpose, and infrastructure and works exists, are in progress or have been completed);
7. investments already reported within the project have been implemented in reality, are in line with the description given in the approved application form, and are used for the project purposes;
8. that services, supplies and works have been procured according to the rules on public procurement (the procurement verification is the defining element in establishing the eligibility of expenditures for goods, services and works within the projects financed within Interreg V-A Romania-Hungary Programme);
9. that in case any recommendations have been given during the previous financial controls and audits, a solution has been provided by the project by either getting the right documentation or excluding the expenditure from the accounts;
10. that beneficiary has a reliable internal monitoring and control system for storing, transmitting and processing data on results and outputs;
11. that project documentation is kept in accordance with all Programme requirements.

[13] Exception flat rate costs.

- **Note:** *first level controllers reserve the right to ask the beneficiaries for additional documents related to the project activities, besides those compulsories to be submitted.*

Information gathered during on-the-spot check is documented in the on-the-spot check report[14] and Annex 1.

2.4. Clarifications / additional documents and/or information

In case the report is not appropriate in terms of formal/administrative or content aspects, or sufficient clarifications and proper documentation could not be obtained during the on-the-desk check (where the case), the controllers will ask in writing (via eMS e-mail) the PB to complete the missing parts or, if needed, additional documents will be requested.

In case further clarifications are needed from the PB, the FLC controllers have 4 options available in the eMS:

- Using internal e-mail of the eMS to send a clarification to the username registered in the eMS as Partner (all the official correspondence and documents sent by e-mails should be attached by the FLC controller in the "Attachment" section of the FLC Report);
- Reverting the Partner Report to the partner and reopening for updating some sections of the expenditure items – function 'Revert from FLC to PP' (the expenditures ticked as "Verified by FLC" cannot be changed by Partner and the previous declared expenditures cannot be deleted anymore);
- Open the "Attachments" section of the Partner Report by ticking the button "Attachment upload Allowed";
- Open only the "Upload" section of each expenditure item declared by the Partner in the List of Expenditures by ticking the button "Expenditures attachment upload Allowed".

Having in mind the timeframe available for conducting the verifications, **it is recommended** that such requests for clarifications and/or additional documents/information to be issued in 15 working days upon receipt of the PR and related request for FLC.

The eMS does not make a countdown of the days for the cases with clarifications.

The PBs should have **5 working days to respond** to the request, starting from the day the clarification letter has been sent via eMS e-mail. In case the clarifications are not submitted within the deadline, or the documentation is not complete, the controller will send a new notification letter by giving a new

[14] Each FLC Unit will use own form for on-the-spot check report.

deadline for submission (also of 5 working days). Overall, the PBs shall have overall maximum 10 working days to submit the documents.

- **Note:** *If the second notification is also unsuccessful, the Partner Report may be rejected, or it can be accepted but without the items which were not properly justified.*
- **Note:** *If an expenditure is not included in a Partner Report, the Project Beneficiary can request the opening of a new Report for the same period of the expenditure, provided justification is submitted*[15].

2.5. Check lists for the first level control

The FLC checks are to be documented in the eMS. The FLC checklist (*annex 1*[16]) lists all verifications expected from controllers. The checklist contains several sections. For each question, it is possible to confirm the question with "*yes*", "*no*" or "*not applicable*". Especially for "no" and "not applicable" a comment may be relevant. The comments are for internal use for the FLC's but also for other programme bodies.

- **Note:** *As a general rule, rather more comments should be included than less*.

In addition, the on-the-spot checks shall be properly documented and shall be recorded into an *On-the-spot check Report* (including check-list), to be submitted, following the same chart as the FLC Report and FLC Certificate.

- **Note:** *Both, RO-FLC and HU-FLC may design additional check-lists in line with national legislation, where necessary*.

2.6. Rights in the eMonitoring System

In accordance with article 125 (d) of regulation 1303/ 2013, the programme has established a system to record and store in computerised form data on each operation necessary for monitoring, evaluation, financial management, verification and audit, including data on individual participants in the projects, in the form of eMS system. As a result, project applications will be received in the eMS and all work and communication with approved project will be done in the eMS. This includes the verification of project reports.

