

Q&A: Articles 24 & 25 Small scale projects, SPF

SPF event March 12, 2021
Questions from participants



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1. General Questions

Definitions:

- 1) **A (joint) small project (SM):** small project implemented in the framework of an SPF in accordance with Article 25 of Regulation (EU) 2021/1059 (Interreg Regulation). Please note that this is a definition anchored in legislation: the term can be used only in the context of the SPF!
- 2) **A small-scale project (SSP):** project implemented in accordance with Article 24(a) of the Interreg Regulation; i.e. directly managed by the Managing Authority (MA). The term is a proposal and is used throughout this text.

P2P and SPF as tools

Q: Is there a definition of people2people (P2P) projects/actions and where do they fit - art 24 or art. 25? What is the difference, in comparison to SPF?

A: P2P actions¹ aiming at bringing local cross-border communities together are considered a tool, and can be the key objective of a small project in the SPF (Art. 25). Such actions can also be part of a small-scale project [Art. 24(a)] or of a standard project. You may do such actions as part of a project or as its key objective – as you see fit in the context of your programme. Such actions may be part of an SPF under ISO 1 (i.e., the traditional SPF with its plethora of small projects such as festivals, youth exchanges, etc.), or they may be part of small-scale projects under PO2 working for awareness raising on climate change, etc.

Recital (26) of the ETC regulation: *“Under cross-border cooperation programmes, people-to-people and small-scale projects are important and successful instruments, with high European added-value, for eliminating border and cross-border obstacles, fostering contacts between people locally, and bringing border regions and their citizens closer together.”*

Contents of section 6 in the IP template

Q: What is required in Section 6 of the programme template?

A: All programmes should consider the use of projects of limited financial volume (for cross-border cooperation (CBC) programmes this is an obligation). For CBC programmes (Strand A) there is only the option to choose either small-scale projects (Article 24(a)) or the SPF (Article 25) or both, while for Transnational (TN; Strand B) and Outermost Regions (OMR; Strand D) programmes there is also an exit route.

¹ P2P actions comprise, for example: organisation of cultural events, performances or festivals; exchange programmes in the field of culture, education, organisation of trainings, summer schools, summer academies, competitions, creation of common artworks, movies, theatrical performances.

In order to meet the requirements, you should state if you implement projects of limited financial volume outside or within SPF, or both. You should indicate the size, the purpose and the target groups of such projects in your programme, as well as under which specific objective(s) they will be financed. Further information may be provided under the relevant specific objective(s).

For TN and Strand D programmes that are not planning to use projects of limited financial volume, justification should be provided.

2. Article 24

Q: Definition of small-scale projects? Is there a prescribed minimum size for directly-managed small-scale projects?

A: The projects are not defined in any way and there is no upper limit. The definition should be developed in the programme context. Programmes should indicate their definition of small-scale projects in Section 6.

Q: Projects under article 24: does the lead partner principle (LPP) apply?

A: There are two distinct cases:

- Small projects in the framework of an SPF according to Article 25: For small projects the LPP does not apply. Small projects should have a cross-border impact and should be developed in mutual interest.
- Small-scale projects implemented under Article 24(a) are regular projects: The provisions on partnership as stipulated in Article 23 apply; i.e., the LPP also applies. The selection of such projects is in the hands of the MC, or possibly a Steering Committee (SC) might be established.

Q: Is it possible to have both; i.e., small-scale projects and SPF, in parallel?

A: Yes, it is possible and should be indicated in Section 6 of the programme template.

Q: What about umbrella projects? (i.e., several partners/beneficiaries) managing a similar facility? Would it mean to meet the obligations stemming from Article 24?

A: The SPF according to Article 25 is now the approach anchored in the regulation providing legal certainty. Firstly it anchors the final recipient, and secondly, it clarifies the approach to selection of small projects. There are two options for selection of projects of limited financial volume:

- selection of small projects under an SPF according to the rules set out in Art 25, and
- selection of small-scale projects by a MC/SC.

