TESIM

Technical support to the implementation and management of ENI CBC programmes
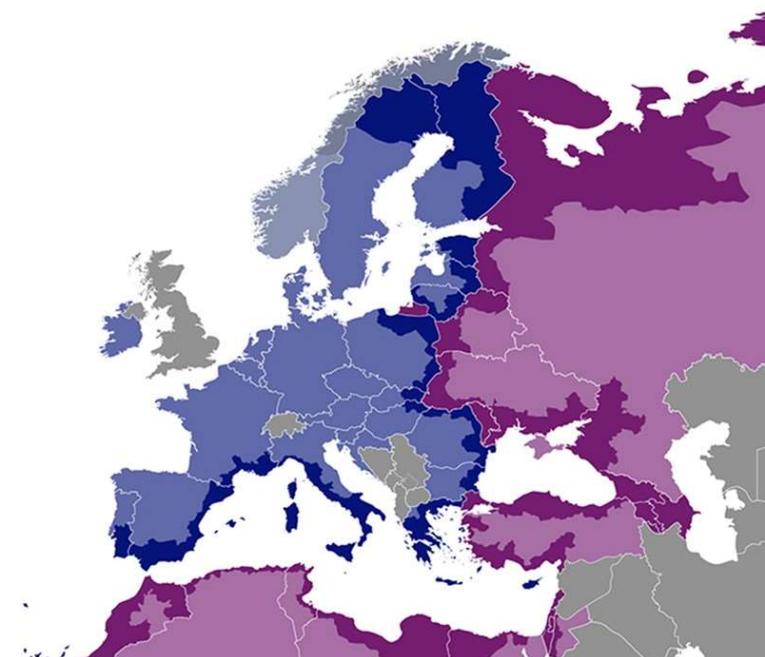
Control Contact Points in ENI CBC programmes

Working paper

July 2020

Table of contents

particip

Introduction and purpose of the working paper

Following the provisions of article 31 of the ENI CBC Implementing Rules (IRs), the participating countries shall support the Managing Authority (MA) in its obligation to ensure that the management and control systems for the programme are set up in accordance with the rules, and that the systems function effectively.

The introduction of new entities such as the Control Contact Points (CCPs) is a part of the increased collective participation in programme governance deriving from the new responsibilities of the participating countries in ENI CBC programmes. These strategic considerations also have an impact on the day-to-day implementation of the programmes.

> ### Key message
>
> *The way in which the Control Contact Points will support the Managing Authority in its control tasks is left open in the ENI CBC Implementing Rules. This represents a significant choice for the programmes, the Managing Authorities and the participating countries themselves on how the support will be provided.*

In this working paper, and in addition to the description of the regulatory requirements, we have identified practices in the ENI CBC programmes concerning the involvement of the CCPs in supporting the MAs and Joint Technical Secretariats (JTS) in their control tasks.

particip

SECTION 1:

GENERAL BACKGROUND

1. Why a CCP?

<div style="border: 1px solid #c0306a; background-color: #fce8e8; padding: 1em;">

Article 20.6 of the ENI CBC Implementing Rules

Each participating country shall appoint:

[...] (b) a control contact point to support the Managing Authority in its control of the programme obligations;

</div>

In the overall framework of the increased responsibilities of the ENI CBC participating countries, new legal provisions have been introduced in terms of management, control and audit. According to the new rules, and in view of the full application of shared management, all participating countries shall foresee the following three bodies:

- The National Authority;
- **The Control Contact Point**;
- The member of the Group of auditors.

