



C/2023/1338

1.12.2023

COMMISSION NOTICE

Guidelines on the closure of ENI Cross-Border Cooperation Programmes 2014-2020

(C/2023/1338)

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 closure of the ENI CBC programmes. This guidance is without prejudice to the interpretation of the Court of Justice and the General Court.

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1. Introduction and purpose

These Guidelines on the closure of ENI Cross-Border Cooperation Programmes 2014-2020 ('guidelines') establish a clear framework regarding the closure of Joint Operational Programmes (hereinafter 'programmes') of the cross-border component of the European Neighbourhood Instrument for 2014-2020 ('ENI CBC'), financed from the ENI, the European Regional Development Fund ('ERDF') and, in certain cases, the Instrument for Pre-Accession Assistance ('IPA').

The aim of the guidelines is to facilitate the closure process by providing the methodological framework for ENI CBC Managing and Audit Authorities for the closure of programmes. These guidelines align with the Guidelines on the closure of operational programmes adopted for assistance from the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and cross-border cooperation programmes under the Instrument for Pre-accession Assistance (IPA II) (2014-2020) ⁽¹⁾ ('the ESIF guidelines') to the extent possible. These guidelines govern exhaustively the closure process of ENI CBC programmes and also address specificities stemming from the ENI CBC legal framework. Therefore, only the present document should guide the closure of ENI CBC programmes.

The guidelines take into account the COVID-19 crisis in 2020 and 2021 as well as its impact on programme implementation. In addition, due to Russia's war of aggression against Ukraine, most ENI CBC programmes have suffered implementation disruption and these guidelines take account of the specific legal act of 9 November 2022 ⁽²⁾ tackling the related challenges for these programmes. A specific Chapter of these guidelines is devoted to this subject.

The closure process for the financial settlement of the Union's outstanding budgetary commitments in respect of a programme, as well as potential decommitment or recovery, builds on the process of annual examination and acceptance of accounts. The final closure of the programme should be based only on the documents relating to the final accounting year (final accounts, management declaration and annual summary of controls, audit opinion and audit report, all of them forming the assurance package) and the final report (final technical and financial part). To that end, the guidelines give orientations for the different steps to be followed by programme authorities as well as the specific template for the final financial part.

⁽¹⁾ Commission notice (OJ C 474, 14.12.2022, p. 1).

⁽²⁾ Regulation (EU) 2022/2192 of the European Parliament and of the Council of 9 November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption (OJ L 292, 11.11.2022, p. 1).

2. Legal framework and general principles

The main legal texts relevant for the closure of the ENI CBC programmes are:

- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁾ on the financial rules applicable to the general budget of the Union (hereinafter 'the Financial Regulation');
- Regulation (EU) No 232/2014 of the European Parliament and of the Council ⁽⁴⁾ on the European Neighbourhood Instrument;
- Regulation (EU) No 236/2014 of the European Parliament and of the Council ⁽⁵⁾ on the implementation of the Union's instruments for financing external action;
- Commission Implementing Decision adopting a programming document for the European Union support to ENI Cross-Border Cooperation for the period 2014-2020 (C(2014) 7172 final);
- Commission Implementing Regulation (EU) No 897/2014 ⁽⁶⁾, as amended by Commission Implementing Regulation (EU) 2020/879 ⁽⁷⁾ ('the ENI CBC Implementing Regulation');
- Regulation (EU) 2022/2192 of the European Parliament and of the Council ⁽⁸⁾ on programmes under implementation disruption ('the Disruption Regulation');
- Provisions of ENI CBC programmes;
- Provisions of the Financing Agreements signed with partner countries.

The following Articles in the ENI CBC Implementing Regulation contain the core provisions relating to closure:

Article	Content
15	Execution period
18	Deadline for signature of grant contracts and end of project's implementation period
19	Eligible activities after the end of project implementation period, definition of closure and checks by the Commission after closure
48	Deadline for project expenditure eligibility
64	Payment of the final balance
65	Exceptions to the decommitment

⁽³⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

⁽⁴⁾ Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (OJ L 77, 15.3.2014, p. 27).

⁽⁵⁾ Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action (OJ L 77, 15.3.2014, p. 95).

⁽⁶⁾ Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument (OJ L 244, 19.8.2014, p. 12).

⁽⁷⁾ Commission Implementing Regulation (EU) 2020/879 of 23 June 2020 amending Implementing Regulation (EU) No 897/2014 as regards specific provisions to align the provisions for the implementation of cross-border cooperation programmes financed under the European Neighbourhood Instrument with specific measures in response to the COVID-19 pandemic (OJ L 203, 26.6.2020, p. 59).

⁽⁸⁾ Regulation (EU) 2022/2192 of the European Parliament and of the Council of 9 November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption (OJ L 292, 11.11.2022, p. 1.)

68	Content of the final report
70	Period for record-keeping
77	Deadline for submission of the final report

Throughout the guidelines, the following terminology will be used:

- ‘final report’ means the report to be submitted by Managing Authorities for the last accounting year and for the entire duration of the programme, consisting of a technical and a financial part;
- ‘final technical part’ means the technical part of the final report containing the elements set out in Article 77(2) ENI CBC Implementing Regulation;
- ‘final financial part’ means the financial part of the final report consisting of:
 - the ‘final accounts’ presented in the template provided in Annex I and for the entire duration of the programme;
 - the documents referred to in Article 68(2) and 68(3) ENI CBC Implementing Regulation.

