

South East Europe (SEE) SEE Control Guidelines

Version 2.1.

Final version approved by the MC
10th June 2009

1st amendment: 6th July 2009

European Territorial Co-operation 2007 – 2013



CONTENTS

1	Purpose and content of the SEE Control Guidelines.....	3
2	Regulatory framework and basic documents.....	3
2.1	EC Regulations.....	3
2.2	Programme level documents.....	4
2.3	Standard documents for control	4
3	Principles and processes related to control in the SEE programme.....	5
3.1	Requirements for the selection of controllers in decentralised control systems	5
3.2	The procedure for control in the SEE Programme.....	6
3.3	Timeframe of verifications and control deadlines.....	6
3.4	Reporting at Partner level	8
3.5	Declaration on validation of expenditure.....	8
3.5.1	Issuing a declaration on validation of expenditure	8
3.5.2	Reissuing a declaration on validation of expenditure.....	9
3.5.3	Declaration on validation of expenditure and irregularities.....	10
4	Control requirements.....	10
4.1	Desk based checks.....	10
4.2	On the spot checks	11
4.3	Currency of project expenditure and exchange rates	12
4.4	Tasks of the Controllers related to project changes.....	13
4.5	Verification of expenditure.....	15
4.5.1	General eligibility criteria	15
4.5.2	Eligibility in time.....	15
4.5.3	Eligible area	16
4.5.4	Ineligible expenditure	16
4.5.5	Verification of expenditure by Budget Lines.....	17
4.5.6	Verification of special types of expenditure.....	27
4.5.7	Verification of common costs.....	32
4.5.8	Verification of the compliance with EU policies and other rules	36
4.5.9	Project revenues	40
4.6	Documentation of checks	41
5	Verification of Technical Assistance expenditure	42
6	Handling of irregularities	43
6.1	Procedure for reporting and handling irregularities.....	43
6.2	Role and tasks of the controllers in the process of detecting, reporting of irregularities	45

7	Compliance of the control systems	45
7.1	Verification reports	45
7.2	Quality reviews on verifications carried out by the designated controllers	46
7.3	Second level audits	46
8	Communication tools between the Controllers and the SEE Programme	46
8.1	Operation of the Working Group of Controllers.....	46
8.2	Data exchange between controllers and the SEE programme	47
9	Annexes	48
9.1	Terminology for control in the SEE programme.....	48
9.2	Designation Form of controller (in decentralised systems)	48
9.3	Checklist for the selection of controller (in decentralised systems)	48
9.4	Partner Report	48
9.5	SEE Control Checklist (normal projects)	48
9.6	SEE Control Checklist (TA projects).....	48
9.7	Declaration on validation of expenditure (normal projects)	48
9.8	Declaration on validation of expenditure (TA projects)	48
9.9	Guidance to fill in the Declaration on validation of expenditure.....	48
9.10	Confirmation on common costs.....	48
9.11	Verification report.....	48

1 Purpose and content of the SEE Control Guidelines

The **SEE Control Guidelines** is developed at programme level, in order to ensure the common understanding of the rules and the requirements for control: common methodological approach is provided to fulfil the verification of expenditure of the ERDF project partners in a harmonised way in each SEE Member State, necessary and practical information are given on the requirements set by the SEE Programme. The obligatory templates developed by the SEE Programme are annexed to the SEE Control Guidelines.

The SEE Control Guidelines is to support the work of the Controllers and provides a basis for the national level control guidelines. The communication between the SEE Programme and the Controllers is ensured through the Working Group of Controllers and the results of these consultations will be taken into consideration when updating and revising this document.

2 Regulatory framework and basic documents

2.1 EC Regulations

The three main EC regulations relevant for the management of the European Territorial Cooperation Programmes are the followings:

- **COUNCIL REGULATION (EC) No 1083/2006** of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 ("**General Provisions**")
- **REGULATION (EC) No 1080/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL** of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 ("**ERDF-Regulation**")
- **COMMISSION REGULATION (EC) No 1828/2006** of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund ("**Implementation Regulation**")

The articles of abovementioned EC regulations relevant for the setting up the control system and for the verification of expenditure:

Regulation (EC) 1080/2006	Art. 16(1)	Requirement on designation of the Controller by the MS, setting of the control system, timeframe of the verification process
Regulation (EC) 1083/2006	Art. 58(a)	Requirement on defining functions of the bodies involved in control
Regulation (EC) 1083/2006	Art. 58(b)	Requirement on separation of functions, independence of controllers
Regulation (EC) 1828/2006	Art. 13(2)	Criteria on verification procedures
Regulation (EC) 1828/2006	Art. 13(3)	Criteria on the verification procedures for on the spot checks
Regulation (EC) 1828/2006	Art. 13(4)	Requirement for written procedures and standards for the control activities

The EC regulations relevant for the eligibility of expenditure, as referred to the Lead Partners in the SEE Programme Manual (3.4.9.) are the followings:

Article 56 of Regulation (EC) No 1083/2006

Article 7 of Regulation (EC) No 1080/2006

Article 48-53 of Regulation (EC) No 1828/2006

Article 13 of Regulation (EC) No 1080/2006

The following EC regulations should also be applied during the verification of expenditures:

Article 2 (5) Regulation (EC) No 1083/2006, and Directive 2004/18/EC (Public procurement)

Article 54 Regulation (EC) No 1083/2006, (State Aid)

Article 9 Regulation (EC) No 1828/2006, (Publicity)

Article 48 (2) Regulation (EC, Euratom) No 1605/2002, (Sound financial management)

Article 16 Regulation (EC) No 1083/2006, (Equality between men and women and non-discrimination)

Article 17 Regulation (EC) No 1083/2006, (Sustainable development)

Article 54 Regulation (EC) No 1083/2006, (Double financing)

Article 55 Regulation (EC) No 1083/2006, (Generation of revenue)

Article 24 (d) Regulation (EC) No 1828/2006, (Legality and regularity of expenditure paid outside the Community)

All expenditure has to be in line with the EC regulations and the relevant national rules and legislation. The list of regulations is not exhaustive and rules and regulations may be amended during the programme implementation period.

2.2 Programme level documents

The following programme level documents have to be considered by the Controllers:

- **South East Europe Transnational Cooperation Programme**, approved by the European Commission on 20 December 2007, Decision No. C(2007)6590
- **SEE Programme Manual** (relevant Call for Proposals) which contains the programme specific rules for the eligibility of expenditure
- **SEE Implementation Manual** laying down the programme specific rules for the implementation of the SEE Projects

The Controllers have to respect the relevant EC Regulations, the rules set by the SEE Programme, and their own national rules and regulations as well. In case of contradiction between the abovementioned rules, the stricter rule shall apply.

2.3 Standard documents for control

The following templates are standards and obligatory to use by the Controllers within the framework of the SEE Programme. These documents are annexed to the present guidelines, and further explanation and guidance to fill in the templates is given in the following chapters.

- Designation form of controller (decentralised control systems) – Annex 2.
- Partner Report – Annex 4.

- SEE Control Checklist (normal projects) – Annex 5.
- SEE Control Checklist (TA projects) – Annex 6.
- Declaration on validation of expenditure (normal projects) – Annex 7.
- Declaration on validation of expenditure TA projects – Annex 8.
- Confirmation on common costs – Annex 10.
- Verification Report – Annex 11.

3 Principles and processes related to control in the SEE programme

According to Article 16 of Regulation (EC) No. 1080/2006 (*“ERDF-Regulation”*), each Member State shall set up a control system to validate the expenditure at national level (*“first level control system”*). For this purpose each Member State shall **formally designate the Controller** responsible for verifying the legality and regularity of the expenditure declared by each project partner participating in the project (Designated Controller).

The short description of each control system of the SEE Member States is available at the Programme’s website.

3.1 Requirements for the selection of controllers in decentralised control systems

In case of decentralised systems, the Designated Controller is a formally designated body at Member State level, responsible for the supervision and coordination of control activities and for the proper selection of the individual controllers to each project partners. In this meaning, the Designated Controller fulfils itself “coordinating control body” and “designation body” functions as well.

In case of decentralised control systems where the shortlist of controllers is established by the Designated Controller, this list of controllers has to be provided to the Joint Technical Secretariat by the Designated Controller at Member State level (i.e. coordinating control body/designation body) and updated information shall be communicated in case of any changes. Besides the list of controllers, the Designated Controller at Member State level has to confirm the selection of controller to each project partner.

In order to confirm the selection of the controller to the given project partner, the Designated Controller at Member State level has to sign an individual Designation Form before the deadline of submission of the first progress report. This designation form shall contain at the project code, the partner data, the contact details of controller, and the declaration on the independence of the controller. The standard Designation Form containing the minimum requirements is available in Annex 2. Member States can use their own designation form only in case the content of the document is the same as requested by the SEE Programme, and it is confirmed by the JTS.

In addition, in case the shortlist of controllers is not established by the Designated Controller of the Member State, the project partner has to prove the selection of the controller (qualifications and independence) and submit a checklist according to Annex 3. to the Designated Controller. This checklist shall be attached to the abovementioned Designation Form.

3.2 The procedure for control in the SEE Programme

The procedure for control in the SEE Programme follows the Lead Partner principle, which means that the control of a SEE project should be performed at national level for each project partner by the responsible Controller of the concerned Member State. The Lead Partner shall collect the Declarations on validation of expenditure from all ERDF project partners, which will be the basis for the Application for Reimbursement of the Lead Partner. The procedure is the following in details:

- (1) Each Project Partner as well as the Lead Partner has to submit its expenditure relevant for a reporting period for validation to the designated Controller in its Member State. Each project partner – including the Lead Partner – is responsible separately for having its expenditure validated by the designated Controller in its Member State.
- (2) The Controller verifies the expenditure submitted by the Project Partner (in this case the Lead partner is also considered as Project Partner) on the basis of the invoices or accounting documents of equivalent probative value, verifies the delivery of the products and services co-financed, the soundness of the expenditure declared, and the compliance of such expenditure with Community rules and relevant national rules. After verification, the Controller issues the Declaration on validation of expenditure (*“first level control certificate”*) to the Project Partner (Annex 7.).
- (3) Each project partner has to submit the Declaration on validation of expenditure to the Lead partner.
- (4) The Lead Partner is responsible to verify that the expenditure of its Project Partners is validated by the designated Controllers for the SEE Programme. The Lead Partners are not requested to appoint a controller for checking the expenditure declared by the project partners, thus the Controller of the Lead Partner is responsible only for the validation of the Lead Partner’s expenditure and does not issue declaration on validation of expenditure covering the entire validated expenditure of the whole partnership.
- (5) The Lead Partner has to submit an Application for Reimbursement (*“payment claim”*) to the Joint Technical Secretariat supported by the original Declarations on validation of expenditure of its Project Partners within a period of three months from the end of each reporting period.

3.3 Timeframe of verifications and control deadlines

In case of the SEE Programme, the progress report and the application for reimbursement have to be submitted by the Lead partner to the Joint Technical Secretariat **within 3 months from the end date of each reporting period**. The Controllers shall consider this three months timeframe set for the Lead Partners and shall verify the expenditure of the Project Partners in due time in order to ensure that the Lead Partners can include the validated expenditure in the Progress Report and in the Application for Reimbursement. In the SEE Programme, the **internal indicative deadline** for issuing the Declaration on validation of expenditure is **60 days for the controllers**. This means that about 30 days shall be reserved for the Lead partners to collect the declarations on validation of expenditure and to prepare the Progress Report and Application for Reimbursement for the whole project. After the 60 days, it is up to the lead partners to accept the declaration on validation of expenditure within the 3 months deadline for the submission of the progress report and application for reimbursement.

The rules of the SEE Programme request the LP, that in case the Declarations on validation of expenditure are not received from each project partner for a given reporting period, the LP shall submit the Application for Reimbursement on the basis of the Declarations on validation of expenditure available for the reporting deadline. The expenditure of the project partners not validated for the given reporting period within the deadline can be requested only for the next reporting deadline to the reporting period concerned (see Article 4. of the subsidy contract).

