

Decommitment methodology (n+3) and process in 2014 – 2020 - Update

DISCLAIMER

“This is a working document prepared by the Commission services. On the basis of applicable EU law, it provides technical guidance for colleagues and bodies involved in the monitoring, control or implementation of the European Structural and Investment Funds on how to interpret and apply the EU rules in this area. The aim of this document is to provide Commission services' explanations and interpretations of the said rules in order to facilitate the programme implementation and to encourage good practice(s). This guidance is without prejudice to the interpretation of the Court of Justice and the General Court or decisions of the Commission.”

Following the discussions in the EGESIF of 13 July and 18 October 2017 and after having carefully considered Member States' observations on the decommitment methodology, it has been decided to update the methodology for calculating the **amount to decommit for each operational programme**. **The aim of the revised approach is on the one hand to provide greater flexibility at the level of the operational programme** for achieving the decommitment target, and, on the other hand to fully respect the principle of non-transferability of resources between categories of regions when there is an amount to be decommitted.

The purpose of decommitment is to encourage financial discipline in the Member States' implementation of their OPs (see Recital 73 of the CPR). In this respect, Art. 86 and Art. 136 of the CPR define the arrangements for decommitment.

In this note first all the different steps of the decommitment procedure are described.

The second part sets out how the decommitment risk at the level of the operational programme is calculated.

The third part sets out how the decommitment is to be done in compliance with the regulatory framework.

Part 1. Decommitment procedure

Art. 136 (1) "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 under the operational programme or for which a payment application drawn up in accordance with Article 131 has not been submitted in accordance with Article 135."

Steps and timing:

➔ Warning letter

Art. 88 (1) "The Commission shall inform the MS and the managing authority in good time whenever there is a risk of application of the decommitment rule".

❖ **The letter will be sent only where there is a risk of decommitment.**

- ❖ The annex of the warning letter shall contain detailed information on the situation for each OP at risk for decommitment.
- ❖ The letter will be sent via SFC2014 to Managing Authorities in September N+3 and by e-mail to the Permanent Representation. It is foreseen for the Certifying Authorities to have access to it in SFC2014 as well.

➔ **Notifications for the exceptions - by 31 January N+4**

Art. 87 (2) "By 31 January, the Member State shall send to the Commission information on the exceptions referred to in points (a) and (b) of the first subparagraph of paragraph 1 for the amount to be declared by the end of the preceding year."

- ❖ MS informs the Commission on the amounts under exception (per CCI /Fund /Category of region).
- ❖ The letter should be sent via SFC2014 at the latest by 31 January N+4 and should contain proof documentation.

➔ **The decommitment letter**

Art. 88 (2) "On the basis of the information it has received as of 31 January, the Commission shall inform the Member State and the managing authority of the amount of the decommitment resulting from that information."

- ❖ The letter will inform MS that the decommitment procedure has been launched.
- ❖ It will contain the amount(s) to be decommitted.
- ❖ The letter will be sent via SFC2014 to Managing Authorities and by e-mail to the Permanent Representation. It is foreseen for the Certifying Authorities to have access to it in SFC2014 as well.
- ❖ MS will be kindly requested to indicate through SFC2014 to the Commission Services, no later than two months from the reception of the letter, if they agree on the amounts to be decommitted or to submit observations within two months. MS will be invited to send the revised financing plan by 30 June N+4.

➔ **Submission of the revised financial plan – by 30 of June N+4**

Art. 88 (4) "By 30 June, the Member State shall submit to the Commission a revised financing plan reflecting, for the financial year concerned, the reduced amount of support over one or more priorities of the programme taking into account the allocation by Fund and by category of region, where appropriate.[...]"

- ❖ The submission of the revised financing plan will be launched using programme amendment process via SFC2014.
- ❖ The MS are kindly requested to take into consideration in their planning that two programme amendments cannot be ongoing simultaneously.