The selection process is the exclusive prerogative of the MC/SC and cannot be delegated further (the only exception is the SPF under Article 25). The term “small projects” is legally defined and can therefore only be used for small projects within an SPF.

Q: Should separate rules for application and implementation of small-scale projects apply? Can the programme foresee specific, simplified procedures for small-scale projects?

A: There are no such requirements in the regulation. Nevertheless, if programmes want to simplify, such an approach is more than welcome. It is clear that approaches should be proportionate but still respect fair treatment of all applicants/beneficiaries). Yet, regardless of the simplifications introduced, procedures need to comply with Article 22 requirements.

3. Article 25

Beneficiary

Q: The beneficiary question, e.g., as Article 23(6) is formulated as an option (“may”) and does not include the third option (body with a legal personality): Is there an obligation for a sole SPF beneficiary’?

A: For simplification reasons and for keeping management costs at an acceptable level, there should only be one beneficiary for the management of an SPF. The procedures will be more efficient, less time-consuming and less costly – all to the benefit of the final recipients of the small projects.

The provisions on the small project fund have been drafted as a specific type of operation with a number of specific rules in Article 25, compared to Article 23.

Article 25(2) states that “the beneficiary shall be a cross-border legal body or an EGTC or a body which shall have legal personality”. It has always been clear that the body with legal personality should be one body, just like one cross-border legal body or one EGTC. The wording of the third option added during the negotiations also refers to “a body which shall have legal personality” and not to several bodies. Where this third option is chosen, the small projects have to be selected by “a body involving representatives from at least two participating countries, of which at least one is a Member State” and not by a body representing the SPF manager and a partner beneficiary/manager.

The provisions of Article 25 of the Interreg Regulation lay down the conditions for the (single) beneficiary/SPF manager, whereas the provisions of Article 23 lay down the conditions for the partners where an Interreg project has several partners. This is not the same thing. Article 25 not only describes a specific type of operation, but also a specific case of an operation managed by a sole beneficiary.

The term “may” is used in Article 23(6) as it derogates from the normal requirements of Article 23(1) about the project partnership. In this case, it should be understood as “is allowed to”. It should also be noted that Article 23(6) as proposed by the Commission took over the text of the 2nd subparagraph of Article 12(3) of the Regulation 1299/2013 for the specific case of financial instruments (FIs) or a fund of fund. As in most cases, there is only one FI or fund of fund manager; that provision was included to exempt the fund manager from respecting the partnership requirement by allowing this specific type of operation/fund to be managed by a sole beneficiary which – often being a bank or financing institution – is normally not composed of members from different countries.

Q: Should all Member States (MS) of the programme be represented in the cross-border legal body or EGTC acting as SPF-beneficiary, or at least two?

A: Partners from at least two MS is per definition a minimum requirement of any EGTC or CB legal body. Any more rigid rules are up to the programme. However, our preferred option would be to focus on the applicant's capacity and potential policy outreach, instead of introducing additional rules.

Q: Can the beneficiary be from a non-MS?

A: Yes, the SPF-beneficiary can be from a non-MS. Please note Article 25.2: *"Where the beneficiary is not a cross-border legal body or an EGTC, a body involving representatives from at least two participating countries, of which at least one is a Member State, shall select the joint small projects."*

Set up of the Fund

Q: Is it possible to have one application for an SPF covering more than one priority? Or will there have to be one SPF per priority? How to implement SPFs consisting of several POs/SOs? Is there any budget flexibility between priorities? Which options exist to shift funds between the individual POs/ISOs among the SPF operations?

A: From an administrative point of view, each SPF implemented by a beneficiary under a specific objective constitutes a separate operation and must be treated as such. Thus, regardless of the practical approach to applications, each SPF has to be selected by the MC. For reasons of simplicity and publicity, it is possible to communicate to the public that a certain beneficiary X implements a fund in more than one topic.

