

# **GENERAL PRINCIPLES ON FIRST LEVEL CONTROL IN INTERREG POLAND-SLOVAKIA PROGRAMME 2021- 2027**

**(version 1, December 2023)**

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## INTRODUCTION

The purpose of this document is to define the minimum quality standards of the First Level Control set by the Managing Authority and to give practical guidance on carrying out the First Level Control in the Poland-Slovakia Programme. This ensures the harmonised standards with regard to the FLC in both Member State.

Member States are recommended to follow the principles in this document, implementing it into their own organisational structure and control arrangements. The document covers:

- how the control system is organised,
- the role of the FLC in it,
- what is CST2021,
- how to comply with management verifications,
- control of durability of the project.

This document sets also a list of annexes that are important during the control process.

Annexes 5 and 8 as well as annexes 9-18 should be used directly by FLC in the version from the current GP version.

Annex 1 is the minimum standard and could be supplemented/amended by the FLC in line with national regulations.

Annexes: 2-4 and 6-7 are a proposal to be used at the national level. These attachments may be supplemented according to national needs and requirements or replaced by national documents, provided that in the case of checklists, national checklists will correspond to the scope of verification described in GP.

Annexes 19-20 are an overview attachment.

Due to the different national FLC systems set in the Member States it is not possible to cover every situation in this document. More in-depth information about specific issues relevant in the context of FLC tasks can be found in other programme documents as well as EC and national regulations.

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

## 1. ABBREVIATIONS

AA – audit authority

CPR – Regulation 2021/1060

CST 2021 – Central ICT System

ERDF – the European Regional Development Fund

ETC Regulation – Regulation 2021/1059

EU – the European Union

FLC(s) – first level controller established based on Article 46 (3) of the Regulation 2021/1059 and Article 74 of the Regulation 2021/1060

GoA – Group of Auditors

GP – General Principles of First Level Control in Interreg Poland-Slovakia Programme 2021-2027

IMS – the Irregularity Management System

JTS – Joint Technical Secretariat of Interreg Poland-Slovakia Programme 2021-2027

LP – lead partner

MA – managing authority

MS(s) – member state(s)

NA – national authority

PM – Interreg Poland-Slovakia Programme 2021-2027 Programme Manual

Poland-Slovakia Programme – Interreg Poland-Slovakia Programme 2021-2027

PP(s) – project partner(s)

SCO(s) – simplified costs options that include: lump sum, flat rate, unit costs

SL 2021 - application for managing projects

SPF – small project funds

the EC – the European Commission

the ECA – European Court of Auditors

## 2. CONTROL SYSTEM AND THE LEGAL BASIS OF FLC IN POLAND-SLOVAKIA PROGRAMME

### 2.1. General information

Each MS shall designate the FLCs<sup>1</sup> that will approve expenditures declared by project partners in projects implemented in the Poland-Slovakia Programme. Designated FLCs are responsible for verifying the legality and regularity of the expenditures declared in partner progress reports (payment claims).

### 2.2. Centralised system in Poland-Slovakia Programme

The FLC bodies designated by the governments are:

SLOVAKIA	Ministry of Investment, Regional Development and Informatization of the Slovak Republic, Department of Cross – Border Cooperation Implementation Control and Department of Public Procurement Control,
POLAND <sup>2</sup>	Voivode of the Malopolskie Voivodeship (Kraków)
	Voivode of the Slaskie Voivodeship (Katowice)
	Voivode of the Podkarpackie Voivodeship (Rzeszów)

Contact details of the FLC bodies in Poland and Slovakia are available at the Programme website: [www.plsk.eu](http://www.plsk.eu).

The FLCs in Poland and Slovakia are funded by the MSs.

### 2.3. Legal basis

The principles of First Level Control have been defined in this document, along with:

- CPR,
- ETC Regulation,
- The Poland-Slovakia Programme approved on 26.09.2022,
- PM,
- national guidance on the FLC system (if applicable),
- internal control procedures of the entities appointed to carry out the control.

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<sup>1</sup> According to Article 46 (3) of the Regulation 2021/1059 and Article 74 of the Regulation 2021/1060.

<sup>2</sup> Three Voivodes responsible for verification of expenditure of partners located on the territory of the respective voivodship.

## 3. Overview of the role of the FLC

### 3.1. Main responsibilities of FLC

FLCs carry out management verification which includes:

- administrative verifications of expenditures declared in reports by PPs;
- on the-spot-check at the premises of the LP and PPs.

Detailed information on management verification is laid down in Chapter 6 of this document

### 3.2. Cooperation with partners

The FLC can have a positive impact on the verification process and assist partners providing:

- solutions to problems spotted when providing all the supported documents to reports in the SL2021. You can learn more about SL2021 in the chapter 5;
- knowledge on what mistakes partners should avoid preparing reports, based on the experience of the FLC;
- information on national control rules;
- interpretation of national eligibility provisions, if possible, based on the experience of the FLC;
- information on the most common irregularities detected in projects that could be avoided e.g., in public procurement, State aid, VAT;
- individual or group learning sessions with project partners to advice on how to prepare reports and avoid mistakes and irregularities;
- support to partners when expenditure is questioned with regard to external audits.

Close cooperation between the FLC and partners during the verification of the project will certainly upgrade the effectiveness of the process in terms of keeping up with the deadlines and clearing up mistakes and irregularities. The latter might certainly decrease the risk of programme error rate occurrence.

While communicating with partners, the FLC should exchange the correspondence with partners in the SL2021 as often as possible, in particular if the correspondence concerns the verification process. It will provide for the audit trail for the management verifications carried out at the first level of control.

### 3.3. Four „eyes“ principle and impartiality. Conflict of interest

**The Four Eyes Principle** (also the Two-man rule) is a widely used control mechanism that requires that any activity by an individual must be controlled (reviewed, double-checked) by a second individual that is independent and competent.

Four Eyes principle ensures more transparency and likelihood that potential irregularities will be detected.

With regards to management verifications the principle is not obligatory but recommended and can be implemented by engaging the second FLC in the process or the institution that supervise the performance of FLC.

**Impartiality** of FLC(s) must be ensured as they should be independent from the project, project activities and without private prejudice to the partner controlled. Therefore, before starting the control tasks the FLC employees should confirm its:

- **confidentiality** – FLC should not communicate to unauthorized persons or entities any confidential information related to the project disclosed to him/her in the course of activities carried out as the controller;
- **impartiality** - a declaration with regard to the verified project there is no conflict of interest pursuant to Art. 61 Financial Regulation<sup>3</sup>.