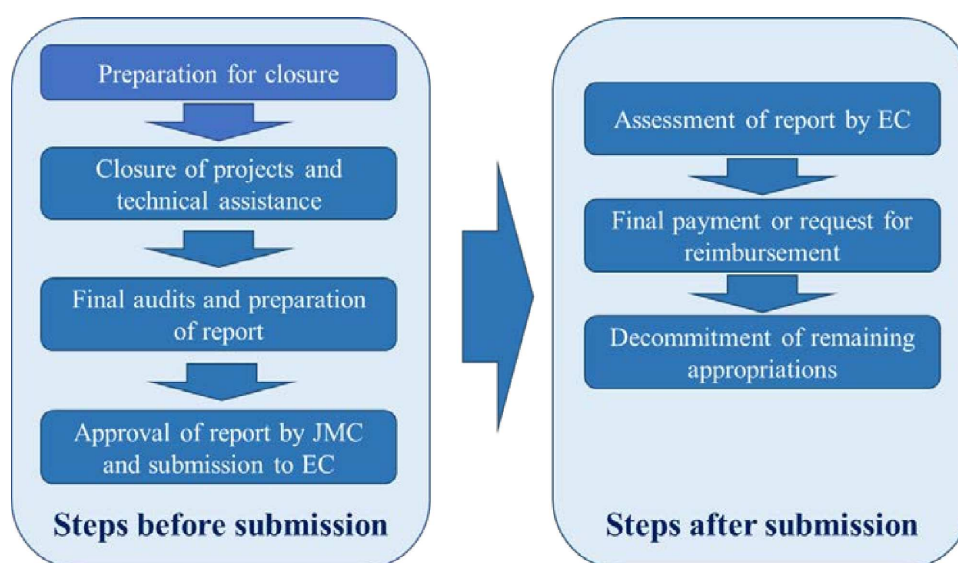


The legislative package and the guidelines for closure of programmes under cohesion policy, including Interreg programmes, **do not apply** to ENI CBC programmes.

According to Article 19(2) and (3) ENI CBC Implementing Regulation, ‘a programme shall be considered as **closed** when:

- (a) all contracts concluded under the programme have been closed;
- (b) the final balance has been paid or reimbursed;
- (c) remaining appropriations have been de-committed by the Commission’.

Therefore, the main milestones in the closure process can be presented as follows:



The steps mentioned before submission of the final report are under the responsibility of the Managing Authority and the Audit Authority, while the ones after submission of the final report will be carried out by the Commission services, which could request additional information from the Managing Authority and the Audit Authority during the assessment process.

3. Preparation for closure

3.1. Deadlines and indicative timeline

The deadlines set out in the ENI CBC Implementing Regulation are:

- **31 December 2022:** deadline for signature of grant contracts. In programmes under implementation disruption, this deadline is not applicable ⁽⁹⁾;
- **31 December 2023:** end of project implementation period. Only activities linked to the closure of projects by beneficiaries ⁽¹⁰⁾ or linked to the closure of programmes under technical assistance may be carried out between 1 January 2024 and 30 September 2024 ⁽¹¹⁾;
- **30 September 2024:** end of activities linked to closure of projects by beneficiaries or linked to the closure by programmes and national authorities. The final accounting year is 15 months long, from 1 July 2023 until 30 September 2024;
- **15 February 2025:** deadline for submission of the final report and the assurance package ⁽¹²⁾. It may exceptionally be extended to 1 March by the Commission;
- **31 May 2025:** deadline for the examination and information of final accounts by the Commission;
- **31 December 2025:** end of the programme's execution period.

The time span from the final deadline (31 December 2023) for project implementation to the submission of the final report by the Managing Authority (15 February 2025) is 13,5 months, which is shorter than for ENPI CBC ⁽¹³⁾.

Based on previous experience, it is reasonable to consider the indicative time needed for each step for projects and finalisation of the work of Managing Authorities as below:

Steps	Time (in months)	Cumulated time (in months)
Submission of final report of the projects	3	3
Revision of final report of the project, clarifications and additional information and decision on payment or recovery	1,5	4,5
Final payment and non-contentious recoveries	2	6,5
Last audit on a sample of projects by the Audit Authority	2	8,5
Decision on final recoveries, on contradictory procedures and non-contentious recoveries obtained	2	10,5
Drawing up final accounts and final report	1,5	12
Audit opinion the annual accounts and (final) audit report	1,5	13,5

⁽⁹⁾ In accordance with Article 6(2) of the Disruption Regulation, the Managing Authority of programmes under disruption may sign contracts, other than contracts for large infrastructure projects, after 31 December 2022, provided all projects activities financed by the programme end by 31 December 2023.

⁽¹⁰⁾ In accordance with Article 19 of the ENI CBC Implementing Regulation referring to Article 48(2)(a)(iii) of the same Implementing Regulation, activities such as expenditure verification, audit and final evaluation of the project may still take place after the implementation period of the project.

⁽¹¹⁾ Article 19(1) of the ENI CBC Implementing Regulation, as amended.

⁽¹²⁾ Further details in Section 12.

⁽¹³⁾ Programming period 2007-2013.



As this indicative timespan for finalising projects is the same as the time between the final deadline for project implementation and the need to submit the final report to the Commission, projects finishing in the last 6 months of 2023 will need to proceed with finalisation faster than average to be ready in time.

All the contracts related to the use of technical assistance, both for staff or external contractors, need to be finalised before drawing up the final accounts, so they can be audited and included in the final report.

3.2. *Amendment of programmes*

To ensure the proper implementation of programmes and the timely preparation of closure, Managing Authorities may consider that an adjustment or a revision of their programme is necessary.

Requests for programme revision ⁽¹⁴⁾, including revisions of financing plans to transfer funds between thematic objectives, should be submitted to the Commission sufficiently early to allow decisions to be adopted before 31 December 2023 (final date for project implementation).

Managing Authorities should notify the Commission about adjustments made to programmes pursuant to Article 6(1)(a) of the ENI CBC Implementing Regulation or pursuant to Article 4(2) of the Disruption Regulation before the final date of project implementation, i.e. 31 December 2023.

3.3. *Good practices and measures for the timely closure of projects and programmes*

Ensuring an effective, efficient and timely closure of projects is the most difficult challenge of the whole process because any delays, even if by a limited number of beneficiaries, may prevent the timely submission of the programme final report to the Commission.

Even though most grant contracts stipulate that the final report of the project needs to be submitted within three months from the end of the implementation period, a significant number of project beneficiaries are submitting their final reports late. It is a good practice that Managing Authorities monitor closely this element to allow timely and complete verifications to be carried out. Strong support to projects finalising in the second semester of 2023 may also be needed to avoid such delays.



Between 1 January 2024 and 30 September 2024, only expenditure for activities linked to closure of projects or linked to closure of programmes under technical assistance is eligible.

