



EUROPEAN COMMISSION

**Guidance Note on the Annual Summary
in relation to Structural Actions
and the European Fisheries Fund (revised 2009)
(under Article 53b(3) of amended Financial Regulation¹)**

This is a document prepared by the Commission services. On the basis of the applicable Community Law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the Cohesion policy on how to interpret and apply the Community rules in this area. The aim of the working document is to provide Commission's services explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice (s). However this guidance is without prejudice to the interpretation of the Court of Justice and the Court of First Instance or evolving Commission decision making practice.

¹ Regulation (EC, Euratom) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) n°1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

1. LEGAL REQUIREMENTS

Paragraph 44 of the Inter-Institutional Agreement² states:

“The institutions agree on the importance of strengthening internal control without adding to the administrative burden for which the simplification of the underlying legislation is a prerequisite. In this context, priority will be given to sound financial management aiming at a positive Statement of Assurance, for funds under shared management. ... Member States therefore undertake to produce an annual summary at the appropriate national level of the available audits and declarations.”

The Financial Regulation applicable to the EC Budget was amended by the Council in 2006 in order to give effect to this agreement. The new Article 53b(3) of Regulation (EC) No 1995/2006 provides: *“Member States shall produce an annual summary at the appropriate national level of the available audits and declarations”*.

Article 53b(3) has in turn been implemented by Article 42a of the amended Implementing Rules³ of the Financial Regulation:

1. *The summary shall be provided by the appropriate authority or body designated by the Member State for the area of expenditure concerned in accordance with the sector-specific rules.*
2. *The part related to audits shall:*
 - (a) *include, as concerns agriculture, the certificates established by the certification bodies, and, as concerns structural and other similar measures, the audit opinions provided by the audit authorities;*
 - (b) *be provided by 15 February of the year following the year of the audit activity for agricultural expenditure and for structural and other similar measures.*
3. *The part related to declarations shall:*
 - (a) *include, as concerns agriculture, the statements of assurance provided by the paying agencies, and, as concerns structural and other similar measures, certifications by the certifying authorities;*
 - (b) *be provided by 15 February of the following financial year for agricultural expenditure and for structural and other similar measures.*

This note makes recommendations on how these provisions should be implemented for the Structural Funds, Cohesion Fund and European Fisheries Fund (hereinafter "the Funds"), in order to create consistent, comparable and useful information, in line with the objectives of the Inter-

² OJ C 139, 14.06.2006, p. 1.

³ Commission Regulation (EC, Euratom) No 478/2007 of 23 April 2007 (OJ L 111 of 28.04.2007)

Institutional Agreement, and in particular to aim for a positive Statement of Assurance, as well as to take account of Opinion No 6/2007 issued by the European Court of Auditors. The European Fisheries Fund is included as it is a fund under shared management and is a “similar measure” to structural actions.

2. PRACTICAL IMPLEMENTATION

The Commission confirms that its Legal Service has given a formal opinion that the provisions of Article 53b(3) of the Financial Regulation apply to any expenditure coming from the EC budget, including the 2000-2006 period.

2.1. What will the annual summary be used for?

The annual summary is intended to improve risk management and reinforce the chain of accountability, in the shared management process, between Member States and Commission concerning the use of EU funds under shared management. Therefore, if provided on time, it can become an important part of the information for the annual activity report produced by each Directorate General on the management of the funds and the declaration of assurance by the Director General concerning the legality and regularity of expenditure under the EU budget.

The underlying process of establishing annual summaries is valuable in itself when it serves to increase awareness at the national level about the financial management of Community funds. Resulting corrective measures and improved managerial procedures will further support future improvements in this regard. The recommended overall analysis (2.6.3) and the assurance statement (2.9) both play an important role in achieving the desired impact of annual summaries in the future.