Furthermore, the FLC employees shall declare that:

- he/she is not in any factual or legal relation with the Partner's institution, which is the circumstance that could question my impartiality and affect the performance of my duties,
- he/she is not a member of the Partner's organisation nor any associations, organizations, foundations or other entities organizationally or personally associated with the Partner's organisation,
- his/her spouse or relative to the second degree is not employed in the Partner's organisation on a managerial position,
- he/she and any of the aforementioned persons took part in the preparation of the project documentation,
- in the event of circumstances indicating a possible violation of the principle of impartiality, he/she should declare to immediately inform his/her hierarchical superior about this fact and accept that the hierarchical superior may decide to exclude him/her from carrying out activities related to this project.

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<sup>3</sup> As referred to in Article 46 of the Regulation (Eu) No 2021/1060 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments.



A sample declaration of confidentiality and impartiality can be found in Annex 1.

A conflict of interest exists where the impartiality or objectivity of a person who takes a decision related to the spending of EU funding is compromised for reasons involving family, emotional, political, economic interest or any other direct or indirect personal interest.

The Four Eyes Principle and impartiality of FLC are both control mechanisms that works in the field of prevention of conflict of interest. More recommendations on this you can find in "Combating financial fraud. Manual" on the programme website as well as in the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and the Guidance on the avoidance and management of conflicts of interest under the Financial Regulation (2021/C 121/01).

**3.4. Documents required for verification**

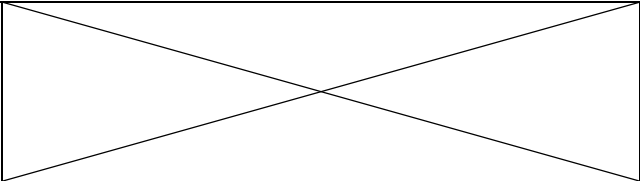
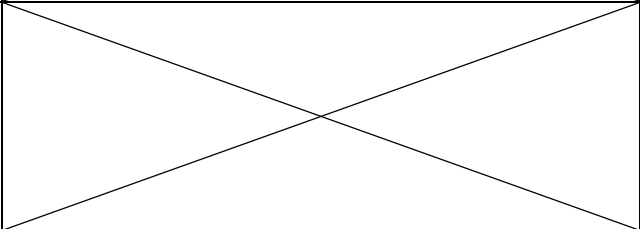
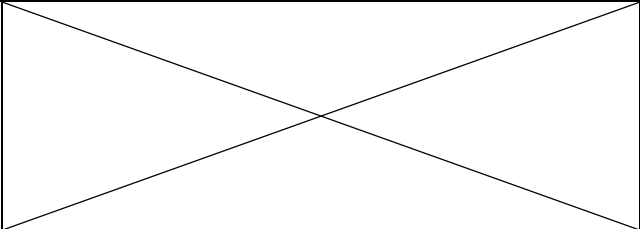
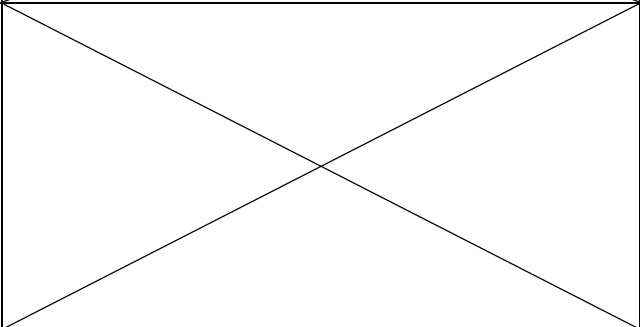
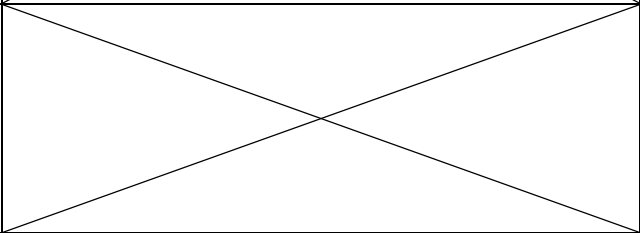
Verification of expenditure of partners is carried out based on the following documents:

- Application Form,
- Subsidy Contract,
- Partnership Agreement,
- Partner progress reports including the list of expenditure (including 0-report contains only preparation costs).

Documents are all available in the CST2021 (you can learn more about CST2021 in the chapter 5).

Verification is carried out on the basis of the following documents proving the eligibility of expenditure:

<b>Real costs</b>	<b>SCOs (lump sum, flat rate, unit costs)</b>
Invoices or other documents with equivalent value of proof for example payslips including the amount eligible for the calculation of an expenditure in the project,	
Contracts signed with contractors (including the annexes),	

<p>Delivery notes (for example a protocol of reception of products and services),</p>	
<p>Documents proving the payment (a bank account statement or other documents with equivalent value of proof,</p>	
<p>Employment contracts and job descriptions</p>	<p>The statement proving the need for staff employment to the project.</p> <p>The statement providing the need for travel and accomodation costs od the project partner's staff.</p> <p>Proof of travel (e.g., attendance list, recording of a meeting or similar evidence) at least once during the duration of the project for partner who receives a flat rate for travel and accommodation.</p>
<p>Payslips, calculation of salary. (where staff costs are calculated as real costs with no fixed % calculation method only).</p>	
<p>Job descriptions showing the % of the part – time employment prepared ex-ante/before the reporting period (where staff costs are calculated as real costs by the use of the fixed % method).</p>	
<p>Documents on the public procurement carried out in compliance with national and EU provisions.</p>	

Statements of account reflecting the exchange of the amounts declared in national currency into euro.	
Other documents necessary for verification of expenditure, for example information on eligibility of the VAT (valid for projects with state aid).	
Participant lists with signatures of project-related activities, invitations, agenda, minutes, attendance records (i.e., seminars, working groups, meetings etc.).	
Calculation methods, rationale, and documentation for the value of any equipment to be used by the project.	
Specimens of booklets, outputs, tangible or intangible results of services, studies, publications etc. , which are produced by the beneficiary.	
Other documents required by the FLC (i.e. if required by the national rules).	

#### 4. Reporting process and the role of the FLC

FLC will receive the progress report for verification in CST2021. The report will cover activities and expenditure of 3-months reporting periods.

The first partial payment claim, including preparation costs, are submitted by the project partners for the period from the date of starting the implementation of activities in the project to the month of signing the subsidy contract (some examples below).