Verification process	3 months from the end of each reporting period	
Preparation and submission of Partner Report by the Project Partner to the Controller	60 days	
Verification of expenditure and Partner Report by the Controller		
Preparation and submission of the Progress report and Application for Reimbursement for the whole project by the Lead partner to the JTS		30 days

In order to comply also with the internal deadlines of the SEE Programme, **the Controllers are recommended to set up their own reporting deadlines for the Project Partners in their Member State, and to include their control deadlines in the national control guidelines.**

To set up proper control deadlines, the Controllers shall consider the number of Project Partners for the same reporting period according to the reporting system of the SEE Programme and the capacity of the Controller (number of staff involved for control).

Regarding the reporting system of the SEE Programme the following rules has to be considered by the Controllers:

As a general rule, the Lead Partner has to submit the progress report and the application for reimbursement **twice a year**, on a **6 months basis**, with exception of the first reporting period which can be less than 6 months from the approval date of the project. Additional deadlines over the two obligatory deadlines per year may be set by the Managing Authority in order to avoid decommitment of ERDF Funds at programme level. The additional deadlines may be set explicitly in the subsidy contract or communicated at least 2 months in advance to the Lead Partners.

The progress report and the application for reimbursement have to be submitted by the Lead partner to the Joint Technical Secretariat **within 3 months from the end date of each reporting period.**

The deadlines for submission of progress reports and applications for reimbursement will be set by the SEE Programme **by call for proposals, which means that the Lead partners of a same call for proposals will have the same reporting deadlines.** These deadlines will be given for the LPs explicitly in the subsidy contracts, and will be communicated to the Designated Controllers directly by the JTS, and published at the programme's website at the same time.

The reporting system of the SEE Programme is described in details in the SEE Implementation Manual (Chapter 4.).

3.4 Reporting at Partner level

According to the control procedure described, each Project Partner as well as the Lead Partner has to submit its expenditure relevant for a reporting period for validation to the designated Controller in its Member State.

In order to ensure the Controller the verification of expenditure of a SEE project partner, each Project Partner as well as the Lead Partner has to prepare a Partner Report (Annex 4)., describing the activities fulfilled and the expenditure incurred and paid in the given reporting period. The Partner Report is a simplified version of the Progress Report of the Lead Partner, as it is relevant for one Project Partner only. This form is prepared at programme level and is obligatory to use by the Project Partners in the Member States of the SEE Programme. The Partner report includes activity report and financial report, and shall contain the full list of expenditure for the reporting period concerned.

- The use of a common form for reporting by the Project Partners allows that the same level of information is requested at partner level by the Controllers and the same level of information is provided by the Project Partners to the Lead Partner.
- The common reporting tool ensures the financial data needed to issue the Declaration on validation of expenditure by the Controllers. The list of expenditure of the Partner Report will be the basis for the obligatory Annex “C” to the Declaration on validation of expenditure, therefore Controllers has to request the Project Partner to fill the fields *“Description of the expenditure”* and *“Activity fulfilled according to the approved AF”* in English. The Annex “B” of the declaration form can be also extracted from the Partner Report, based on the financial data of the Partner Report.
- The English, as language of reporting is recommended for the transparency of the financial procedures and for avoiding the “double work” of preparation reports to the Lead Partners.

Controllers are allowed to ask for complementary information in the Partner Reports, and include their own requirements in the national control guidelines.

3.5 Declaration on validation of expenditure

3.5.1 Issuing a declaration on validation of expenditure

After the process of the verification of expenditure, the document issued by the Controller in order to prove that the expenditure is validated is the “Declaration on validation of expenditure”.

The form of declaration validation of expenditure is defined at programme level, and is obligatory to use by each Controller verifying the expenditure of a SEE Project Partner.

The declaration on validation of expenditure has to be issued in Euro only, which means that the Controllers has to request the Project Partners to exchange all expenditure incurred in national currency (see details in 4.3.) to Euro before the submission of their expenditure for verification.

The document of the Declaration on validation of expenditure consists of four main parts:

Declaration	The controller declares in details that all the necessary verifications have been done, and declares the amounts of eligible expenditure (total, total public, ERDF, state contribution).
Annex “A”	The controller reports in details on the findings of the desk based checks and the findings of the on the spot checks.
Annex “B”	The controller summarizes the total amount of eligible expenditure validated and covered by the given declaration by Work Packages (WP) and by Budget Lines (BL), the total amount of eligible expenditure related to specific types of expenditure (common costs, in kind contribution, 10% and 20% flexibility rules), and the revenues to be deducted from the total amount of eligible expenditure.
Annex “C”	Annex C has to contain the full list of expenditure submitted by the Project Partner for verification by Work Packages (WP) and by Budget Lines (BL).

All parts of the Declaration on validation of expenditure have to be prepared properly by the Controller; therefore before starting to fill in the documents, the instructions in Annex 9. are to be considered. The declaration on validation of expenditure including all obligatory annexes has to be issued to the Project Partner in two originals, signed and stamped by the designated Controller.

3.5.2 Reissuing a declaration on validation of expenditure

The reissuing can be requested either by the Lead Partner, or by the JTS, in the following cases:

- Formal / calculation errors in the declaration on validation of expenditure
- Ineligible expenditure included in the declaration on validation of expenditure
- Declaration on validation of expenditure not issued and signed by the designated controller

In case it is requested by the Lead Partner, the declaration on validation of expenditure has to be reissued before the deadline of submission of the Progress Report by the Lead Partner to the JTS.

In case it is requested by the JTS, and the JTS does not receive the corrected and signed declaration on validation within 30 days from the notification of the Lead partner at the latest, the total amount of the given declaration will be deducted from the application for reimbursement.

In each case, when a declaration on validation is reissued, it has to be indicated at the field “Type of the declaration issued: Corrective No. “.The reissued declaration on validation of expenditure including all obligatory annexes has to be issued in two originals, signed and stamped by the designated Controller and sent to the Project Partner. The project partner is responsible to submit the reissued document to the Lead Partner. In case the reissuing is requested by the JTS, the Lead Partner is responsible to collect and resubmit the declaration on validation of expenditure and the requested documents to the JTS.

3.5.3 Declaration on validation of expenditure and irregularities

In connection with the Declaration on validation of expenditure, the Controllers shall apply the following rules in accordance with the procedures on handling of irregularities (see Chapter 5.)

- In case irregularities are suspected by the Controller during the verification of expenditure (before submission of the Application for Reimbursement to the JTS), the amount affected by suspect of irregularity cannot be included in the Declaration on validation of expenditure.
- In case irregularities are suspected after the submission of the Application for Reimbursement to the JTS (by the Controller, or any other programme management body), the amount affected by irregularity will be reclaimed by deducting the amount concerned from the Application for Reimbursement of the LP or by initiating recovery procedure. Deductions from the Application for Reimbursement will be made by the JTS on behalf of the MA and the recovery procedures will be initiated by the MA. Therefore the Declaration on validation of expenditure already issued by the Controller **shall not be reissued**, and **the amount affected by irregularity shall not be deducted from the following Declaration on validation of expenditure**.

4 Control requirements

In accordance with Article 13 of Regulation (EC) No. 1828/2006 (*“Implementation Regulation”*), verifications to be carried out at national level shall cover **administrative, financial, technical and physical aspects of operations**. Verifications shall ensure that the expenditure declared is real, that the products and services have been delivered, and that the operations and expenditures comply with relevant Community and national rules. The process of verification carried out by the Controllers at national level includes 100% administrative verification and on the spot verifications, as appropriate.

4.1 Desk based checks

Depending on the type of the control system established by the given Member State the “desk based checks” can be performed by the Controller at its own premises (the project partner submits the documentation of the expenditure for verification to the controller) or at the premises of the Project Partner.

The “desk based checks” shall cover at least the administrative aspects of projects. As requested by the abovementioned Regulation, 100% of the expenditure declared by the Project Partner has to be verified by the controller during these administrative verifications.

The “desk based checks” shall cover the following verifications:

1.	Expenditure declared by the Lead Partner / Project Partner and to be included in the application for reimbursement is real and incurred for the project approved under the Programme.
2.	Expenditure declared by the Lead Partner / Project Partner is supported by receipted invoices or accounting documents of equivalent probative value.

3.	Expenditure declared by the Lead Partner / Project Partner has been paid by the Lead Partner / Project Partner which can be supported by receipted document(s).
4.	The products or services have been delivered in accordance with the subsidy contract(s) [ERDF, national].
5.	Supporting documents submitted by the Lead Partner / Project Partner are complete, accurate and acceptable as to their form and content.
6.	Expenditure declared by the Lead Partner / Project Partner is eligible according to the common eligibility rules of the Programme (Programme Manual), the relevant EU and national legislation.
7.	The partner report submitted by the Lead Partner / Project Partner is correct and consistent with the supporting documents.
8.	The part of the project implemented and expenditure declared by the Lead Partner / Project Partner comply with the subsidy contract(s) [ERDF, national].
9.	The part of the project implemented and expenditure declared by the Lead Partner / Project Partner are in line with Community and national rules, included public procurement rules, state aid rules, publicity, rules on environmental protection, and rules on equal opportunities.
10.	The part of the project implemented by the Lead Partner / Project Partner receives financial contribution only under the Programme (double-financing of expenditure with other Community or national schemes and with other programming periods is avoided)
11.	The expenditure declared by the Lead Partner / Project Partner within the meaning of Article 21 of Commission Regulation (EC) 1080/2006 has been also verified.
12.	The Lead Partner / Project Partner maintains either a separate accounting system or an adequate accounting code for all transactions relating to the project.
13.	On the basis of the received supporting documents it can be stated, that the Lead Partner / Project Partner fulfilled the EU requirements concerning information and publicity.
14.	Eventual revenues have been deducted from the total eligible expenditure of the project part implemented by the Lead Partner / Project Partner; the Lead Partner / Project Partner declares that no further revenues, others than declared have been generated.
15.	Expenditure declared in the application for reimbursement by the Lead Partner / Project Partner is not affected by irregularity or any suspected irregularity.

The results of the desk based checks have to be documented in the Annex "A" to Declaration on validation as well, and short explanation to the ineligible expenditure deducted from the expenditure declared by the Project Partner has to be provided by the controller.

4.2 On the spot checks

On the spot checks have to cover the additional verifications from financial, technical and physical aspects of the project, and can be performed on sample basis or can be exhaustive depending on the control system of the Member State.

In case the on the spot checks are carried out on sample basis, the selection of the projects for on the spot checks has to be in line with sampling method presented in the description of the control system, and the selection has to be also documented. On the spot checks are considered exhaustive in case each project partner participating in the projects of the SEE Programme from the given Member State is checked at least once during the project period on the spot.

The verifications covering only administrative aspects performed at the premises of the Project Partner can not be considered as on the spot checks, in case the requirements of the on the spot verifications are not covered. The “on the spot checks” shall cover at least the following verifications:

I.	Verifications regarding the accounting system and audit trail
1.	If Lead Partner, separate bank account is opened to receive and transfer ERDF contribution to the project partners. In case of public bodies or bodies governed by public law where according to specific national/internal rules of the organisation it is not possible to open a separate EUR bank account or sub-account, a separate accounting code/ technical code/ budget line or other technical arrangement on single EUR bank account of the organisation available for the project is used allowing to identify, track and report all financial transfers and expenditure related to the project.
2.	Specific accounting codes or other transparent methods are used for the project in the accounting system which allows the identification of costs allocated to the project.
3.	The expenditure declared corresponds to the accounting records and supporting documents held by the Lead Partner / Project Partner.
4.	Original invoices related to the expenditure already declared are available, and are not annulled.
5.	Audit trail relevant for the project partner exists and complete at the premises of the Lead Partner / Project Partner.
6.	If revenues are reported, evidence exists in the accountings documents of the project partner on the revenues generated by the project.
II.	Verification of expenditure
1.	Services already declared within the project have been delivered in reality, and are available at the premises of the project partner, and are used in line with the project purposes.
2.	Equipments already declared within the project have been purchased in reality, are in line with the description given in the approved application form and are used only for the project purposes.
3.	Small scale investments already declared within the project have been implemented in reality, are in line with the description given in the approved application form, and are used only for the project purposes.
III.	Verification of the compliance with EU policies and other rules
1.	Evidence is available that the selected public procurement procedures are in line with the Community and national public procurement rules considering the procurements of the institution as well.
2.	According to the evidence obtained, the Community rules on publicity and the publicity requirements of the SEE Programme are respected.
3.	According to the evidence obtained, double-financing of expenditure with other Community or national schemes and with other programming periods is avoided.
4.	The requirements concerning durability of operations, including those related to ownership, provided in Article 57 (EC) No 1083/2006 (General Provisions) are respected.