Each of these bodies will intervene in a different level of the programme's management and control system:

Audit	Member of the Group of auditors
Control	Control Contact Point
Management	National Authority
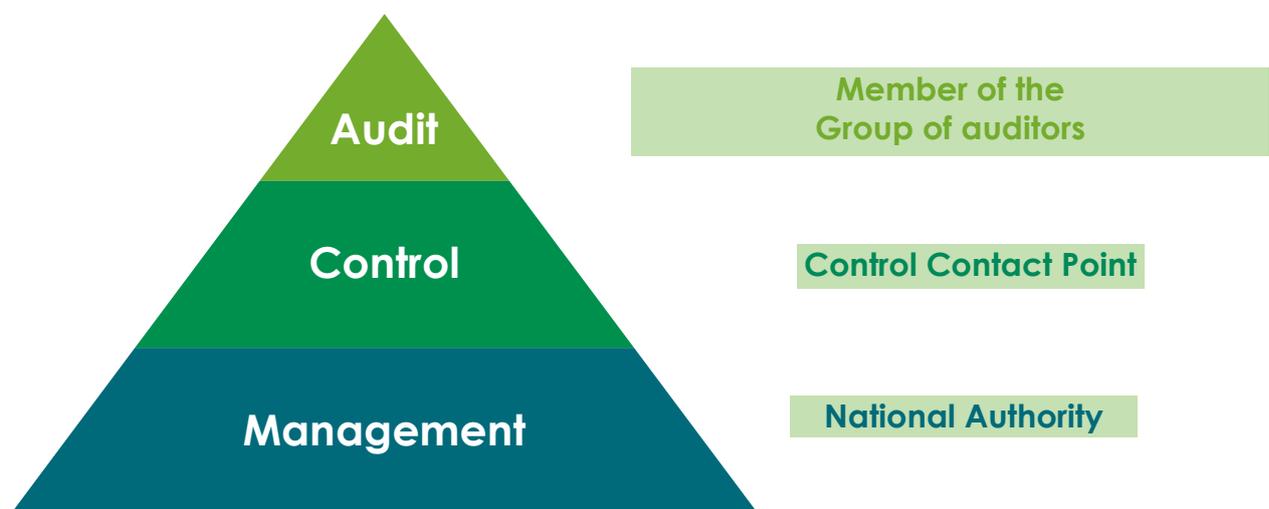
CCPs are therefore part of the **competent authorities** of each ENI CBC programme and will actually play a significant role during this programming period.

particip

2. What for? The core role of the CCP

The specific tasks entrusted to the CCPs vary from programme to programme, and the choice has been made taking into account the considerations not only of the MAs but also of the participating countries themselves. Irrespective these differences, the field of intervention in which the role of the CCPs shall be deployed is clearly laid down in Article 32.2 of the ENI CBC IRs:

Article 32.2 of the ENI CBC Implementing Rules

*For the purpose of <u>carrying out verifications</u> throughout the whole programme area, **the Managing Authority may be assisted by the control contact points***.

This is complemented with Article 32.3, according to which:

Article 32.3 of the ENI CBC Implementing Rules

*The participating countries shall take all possible measures to support the **Managing Authority in its <u>control tasks</u>***.

The major part of the programme control tasks relate to **expenditure verification**. It is important to highlight though that CCPs may well be involved in other control tasks also, such as the support to the **management verifications** of the MA/JTS, be it <u>administrative verifications</u> for each payment request by beneficiaries or <u>on-the-spot project verifications</u>.

particip

3. The CCPs in the ENI CBC Joint Operational Programmes

Joint Operational Programmes (JOPs) include a description of the CCP tasks related to article 32 of ENI CBC IRs. However, the level of detail varies from programme to programme. Examples of the tasks described in the JOPs are as follows[1]:

Article 32 - Selection of auditors

- The CCP must endorse that the auditor contracted by an organisation of its nationality involved in the partnership of a financed project meets at least one of the criteria indicated in art. 32.1 of the ENI-CBC Implementing Rules *(MSB)*

- Setting up the criteria for the auditors to be contracted by beneficiaries *(PBU)*

- Takes the appropriate measures at national level (in Ukraine)for informing the beneficiaries regarding the existence of the pool of auditors and the rules for using the auditors *(RO-UA)*

- The two countries chose the option of private auditors for carrying out the expenditure verification reports of the projects. These auditors shall be selected from a long list *(IT-TU)*

Article 26 - Support to the verifications of the MA

- Ensuring that the expenditure declared is examined by a controller *(either auditor or competent public officer)* meeting the criteria set out in the ENI CBC Implementing Rules *(BSB)*