**NOTE:**

- PP signed the subsidy contract and started activities in the project on March 23, 2023 - the first payment application covers the period from March 23, 2023 to April 22, 2023;
- PP signed the subsidy contract on March 23, 2023, but started the activities in the project earlier (the project start date is written in the contract), e.g. on October 11, 2022 - the first payment claim covers the period from October 11, 2022 to April 22 .2023;
- EXCEPTION: PP signed the subsidy contract on March 23, 2023, but started project activities later (the project start date is written in the contract), e.g. on June 1, 2023 - the first payment claim covers the period from March 23, 2023 to until June 30, 2023.

PPs submit subsequent payment applications, as a rule, for a period of three months.

The PP submits the partial payment claim to the FLC for verification within 10 days of the end of the reporting period. Verification of a partial payment claim takes up to 60 days (in some cases, where clarifications are needed, it may take a longer period).

The final payment claim for the project is the last payment claim for the project. PPs submit it after completing the material and financial activities. It covers the period from the first day of the last reporting period to the date of completion of the material implementation of the project.

Reporting in the project and exchange of project progress report and documents between the project partners and the FLC is carried out in the CST2021. PPs operate in CST2021 system: complete and submit PP progress reports, communicate with FLC, send financial documents, public procurement documents, contracts and information on the working time of people involved in the project implementation.

## 5. CENTRAL ICT SYSTEM (CST2021) AND THE ELECTRONICAL EXCHANGE OF DOCUMENTS AND INFORMATION

### 5.1. General information

In the 2021-2027 perspective, as a rule, the exchange of documents and information related to the project implementation among the partners and programme institutions is conducted electronically via a system designed for this purpose. Partners, LP and the FLC have an obligation to use the CST2021.

The CST2021 is a central system that provides for the handling of:

- processes related with the calls for proposals and assessment of application forms,
- projects from the moment of selection for co-financing, including project settlement,
- projects' monitoring, verification, control and audit,
- processes related with certification of expenditures to the EC.

The FLC will have access and will work in the following CST2021 applications :

- SL2021 – which lets the FLCs have access to projects assigned, documents, progress reports etc.,
- e-Controls – which lets the FLCs conduct and document the controls,
- reporting application – which lets the FLC's generate reports with data gathered in the CST2021.

The detailed information on how to use the system, its functionalities and technicalities is to be included in a separate user manual developed by the MA and published on the programme website.

The online trainings and the ongoing support are provided by the MA

## 5.2. The SL2021

The SL2021 is an application for managing projects from the moment of selection for co-financing, in particular as regards:

- introducing changes in projects under implementation – FLCs will have access to preview the versions of the project and the attached documents,
- conducting correspondence between project partners and the FLCs,
- sending and verifying progress reports), including approval, correction, rejection and withdrawal thereof – FLCs will verify the progress reports submitted by the PPs,
- sending and verifying data regarding financial schedules, including approval, correction and withdrawal thereof – FLCs will have access to this information,
- sending data on public procurements and contracts – FLCs will have access to this information,
- sending data on persons employed to implement projects, the so-called personnel base – FLCs will have access to this information;
- registering the results of on-the-spot checks (control reports) – using the e-Controls module.

For FLC it is obligatory to work in the SL2021

### 5.3. e-Controls

e-Controls application is a specific part of CST2021, solely devoted to the registration of controls<sup>4</sup> on the projects as a monitoring system play a key role in programme management.

In addition to the registration of controls on the project, the **e-Controls** application in particular facilitates collection of information on financial corrections put on PPs upon approval of their expenditures i.e., at the level of on-the-spot checks/audits. Those corrections may include:

- amounts spotted by controllers itself during the on the spot check;
- amounts detected by auditors, and confirmed by controllers with regard to previously verified expenditures;
- amounts detected by MA, EC, ECA and confirmed by FLCs with regard to previously verified expenditures.

The aim of the application for FLCs is to:

- serve the FLCs to gather all the information on financial corrections of controlled partners in one place;
- facilitate the work of FLCs to prepare the notification on irregular expenditures.

All irregularities detected by external institutions have to be always confirmed by FLCs in terms of the final amount of the findings in the notification on irregular expenditure (see subchapter 6.11). This notification includes information detected amount of irregularity within the controls/audits carried out. The amount detected by audit can go up due to the fact that the same irregularities might have occurred in previous progress reports approved by the FLC.

FLC uploads the notification which confirms the final amount of irregularity in the application e-Controls (just by clicking the "**add file**" button on prepared scan of notification). This will be visible for MA as soon as it has been added.

#### **WHY FLC needs e-Controls application?**

1. The FLC will know where financial irregularities occurred in the project and on what amount. The MA will submit the results of audits to the NA and FLCs. The notification of irregularities should be issued then.

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<sup>4</sup> Registering the results of on-the-spot checks as well as any other external control on the project.

2. The e-Controls will allow to monitor the project in terms of reporting correct financial information to the MA.
3. It will help to avoid mistakes in calculation of final amounts of irregularities if registered in one place.

The application is user friendly and should not take more than 15 minutes per one registration.

#### 5.4. Reporting application

Reporting application allows creating specific statistics and management reports – based on the data entered in the CST2021, including inter alia information on the EU funds' spending level, expenditure forecasts, state of implementation of the funds, controls conducted etc.

FLCs will be able to create their own reports or generate report prepared by the MA.

#### 5.5. Responsibilities of FLC to work in CST2021

**Appointment of users.**, The information on persons entitled to work in the CST2021 comes from the institution designated by the government to carry out the First Level Control.

**NOTE:** during verification of progress report in SL2021, FLC should pay special attention to the following points and verify:

- whether the progress report is submitted under the proper version of the project (if annex is presented),
- whether the expenditure is declared within the proper budget position (work package, cost category, cost description),
- whether the ERDF co-financing amount for every single expenditure or SCO is calculated properly and whether the SCOs have been correctly calculated by the PP (SCOs are not filled in automatically by the system),
- whether the summary for the budget item/work package/project does not exceed the amounts in the current version of the project budget (and if exceed – check whether it is allowable according to the programme rules).

Detailed description of the method of performing the abovementioned tasks is presented in the CST2021 User manual.

**NOTE:** In justified cases, in particular in the case of system failure confirmed by the MA, it can be possible to verify the partner progress report submitted to the FLC in

paper version. In this case the project progress report may be submitted to the JS in paper version as well (provided it was not possible to complete the data in SL2021).

After removing the cause of failure the missing information is immediately included or updated in the SL2021 by all the system users.

## 6. MANAGEMENT VERIFICATIONS

### 6.1. The purpose of verification

The management verification is the process of confirming the eligibility of expenses and the correctness of the project implemented by the project partner. It includes administrative verifications in respect of progress report made by partners as well as on-the spot verifications.