So in simple words: one SPF per specific objective, MC selects the SPF, one beneficiary can manage many SPFs.

As regards flexibility and options to amend project budgets, the programme rules apply.

Q: Is it possible to combine PO5 with an SPF?

A: The SPF is a horizontal tool and can be established under any PO or ISO, including PO5. Please bear in mind that the pre-requisite for the implementation of PO5 is an integrated territorial strategy, including economic, social and environmental aspects of development.

In the context of PO5, an SPF is more so a tool supporting the involvement of the local level in the cross-border territory addressed in the strategy. The SPF and its underlying rationale should be part of the strategy. For an SPF under PO5 all provisions of Article 25 apply. However, the selection mechanism for PO5 is different from that of other POs / ISOs in the programme. The SPF beneficiary shall be selected by the committee in charge of project selection in PO5. Since for PO5 a specific selection mechanism has to involve local and regional (strategy) stakeholders, the committee cannot be identical with the MC.

Please see also Article 29(3) CPR: *"Where the list of operations to be supported has not been included in the territorial strategy, the relevant territorial authorities or bodies shall select or shall be involved in the selection of operations."*

Then, this selection has to be validated by the MA (as it is the MA who signs the grant agreement). So it is not the MC of the programme which can select alone (it has to be done by the territorial authorities or they shall be involved).

Q: Could the "body involving representatives from at least two participating countries" [Art. 25(2)] be the MC, or must a different body be put in place?

A: The selection of small projects must not be done by the MC. It is at the discretion of the MC to select the SPF as an operation. It is at the discretion of the SPF beneficiary to set up the selection body for small projects in the SPF. Conflicts of interest should be avoided at both levels, i.e., firstly at the level of the MC when selecting the SPF beneficiary, and secondly, at the level of the SPF beneficiary when selecting the small projects.

Please note that according to the provisions of Article 25(2) the obligation to set up a body selecting small projects exists only when the SPF beneficiary is not a cross-border legal body or an EGTC.

Q: Must the SPF beneficiary be selected in the open call, or may the programme choose the beneficiary without a call and introduce this information in the programme document?

A: There is no obligation to make calls in the Interreg Regulation. The SPF is a project and has to be selected by the MC. The selection of an SPF beneficiary should be determined by the purpose of the SPF and the potential of the programming area. Sometimes, due to limited options, the future beneficiary may already be mentioned in a programme document, sometimes an open call or a targeted call might be the best option. In this regard there is no one-size-fits-all answer. An SPF operation always has to be approved by the MC/SC, even if the SPF beneficiary is set out in the programme document.

In rare examples, public procurement might come in at a later stage in cases where the SPF-beneficiary decides to contract a service provider to assist with the management of the SPF. The MA should possibly consider including a provision on that in the subsidy contract/grant letter (e.g., if the MA agrees in principle that the SPF beneficiary outsources tasks). In terms of management, the SPF is best served with a simple and clear management structure involving in-house employed staff with the necessary expertise. If that is difficult to organise, the SPF manager may outsource certain tasks requiring linguistic or specific national knowledge.

However, if outsourcing is chosen, public procurement rules need to be complied with. Furthermore, the core tasks of the manager of the SPF, such as the signing of grant letters, may not be outsourced but must be performed by the SPF beneficiary/manager (the same term should be used in the whole document "beneficiary" or "manager"). In any event, the SPF manager remains ultimately responsible for all the tasks under the SPF operation, including tasks performed by a contractor.