4.3 Currency of project expenditure and exchange rates

In case PPs from Member States which have not adopted the Euro as their currency are participating in the project, the PPs shall convert into Euro the amounts of expenditure in the list of invoices incurred in national currency before submission for validation to the responsible controller of the Member State. The same rule shall be applied for the expenditure incurred in the Partner States of the programme area.

The Controller is responsible then to verify the correctness of the exchange rates used to convert expenditure incurred in national currency of the Member State or the Partner State.

Only the following method shall be used within the SEE Programme:

- The expenditures shall be converted into Euro using the monthly accounting exchange rate of the Commission in force in the last month of the reporting period. The monthly exchange rates of the Commission are available at the following website: <http://ec.europa.eu/budget/infocore/index.cfm?Language=en>

This ensures that the expenditure authorised for reimbursement by the Certifying Authority are converted into Euro according to the same method.

4.4 Tasks of the Controllers related to project changes

During the implementation of the project, certain changes to the Application Form might become necessary, which will affect the eligibility of expenditure at partner level as well. Therefore, the controller has to take into consideration the rules for project changes set by SEE programme, and shall include the necessary verifications of expenditure with regard to the project changes.

The relevant rules for project changes at programme level are described in the Subsidy Contract and in the SEE Implementation Manual, which define two types of changes that might occur during the project implementation:

- (1) Project changes which require the amendment of the subsidy contract, and therefore an official approval by the Managing Authority or by the Monitoring Committee:
 - a. changes in the partnership;
 - b. substantial changes in the content of the project;
 - c. budget reallocation between budget lines and/or work packages exceeding 20% of the Project budget of ERDF project partners;
 - d. budget reallocation between project partners;
 - e. prolongation of the project duration;
 - f. decommitment of the project budget
- (2) Other changes are mainly administrative changes and/or budget reallocations below the 20% limit which not require subsidy contract modification.

The knowledge of the different types of project changes and the applicable procedures is of crucial relevance for the Controllers. The Controllers should verify whether the project changes and/or changes at partner level identified in the course of verifications have been approved by the MA/MC (case 1) or confirmed in written form by the Lead partner (case 2) before submission of the expenditure for validation. This verification is one of the pre-condition for issuing the declaration on validation of expenditure.

The project changes with the corresponding checks by the Controllers are presented in the tables below.

1	Modifications of the subsidy contract	Checks by the controller
a	Changes in the partnership (e.g. replacement of partner resigned/backed out from the project)	<ul style="list-style-type: none"> • Written approval of the MA/MC • Addendum to the subsidy contract
b	Substantial changes in the content of the project (e.g. changes in activities, outputs, results)	

c	Budget reallocation between budget lines and/or work packages <i>exceeding 20%</i> of the total Project budget of ERDF project partners	<ul style="list-style-type: none"> • Revised Application Form
d	Budget reallocation between project partners <ul style="list-style-type: none"> • due to changes in the partnership (e.g. increase of the partner's budget due to takeover of activities of partner resigned /backed out from the project) • in justified case, without affecting the main objectives, results and outputs of the project 	
e	Prolongation of the project duration	
f	Changes of the partner's budget due to <ul style="list-style-type: none"> • decommitment of the project budget (due to under spending of the project) 	

2	Other changes	Checks by the controller
a	Budget reallocation between budget lines and/or work packages <i>under 20%</i> of the Project budget of ERDF project partners	<ul style="list-style-type: none"> • Verification of the availability of written confirmation by the Lead Partner that the reallocations by the project partner concerned are accepted and are under the 20% of the Project budget of ERDF project partners

4.5 Verification of expenditure

Programme level rules on the eligibility of expenditure are detailed in the SEE Programme Manual. These eligibility rules are highlighted in grey fields in the present Guidelines. Minor changes between the Programme Manuals of the different Call for Proposals might be possible.

The SEE Control checklist contains the eligibility requirements and the supporting documents needed for the verification of expenditure (see Annex 5). The checklist is prepared for the use of Controllers and for the self-assessment by the Project Partners.

It should be taken into consideration that the documentary evidence given in the SEE Control Guidelines presents the minimum requirements of the SEE Programme which can be completed by each Member State. As the requirements can be different in each Member State and even stricter than the rules set at programme level, each project partner has to respect the national level control guidelines.

4.5.1 General eligibility criteria

ERDF costs are generally eligible for funding if:

- they have been actually incurred and paid by the project beneficiaries, and they can be verified on the basis of original invoices or other accounting documents of equivalent nature;
- they are directly related to the project, necessary for the development starting and/or implementation of the project, and they are planned in the approved project budget;
- they have been incurred and paid within the eligibility period of the project;
- they have been incurred in the eligible area of the SEE Programme (see also section 3.3.8. of the SEE PM);
- they are in compliance with the principles of efficiency, economy and expediency;
- they are in line with the relevant EC regulations and National legislation¹.

In all cases, if there are national legislations regarding eligibility of expenditure, project beneficiaries have to follow the national legislation of their country as well. National legislation applies also whenever stricter than the corresponding EU legislation, and vice versa.

4.5.2 Eligibility in time

All expenditures are eligible for ERDF funding from the date of approval of the project by the Monitoring Committee (2nd step, in case of a 2 step procedure) to its closing date, as defined in the approved Application Form. Preparation costs as defined in section 3.4.8 of the Programme Manual are exempted from this rule.

The eligibility period of the project means that for ERDF partners all expenditures shall be **incurred and paid** within this period.

Since the programme must be finalised by the end of 2015, all activities within the projects must be completed before the end of 2014.

¹ The relevant EC Regulations are listed in 3.4.9. of the SEE PM, and 2.1. of this Guidelines

The Controllers have to check the eligibility in time considering the followings:

- All expenditure have been **incurred and paid between the** date of approval of the project by the Monitoring Committee (except preparation costs, see 4.5.6.1 of this document) and the end date of the relevant reporting period and in case of the final progress report, all expenditure have been incurred and paid before **the end date of the project, with exception of the control costs related to the final progress report, which have to be incurred and paid within 60 days from the end date of the project**. This exception does not affect the timeframe of the validation of expenditure for the final Partner Report, as the final Progress Report and Application for Reimbursement have to be submitted to the Joint Technical Secretariat within three months after the end date of the project.
- Approval date and end date of each project are given explicitly in the subsidy contract.

4.5.3 Eligible area

As a general rule, eligible costs shall be incurred in the programme area defined by the SEE Operational Programme (see section 1.3).

Expenses incurred outside the EU and/ or programme area are considered eligible according to the “10% ERDF flexibility rule“, these are only foreseen in very particular cases, as detailed in paragraph 3.4.8. of the SEE Programme Manual.

An exception to the general rule is the case of those public authorities or bodies governed by public law which are competent in their scope of action for certain parts of the eligible area but which are located outside of it (e.g., ministries). Italian and Ukrainian institutions falling under this definition are in effect assimilated, both in terms of rights and of obligations, to partners located in the SEE programme area.

Travel and accommodation costs within the EU and the programme area should be considered as eligible.

4.5.4 Ineligible expenditure

The following expenditure is considered as ineligible for ERDF funding:

- interest on debt (*Article 7 of Regulation (EC) No 1080/2006*);
- decommissioning of nuclear power stations (*Article 7 of Regulation (EC) No 1080/2006*);
- recoverable Value Added Tax (*Article 7 of Regulation (EC) No 1080/2006*);
- expenditures on housing (*Article 7 of Regulation (EC) No 1080/2006*);
- fines, financial penalties and expenditure on legal disputes (*Article 49 of Regulation (EC) No 1828/2006*);
- any forms of double financing of expenditures: expenditure which is already supported by a Community, or other international or national grant;
- unpaid partial amounts of invoices (e.g. discounts, rebates, etc.);
- subcontracting which adds to the cost of execution of the project without adding proportionate value to it;
- subcontracts with intermediaries or consultants in which the payment is defined as a percentage of the total cost of the project unless such payment is justified by the final beneficiary by reference to the actual value of the work or services provided;

- any expenditures invoiced further to third parties and not born by the LP or its partners;
- expenditures not directly associated with the Lead Partner or its partners;
- any costs incurred before or beyond the eligible period of the project (this does not include eligible preparation costs);
- any costs of services, procurements or investments not directly related to the project and not approved in the Application Form;
- costs of settlement of interest payable, cost of credit overdrawing;
- currency exchange commissions and losses;
- commissions and dividends, profit payments;
- purchase of business shares;
- leasing;
- fringe benefits, rewards, redundancy payments;
- items for entertainment e.g. entrance fees, gifts, flowers, decoration materials, etc, if not necessary for the implementation of the project's activities.

Further eligibility rules to be considered:

- Ineligible expenditure are expenditure according to the above set list and all those expenditure which do not fulfil the eligibility criteria according to the common eligibility rules of the SEE Programme and to national eligibility rules whichever is stricter.
- In case ineligible expenditure are included in the list of expenditure declared by the Project partner, the amount of ineligible expenditure has to be deducted by the Controller from the amount of eligible expenditure. The amount deducted has to be always marked on the list of expenditure.

4.5.5 Verification of expenditure by Budget Lines

ERDF project expenditure are eligible under the following budget lines:

- 1. Staff costs**
- 2. Overheads**
- 3. Travel and accommodation costs**
- 4. External expertise and services**
- 5. Equipment**
- 6. Small scale investments**
- 7. Financial charges and guarantee costs**

4.5.5.1 Staff costs

The costs of the personnel executing tasks for the project management (project coordinator, project manager, assistant, financial manager, etc.) and/or tasks for the project activities are eligible under the following conditions:

- members of the project team should be directly employed by the project beneficiaries' organisation on the basis of a regular work contract between themselves as employees and the project beneficiaries' organisation as employer. The employee could work full-

time or part-time for the project. In instances where the beneficiary's organisation does not have the adequate professionals to perform the tasks related to the project, they can employ/contract external experts for these tasks. These costs shall be budgeted under the cost category "*external expertise and services*".

Staff costs shall be calculated in hourly rates according to the following rules:

- only gross salaries based on payslips or other documentation of similar status can be taken into consideration;
- social contribution charges shall be calculated according to the national legislation concerned. No additional charges besides the social contribution charge can be included in the hourly rate;
- fringe benefits, rewards over the monthly salaries are not eligible.

Calculation of staff costs:

Where not regulated by national eligibility rules, the following method must be used for the calculation of staff costs.

In case of full-time project staff, the staff costs shall be calculated considering the real and actual monthly staff costs (gross salary + social charges).

In case of part-time project staff, the staff costs shall be calculated on monthly basis, considering the real and actual monthly salary, the total working hours of the given month according to national legislation, and the working hours in the project:

(a) <u>Monthly gross salary + (b) social charges</u>	X	working hours in project
(c) <u>Total working hours in the given month</u>		

Further eligibility rules to be considered for the calculation of staff costs:

- a) Monthly gross salary: only gross salaries based on payslips or other documentation of similar status can be taken into consideration. This means that staff costs must be calculated on the basis of the real and actual salary rate stated in the regular employment contracts used in the project partners' organisation. No ad-hoc salary increases, no arbitrary hourly rates for project purposes are possible.