In accordance with point (a)(iii) of Article 48(2) of the ENI CBC Implementing Regulation, examples of costs related to project or programme closure include expenditure verification, audit and final evaluation of projects. Moreover, most programmes include in their grant contracts an execution period of 12 or 18 months. In such cases, the projects finalising implementation in the second semester of 2023 would have deadlines for closure in contradiction with the ones for programme closure, as provided for in the ENI CBC Implementing Regulation. This is an element that should be taken into account by the Managing Authority in the preparation of its work for closure.



Deadlines applicable for programme closure mentioned under point 3.1 supersede the execution periods that may have been established in grant contracts.

⁽¹⁴⁾ See Article 6 of the ENI CBC Implementing Regulation on programme adjustments under its paragraph 1 and revisions under its paragraph 2.

Other good practices implemented in the previous programming period to ensure a timely closure were:

- **Carrying out a specific risk assessment** in order to identify the beneficiaries which are likely to submit delayed or low-quality reports and providing support for beneficiaries of such projects.
- **Issuing information notes** to the beneficiaries stressing the importance of prompt reports submission and possibly providing specific instructions for closure.
- **Revising the procedures and criteria for administrative checks** by the Joint Technical Secretariat and the Managing Authority, reducing the formal burden and minimising the time needed for contradictory procedure.
- **Not requesting any non-fundamental re-submission of documents** by beneficiaries and partners when the errors identified can be easily quantified and conclusions may be reached to allow for the approval of the report and the determination of the grant balance payment when needed.
- **Improving**, when needed, **the flow of communication** between beneficiaries and programme bodies and between the different units of these bodies working in closure.
- **Selecting early the sample of projects for the last on-the-spot checks**, taking into consideration that the population of outstanding project reports is known in advance.

4. Financial management

4.1. Closure decommitment

There are no specific rules on decommitment of funds during the closure procedure, beyond the provision of Article 19 of the ENI CBC Implementing Regulation which provides that, once the final balance is paid or reimbursed, all non-used amounts, i.e. remaining appropriations, are to be decommitted from programmes.

Article 65 of the ENI CBC Implementing Regulation provides the exceptions to decommitment for the annual accounts. For closure, amounts subject to those exceptions will be handled differently, as they may be declared with the final accounts. This is an important consideration for Managing Authorities due to the fact that the final accounts give the last option for declaring expenditure.

4.2. Co-financing and maximum EU contribution



The term 'co-financing' in these guidelines refers to the difference between the eligible expenditure and the EU contribution.

Article 12 of the ENI CBC Implementing Regulation states that **co-financing shall amount to at least 10 % of the Union contribution**. Programmes were able to set a higher level of co-financing (as indicated in the financing plan of programmes).

The Commission must be able to verify at closure that the planned or minimum co-financing amount was reached, which means that the expenditure reported in the final report must show that the percentage of co-financing established in the programme is respected. For that purpose, two columns showing the actual EU contribution and rate have been included in the template of the final financial part.

Programmes which chose to make use of the option of no co-financing for certain years as a response to COVID-19 or to the Russia's war of aggression against Ukraine ⁽¹⁵⁾ may indicate no co-financing for those years. Nevertheless, these programmes should still demonstrate that they fulfilled the necessary minimum or planned percentage of co-financing set out for the other accounting years.

⁽¹⁵⁾ Pursuant to Article 12(4) of the ENI CBC Implementing Regulation or to Article 3 of the Disruption Regulation laying down specific provisions (...) following programme implementation disruption.

The relevant information should be included in the final accounts' worksheet '1.3 Reconciliation with the JOP and co-financing'.

4.3. *Clearance of the EU contribution paid as pre-financing*

Article 60(3) of the ENI CBC Implementing Regulation states that 'Each financial year of the programme's implementation, the Commission shall clear the previous prefinancing payments on the basis of eligible expenditure actually incurred [...]'.

This means the Commission will therefore carry out a clearing exercise for the final accounting year, taking into account the eligible expenditure actually incurred in the final accounting year and also eligible expenditure contained in the final accounts.

This information should be included in the final accounts worksheet '1.4 Information for clearing'.

For programmes under implementation disruption, the amounts incurred and paid by Russian and Belarusian beneficiaries and contractors, which have been excluded from clearing in the annual accounts submitted after the suspension of Financing Agreements signed with Russia and Belarus, will not be eligible expenditure under the concerned programme because of the impossibility to carry out complete and reliable verifications and audits on it. This exclusion is also applicable to amounts initially accepted by the Managing Authority between 1 July 2021 and the cut-off date of the suspension of the Financing Agreements, for which no audit work could be carried out.

4.4. *Calculation of the final balance including flexibility at closure*

The Commission will confirm the calculation of the final balance based on data submitted by the Managing Authorities.

In contrast to the annual clearing of pre-financing, this exercise will take into account also the EU contribution corresponding to the total amount of eligible expenditure of the programme, both by projects and technical assistance, as 'certified by the audit opinion' ⁽¹⁶⁾ in the final report. This is needed to ensure that the relevant co-financing rate was respected by programmes.

The amount due to be paid/recovered calculated in accordance with the rules explained above will constitute the final balance of the programme.

In line with Article 64 of the ENI CBC Implementing Regulation, the payment of the final balance may exceed up to 10 % of the total EU contribution allocated to each thematic objective. However, the final payment by the Commission shall not exceed the total EU contribution to each programme as laid down in the Commission Implementing Decision approving the programme.

It is noted that the final balance will include the unrecoverable amounts from non-public beneficiaries in partner countries as set out in the Financing Agreements. Similarly, the amount of the final balance will include the unrecoverable amounts based on the provisions of Article 14 of the Disruption Regulation on programmes under implementation disruption.

The unrecoverable amounts from beneficiaries in Member States and public beneficiaries in partner countries will be excluded from the calculation of the final balance, as they have to be reimbursed to the Managing Authority by the respective country.

Chapter 9 provides more information on the treatment of unrecoverable amounts.

This information should be included in the final accounts worksheet '1.5 Final balance'.