Q: External programmes: I am particularly interested in the management aspects of an SPF, including feasible options for setting up a body involving representatives from a Member State and an IPA partner country, in the case of Interreg IPA CBC programmes

A: There are no specific conditions for setting up an SPF for programmes operating on external borders. The provisions of Article 25 apply in the same way as they do to programmes located on the internal borders. Given the limited number of operating EGTCs on the external borders, the alternative options such as cross-border legal bodies (e.g., set up as an association with a member association from another country) or a body with legal personality could be an example of an SPF beneficiary. First and foremost, such a beneficiary should have the capacity to implement an SPF (e.g., existing regional development agencies). Furthermore, if a body with legal personality acts as an SPF beneficiary, another body involving representatives from at least two participating countries, of which at least one is a Member State, is required to select small projects.

Q: How to avoid fragmentation and increased administrative burden for the MA coming from several SPFs in the programme?

A: There is no general recipe here, but we would like to provide some tips: We recommend setting up one system of SCOs at programme level (also for small projects), developing consistent manuals on that and providing joint training on SCOs. It is important that MA/JS, SPF beneficiaries and national controllers develop a shared understanding during the inception phase of the programme. We think such shared training is an effective way of achieving that.

It is also important to establish one set of rules for SPF beneficiaries if several SPFs are set up in the programme. This set of rules can become an annex to the grant letter or subsidy contract with SPF beneficiaries.

Q: Is our understanding correct that designation is not required for a newly set up SPF?

A: According to the provisions in Article 25 of the Interreg Regulation, the SPF beneficiary is a project beneficiary and not an Intermediate body – hence, it is not part of the programme delivery system and not subject to system audits.

Implementation issues

Q: Article 25.3: Who is responsible for what? (Please clarify the responsibilities of the MA, the SPF beneficiary and the final recipient)

A: The SPF is an OPERATION. Consequently, ALL but ONLY the provisions on the role of the MA and audit authority with regard to operations and the (sole) beneficiary apply. In addition, the grant letter must set out some additional aspects in order to address the fact that the SPF is a specific operation (Article 25(3) ETC). The document setting out the conditions for support to a small project fund must, in addition to the elements laid down in Article 22(6), set out the elements necessary to ensure that the beneficiary:

- e) *“is accountable for the implementation of the operation and keeps at its level all supporting documents required for the audit trail in accordance with Annex XIII of Regulation (EU) 2021/1060.”*

Q: Does paragraph 3 (e) of Article 25 (“the beneficiary is accountable for the implementation of the operation and keeps at its level all supporting documents required for the audit trail”) mean that:

- The beneficiary keeps at his level all supporting documents required for the audit trail, including proof of expenditure where the contribution from the ERDF does not take the form of an SCO, to be furnished by the final recipient?

A: Yes

- The beneficiary and/or the managing authority have to carry out management verifications, on the basis of proof of expenditure furnished by the final recipient where the contribution from the ERDF does not take the form of an SCO? If this has to be done, who has to do it?

A:

Management verifications: Management verifications are the responsibility of the MA (risk-based approach). The MA must verify the SPF as any other operation. Legal basis: Art 46(1) ETC. There may be a group of national controllers supporting the MA.

Check of delivery / results: The check of the results of the small projects should be done by the SPF beneficiary, who is after all responsible for the results of the SPF project.

- Information concerning the small projects and expenditure incurred at the level of the final recipient has to be recorded and stored in the electronic data exchange system set up by the beneficiary and/or the managing authority? If this has to be done, who has to do it?

A: The SPF beneficiary is responsible for recording and storing, at its level, the information about the small projects, including the expenditure incurred by the final recipients (Article 25(3)(e)). The MA may support the SPF beneficiary in this task but the responsibility lies with the SPF beneficiary.

Q: What guarantees does Article 25 give concerning the sharing of responsibilities between the beneficiary of the SPF and the MA? How far does the responsibility of the MA go and where does the responsibility of the beneficiary of the fund start?

A: The responsibility of the manager of the SPF starts with the management of the fund (the final recipients, the projects, the management itself, the audit trail, the recording and storing of data).

