

Commission services response to HLG's non-legislative recommendations on Simplified Cost Options

Recommendations to the COM for 2014-20 period	Actions by the Commission services so far	Further possible actions
On ensuring ex-ante support to managing authorities:		
<p>1) disseminating widely to Member States the good practice examples such as those of Northern Ireland, Malta, Canary Islands and Denmark, and encourages them to put similar systems in place in their own programmes/administrations where relevant</p>	<ul style="list-style-type: none"> ➤ Presentation and discussion of good practices from 3 Member States during the EGESIF meeting on 21 September 2016 in Brussels: <ul style="list-style-type: none"> ○ EAFRD, Canary Islands (ES) ○ ERDF, Northern Ireland (UK) ○ ESF/YEI, Italy ➤ Promotion of the SCO model from Northern Ireland during the European Week of the Regions and Cities (10-13 October 2016) 	<ul style="list-style-type: none"> ➤ Further promote these and other good practices during similar or other appropriate meetings or seminars ➤ Upload information material on CIRCABC ➤ Good practice will be also shared within the TNC on simplification in order to allow the member states to take ownership of EU-wide developed SCOs and in order to learn from each others' experience in developing SCOs. ➤ Share good practices through the European Network for Rural Development (ENRD) network.
<p>2) putting in place a mechanism to allow the sharing of experience and practical examples of how SCOs were developed between managing authorities, as this would encourage more authorities to make use of the SCOs and bring valuable lessons for potential further fine-tuning and simplification.</p>	<ul style="list-style-type: none"> ➤ In 2015, DG EMPL launched a Trans-National Cooperation network on simplification (TNC) which has as one of its aims the spreading of good practice. ➤ During the TNC meeting on 27/28 October 2016 the "Map of SCO practices", which summarises the survey of SCOs in the EU, was presented and discussed among practitioners from 24 MSs. ➤ The intention of the TNC is to finalise this 'Map' of good practices for ESF and publicise it among Member States. ➤ For EAFRD this is done through the ENRD including exploring and promoting standard models on SCO. 	<ul style="list-style-type: none"> ➤ Create a platform for SCOs experts, together with use of dedicated page on IT-based tool such as CIRCABC/REGIO WIKI to store information. ➤ Need to assess how to ensure synergies and avoid duplication between the existing fora and any additional platform as well as desire among MS. ➤ Periodically present good practices during meetings such as EGESIF or fund-specific meetings such as ESF TWG. ➤ Use seminars/workshops in MSs to present best practice from other MS. ➤ Disseminate good practice examples during annual review and annual coordination meetings by the

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<p>3) giving clear, transparent and standard approach descriptions on how SCOs should be documented, monitored, archived and audited to ensure legal certainty for managing authorities, beneficiaries and the Commission.</p>	<ul style="list-style-type: none"> ➤ Commission services routinely answers to written questions from MSs (via the ESIF interpretation network). ➤ Commission services also responds to oral questions during meetings, for example during the last EGESIF meeting several questions related to the documentation and audit of SCOs were addressed. ➤ The definition of SCOs via Art. 14(1) of the ESF Regulation requires agreement between the Member State and Commission on the audit trail, which is documented in order to clarify the conditions on the audit trail requirements for the relevant SCOs 	<p>geographical units and/or auditors.</p> <ul style="list-style-type: none"> ➤ Guidance on SCOs to be reviewed in line with possible changes to the legal framework. Timing will involve interservice consultations and consultation with EGESIF. ➤ Q&A replies could be developed for general questions on documentation, monitoring, archiving and audit of SCOs. ➤ Regularly update and circulate Q&A to MSs.
<p>4) supporting further the Interact Programme, as a useful instrument for ETC programmes, towards the practical use of SCOs and other simplification methods (e.g. studies, workshops).</p>	<ul style="list-style-type: none"> ➤ Guidance paper on SCOs was prepared already in 2012. ➤ Q&A document on eligibility of expenditure, which includes specific issues related to SCOs was drafted by INTERACT in consultation with the Commission services and published in March 2016 	<ul style="list-style-type: none"> ➤ Further activities of Interact in this field would be welcome by the Commission services.
<p>5) the Commission could review its internal procedures to provide a faster response to managing authorities wishing to make use of Article 14(1) ESF; and to create a fast-track procedure allowing managing authorities to have certainty on questions regarding the set up and implementation of SCOs or, if</p>	<ul style="list-style-type: none"> ➤ DG EMPL is of the opinion that the delegated act procedure remains the most appropriate instrument with which to adopt simplified costs for Member States in the current programming period. This can be examined again in the context of post 2020 arrangements. ➤ DG EMPL has worked to ensure that more recent proposals have been assessed more quickly and the COM has just adopted proposals for delegated 	<ul style="list-style-type: none"> ➤ DG EMPL will work to continuously provide support to MSs seeking to apply for a delegated act (ESF). ➤ For ERDF, DG REGIO is open to the idea of ex ante 'comfort letters' giving COM opinion to national authorities on SCO proposals.