4.5. *Overbooking*

Overbooking is acceptable for ENI CBC programmes. Managing Authorities may declare to the Commission eligible expenditure in excess of the maximum EU contribution set out in the Commission Implementing Decision approving the programme. Such overbooked expenditure declared to the Commission in the final accounting year, regardless of in which accounting year it was incurred and paid, will be considered at and after closure to replace irregular amounts (declared in any accounting year, including the final accounting year) and for the 10 % flexibility between thematic objectives at closure.

⁽¹⁶⁾ Article 69 of the ENI CBC Implementing Regulation.

5. Indicators and performance at closure

The data for output and result indicators must be included in the final technical part and must include:

- Cumulative values for output and result indicators achieved by the end of year 2023;
- Any issues affecting the performance of the programme, including the achievement of the targets.

The achievement of indicators and related targets will be assessed by the Commission, taking into account the information provided in the final technical part, including elements and factors such as programme disruption that might have seriously affected the achievement of the targets set.

Output indicator achievement values reported in the final report of a programme should refer to what has been delivered by the projects supported under the programme up to the end of the implementation period (31 December 2023). Although the indicator achievement values should correspond to the situation at 31 December 2023, in practice, outputs delivered by the co-financed operations until the date of submission of the final report can be reported in these documents.

Only outputs actually delivered based on expenditure declared and accepted as eligible by the programme should be reported in the final report. In certain cases, this will mean that zero output is reported.

Programme authorities are encouraged to describe whether the COVID-19 crisis and its impact prevented the achievement of some targets. Moreover, they should also assess whether a failure to achieve targets is due to the impact of socio-economic or environmental factors, significant changes in the economic or environmental conditions in the programme area.

In the same sense, programme authorities should also describe the impact of implementation disruption following Russia's war of aggression against Ukraine and the involvement of Belarus in that aggression (see Chapter 11).

6. Not fully implemented projects

In accordance with Article 38 of the ENI CBC Implementing Regulation, 'a project is a series of activities defined and managed in relation to the objectives, outputs, results and impacts which it aims at achieving within a defined time-period and budget' and which contribute to the priorities of the programme. In this context, all projects should aim to be fully implemented within their implementation period or at the latest by 31 December 2023, the date when all project activities should end in accordance with Article 18 of the ENI CBC Implementing Regulation.

Article 48 of the ENI CBC Implementing Regulation sets out clear criteria for the eligibility of expenditure. This means that costs actually incurred by beneficiaries and under Technical Assistance are eligible if they:

- were incurred during the implementation period of a project and:
 - were paid before the submission of the final report of the project or
 - were listed in the final report of the project together with the estimated date of payment and paid afterwards ⁽¹⁷⁾ (this practice is strongly discouraged, given that it would delay the verifications and closure process);
- were incurred and paid after the implementation period of the project for costs relating to closure activities of the project;
- were indicated in the project's estimated overall budget;
- were necessary for project implementation;
- were identifiable and verifiable;
- complied with the requirements of applicable tax and social legislation;

⁽¹⁷⁾ As provided in section 3, to be eligible, costs related to the implementation of projects must be incurred and paid at the latest by 31 December 2023. Only costs related to the closure of projects and programmes and for Technical Assistance are eligible until 30 September 2024.

- were reasonable and justified;
- were supported by invoices or documents of equivalent probative value.

Managing Authorities will need to take these criteria into account when declaring eligible expenditure in the final report. Managing Authorities may consider that expenditure incurred and paid for activities carried out during the project's implementation period is eligible regardless of the degree of final implementation of the project, unless the project implementation conditions provide otherwise.

Eight out of fifteen programmes include an article in their grant contracts on poor or partially implemented projects:

'[...] if the project is implemented poorly, partially – and therefore not in accordance with the Description of the Action in Annex I – or late, the managing authority may, by a duly reasoned decision and after allowing the beneficiary(ies) to submit its observations, reduce the initial grant in line with the actual implementation of the project [...]

In such cases, the Managing Authority should assess the quality of each project's implementation and decide whether to lower the final grant amount/eligible costs of the project declared to the Commission by taking into account for example the degree of achievement of the indicators compared with the targets mentioned in the grant contract and the reasons for the discrepancies.

Where the Managing Authority takes a decision to reduce the grant to a project beneficiary or to project beneficiaries, it is recommended that it informs the Joint Monitoring Committee as such a decision might be contested by the project beneficiary/ies. Any such case will be handled outside the closure process, given that a part of such expenditure would not be declared to the Commission based on the decision of the Managing Authority.

For programmes under implementation disruption, the Managing Authority will also have to take the exceptional circumstances into account when performing the analysis on the implementation of projects in light of the possibilities provided in the Disruption Regulation (see Chapter 11).

7. **Projects affected by a legal proceeding or an administrative appeal having suspensory effect or by an ongoing investigation**

Before submitting the final report, Managing Authorities should decide whether or not to exclude from the final accounts all or part of the expenditure for any operation affected by ongoing investigations or suspended by a legal proceeding or by an administrative appeal having suspensory effect.

Examples of ongoing investigations include investigations carried out by national bodies different to the programme authorities (such as police investigations, judicial or criminal investigations), the outcome of which may affect the legality and regularity of expenditure.

Suspension of a project by a legal proceeding or by an administrative appeal does not extend the final date for incurring eligible expenditure as set out in Article 18 of the ENI CBC Implementing Regulation.

Programme authorities are invited to exclude from the final accounts expenditure affected by potential irregularities identified in ongoing OLAF investigations, OLAF reports or audits of the Commission or of the European Court of Auditors.

As the final accounts are the last possibility for declaring expenditure, they can also include the amounts under ongoing legal proceedings and administrative appeals having suspensory effect. Such expenditure can be treated as eligible expenditure at the moment of submission of the final accounts and can be certified by the Audit Authorities.

If expenditure of projects affected by ongoing investigations or of projects suspended by a legal proceeding or by an administrative appeal having suspensory effect is not excluded from the final accounts, the Managing Authority should submit, with the final report, the amounts and a list of such operations and those for which expenditure is under investigation using the template provided in the final accounts worksheet '**2.2 Financial corrections, recoveries, OLAF, legal proceedings (EU funds)**'.

Managing Authorities must inform the Commission about the outcome of the investigations and, where irregularities are established after programme closure, proceed with the recovery of amounts unduly paid and reimburse them to the Commission.