- For the purpose of carrying out verifications throughout the whole Programme area, the MA shall be assisted by the Control Contact Points *(LLB)*

- CCPs act as assistants to the MA and support the MA in the elaboration of guidance on expenditure verification *(EE-RU)*

- Elaboration of guidelines, templates and checklists for controllers *(either auditors or competent public officers)* and beneficiaries in order to assist them in preparing their reports *(HSRU)*

- Provide information and clarifications on the national rules that have consequences for conducting the audits or additional checks on projects *(Karelia, Kolarctic and SEFR-RU and LT-RU)*

- Support the MA in organising trainings for projects' auditors, if necessary *(LV-RU)*

- Supports the on-the-spot project verifications carried out on a sample basis, by the MA or the body contracted by MA for this purpose, at the request of MA *(RO-MD)*

- Upon request by the MA, conducting quality control of the work of the auditors *(PL-RU)*

---

[1] One example per programme; each JOP includes more than one element.

While, as can be seen, the level of detail in the JOPs remains quite general, the programmes have further explained the CCP involvement when preparing the description of management and control systems and when further developing monitoring and control procedures.

In addition to the above, other tasks are defined for the CCPs, such as for example:

- helping the MA to organise trainings for projects' auditors;
- carrying out quality control of the work of auditors.

Additionally, the CCPs can be involved in cooperation with other bodies at national level. For example, all ENI CBC programmes are obliged to set up procedures to ensure effective and proportionate <u>antifraud measures</u>. To that end, a cooperation or information exchange between the CCP and the national antifraud body might be needed.

It is important to highlight that the **independence of the CCP** should be ensured. Article 32 of the ENI CBC IRs requires to guarantee the independence between the expenditure verification procedure, the verifications carried out by the MA and the audits carried out by the Audit Authority (AA). For example, if the CCP is providing support to the MA's control tasks, it should avoid providing the opinion on the eligibility of cost items prior to the expenditure verification. This might cause a conflict later on with the findings of the expenditure verification of the MA itself.

In those cases where the expenditure verification will be performed by staff (competent public officers) of the institution **acting also as the CCP, an adequate segregation of functions** with the management and audit levels **should be ensured,** as foreseen in article 32 of the ENI CBC IRs.

4. Setting up the CCP: when?

Before presenting in detail the tasks in which CCPs are being currently involved in the different programmes, it is important to highlight that, optimally, all practicalities (functions, responsibilities and operational aspects) of the CCPs should be arranged at the latest by the start of project implementation (i.e., signature of the grant contracts).

> ### *Example*
> *The Poland – Belarus – Ukraine Programme has established regular meetings between CCPs to train them on the programme requirements, exchange on the most common mistakes identified in the projects, update the CCPs on the changes in the programme documents, as well as agree on how the CCPs will be involved in the checks carried out by the programme bodies.*

In addition, and if possible, the CCPs should be operational at least until the end of the implementation and reporting of all projects in the programme to ensure that the support to the control is provided on an on-going basis.

particip

SECTION 2:

THE TASKS OF THE CCP IN PRACTICE

5. Tasks related to the selection of auditors (Article 32)

5.1. Selection process

Overall, programmes and participating countries follow different approaches when it comes to the selection of auditors at project level: in some cases, the programme bodies, including the CCPs, play a role in this selection, whereas in others they do not. When for a programme/country it is agreed that support related to the selection of auditors will be provided, CCPs can first of all assist the MA by **ensuring that the independent external auditors meet the legal requirements**, including the necessary experience and know-how.