- ❖ **The Commission will amend the decision adopting the programme, by means of implementing acts, by 30 September N+4.**
- ❖ **Failing the submission of a revised financing plan, the Commission will revise the financing plan by reducing the contribution from the ESI Funds for the financial year concerned. The reduction will be allocated to each priority proportionately.**

Part 2. Calculation of the amount to be decommitted (n+3) at the level of the operational programme

According to Article 86 (1) and Article 136 (1) of Regulation (EU) No 1303/2013, all programmes shall be submitted to a decommitment procedure. It is established on the basis that amounts committed in a programme, but not covered by pre-financing (initial, additional initial and annual pre-financing) or by submitted interim payment applications¹ (also taking into account the 10% retention, payment applications interrupted or affected by a suspension) during the budgetary years concerned are decommitted. Therefore, as these rules on decommitment do not specify explicitly that the decommitment has to be calculated by Fund and – within a Fund – by category of region, the decommitment and thus **the total amount to be decommitted for an operational programme will be calculated at the level of the operational programme.**

According to Article 86 (5) CPR, budgetary commitments in respect of the performance reserve are subject to automatic decommitment only if they are not justified by expenditure declared to the Commission at closure. They are therefore excluded from the annual commitments to which the automatic decommitment rule applies.

The results of the examination and acceptance of accounts, including the recoveries will have no impact on the decommitment calculation. The offsetting of the recoveries against future payments, whatever pre-financing or interim payment, has no impact on the decommitment calculations.

As a consequence, the full pre-financing due in accordance with Art. 134 of the CPR² for each and every year concerned is taken into consideration, even if recovered later or if only a part of it has been transferred in cash due to the offsetting. Submitted interim payment applications are taken into consideration for the calculation of the automatic decommitments and not the amounts certified in the accounts. This remains true for later years after the submission of the accounts.

Therefore the **amount to decommit** at the level of an OP will be calculated as set out below and will not make any distinction between Funds, categories of region and the specific allocation for the Youth Employment Initiative (YEI) and for the outermost and northern sparsely populated regions. All commitments in an OP, all the pre-financing and all the submitted payment applications for an OP will be considered together for the purpose of calculating the amount to decommit.

¹ Only the amount of the EU contribution in the payment application is taken into account for the decommitment calculation.

² The additional pre-financing for Greece (3,5% in 2015 and 3,5% in 2016) is also taken into account in the decommitment calculation, for which reason the legal reference should be understood as article 134 CPR as modified by article 1 of Regulation 2015/1839.

This approach, when determining the amount of the decommitment, thus allows for compensation between categories of region and between Funds. Or, to put it differently, it allows that for programmes covering more than one category of region, a region that is better performing can compensate for a category of region that is (initially or temporally) implementing at a slower pace. The same applies for a multi-fund programme where one Fund is performing better than the other compensation is possible between Funds. It also allows for compensations between the ESF and the YEI specific allocation (and even with the ERDF in case of a multi-fund programme) for calculating the amount of the decommitment.

This means the following:

For 31/12/2017:

All main allocations until 2014³ of the OP (as indicated in the Financial Plan in force on 31/12/2017) covering all Funds, all categories of region, including the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions.

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
 - minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017
 - minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2017
- for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

For 31/12/2018:

All main allocations up to 2015 of the OP (as indicated in the Financial Plan in force on 31/12/2018) covering all Funds, all categories of region, the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions.

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
 - minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017 and 2018
 - minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2018
- for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

³ 1. Programmes adopted at the latest on 31 December 2014 have a separate 2014 and 2015 tranche in the Financing Plan, so the main allocation of 2014 has a 2017 target and the main allocation of 2015 has a 2018 target.

2. Programmes ready for adoption at the end of December 2014 but actually adopted in 2015 and for which commitments of 2014 were carried over to 2015 and committed up to 31 March 2015 (carried-over OPs) have also a separate 2014 and 2015 tranche in the Financing Plan. However, for the purpose of the decommitment these programmes will have no 2017 target as the commitment was made in 2015, and will have a double 2018 target, which is the third financial year following the year of the budgetary commitment (Art. 136 of the CPR).

3. Programmes not ready for adoption at the end of December 2014 do not have a 2014 tranche, but the initially budgeted amounts for 2014 were added to the 2015 tranche of commitments. These programmes have no 2017 target, the new (increased) 2015 allocation will have a 2018 target.

For 31/12/2019:

All main allocations up to 2016 of the OP (as indicated in the Financial Plan in force on 31/12/2019) covering all Funds, all categories of region, the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions.

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
- minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017, 2018 and 2019
- minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2019

for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

For 31/12/2020:

All main allocations up to 2017 of the OP (as indicated in the Financial Plan in force on 31/12/2020) covering all Funds, all categories of region, the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions.

