

## **Interreg IPA CBC Italy–Albania–Montenegro Programme**

### **PROGRAMME MANUAL**

#### ***4.7 ANNEX 2 – Project change according to the project de-commitment procedure***

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01.3

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## Introduction

Article 46 (4) of the IPA IR (EU) No 447/2014 recalling article 136 of the CPR Regulation (EU) No 1303/2013 provides for the de-commitment or N+3 procedure, i.e. the Commission shall decommit any part of the amount in an operational programme that has not been used for payment of the initial and annual pre-financing and interim payments by 31 December of the third financial year following the year of budget commitment. Accordingly, each programme shall establish a system to avoid delays leading to de-commitment, in relation to its operations, i.e. at project level, where most of the expenditures take place.

The Interreg IPA CBC Italy-Albania-Montenegro foresees different ways to tackle severe delays in spending at project level. Article 2 of the subsidy contract for the first call projects includes following provision:

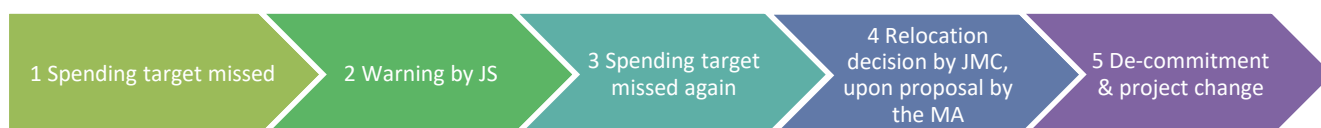
“(5) Should it become evident that the project will not spend the maximum amount of IPA-co-financing awarded to it by the JMC, the JMC may decide to reduce the award accordingly following the procedure as specified in the Programme Manual.

(8) In case a project fails to respect the contractual arrangements on timeliness, budget absorption and achievement of outputs and results, as defined in the latest approved version of the application form, the programme may also reduce the IPA allocated to the project or, if necessary, stop the project by terminating the subsidy contract”.

Furthermore, the public notice for thematic projects sets following rule:

“If a project partner does not reach at least 85% of the spending target for a specific period, which was fixed in the approved application form, the Managing Authority may de-commit the difference between target and the certified amount, which will become available for the specific Priority Axis, unless this is not due to partner’s failures.” The same is repeated for the targeted call projects, with the addition that the partner is required to provide evidence that the delay is not due to its own failures. In order to apply this rule and the procedure below, the related article of the template for subsidy contract has to be updated accordingly.

On this basis, it is necessary to describe here below the detailed procedure to de-commit projects, which basically follow these steps:



## 1. Spending target missed

Led by: Lead Partner  
Timing: By 30/09 or 31/03 of each year

Each project partner shall report all activities and related expenditures through the so-called partner reports, which are certified by the assigned controller, to the Lead Partner. The Lead Partner shall collect all partner reports and certificates, in order to develop and submit to the Managing Authority a joint progress report (JPR) within following deadlines:

- For expenditures occurred within the first semester of the year (01/01 – 30/06): 30/09
- For expenditures occurred within the second semester (01/07 – 31/12): 31/03

The approved application form for each project includes a spending plan per semester. If the project start is in the middle of the semester, the first reporting period is in proportion shorter, while the last reporting period is in proportion longer.

The periods concerned by the project de-commitment procedure depends on the project start date and on when the delay in spending occurs. The period, where the de-commitment procedure starts, is related to the first full 6 months period of project implementation, in which a delay in spending occurs. The period, where the delay lead to de-commitment, is the subsequent second period. However, an exception is made for standard call projects, for which the de-commitment procedure may occur only after the first reporting period following the mid-term review.

The Joint Secretariat, once the JPR is received, checks its content as well as the timely progress and achievement of planned outputs. By doing this, the JS also checks that the planned spending levels are kept and any deviation is duly justified. This is documented in the related JS check list.

**Duly justified** are all those project delays, which are based on a solid argumentation, such as independent experts opinion or publicly available facts/figures, which prove that the delay is a consequence of causes, which are **beyond the partner's control**, such as e.g. *force majeure* (*force majeure* causes are defined by the national legal systems), or for severe changes in the project environment, which could not be reasonably foreseen and which substantially hinder the progress of activities.

During the semester, the project officer in charge keeps informal contact with the project lead partner and can request regular updates, in order to timely detect problems and to find solutions to fix them, in support to the partnership. The national authorities and National Info Points also supports the JS in this effort.

The de-commitment procedure may be initiated once the JPR highlights that the partnership did not achieve the cumulative spending target for the period, i.e. 85% of the sum of the current and prior targets, set in the application form.