Selection of auditors in Member States and Norway:

Country	Public officers	Long list	Short list	Free choice
Norway				X
Sweden				X
Finland				X
Estonia	X			
Latvia	X			
Lithuania				X
Poland				X
Slovakia	X			
Hungary	X			
Romania	X			
Bulgaria			X	
Greece				X
Cyprus				X
Italy		X (IT-TU)		X (MSB)
Malta				X
France		X		
Spain				X
Portugal		X		

Selection of auditors in CBC Partner Countries:

Country	Public officers	Long list	Short list	Free choice
Russia				X
Belarus		X		
Ukraine		X		
Republic of Moldova		X		
Georgia		X		
Armenia		X		
Turkey(*)	X		X	
Lebanon				X
Palestine				X
Jordan				X
Israel				X
Egypt				X
Tunisia		X		

(*) In Turkey, the work is carried out by a short list of controllers, but the report is revised and signed by the CCP.

Please find below the description of the main methods used in the selection process of external auditors in the ENI CBC programmes:

5.1.1. Free selection of the auditor

Under this scenario, the choice of the auditor by the beneficiary does not require involving neither the CCP nor any other programme body. In principle, the beneficiaries follow the respective procurement procedure in order to select the auditor that complies with the set criteria. There are two general directions:

- Free **selection of any auditor** that fulfils the requirements set in article 32 of the ENI CBC IR and those set by the programme (*for example, Russian beneficiaries in the case of the Karelia Programme*);
- Free selection of the auditor from the **list prepared by the respective participating country** (*for example, Georgian beneficiaries in the case of the Black Sea Basin Programme*).

5.1.2. Selection of the auditor validated by the programme

A) Validation by the MA

Under this scenario, the beneficiaries follow the procedure as above in order to select the auditor[2], but at the same time the programme bodies must be informed about

---

[2] Any auditor complying the requirements or the auditor from the list prepared by the respective participating country.

particip

the selected auditor, and they maintain control over the final decision (i.e., by retaining the right to reject the auditor).

> ### *Example*
>
> *For Lithuanian beneficiaries in the Lithuania – Russia Programme, the JTS checks that the selected Lithuanian auditors comply with national and programme requirements for auditors, and submits the information about the selected Lithuanian auditors to the MA. The MA has the right of rejecting the selected auditor(s).*

There is a nuance to the above-mentioned approach: prior to the selection, the **CCP might be involved** in consulting the beneficiary for the choice of the auditor.

> ### *Example*
>
> *Belarussian beneficiaries in the Latvia – Lithuania – Belarus Programme are recommended to consult with the Belarussian CCP regarding national requirements applicable to the auditor and the agreements with the selected auditors can be signed only after the approval of selected auditor by the MA.*

B) Validation by the CCP

This approach is similar to the one mentioned above in the point A with the difference that, instead of the MA, it is the CCP who confirms the choice of the auditor.

> ### *Example*
>
> *The Polish beneficiaries in the Poland – Belarus – Ukraine Programme are responsible for selecting the auditor in accordance with the public procurement procedures and programme requirements; however, the auditor specified by the beneficiary must be approved by the CCP.*
>
> *In the case of the Mediterranean Sea Basin Programme, CCPs in all countries are asked to endorse the auditors selected by the beneficiaries.*

5.1.3.   Selection of the auditor by appointment

In this case the auditor is appointed to the beneficiary by the CCP. It is not a commonly used approach, but also presents one of the many options used in the ENI CBC programmes.

> *Example*
>
> *This is the case of the Turkish CCP in the Black Sea Basin Programme. Moreover, in this specific case, the auditors receive a fixed fee for their services.*

5.1.4. Additional considerations

❖ **Deadlines**. The procedure (be it the endorsement of auditors freely selected by beneficiaries or the assignment of auditors from a short/long list) should ensure that any deadline for beneficiaries set by the MA to **communicate the name of selected auditor** can be easily met. This is of utmost importance when the communication of the name of the auditor may be a pre-requisite for signing the grant contract.

❖ **Costs**. When selecting an external auditor, each project beneficiary would normally pay the private auditors from the project budget (it would be considered as eligible expenditure), regardless of the procedure for appointment.