According to Article 74 of CPR management verifications (including administrative verifications) shall be carried out based on the proportionate risk analysis prepared by the MA ex ante and in writing. The risk analysis is established and reviewed and if necessary updated by the MA on annual basis.

This implies some crucial objectives for the Poland-Slovakia Programme:

1. In order to confirm the eligibility of declared expenses in the project, FLC works on a sample.
2. Sampling is based on methodology with predetermined risk-factors and risk-analysis.
3. During the administrative verification subjected to sampling are both: PP progress reports and declared expenses.
4. On-the-spot verifications are also based on a sample of projects and declared expenses.

Specific provisions for administrative verification and on-the-spot verification were laid down in the following subchapters 6.2 and 6.5.

### 6.2. Administrative verification

Administrative verifications are the control checks that the FLC carries out on a progress report while checking supporting documents submitted by the partner in the SL2021.

FLC shall focus their verifications on those reports where the risk is high. FLC shall follow the risk-based methodology prepared for the PP progress reports (Annex 5). The risk analysis for the progress reports should be done as the first step in administrative verification procedure. It allows to identify and fully check only those



reports that are characterized by a high level of risk (so called "full-scope verification" of risky progress reports). Low risk progress reports are subject to limited verification.

**See Annex 19 for more detailed information on sequence of risk analysis.**

The scope of administrative verifications focus in particular on:

**During the limited verification, FLC checks whether:**

- the progress report has been correctly fulfilled in line with formal obligations;
- the progress report is correct in terms of calculations;
- /if it results from the program documents / the progress report fairly presents the progress of the project and indicators.

**During the full-scope verification, FLC makes a limited verification and moreover checks:**

- if expenditures declared are correct and eligible;
- if the PP and other entities engaged in the project implementation maintain a separate accounting system or adequate accounting code for all transactions relating to the project without prejudice to national accounting rules (does not apply to SCOs),
- /if it results from the program documents/ the Subsidy Contract is correctly implemented in the part relating to the PP, taking into account the achievement of indicators, if the PP is responsible for the implementation of part or all of a specific indicator;
- if participants of activities carried out in the project meet the participation requirements specified in the project;
- if the communication activities planned by the PPs in the communication plan are implemented by them correctly and project is implemented in line with the EU requirements on communication. The above mentioned requirements are listed in Art. 47 of CPR and in points b) to e) of the article 36 (4) of the ETC Regulation<sup>5</sup>;
- if conditions for payments have been fulfilled for SCOs;

**NOTE:** When the SCOs were reported in progress report, the FLC should also:

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<sup>5</sup> During the verification of the first progress report the controller should check whether the PPs provided a short description of the project, including its aims and results, and highlighting the financial support from the Poland-Slovakia Programme. on the partners official websites or social media sites (where such sites exist).

- for a **flat rate** check if a PP:
  - correctly assigned the actual costs to a given cost category of expenditure, from which the costs settled at a flat rate are calculated,
  - has not presented the same costs twice (as a SCO and as a real cost)
  - correctly applied and calculated the % of a flat rate,
  - reduce the value of the flat rate properly, if needed due to irregularities in the costs that are the basis of the flat rate calculation;
- for a **lump sum** check if a PP:
  - completed the tasks in accordance with the standards and scope specified in the Subsidy Contract,
  - has achieved the indicator specified in the Subsidy Contract assigned to the lump sum;
- for **standard unit costs** if a PP:
  - performed the activities planned in the project in the correct scope (standard) specified in the Subsidy Contract.

- if eligibility rules have been respected (in particular with public procurement and fair competition, environment protection, State aid, equal opportunity as well as publicity and information requirements described in the PM);
- if the amounts of the expenditure seem to follow sound financial management and are in line with principles of economy, efficiency and effectiveness.

**NOTE:** Expenditures from risky progress reports should be verified on the basis of a sample of supporting documents.

FLCs shall use the sampling method approved by the MA. It is prepared ex ante and in writing (see Annex 6).

If the FLC detects any errors/irregularities in the chosen basic sample that may have an impact on other expenditure out of the sample, he/she determines the size of the complementary sample based on the professional judgment. The assessment of the detected findings should also include information if they result from the management and control system (systematic nature of findings). In this case the FLC describes it in the comments to the checklist and notifies it immediately to the MA by sending the checklist as scan via e-mail ([kontrolaEWT@mfi.gov.pl](mailto:kontrolaEWT@mfi.gov.pl)).

Obligations of the FLC with regard to administrative verification of the PP progress report:

- conduct risk analysis with the help of prepared methodology (Annex 5);

- verify the progress report in the SL2021 in deadlines set for the FLC<sup>6</sup>;
- fill in the checklist<sup>7</sup>. The checklist should correspond with the scope of verification laid down in the GP. It should be attached in the SL2021 in reporting module for audit purposes;
- use SL2021 communication channel with PP in the process of explanations and gathering additional documents;
- ask PP to delete all the ineligible expenditure from the progress report or make corrections on its own;
- approve the progress report in the SL2021.

It might happen, in some cases that the PP is not able to deliver necessary explanations and additional documents proving the eligibility of expenditure as part of the clarifications to the FLC within the set deadline. The FLC deems that expenditure ineligible in a given reporting period and finalizes the work (accepts only the expenditure that was not questioned). Related expenditure after final examination and approval by the FLC can be claimed in the next reporting period. However, this rule does not refer to the final report submitted by the partner.

### 6.3. Administrative verification of SPF

Administrative verification of SPF - refers to the verification of the SPF beneficiary's payment application, in which the costs of small projects are settled (settled with lump sums based on the approved ex ante draft budget) and the management costs of the SPF beneficiary (real costs or flat rate from the approved real costs of small projects).

Small projects are included in CST2021. For SPF projects, a register of grants will be kept by the SPF beneficiary, which contains a list of all concluded agreements with small projects as well as payments made. Items from this register will be included in the SPF beneficiary's payment claim as regular cost items.

Scope of administrative verification of the SPF beneficiary's payment claim is similar to that described in point 6.2, however the FLC shall additional check:

- correctness of settlement of management costs - correctness of the applied flat rate, and in the case of actual costs - eligibility of expenses,
- correctness of lump sum settlement of small projects, in particular: achievement of indicators, delivery of products or performance of other obligations under the contract and necessary to pay the lump sum,

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<sup>6</sup> The JS/MA will monitor the estimated timing of the submission of the progress reports by partners and the timing of verifications performed by the FLC.

<sup>7</sup> FLC uses a list according to national rules.