For the Commission, the annual summaries could become an important and reliable source of assurance, if additional value-added information is provided. The annual summaries and national declarations (see section 2.8) can play a vital role as additional assurance from the Member State when the Commission decides to apply Article 73 (3) of Regulation 1083/2006, thereby reducing its own audit work and relying principally on the Member State. This should act as an incentive to Member States to improve the added value of the annual summaries and look into the feasibility of producing a voluntary national declaration.

2.2. Who will produce the annual summary?

The Financial Regulation provides that it is up to each Member State to designate the authority or body ("designated body") which will produce the annual summary. The summary is to be provided for the area of expenditure concerned, in this case the Funds. The Financial Regulation requires "an annual summary" per Member State. Therefore, a single summary should be produced by the designated body of each Member State covering both programming periods 2000-06 and 2007-13 for the Funds.

The designated body, whether existing or newly created, must therefore be centrally appointed to be able to perform the task of coordinating, collecting and compiling all relevant information in a consistent and timely way and to submit the part related to audits and the part related to declarations at the same time. The designated body should be a body responsible for providing assurance on the use of EU funds in the Member State. Under the designated body, responsibility

can be assigned to different bodies to aggregate the information for audits and declarations, correspondingly. The head of this designated body will sign the summary.

As regards Member States with a federal or constituent powers administrative structure, the annual summary should be produced in accordance with their constitutional, administrative and legal requirements, however, without prejudice to the overall aim of Article 53b(3) of the Financial Regulation, thus the Commission should receive the annual summary which is attributable and accountable to the competent authority (-ies) of the Member State, including an overall analysis and indication of the overall assurance.

In line with the spirit and aim of the Inter-Institutional Agreement, which calls for the strengthening of national accountability, the Commission moreover invites the coordinating body, at national level, to collect and check the received contributions for the annual summary to ensure that the minimum required information is provided (completeness). A single transmission should be made to the Commission.

2.3. When will the annual summary need to be provided?

Article 42a of the Implementing Regulation of the Financial Regulation requires that all the information has to be sent to the Commission by the designated body by 15 February of the following financial year of the EU budget.

2.4. How should it be sent?

In order to facilitate transmission, the annual summary (covering both programming periods) should be transmitted via SFC 2007 (System for Fund Management in the European Community 2007-2013) only, in order to avoid multiple transmissions (by email and by post). SFC 2007 has been adapted to permit the uploading and transmission of the annual summary documents under the menu "Strategic Planning/Annual Summary/Structured version", where the tables are already set up for completion by the Member States. For those who do not have access, you may contact sfc2007-info@ec.europa.eu to receive the name of the administrator in your Member State.

2.5. What should be the format?

The annual summary should be presented according to the template in the annex to this guidance note.

2.6. What should the annual summary cover?

The annual summary should be a complete synthesis of available information, providing an overview of the assurance obtained from the audit activity and certification process. It will consist of two parts and cover expenditure certified and audit activity/results issued for the year prior to the year in which the report is submitted.

2.6.1. Expenditure certified – Part 1

- ✓ The annual summary should summarise at the level of the Member State all expenditure certified in a financial year per operational programme, Cohesion Fund project, period and Fund. It must be noted that the information required is the amount certified and declared by the Member State to the Commission in the reporting year N from the statements of expenditure sent in the period 1.1 – 31.12 of year N, regardless of when these amounts were paid to the beneficiaries and when these amounts were subsequently paid by the Commission.
- ✓ For expenditure for the 2000-06 period, the annual summary must cover all expenditure included in declarations submitted to the Commission by 31 December (posting date on envelope). As expenditure declared is cumulative, the expenditure in the last declaration for the previous year N-1 (e.g., 2007) will have to be deducted from that in the last declaration for the reporting year N (e.g., 2008), in order to arrive at the expenditure declared in the reporting year only.
- ✓ For expenditure for the 2007-2013 period, Member States must confirm that certified expenditure taken from their financial monitoring information systems agrees with the

amounts as reported in SFC2007 by 31 December. Any discrepancies should be explained.