❖ **Updates**. The **creation of short/long lists should not be considered as a static, one-off procedure.** When deciding on the conditions for setting such lists, the programme can consider indicating that auditors can be removed from the list when checks by the relevant national or programme bodies show that their work is not reliable. These assumptions are linked to possible quality assurance tasks performed by the CCPs, as foreseen in a number of programmes.
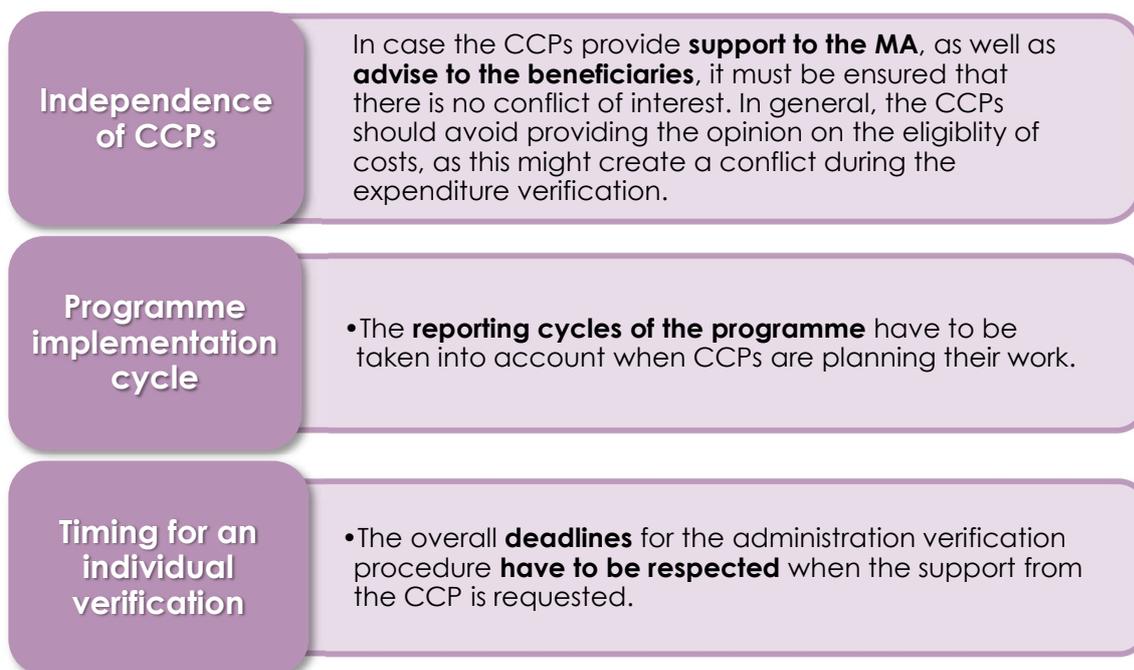
particip

6. Support to the MA/JTS verifications (Article 26)

6.1. Elaboration of guidelines, templates and checklists

According to article 32 of the ENI CBC IRs, all programmes shall define 'agreed-upon' procedures for expenditure verification. On top of this requirement, additional guidelines, templates (for reports or for contracts between beneficiaries and auditors) or checklists might be needed. It is up to each programme to decide to which extent the CCPs will be involved in the development of these documents. On the other hand, even if the CCPs will not contribute to their development, they should possess in-depth knowledge about the content of the procedures and guidelines issued at programme level.

6.2. Administrative verifications for each payment request

The CCPs can be involved in **providing clarifications on various national rules** (procurement, labour, tax, etc.) to the MA/JTS during their verifications of the project progress report. The CCP involvement can be expected on an on-going basis. For the programmes where common reporting deadlines are defined for all projects, the peak is likely to take place after the submission of the progress reports to the programme bodies, **when the MA/JTS** perform their **verification procedures**. The following practical aspects have to be considered:

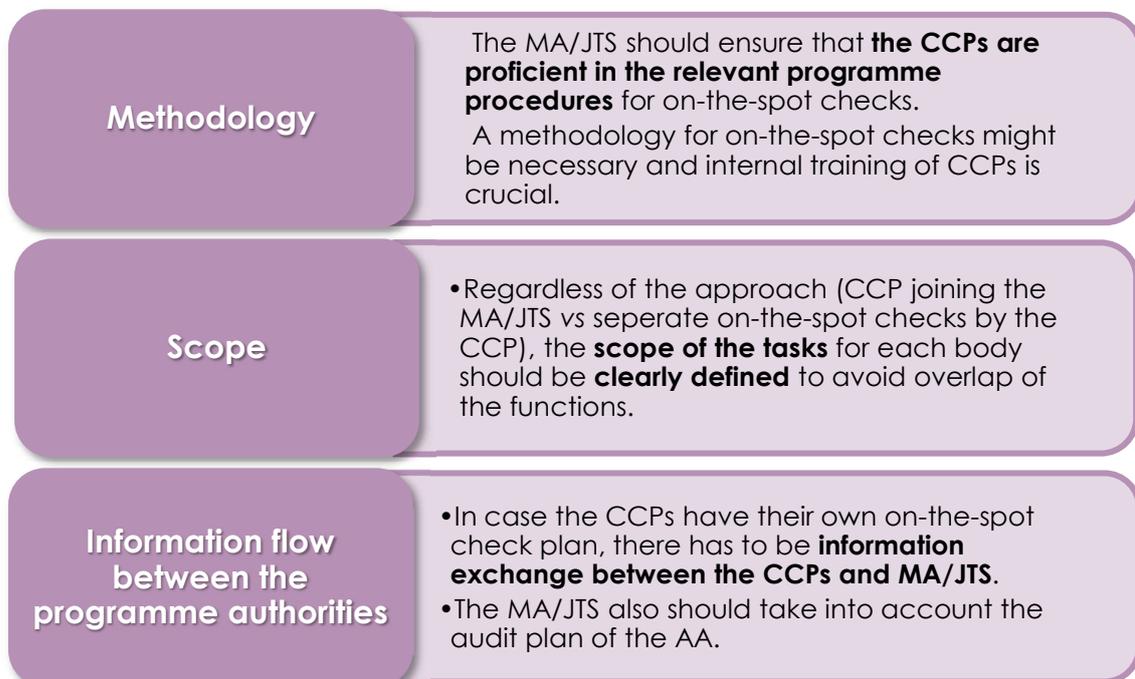|	
Independence of CCPs	In case the CCPs provide **support to the MA**, as well as **advise to the beneficiaries**, it must be ensured that there is no conflict of interest. In general, the CCPs should avoid providing the opinion on the eligiblity of costs, as this might create a conflict during the expenditure verification.
Programme implementation cycle	• The **reporting cycles of the programme** have to be taken into account when CCPs are planning their work.
Timing for an individual verification	• The overall **deadlines** for the administration verification procedure **have to be respected** when the support from the CCP is requested.

6.3. On-the-spot project verifications

When setting the scope of the CCP's tasks, the MAs can consider their involvement in the **on-the-spot checks** of project beneficiaries and partners **on the national territory**. These checks **can be either planned** (such as projects visited at least once in their lifetime) or **unplanned** (following a risk assessment or the detection of serious irregularities or suspicion of fraud).

Additionally, the MAs can decide that the CCP can perform on-the-spot checks directly, either at the request of the **MA itself** or **on the basis of the CCP's own plan**. When done on the basis of their own plan, **coordination with the MA** is essential. Whatever the case, these checks should be duly coordinated by the MA, and the CCP representatives should be proficient in the procedures set by the programme.

Finally, when preparing the verification plan, the MA should also take into account the audit plan for projects under the responsibility of the AA, as well as the results of the audits of previous periods. Such coordination would allow to timely identify and organize the verifications for the projects/partners/ beneficiaries where the risks are identified, as well as it would allow to avoid overlap of the work:

Methodology	The MA/JTS should ensure that **the CCPs are proficient in the relevant programme procedures** for on-the-spot checks. A methodology for on-the-spot checks might be necessary and internal training of CCPs is crucial.
Scope	• Regardless of the approach (CCP joining the MA/JTS vs seperate on-the-spot checks by the CCP), the **scope of the tasks** for each body should be **clearly defined** to avoid overlap of the functions.
Information flow between the programme authorities	• In case the CCPs have their own on-the-spot check plan, there has to be **information exchange between the CCPs and MA/JTS**. • The MA/JTS also should take into account the audit plan of the AA.

