

Guidelines on the first-level control of European Territorial Cooperation projects implemented by Danish beneficiaries

These guidelines are addressed to Danish beneficiaries participating in a project under the European Territorial Cooperation (ETC) programmes 2021-2027 and to controllers designated in accordance with article 46(3) of regulation (EU) 2021/1059 of the European Parliament and of the Council of 24 June 2021 on specific provisions for the European territorial cooperation goal (Interreg) supported by the European Regional Development Fund and external financing instruments ('Interreg Regulation').

These particular guidelines are specifically addressed to Danish beneficiaries and controllers under **Interreg North Sea 2021-2027**. If you wish to find further details regarding the obligations of the controller under other ETC-programmes, please consult the relevant guidelines.

In Denmark the **national legal basis for the designation** of the controller is:

- Act no. 160 of 7 February 2019 on the Administration of Grants from the European Regional Development Fund, the European Social Fund Plus and the Just Transition Fund, including amendment of 14 December 2021 and any future amendments, namely chapter 4.

A version of the Act in Danish may be found at <https://www.retsinformation.dk/Forms/R0710.aspx?id=206890> and the amendment at <https://www.retsinformation.dk/eli/lta/2021/2381>.

- Danish Statutory order no. 162 of the 28 January 2022 on the administration of grants from the European Regional Development Fund and the European Social Fund Plus, particularly § 29.

A version of the statute in Danish may be found at:
<https://www.retsinformation.dk/eli/lta/2022/162>.

The **responsibility and tasks** of the controller are to verify that the co-financed products and services have been delivered, that expenditures declared by the beneficiaries have been paid and that the project's financial report complies with applicable law, the operational programme and the conditions for aid to the project, i.e. that the expenses are eligible.

Upon designation the controller is requested to familiarise him- or herself with the applicable law, the operational programme and the conditions for support of the project. The controller shall implement the control of the activities through

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desk checks, and where necessary - based on a risk-assessment and the professional judgment of the controller - through complementary on-the-spot checks.

The applicable **eligibility rules** are laid down in Articles 63 to 68 of Regulation (EU) 2021/1060 ('CPR Regulation')¹, in Articles 5 and 7 of (EU) 2021/1058 ('ERDF and JTF Regulation'),² and art. 37 to 44 of the Interreg Regulation, including in acts adopted thereunder. Additional eligibility rules may be set out in the Operational Programme, the Programme Rules, or Fact Sheets etc. as agreed upon by the participating Member States. In the absence of such rules, the national rules of the Member State in which the expenditure is incurred shall apply, cf. article 37(3) of the Interreg Regulation.

In reference to article 63(9) of the CPR Regulation, which prohibits "double financing", information on other projects financed by Structural Funds is available from the Danish Business Authority or the relevant ETC Joint Secretariat.

The Interreg Regulation sets out specific rules on eligibility of expenditure for cooperation programmes regarding the following categories: (a) staff costs; (b) office and administrative costs; (c) travel and accommodation costs; (d) external expertise and services costs; equipment costs and (f) costs for infrastructure and works.

If the matter of eligibility is not solved based on the rules mentioned above, Danish national rules apply. These rules are laid down in the Danish statutory order no. 285 of 1st March 2022, including any future amendments. A version of the statute in Danish can be found at: <https://www.retsinformation.dk/eli/lta/2022/285>.

It is noted that a number of provisions in the statutory order allows the managing authority of the individual programme to establish more specific instructions. In such cases the instructions of the individual European territorial cooperation programme, in this case the **Interreg North Sea 2021-2027**, are valid (cf. above).

If the instructions of the Interreg North Sea 2021-2027 refer back to the national regulations and the statutory order provides no answer (cf. above), the Danish Guidelines on projects financed by the Structural Funds 2021-2027 may be used as a guide for interpretation. A version of these guidelines in Danish can be found at <https://udviklingidanmark.erhvervsstyrelsen.dk/sites/default/files/2022-07/Vejledning%20om%20st%C3%B8tteberettigelse%202021-2027.pdf>.

Additional regulations may also be considered of relevance for the control and verification of expenses. These include, but are not limited to, the following:

¹ Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.

² Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and on the Cohesion Fund.

- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on **Public Procurement** including later amendments.

The directive has been implemented in Denmark as part of the Danish Public Procurement Act (act no. 1564 of 15 December 2015) including later amendments. A Danish version of the act can be found at <https://www.retsinformation.dk/eli/lta/2015/1564>.

- The Commissions regulations on **State Aid** including Commission Regulation No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty and Commission Regulation No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, both including later amendments.

The regulations are directly applicable in Denmark and thus no implementing measures have been taken. Guidance on the application of the State Aid rules may however be found in Danish at <https://em.dk/ministeriet/arbejdsomraader/erhvervsregulering-og-internationale-forhold/statsstoette/> or at <https://udviklingidanmark.erhvervsstyrelsen.dk/love-og-regler-i-2021-2027> where a Danish version of the above mentioned regulations can be found.

- The Danish **Environmental Protection** Act (act no. 100 of 19 January 2022) including later amendments. The act implements parts of a number of EU directives. A Danish version of the act can be found at <https://www.retsinformation.dk/eli/lta/2022/100>.
- Council Directive 2004/113/EC of 13 December 2004 implementing the principle of **equal treatment** between men and women in the access to and supply of goods or services including later amendments.

The directive has been implemented in Denmark as part of the Danish Equal Opportunities Act (act no. 751 of 26 April 2021) including later amendments. A Danish version of the act can be found at <https://www.retsinformation.dk/eli/lta/2021/751>.

Other **Community rules and regulations** are available at http://ec.europa.eu/regional_policy/en/information/legislation/regulations/ or directly at EUR-LEX (<https://eur-lex.europa.eu/homepage.html>).

The relevant **Programme rules** of the Interreg North Sea 2021-2027, particularly the Programme itself and the Fact Sheets, are available at the programme website (<https://www.interregnorthsea.eu/>).

If you need further information do not hesitate to contact the Interreg North Sea Joint Secretariat at phone at +45 78 41 17 70 // info@interregnorthsea.eu or the Danish Business Authority at +45 35 29 17 00 // de@erst.dk – please specify that your inquiry is related to Interreg North Sea 2021-2027.