8. Treatment of irregularities in the final accounting year

After the payment request of the final balance, no subsequent payment application can be submitted to the Commission. Therefore, any necessary financial corrections, stemming from both individual and systemic irregularities, must be carried out in the final accounts, even if they concern expenditure declared in previous accounting years.

If the Managing Authority decides not to declare amounts due to an ongoing assessment of that legality and regularity of expenditure in the final accounting year, that expenditure cannot be re-declared even if it is subsequently found to be legal and regular. Therefore, all ongoing assessments by the programme and potential financial corrections should be finalised in advance to allow the preparation of the final accounts.

9. Recoveries and waivers

9.1. Common rules

In accordance with Article 68(3)(b) of the ENI CBC Implementing Regulation, the accounts for any accounting year, including the final one, must include in addition to the expenditure incurred and paid and the revenue earned and received by the Managing Authority:

- the amounts waived or recovered during the accounting year;
- the unrecoverable amounts.

Managing Authorities should attempt to recover any amounts in advance of the end of the final accounting year and in any case by the time of finalising the accounts before submission of the final report, given that there will be no subsequent possibility to report them as unrecoverable. For this reason, the final accounts do not contain a table 'amounts to be recovered'.

The **unrecoverable amounts are divided into two tables**: one for the amounts for which the Member States or partner countries are liable and another one for which they are not liable. The latter amounts, including unrecoverable amounts from non-public beneficiaries in partner countries, will be taken into account for the calculation of the final balance.

Amounts the recovery of which was waived by the Managing Authority following prior approval from the Joint Monitoring Committee are not to be included in the calculation of the final balance.

The information referred to in this section is provided in the specific tables of **worksheet 2.2**.

9.2. Reporting of recoverable and unrecoverable amounts at closure

In the final accounts, Managing Authorities must report unrecoverable amounts related to expenditure declared not only in the previous accounting years, but also in the final accounting year. It is also possible to report, in the final accounts, amounts that have become recoverable or unrecoverable after the end of the final accounting year but before the submission of the final report.

Managing Authorities should always first attempt to recover the amounts in order to show due diligence.

The provisions of the ENI CBC Implementing Regulation and of the relevant Financing Agreements have not established a responsibility of Managing Authorities for the unrecovered amounts from non-public beneficiaries established in partner countries. Therefore, the following types of unrecovered amounts should be reported in the final accounts:

- Unrecovered amounts from beneficiaries from Member States and from public entities from partner countries, outside of the provisions of the Disruption Regulation. These amounts will be excluded from the calculation of the final balance (and are not to be put in worksheet 1.5) because they are covered by the liability of another party. Thus, in accordance with Article 74 of the ENI CBC Implementing Regulation, the relevant Member State must 'pay the due amount to the Managing Authority'; and the relevant partner country's level of responsibility is established by the relevant financing agreement.
- Unrecovered amounts from non-public beneficiaries from partner countries, outside of the provisions of the Disruption Regulation. These amounts will be included in the calculation of the final balance in the same way as amounts certified to the Commission because the relevant Financing Agreements do not establish a liability for the partner countries. For such amounts, the Commission may take over the task of recovering.
- Unrecovered amounts reported under the provisions of Article 14 of the Disruption Regulation. These amounts will be included in the calculation of the final balance in the same way as amounts certified to the Commission. By including these amounts in table 4 of worksheet 2.2, the Managing Authority is deemed to have requested that the Commission take over the task of recovering the amounts.

9.3. *Amounts recovered after closure*

Any amounts that were declared to the Commission and are subsequently recovered after closure must be repaid by Managing Authorities to the budget of the Union.

10. **Interest on pre-financing**

Article 8(4) of the Financial Regulation provides that 'interest generated by pre-financing payments made from the budget shall not be due to the Union, except as otherwise provided in the [...] financing agreements concerned'.

Therefore, the interest generated is not to be declared at any moment, including in the final accounts and thus, it will not be deducted from the calculation of the final balance.

11. **Programmes with implementation disruption**

As a consequence of the unprovoked and unjustified Russia's war of aggression against Ukraine, the Disruption Regulation was adopted on 9 November 2022. That Regulation concerns 13 of the 15 ENI CBC programmes affected by implementation disruption ⁽¹⁸⁾ and addresses several topics, such as:

- Assessment of cross-border cooperation impact;
- Use of infrastructure;
- Co-financing rate;
- Recovery procedure;
- Remaining funds of co-financing transferred by a partner country.

11.1. *Assessment of cross-border cooperation impact*

Article 8(1) of the Disruption Regulation states that the cross-border cooperation impact and benefits of projects are to be assessed in three phases:

- Phase 1 up to the date on which the programme implementation disruption started;
- Phase 2 for the duration of the programme implementation disruption;
- Phase 3 after the programme implementation disruption has ended.

To that end, programmes will indicate the date of the start of and the type of the disruption in accordance with the definitions set out in Article 2 of the Disruption Regulation.

⁽¹⁸⁾ Hungary-Slovakia-Romania-Ukraine, Estonia-Russia, Latvia-Russia, Poland-Belarus-Ukraine, Poland-Russia, Lithuania-Russia, Latvia-Lithuania-Russia, Romania-Republic of Moldova, Black Sea Basin, Romania-Ukraine, South-East Finland-Russia, Karelia and Kolarctic.

The final technical part should include aggregated values for indicators defined in the programme, taking into account the values achieved by the beneficiaries in the Member States and in the partner countries during Phase 1 (and Phase 3, if relevant) and the target values achieved by the beneficiaries in the Member States in Phase 2.

Programmes may also report on indicators achieved in partner countries during Phase 2 providing the relevant explanation in the final technical part.

The cross-border impact of projects, including when it could affect the eligibility of expenditure, will not be questioned because of the consequences of disruption in implementation of projects by partners from the relevant partner countries in Phase 2.