- ✓ Where Member States are not able to input the information on expenditure certified (table 1.2.1) directly into SFC 2007, they are requested to use the excel table as provided in the template in annex.
- ✓ Information on withdrawals, recoveries and pending recoveries is not to be provided in the annual summary and should only be submitted to the Commission on the date as fixed in the sectorial regulations⁴.

2.6.2. Audit activity – Part 2

- ✓ For the audit activity, a distinction has to be drawn between the information required for the two programming periods, 2000-2006 and 2007-2013:
 - For 2007-2013, the annual summary submitted on 15 February of year N+1 has to provide a summary of audit opinions and corresponding key information, including error rates, from the annual control reports submitted to the Commission under Article 62(1)(d) of Council Regulation (EC) No 1083/2006 and 61(1)(e) of Council Regulation (EC) No 1198/2006 for each operational programme by 31/12/N by each audit authority. In the cases where a Member State has only one audit authority per Fund or for all Funds, which issues one single audit opinion and annual control report, this information is not required.

In addition, for systems audits carried out during the period 1 July to 31 December of year N, where there are finalised audit results for which the contradictory procedure between the audit body and audited body has been completed, all findings which could be considered material for the assurance on the legality and regularity of the expenditure for year N should be reported.

The annual summary does not replace the annual control report and audit opinion signed by the audit authority for each operational programme for 2007-2013.

- For 2000-2006, the annual summary submitted on 15 February of year N+1 should include the following information, which is normally provided for the annual bilateral coordination meetings under Article 38(3) of Regulation (EC) No 1260/1999⁵:
 - the main findings of systems audits carried out under Articles 10 and 15 of Regulation (EC) No 438/2001 in the Member State for year N. This should include finalised audit results for which the contradictory procedure between the audit body and the audited body has been completed;
 - information on the progress of Article 10 checks on operations (cumulative expenditure checked as a percentage of cumulative expenditure declared). The cut-off date for checks taken into account under the column "cumulative expenditure checked" in table 2.2 should be indicated where earlier than 31 December of year N;
 - follow-up of the findings relating to systemic problems disclosed in the latest annual control reports (submitted in year N);

⁴ By 31 March each year – for the 2007-13 period, Article 20(2) of Regulation (EC) 846/2009 of 1 September 2009 amended Regulation (EC) 1828/2006 and for the 2000-06 period, the guidance note on recoveries issued in 2006 and the amendment of Regulation 448/2001 by Regulation 1978/2006 of 22 December 2006.

⁵ Or the equivalent provisions for the Cohesion Fund, Articles 9 to 12 of Regulation (EC) No 1386/2002 and under the coordination arrangements for the Cohesion Fund.

- information on error rates from audits of operations as disclosed in the latest annual control reports.

Where a Member State submits by 15 February the annual control reports required by Article 13 of Commission Regulation (EC) No 438/2001 for the Structural Funds and Article 12 of Commission Regulation (EC) No 1386/2002 for the Cohesion Fund providing aggregated information in line with Table 2.2 of the Annex, they can be considered to fulfil the requirements of the annual summary in relation to audit activity. As there is no requirement to provide an annual control report⁶ for the period after 31 December 2008, the Member States are asked to, nonetheless, provide the information as requested in table 2.2. in order for the Commission to have the most recent information.

- For both periods: The close coordination between the Commission and the Member States audit authority has always been an important aspect of an integrated internal control framework. It is gaining more importance with the new programming period and with the obligation of the audit authority to provide an annual control report and opinion. As stated in the guidance note on the annual control report, any other information up to the date of reporting (by 31 December) considered relevant and important to communicate to the Commission it is recommended to be reported. This can include any significant a) subsequent events, b) organizational changes, or c) other issues that the audit authority judges that the Commission must be aware of (eg preliminary audit results of importance). The audit authority should apply its professional judgement when communicating the relevant subsequent events, which have an impact on the assurance. The same information is requested when reporting in the annual summary (up to the date of reporting ie by 15 February).

