

HIGH LEVEL GROUP REFLECTING ON FUTURE COHESION POLICY

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DISCUSSION DOCUMENT: CLEARANCE OF ACCOUNTS AND ROLLING CLOSURE

This document has been prepared by DG Regional Policy as the basis for a discussion with experts as part of a general reflection process on the future of cohesion policy. It does not prejudge in any way the final position of DG Regional Policy or the Commission on these questions.

1. INTRODUCTION

The objective of this reflection document is to outline the stages of the process of clearance of accounts, as well as the potential implications of clearance of accounts and rolling closure of ERDF and Cohesion Fund for the national authorities and DG Regional Policy.

2. OVERVIEW OF REPORTS AND THE TIMETABLE

The proposal for the amendment of the Financial Regulation (article 53a) foresees that the Commission shall:

"[...] apply procedures for a timely financial clearance of the accounts of the accredited bodies, ensuring that the accounts are complete, accurate and true and allowing for a timely clearance of irregularity cases".

It also contains detailed provisions on reports to be presented by Member States on annual basis.

These reports include:

- (1) **A management declaration** by the accredited body responsible for management of funds (currently the Managing Authority).
- (2) **Annual accounts** i.e. information on payments made to the beneficiaries and the corresponding EU contribution, national co-financing, recovered amounts and amounts recoverable – data comparable to that which is included in the current statements of expenditure and annual statements of amounts withdrawn, recovered amounts and pending recoveries.
- (3) **A report summarizing the results of all available audits and controls carried out.** In 2007-2013 this information is presented within annual summaries. Post 2013 the required information on controls could be submitted alongside the annual audit opinion (within the annual control report) and the management declaration (see below for details).

(4) **An annual audit opinion**

All the reports mentioned above are to be submitted by 1 February of the following year (15 February is the deadline for the synthesis report required where there is more than one accredited body in a Member State).

In the case of cohesion policy the accounting year (which is the basis for the annual accounts) could run from October to September, ending on 30 September. This adjustment of the accounting year would only serve the purpose of facilitating the submission of annual reports in time for the annual assurance process and the budget discharge at EU level.

The cut off date of 30 September would relate to expenditure for which the accredited body has actually paid the EU contribution to the beneficiaries ¹.

By 15 October the national administration should submit the last statement of expenditure covering the expenditure actually paid until the end of the accounting year. The Commission could then pay the EU contribution due before the end of the calendar year (31 December). **Thus the annual assurance (incl. the annual clearance of accounts) process at the EU level would cover expenditure paid by the Commission during a calendar year.**

The deadline of 30 September would be an accounting deadline and would not affect delivery on the ground. Payments to beneficiaries could be made continuously without interruptions. Additionally national authorities could submit statements of expenditure also during November and December (ahead of the decommitment deadlines at the end of the calendar year). However payments by the Commission would in that case be made in the next calendar year.

The Commission, after reception of the annual management declarations, annual accounts, audit opinions and reports by 1 February, would carry out its examination leading to a clearance of accounts decision by 30 April.

3. THE PROCESS OF ANNUAL CLEARANCE OF ACCOUNTS AT REGIONAL/NATIONAL LEVEL

3.1. Preparation of the annual management declaration

The annual management declaration should be signed by the head of the accredited body and it should pertain to the "completeness, accuracy and veracity of the accounts, the proper functioning of the internal control systems as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management".

¹ Where the body which decides on or makes payments does not transfer EU funds to the beneficiaries directly, but via other layers of administration, disbursement by this body towards a lower layer of administration can be accepted, as long as the payment is associated with concrete payment claims submitted by beneficiaries and the transaction is recorded in the accounts on the body making payments.

The declaration should be accompanied by a synthesis report containing data on the first level controls carried out (underlying methods, coverage and results) and their follow up (reporting of irregularities, recoveries). The report should also outline any improvements made to the management and control systems and indicate how main audit observations related to management and control systems have been followed up.

This report should be prepared as soon as possible after the end of the accounting year as it would also be a significant input to the formulation of the annual audit opinion and thus should be available to the audit authority well before the deadline of 1 February. The preparation can in practice start even before the end of the accounting year.

The annual management declaration could be finalised and submitted after review of the accompanying report and the annual accounts by the audit authority, giving the accredited body the possibility to take into account the observations of the audit authority.

