

**Pre-Agreement on the Management, Financial and Control
Arrangements between MS (or MS and third countries)
participating in an ETC programmes 2014-2020**

(Draft Template)

Between:

[representative of a Member State/Managing Authority participating in a programme]

and

[representative of a Member State or third country participating in a programme - all countries participating in a European Territorial Cooperation programme have to be represented]

The Parties to this Memorandum of Understanding (MoU) agree to the following

Article 1 : Purpose and Scope

This MoU stipulates certain implementing provisions and arrangements needed in order for a *[official name of the programme]* to successfully start and pursue its implementation throughout the whole programming period 2014-2020.

Article 2 : Main implementing provisions
(obligatory from the Commission point of view)

1. Designation of the main implementation structures

- Managing Authority (MA)

The MA is the body responsible for the implementation of the programme in its totality

[The following text has to contain the information on the following provisions, concerning the Managing Authority:

- *its identification/location*
- *staffing arrangements*
- *competencies and responsibilities*
- *where appropriate, ways to ensure that MA can fulfil its control role also in other programme countries than where it is located*
- *budget arrangements – proportion of the Technical Assistance set aside, national co-financing*

The counterpart for the Managing Authority with the coordination role on the territory other than where the Managing Authority is located can/should be mentioned here, as well as the ways of regular communication between them.]

Comment: Suggestion to delete "national", since the counterpart may also be at regional level, in federal countries

- Joint Technical Secretariat (JTS)

JTS is an independent body, guaranteeing the impartiality of the projects' applications' evaluation process. It should be proportionally staffed by people from all participating countries (*maybe difficult in interregional/transnational programmes*).

[The following text has to contain the information on the following provisions, concerning the JTS:

- *its identification/location*
- *staffing arrangements, respecting the statement mentioned above*
- *competencies and responsibilities*
- *budget arrangements – proportion of the Technical Assistance set aside, national co-financing*
- *the deadline for becoming fully operational]*

- **Monitoring Committee (MC)**

[The following text has to contain the information on the following provisions, concerning the MC:

- *procedures and deadlines for nomination of MC members*
- *MC members' responsibilities*
- *definition of MC members' impartiality (conflict of interest issue)*
- *deadline for the adoption of the Rules of the procedure of the MC, including the adoption of the methodology and criteria for selection of operations, and the eligibility rules for the programme, if applicable]*

- **Audit Authority**

[The following text has to contain the information on the following provisions, concerning the Audit Authority:

- *its identification/location*
- *main competencies and responsibilities*
- *budget arrangements – proportion of the Technical Assistance set aside, national co-financing]*

- **Management verifications, role of first Level controllers (if controls are not carried out centrally by the managing authority)**

[The following text has to contain the information on the following provisions, concerning the First Level Control:

- *its identification/location*
- *main competencies and responsibilities*
- *ways to ensure coherence among controllers from all countries participating in the programme*
- *budget arrangements – proportion of the Technical Assistance set aside, national co-financing]*

2. Arrangements concerning main implementation procedures

- **Payment procedure**

[The following text has to contain the information on the following provisions, concerning the payment procedure:

- *deadline for setting up of a programme bank account*
- *description and flow chart indicating the flows of EU and national co-financing from the EU to the beneficiaries (Lead partners and partners of operations), including estimated time frame*
- *arrangements for advance payments to beneficiaries.] An advance payment system for project beneficiaries is encouraged: the system should be same for all beneficiaries, no matter which Member State they come from.*

- Monitoring

[The following text has to contain the information on the following provisions, concerning monitoring:

- timeframe for setting up an electronic monitoring system for 2014-2020 period, allowing for on-line project applications and follow-up of projects implementation.] The adaptation of the existing system for the current period (2007-2013), if it is functioning well, is strongly encouraged.

- Process for project assessment (*selection criteria are already set out in part I*)

[The following text has to contain the information on the ways how project applications will be assessed.]

The assessment has to ensure an impartial evaluation of all projects. A joint assessment panel with experts from all regions participating in the programme is one possible recommended solution.

- Resolution of complaints

[The following text has to set out information on the arrangements for the examination and resolution of complaints .]

3. Arrangements in case of implementation difficulties

Clear rules how to proceed, including possible sanctions where relevant should be established in case the programme or individual projects get into difficulties during the implementation process. (*Comment: link to Article 25 ETC regulation?*)

- Financial correction

[The following text has to contain the information on:

- the ways how the amount to be corrected will be divided among the participating Member States and third countries, or

- how and during which time frame the decision on each individual financial correction case will be made]

- Interruption/suspension of payments

- Systemic errors in the programme implementation

- Projects being subject to judicial and other proceedings

[The following text has to contain the information on:

- what are the steps that the Managing Authority shall undertake in order to secure the recovery from a project?

- How will it be supported by the Member State of the beneficiary?

- what are the conditions to ask the Member State to take the financial responsibility of a recovery?]

- Projects having irregularities detected/recoveries needed

- Projects being bankrupt

4. Investment in cross border infrastructure, public procurement provisions

5. Arrangements for the closure of the programme

[The following text has to contain the information on:

- How will the closure process of the programme be ensured, after the end of the eligibility period?]

Article 3 : Other provisions
(recommended by the Commission)

1. Changes in the implementation structures

[The text should stipulate how and within what timelines such changes will be communicated, as well as indicating their impact on the implementation of the programme.]

2. Non respect of the agreed provisions and deadlines – sanctions

[The text should suggest steps to be taken in case of non-respect of the agreed provisions.]

3. Changes in the provisions of this MoU

[Ways how changes will be agreed should be stipulated here.]

Article 4: Timing

This MoU enters into force at the date of the signature of the last party. It is valid until the programme [*the official name of the programme*] is entirely closed by the Commission.

Signature: _____ Signature: _____

For and on behalf

of: _____

For and on behalf

of: _____