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
- minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017, 2018, 2019 and 2020
- minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2020

for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

For 31/12/2021:

All main allocations up to 2018 of the OP (as indicated in the Financial Plan in force on 31/12/2021) covering all Funds, all categories of region, the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions .

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
- minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017, 2018, 2019, 2020 and 2021
- minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2021

for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

For 31/12/2022:

All main allocations up to 2019 of the OP (as indicated in the Financial Plan - in force on 31/12/2022) covering all Funds, all categories of region, the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions .

- minus the initial pre-financing due in accordance with Article 134 of the CPR for 2014, 2015 and 2016
- minus annual pre-financing due in accordance with Article 134 of the CPR for 2016, 2017, 2018, 2019, 2020, 2021 and 2022
- minus payment applications drawn up in accordance with Art. 131 of the CPR and submitted by 31/12/2022

for all Funds, all categories of region and the specific allocation for the YEI and the allocation for the outermost and northern sparsely populated regions of the OP

According to Article 86 (2) of Regulation (EU) No 1303/2013, the commitments related to the last year of the period (i.e. for the 2020 main allocation) shall be decommitted in accordance with the rules to be followed for the closure of the programmes.

Fiche 1 contains explanation on the above.

Part 3. How to apply the decommitment in compliance with the regulatory framework?

If, after having calculated the amount to decommit at OP level, it turns out that a risk has materialized and that there is an amount to decommit at the level of the OP, this decommitment will need to be attributed where the decommitment has been identified, i.e. to the relevant allocation as detailed in the financing plan of the OP (table 17). This means to one or more Funds (in case of multi-fund programme), to one or more categories of region (in case of a multi-category of region programme) or to the YEI specific allocation. Since an outermost and northern sparsely populated region is not a category of region as defined by the CPR, the additional funding for outermost/northern sparsely populated regions shall be treated as an addition ("top up") to the category of region concerned. Consequently, this funding shall be calculated together with the allocation for the category of region concerned. Such an attribution complies with the regulatory framework which has the following features:

- ❖ The amounts allocated to the Cohesion Fund, the Structural Funds (ERDF and ESF), the YEI specific allocation and the additional funding for the outermost and northern sparsely populated regions (hereafter 'outermost regions') are established separately in the CPR (Article 92 (1) CPR).
- ❖ The amounts allocated to the Structural Funds (under the Invest for Growth and Jobs goal are established by category of region (Art. 90(1) CPR).
- ❖ Annex VII CPR sets out the allocation methodology for the different categories of region for the Structural Funds, for the Cohesion Fund and contains additional provisions for the additional funding to the outermost and northern sparsely populated regions.
- ❖ There is a minimum share for the ESF (Art. 92(4) CPR).

- ❖ There is a provision on non-transferability of resources between categories of region (Art. 93 CPR).
- ❖ There are provisions on the eligibility of operations depending on location requiring that operations are implemented in the category of region from which the funding is drawn (Art. 70(1) CPR). In case the operations are implemented outside the programme area (as defined in Art. 2(7) CPR, i.e. category of region) they need to be for the benefit of the category of region that is providing the funding (Art. 70(2) CPR and Art. 13(2) ESF Regulation).

On the basis of the above, the conclusion can be drawn that the allocations to the different Funds (with their Fund-specific missions) and the allocations to the different categories of regions, need to be respected.

In line with the budgetary discipline sought for by the decommitment rules that in case there is still an amount to be decommitted, this should be done in relation to the Fund and category of region where implementation is lagging behind.

Therefore, in order to establish which Fund and which category of region is affected by the decommitment and how to split the amount of decommitment between the Funds and categories of regions, the Commission, after calculating the amount on OP level, shall also examine the implementation of the OPs by Fund and by category of region. To determine how the financing plan of the OP should be amended, the following steps need to be taken:

- I. First of all, a **theoretical decommitment risk** should be applied **by Fund and by category of region**. This is to be done in the same way as set out under part 2 above with the important difference that, in this case, the calculation is done by Fund and by category of region. It is also to be done **separately for the YEI specific allocation**. The allocation to the outermost regions is taken together with the ERDF allocation.

This thus means that for a programme supported by the Cohesion Fund, the ERDF (3 categories of region), the ESF (3 categories of region) as well as the YEI, the following theoretical decommitment risks need to be calculated separately.