- reimbursement payments for small SPF projects,
- fulfillment of obligation of visibility, communication and transparency by final recipients.

Obligations of the FLC with regard to administrative verification of SPF are similar to the obligations described in point 6.2.

#### 6.4. Complaint procedure

Objections regarding the results of First Level Control, if envisaged, are examined based on the national solutions of the Programme Member State in which the project partner is seated:

- The Polish project partner may file objections regarding the results of verifications conducted by the First Level controller pursuant to Article 27 of the Act on the rules for the implementation of tasks financed from European funds in the financial perspective 2021–2027;
- The Slovak project partner may raise written objections against the deficiencies identified in draft report prepared by the FLC in accordance with the Financial Control Act No. 357/2015 Coll. ...

**NB:** The MA **does not** examine objections regarding the results of the First Level Control.

#### 6.5. On the spot verification

On-the-spot verifications are performed by the FLC at the premises of the partner as well as in any other place where the project is being implemented. In justified cases and in line with national regulations, on the spot verification might be performed with the use of IT tools (virtual control). In this case they must be properly documented, with the help of e.g., photography of premises and project results (with the date indicator), video recording etc.

The FLC shall verify on-the-spot the project implemented by the partner based on the results of the risk analysis. MA has prepared on-the-spot methodology to be used by the FLC (see Annex 7). The FLC may draw up the on-the-spot verification plans (considers centralised systems) which may be reviewed by the MA upon the request.<sup>8</sup>

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<sup>8</sup> According to the European Commission's Reflection paper "Risk based management verifications Article 74(2) CPR 2021-2027". In Poland FLCs prepare their input to the on-the-spot verification plan prepared for all INTERREG programmes according to the national guidance for management verification of INTERREG programmes 2021-2027.

### 6.5.1. On the spot verification of regular projects

The scope of on-the-spot verifications focus in particular on:

- if the products and services co-financed have been delivered;
- if expenses declared by the partner are in line with the approved Application Form, the Subsidy Contract and the Partnership Agreement;
- if expenses declared by the PP in connection with the implemented project were actually incurred (if applicable) and are consistent with the law, the requirements of program documents and with EU and national rules;
- /if applicable/ if the PP progress report illustrates the progress of the project, including the implementation of indicators (if the partner is responsible for the implementation of a specific indicator);
- if the PP maintain a separate accounting system or adequate accounting code for all transactions relating to the project without prejudice to national accounting rules (does not apply to SCOs);
- if activities regarding visibility, transparency and communication are performed correctly;
- If the accessibility of the project's products for people with disabilities and the concept of universal design are reflected in the implemented project,
- if LP fulfils the obligation regarding the transfer of funds to the partners as specified in Art. 26 (2) of the ETC Regulation (applicable for the FLC of LP only).
- if conditions for storing documentation have been met.

**NOTE!** On-the-spot verification may be carried out on a sample of documents (the same sampling methodology applies as for selecting expenditures for verification, see Annex 6).

Obligations of FLC linked to on-the spot verification are described in point 6.6.

### 6.5.2. On the spot verification of SPF

The FLC verifies the obligations of SPF Beneficiary related to the organisation of calls for small projects and correct determination of lump sums within a draft budget during on the spot checks, including:

- establishing a non-discriminatory and transparent selection procedure,
- applying objective criteria for the selection of small projects that avoid conflicts of interest,
- evaluation of applications for small projects,
- selecting small projects,
- determining the amount of support for each small project,

- implementation of the SPF project,
- making available to the public the list of final recipients who benefit from the SPF project,
- fulfilling obligations with regard to transparency and communication,
- fulfilment of document retention obligations.
- (optional) in connection with the implementation of small projects: visual inspection at the place of implementation of the small project or at the headquarters of the final recipient. The FLC conducts an inspection in order to confirm whether the goods or services have actually been delivered or performed within the specified scope and standard.

Verification of the tasks referred to in points b-e is carried out by the FLC on a sample of small projects selected in accordance with the methodology for selecting small projects to control the recruitment process (see Annex 9).

The FLC verifies the correctness of determining the amounts of support for a small project (draft budget), i.e., whether the SPF beneficiary, during the evaluation of a small project, complied with the procedures set out in the PM related to the requirements for drafting the budget, in particular:

- whether in the cost category: external experts and services costs and costs for infrastructure and works the beneficiary used the list of the most frequently appearing expenses in an authorized manner;
- whether the beneficiary correctly documented the market value of the expenditure,
- whether the beneficiary correctly defined the % value of expenses for staff, administrative and travel costs,
- whether the beneficiary used the correct EUR exchange rate.

**IMPORTANT: The FLC checks whether the SPF beneficiary:**

- considered the appropriate number of bids and
- did not omit other documents or steps in the procedure of determining the lump sum for a small project, which could result in the adoption of an incorrect value of the lump sum.

The FLC cannot confirm the correctness of determining the amount of support for small projects in case of doubts about the applied procedure.

The FLC fill in the checklist for on-the-spot verification of SPF (see Annex 3)<sup>9</sup>.

Obligations of FLC linked to on-the spot verification are described in point 6.6.

### **Irregularities and financial correction**

If the control or audit reveals incorrectly incurred expenses/costs in the project, it may be necessary to impose a financial correction.

The method of correction depends on the stage at which it was detected:

- a) At the stage before signing the subsidy contract by the Beneficiary of the SPF with a beneficiary of small projects, it calls on the sole beneficiary to make appropriate corrections. In the case of errors in determining the amount of lump sums for individual small projects, this results in the need to re-assess the small project and re-submit the corrected draft budget to the Steering Committee of the SPF.
- b) If the FLC finds irregular expenditure after signing subsidy contract for small projects: deficiencies (ineligible expenditure) due to incorrect estimation of the draft budget, on the basis of which the lump sum is awarded, are the difference between the value of the erroneously approved draft budget and its correct value presented to the FLC by the sole beneficiary, as a result of the findings out of control.

**IMPORTANT:** The burden of presenting the correct value of the approved draft budget rests with the SPF beneficiary. If evidence is not provided - the FLC determines an error which results in recognizing the entire value of undocumented items from the draft budget as ineligible.

Irregularities in the scope of the SPF beneficiary's responsibility are deducted from the SPF management costs<sup>10</sup>.

### **6.6. Obligations of FLC to on-the-spot verification in the project**

- Obligations are as follows: send the notification on on-the-spot verifications with sufficient time in advance to allow the PP to prepare all the available resources;

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<sup>9</sup> This is checklist prepared by the MA. If NA have their own checklist, FLCs can use it, according to national rules.