11.2. *Use of infrastructure*

Article 8(3) of the Disruption Regulation establishes an exception to Article 39(3) of the ENI CBC Implementing Regulation establishing the durability obligation for a project including an infrastructure component not to be subject to substantial changes affecting its nature, objectives or implementation conditions which would result in undermining its original objectives, within five years of the project closure or within the period of time set out in State aid rules. Where it is not possible for the Managing Authority to check fulfilment of the durability obligation for projects located in partner countries affected by implementation disruption, it will not be required from the Managing Authority to recover the sums nor to repay the Union contribution. Appropriate audit trail should be ensured for those projects.

11.3. *Co-financing rate*

Article 3 of the Disruption Regulation states that no co-financing of the Union contribution from Member States or partner countries will be required for expenditure incurred and paid and included in the annual accounts for the three last accounting years of programme implementation, that is, starting 1 July of years 2021, 2022 and 2023, respectively.

The template of the final accounts contains the breakdown of expenditure and co-financing. It differentiates the years with no exceptional co-financing measures and the ones with EU contribution up to 100 %, either due to COVID-19 or implementation disruption. The specific section of worksheet 1.3 of the final accounts must only be filled in for programmes having applied no co-financing.

11.4. *Specific recovery procedure for programmes under implementation disruption*

Where the recovery relates to a claim against a beneficiary established in a partner country, Article 14(5) of the Disruption Regulation allows the Managing Authority to request that the Commission takes over the task of recovering amounts when it is unable to offset them. This is possible provided that the Managing Authority is not successful in the simplified recovery attempt. As described in Article 14(3) of the Disruption Regulation, it is sufficient for the Managing Authority to document its decision not to carry out more than one recovery attempt.

The template of the final accounts includes a specific table in **worksheet 2.2** with the **list of recoveries handed over to the Commission according to Article 14(5) of the Disruption Regulation**.

Final accounts also include a specific table on the use of the co-financing of a partner country in the bank accounts of the Managing Authority at the date of programme implementation disruption (**worksheet '2.4 Offsets'**).

12. **Submission of closure documents**

12.1. *Deadline for submission of closure documents*

The closure documents must be submitted by 15 February 2025 via SFC. This deadline may be extended to 1 March 2025 by the Commission, upon communication by the Managing Authority concerned, according to Article 77 of the ENI CBC Implementing Regulation.

Failure to submit any of the closure documents may be an indication of a serious deficiency in the management and control system of the programme, which puts at risk the Union contribution already paid to the programme. The Commission may decide to impose a financial correction in such cases, according to Article 72 of the ENI CBC Implementing Regulation.

However, upon request by the Managing Authority, the Commission services will grant similar flexibility as proposed for cohesion programmes to submit the final report by 15 February 2026.

12.2. *Modification of the closure documents after the submission*

The Managing Authorities may not modify any of the closure documents after their submission, except when the Commission requests a modification or in case of clerical mistakes.

12.3. *Availability of documents and IT records*

Article 70 of the ENI CBC Implementing Regulation sets the period for record keeping relating to the programme or a project by the Managing Authority and the beneficiaries, to five years from the date of payment of the balance for the programme.

Reports, supporting documents, as well as accounts, accounting documents and any other document relating to the financing of the programme (including all documents relating to the contract award) and projects should be kept.

Even if not explicit in the ENI CBC Implementing Regulation, the Managing Authorities are invited to keep IT records, websites, software, databases, and any deliverables in electronic form when they relate to co-financed projects or Technical Assistance.

It is the responsibility of the Managing Authority to ensure an appropriate audit trail, including a list of transactions, for potential further audits by the Commission or the European Court of Auditors.

Records pertaining to audits, appeals, litigation, or pursuit of claims arising from the programme or project performance shall be retained until such audits, appeals, litigation or claims have been completed, even if this is beyond the 5-year period referred to above.

13. **Content of closure documents**

13.1. *General provisions in the ENI CBC Implementing Regulation*

In accordance with Article 77 of the ENI CBC Implementing Regulation, the final technical part to be submitted by the Managing Authority to the Commission by 15 February 2025 after approval by the Joint Monitoring Committee, will contain, ***mutatis mutandis*, the information requested for the annual reports, for the final accounting year as well as for the entire duration of the programme.**

The final technical part must be filled in to comply this twofold request, for the final accounting year and for the entire duration of the programme, and the usual template used by programmes for (annual) implementation reports does not need to be changed to this effect.

However, the information on forecast of activities to be implemented in the following accounting year (Article 77(4) of the ENI CBC Implementing Regulation) and the estimate of costs incurred from 1 July to 31 December of the preceding year (Article 68(2)(f) of the ENI CBC Implementing Regulation) should not be prepared nor submitted as they are not relevant at closure, in accordance with Article 77(5) of the ENI CBC Implementing Regulation.

13.2. *Final technical part*

The usual template of the technical part for the annual report should be used by the Managing Authorities also for the final report. The information should cover the entire duration of the programme.

In the absence of specific provisions in the ENI CBC Implementing Regulation, similar procedures with programmes under the Common Provisions Regulation ⁽¹⁹⁾ will be applied. In particular, Managing Authorities will be given two months to respond to the Commission's observations on the report. The Commission may extend the deadline by a further two months upon request by the Managing Authority. The final report will be accepted if the Commission has no observations or if all the Commission's observations have been appropriately addressed.

13.3. *Final Accounts*

The final accounts must include the information required by Article 68(2) of the ENI CBC Implementing Regulation, with the exception of point (f) ⁽²⁰⁾, both for the final accounting year and for the entire duration of the programme.

Similarly, Article 69 of the ENI CBC Implementing Regulation governing the examination and acceptance of annual accounts applies equally to the final accounts.

The Commission will examine the final accounts and inform the Managing Authority in due course as to whether it accepts that the final accounts give a true and fair view, and the related transactions are legal and regular.

13.4. *Management declaration and annual summary of controls*

The Managing Authority should continue reporting the annual summary of controls in the same manner as in past years.

However, the management declaration for the final accounting year should cover assurance for the entire duration of the programme to the one for the last accounting year, in accordance with Article 77(5) of the ENI CBC Implementing Regulation.

13.5. *Audit opinion and audit report*

The audit opinion and audit report will cover both the final accounting year and the entire duration of the programme in accordance with Article 77(5) of the ENI CBC Implementing Regulation. Therefore, a clear distinction should be made between the respective periods covered. The audit opinion will establish whether the final accounts give a true and fair view, the related transactions are legal and regular, and the control system put in place functions properly. The opinion will also state whether the audit work puts in doubt the assertions made in the management declaration.