2.6.3. Overall Analysis

Although it is not a formal legal obligation under Article 53b(3) of the Financial Regulation, it is recommended that in order to provide greater added-value, Member States should analyse the results from the information provided in both parts of the annual summary in order to determine the implications at the level of the Member State as a whole, highlighting any systemic deficiencies and summarising the main cross-cutting/horizontal issues, as well as indicating any further actions taken or to be taken as a consequence.

Such a global analysis by the designated body is to the Member State's own interest and responsibility to provide valuable information and highlight good practices which can be communicated centrally to the different bodies responsible to improve the effectiveness of their management and control systems and increase harmonization.

The Commission will use such analysis as an additional source of information for its assessment of Member States management and controls systems reported in the Directorates' General Annual Activity Reports.

Examples of issues⁷ to be addressed in the overall analysis:

⁶ Audit activity for the period 2000-2006 performed after 31 December 2008 shall be reported with the final declaration to the Commission and not in a separate annual control report.

⁷ For illustrative purposes only and are neither exhaustive nor may they be applicable for all Member States. It is up to each Member State to identify and highlight the most relevant information unique to their situation.

-identify systemic deficiencies and explain the actions already taken or in-progress – systemic deficiencies are usually inherent to the system and can affect the expenditure. In this respect, they must be addressed quickly and measures taken to correct the problems identified. In case the Member State decided to interrupt on its proper initiative the submission of interim statements of expenditure, this should be stated. It must also state the action taken or to be taken to correct any expenditure already certified to the Commission.

-cross-cutting/horizontal issues – special thematic issues may be affecting several operational programmes, for example similar IT problems, public procurement irregularities, state-aid irregularities. By reviewing the type of cross-cutting/horizontal issues identified, the Member State should assess the scope (estimate financial impact of weaknesses) and consider the underlying causes of these cross-cutting/horizontal issues and the actions to be taken from a national perspective ie further guidance (to national authorities, to beneficiaries), training, change in internal procedures, national action plan, etc.

-actions being taken – where actions have been successful in addressing deficiencies, it should be considered, at the national level, if these actions are applicable to other operational programmes, regions, etc. The identification of good practices and the dissemination of information are key to improving internal control and coordination at all levels.

Other issues to consider:

- identify the source of high error rates and actions being taken to address them
- results of significant subsequent events, etc – and state if there is any risk on EU funds or the proper functioning of the systems
- identify inconsistencies between approaches/procedures and if action is needed or has been taken
- highlight good practices and lessons learned and whether these have been spread to other regions/programmes
- a statement should be made that there is no indication (or to the knowledge of the reporting body) of fraud or conflict of interest/independence
- indicate if partial closure was used and what are the benefits/disadvantages (if any)
- any indications of possible risks for closure and actions taken
- use of simplified costs in the programmes audited under the reference period, and what are the benefits and disadvantages (if any)
- indicate corrective measures implemented by local authorities following any interruption or suspension of payments by the Commission and/or reservations expressed in the Directorates General annual activity reports of the prior year, as well as the impact on these issues on the overall conclusions that Member States could draw.

There is added value in taking a global view on the management of EU funds, both for the Member State and the Commission. The benefits accruing to the Member State are awareness and knowledge of what and where the risks are and adding to the assurance and accountability process, which can consequently lead to improvements in the management and control systems, greater efficiency, reduced irregularities and ultimately reduced error rates.

2.7. Should the annual summary cover INTERREG programmes and the European territorial cooperation objective?

The requirement under Article 53b(3) of the Financial Regulation applies to all programmes including INTERREG and the European territorial cooperation (ETC) objective. As the first year of the annual summaries exercise was a transitional one, INTERREG and ETC objective programmes were excluded. Since then, as Member States have a better understanding of what the Commission expects from this exercise, annual summaries must be submitted as well for INTERREG and ETC objective programmes, by the lead Member States as defined below.