Other payments over monthly salaries:

- Fringe benefits, rewards over the monthly salaries are not eligible in order to exclude ad-hoc additional payments over the monthly salaries and additional payments not related to project specific tasks.
 - As exception, extra salaries (i.e. 13th-14th month's salaries) included in the regular working contract or in national legislation are eligible if they proportionally allocated to the project in a transparent way and are considered eligible according to national eligibility rules.
 - Overtime is eligible only in case it is directly related to the project and it is contracted and proportionally allocated to the project.
- b) Social charges: Social contribution charges paid by the employer shall be calculated according to the national legislation concerned. No additional charges besides the social contribution charge can be included in the hourly rate.
- c) Total working hours in the given month: includes all working days according to national legislation, i.e. national holidays, day-off, sick leave, missions, etc. In case of part-time project staff, the salary costs related day-off and sick leave, etc. are eligible in case

these costs are directly borne by the partner's organisation and are proportionally allocated to the project in a transparent way.

Supporting documents:

- full list of project staff within the partner's organisation, stating name of the employee, function in the project, percentage of work/number of working days per months /number of working hours per months dedicated to the project and total gross salary (has to be available at the beginning of the project);
- work contracts which permits the identification of the employment relationship between the project staff and the partner's organisation;
- a clear assignment (working contract/job description) providing information on the main tasks within the project;
- payslips, proofs of payment (e.g. bank statements)
- calculation evidence for the determination of the hourly rates of the project staff;
- timesheets which prove the overall working time and the time spent on carrying out activities for the project (name of the employee, date, time and detailed description of the activity); the timesheet must be signed by the project's assigned employee and by the employer.

Tools for the Controller:

The following templates are recommended to be developed at national level for the use of Project Partners:

- Template for monthly timesheet (if not obligatory according to internal rules of the partner's organisation)
- Template for the calculation of staff costs (including the percentages of social charges according to national rules, automatic calculation sheets, etc.)

4.5.5.2 Overheads

Overheads can be allocated to the project according to two methods:

- a) overheads directly allocated to the project (real costs);*
- b) overheads allocated proportionally to a project (flat rates based on average real costs).*

Overhead costs cannot exceed **25 % of the staff costs** of the project². The same rule has to be applied at project partner level. The beneficiary should decide on the most appropriate method which is suitable for the accounting of the organisation's overheads. The chosen method should remain the same during the whole implementation period. A combination of the two methods is not allowed.

a) overheads directly allocated to the project

This method can be applied if it is possible to allocate the overhead costs directly to the project and are justified by receipted invoices or accounting documents having an equivalent probative value.

Eligible costs for this method:

- Office costs such as office rental fees, electricity, heating, water and service charges related solely to the project and corresponding to the m² space used for project activities.

² direct costs of an operation which can affect the level of overheads

Besides standard accounting material, a copy of the office rental contract/agreement is obligatory for eligibility.

- Administrative costs such as phone calls, fax, internet, postage, copying, and office supplies related solely to the project.

b) Overheads allocated proportionally to project

This method can be applied if it is impossible to allocate the overhead costs directly to the project. The general conditions for the use of flat rates are the followings:

- Proportionally distributed overhead costs must be attributable to the implementation of the project;
- The calculation of overheads shall be properly documented and reviewed yearly. In the case of on the spot checks, the relevant accounting documents supporting the calculation method should be made available for the controllers at the partners' premises.
- The costs must be distributed according to the following methods depending on which can best reflect the type of cost:
 - *the ratio of the number of people working for the project / number of people working in the organisation or department*
 - *the ratio of the number of hours worked on the project / number of hours worked in total in the organisation or department*
 - *the ratio of the surface used by the personnel working for the project/surface of the organisation or department*

Eligible costs for this method:

- administrative service, book-keeping, salary administration, postal / telephone services, copying and centralized computer support;
- office supplies;
- office costs such as office rental fees, electricity, heating, water and service charges related solely to the project and corresponding to the m² space used for project activities. Besides standard accounting material, a copy of the office rental contract/agreement is obligatory for eligibility.

Calculation of overhead costs:

The threshold of the overhead costs within the project is maximum 25% of the staff costs, which applies at project partner level as well. The controller has to check that the total amount of overhead costs reported at the end of the project does not exceed this threshold and the maximum amount planned in the partner's budget. This means that the percentage of the overhead costs related to staff costs may deviate in the single Partner Reports from the rate given in the application form.

In case of overheads proportionally allocated to the project, the correctness of the calculation has to be checked by the controller.

Supporting documents:

- a) Overheads are directly allocated to the project (real costs)
 - Invoices, or other accounting documents
 - Proof of payment (e.g. bank statements)
- b) Overheads are allocated proportionally to a project (flat rates based on average real costs)

- Documents on the method for allocating overhead costs to the project
- Relevant accounting documents supporting the calculation method and proofs of payment

4.5.5.3 Travel and accommodation costs

Project related travel and accommodation costs and subsistence allowances (per diems) are eligible costs under the following conditions:

- only travelling costs of the “project staff” – as defined by the budget line 1. – are eligible. *Travelling costs of external experts shall be included in the service contracts* and budgeted under the *external expertise and services* budget line;
- travels within the programme area are eligible costs (see also section 3.4.8. of SEE Programme Manual for further details);
- as a general rule the most economical way of transport should be used. Exceptions from this principle must be duly justified in each case;
- beneficiaries shall apply per diem rates according to the national rules of the partner’s organisation. Per diems accounted for in the project include social contributions according to the relevant national rules;
- accommodation costs can be accepted without reservation if they are in the middle price range. Higher price ranges must be duly justified in each case.

Main checks for the verification of travel costs:

- Only travelling costs of the project staff are declared
- Travel costs are directly related to the project
- Travels are performed within the eligible area
- Means of transport and accommodation are selected considering cost-efficiency
- Per diems are calculated according to national rules of the partner’s organisation. (Per diems rates can be different in each Member State, and also the internal rules within the partner’s organisation can be different.)

Further eligibility rules to be considered:

- Regarding the most cost-efficient mean of transportation: no business or first-class tickets are eligible irrespective the fact that this may be allowed by the internal rules of the institution.
- Middle price range accommodation costs are generally accepted within this category. Depending on the destination country of the travel and the prices, controllers are allowed to accept higher categories, or to cut the expenditure up to a reasonable price within the destination country.
- The duration of the mission must be clearly in line with the purpose of it (e.g., from the day before to the day after the concerned meeting).
- Costs for any longer duration of the mission are eligible if it can be demonstrated that the additional costs (e.g., extra hotel nights, extra per diems) do not exceed the savings eventually made in the costs for transportation.
- Costs must be definitely borne by the project partner’s organisation, meaning that direct payment by the employee is not sufficient as proof of payment.

Supporting documents:

- Authorisation of the mission (if relevant according to national rules)
- Mission report signed by the travelling person
- Other supporting documents (e.g., invitation, agenda, list of participants, minutes).
- Invoices and other accounting documents paid directly by the project partner's organisation
- Proof of payment (directly paid by the partner's organisation, or reimbursement of costs to the employee)
- Train/bus tickets, plane tickets, boarding cards
- In case of use of own car or company car, calculation sheet prepared according to national or institutional rules stating at least the distance, the unit rate and the total costs of the travel.

4.5.5.4 External expertise and services

Services directly related to the project and ordered from an external party are eligible for the cost categories listed below, under the following conditions:

- the work of the external expert is essential to the project;
- rates charged by the external expert are reasonable and are in relation to level of experience and expertise;
- the selection of the external experts shall comply with the relevant National Public Procurement Law in force;
- Project Partners cannot be contracted as an external expert or a subcontractor.

a) External expertise

- professional expertise (e.g. studies, researches, etc.);
- experts for project management, assistant, financial manager, etc (in circumstances whereby the Lead Partner or the partner's organisation does not have the adequate professionals to perform the tasks related to the project or for shared activities as specified in section 3.4.5 of the Programme Manual);
- costs of technical and financial experts, accountancy and audit costs, if they are directly linked to the project and are necessary for its implementation, etc.

b) Organisation of meetings and events

- expenses for organisation of conferences, seminars, meetings, workshops, project events directly related to the project and traceable from the approved Application Form;
- documentation of the participants (participant list) shall be provided in each cases of "catering expenses";
- renting of premises and equipment for events;
- interpretation at events;
- printing of materials directly related to events, etc.

c) Promotion costs

- costs of brochures and leaflets;
- press releases, inserts in newspapers;
- newsletters;
- the design and maintenance of web page for the project;

- e. other publication costs related to the project but not linked to specific events or seminars;
- f. etc.

d) Other services

Other services concerning costs not linked to specific budget lines, but necessary for the implementation of the project. Examples of eligible costs: translations of project documents not linked to specific budget lines; reproduction of project documents not linked to specific budget lines, etc;

Further eligibility rules to be considered:

- The selection of the external experts/services shall comply with the relevant National Public Procurement Law in force. For the verification of the regularity of the public procurements the requirements set in 4.5.8.2. have to be also considered.
- Project Partners of the same project cannot be contracted as an external expert or a sub-contractor.
- Where allowed by national rules, additional contracts of external expertise nature signed with own staff of the partner institution must strictly apply transparent selection and, where applicable, public procurement procedures. Costs of such staff can be allocated to the budget line external expertise only. The same person already charged under staff costs can not be contracted under external expertise.
- If applicable, the deliverables respect the information and publicity requirements of the SEE Programme (see 4.5.8.4 of this Guidelines and SEE Implementation Manual).

Supporting documents:

- Documents on the selection of the external expert are available (documents of the public procurement or selection according to bid-at-three procedure)
- The contract laying down the services to be provided (including description of the services, the total price, delivery deadlines, experts' names, etc.)
- Invoices and other accounting documents paid directly by the project partner's organisation
- Proof of payment
- Deliverables (the evidence of the work carried out by the service provider is available e.g. studies, researches, analysis, agenda of the meetings, list of participants, brochures, photos, etc.)

4.5.5.5 Equipment

Purchase of equipment is eligible under the following conditions:

- equipment is necessary for the project implementation and is foreseen in the approved Application Form;
- equipment should be exclusively used for the project implementation;
- suppliers should be selected according to the rules of the relevant National Public Procurement Law;

- the full purchase price is only eligible in case that the total economic life and depreciation period are shorter than or equal to the project duration. In all other cases only depreciation costs shall be eligible.

The following costs can be eligible:

- special equipment necessary for the project implementation and foreseen in the Application Form ("content related equipment"), like laboratory equipment and special measurement equipment;
- office equipment (e.g. computers, laptops, office furniture, etc.) related to the project management can be eligible in duly justified cases and only if clearly indicated in the approved Application Form.

Depreciation costs:

According to art. 53 of Regulation (EC) 1828/2006, the depreciation expenditure of depreciable assets directly used for a project, and incurred during the period of its co-financing, shall be eligible, provided that the acquisition of the assets is not declared as eligible expenditure.

The invoice shall be submitted to and checked by the designated controller of the project partner and shall be validated appropriately in order to avoid double financing. The relevant national rules for the depreciation of assets shall be applied and the calculation of depreciation costs shall be submitted to the controllers to verify the eligible depreciation cost.

Second hand equipment:

The purchase cost/depreciation cost of second hand equipment is eligible if:

- it can be certified that the equipment has not been previously purchased with the co-financing of public funds;
- the price of the equipment is in line with its market value and less than the price of similar new equipment;
- the equipment has the technical characteristics necessary for the project.

Further eligibility rules to be considered:

- The selection of the suppliers shall comply with the relevant National Public Procurement Law in force. For the verification of the regularity of the public procurements the requirements set in 4.5.8.2 have to be also considered.
- If the depreciation period is longer than the project period, only depreciation costs have to be listed under this budget line and the calculation of the depreciation costs has to be verified according to national rules.
- The depreciation costs of second hand equipment are only eligible if these costs have not been already completely amortized.
- Cost of equipments which are not depreciable shall be charged in full in the period in which the payment has been executed.
- The equipments shall be listed in the approved application form. Changes in the quantity of equipment have to be confirmed by the Lead Partner. Changes in the type of specific equipments have to be approved by the programme management bodies.