## 2. Warning by JS

Led by: JS

Timing: By the end of the semester, when the JPR was received

For the JPR, where the 85% of the cumulative spending target for the period is not reached, the JS officer in charge assesses if the delay is duly justified (see above). If this is not the case, the JS may send a warning to the LP, having following content and setting following cumulative conditions:

- justifications for the current delay are not acceptable, while highlighting the specific deficiencies of the justification (see above);
- in case delays occurred still persist in the next period;
- in case the LP does not require a modification of the project (e.g. extension of the project duration, etc.);
- in case the justifications for the delay are still not duly justified, i.e. current deficiencies are not corrected or new deficiencies emerge.

In the next reporting period, the Managing Authority may propose a corresponding reduction and subsequent relocation of the project budget (see below), in a written procedure addressed to the JMC.

### 3. Period B JPR: spending target missed again

Led by: Lead Partner  
Timing: By 30/09 or 31/03 of each year

The third step of the procedure occurs after the JS officer in charge assesses that all conditions for the de-commitment are met:

- in the period, in spite of the previous pre-warning, the project JPR highlights still a delay, i.e. 85% of the cumulative spending target for the period is not reached;
- justifications for the delay are not acceptable for specific deficiencies of the justifications (i.e. previous deficiencies are not corrected or new deficiencies emerge);
- delays occurred persist from previous period;
- the LP has not required a modification of the project (e.g. remodulation of the spending targets for the periods accompanied with mitigation measures, extension of the project duration, etc.).

### 4. Relocation decision by JMC, upon proposal by the MA

Led by: JS / MA - JMC  
Timing: By the end of the semester, when the JPR was received

Upon assessment by the JS officer in charge that the delay is not duly justified (documented in the related JS check list), the MA may initiate a written procedure for the joint monitoring committee, proposing a reduction of the affected amount for the budget of the delayed project.

The amount affected by the de-commitment procedure is meant as the difference between 100% of the cumulative target for the period and the cumulative reported and certified amount.

Example:

Target period 1: 50.000	Reported by LP: 45.000
Target period 2: 50.000 (cumulative 100.000)	Reported by LP: 35.000 (cumulative 80.000)
Target period 3: 100.000 (cumulative 200.000)	Reported by LP: 60.000 (cumulative 140.000)

The lead partner of the project X in the second implementation period reported altogether 80.000 instead of 100.000 planned in the approved application form (cumulative amounts). As the amounts were lower than 85%, and the delay was not duly justified, the JS sent a pre-warning letter.

In the third implementation period the lead partner reports 140.000, instead of 200.000 (cumulative), therefore below 85% (170.000).

The amount affected by the de-commitment procedure is therefore 60.000, i.e. 200.000 – 140.000.

At the same time, a relocation of the budget to other projects may be proposed, either to P.A. 1 thematic projects in over-budgeting or to targeted call projects on the top of the approved score grid.

For more efficiency, a de-commitment procedure may seek to combine several projects affected, if this is the case.

The programme manual (factsheets no. 4.1 and 4.7.) as well as in the subsidy contract set specific limitations to changes of the project budget.

In addition, a remodulation of spending targets per period, made exclusively to avoid the de-commitment and thus without being accompanied with measures to speed up the implementation and spending, is not admissible. In particular, in case of repeated artificial remodulations of spending targets (more than one) without a substantial improvement in the project performance, the MA/JS may proceed with the de-commitment procedure in spite of the achievement of the 85% target in the re-modulated spending. Concrete cases of artificial remodulation of spending targets may be assessed in any case by the MA/JS and further discussed at the level of the JMC.

The decision of the JMC is made according to the rules of procedure. In this decision and for any proposal made, national delegations must always primarily safeguard the budget of the programme and mitigate the programme de-commitment.

The project lead partner shall be duly informed of the launch and outcomes of the related written procedure.

#### 4. De-commitment & project change

Led by: MA/JS

Timing: After the decision by JMC

The MA may accordingly de-commit the amounts in the related regional budget chapter and re-commit those in the correct chapter.

The MA may accordingly send to the Lead Partner an addendum to the subsidy contract, modifying the related parts of the contract (budget and pre-financing) and request the Lead Partner to do the same with the project partners with the partnership agreement.

The JS is supporting the lead partner in the project change procedure in the eMS system, i.e. identifying also those activities that may be skipped, without endangering the achievement of project objectives, expected results and main outputs planned.

The MA may deduct the corresponding amounts of the pre-financing from the first subsequent payment to the Lead Partner.

Accordingly, the MA may propose the award of the subsidy (or additional budget) to the Lead Partner of the project/s as decided by the JMC.