Each FLC Unit (from Romania and from Hungary) will submit to the MA (administrator of the eMS system) information about FLC body in order to assigned rights to the eMS. The information shall also indicate the contact person (head / coordinator of department) in each FLC body. This person(s) will be given right to assign FLC user to project beneficiary. At every FLC request for verification / validation of the expenditures, submitted into eMS by

[15] More details will be found in *Reporting in the eMS Manual for lead partners and project partners*.
[16] The Annex 1 is filled-up into eMS.

beneficiaries, FLC Coordinator will designate two controllers who will carry out checks according to this Manual and also with FLC procedures[17]. This designation will be made into eMS using the functions "FLC Institution Assignment". Only designated controllers will have access to the information's provided by the beneficiary with that validation request. Each user is personally responsible for all work carried out under this user name. The password and username qualify as a signature of the work carried out.

The FLC work is conducted in the eMS. User rights to the eMS will be granted by MA once they received the list with names of controllers from the FLC Coordinator of FLC units. The user rights are personal and the user is responsible for all work done under the user name.

3. VERIFICATION OF EXPENDITURE

3.1. General Eligibility principles

The rules provided in the 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 with regard to specific rules on eligibility of expenditure for cooperation programmes* are applicable.

In compliance with article 18, paragraph 2 of Regulation (EU) 1299/2013 – ETC, without prejudice to the eligibility rules laid down in or on the basis of Articles 65 to 71 of Regulation (EU) No 1303/2013 - CPR, Regulation (EU) No 1301/2013 – ERFD, and the Commission Delegated Regulation No. 481/2014, "the participating Member States in the monitoring committee, shall establish additional rules on eligibility of expenditure for the cooperation programme as a whole". These *additional rules* are part of the Guidelines for Applicants package of the relevant Call for Proposal and posted on the Programme' website.

Furthermore, according to article 18, paragraph 3 of ETC Regulation, for matters not covered by eligibility rules laid down in, or on the basis of, Articles 65 to 71 of CPR, ERDF Regulation, or the delegated act (CDR no. 481/2014) or in the rules established jointly by the participating Member States, the national rules of the Member State in which the expenditure is incurred shall apply.

[17] RO FLC Procedures for Romanian beneficiaries and HU FLC Procedures for Hungarian beneficiaries.

3.2. Eligibility based on timing and geographical location

Generally, expenditure shall be eligible within the programme if it has been incurred by a beneficiary and paid between 1 January 2014 and 31 December 2023.

Preparation costs are eligible if they are incurred between 1 January 2014 and the submission of the Application Form and paid out in maximum 60 days after the Lead Applicant is officially notified by the Programme with regards to the AF approval by the MC. Preparation costs may be reported only once, into the first Partner Report 0.1, dedicated exclusively to preparations costs, no later than the end date of the first reporting period.

- **Note:** *Expenditure is considered to be paid when the amount is debited from the beneficiary's bank account or registered in its cash book. The date when the invoice was issued, recorded or booked in the accounting system does not count as a payment date.*
- **Note:** *In case the preparation costs are not requested for reimbursement in Project Progress Report 0.1 they become non-eligible expenditure.*

As a general rule, the eligible expenditures shall be incurred in the eligible programme area, respectively on the territory of the 8 counties. Exceptions to this rule are described in the *Programme general rules on eligibility of expenditure Priority Axis 1 - 6*[18].

3.3. Project budget and applicable rules[19]

The following cost categories, presented in the budget tables as main budgetary lines, are considered eligible:

- Staff costs;
- Office and administrative expenditure: the flat rate for office cost (counted as 15% of staff costs) is automatically calculated by eMS.
- Travel and accommodation costs;
- External expertise and services costs;
- Equipment expenditure;
- Infrastructure and works.
- Preparation costs: the rules of eligibility and differentiation of types of preparatory costs based on type of projects and limitations are set in the *additional rules* that are part of the Guidelines for Applicants package of the relevant Call for Proposals and posted on the Programme' website**.**

[18] Annex III, Guide of Applicants.