Supporting documents:

- Documents on the selection of the suppliers are available (documents of the public procurement according to national rules)
- The contract laying down the purchase of equipment in the framework of the project
- The evidence of the purchase of equipment (e.g. inventory of the equipment purchased)
- If relevant, documentary evidence for second hand equipment (proof for all eligibility requirement such as equipment has not been previously purchased with the co-financing of public funds; the price of the equipment is in line with its market value and less than the price of similar new equipment; the equipment has the technical characteristics necessary for the project)
- If relevant, the calculation method for the depreciation costs
- Invoices or accounting documents of equivalent probative value
- Proof of payment

On the spot checks of equipment:

- Equipments already declared within the project have been purchased in reality, and exist at the place traceable from the Application Form;
- Equipments are in line with the description given in the approved Application Form;
- Equipments are used only for the project purposes;
- Purchases of equipment are properly accounted and documented in the project partner's accounting system and related files.
- The requirements concerning durability of operations, including those related to ownership, provided in Article 57 (EC) No 1083/2006 (General Provisions) are respected.

4.5.5.6 Small scale investments

Small scale investments are eligible where the transnational impact of the investment is demonstrated and the activity is approved in the Application Form.

Eligible investments either follow a transnational physical or functional link over the national border (i.e. technical infrastructure improving innovation performance of a transnational network for development of entrepreneurship and research; technical infrastructure improving the diffusion of knowledge across the SEE; infrastructure and technical investments in ports, railway routes, inland waterways and road junctions improving the operability of a transnational transport corridor, etc.) or create a transferable practical solution through a case study in one area, which is jointly evaluated by the project partners and transferred for testing in at least two other participating countries (new broadly applicable technologies for the development of entrepreneurship; ICT solutions unlocking accessibility of peripheral areas; solutions reducing land-based river pollution; solutions for efficient production and using of bio-mass; solutions for energy saving in buildings; technical solutions increasing the share of public transportation). The programme does not finance investments that do not have transnational relevance.

The contractors of investments should be selected according to the rules of the National Public Procurement Law in force.

The contractor cannot be a partner in the project.

The purchase of land is eligible in duly justified cases if it does not exceed 10 % of the total eligible costs for the project concerned, in line with article 7 of Regulation (EC) 1080/2006.

Further eligibility rules to be considered:

- The selection of the external suppliers shall comply with the relevant National Public Procurement Law in force. For the verification of the regularity of the public procurements the requirements set in 4.6.2. have to be also considered.
- Only expenditure of the small scale investments explicitly described in the approved Application Form can be verified. Changes related to small scale investment have to be approved by the programme management bodies in each case.

Supporting documents:

- Documents on the selection of the contractors are available (documents of the public procurement according to national rules)
- The contract laying down the works for the small scale investment in the framework of the project
- The evidence of the small scale investments (e.g. documentation of the works as requested at national level)
- Invoices
- Proof of payment
- The contract laying down the purchase of land in the framework of the project
- Evidence is available that the price of the land is in line with market values
- Proof of payment

On-the-spot checks of small scale investments:

- Small scale investments already declared within the project have been implemented in reality, and exist at the place traceable from the Application Form;
- Small scale investments are in line with the description given in the approved Application Form;
- Small scale investments are used only for the project purposes;
- Small scale investments are properly accounted and documented in the project partner's accounting system and related files
- According to the evidence obtained, the publicity requirements of the SEE Programme are respected
- The requirements concerning durability of operations, including those related to ownership, provided in Article 57 (EC) No 1083/2006 (General Provisions) are respected.

4.5.5.7 Financial charges and guarantee costs

Financial charges and guarantee costs are eligible costs according to article 49 of Regulation (EC) 1828/2006. The following charges and costs shall be eligible for a contribution from the ERDF:

- charges for transnational financial transactions;
- bank charges for opening and administering the account or accounts where the implementation of a project requires a separate account or accounts to be opened;
- the cost of guarantees provided by a bank or other financial institution to the extent to which the guarantees are required by national or Community legislation;

- legal consultancy fees, notary fees if they are directly linked to the project and are necessary for its implementation.

Any other types of financial charges are ineligible.

Further eligibility criteria to be considered:

As opening of a separate bank account for the project is requested by the SEE Programme only for the Lead partners, the following costs are mainly relevant for the Lead partners:

- bank charges for opening and administering the separate bank account opened for the project;
- charges for transnational financial transactions i.e. transfer of ERDF contribution to Project partners;

In case the Partnership Agreement or national rules requires the opening of separate bank account, these costs are also eligible for Project Partners.

In case of public bodies or bodies governed by public law where according to specific national/internal rules of the organisation it is not possible to open a separate EUR bank account or sub-account, only the bank charges incurred to identify, track and report all financial transfers and expenditure related to the project on the LP's single EUR bank account are eligible.

Supporting documents:

- All costs are real, directly related to the project and have not been declared under other budget lines
- Only eligible expenditure according to the SEE Programme Manual are declared
- Supporting documents justifying these costs
- Proof of payment

4.5.6 Verification of special types of expenditure

The SEE Programme Manual allows the eligibility of special types of expenditure (preparation costs, the expenditures incurred outside the programme area and the in-kind contribution) which require also special attention during the verification of such expenditure.

4.5.6.1 Preparation costs

Costs that have been incurred for the preparation of the project are eligible costs for ERDF Partners only in accordance with the following conditions:

- preparation costs can only be eligible if they were incurred on or after the 1st of January 2007 and before the date of approval of the Application Form. Preparation costs shall be paid before the submission of the first progress report;
- preparation costs should show direct connection to the approved project and should be included in the approved Application Form;
- costs for the preparation of the approved project cannot exceed **2%** of the total eligible expenditures of the project or **40.000 EUR** whichever is reached earlier.

Eligible costs for preparation are:

- external expertise costs and/ or staff costs for the preparation of the application documents;
- joint meetings for the preparation of the project;

- travels directly related to the joint meetings, including participation at the Lead Applicant's seminar;
- preparatory studies, analysis and researches for activities to be carried on within the project.

Overheads are not eligible under preparation costs.

Further eligibility rules to be considered:

- The threshold of preparation costs at partner level means the amount indicated in the project partner's budget under "Work Package 0, Project Preparation" in the approved Application Form which cannot be exceeded.
- Expenditure can be accepted by the Controller as preparation costs if these were originally planned in the Project Partner's budget in the approved Application Form.
- Expenditure can not be reported as preparation costs after the submission of the first progress report.

4.5.6.2 Expenditure according to 10% flexibility rule

The "ERDF Regulation" Reg. (EC) 1080/2006, Article 21, commas 3 and 4, states the followings:

ERDF Regulation Article 21

3. *In the context of cross border, transnational and interregional co-operation, the ERDF may finance expenditure incurred in implementing operations or parts of operations on the territory of countries outside the European Community up to a limit of 10% of the amount of its contribution to the operational programme concerned, where they are for the benefit of the regions of the Community.*
4. *Member States shall ensure the legality and regularity of these expenditures. The managing authority shall confirm the selection of operations outside the eligible areas as referred to under paragraphs 1, 2 and 3.*

According to the aforementioned article, the "10% ERDF flexibility rule" can be considered for the benefit of two types of partners:

- a) ERDF LP or ERDF PP: in case of expenditure incurred for the implementation of specific activities within one or more work packages of the project in countries outside the EU but part of the programme area³;
- b) non EU PP of the programme area: for the implementation of specific activities within one or more work packages of the project, not financed by IPA, ENPI or other public funds. (sponsoring of a non-EU partner of the programme area, so called *10% project partner*).

Special conditions and eligible expenditures under the 10% flexibility rule:

- costs to be spent according to the 10% flexibility rule must be traceable from the approved Application Form;

³ Travel and accommodation costs can be considered eligible also outside the EU and outside the Programme area if clearly indicated in the application form and fulfill all the mentioned special conditions.

- costs shall be clearly planned in the budget of the ERDF LP or ERDF PP and shall be directly paid by the ERDF LP or ERDF PP;
- the need for the activities outside the EU or the involvement of non-EU PPs for the implementation of the project and the achievements of its objectives has to be clearly demonstrated;
- the benefit of the EU territory has to be always demonstrated, in the description of the project proposal and during the implementation.

In particular, for the 10% ERDF costs for the benefit of the non EU PP of the programme area (case b) some further conditions apply:

- under the 10% flexibility rule, each ERDF LP or ERDF PP can sponsor the participation of non EU PPs of the programme area;
- all non EU PPs of the programme area, not financed by IPA funds for the project concerned can benefit from the 10% flexibility rule;
- costs shall be included in the budget of the ERDF LP or ERDF PP that provides the co-financing and is responsible for the validation of these costs;
- only expenditure related to cost categories *travel and accommodation, external expertise and services, equipment and small scale investments* are allowed;
- the overall financial responsibility lies within the ERDF LP; it is its responsibility to regulate the obligations of the “sponsoring” ERDF PP that has to provide the needed co-financing and to account and validate the costs incurred;
- responsibility of the ERDF “sponsoring” and the non EU “sponsored” PP towards the project and the programme are detailed in the Partnership Agreement;
- when subcontracting the procedure shall follow the rules of the ERDF “sponsoring” PP but contents of the Terms of Reference should be agreed with the non EU “sponsored” PP. Controller of the ERDF “sponsoring” PP shall be informed in advance;
- eligible expenditures are only those supported by an invoice clearly addressed to the ERDF project partner;
- the ownership of the outputs such as products delivered by the external expertise and services, the ownership of the equipment and the small scale investment shall remain at the property of the responsible ERDF “sponsoring” partner;

Eligible expenditures:

- travel and accommodation costs for EU and non-EU PPs outside the programme area and outside the EU (i.e. participation to a relevant international thematic conference in Japan);
- travel and accommodation costs of the non-EU PPs, not financed by IPA, ENPI or other public funds, within the programme area (i.e. participation of Serbian PP to project meetings in Austria);
- costs of the organisation of joint meetings in non-EU countries within the programme area (i.e. organisation of a workshop in the Ukraine);
- costs for the implementation of specific activities within one or more work packages of the project in non EU countries within the programme area (i.e. organisation and implementation of training activities in Montenegro).

Other eligibility rules not specified have to be applied according to the general rules for project expenditures.

Travels and accommodation costs for EU PPs within the programme area have to be considered within the regular budget.

As a general rule, the 10% flexibility rule is available for all projects and is limited to 10% of the ERDF budget of the project.

The Controllers have to check the eligibility of expenditure for 10% flexibility rule considering the followings:

- Expenditure identified under the 10% flexibility rule (*expenditure incurred outside the EU territory but within the SEE programme area*) are directly related to the project, the related “10%” activities are mentioned in the approved Application Form;
- All expenditure are planned in the budget of the ERDF project partner concerned;
- All expenditure are directly incurred and paid by the ERDF project partner concerned;
- If the project partner sponsors non-EU partners of the SEE Programme area, expenditure are only for the benefit of the 10% partners (“beneficiaries”) indicated in the Application Form;
- If the project partner uses the 10% flexibility rule for the implementation of activities outside the EU territory but within the SEE programme area, expenditure are only for the benefit of the project partner concerned and cover only their 10% activities;
- Only expenditure related to eligible budget lines (travel and accommodation, external expertise and services, equipment and small scale investments) are declared under the 10% flexibility rule;
- The project partner respected the public procurement rules at national level when sub-contracting the 10% activity;
- Specific rules set by the Partnership Agreement have been respected by the project partner;
- Evidence exists proving that the ownership of the outputs such as products delivered by the external expertise and services, the ownership of the equipment and the small scale investment is at the property of the ERDF project partner;
- Expenditure identified under the 10% flexibility rule do not exceed or equal to the budget planned for 10% activities of the project partner according to the approved Application Form.

Supporting documents:

- Partnership Agreement;
- Supporting documents of the eligible budget lines (travel and accommodation, external expertise and services, equipment and small scale investments).

The expenditure related to 10% rule has to be reported in the declaration on validation of expenditure as well.

4.5.6.3 Expenditure according to 20% flexibility rule

Involving actors from other transnational programmes is possible for the SEE Programme in line with the Article 21 (2) of Regulation (EC) No 1080/2006 and the approved Operational Programme. Flexibility provided by the “20 percent rule” will be primarily used at programme level in order to involve actors from other transnational programmes. The Monitoring Committee has the right to introduce territorial or topic-wise limitations in using the 20 percent flexibility rule in case of different calls or priorities, which will be

communicated to the Applicants in the SEE Programme Manual of the given Call for Proposals.

