Reporting on indicators in the April 2015 report on the Youth Employment Initiative (YEI) and in the Annual Implementation Reports - Follow-up to the ESF Technical Working Group meeting of 26 February 2015

DISCLAIMER: This is an explanatory note prepared by the Commission services (DG Employment, Social Affairs and Inclusion). It provides clarification on how to interpret and apply the EU rules. This guidance is without prejudice to the interpretation of the Court of Justice and the General Court or decisions of the Commission.

I. Purpose of the note

The implementation of the YEI is high on the political agenda due to the critical level of youth unemployment in Europe. Given the upcoming discussions on the extension of the YEI, it is extremely important to already obtain information and assess the first results delivered by the YEI.

Following the last ESF TWG meeting, the Commission services would like to clarify questions raised by Member States on the reporting obligations set out in the Regulations, in particular with regard to the data to be reported in accordance with Article 19(3) Regulation (EU) No 1304/2013 (ESF Regulation) in relation to the Youth Employment Initiative.

The main question raised was whether the reporting of data is subject to the previous verification of expenditure on operations by the Managing Authority (MA), i.e. whether Member States may only report data in relation to operations **for which expenditure has already been verified by the MA**. In other words, does the reporting of data on participants require that first the MA verifies whether the expenditure declared by beneficiaries to the MA is eligible?

Linked to this question, Member States also enquired whether the correction of data reported to the Commission may be an indication that there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and (programme) specific indicators and may lead to a suspension of interim payments in accordance with Article 142(1)(d) Regulation 1303/2013 (CPR).

The replies provided in this note represent the interpretation of the Commission services of the rules provided for in the EU Regulations with regard to the monitoring and control responsibilities of the Member State.

II. Clarifications to questions raised by Member States[1]

1. Is it only possible to report data on participants once the MA has verified whether the expenditure declared by beneficiaries to the MA is eligible?

First of all, it is important to briefly recall the main regulatory obligations for the Managing Authority with regard to the monitoring and control of operations (in particular Article 125 CPR).

[1] These questions were further developed on the basis of the two main questions raised by Member States with a view to provide a more comprehensive reply to Member States' concerns.

With regard to the monitoring of operations, the Managing Authority is subject to two main obligations:

- Collect and store detailed data on each operation in a computerised system[2].
- Reporting data on the common output and result indicators set out in Annexes I and II ESF Regulation, and, where applicable, on programme-specific indicators[3], in relation to partially or fully implemented operations.

With regard to the control of operations, the Managing Authority is subject to the following main obligations relevant for the question raised:

- verify that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid and that it complies with applicable law (Article 125(4)(a)CPR).
- to comply with the above obligation, the Managing Authority shall carry out administrative verifications in respect of each application for reimbursement by beneficiaries (Article 125(5)(a) CPR) and on-the-spot verifications of operations (Article 125(5)(b) CPR) [4]

The following can therefore be concluded in relation to monitoring and control obligations set out in the Regulations:

- The verification of operations is only directly linked to the **reimbursement of expenditure to beneficiaries**.
- The Regulations do not make a link between the reporting obligations and the obligation of verification of operations.

Based on the above, the reply to this question is that the **reporting on indicators is not subject to the prior verification of the eligibility of expenditure of operations**. Therefore, it is possible to report data on indicators in relation to operations that have not yet been subject to management verifications. For instance in case the beneficiary has not submitted any application for reimbursement at the time of the reporting on indicators.

In addition, it has to be recalled that the Commission Legal Service[5] has issued an opinion according to which there is no link between the reporting obligations and the rules on the eligibility of expenditure. In other words, the eligibility of expenditure of an operation is solely determined by the rules on eligibility set out in the Regulations and national law.

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[2] For the ESF, this data shall be collected on each participant of an operation, in accordance with the common output and result indicators (Annex I and II of the ESF Regulation) and, where applicable, programme-specific output and result indicators (Article 125 (2)(d) and (e) CPR). Detailed rules on the data to be collected and stored in the system are also set out in the Commission Delegated Regulation No (EU) 480/2014 of 3 March 2014.

[3] This data is to be reported annually, from 2016, by 31 May 2016 in the Annual Implementation Report. For the YEI, however, this data is to be submitted as from April 2015 and, for subsequent years, at the same time as the Annual Implementation Reports (Articles 19 (3) ESF Regulation, Article 50(1) and (2) CPR).

[4] In accordance with Article 125 (5) CPR, the on-spot verifications may be carried out on a sample basis.

[5] The Legal Service is of the view that the CPR and the ESF Regulation impose an obligation on the Member States to collect, store, record and report certain data on participants and that. These Regulations do not link this reporting obligation to the rules on the eligibility of expenditure.

2. What constitutes a correction of data?

It is important to distinguish the **correction of erroneous data** from the **update of data correctly reported** as the update of data is always possible without any implications.

The **correction of data** that is erroneously reported and needs to be corrected covers for instance the case where a Member State reports in the AIR submitted in 2016 an output of "1000 participants who are below 25 years old". This data is corrected in the AIR submitted in 2017 for "750 participants below 25 years old".
The modification of data reported in 2016 constitutes a real correction as it modifies retroactively a situation that had been reported.