[19] More details in the *Project Implementation Manual* and also in the *Reporting in the eMS Manual for lead partners and project partners*.

3.4. Verification of procurement

The purchase of goods and services, as well as the contracting of works, by beneficiaries, is subject to national, Community and institutional rules. The procurement rules aim at securing transparent and fair conditions for competing on the common market and should be followed by the beneficiaries when commissioning the above services, works or supplies. Rules differ depending on the kind of goods and/or services to be purchased, as well as the value of the purchase.

National regulatory frameworks, transposing the EU Directives and regulations on public procurements, shall be applied by any legal entity acting as contracting authority.

For Romanian beneficiaries not acting as a contracting authority the rules regarding public procurement are described in the Annex 4 of the Project Implementation Manual.

If any deficiencies will be identified the controllers could apply financial correction for the Romanian beneficiaries according to OUG nr. 66/2011.

In Hungary the verification of procurement is carried out according to national legislation. In Hungary in case there is a suspicion concerning the correctness of the public procurement, a suspicion of irregularity shall be initiated in line with national legislation. In Hungary financial corrections are usually based on the decision of the Public Procurement Arbitration Board (in the framework of an irregularity procedure).

The controllers must verify that all the provisions regarding procurement in the project, as stipulated in the Subsidy Contract and/or Project Implementation Manual are respected and they have to complete their own check-lists[20]. All procurement checklists issued by the controllers will be uploaded in eMS for future reference.

3.5. Verification of State Aid

The projects should respect the provisions related to state aid of the Guide for Applicants, valid for the respective call for proposals and stipulated in the Subsidy Contract.

In order to make the verifications on state aid compliance, the controllers have to use the FLC checklist (annex 1) and the beneficiary declarations related to state aid[21].

3.6. Verification of environment protection

Projects should also be coherent with the objectives of protection and

[20] The indicative check lists are attached to the PIM.

[21] The templates for beneficiary declarations are included into the Romanian and Hungarian FLC procedures and they are available at www.interreg-rohu.eu.

improvement of the environment foreseen in Article 11 of the Treaty on the Functioning for the EU.

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

- evidence is provided by the PB that specific compulsory requirements by Community or national legislation are fulfilled (e.g., feasibility study, environmental impact assessment, building permission, etc. are available);
- environmental issues' section in the Partner Report is filled in by the PB.

3.7. Verification of equal opportunity

The controllers have to verify the following requirements on equal opportunities:

- equal opportunity issues' section in the partner report is filled in by the beneficiary;
- the PB should declare that: 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 impose any barrier for participation (e.g. location favouring accessibility);
- there are no other barriers to participation (e.g. disability);
- all national rules on the issue of equal opportunities have been respected.

3.8. Verification of double financing

The First Level Control verifications shall ensure that no expenditure are financed under more than one operation or financed from other public sources[22] and thus avoiding double-financing of expenditure with other Community Funds and with other reporting periods.

Therefore, all the original financial documents, *such as: invoices, receipts, travel orders or other supporting documents with equivalent probative value* **to be stamped by the beneficiary with Programme name, project code, number of the Partner Report and the value of expenditure requested (in the currency of the invoice)**.

However, in order to avoid double declaration of cost, the controller shall also check that the reported expenditure is actually accounted on the appropriate project accounting code.

For electronic invoices, it is required to verify the presence of a text identifying project and the programme in the title of the invoice.

3.9. Verification of publicity rule

The information and publicity measures are aimed at publicizing the actions of

[22] Based on a statement on own responsibility, referring to the double financed signed by the legal or mandated representative of the beneficiary.

the European Union, increasing transparency and creating a uniform image of the interventions throughout participating Countries.
Information and publicity requirements specific for the Interreg V-A Romania-Hungary Programme are described in the *Visual ID & Visibility Manual*, and the related obligations for the Lead Beneficiary/Project Beneficiary are also regulated in the Subsidy Contract signed between MA and the Lead Beneficiary.