The detailed eligibility rules for the application of the 20% flexibility rule will to be also set in the SEE Programme Manual.⁴

Involvement of ERDF Partners in the Project located outside the Programme area but within the EU Territory participating in other transnational programmes is possible, where such expenditure is for the benefit of the regions of the Programme area. The following cases are possible:

- a) The ERDF partner from the EU territory but outside the programme area participates directly in the project with separate budget. The project expenditure is verified by the controller of the ERDF partner outside the programme area.
- b) The ERDF partner from the EU territory but outside the programme area contributes to the project without separate budget. The project expenditure is verified by the controller of the “sponsoring” ERDF partner.***

The Controllers of the SEE Programme have to check the eligibility of expenditure for 20% flexibility rule **only in case “b”** considering the followings:

- Expenditure identified under the 20% flexibility rule are directly related to the project, the related “20%” activities are mentioned in the approved Application Form;
- All expenditure are planned in the budget of the SEE ERDF project partner concerned;
- All expenditure are directly incurred and paid by the SEE ERDF project partner concerned;
- Expenditure are only for the benefit of the 20% partners (“beneficiaries”) indicated in the Application Form;
- Only expenditure related to eligible budget lines⁵ are declared under the 20% flexibility rule;
- Specific rules set by the Partnership Agreement have been respected by the project partner;
- Expenditure identified under the 20% flexibility rule do not exceed or equal to the budget planned for 20% activities of the project partner according to the approved Application Form.

The expenditure related to 20% rule has to be reported in the declaration on validation of expenditure as well.

4.5.6.4 In kind contribution

In line with article 51 of Regulation (EC) 1828/2006, in-kind contributions shall be eligible expenditure if they fulfil the following conditions:

- a) they consist of the provision of land or real estate, equipment or raw materials, research or professional work or unpaid voluntary work;
- b) their value can be independently assessed and audited

⁴ The 1st Call for Proposals does not contain the eligibility rules for expenditure according to 20% flexibility rule, as this possibility was not offered for the projects within the 1st call.

⁵ In case the concerned Call for Proposal allows the use of 20% rule, it will be detailed in the SEE Programme Manual

- In the case of the provision of land or real estate, the value shall be certified by an independent qualified valuer or duly authorised official body;
- In the case of unpaid voluntary work, the value of that work shall be determined taking into account the time spent and the hourly and daily rates of remuneration for equivalent work.

Only public bodies and bodies governed by public law are eligible for in kind contributions. The in kind contribution can not be reimbursed from ERDF funds and state contributions.

Further eligibility rules to be considered:

- The option and the total amount for in kind contributions is indicated by the project partner in the approved Application Form;
- The amount declared as in-kind contributions do not exceed or equal to the amount indicated by the project partner in the approved application Form;
- In the case of unpaid voluntary work, the value of that work is determined taking into account the time spent and the hourly/daily rates of remuneration for equivalent work;
- The worked hours of the volunteers are supported by timesheets;
- The volunteers cannot be employees of the partner's organisation;
- Expenditure declared is eligible according to further specific rules on in kind contributions at national level.

Supporting documents:

- Clear assignment (contract/agreement) the volunteer, function and main tasks in the project, time (number of hours) dedicated to the project;
- Timesheets of the volunteers, which are signed both by the volunteers and by the employee;
- Calculation evidence for the determination of the hourly rates of the volunteer;

4.5.7 Verification of common costs

According to the SEE Programme Manual (3.4.5) the SEE Programme allows the use of "common costs" within the projects. As common costs planned in the project have to be presented already in the Application Form, the practice of splitting costs between partners should be – as far as possible – avoided for the approved projects, or if it necessary, it will be subject of project change according to 3.1.3.1.

Costs associated with the project's activities normally related to the project's common management and coordination and to common communication and dissemination activities can be shared among ERDF Project Partners.

For each common activity, a responsible partner is to be selected. This partner is in charge of the implementation or the subcontracting of the activity and following the relevant National Public Procurement Law on behalf of the whole partnership. Partners can choose between two ways of proceeding:

Common costs are advanced, accounted and validated by the responsible partner. The responsible partner will secondly ask the involved partners for reimbursement of their shares;

Each involved partner will directly relate to the subcontractor for the payment of their shares within the common activity, in case the national public procurement law of the responsible partner allows this option.

Common activities and related budgets are outlined in the approved Application Form with the partners who are involved in the common activity, and indicate their share of the costs in the related tables provided. **Partners should understand that the budget assigned to the common activities is not an additional budget, but a part within the partners' total budget.**

The budget commitment of the partners and their responsibility within the common activities will be detailed in a specific section of the Partnership Agreement.

Procedures for the eligibility of common costs can be different in each Member State. **Partners will always have to ask their national Controller in the respect of the method accepted for sharing costs before the submission of the Application Form.**

Costs cannot be shared between an ERDF and an IPA Project Partners.

For the management of common costs within the project, the following rules have to be respected by the Project partners involved in common activities, depending on the method accepted by the national Controllers and agreed between the partners in the Partnership Agreement. The project partners have to be aware that not all the three procedures are accepted by the Controllers of each Member State (e.g. Austria favours methods which foresee centralising the management, control and liability of common costs at the responsible partner (most-likely the Lead partner).

(1) Sub-contracting common activities („external expertise and services”)

It is recommended by the SEE Programme, to use common costs **only for sub-contracted activities** („external expertise and services”) for the transparency of the financial management of the project. In case of sub-contracted activities, the responsible partner is in charge of the subcontracting of the common activity according to the relevant rules on public procurement in its country on behalf of all PPs involved in the common activity. Project Partners can choose between two ways of proceeding for public procurement and sub-contracting.

a) Common costs are advanced by the responsible partner to the sub-contractor. The involved PPs will transfer their shares to the responsible partner.

1. The responsible partner is the only responsible partner for the procedure of the public procurement. The rules on public procurement in the country of the responsible partner have to be followed.
2. The responsible partner is the only responsible partner for signing the contract with the sub-contractor of the common activity.
3. Only the responsible partner will receive the original invoice.
4. The total amount(s) of the invoice(s) - costs of the common activity - are advanced by the responsible partner to the subcontractor.
5. The responsible partner is obliged to submit the total amount of expenditure to be declared as common costs for a given reporting period to its Controller for verification. A “Confirmation on common costs” (see Annex 10. of the SEE Control Guidelines) will be issued by the responsible partner’s Controller to ensure the compliance with national rules.
6. The responsible partner has to send the copy of the contract, copy of the invoice, proof of payments (bank statements), “Confirmation on common costs” and all supporting documents as requested by the controllers to each partner involved in the common activity.
7. The responsible partner has to ask the involved partners to transfer the relevant share of the common costs.
8. The involved partners have to transfer their relevant share of the common costs in full to the responsible partner before submitting their expenditure for validation to their controllers.

9. The relevant share of the common cost has to be submitted for validation by each PP participating in the common activity separately to its Controller. It has to be ensured that only the relevant share of common costs is included for each PP in the Declaration on validation of expenditure (Annex 7. of the SEE Control Guidelines). Therefore the total amount of common costs should not be included the Declaration on validation of expenditure of the responsible partner, in order to avoid double declaration of costs.
10. Each involved partner is responsible for accounting its share of common costs according to its national rules. In addition, the responsible partner has to account the related transfers as well in a transparent way.

b) Each involved project partner will directly relate to the subcontractor for the payment of their shares within the common activity, in case the relevant rules on public procurement of the responsible partner's country allows this option.

1. The responsible partner and the involved partners are responsible together for the procedure of the public procurement (in the call for offers each PPs involved are listed). The rules on public procurement in each country of the involved partners have to be checked, but the rules in the responsible partner country have to be followed.
2. The responsible partner and each PPs involved will sign the contract with the subcontractor of the common activity.
3. The responsible partner and each PPs involved will receive original invoice separately, only up to their relevant share of common costs.
4. The total amount(s) of the invoice(s) – relevant shares of the common costs - are paid separately by the responsible partner and each PPs involved to the subcontractor directly.
5. The relevant share of the common cost has to be submitted for validation by each PP participating in the common activity separately to its Controller.
6. In addition, the responsible partner is obliged to submit the total amount of expenditure to be declared as common costs for a given reporting period to its Controller for verification. A "Confirmation on common costs" (see Annex 10. of the SEE Control Guidelines) will be issued by the responsible partner's Controller to ensure the compliance with national rules.
7. It has to be ensured that only the relevant share of common costs is included for each PP in the Declaration on validation of expenditure (Annex 7. of the SEE Control Guidelines). Therefore the total amount of common costs should not be included the Declaration on validation of expenditure of the responsible partner, in order to avoid double declaration of costs.
8. The responsible partner and each PPs involved are responsible for accounting their share of common costs according to their national rules.

(2) Common activity implemented directly by the responsible partner ("staff costs" are used), the following procedure has to be applied:

1. The responsible partner is the only responsible partner for the employment of the staff for common activity.
2. The responsible partner is the only responsible partner for signing the working contract with the staff for the common activity. The working contract shall contain at least:
 - i. that the staff is employed in full time to implement the concerned common activity for the project;

- ii. the description of the common activity to be fulfilled by the person;
 - iii. the amount of the real salary (e.g. the amount on monthly basis or on yearly basis) according to national rules.
- 3. The real staff costs with the social charges according to the national rules of the responsible partner has to be paid (advanced) in full to the staff of the common activity by the responsible partner.
- 4. The responsible partner is obliged to submit the total amount of expenditure to be declared as common costs for a given reporting period to its Controller for verification.
A Confirmation on common costs (see Annex 10. of the SEE Control Guidelines) will be issued by the responsible partner's Controller to ensure the compliance with national rules.
- 5. The responsible partner has to send the copy of the working contract, copy of the payslips, timesheets, proof of payments (bank statements), Confirmation on common costs and all supporting documents as requested by the controllers to each partner involved in the common activity.
- 6. The responsible partner has to ask the involved partners to transfer the relevant share of the common costs.
- 7. The involved partners have to transfer their relevant share of the common costs in full to the responsible partner before submitting their expenditure for validation to their controllers.
- 8. The relevant share of the common cost has to be submitted for validation by each PP participating in the common activity separately to its Controller. It has to be ensured that only the relevant share of common costs is included for each PP in the Declaration on validation of expenditure (Annex 7. of the SEE Control Guidelines). Therefore the total amount of common costs should not be included in the Declaration on validation of expenditure of the responsible partner, in order to avoid double declaration of costs.

Each involved partner is responsible for accounting its share of common costs according to its national rules. In addition, the responsible partner has to account the related transfers as well in a transparent way.

Further eligibility rules to be considered:

- The proportions of sharing common costs (%) given in the approved Application Form have to be applied during the project implementation even if the amount subcontracted is lower or higher than the planned budget for the common activity in the Application Form;
- The budget assigned to the common activities is not an additional budget, but a part within each PPs' budget participating in the common activity. Therefore the relevant share of the common cost for the PP given has to be validated by its controller.
- As in each case only one partner is responsible for the public procurement and/or the contracting **additional "Confirmation on common costs"** has to be issued by the responsible partner's Controller to ensure the compliance with national rules.
- Only expenditure paid by the project partner can be validated by its controller.
- Deductions by the Lead Partner/responsible partner from the ERDF contribution of the Project Partners are not allowed.

The Controllers have to check the eligibility of common costs according to the followings:

- Common costs declared by the project partner have been indicated in the approved Application Form (Work Package, Activity clearly specified)
- If responsible partner, the project partner respected the public procurement rules at national level when sub-contracting the common activity. Documentation of the selection of the service provider is available.
- If involved partner, Confirmation on Common costs (Annex 10) is available. Without Confirmation on common costs, the share of common costs for the involved partners can not be validated.
- The contract laying down the common activity is available, and contains the proportion of sharing costs between partners
- The total amount of the common costs is supported by invoice(s)
- Common costs declared by the project partner have been invoiced to the project partner by the responsible partner/or sub-contractor according to the proportion of sharing costs fixed in the approved Application Form and in the contract
- The relevant share of common costs has been paid by the project partner to the responsible partner/ or to the sub-contractor before the submission of the expenditure for validation
- Proof of payment on the transfer by the project partner to the responsible partner/ or to the sub-contractor is available
- Specific rules set by the Partnership Agreement have been respected by the project partner.