The **update of data** that is correct at the moment of reporting but might require updating covers, for instance the situation where a result is reported for a participant who leaves an operation, but returns to the same operation and for which an updated result is to be recorded. For instance, a participant leaves the operation in November 2016 (e.g. in education or training upon leaving). This data is reported in the AIR submitted in 2017. In February 2017, the participant decides to return to the same operation. When s/he leaves the operation (again) in August 2017 the recorded result is "gaining a qualification" and "entering employment upon leaving". The person does not return to education or training upon leaving (as was the result reported after s/he left the operation for the first time in November 2016.) The AIR submitted in 2018 must report data for the two results (gaining a qualification and entering employment) for the reporting year 2017. For the reporting year 2016 the result "in education or training" should be deleted for this particular participant.
Another example is the case where the original report contains 750 participants, which is then modified upwards following careful verification of data on participants who were initially not included in the report. This modification would not concern the originally reported participants, but complements the data already reported and now includes additional participants. A similar case is when a MS completes the participation records of some participants as their records were previously incomplete with regard to non-sensitive personal characteristics (about employment status, age, educational attainment and household situation), and adds data on indicators about these participants to previously reported figures. These are also considered as updates of data.

3. When may the correction of erroneous data reported to the Commission be considered as a serious deficiency* in the quality and reliability of the monitoring system or of the data on common and (programme) specific indicators*?

This is an important question as such serious deficiency may lead to the suspension of interim payments in accordance with Article 142(1)(d)CPR.

As there is no link between the reporting obligations of a Member State and the rules on eligibility of expenditure, data can be reported before the eligibility of the expenditure is verified (as set out above). To ensure the quality and reliability of the data, it is, however, necessary that before the expenditure related to a participant is included in a payment application submitted to the Commission, the Member State verifies that the data on these participants is correct. This includes

the verification of the data on eligibility as well as the data that are not related to eligibility of the participant[6].

For instance, is it a deficiency if a Member State reports data on a **participant who is not eligible** (but who did participate in an operation)?

This will depend on whether or not the expenditure related to that participant has been included in a payment application:

- **Case A** : the data on an ineligible participant is reported and the corresponding expenditure has **not been included in a payment application**:
  - this will not constitute a serious deficiency as long as this is corrected after the verification of the eligibility of expenditure at the time of the preparation of the payment application.
  - It will constitute a serious deficiency in case such correction is not made. However, it will not constitute a problem of eligibility of expenditure (as the expenditure was not included in the payment application).
- **Case B**: the data on an ineligible participant is reported and the corresponding expenditure **has been included in a payment application**:
  - This will constitute a serious deficiency as well as a problem of eligibility of expenditure.

4. Exceptional cases where the correction of erroneous data will not be considered as a serious deficiency

There are cases where the correction of erroneous data - even after the inclusion of the corresponding expenditure in a payment application (see case B above) - will not be considered as a serious deficiency for the purposes of Article 142(1)(d) CPR. It should be noted, however, that these exceptions only apply for the purposes of Article 142(1)(d) CPR and therefore do not discharge the Member State from complying with other responsibilities, including responsibilities on control of operations (for instance, the eligibility of expenditure to be included in a payment application should always be verified).

- ***Exception 1: Operational Programmes that have an action plan for fulfilment of the general ex ante conditionality on "Statistical systems and result indicators"***

It is important to make a distinction between **Operational Programmes (OPs) for which the *ex ante* conditionality on "Statistical systems and result indicators" (GEAC 7) has been considered fulfilled and those OPs that have an action plan for GEAC 7.** For OPs that are currently subject to an action plan, the question whether or not data can be corrected (and its implications) becomes relevant when the deadline for implementation of the action plan has been reached.
In other words, the OPs that do not fulfil GEAC 7 **at the time the erroneous data in relation to that OP is reported to the Commission** cannot be subject to suspension of interim payments pursuant to Article 142(1)(d) CPR) in case the data is corrected in a subsequent Annual Implementation Report.

[6] For instance, data on the household situation under the YEI as this data, irrespective of being correctly reported, does not determine the eligibility of participants.

- ***Exception 2 : Correction of data reported in April 2015***

A distinction should be made between the **reporting in the AIRs and the reporting on the YEI in April 2015**. Correction of data in the AIR is always possible provided it takes place before the Commission's acceptance of the AIR (in accordance with Article 50(7) CPR). However, a correction of data after acceptance of the AIR can constitute an indication that there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators within the meaning of Article 142(1)(d) CPR).

However, since the reporting in April 2015, in accordance with Article 19(3) ESF Regulation is not subject to the procedure set out in Article 50(6) to (8) CPR (it is not subject to acceptance by the Commission), the rules applicable to the AIRs do not apply to the April 2015 reporting on YEI. Therefore, when the Commission receives the AIRs in May 2016 and notes that erroneous data provided in April 2015 have been corrected, **the Commission will not consider this correction as an indication that there is a serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators.**

III. CONCLUSIONS:

- There is no regulatory requirement for prior management verification of the operations on which the data is reported.

- The **update** of reported data is always possible and will not constitute an indication that there is a serious deficiency and will thus not lead to suspension of interim payments.

- There will be an indication of a **serious deficiency** in the following cases:
  - **Late correction of erroneously reported data**: the reported data are corrected only after the inclusion of the corresponding expenditure in a payment application.
  - **Absence of correction of erroneously reported data**: the data is not corrected upon verification of the eligibility of expenditure and submission of the payment application to the Commission.

- The correction of data reported in April 2015 on the YEI (in accordance with Article 19(3) ESF Regulation) will not lead to a suspension of interim payments in 2016. This reporting is not an AIR and is not subject to acceptance by the Commission. Therefore, **even if there are corrections of the data reported in April 2015 in the AIR submitted in 2016, the Commission will not consider them as an indication that there may be a serious deficiency.**

- OPs that do not fulfil GEAC 7 **at the time the erroneous data in relation to that OP is reported to the Commission** cannot be subject to suspension of interim payments pursuant to Article 142(1)(d) CPR) in case the data is corrected in a subsequent Annual Implementation Report.