7. Additional elements of support

❖ *Training*

In a number of ENI CBC programmes it is planned that the CCPs will provide support to the MA when **training the independent external auditors**. These trainings should aim to ensure a shared understanding of the scope and application of both programme and EU rules, as well as national rules. Moreover, it should also focus on the contents of the agreed-upon-procedures as foreseen in article 32.2 of ENI CBC IRs.

The following practical aspects have to be taken into account:

Methodology	The MA/JTS/CCPs should **clearly communicate the key messages** to the auditors as a wider effort of **setting the tone.** This includes, for example, the importance to follow the agreed-upon-procedures, the possible consequences if this is not the case and the relationships between the auditor and the project**.**
Timing	• An appropriate timing of the trainings is of utmost importance, as they have to be properly **integrated with the procedure for selection of auditors** and **in line with the reporting cycles** of the programme. Follow-up trainings or cyclical meetings (e.g., on an annual basis) might be needed.
Re-assessment of the need for training	• When annually summarising the controls done in the programme, the MA - together with the JTS and CCPs - might decide on **repeating the training exercise if needed.** This applies for example when there are indications of low quality, or in view of the findings stemming from audits by the AA.

Example

The Black Sea Basin Programme (MA, JTS and the respective CCPs) have organized, with TESIM support, a series of trainings for the external auditors in the CBC Partner Countries. The main requirements of the programme, as well as the practicalities of the expenditure verification, were addressed during the events. Similarly, the JTS of the Estonia – Russia Programme, together with the Estonian CCP, organized trainings for the auditors to explain the programme requirements on budget set up, eligibility of costs and communication and visibility, and the usage of the electronic monitoring system.

particip

❖ *Working together with other programme bodies*

The reliability of the expenditure verification system is one of the cornerstones for the successful monitoring and control system of the programme. Reliability means that there is a certain level of trust (created by the facts and findings from the monitoring of the control system) between the various levels of control (internal control of the project, expenditure verification, MA/JTS verifications). As they are part of the control system, CCPs can contribute to obtaining and sustaining the necessary level of trust and reliability.

In practice, various ENI CBC programmes have planned to establish quality control mechanisms to ensure the reliability of the expenditure verification system.

As presented in section 3, several programmes have indicated in their JOPs that the **CCPs will be involved** with the tasks related to the reliability of the expenditure verification, such as **monitoring of the quality of the work done by the auditors,** especially in the case when expenditure verification is carried out by independent private bodies. This is a task with (potentially) significant consequences to the control system established in the programme. Therefore, a number of elements might be considered, taking into account that this process is not pre-defined by the ENI CBC IR:

✓ First, a **shared understanding** between the programme bodies is needed, especially about the criteria[3] which will be used to decide when an expenditure verification report should undergo **the quality control**. Such shared understanding of the 'quality standard' can be part of the overall effort of the MAs to establish an effective control system in all programme participating countries. To that end, the MAs might decide training the CCPs before the start of their duties. Additionally, periodical (for example, annual) networking meetings between the MA/JTS and CCPs can help improving the common understanding of the programme requirements and practices.