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<i>necessary, an ESI Fund-specific regulation should be implemented, involving Commission auditors and providing binding answers.</i>	<p>acts covering 6 Member States on 31 October 2016 (i.e. only 7 month after the last delegated act entered into force).</p> <ul style="list-style-type: none"> ➤ Nevertheless, certain elements of the inter-institutional approval process are set down in regulatory framework and cannot be shortened by a fast-track procedure. 	
6) Member States should be able to define their own methods, present them for information to the Commission and audit authority, with a deadline for them to react if they have a difficulty with the new method, and after this, they should be able to implement it. The new method should, of course, respect the principle of sound financial management.	<ul style="list-style-type: none"> ➤ The Commission services are not in a position to be able to commit to any procedure whereby it would examine all proposals for SCOs from Member States, as this would imply a very significant resource impact on the Commission. 	<ul style="list-style-type: none"> ➤ The Commission services believe that a better approach is to provide more 'off the shelf' SCO options, such as EU level SCOs under Article 14.1 ESF, and the proposed possibility to allow COM adopt SCOs by a delegated act under the CPR.
On streamlining the setting up of SCOs across all ESI Funds:		
7) to lift the restrictions imposed on fully procured projects that can only claim eligible costs actually incurred and paid (real costs) and delete Article 67(4) CPR	<ul style="list-style-type: none"> ➤ ESIF DGs are not convinced of the need for this proposal. From both practical and sound financial management perspective it is considered prudent to keep this restriction. If an operation is implemented through public procurement the price is agreed in the procedure (call for tender) then it would not make sense to invest in developing SCOs. ➤ The Commission services have clarified opportunities (at training and seminars, in guidance, in ESIF Q&As) the extent to which SCOs 	<ul style="list-style-type: none"> ➤ Commission services to continue communicating with MSs the opportunities that exist currently to use SCOs in conjunction with public procurement.

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	<p>can be used in conjunction with Public Procurement, especially that where parts of an operation are subject to public procurement, SCOs can be used for the entire operation/project.</p>	
<p>8) to make SCOs currently restricted to certain Funds available to all ESI Funds through the CPR, in particular Article 14 ESF (delegated act, 40% flat rate, use of a draft budget) and ETC provisions relating to staff costs for part-time workers and staff costs at a flat rate of up to 20% of the direct costs other than the staff costs</p>	<p>➤ As part of the proposed amendments of the Regulations (see midterm review of the MFF), the COM has proposed to extend a number of currently fund-specific flat rates to other funds.</p>	<p>➤ The Commission services are looking forward towards prompt adoption of the proposed amendments.</p>
<p>9) to provide more off-the-shelf SCOs, including EU level SCOs based on data provided by Member States and bodies such as ESTAT (for example, to allow the calculation of indirect costs with a flat rate of 25% of direct costs (without to perform a calculation) by modifying Article 68(1)(a) CPR);</p>	<p>➤ DG EMPL is working on defining EU-level SCOs under Article 14 of the ESF Regulation that could be applied by all MS and expects to have the first proposal in the first half of 2017.</p> <p>➤ In relation to calculating indirect costs on the basis of a flat rate of 25%, the Commission services do not believe this would be in the interests of sound financial management. The COM has established that 15% is an appropriate rate for use without justification, but that a higher rate can be allowed if the Member State can justify it. However the COM has allowed other flat rates which can also be used to cover also other categories of costs – see in particular the proposed extension from ESF of the 40% flat rate applied to direct staff costs to cover all other costs of the operation</p>	<p>➤ The COM could be able to define more 'off the shelf' SCOs in future on the basis of the new Delegated Act provided for in the proposed amendments to the CPR. These would be proposed in consultation with Members States via EGESIF.</p> <p>➤ For ESF, The Transnational Network on Simplification will continue to work on developing EU level SCOs throughout 2017. Following rates for education measures in early 2017, it is intended that this will then result in rates being set out in the Delegated Regulation for the training of employed and unemployed people that each Member State would be able to apply without the need to justify the amount.</p>
<p>10) to allow a third party contribution to be counted outside</p>	<p>➤ Part of the proposed amendments of the Regulations (see midterm review of the MFF)</p>	