The responsibility of the managing authority stops at the management of the fund by its manager. Like any other operation, the managing authority signs the grant agreement, monitors implementation, does management verification, makes payments to the SPF, etc. The managing authority does not micro-manage any project, including an SPF.

Q: If there are several SPFs in one Interreg programme, do they have to have common rules for implementation, accounting, management, etc.?

A: We would strongly recommend common rules, since differing standards will cause additional communication and administration requirements throughout the entire programming cycle. For example, different manuals and information for applicants/recipients might lead to confusion, criterion of fair and transparent selection might be put into question, different standards in relation to the audit trail should not be accepted since it might lead to serious concerns about the system. We would strongly recommend having a unified system for all SPFs, regardless of different types of beneficiaries.

The lever for enforcing unified rules is the grant letter or subsidy contract. It allows setting standards for meeting the obligations of the SPF beneficiary, or it can even include rather detailed rules on it.

Q: What is the difference between the terms “small projects” and “joint small projects”?

A: There is no difference. The term “joint small project” is used in article 25(2) to underline the fact that the cross-border effect needs to be maintained also for small projects within an SPF managed by a beneficiary with legal personality.

Q: In the case of large transnational programmes, how to ensure "joint" small projects?

A: The starting point is a purpose(s) and an objective(s) of small projects and an SPF tool established in a TN programme. There are no rules on the number of SPFs and geographical coverage (e.g., it can be set up for a particular part of a programme area, beneficiaries from, e.g., 3-4 countries in TN programmes can work together on small projects, but there should ideally be some proximity and local-level involvement). Purpose and objective should be reflected in the programme document and the SPF application form. In the next step, similarly to CBC programmes, small projects should focus on the cooperation of local communities, involving people ‘doing something together’. Small projects do not have to comply with partnership requirements according to Article 23.

Since many CBC programmes use the SPF: the approach developed in a TN programme may benefit from consultation with CBC programmes in the region. The SPF developed for the TN programme could address different topics or cooperation perspectives, in order to provide a different, alternative offer for interested applicants.

Q: In the case where you have one final recipient, do we need to fulfil the conditions in Article 23.4 of the Interreg Regulation; i.e., meeting the requested minimum number of cooperation criteria?

A: The small project in an SPF is not an operation, and as such does not have to meet these requirements.

Q: In the case of an SPF managed by EGTC or a cross-border legal body: how can the selection process be made? Also through the joint selection committee?

A: In the case of an EGTC or a cross-border legal body, the provisions of article 25(2) don't require an additional body responsible for the selection process of small projects to be set up. Being cross-border bodies, EGTCs and cross-border legal bodies are expected to ensure small project selection in a cross-border partnership. The selection process should be agreed in the grant letter or subsidy contract. It would also be a good practice to reflect the process in the internal documents (e.g. statutes, convention) of the EGTC or the cross-border legal body. In addition, please bear in mind the required separation of functions if an EGTC acts both as MA and as SPF beneficiary.

Q: Sharing of ideas for an optimal mode of the implementation management for future calls.

A: In the forthcoming months of 2021, Interact plans to hold events dedicated to various implementing models. So please check our website regularly. We also strongly encourage programmes to share their ideas and questions dedicated to this topic thread in the small projects community, which you can find [HERE](#).

Q: Does the fact that only one beneficiary for an SPF is allowed exclude national co-financing coming from other sources than the beneficiary's own contribution?

A: No. Financing and co-financing is a different story - the SPF is an operation and co-financing rules of the programme apply. The beneficiary could have match-funding from own sources as well as from other public institutions such as line ministries, etc.

Q: Does article 64(c) CPR (ineligibility of VAT) also apply to the SPF?

A: No. The SPF is an explicit exception, hence VAT for an SPF is eligible. The exception is formulated as follows:

1. *The following costs shall not be eligible for a contribution from the Funds:*

(c) *value added tax ('VAT'), except:*

(iv) *for small project funds and investments made by final recipients in the context of small project funds under Interreg.*