3.10. Verification of project net revenues

As a general rule, the programme funding shall not have the purpose or effect of producing a profit for Project Beneficiaries and, consequently, it must be restricted to the amount required to balance income and expenditure for the project. This being said, all net revenues generated by project activities during the implementation of the project must be deducted from the eligible costs claimed.

Revenue means cash in-flows directly paid by external users for the goods or services provided by the project. The most common sources of project revenue are entrance fees for events, charges for films, DVDs, books and publications etc. Revenue can also be generated from payments for the use of infrastructure, sale or rent of land or buildings, or payments for services provided by the project. Where revenue generating activities involve operating costs and replacement costs for short-lived equipment, these expenses can be deducted from the revenue. The resulting net revenue is then deducted from the amount to be claimed from the programme. The basis for the calculation and reimbursement of ERDF funding from the programme is always:

Eligible costs - (net) revenues = Net eligible costs

Each time a project has, or would have, the possibility to generate revenue, the PBs shall declare it in the Partner Report in order to let the MA/JS and the national FLC know the generated revenues. The net revenues declared by the PB shall be deducted from the amount verified / authorized and subsequently reimbursed by the MA.

3.11. Irregularities/Fraud

Procedure for reporting and handling irregularities/fraud

Handling and investigating of an irregularity/fraud is mainly a national task. Both Member States are obliged to conduct irregularity procedures.

If any data or information arises in connection with a project part that refers to an irregularity/fraud (suspicion of irregularity/fraud), or an affair has happened that endangers the financial interest of the European Union or any of the Romanian and/or Hungarian national budgets, or the parties signing the subsidy contract do not comply with their liabilities, the person identifying the irregularity/fraud suspicion submits the alert to the responsible body or person

in the respective MS, in order to initiate the irregularity investigation.

Role and tasks of the Controllers in the process of detecting and reporting of irregularities / fraud

In case irregularity / fraud is suspected or detected by the Controllers, they must alert the designated Irregularity officer or body in the respective MS. The tasks of the controllers are then limited to the reporting of the suspicion of irregularities/fraud to the body responsible for irregularities in the relevant MS.

Controllers have to be aware of the procedure of reporting suspicion of irregularities/fraud laid down in the national legislation/procedures.

- **Note:** *As concerns the validation process, for the item of expenditure subject to irregularity or fraud investigation proceedings, this will be suspended until finalisation of these investigations according to national legislation in force. This means that the corresponding amount shall be excluded (using "sitting duck") from the FLC Certificate.*
- **Note:** *Any suspicion of irregularity/fraud resulted from the verification of the eligibility of the expenditures will be reported by the first level controller to the responsible body in the respective MS.*
- **Note:** *If an expenditure is suspended in case there is a suspicion of irregularity/fraud, when the aspect is cleared, the FLC will validate it anytime until the end of the implementation period (but the exchange rate will be the one valid at the time the expenditure was initially requested).*

Corrections

In case of *irregularities detected in public procurement procedures*:

In Romania: the FLC will apply financial corrections for infringement of the public procurement legislation/simplified procedure according to national regulations (OUG nr.66/2011) and consequently only a certain part of the value of the contract will be validated as eligible, in line with the national legislation/procedures.

In Hungary financial corrections are usually based on the decision of the Public Procurement Arbitration Board (in the framework of an irregularity procedure). In case if it is not possible to involve the Public Procurement Arbitration Board (due to time limits), financial corrections will be applied in accordance with the guidelines of the EC.

- **Note:** *FLC should not retain any amount related to an expenditure already validated in a previous FLC Report. Any financial correction/ non-eligible expenditure that were later imposed for this expenditure is considered debt and will be separately retained by the MA.*

3.12. Fraud

The programme has a zero tolerance policy on fraud. FLC will observe that all beneficiaries respect the programme rules regarding the antifraud measures**.** Any suspicion of fraud resulted from the verification of the eligibility of the expenditures will be reported by the first level controller to the responsible body in the respective MS and will be investigated according to national legislation in force.