<sup>10</sup> This rule is applicable to both flat/real cost for management costs.

- fill in the checklist for on-the-spot verification (see Annex 3). FLCs are free to use their own or national checklists alternatively. FLC checklist should be attached in the application e-Control as PDF for audit purposes;
- use SL2021 communication canal for receiving additional documents or explanations;
- draw up a Control Report (see Annex 4) with recommendations for improvement up to 14 days or, within the period resulting from national regulation, if any;
- if applicable: launch the contradictory procedure (recommended at least 14 days for PP to submit the opinion)<sup>11</sup> or within the period resulting from national regulation, if any;
- registers the financial findings from results of the on-the-spot verifications in the application e-Controls (see chapter 5.3). Control Report should be attached as PDF file in application e-Controls for audit purposes;
- perform follow up control (can be desk-based) on recommendations implemented by the PP;
- launch ad-hoc on-the-spot verification in the project if there is any reasonable suspicion of irregularities or fraud. Ad hoc verification can be carried regardless of the fact that one on-the spot check has already been carried out. The aim of such a verification is to verify the received signals or suspicion and confirm if there are facts that may lead to consider project expenditure as ineligible.

## 6.7. Public procurement and competitiveness

**Ex-post verification of public procurement** should be carried out not later than with the first procured expenditure that has been incurred and declared by the partner in the partner progress report.

Essential principles to be observed in conducting the procurement procedure include:

- non – discrimination,
- equal treatment,
- transparency and lack of conflict of interest,
- mutual recognition,
- proportionality,
- freedom to provide service and freedom of establishment.

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<sup>11</sup> Polish partners and FLCs shall follow up the requirement on contradictory procedure set in the Act of 28 April 2022 on the rules for the implementation of tasks financed from European funds in the 2021-2027 financial perspective.



FLC is obliged to:

- answer the questions on public procurement or competitiveness rules in the checklist (either national checklists specific for public procurement/ competitiveness rules can be used or specific questions can be added to the administrative checklist by FLC)<sup>12</sup>,
- communicate the results to the partner,
- register the procurement control in the application e-Control;
- apply corrections, if provisions on public procurement are not applied, according to Commission Decision of laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement (applicable from 14.5.2019).

**Please take into account that:**

1. If the expenditures are incurred as simplified cost the procedures of public procurement are not verified, no documentation is provided by the partner.
2. The FLC might verify public procurement ex-post based on a sampling method if there are national regulations concerning the selection of public procurement.
3. The FLC verifies expenditures below public procurement threshold taking into account national requirements on competitiveness.
4. FLC shall take into account the most frequent irregularities in the application of public procurement procedures detected in projects with EU co-financing .
5. The FLC shall take into account results of previous verifications of the public procurement carried out by other external control bodies.
6. Lack of conflict of interest should be verified based on the declarations on impartiality submitted both by persons involved in the procurement procedure on the partners side as well as by the bidder. FLC uses also available public national register systems e.g., on economic activity or other tools such as Arachne to make sure of the information declared by persons engaged in procurement procedures in the contracting institution and the bidder.<sup>13</sup>
7. Upon the partner's request, the FLC may ensure **an ex-ante verification of the public procurement** procedure prepared by the partner before the expenditure is incurred.

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<sup>12</sup> Slovak partners and FLCs are obliged to follow rules set up in Guide for public procurement valid in SR.

<sup>13</sup> Commission Notice Guidance on the avoidance and management of conflicts of interest under the Financial Regulation 2021/C 121/01 (Chapter 6.3).

**Verification ex-ante of public procurement** is more of a preventive measure that aims at avoiding the potential findings and negative effects of possible infringements of the provisions of public procurement. This shall ensure that problems with the initial tendering as well as additional works / supplementary contracts during the project implementation are eliminated. The FLC, however, does not take the responsibility for further proceeding with the public procurement by the partner's institution.

Positive results of the ex-ante verification do not exclude the possibility of issuing reservations on the level of the ex-post verification of the public procurement.

#### 6.8. State aid and de minimis aid in the project

State aid in the project might appear on two levels:

- direct State aid awarded by the Managing Authority or,
- indirect State aid awarded by partner(s) in the project to the final recipient(s).

The MA assesses whether there is direct or indirect aid in the project. The FLC carries out the verification of the State aid based on the questions in the checklist. FLC should notify to JST about any unauthorised changes to the project, because they may result in changes of the level of State aid. However the assessment of changes in the project also those that may result in change of state aid level shall be done according to the programme manual. Eventually the FLC must inform the JS on the occurrence of unauthorized State aid.

Similarly, the FLC should check if a project with State aid has correctly applied the VAT in a project(recoverable VAT is not considered an eligible expenditure under GBER). s.

##### 6.10.1. Direct State aid

In case of direct State aid or de minimis aid in the project, the FLC should check whether:

- the cumulative value of the expenditures incurred and declared by partner as eligible expenditures under State aid is not higher than the amount of aid actually awarded. It is important that the maximum amount of aid certified by the FLC must not exceed the amount specified in the subsidy contract (either based on adequate GBER aid measure or de minimis) must not be exceeded. In case the amount of State aid or de minimis aid is higher than in the approved application form, the difference is not eligible.
- the ceilings laid down in GBER or de minimis regulation is not exceeded.

### 6.10.2 Indirect State aid

In case of indirect State aid (based on art. 20a of GBER), the FLC should check whether:

- the ceilings laid down in GBER regulation is not exceeded,
- for Polish partners: if they have met the obligation to report the amount of awarded State aid in the SHRIMP application;
- for Slovak partners: if they have met the obligation to report the amount of awarded State aid or de minimis aid (based on national regulations if applicable) and/or if a partner informed the JS of the amount of awarded aid.

### 6.9. Irregularities

The CPR's definition of:

- **„irregularity“** means any breach of applicable law, resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the budget of the Union by charging unjustified expenditure to that budget;
- **„systemic irregularity“** means any irregularity, which may be of a recurring nature, with a high probability of occurrence in similar types of operations, which results from a serious deficiency, including a failure to establish appropriate procedures in accordance with this Regulation and the Fund-specific rules.

In case the FLC detects an irregular expenditure in the CST on the already approved expenditure, the FLC has to upload the scan of the signed Notification on irregular expenditure (Annex 8) in the e-Controls application (see chapter 5.3). The original stays at the archives of the controller.

The MA will ascertain if the procedure of recovery of undue payments needs to be applied.

The MA informs the FLC about possible way of proceeding in case the payment has not been made.