This means, for instance, for the 2014 allocation that the theoretical decommitment risk is calculated for:

- ESF more developed region
- ESF less developed region
- ESF transition region
- YEI specific allocation
- ERDF more developed region (+ allocation outermost and northern sparsely populated region where applicable)
- ERDF less developed region (+ allocation outermost and northern sparsely populated region where applicable)
- ERDF transition region (+ allocation outermost and northern sparsely populated region where applicable)
- Cohesion Fund

- II. Secondly, in case the **theoretical decommitment risk has materialized for a single Fund and category of region or for the YEI specific allocation**, the decommitment has to be done on this Fund and category of region or on the YEI specific allocation. However, the **amount** to be decommitted will be the amount that has been established at OP level (after having taken into account the compensations across Funds, categories of region and specific allocations of the same programme as set out in part 2).

In case the **theoretical decommitment risk has materialized for more than one Fund and/or category of region and/or YEI specific allocation**, a pro rata needs to be established for each Fund and category or YEI specific allocation of region within the OP. This pro rata will then be applied to the total amount to be decommitted (which is established at OP level).

Fiche 2 provides an example of the application of the revised methodology.

EU contribution in the payment application submitted to meet N+3 target

OP	Financing Plan		N+3 target		Cumulative amount of the pre-financing	EU contribution in the payment application submitted to
	Total allocation of the OP	Main allocation of the OP	Years in the Financing Plan	Cumulative amount of the main allocation		
2014	100	94			6,58	
2015	100	94			13,16	
2016	100	94			32,90	
2017	100	94	2014	94	50,17	43,83
2018	100	94	up to 2015	188	68,27	119,73
2019	100	94	up to 2016	282	87,19	194,82
2020	100	94	up to 2017	376	106,93	269,08
2021			up to 2018	470	127,93	342,08
2022			up to 2019	564	148,93	415,08

Calculation of the annual instalments of the pre-financing

year	Initial pre-financing	Annual pre-financing	Total pre-financing
2014	6,58	0,00	6,58
2015	6,58	0,00	6,58
2016	6,58	13,16	19,74
2017		17,27	17,27
2018		18,10	18,10
2019		18,92	18,92
2020		19,74	19,74
2021		21,00	21,00
2022		21,00	21,00
TOTAL	19,74	129,19	148,93

<i>Initial pre-financing</i>	
2014-2016	1%
<i>Annual pre-financing</i>	
2016	2%
2017	2,625%
2018	2,75%
2019	2,875%
2020-2023	3%

* The additional initial pre-financing, where applies, follows the same rules and is also fully taken into account.

Fiche 2

Amendment of the Operational Programmes

Fund/Category of region*/YEI specific allocation	Target N+3 by Fund/Category of region/YEI specific allocation**	Target N+3 by OP (2014)	Amounts covered by pre-financing, interim payments and payment applications at OP level (up until 31/12/2017)***	Amount to de-commit	Desagregation of the amounts covered by pre-financing, interim payments and payment applications by Fund/Category of region/YEI specific allocation	Theoretical amount to be decommitted by Fund/Category of region/YEI specific allocation in case there would not have been flexibility at OP level. ****	Pro rata = theoretical amount to be decommitted divided by the total amount that will actually have to be decommitted after applying the flexibility at OP level	Pro rata multiplied by the total amount to be actually decommitted in order to establish the amount to be actually decommitted for each Fund/Category of region/YEI specific allocation
		Flexibility for N+3 risk			Application of the de-commitment			
ESF LD	11,75	94	90	4	9	2,75	18,6%	0,75
ESF MD	11,75				9	2,75	18,6%	0,75
ESF TR	11,75				9	2,75	18,6%	0,75
YEI SPECIFIC ALL	11,75				12	0,00	0,0%	0,00
ERDF LD	11,75				17	0,00	0,0%	0,00
ERDF MD	11,75				9	2,75	18,6%	0,75
ERDF TR	11,75				8	3,75	25,4%	1,02
CF	11,75				17	0,00	0,0%	0,00
Total	94,00				94	90	4	90

* the additional funding for outermost/northern sparsely populated regions shall be treated as an addition ("top up") to the category of region concerned. Consequently, this funding shall be calculated together with the allocation for the category of region concerned

** Main allocation 2014 by Fund/Category of region/YEI specific allocation

***It covers the 50,17 pre-financing + an example of estimated amount of interim payment claims submitted

**** This is needed in order to establish the pro rata for the actual decommitment