3.13. Complaints

If the beneficiary, subject of the FLC, does not agree with the expenditure declared non-eligible by the controllers, a duly justified appeal against the first level control report can be submitted.

The appeal must specify at least the following information:

1. The identification data of the partner submitting the appeal;
2. The number of the financing contract and the title of the project;
3. The purpose of the appeal, including the data regarding the documents and/or the public procurement procedures subject to appeal;
4. The budgetary chapter in which the expenditure is enclosed;
5. The nature of the expenditure and the amount contested;
6. The motivation and justification of the appeal;
7. Justifying documents (if applicable);

The appeals submitted after the deadline specified above or those that do not contain enough elements in order to identify the act (public) procurement procedure subject to appeal, will not be analyzed.

If an appeal is partially or totally approved, the related expenditure will be validated by FLC following one of the cases below:

1. Either FLC in process of verifying a new report submitted by the partner and, in case it contains the budgetary lines affected by the results of the appeal, will include the expenditure approved under the appeal and make "positive corrections" accordingly for the flat-rate budget lines, or
2. The beneficiary will create in a new Partner Report the relevant budgetary lines as per the decision on the appeal, but with 0 expenditure requested. The FLC will validate the amounts as per the decision on the appeal (as a positive correction).

In both cases, the FLC will upload in the system the documents related to the appeal (appeal submitted by the partner, the FLC Decision on the appeal, on-the-spot report, etc).

In Romania:

The appeal must be submitted within **15 working days** after FLC Certificate is received by the Beneficiary to the FLC Coordinator. A single appeal can be submitted for an expenditure requested for first level control.

The appeal will be analyzed/re-evaluated by the FLC Unit, within **20 working days**, starting with the next day after the receiving date of the appeal through eMS mailing system.

After receiving the appeal, the FLC Coordinator shall designate the controllers who will analyze the appeal, others than the ones who performed the control.

If the first level controllers send clarification request, the project beneficiary must submit all the requested documents within the established time frame, the deadline for the resolution being suspended in this period. In this case, the appeal will be analyzed only based on the documents provided in the established timeframe. The first level controllers will not take into consideration the documents that were not issued before the registration date of the first level control request.

The controllers shall conclude the analysis of the appeal by issuing a resolution, which will detail the appealed expenditures and the reason for approval/rejection. If an appeal is partially or totally approved, the respective expenditures shall be included by the LB in the next PPR, together with the documents of the appeal (the resolution issued by the designated controllers and the supporting documents).

For an appeal submitted, the beneficiary will receive either:

- the Decision of the FLC Unit and the Validation Notice for the new validated expenditures, if the appeal is partially/entirely approved;
- or the Decision of the FLC Unit if the appeal is entirely rejected.

In Hungary

According to §18 Government Decree 126/2016, in Hungary the appeal must be submitted to the National Authority within 8 days after FLC Certificate is received by the Beneficiary.

The NA analyses the appeal and informs the Beneficiary on the decision in 15 days, starting with the next day after the receiving date of the appeal. In case the NA accepts the appeal, a new Declaration on Validation of Costs will be issued by the FLC Unit.

3.14. Documents archiving[23]

Each first level controller will be responsible for the documents archiving in accordance with the Programme rules. Thus, each controller will hold a separate file for each control performed, which must comprise details for the control performed (for example: control report), date and results of

[23] All these documents will be uploaded into eMS.

verifications and the measures that have been taken in case errors or irregularities are identified, as well as all corrective and follow up actions.