3.2. Preparation of annual accounts

The accredited body would be obliged keep accounts of the eligible expenditure declared by beneficiaries, payments made to beneficiaries (both EU contribution and national public contribution), irregular amounts detected and deducted from eligible expenditure, amounts recovered and amounts due to be recovered from beneficiaries.

On the basis of information recorded in the accounts the accredited body would prepare regular statements of expenditure to the Commission throughout the accounting year. These declarations would be presented without additional certification by an independent body and would form the basis for regular payments by the Commission during the accounting year. Thus interim payments would be made by the Commission regularly on the basis of provisional statements of expenditure, as in 2007- 2013.

By 1 February annual accounts of the programme for the accounting year ending in the 30 September would be presented to the Commission. These would contain the same information as the regular statements of expenditure and constitute a final account of transactions for a given accounting year, including corrections or adjustments to the expenditure already declared during the accounting year. These would also contain information on withdrawn and deducted amounts resulting from the treatment of irregularities detected. The annual accounts (unlike the declarations submitted earlier in the year) would be subject to independent review by the audit authority.

3.3. Preparation of the annual control report and the annual audit opinion

The process of preparing an annual control report and formulating an annual audit opinion would not change significantly. The annual control report would provide an overview of audit work carried out as a basis for the audit opinion. It would present the main results of audit of management and control systems and audits on operations, as well as the error rate for the sampled population. The audit authority would take account of the management representations provided in the annual

management declaration and accompanying report. The audit opinion would state whether the audit authority had reasonable assurance on the accuracy and reliability of the accounts presented and the effective functioning of the underlying control system.

The timing of audit work would change. The accounting year at Member State level would be from 1 October to 30 September of the following year.

This means that:

- Audits of management and control systems would be carried out primarily in the first half of every accounting year.
- Audits of operations (on the basis of a statistical sample) could start once a reasonable amount of expenditure has been declared to the Commission. The last possible cut off date for the expenditure to be audited would be 30 June.
- Audit of annual accounts would entail an additional review of data included in the accounts – comparison of data presented within the accounts with amounts in the national accounting/payment systems and verification of whether irregular amounts have been deducted.

4. THE PROCESS OF ANNUAL CLEARANCE OF ACCOUNTS AT THE COMMISSION LEVEL

The general approach at Commission level for reaching conclusions for the Annual Activity Report (AAR) would not differ significantly from the arrangements already in place. However new elements would be integrated into the process of assessing whether there is reasonable assurance of the legality and regularity of transactions.

The Commission would continue to rely primarily on the work of audit authorities and the annual audit opinion, along with its own audit work. However in addition to reviewing the audit work carried out, the Commission would also take account of the management declaration presented by the accredited bodies, and in particular information on first level controls and actions taken to address any substantial weaknesses in the management and control systems identified in audits.

The Commission decision on the clearance of accounts could be made by 30 April following the accounting year by letter of the Director General for each programme. The clearance decision is a decision on the completeness, accuracy and veracity of the accounts, and a consequent acceptance of the expenditure presented, and the treatment of amounts recovered. The decision would indicate the final amount of eligible expenditure to be reimbursed by the Commission for the accounting year, and the amounts to be deducted from the next payment (or recovered), in cases where the payments already made by the Commission in the course of the accounting year exceed the amount due on the basis of the annual accounts.

5. DIFFERENT SCENARIOS OF THE ANNUAL CLEARANCE OF ACCOUNTS

Where the Commission concludes that it can rely on the unqualified (positive) opinion of the audit authority, it can proceed to a clearance decision for the programme within the 3 months deadline.

Where the Commission considers that it cannot rely on the (positive) opinion of the audit authority, it will suspend the process to ask for more information, and possibly additional work, from the audit authority.

Where the opinion of the audit authority is qualified because of serious deficiencies in management and control systems, the Commission could require an action plan to rectify the situation and postpone the clearance decision until the plan has been successfully implemented.

Annual clearance of accounts would mean that:

- the Commission would accept the accounts acknowledging that there is sufficient evidence that accounts are true and fair;
- the Member State could not replace programme expenditure which has been booked in the accounts, or re-book it to another programme;
- the Member State could not include additional expenditure retrospectively into accounts which have been submitted and cleared.