	The final audit opinion must confirm both the total amounts of eligible expenditure and the EU contribution for the entire programming period, as presented in worksheet 1.3 of the accounts.
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Moreover, the audit report will include:

- Information on open findings stemming from audits carried out by the Commission or the European Court of Auditors, which should be provided in the section 'Other information'. This is required only in case where affected expenditure is included in the final accounts;
- Conclusion on the assessment of Key Requirement 6 'Reliable system for collecting, recording and storing data for monitoring, evaluation, financial management, verification and audit purposes, including the links with electronic data exchange systems with beneficiaries'. This assessment should include confirmation that the aggregated data reported to the Commission is correct.

⁽¹⁹⁾ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320).

⁽²⁰⁾ 'an estimate of costs incurred from 1 July to 31 December of the preceding year'.

For programmes affected by the suspension of all Financing Agreements with Russia and Belarus, the Commission services informed in December 2022 the Audit Authorities of the ENI CBC programmes concerned about the specific audit procedures with the affected programmes, including audit work on the final accounts, audit of operations, audit strategies and how to form audit opinions. The templates of annual report and audit opinion do not need to be adapted for the purposes of closure and should be used as in previous accounting years.

14. Payment or recovery of the final balance

The final balance will be paid or recovered no later than three months after the date of clearance of the final accounts. This is without prejudice to the Commission's power to interrupt the deadline for payment or suspend such payment in accordance with Articles 61 and 62 of the ENI CBC Implementing Regulation.

15. Legality and regularity issues

Issues related to the legality and regularity of underlying transactions concerning expenditure in the accepted final accounts can be raised by the Commission after payment of the final balance and closure of the programme.

As set out in Article 72(6) of the ENI CBC Implementing Regulation, the closure of the programme will not prejudice the Commission's right to undertake, at a later stage, financial corrections vis-à-vis the Managing Authority.

ANNEX

[TITLE OF THE PROGRAMME]

[EC Decision number]

FINAL REPORT

[date of submission]

II. Final Financial Part

Article 68(2) of Commission Implementing Regulation (EU) No 897/2014

Managing Authority: <insert the name of the MA>

The tables should reflect programme specificities when applicable.

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FINAL FINANCIAL PART

[TITLE OF THE PROGRAMME]

1.1. Payments from the European Commission (all amounts in EUR)

Description of the item	Date of receipt	Amount	Comments
CURRENT REPORTING PERIOD			
PREVIOUS REPORTING PERIODS			
TOTAL FOR THE WHOLE DURATION OF THE PROGRAMME			

FINAL FINANCIAL PART

[TITLE OF THE PROGRAMME]

1.2. Payments from participating countries at programme level (all amounts in EUR)

Description of the item	Date of receipt	Amount	Comments
CURRENT REPORTING PERIOD			
PREVIOUS REPORTING PERIODS			
TOTAL FOR THE WHOLE DURATION OF THE PROGRAMME			

[TITLE OF THE PROGRAMME]

1.3. Reconciliation with the JOP and co-financing

[illegible]

Priority [insert name/num- ber for priority]																	
Technical assistance																	
Total																	

(¹) Co-financing provided at the national and the project level.

(²) Payment of the final balance for the programme in the final accounting year may exceed up to 10 % of the Union contribution for each thematic objective as laid down in the Commission implementing decision approving the programme (Article 64 of Regulation (EU) 2020/879).

FINAL FINANCIAL PART

[TITLE OF THE PROGRAMME]

1.4. Information for clearing

EU contribution for clearing in the FINAL REPORT	EU contribution to total eligible expenditure incurred and paid in the final accounting year ⁽¹⁾
Project expenditure	⁽²⁾
Technical assistance expenditure	⁽³⁾
MINUS	
Amount excluded from clearing	⁽⁴⁾
TOTAL AMOUNT	

⁽¹⁾ Final accounting year is accounting year that covers period from 1 July 2023 to 30 September 2024.
⁽²⁾ Automatically filled in from the Worksheet '2.1 Projects' (EU funding of total expenditure incurred and paid in the reporting period).
⁽³⁾ Automatically filled in from the Worksheet '3.1 Technical Assistance' (EU funding of total expenditure incurred and paid in the reporting period).
⁽⁴⁾ This is the amount the managing authority decided to exclude from clearing (from lists number 7 and 8 in the Worksheet 2.2.).

FINAL FINANCIAL PART

[TITLE OF THE PROGRAMME]

1.5. Final balance

(To be filled in where appropriate.)

Calculation of the final balance	
EU contribution requested for clearing during the final accounting year	⁽¹⁾
EU contribution cleared during the whole implementation period (in previous accounting years)	⁽²⁾
Unrecoverable amounts from non-public entities in partner countries (without amounts due to the implementation disruption)	⁽³⁾
Unrecoverable amounts due to the implementation disruption (Article 14(3) of the Disruption Regulation)	⁽⁴⁾
SUB-TOTAL	
MINUS	
Payments from the European Commission	⁽⁵⁾
TOTAL AMOUNT OF FINAL BALANCE	⁽⁶⁾

⁽¹⁾ Automatically filled in from the Worksheet '1.4 Information for clearing'.
⁽²⁾ To be filled in manually by the MA.
⁽³⁾ Automatically filled in from the Worksheet '2.2 Financial corrections, recoveries, waivers, OLAF, legal proceedings (EU funds)', for the whole implementation period.
⁽⁴⁾ Automatically filled in from the Worksheet '2.2 Financial corrections, recoveries, waivers, OLAF, legal proceedings (EU funds)', for the whole implementation period.
⁽⁵⁾ Automatically filled in from the Worksheet '1.1 Payments from the EC'.
⁽⁶⁾ If the amount is positive, the final balance will be paid by the EC to the MA. If the amount is negative, the final balance will be recovered by the EC from the MA.