The FLC file of the Partner Report contains, if relevant:

- Notification/Request of first level control (elaborated by the beneficiaries and uploaded into eMS);
- L
- FLC Checklist (generated by eMS – elaborated by FLC controllers into eMS);
-
- Notification regarding the on-site visit (scanned version of the signed document will be uploaded in the eMS – elaborated by FLC controllers);
- Confirmation/ denial of the date proposed by the controller. If a denial is received, the controller and the beneficiary shall agree on another date for the on-site visit (elaborated by the beneficiaries and uploaded in the eMS), if relevant;
- Clarification letters (scanned version of the signed document will be uploaded in the eMS – elaborated by FLC controllers);
- On the spot Report (scanned version of the signed document will be uploaded in the eMS – elaborated by FLC controllers);
- Impartiality/confidentiality declaration (hard-copy signed by the controllers, scanned version of the signed document will be uploaded in the eMS);
- Checklist of the report for procurement (scanned version of the signed document will be uploaded in the eMS – elaborated by FLC controllers);
- First Level Control Report and FLC Certificate (generated by eMS – elaborated by FLC controllers into eMS);
- M
- Appeals files against first level control report (if applicable) (elaborated by the beneficiaries via eMS).

3.15. Impartiality and confidentiality

In order to make sure that the controllers are not subject to any conflict of interest in carrying out their tasks, they have to sign an impartiality and confidentiality declaration. All controllers agree that the data and information provided can be subject to checks at any time by the Programme authorities. Such declarations shall be annexed to each control dossier.

4. USING THE eMS SYSTEM[24]

When using the eMS the controllers must remember to save all work done regularly. The system does not automatically save information.

After login, FLC user could see the FLC dashboard with a list of all projects which have at least one beneficiary assigned to them by Coordinator of FLC Unit. The dashboard also shoes the mailbox and a calendar.

[24] More details will be found in Electronic Monitoring System (eMS) Manual.

FLC controller can also access projects via the "my project beneficiaries" table under the "FLC" item. To view this list the FLC user role needs the privilege "FLC".

A list of all partner reports ready to be verified can be accessed via the "FLC partner report's" menu item under "Reporting". To view this list the user role needs to be privilege "FLC".

Once a project has been opened, the partner report section is visible and reports can be selected.

4.1. Verification of a partner report – List of Expenditure

Each national controller performs the first level control in the eMS and the verification shall cover every single cost item. After the selection of a partner report the controller can view the partner report and List of Expenditure and Attachments made by the beneficiary.

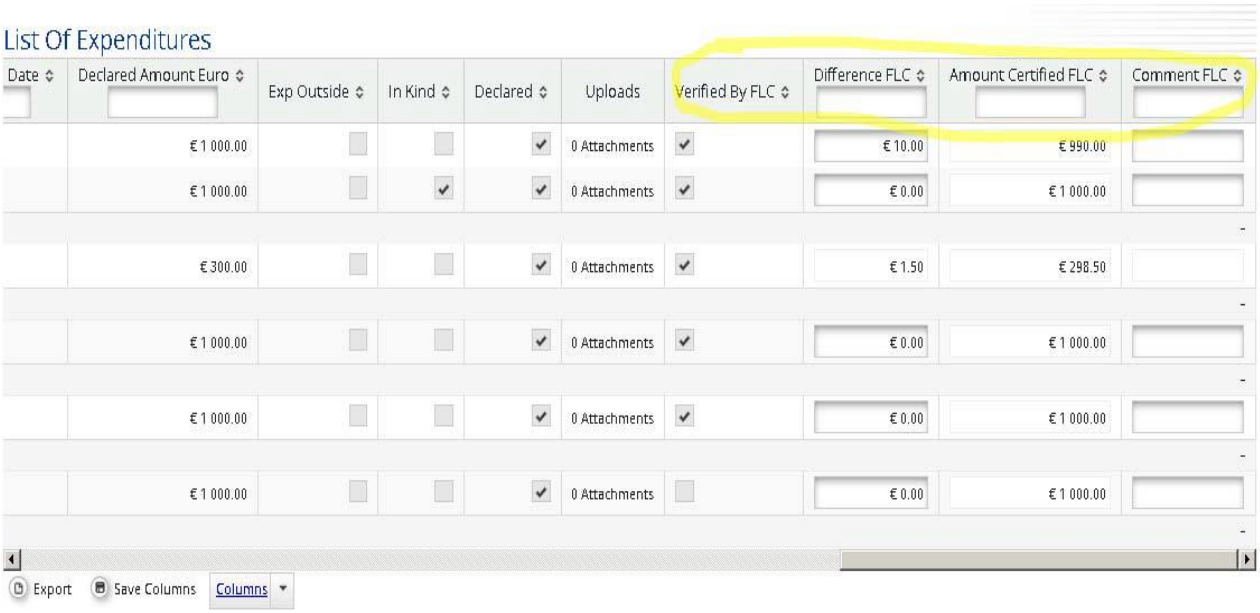
The FLC checking is ended with following documents:

- FLC Checklist (annex 1);
- FLC Report (annex 2);
- FLC Certificate (annex 3).

These documents will be printed and signed by the controllers who made the verification and the Coordinator of the FLC Unit and then scanned and uploaded in eMS to be included in the RC.

The FLC can directly access the list of expenditures and verify expenditure items.

Fig. 1: FLC section of the List of expenditure



List Of Expenditures

Date	Declared Amount Euro	Exp Outside	In Kind	Declared	Uploads	Verified By FLC	Difference FLC	Amount Certified FLC	Comment FLC
	€ 1 000.00			✔	0 Attachments	✔	€ 10.00	€ 990.00	
	€ 1 000.00		✔	✔	0 Attachments	✔	€ 0.00	€ 1 000.00	
									-
	€ 300.00			✔	0 Attachments	✔	€ 1.50	€ 298.50	
									-
	€ 1 000.00			✔	0 Attachments	✔	€ 0.00	€ 1 000.00	
									-
	€ 1 000.00			✔	0 Attachments	✔	€ 0.00	€ 1 000.00	
									-
	€ 1 000.00			✔	0 Attachments		€ 0.00	€ 1 000.00	
									-

Export Save Columns Columns

In the 'List of Expenditures", FLC can view all expenditure items. By clicking on an item, a pop-up window opens in which expenditure can be corrected.