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<i>the 40% flat rate under Article 14(2) ESF</i>		
11) to allow lump sums above EUR 100,000;	<ul style="list-style-type: none"> ➤ Part of the proposed amendments of the Regulations (see midterm review of the MFF) 	
12) to clarify, if needed by a legislative modification, the way to apply state aids framework in the case of SCOs (for example by modifying Articles 67 and 68 CPR to allow the use of SCOs when operations are related with state aid rules);	<ul style="list-style-type: none"> ➤ Legislation on State aid rules cannot be clarified in the ESIF regulatory framework. ➤ Commission services have confirmed the general principle that simplified costs are compatible with State aid rules and that the amount of a simplified cost can be used to verify compliance with State aid rules. ➤ Commission services have replied on this issue to several written questions from managing authorities and clarified it at forums such as the EGESIF. ➤ In the framework of the GBER modification, COM introduced proposals on eligible cost categories and clarified the general compatibility of SCOs and the requirements of the GBER. 	<ul style="list-style-type: none"> ➤ Dissemination of Q&As to all national authorities of the ESI-Funds via access to the Regio Wiki .
13) to remove the term "up to" from Article 68 CPR to define a single rate that cannot be disputed.	<ul style="list-style-type: none"> ➤ COM does not intend to remove the current flexibility as managing authorities may wish to set lower rates than the maximum foreseen under certain circumstances. ➤ Commission services have clarified to Member States on numerous occasions that no matter what the rate chosen up to 15% under Article 68(1)(b), this will not be challenged by the Commission services. 	
To encourage action by the Member States for 2014-2020 period:		

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<p>14) Member States and regions should envisage a closer collaboration between all authorities and should invest more in training for all the relevant, institutional and socio-economic partners</p>	<ul style="list-style-type: none"> ➤ Commission services have organised many seminars and trainings on SCOs both in Brussels and in MSs and this will be continued upon request. ➤ DG EMPL alone has organised seminars in 14 Member States in 2015/2016 with representatives from MA, AA, CA & intermediary bodies. 	<ul style="list-style-type: none"> ➤ Commission services will use formal and informal channels (monitoring committees, meetings, missions, workshops) to encourage a closer collaboration between and involvement of all authorities in SCOs development, including through guidance & training materials.
<p>15) set up an "audit" committee at national or regional level to assist the programme authorities to set up SCOs including how they are to be managed and audited. This should include auditors, the services of Commission (desk and audit) and external experts in order to set up a clear and coherent framework concerning documentation, control and audit for SCOs and act as a mediator between the managing authority and auditors.</p>	<ul style="list-style-type: none"> ➤ Commission services supports every initiative that leads to closer cooperation between relevant stakeholders. 	<ul style="list-style-type: none"> ➤ Where such forums are set up at national level, requests for ad-hoc support by Commission services can be considered.
<p>16) Managing authorities should give clear and transparent descriptions of how SCOs should be documented, monitored, archived and audited</p>		<ul style="list-style-type: none"> ➤ Commission services will support MAs
<p>17) European and national auditors should be actively involved in ex ante verification of national SCOs (ex ante verification does not endanger their independence and ability to control implementation ex post).</p>	<ul style="list-style-type: none"> ➤ Commission services consistently highlights in all contacts with national authorities the need for the involvement of the national Audit Authorities in the ex-ante verification of national SCOs, especially during the Annual Coordination Meetings (COM auditors) and the Annual Review 	<ul style="list-style-type: none"> ➤ DG REGIO open to the idea of ex ante 'comfort letters' giving Commission services' opinion to national authorities on SCOs proposals. ➤ DG EMPL does not intend to issue 'comfort letters'. ➤ DG AGRI does not have the resources to ensure this ex ante verification.

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	<p>Meetings (geographical units)</p> <ul style="list-style-type: none"> ➤ This point was again made to national audit authorities by the Commission services at the 'Homologues' meeting in September 2016. ➤ For ESF, ex ante verification takes place in context of Article 14.1 ESF 	