4.5.8 Verification of the compliance with EU policies and other rules

The SEE Programme specific requirements to be followed by the Controllers in each Member State are given in this section concerning the verification of compliance with the EU policies and other requirements by the EC regulations.

4.5.8.1 The principle of cost efficiency and transparency

The COMMISSION INTERPRETATIVE COMMUNICATION on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives (2006/C 179/02) provides basic standards to comply with the obligation of transparency:

- advertising (e.g. means of advertising, content of advertising)
- contract award procedure (e.g. principles, contract award decisions)
- judicial protection (i.e. possibility to review the impartiality of the procedure)

Member States has to set up the requirements for ensuring transparency and cost efficiency of the procurement procedures below the Community public procurement thresholds, in line with the abovementioned Commission interpretative communication.

In case of procurements below national public procurement thresholds it is also recommended to the Member States to set up clear guidance to the project partners in order to comply with the requirement of transparency and cost efficiency of procurement procedures.

Whichever procedure is applied, it has to be ensured that procurement procedures or at least the activities undertaken to respect cost efficiency and transparency are properly documented.

4.5.8.2 Public Procurement

According to Article 1 of Reg. (EC) 1083/2006 all ERDF project partners are required, during their procurements related to the projects financed by the SEE Programme, to respect the relevant Community and national public procurement rules.

The following table summarises the procedure to be followed depending on the amount of the procurement.

Thresholds	Procedure to be applied
Below national public procurement thresholds ⁶	No public procurement / Procurement according to institutional or national rules
Between national and Community public procurement thresholds	Public procurement according to national rules
Above Community public procurement thresholds	Public procurement according to national and Community rules

The controllers have to verify the followings related to public procurements:

- The procedure applied for the procurement of services, equipments or investments is adequate according to the national and community rules.
- Public procurements are documented (requests for offers, offers, contracts are available)

4.5.8.3 State Aid

State aid rules apply only to measures that satisfy all of the criteria listed in Article 87(1) of the Treaty, namely:

1. The aid is provided by a public body, that means all resources coming from public bodies (EU COM; national, regional, local public bodies etc.);
2. The final beneficiary of the aid is an undertaking, that is “any entity engaged in an economic activity, regardless of its legal status and the way in which it is financed”;
3. The aid distorts or can potentially distort the competition and affects trade among the Member States.

The analysis of State Aid compliance is performed during the project selection phase for each project by the Managing Authority. According to this analysis, the projects are classified to high or low risk of State Aid compliance.

The Controllers should check in particular whether the project partners would like to finance economic activities since this would draw up incompliance with the state aid discipline (activity of an economic nature means any activity which offers goods and services in competition (actual or potential) with other operators active in the market, carrying out activities devoted to the production and marketing of goods and services in the market).

4.5.8.4 Information and publicity requirements

Articles 8 and 9 of Regulation (EC) no. 1828/2006 detail the basic responsibilities of beneficiaries relating to information and publicity measures for the public. The main elements of the Regulation are the followings:

⁶ See also the requirements in 4.5.8.1.

1. The LP and PPs shall ensure that the public and those taking part in the project are informed of the fact that the project receives funding under the EU funds (ERDF);
2. The LP and PPs shall ensure the correct display of the EU logo, the name of fund(s) and the Programme slogan (as described in the visual identity guidelines annexed to the SEE Implementation Manual).
3. Display of an explanatory plaque or of a billboard (subject to specific conditions detailed in the visual identity guidelines⁷).

Information and publicity requirements specified for the SEE Programme are described in details in the SEE Programme Manual (chapter 3.5) and in the SEE Implementation Manual (chapter 6.), and the related obligations for the Lead Partner are also regulated in the Subsidy Contract signed between MA/JTS and the Lead Partner.

The controllers have to verify the followings related to information and publicity requirement:

In all project official communications and on all project deliverables (e.g. any notice, publication, website, project event, conferences, seminars, project brochures, studies, etc.)

- it is specified by the Project partner that the project has received funding from the EU, within the framework of the South East Europe Transnational Cooperation Programme;
- the EU logo, the SEE programme logo and slogan and the name of the funds concerned are properly displayed (according to the visual identity guidelines of the Programme)

4.5.8.5 Environment protection

Projects should also be coherent with the objectives of protection and improvement of the environment foreseen in Article 17 of the General Regulation and Article 6 of the Treaty. This requirement is especially relevant for those projects foreseeing the realisation of investments.

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

Requirement deriving from the different Directives in force must be strictly observed. Regarding the contributions from ERDF Funds, the following thematic areas are of particular relevance:

Environmental Impact Assessment	The Environmental Assessment or EIA Directive	Council Directive 85/337/EEC, as last amended by Directive 2003/35/EC
Environmental Information	The environment Directive	Council Directive 90/313/EEC, as amended by 2003/4/EC
Nature	The Birds and Habitats Directive	Council Directive 79/409/EEC and Council Directive 92/43/EEC
Water	The Water Framework Directive	Directive 2000/60/EC, as last amended by Directive 2008/32/EC
Waste	The Waste Framework Directive The Landfill Directive The Incineration Directive	Council Directive 2006/2/EC Council Directive 1999/31/EC Council Directive 2000/76/EC

⁷ See the visual identity guidelines

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

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

4.5.8.6 Equal opportunities

The implementation of projects approved under the SEE Programme should be in line with Article 16 of the General Regulation, concerning equal opportunities for men and women as well as combating discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.

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

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

4.5.8.7 Verification of expenditure by public authorities relating to the implementation of projects

The eligibility of expenditure by public authorities related to the implementation of projects is regulated by Article 50 of 1828/2006 EC Regulation.

Article 50

Expenditure by public authorities relating to the implementation of operations

1. In addition to technical assistance for the operational programme pursuant to Article 46 of Regulation (EC) No 1083/2006, the following expenditure paid by public authorities in the preparation or implementation of an operation shall be eligible:

(a) the costs of professional services provided by a public authority other than the beneficiary in the preparation or implementation of an operation;

(b) the costs of the provision of services relating to the preparation and implementation of an operation provided by a public authority which is itself the beneficiary and which is executing an operation for its own account without recourse to outside service-providers.

2. The public authority concerned shall either invoice the costs referred to in paragraph 1(a) to the beneficiary or certify those costs on the basis of documents of equivalent probative value which permit the identification of real costs paid by that authority for that operation.

3. The costs referred to in paragraph 1(b) shall be eligible if they are additional costs and relate either to expenditure actually and directly paid for the co-financed operation or to in-kind contributions, as referred to in Article 51.

Those costs shall be certified by means of documents which permit the identification of real costs paid or in-kind contributions provided by the public authority concerned for that operation.

The controllers have to verify the additional nature of expenditure by public authorities according to their national rules. Further eligibility rules – if exist at national level – have to be specified in the national control guidelines.

4.5.8.8 Double financing

In accordance with Article 13 (2) EC No. 1828/2006, verifications shall include procedures to avoid double-financing of expenditure with other Community or national schemes and with other programming periods. Although, each Member State has to develop its own procedure to ensure avoiding double-financing, the practice of annulling original invoices and accounting documents of probative value by stamping them is compulsory within the SEE Programme: each original invoice and accounting documents of probative value has to be validated by a stamp proving its acceptance for the SEE Programme containing at least the Project Code, Acronym and the eligible amount in EUR.

4.5.9 Project revenues

In line with Article 55 of the of Council Regulation (EC) 1083/2006, if a project generates revenue, the amount of net revenues must be deducted from the eligible costs in full or pro-rata depending on whether it was generated entirely or partly by the co-financed project. Where it is objectively not possible to estimate the revenue in advance, the revenue generated within five years of the completion of a project shall be deducted from the expenditure declared to the Commission.

Where it is possible to objectively estimate the revenues in advance, projects should indicate the amount of possible revenues in the Application Form.

Project generated revenues have to be reported regularly by the Project Partners in the progress reports and in the final report, and verified by the designated controllers at the partner level. The ERDF co-funding will be calculated on the basis of the eligible expenditure reduced by the amount of net revenues.

Only the cash in-flows directly paid by users for the goods and/or services provided by the project, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services has to be considered as project generated revenues. Project generated revenues could as an example be conference participation fees, revenues from the sales of publications or books, etc.

The controllers have to verify the followings related to project revenues:

- a) The PP reports revenues (foreseen in the approved application Form and/or possible to estimate the amount of revenues):
 - The expenditure reported as revenues are only cash in flows directly paid by paid by users for the goods and/or services provided by the project;
 - Evidence exists in the accountings documents of the project partner on the revenues generated by the project;
 - Calculation method is provided by the project partner to report the net revenues (the amount to be deducted from the total eligible expenditure reported)

- b) The PP does not report revenues (not foreseen in the approved application Form, and the project does not generate revenues):
 - Statement of the Project partner is available containing that the project does not generate revenues;
 - The accountings documents of the project partner does not contain any revenues generated by the project;
- c) The PP does not report revenues (revenues generated are not declared):
 - Evidence exists in the accountings documents of the project partner on the revenues generated by the project;
 - Suspected irregularity has to be reported by the Controller to the responsible body at national level (see chapter 6.1.).
 - Revenues not reported will be reclaimed by the MA according to the recovery procedure of the SEE Programme.

4.6 Documentation of checks

The verification of expenditure (“first level checks”) are to be documented by the Controllers and the work records are to be retained for audit purposes for at least three years after the date of closure of the SEE Programme, i.e. at least until 31 December 2022. The documents are recommended to be stored during the programme period at the premises of the Controllers, and to be archived for audits until the date specified above. In order to facilitate the access to the work records of the Controllers it is recommended to store the records in a computerized system allowing the electronic transfer and processing of data.

The records should state the work done, the results of the verifications as well as the measures taken in case of irregularities and errors.

The main records of the verification of expenditure are the Declaration on validation of expenditure (considered as “*first level control report*”) and the control checklist containing all aspects of the verifications and stating the results of the checks in details. The checklists used by the Controller should be sufficiently and transparently detailed. The checklists and other work records related to the verification of expenditure should bear the name and position of the person performing the verifications and the date they were carried out.

All supporting documents submitted with the Partner Reports e.g. studies, project brochures, photos of project events, training course materials, etc. which provide the evidence of the eligibility of expenditure should be kept in the project partners’ files.

On-the-spot checks should also be properly documented: the work records concerning the result of the on the spot checks of individual expenditure/project partner sampled should be maintained by the Controller.

In case the on-the-spot checks are carried out on a sample basis, the sampling method used has to be described and justified and the all documentation has to be retained for further audits from the side of the Managing Authority (and/or JTS) of the SEE Programme, the Audit Authority (or external auditors contracted to perform the second level audit), and for the audits performed by or on behalf of the EC.

The following documents have to be retained by the Controllers concerning the verification of expenditure of each project partner:

No.	Document	Controllers
1.	Approved Application Form	Copy
2.	Partnership Agreement (and its amendments)	Copy
3.	Subsidy Contract (and its amendments)	Copy
7.	Partner Reports	Original and electronic version
8.	Declarations on validation of expenditure	Original and electronic version
9.	Each invoice and accounting document of probative value related to project expenditure	Copy
10.	All supporting documents related to project expenditure e.g. payslips, bank statements, public procurement documents, contracts between project partner and subcontractors, etc.	Copy
11.	All project deliverables (materials produced during the project period) submitted with the Partner Reports	Original and/or electronic version
12.	Control checklists filled in and signed by the controller related to each Partner Report	Original
13.	Documentation of each requests for missing documents, completion of the Partner Reports	Original
14.	If relevant, documentation of on the spot checks (minutes/reports, checklists, etc.)	Original
15.	If relevant, audit reports	Original

In case state contribution is ensured by the Member State in which the Project Partner is located, the Controllers shall retain the documents related to the state co-financing (contract and its amendments, documentation of the payment of state contribution, and all requested documents at national level) as well.