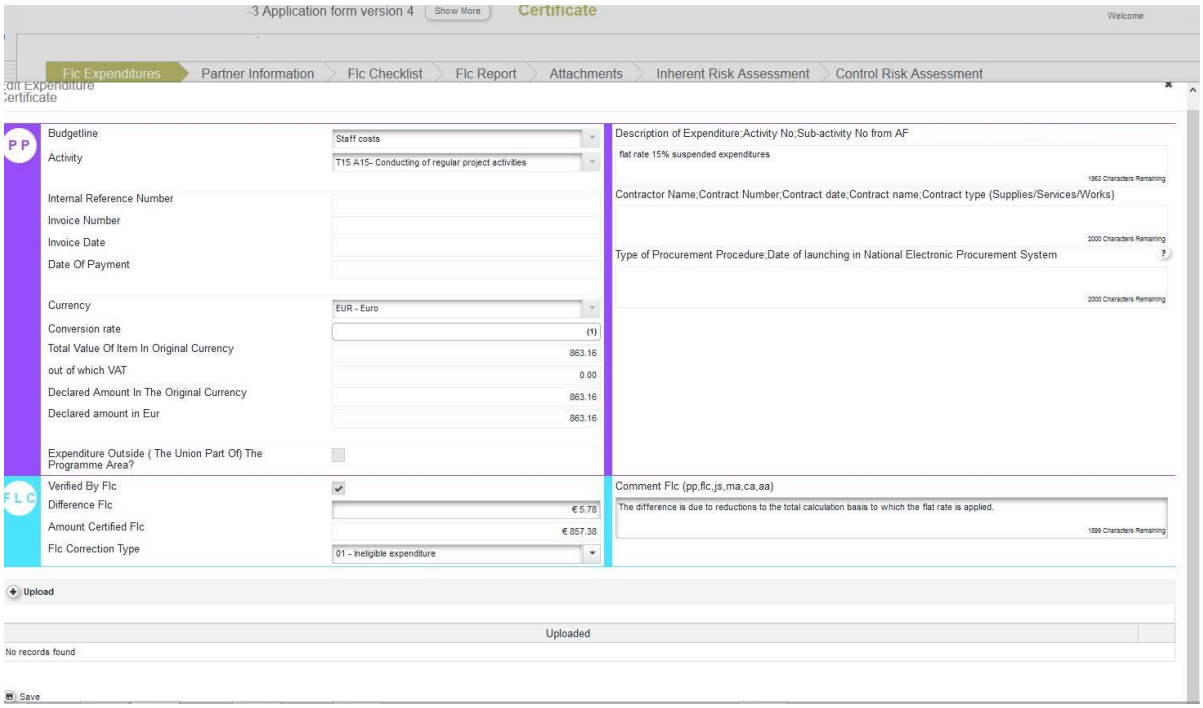


Fig. 2: FLC verify the expenditure items in a pop-up that can be accessed via the List of expenditure

- **Note:** The corrected amount is shown as "Amount certified by FLC".

Any supporting documents uploaded by the beneficiary can be accessed via the 'Uploads' section of each expenditure.

By ticking 'Verified by FLC', the item will be included into the FLC certificate.

- **Note:** *If you want an expenditure item to be included into the FLC certificate, the item needs to be marked as 'Verified by FLC' (the corresponding checkbox needs to be checked).*

For expenditures calculated using Flat rates (Office and Administration), the difference and certified amount are calculated automatically. They also do not need to be marked as 'Verified by FLC', as they are marked when any other expenditure is checked as verified.

- **Note:** *Direct corrections on flat budget lines are not possible via the List of Expenditure.*

"Sitting Duck"[25]

[25] For further information see eMS Interact Manual ver. 3_2 (http://ems-rohu.mdrap.ro/app/main?execution=e1s1)

The FLC Controllers can choose NOT to verify an expenditure item (e.g. needs further clarification). Any item that is NOT ticked 'Verified by FLC', is NOT included in the current FLC Report and Certificate.
By not ticking the checkbox 'Verified by FLC', FLC controller generates an item that is neither accepted not rejected and waits in the system to be verified ('Sitting Duck') in later reports. To access sittings duck items, the FLC controller has to access 'FLC expenditure' and tick 'show all open'.

"FLC Correction Type"

The corrections types of the expenditure items declared by PB has to be marked in eMS by FLC Controllers with the following codes:

1 01 - Ineligible expenditure

2 02 - Incorrect public procurement

3 03 - Missing supporting information or documentation

4 04 - Information and publicity measures

5 05 - Sound Financial Management

6 06 - Positive correction

7 07 - Performance indicators

8 08 - Revenue Generating projects

9 09 - No link to the project.

99 99 - Other

- **Note:** *For all corrections it is mandatory to use one of the codes listed above.*
- **Note:** *In the case the cut amount needs to be split in two, the controllers have to follow the format settled already „Code: Amount;code:Amount#Comment FLC"* in the *Comment FLC* field

4.2. Reopening the Partner Report, Attachment upload section or the Expenditures attachment upload section

Sometimes the controllers need to receive additional information from the project beneficiary for verification of expenditure. The eMS can use three ways of reopening the PR for editing[26].

[26] More details will be found in Electronic Monitoring System (eMS) Manual.

1. Reverting the Partner Report to the partner and reopening for updating some sections of the expenditure items – function 'Revert from FLC to PP'. (the expenditures ticked as "Verified by FLC" cannot be changed by Partner and the previous declared expenditures cannot be deleted anymore);
2. Open the "Attachments" section of the Partner Report by ticking the button "Attachment upload Allowed";
3. Open only the "Upload" section of each expenditure item declared by the Partner in the List of Expenditures by ticking the button "Expenditures attachment upload Allowed".

These options can be used to update the existing information in the PR or to add new attachments. In such cases the controllers should get in touch with the Project Beneficiary contact person to inform them regarding the next course of action.