Annual clearance of accounts would NOT mean that:

- Member States would receive payments once a year – Commission could still make payments on quarterly basis or even more often. National authorities could submit statements of expenditure also during the period November/December (ahead of the decommitment deadlines at the end of the calendar year), however payments by the Commission would in that case be made in next calendar year.
- payments to beneficiaries would stop at the end of the accounting year - deadlines mentioned would be accounting deadlines and would not affect delivery on the ground. Payments to beneficiaries could be made continuously without interruptions.
- recoveries could not be extended to previous accounting years – where national authorities detect irregularities which influence the expenditure of previous years, corresponding amounts could be recovered and reused in the following years.
- the expenditure in the accounts could no longer be corrected by the Commission. Where subsequent audits by the Commission show deficiencies affecting expenditure for accounting years which have been subject of clearance decisions, financial corrections could be applied subject to the rules on closure set out in point 6 below.

6. THE ROLLING CLOSURE OF PROGRAMMES

The rolling closure of finalised operations is made possible by the annual clearance of accounts and would work in conjunction with this process on the basis of the following assumptions:

- It is not possible to close expenditure from operations which have not been finalised. National authorities can carry out controls throughout the lifetime of any one operation and the more critical controls are likely to take place at the end of the operation. Irregularities which occur and are detected late in the life cycle of an operation can affect the eligibility of expenditure declared years before. Thus it is not possible to "close" expenditure related to unfinished operations year by year.
- By the time an operation is finalised and the final payment is made, all necessary first level controls for that operation should have been carried out. By making a final payment to an operation, the managing authority acknowledges that expenditure incurred in that operation has been legal and regular. After the finalisation of an operation, the only routine checks by the managing authority should relate to durability.
- The accredited authority should submit a list of operations finalised during the accounting year, along with the corresponding amounts of eligible expenditure routinely within the annual accounts.
- A rolling closure should be a part of a regular routine and should not require additional administrative effort. Thus a regular statistical audit sample drawn from the expenditure of previous accounting years including expenditure from operations finalised should suffice as a point of reference for closure. National authorities should however reaffirm that all irregularities detected over the years within finalised operations have been corrected before closure. Adequate time should be provided to investigate potential irregularities emerging from audits of operations after the finalisation of these operations.
- Corrections by the national authorities would not be net corrections and funds could be reused, regardless of whether the corrections are made before or after closure. However any irregularities detected by the Commission or the Court of Auditors after closure would lead to net corrections.

The closure could proceed in the following timetable on a rolling basis:

Accounting year N	Four months from 1 October of year N until 1 February year N+1.	30 April of year N+1	31 December of year N+3
Finalisation of the operation - final payment to the operation before 30 September of year N.	<p>Period for final audits of operations by the Audit Authorities and follow up of audit observations.</p> <p>Identification of operations which cannot be closed due to pending administrative or judicial proceedings</p> <p>Identification of operations to be closed along with the corresponding eligible expenditure within the annual accounts submitted to the Commission.</p>	Closure of operations finalised in the accounting year N in alignment with the process of annual clearance of accounts.	The retention period for supporting documents and the period of ex-post audit and recoveries by the Commission and the Court of Auditors lapses for operations closed following the accounting year N.

The Commission would have the possibility to interrupt the procedure and postpone the closure of operations pending investigation, where there are indications that operations to be closed could include irregular expenditure.

Operations which become subject for investigation, administrative and judicial proceedings (regardless of whether these are initiated by the national authorities or the Commission), would be closed once these proceedings end and a final decision in regard to the eligibility of expenditure is made.

The Commission and the Court of Auditors could audit operations within the 3 year document retention period, but not later. Thus the period of "jeopardy" for individual operations, especially those of short duration, could be reduced substantially.

Final closure of programmes could take place within the context of the clearance of accounts of the last year of implementation. It would concern only operations finalised during the last year of implementation and the operations which have remained unclosed during the previous years due to administrative or judicial proceedings. There would be no separate final declaration by the audit authority, but the payment of the final balance would be conditional on the submission and acceptance of the final implementation report.

Rolling closure would mean that:

- the period during which the Commission (and the Court of Auditors) could audit finalised operations and make decisions of recovery, would in many cases be substantially shorter than it is in 2007-2013, providing more legal certainty for beneficiaries and national authorities as well as reducing the burden of retention of documents;
- given the annual clearance of accounts procedure, closure could be performed year by year without notable added effort.

Rolling closure would NOT mean that:

- all corrections after closure would be net corrections. Where irregularities are detected by the national authorities, the funds could be reused. Where irregularities are detected by the Commission or the Court of Auditors, net corrections would ensue;
- national authorities would be required to close all finalised operations immediately – where the operation is subject to administrative or judicial proceedings, the closure could be delayed by a duly justified period; however the suspected irregularities would need to be cleared within this time.