#### **Reporting of irregularities to the EC**

Irregularities should be notified to the EC if they exceed 10,000 EUR ERDF (via the IMS system). As a rule, the MA asks the LP to repay the irregular amounts based on the call for payment. Upon the request of the partner and in accordance with the Subsidy Contract's provisions, the MA may, however, reduce the amount of the irregularity from the reimbursement of the ERDF for the project.

## 7. Role of FLC vs Audit.

The AA carries out audits based on the sample of projects selected by the EC according to Article 49 of the ETC Regulation. The audit might include both administrative verifications and on-the-spot checks.

If irregularities are detected by auditors, the FLC may be:

- involved in the process of explaining the findings within the contradictory procedure by the partner on the level of partner assessment;
- asked by JTS/MA/NA for contribution in formulating remarks/comments to findings during the contradictory procedure before issuing the final audit report and audit opinion by the AA.

**NOTE:** FLC input in the process of clarification which is of crucial importance and has a positive impact on the reduction of programme's error rate.

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

- the contradictory procedure has been finalised with the auditor on the level of the MS,
- the FLC will not present new or further objections against the audit result.

If FLC keeps rejecting the opinion of auditors, the MA will forward the position of the FLC along with eventual additional argumentation to the AA in order to present it to the GoA. It will be verified if the irregularity is still a subject to ongoing bilateral procedures between the FLC and the auditor in charge.

After issuing the Final audit report with irregularities the MA will ask the FLC to:

- verify if, except from the amount of irregularity indicated in the final audit report, there are any other expenditures of the concerned partner also affected by the same type of irregularity detected,
- prepare the notification on irregular expenditure (Annex 8), including both irregular expenses mentioned in the final audit report and similar ones identified by FLC. Final report ends the clarification process of the FLC with the auditor in charge,
- if necessary, prepare a report in IMS on the total amount of the irregularity (including the amount indicated by the auditor and the amount detected by the

FLC in other progress report as the same type of irregularity e.g., wrong calculation of staff cost).

The notification on irregular expenditure will serve the MA for issuing the request for payment.

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

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

## 8. Verification of durability of projects

The controllers conduct the verification of the durability of the project :

- during on-the-spot verification,
- on a sample from at least 10% of the number of completed projects with investments in infrastructure or productive investments, for which the final payment was transferred in a given accounting year<sup>14</sup> ,
- for the entire project (all Partners falling under the verification of durability)<sup>15</sup>,
- conduct on-the-spot verifications in the fifth year following the date of the final payment to the LP (in the third year following the payment of the final payment to the LP at the earliest)<sup>16</sup>.

The selection of the sample of projects for durability tests is based on a risk analysis carried out by the MA.

### **Description of the selection of projects for durability tests**

1. The controller/unit indicated by the NA, having completed the control of the last partial payment claim:

- fills in the Risk analysis spreadsheet for all Partners (Annex 10) and submits it to the JTS in an electronic form together with all spreadsheets for projects completed in a given accounting year by September 30<sup>th</sup> following a given accounting year at the latest<sup>17</sup>.

2. The JTS for each project:

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<sup>14</sup> From 1<sup>st</sup> July to 30<sup>th</sup> June.

<sup>15</sup> In the section named „Description of the selection of durability test”, the MA provided for exceptions in point 5a.

<sup>16</sup> The date of payment in accordance with CST2021.

<sup>17</sup> The Controller/unit indicated by the NA prepares the first risk analysis for projects completed in the 2021-2027 perspective, i.e. the Risk analysis spreadsheet for the Partner and submits it to the JST by September 30<sup>th</sup> 2025 at the latest, and then annually by analogy for each completed financial year.

- completes the Risk analysis spreadsheet for the Project (Annex 11), which is supplemented with data submitted by the Controllers/unit indicated by the NA,
  - submits to the MA the spreadsheets concerning completed projects for which the final payment was paid in a given accounting year by November 30<sup>th</sup> following a given accounting year at the latest<sup>18</sup>.
3. The MA maintains a Risk analysis spreadsheet for the Programme for each accounting year (Annex 12) with the following conditions:
- completes the sheet with the data submitted by the JTS in the Risk analysis spreadsheet for the Project,
  - arranges the list of projects according to the "Average risk for the project" column<sup>19</sup> from the highest to the lowest value,
  - selects for control the projects with the largest value of average risk, not less than 10% of the number of projects.
4. The controller/unit indicated by the NA conducts durability verification for all Partners subject to durability from the projects selected for the sample.
5. In special cases, durability verification may be carried out at Partners of projects not selected on the basis of risk analysis, in the event of suspicion of irregularities while maintaining the durability of the project.
6. Subsequently, the MA prepares a schedule of verification of durability for each selected project:
- the schedule of all controls planned for the next accounting year is submitted by the MA to the Controller/unit indicated by the NA (in case of Slovak FLC it is forwarded also to NA),  
by January 31<sup>st</sup> following a given accounting year<sup>20</sup>.

The controller/unit indicated by the NA:

- specifies the specific days of the durability check in the control schedule,
- on the Polish side – includes controls in the Annual Plan of Control prepared

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<sup>18</sup> The first risk analysis for projects completed in the 2021-2027 perspective, i.e. the Risk analysis spreadsheet for the Project is prepared by the JST and submitted to the MA by November 30<sup>th</sup> 2025 at the latest.

<sup>19</sup> The average risk for the project is determined based on the total risk for each of the partners (total risk/number of partners).

<sup>20</sup> The schedule of verification of durability for completed projects for which final payment was transferred by June 30<sup>th</sup> 2025 will be submitted to the Controller/unit indicated by the NA and to the attention of the NA by January 31<sup>th</sup> 2026 at the latest.

by the coordinator of INTERREG programmes<sup>21</sup>.

### **Carrying out the on-the-spot verification of durability of projects**

1. During the verification the controller/unit indicated by the NA completes the Report on the on-the-spot verification of durability (Annex 13), which includes a set of questions.
2. The Controller/unit indicated by the NA inform the Partner about the date of the on-the-spot verification of durability at least 3 business days in advance.
3. The legal basis of the verification:
  - Article 65 of the General Regulation,
  - Subsidy contract,
4. The controller/unit indicated by the NA indicates the legal basis in the letter notifying about the verification.
5. On-the-spot verification of durability is carried out on the basis of an appropriate authorisation if the controller/unit indicated by the NA is required to prepare the authorisation.