The Member State responsible for providing the information under part 1 of the annual summary is the one in which the paying authority for 2000-2006 INTERREG programmes or the certifying authority for 2007-2013 ETC programmes is located. The Member State responsible for providing the information under part 2 of the annual summary is the one in which the body responsible for coordinating the report under Article 13 of Regulation (EC) No 438/2001 for INTERREG III programmes is located and the Member State in which the audit authority is located for ETC programmes. Therefore, it is possible that information for part 1 of the annual summary is provided by one Member State, and information for part 2 of the annual summary is provided by another Member State, unless there is a mutual agreement that one Member State has overall responsibility for submitting both parts.

It should be noted that information on ETC and INTERREG programmes is shown separately in the tables and not reported as part of ERDF.

2.8. What is the link between the annual summary and national declarations⁸ made on a voluntary basis?

As the provision of an annual summary is a formal legal requirement under Article 53b(3) of the Financial Regulation, it cannot be replaced by a national declaration. However, the Commission will examine with a Member State proposing to produce a voluntary national declaration how the content of the annual summary could be adapted in order to avoid duplication and reduce unnecessary additional burden.

2.9. Additional elements

Member States are requested to consider reinforcing the annual summary by expressing an overall level of assurance on the use of European Community funds, thereby reaffirming their accountability for the use of these funds.

Should Member States choose to do this, they may also make arrangements for the annual summary to be audited by an independent body, increasing further the reliability of the annual summary and the assurance the Commission gains from it.

⁸ For information, see also European Court of Auditors Opinion No 6/2007.

A suggested wording for the overall assurance, for example, can take the form:

Based on the results of the above certification of expenditure and audit summaries, it is my opinion that for the year ended 31 December 20.. the management and control systems for _____ structural measures established for the programming period 2000-06 and for 2007-13 complied with the applicable regulatory requirements and functioned effectively so as to provide reasonable assurance that statements of expenditure certified to the Commission are correct and, as a consequence, reasonable assurance of the legality and regularity of the underlying transactions.

(add, if applicable)

except for the following:

1.....,

2....., etc

I can confirm that the actions detailed below are underway to correct the above exceptions.

Template for annual summary to be provided by a centrally appointed authority of the Member State, by 15/02/N+1, covering the financial year N

I the undersigned,, representative of (body), duly designated by (country) under (reference here to the legal act appointing the body) to produce the annual summary for Structural Actions and European Fisheries Fund "the Funds", hereby declare that:

1. Expenditure certified in the year 20.....

1.1 for programming period 2007-2013

a) all expenditure has been declared via SFC2007 in the year 20... by certifying authorities and is compliant with the criteria for eligibility of expenditure set out in Article 56 of Regulation (EC) No 1083/2006 and Article 55 of Regulation (EC) No 1198/2006 and has been paid by the beneficiaries during implementation of the operations selected under the operational programme in accordance with the conditions for the granting of public contributions under Article 78(1) of Regulations (EC) No 1083/2006 and No1198/2006.

I confirm that expenditure recorded in the national financial monitoring information systems agrees with the amounts as reported in SFC 2007, except for the following discrepancies:

Programme	Amount	Justification

1.2 for programming period 2000-2006

a) all expenditure included in Tables 1.2.1 and 1.2.2 below has been declared in the year 20.. by paying authorities as compliant with the objectives laid down in each relevant Commission decision approving the programme or project concerned and with the provisions of Regulation (EC) No 1260/1999 for the Structural Funds and Regulation (EC) No 1164/1994 for the Cohesion Fund respectively;

Table 1.2.1 – 2000-2006 Expenditure certified⁹ and declared to the Commission in the year 20..... for Structural Funds (non-cumulative amounts, in €)

EXCEL FORMAT

⁹ Columns in the table are the same as Annex II of Commission Regulation (EC) No 438/2001.