In case of costs incurred in other Member States or Partner States where the Project Partner is located, the invoices and accounting document of probative value are to be translated to national language if it is requested by national rules.

5 Verification of Technical Assistance expenditure

The budget allocated to the Priority Axis 5 (Technical Assistance) will be used to ensure the sound basis for the implementation of the program. Activities are related to program management, implementation, monitoring, control, and evaluation are financed by Technical Assistance. The beneficiaries of the Technical Assistance are the SEE Programme

management bodies, such as Managing Authority, Certifying Authority, Audit Authority, Joint Technical Secretariat and the SEE Contact Points.

The Technical Assistance expenditure also needs to be verified by the responsible Controllers of the Member States depending on the location (country) of the TA Beneficiaries.

Control requirements given in the present Guidelines are also relevant for the verification of TA expenditure with the following exceptions:

- Eligibility of TA expenditure is regulated by the TA Manual of the SEE Programme.
- Different templates are used for the validation of project's expenditure and TA expenditure. For the validation of TA expenditure the template in Annex 8. shall be used by the Controllers.
- Different SEE Control Checklist for TA expenditure is prepared as the items not relevant for TA expenditure are excluded from the project's Control Checklist, and it contains the eligibility requirements according to the TA Manual. The checklist is attached in Annex 6.
- The TA progress report form is specialised for reporting the activities of the TA Beneficiaries, e.g. SEE Contact Points. Reporting rules are specified in each TA Agreement.
- In case of TA expenditure, the reporting deadlines of the TA Beneficiaries are different from the deadlines of the projects. Reporting deadlines of the TA Beneficiaries are fixed in each TA Agreement.

The description of the control system in each SEE Member State shall include the designated Controller for TA expenditure, and the description of the procedure, in case it is different from the verification of project's expenditure.

6 Handling of irregularities

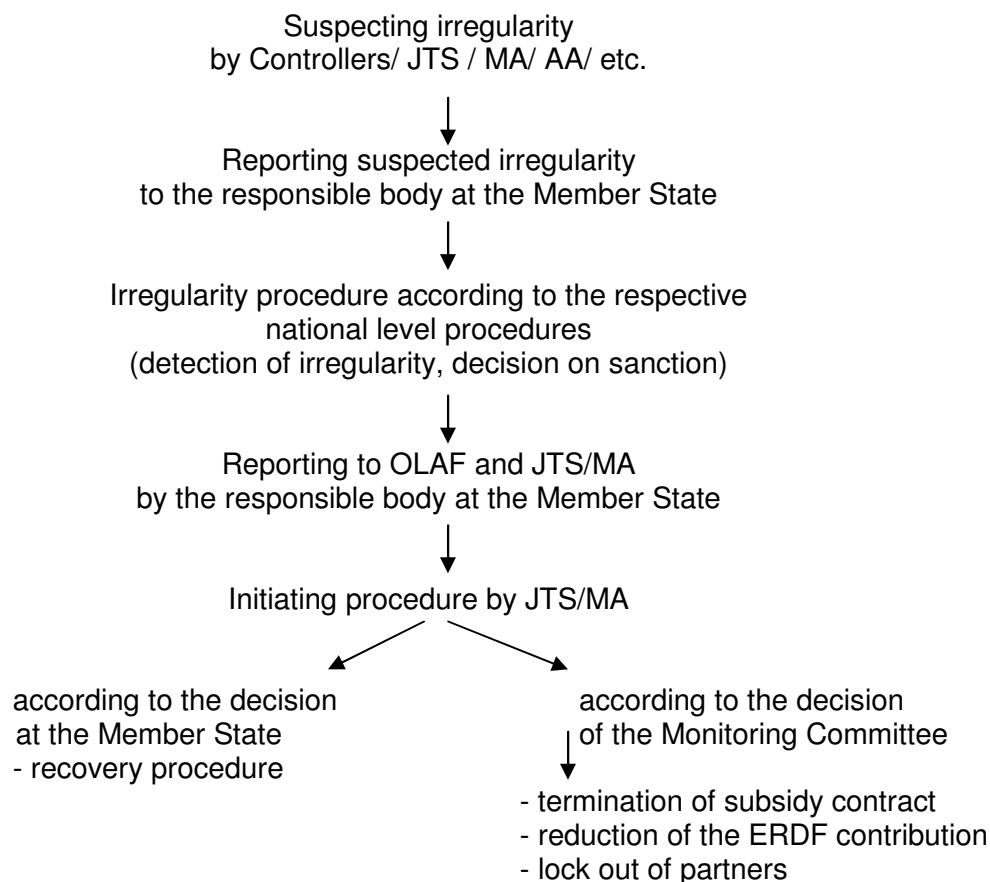
6.1 Procedure for reporting and handling irregularities

Detection, establishing, reporting and follow-up of irregularities, including recovering amounts unduly paid are managed respecting the provisions of Article 70 of Regulation (EC) No 1083/2006, Article 17(2), (3) of Regulation (EC) No 1080/2006 and Articles 27 to 36 of Regulation (EC) No 1828/2006.

Based on the above provisions the detecting, establishing and reporting to the Commission of irregularities are the obligations of the Member States hosting the project partners and thus managed on national level. It means that the irregularity procedure will be conducted by that responsible organisation of the Member State whose territory the partner concerned is located.

In order to ensure that the programme management bodies (MA, JTS, CA, and AA) are informed on the irregularities detected by the Member States, the irregularities have to be reported by the responsible body of the Member State to the JTS/MA. (see Verification report in Annex 10).

The procedure for reporting and handling irregularities are presented below:



1. An irregularity might be suspected on different stages of the project implementation, i.e. before submission of Application for Reimbursement to the JTS, during the verification of the Application for Reimbursement and before the reimbursement of ERDF contribution and after reimbursement of the ERDF contribution to the project by the Controllers and the programme management bodies (JTS, MA, AA, CA).
2. Independently the stage of the project implementation, the body which suspected the irregularity (Controller, JTS, MA, AA, etc.) has to report it to the responsible body for handling of irregularities at the given Member State whose territory the partner concerned is located.
3. The detection of the irregularity and the decision on the sanction is made at national level by the responsible body at Member State level, and then reported to the European Commission (OLAF report) and to the JTS/MA (Verification Report, Summary Report).
4. In case the irregularity affects partly the project (one partner of the given Member State), and the decision on sanction by the responsible body of the Member State is the recovery of ERDF contribution unduly paid, the JTS/MA initiates the recovery procedure. The recovery of the ERDF contribution can be initiated only after the decision at national level.
5. When the irregularity reported by the MS affects the whole project, the Monitoring Committee is also entitled to make a decision about the irregularity. The decision can be termination of the contract, reduction of the ERDF contribution to the project, or lock out of the project partners from financing under the SEE Programme.

6.2 Role and tasks of the controllers in the process of detecting, reporting of irregularities

The tasks of the Controllers are limited to the reporting of the suspicion of irregularities to the body responsible for irregularities at Member State level.

Controllers have to be aware of the procedure of reporting suspected irregularities to their national level body/authority. (see also 3.6.3.)

7 Compliance of the control systems

The controllers of each Member States have to be aware that the compliance of their control system will be regularly monitored during the programme period which consists of different elements: the Member State has to declare the compliance of the control system on a regular basis, as kind of self assessment, the programme management bodies (MA, JTS) may monitor the control activities at the premises of the controller, the second level audit at programme level also provides feedback on the functioning of the control systems and audits may be carried out on behalf of the EC as well.

7.1 Verification reports

Information on the compliance of the control system shall be provided by each Member State to the MA and the JTS on regular basis in form of a standard Verification Report (Annex 11).

The Part I (Information on the compliance of the control system) of the verification report shall be submitted to the Joint Technical Secretariat within 2 weeks following the end of each quarter (15 January, 15 April, 15 July, 15 October) by the Member States where the control system is centralised. Part I. of the Verification Report shall be submitted by Member States operating a decentralised control system within 2 weeks following the end of each half year (15 January, 15 July), taking into consideration the methodology applied by these Member States laid down in the description of the management and control system.

The Part II (Information on the payment of state contribution⁸ in the reporting period) and Part III (Information on irregularities and recoveries) of the verification report shall be submitted to the Joint Technical Secretariat within 2 weeks following the end of each quarter (15 January, 15 April, 15 July, 15 October) by each Member State.

On the basis of the verification reports of the Member States the MA will declare that the control systems are established according to the requirements of the Article 16 of Regulation (EC) No 1080/2006 and the verifications are executed in accordance with Article 60(b) of Regulation (EC) No 1083/2006 for each beneficiary participating in a project. These declarations are provided to the Certifying Authority before the submission of each application for payment to the EC.

⁸ In case the Member State provides national public contribution at state level for the projects selected by the Monitoring Committee

7.2 Quality reviews on verifications carried out by the designated controllers

The quality review of the control activities will be carried out at the premises of the designated controllers in each Member State. This type of examination of control activities is the responsibility of the Managing Authority which may be carried out by external experts contracted by the Managing Authority. The aim of these quality reviews is to be ensured on the compliance of the control system as well.

7.3 Second level audits

Second level audits are performed by the Audit Authority (Group of Auditors) or by external auditors on behalf of the Audit Authority. The main objective of these second level audits is to be ensured on the quality of verifications performed by the controllers. These second level audits will be performed on sample basis. The project selected for second level audit will be audited at the premises of the Lead partners and Project partners. The controllers of the project partners concerned will receive feedback through the programme management bodies on the findings of the second level audit.

In case of irregularities, or ineligible expenditure detected by second level audit after the reimbursement of ERDF contributions detected during the second level audit, the procedures described in Chapter 6. have to be followed.

8 Communication tools between the Controllers and the SEE Programme

8.1 Operation of the Working Group of Controllers

According to the SEE Operational Programme, the representatives of Controllers of each Member States participating in the SEE Programme has to set up a working group of controllers (WG). The working group of controllers has a consultative role between the SEE programme and the Controllers. The operation of the WG also ensures the support and supervision of control activities by the SEE Programme. Conclusions of the meetings will be taken into consideration by the SEE Programme, and the main outcomes will be reported to the Monitoring Committee.

Each Member State participating in the SEE Programme has to officially nominate maximum two representatives of the designated Controller to the WG.

The members of the Joint Technical Secretariat, Managing Authority and Certifying Authority, Audit Authority participate at the meetings of the WG as members of the working group. The representatives of IPA countries, SEE Contact Points, MC members, representative of the EC are invited as observers.

The list of WG members is handled by the JTS. In case of any changes, the JTS shall be informed in written form.

The WG will be co-ordinated and supported by the Joint Technical Secretariat. The meetings of the working group will be organised on regular basis, at least one meeting per year will be held. Additional meetings can be organised if needed. The working language of the WG is English, as official language of the Programme.

8.2 Data exchange between controllers and the SEE programme

Documents related to control which needs regular up-dating such as “Overview of the control systems in the SEE Member States”, “Reporting deadlines of the SEE Programme” and “Contact list of the working group of controllers” are not annexed to this Guidelines, but will be communicated directly to the members of the working group of controllers.

The “Overview of the control systems in the SEE Member States” is also available for downloading from the programme’s website.

Information on the approved Applications for Reimbursement at partner level will be available in a report form at specific section of the SEE programme’s website.

9 Annexes

- 9.1 Terminology for control in the SEE programme**
- 9.2 Designation Form of controller (in decentralised systems)**
- 9.3 Checklist for the selection of controller (in decentralised systems)**
- 9.4 Partner Report**
- 9.5 SEE Control Checklist (normal projects)**
- 9.6 SEE Control Checklist (TA projects)**
- 9.7 Declaration on validation of expenditure (normal projects)**
- 9.8 Declaration on validation of expenditure (TA projects)**
- 9.9 Guidance to fill in the Declaration on validation of expenditure**
- 9.10 Confirmation on common costs**
- 9.11 Verification report**