FINAL FINANCIAL PART
[TITLE OF THE PROGRAMME]

2.1. Projects (EU Funds) – Final accounting year

Thematic objective/Priorities	Total contracted amount in the final accounting year [EUR] (A)	EU funding [EUR] (B)	EU funding % (C) = (B)/(A)	Total eligible expenditure incurred and paid in the final accounting year [EUR] (1) (D)	EU funding [EUR] (E)	EU funding % (F) = (E)/(D)
Total						
Priority name/number priority] [insert for						
Priority name/number priority] [insert for						
Priority name/number priority] [insert for						
Priority name/number priority] [insert for						

(1) For expenditure accepted by the MA authorised after administrative verification, amounts excluded from clearing in the previous accounting years, which did not lead to a financial correction and were finally accepted, and following deduction of the amount of financial corrections decided in the year for expenditure incurred, paid and accepted during the current year.

FINAL FINANCIAL PART
[TITLE OF THE PROGRAMME]

2.2. Financial corrections, recoveries, OLAF, legal proceedings (EU Funds)

The accounts shall include on the level of priorities and technical assistance - the amounts recovered during the accounting year, the amounts to be recovered by the end of the accounting year and the unrecoverable amounts, as well as amounts for the entire duration of the programme.

Financial corrections shall be recorded in the annual accounts by the Managing Authority (MA) for the accounting year in which the cancellation is decided.

1. *List of all financial corrections decided in the accounting year*

Identification of project	Thematic objective/priority	Amount (EUR)	Date of the decision	Description of correction
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR				
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(¹)		

(¹) To be filled in manually by the MA.

2. *List of amounts recovered*

Identification of project	Thematic objective/priority	Amount (EUR)	Date of the decision	Justification of the recovery
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR				
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(¹)		

(¹) To be filled in manually by the MA.

3. *List of recoveries waived*

Identification of project	Thematic objective/priority	Amount (EUR)	Date of the decision by JMC	Justification of the waiver
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR				
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(¹)		

(¹) To be filled in manually by the MA.

4. *List of recoveries requested to be taken over by the EC (Art. 14(3) of Disruption Regulation)*

Identification of project	Thematic objective / priority	Amount (EUR)	Identification of the partner	Date of the decision by MA	Justification of the handover
TOTAL AMOUNT (BENEFICIARIES FROM PARTNER COUNTRY)					
TOTAL AMOUNT (BENEFICIARIES FROM THE PARTNER COUNTRY WHOSE CO-FINANCING WAS TRANSFERRED TO THE MANAGING AUTHORITY)		(¹)			

(¹) Automatically filled in from the Worksheet ‘2.4 Offsets’.

5. *List of unrecoverable amounts from any beneficiary in Member States and public entities in partner countries (without recoveries due to implementation disruption)*

Identification of project	Thematic objective/priority	Amount (EUR)	Identification of the partner	Status description of unsuccessful recovery
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR				
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(¹)		
(¹) To be filled in manually by the MA.				

6. *List of unrecoverable amounts of non-public entities in partner countries (without recoveries due to implementation disruption)*

Identification of project	Thematic objective/priority	Amount (EUR)	Identification of the partner	Status description of unsuccessful recovery
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR				
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(¹)		

(¹) To be filled in manually by the MA.

7. *List of potential irregularities identified in ongoing OLAF investigations, OLAF reports, EC or ECA audits*

Identification of project	Thematic objective/priority	Amount (EUR)	Date of the decision	Status of the legal proceeding (¹)	Justification of the suspensory effect
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR					
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(²)			

(¹) In addition to the status description, the nature of the amount suspended is to be described. As a result of legal proceeding, two possibilities apply: (1) the amount is expected to be returned to the programme (the programme claims the amount from the beneficiary/partner) or (2) the amount is expected to be transferred to the beneficiary/partner (it/they claim towards the programme against a financial correction).

(²) To be filled in manually by the MA.

8. List of expenditure of projects affected by ongoing investigations, suspended by a legal proceeding or by an administrative appeal having suspensory effect

Identification of project	Thematic objective/priority	Amount (EUR)	Date of the decision	Status of the legal proceeding ⁽¹⁾	Justification of the suspensory effect
TOTAL AMOUNT IN THE FINAL ACCOUNTING YEAR					
TOTAL AMOUNT FOR THE ENTIRE DURATION OF THE PROGRAMME		(²)			

(¹) In addition to the status description, the nature of the amount suspended is to be described. As a result of legal proceeding, two possibilities apply: (1) the amount is expected to be returned to the programme (the programme claims the amount from the beneficiary/partner) or (2) the amount is expected to be transferred to the beneficiary/partner (it/they claim towards the programme against a financial correction).

(²) To be filled in manually by the MA.

FINANCIAL PART OF THE FINAL REPORT

[TITLE OF THE PROGRAMME]

2.3. Revenue from projects (penalties, interests on delayed recoveries, other, etc.)

Description of the item	Date of receipt	Revenue amount [EUR]	Comments

TOTAL AMOUNT		0	

FINANCIAL PART OF THE FINAL REPORT

[TITLE OF THE PROGRAMME]

2.4. Co-financing transferred to the managing authority by the partner country and list of offsets

	Amount	Proportion of the offset (optional) ⁽¹⁾
Amount in the bank account of MA prior to the offset decisions		
MINUS		
Unrecoverable amounts		
REMAINING AMOUNT		

⁽¹⁾ If proportional offsetting is applied, the MA should provide the formula in the table. Alternatively, the MA should insert the figures manually.

LIST OF OFFSETS						LIST OF RECOVERIES REQUESTED TO BE TAKEN OVER BY THE EC (Art. 14(3) of Disruption Regulation) ⁽¹⁾	
Identification of project	Name of the beneficiary	Thematic objective/priority	Date of offset decision by the MA	Unrecoverable amount (EUR)	Offset amount (EUR)	Amount (EUR)	Date of the request by the MA
...							

⁽¹⁾ In case the amount is fully offset, cells to be left blank.

FINAL FINANCIAL PART

[TITLE OF THE PROGRAMME]

3.1. Technical assistance – Final accounting year

Total contracted amount in the reporting period [EUR]	EU funding [EUR]	EU funding %	Total eligible expenditure incurred and paid in the last accounting year [EUR]	EU funding [EUR]	EU funding %