The controller/unit indicated by the NA prepares and submits the durability control report to the project partner in accordance with national regulations. Integral part of the Report on the on-the-spot verification of durability is the Partner's statement in which he undertakes to inform the Controller/unit indicated by the NA about:

- all cases of modifications in the project,
  - the lack of compliance with the project objectives, outputs and results within 5 years from the date of the payment of final payment to the LP<sup>22</sup>.
6. If any irregularities are detected, the controller/unit indicated by the NA:
    - indicates remedial measures and the appropriate time limit for their implementation,
    - verifies the implementation of remedial measures and puts the relevant information in the Report on the on-the-spot verification of durability.
  7. If it is found that the funds should be recovered:
    - the controller/unit indicated by the NA immediately provides the MA with comprehensive information on the results of the durability control

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<sup>21</sup> In accordance with Polish guidelines for management verifications in INTERREG 2021-2027 programs.

<sup>22</sup> The date of payment in accordance with CST2021.

and the Report on the on-the-spot verification of durability,

- The MA sets the amount to be recovered,
  - The MA may request the controller/unit indicated by the NA to prepare a Notification on irregularities in accordance with the procedure described in subchapter 6.11.
8. The controller/unit indicated by the NA archives the results of the verification.
  9. The controller/unit indicated by the NA registers the results of the performed on-the-spot verification of durability in the CST2021 system in “e-Controls” module.
  10. In cases not governed by this Procedure, in relation to activities related to on-the-spot verification of durability, the Controllers/unit indicated by the NA applies appropriate national regulations.

### **Managing the results of durability tests of the project**

1. The controllers/unit indicated by the NA are obligated to submit the Summary of the results of the on-the-spot verification of durability for the regular projects (Annex 14), to the MA.
2. The MA collects information received from all controllers/unit indicated by the NA for each project and completes the Summary of the results of the on-the-spot verification of durability for the regular project (Annex 15).

## **9. Verification of durability of small projects**

### **Selecting small projects for durability tests**

1. After each accounting year:
  - the controller/unit indicated by the NA shall request the SPF beneficiary to provide a list of completed small projects with investments in infrastructure or productive investments (Annex 16) and sets a deadline for its submission no later than September 30<sup>th</sup> following a given accounting year<sup>23</sup>.
2. The controller/unit indicated by the NA selects a sample of completed small projects for durability test as follows:
  - in a random manner from the received list of completed small projects,

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<sup>23</sup> The first information on small projects completed in the 2021-2027 perspective, the SPF beneficiary passes to the Controller/unit indicated by the NA by 30th September 2025, at the latest and then annually by analogy for each completed accounting year.



- at least 40% of the number of small projects for which the final payment was paid in a given accounting year,
- sends to the MA information on completed small projects selected for tests with the planned dates of the verifications<sup>24</sup> by November 30<sup>th</sup> following a given accounting year at the latest<sup>25</sup>.

### **Carrying out the verification of durability of small projects implementation**

1. The controller/unit indicated by the NA conducts a small project durability verification, selected in a random manner, in the form of Survey to monitor ensuring sustainability of small project (Annex 17). The sample Survey may be further elaborated by the Controllers/unit indicated by the NA.
2. The controller/unit indicated by the NA sends the survey to the SPF beneficiary in the fifth year following the payment of final payment to the SPF beneficiary to the beneficiary of small project (in the third year following the payment of the final payment at the earliest).
3. Next, the SPF beneficiary submits the received survey to be completed by the beneficiary of small project (final recipient) that has been selected in the sample for verification.
4. The controller/unit indicated by the NA sets the date of submission of a filled survey.
5. The legal basis of the verification:
  - Article 65 of the General Regulation,
  - Subsidy contract,
  - the controller/unit indicated by the NA indicates the legal basis in the letter notifying forwarding the Survey to the FMP beneficiary.
6. After the reception of filled surveys from the SPF beneficiary, the Controllers/unit indicated by the NA verify the received information.
7. If any irregularities are found, or take into doubt scope of the lack of project durability:
  - controllers/unit indicated by the NA ask the SPF beneficiary for further clarifications,

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<sup>24</sup> It is about providing by the Controller/unit indicated by the NA the planned year and quarter in which the test will be carried out.

<sup>25</sup> The first information on small projects completed in the 2021-2027 perspective, the Controller/unit indicated by the NA passes to the MA by 30<sup>th</sup> November 2025, at the latest and then annually by analogy for each completed financial year.

- In specific situations, verification of durability may also be carried on on-the-spot verification at the beneficiary of a small project:
    - e.g. after receiving information on the initiation of prosecutorial proceedings,
    - after receiving information from a third party on the suspicion of irregularities as regards the durability of the projects, etc.
    - in case of doubts arising from the analysis of the surveys,
  - is carried out in the presence of the SPF beneficiary.
8. During the on-the-spot verification, the controller/unit indicated by the NA completes the Report on the on-the-spot verification of durability for a small project (Annex 13), which includes a set of questions. Report on the on-the-spot verification of durability in the SPF can be:
- a) signed by both parties immediately<sup>26</sup> after verifying the durability of the project activities on-the-spot at the beneficiary of small project or
  - b) signed by the controller/unit indicated by the NA and electronically transmitted to the SPF beneficiary within 21 calendar days from the completion of activities. Then, the SPF beneficiary forwards the protocol to the beneficiary of the small project.
9. In the case of need to formulate recommendations controllers/unit indicated by the NA:
- forward them to the SPF beneficiary in writing and set a deadline for their implementation,
  - then verify the implementation of the recommendations issued by the beneficiary of the small project. Information on this subject is included in the Report on the on-the-spot verification of durability of a small project.
10. The controller/unit indicated by the NA immediately provides the MA with comprehensive information on the results of the durability test and the Report on the on-the-spot verification of durability of the small project.
11. If financial irregularities are detected as a result of the verification, the MA:
- sets the amount to be recovered,

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<sup>26</sup> Applies to Polish beneficiaries of a small project.

- may request the controller/unit indicated by the NA to prepare a Notification on irregularities in accordance with the procedure described in subchapter 6.11.

12. The controllers/unit indicated by the NA archive the results of the verification.

13. The controllers/unit indicated by the NA register the results of the durability test in the CST2021 electronic system in "e-Controls" module.

14. In cases not governed by this Procedure, in relation to activities related to verification of durability, the Controller/unit indicated by the NA are applies:

- the principles of control as defined in the General Principles for the First Level Control in Interreg Poland-Slovakia Programme 2021-2027,
- or Polish guidelines for management verifications in INTERREG 2021-2027 programs (guidelines for Polish Controllers).

### **Managing the results of durability tests of the small project**

1. Within the deadline set by the MA, Controllers/unit indicated by the NA submit Summary of the results of the verification of durability for the small projects (Annex 18). The summary contains information on the selected sample and the results of the surveys.

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