Operational programme	Total actually paid ¹⁴ and certified eligible expenditure				
	Public		Private	(Total) Expenditure	
	Community	Other public			
OP1 ERDF (CCI number)					
OP2 ERDF (CCI number)					
OP1 INTERREG (CCI number)					
OP2 INTERREG (CCI number)					
OP1 ESF (CCI number)					
OP2 ESF (CCI number)					
OP1 EAGGF (CCI number)					
OP2 EAGGF (CCI number)					
OP1 FIFG (CCI number)					
OP2 FIFG (CCI number)					
....					
Grand total ERDF					
Grand total INTERREG					
Grand total ESF					
Grand total EAGGF					
Grand total FIFG					
Grand Total					

Table 1.2.2 – 2000-2006 Expenditure certified and declared to the Commission in the year 20..... for Cohesion Fund (non-cumulative amounts, in €)

Project	Total expenditure certified (public and private funding)
CF project1 (CCI number and title)	
CF project2 (CCI number and title)	
....	
Grand total CF	

2. Audit activity in the year 20....

The audit information included in sections 2.1 and 2.2 below is a complete and accurate summary of the audit activity and of the assessments given by the audit bodies concerned.

2.1 for programming period 2007-2013

Table 2.1.1 – 2007-2013 Summary of audit opinions¹⁰

Operational Programme	Audit opinion (unqualified / qualified / adverse / disclaimer of opinion ¹¹)	Material qualifications	Quantification of deficiencies/irregularities	Measures taken (for systemic problems)	Error rates (from audits of operations)
OP1 ERDF/CF (CCI number)					
OP2 ERDF/CF (CCI number)					
OP1 ETC (CCI number)					
OP2 ETC (CCI number)					
OP1 ESF (CCI number)					
OP2 ESF (CCI number)					
OP1 EFF (CCI number)					
OP2 EFF (CCI number)					

Table 2.1.2 – 2007-2013 Results of system audits performed from 1 July to 31 December of 20..¹²

Operational Programme	Date of Audit	Bodies audited	Conclusion on system (unqualified/ qualified / adverse)	Material qualifications	Quantification of deficiencies/irregularities	Measures taken (for systemic problems)
OP1 ERDF/CF (CCI number)						
OP2 ERDF/CF (CCI number)						
OP1 ETC (CCI number)						
OP2 ETC (CCI number)						
OP1 ESF (CCI number)						
OP2 ESF (CCI number)						
OP1 EFF (CCI number)						
OP2 EFF (CCI number)						

¹⁰ List of all audit opinions and corresponding information from annual control reports issued as at 31 December of year N under Article 62 of Regulation (EC) No 1083 and Article 61 of Regulation (EC) No 1198/2006, for the audit fieldwork year 1/7/N-1 – 30/6/N (should cover all programmes). Where a Member State chooses to group programmes together for common systems, then this information can be provided by groups of programmes and indicated accordingly.

¹¹ Unique to the year 2009 – see Information note on the Annual Control Report

¹² For the 6 month period subsequent to that covered by the audit fieldwork year, i.e. the period 1/7/N – 31/12/N, material findings resulting from finalised audits should be provided.

2.2 for programming period 2000-2006

Table 2.2 – 2000-2006 Results of audits performed in year N

Operational Programme	Date of audit	System audits			Audits on operations	
		Bodies audited	Main findings and conclusions	Measures taken (for systemic problems)	Cumulative ¹³ expenditure checked as a % of cumulative expenditure declared	Error rates for year N-1
OP1 ERDF (CCI number)						
OP2 ERDF (CCI number)						
OP1 INTERREG (CCI number)						
OP2 INTERREG (CCI number)						
OP1 ESF (CCI number)						
OP1 ESF (CCI number)						
OP1 EAGGF (CCI number)						
OP1 EAGGF (CCI number)						
OP1 FIFG (CCI number)						
OP2 FIFG (CCI number)						
....						
CF Overall assessment						

3. Overall Analysis¹⁴

4. "Overall level of assurance" statement¹⁵

(Signature)

Name of Official

Title, Organisation

Date

¹³ Cumulative from the beginning of the programme period.

¹⁴ See section 2.6.3. of guidance note.

¹⁵ See section 2.9. of guidance note.