Example
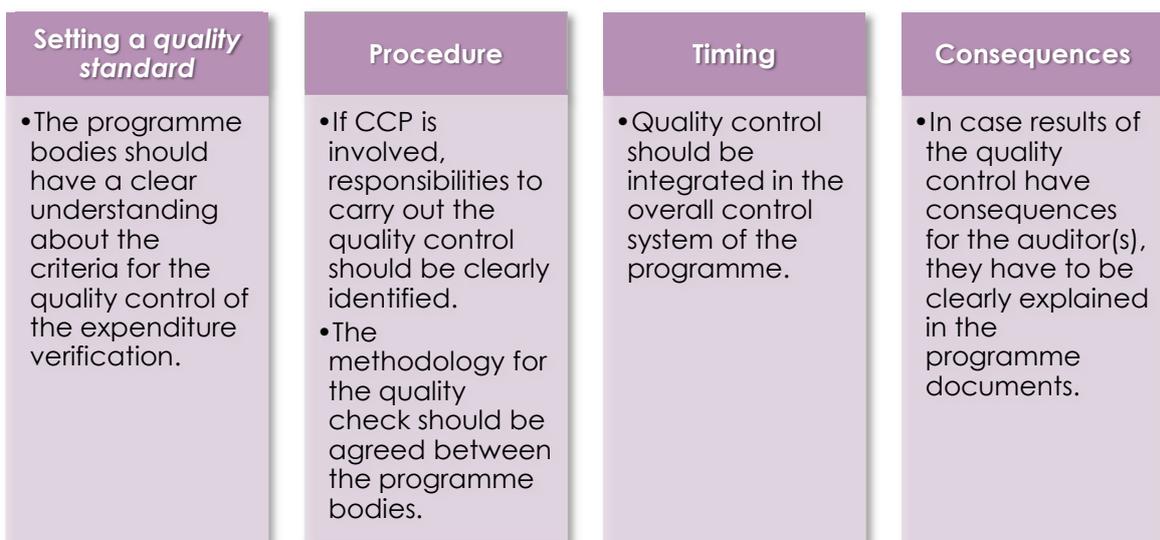
In the Poland – Belarus – Ukraine Programme, the JTS and CCPs aim to carry out on-the-spot visits together and have a coordinated procedure and timetable of the on-the-spot visits to the project sites.

---

[3] A number of parameters can be used such as, for example, findings by the MA/JTS during their verifications, findings by the AA, information or findings from third parties, etc.

✓ Second, the programmes should have clear **arrangements on how the quality control will be ensured**. In case the MA delegates the quality control to the CCPs, a procedure or guidance, defining key questions that have to be checked or verified by the CCPs during the quality control, is necessary. Such guidance would also allow harmonising the process across all programme countries. If the trainings for auditors are organized by the CCPs, the possibility to organize these trainings a few months before the submission of the first progress report should be considered, in order for the auditors to be fully knowledgeable about the programme requirements before the start of their tasks.

✓ Third, the **implementation cycle** of the projects has to be **taken into account.** If quality control is implemented by the programme, it is advised to start it early in the implementation cycle, so that the programme is able to react to the results, manage the risks related to the auditors and take the necessary steps, where needed.

✓ Fourth, each individual programme will establish which are the **consequences of the findings from the quality control**. If the quality control results might impact the respective auditor (for example, excluding the auditor from the list), this has to be clearly communicated in the programme documents (terms of reference for auditors, etc.). Additionally, the modification of the list of auditors might be necessary.

To summarise what has been mentioned above:

Setting a *quality standard*	Procedure	Timing	Consequences
• The programme bodies should have a clear understanding about the criteria for the quality control of the expenditure verification.	• If CCP is involved, responsibilities to carry out the quality control should be clearly identified. • The methodology for the quality check should be agreed between the programme bodies.	• Quality control should be integrated in the overall control system of the programme.	• In case results of the quality control have consequences for the auditor(s), they have to be clearly explained in the programme documents.

particip

8. Conclusions

- The functions of the CCPs to support the MA in its control tasks are pre-defined in the JOPs only in very general terms; the MAs and the participating countries use different approaches in engaging the CCP in the practical tasks.

- The MAs/JTSs are advised to invest a sufficient amount of time for the preparation and training of the respective CCPs before they start implementing their functions. There are good examples in the ENI CBC community!

- Taking into account that the main tasks of the CCPs will be related to expenditure verification, the CCP staff should possess in-depth knowledge about the procedures applicable in the programme.

- The CCPs are an integral part of a well-functioning control system! Therefore, regular communication and feedback between the MA, JTS, CCPs and other bodies to exchange on findings and conclusions should be ensured.

particip