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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.9.2009
COM(2009) 465 final

REPORT FROM THE COMMISSION
ANNUAL REPORT ON THE COHESION FUND (2008)

[SEC(2009) 1159 final]

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Regulation (EC) No 1084/2006 establishing a Cohesion Fund and repealing Regulation (EC) No 1164/94 does not require the presentation of an annual report on the Cohesion Fund.

Therefore this report is presented in conformity with Article 14(1) of Regulation (EC) No 1164/1994 and thus covers the implementation during 2008 of Cohesion Fund projects adopted under the 2000-2006 period as well as ex-ISPA projects in the Member States concerned, including Bulgaria and Romania.

As a consequence, this report covers Cohesion Fund operations in the thirteen beneficiary Member States as of end-2006, i.e. Greece, Spain, Portugal, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia, as well as Bulgaria and Romania.

Details on the implementation in 2008 of projects adopted under the 2000-2006 period for each Member State are presented in the Annex to this report.

1. FINANCIAL EXECUTION OF THE 2000-2006 PERIOD IN 2008 AND CLOSURE OF PROJECTS

In 2008, fifteen Member States were eligible to receive assistance from the Cohesion Fund (the 12 Member States who acceded in 2004 and 2007 plus Greece, Portugal and Spain). It must be recalled that, as a result of economic growth, Ireland has not been eligible since 1 January 2004.

Given that all commitments for the Cohesion Fund projects financed under 2000-2006 programming period have been executed by 31 December 2006, the financial resources available for the Cohesion Fund in 2008 were made only of payment appropriations.

Payments made in 2008 for projects adopted under the 2000-2006 period

The 2008 initial budget amounted to €1,937 million. However, the submission pace of payment requests quickly required reinforcements in terms of payment appropriations. The Directorate General for Regional Policy requested increases of payment appropriations for a total amount of around €553 million. The increase of the credits was the result of an overall good performance of Member States and in particular for four beneficiary Member States that exceeded their forecasts, namely Slovenia, Slovakia, Lithuania and Estonia.

As far as the ex-ISPA budget lines are concerned, at the end of the year, the situation resulted in 100 % execution rate of the available appropriations.

At the end of 2008, the average absorption rate (payments vs. commitments) of all current beneficiary countries for both the Cohesion Fund and former ISPA projects was 66.3 %. Bulgaria presents the lowest absorption rate (39.8 %), whereas Malta shows the highest absorption rate at 79.8 %. The other Member States range from 50.9 % to 76.1 % of the decided amount.

Table 1: Implementation of the Cohesion Fund and ex-ISPA payments in 2008 (Euro)

Payment Appropriations	Initial	Movements	Final Resources	Outturn	Cancelled	Carryovers 2009
Cohesion Fund	1.936.747.200	+ 250.000.000 + 300.000.000 + 2.779.418	2.489.526.618	2.489.299.691	-	-
Ex-ISPA	650.000.000	-100.000.000 -10.000.000	540.000.000	531.454.029		
TOTAL	2.586.747.200	+442.779.418	3.029.526.618	3.020.753.720	-	-

Table 2 shows the level of payments in 2008 for each Member State. The payments done in the framework of the ex-ISPA contribution are included, as they have all been turned into Cohesion Fund projects at the date of the accession. Main beneficiary Member States are Spain among the EU-3 Member States, Poland in the EU-10 Member States and Romania in the EU-2 Member States.

Table 2: Payments made in 2008 to Cohesion Fund and ex-ISPA projects per Member State (including technical assistance)

Member State	Environment		Transport		Technical Assistance	TOTAL	
	Amount	%	Amount	%	Amount	Amount	% of total EU 15
Greece	81.235.894	40,7%	115.853.539	58,0%	2.518.623	199.608.056	6,6%
Portugal	121.124.899	62,3%	73.149.733	37,6%	181.537	194.456.170	6,4%
Spain	401.570.546	62,3%	242.969.772	37,7%		644.540.318	21,3%
EU 3	603.931.339	58,1%	431.973.044	41,6%	2.700.160	1.038.604.543	34,4%
Cyprus	5.814.955	65,0%	3.134.086	35,0%		8.949.040	0,3%
Czech Republic	86.699.762	50,3%	84.954.613	49,3%	633.784	172.288.158	5,7%
Estonia	38.398.994	54,6%	29.140.155	41,4%	2.765.566	70.304.714	2,3%
Hungary	40.777.254	51,3%	36.533.591	46,0%	2.110.617	79.421.462	2,6%
Latvia	64.544.604	64,5%	32.774.486	32,8%	2.746.852	100.065.942	3,3%
Lithuania	114.458.156	62,2%	61.109.392	33,2%	8.370.251	183.937.800	6,1%
Malta	5.212.565	99,4%		0,0%	29.765	5.242.331	0,2%
Poland	528.130.703	67,3%	247.053.953	31,5%	9.419.180	784.603.837	26,0%
Slovakia	82.362.076	53,1%	71.696.734	46,3%	927.381	154.986.191	5,1%
Slovenia	22.326.262	45,3%	26.911.481	54,7%		49.237.743	1,6%
EU 10	988.725.331	61,4%	593.308.491	36,9%	27.003.396	1.609.037.218	53,3%
Bulgaria	30.643.656	57,3%	6.944.044	13,0%	15.863.224	53.450.924	1,8%
Romania	180.683.377	56,5%	122.030.336	38,2%	16.947.321	319.661.035	10,6%
EU 2	211.327.034	56,6%	128.974.380	34,6%	32.810.545	373.111.959	12,4%
TOTAL	1.803.983.704	59,7%	1.154.255.915	38,2%	62.514.101	3.020.753.720	100,0%

Outstanding commitments from the 2000-2006 period

At the end of 2008, the outstanding commitments ("*reste à liquider*", RAL) corresponding to the 2000-2006 period (including two new Member States: Bulgaria and Romania) amounted to €11.77 billion, down from 2007 (€14.80 billion). The 2000-2006 regulatory framework for commitments and payments implies a relatively large stock of outstanding commitments. They are equal to the amount corresponding to almost three years of commitments.

Table 3: Cohesion Fund and ex-ISPA accepted amounts in 2000-2006 (including RAL)

Member State	Net Committed (until 12/2008)	Paid (until 12/2008)	RAL as at 31/12/2008
Greece	2.503.744.174	2.450.738.235	1.152.286.728
Spain	11.788.531.423	9.838.026.775	3.094.434.304
Ireland	573.575.321	570.010.223	55.745.185
Portugal	3.156.539.424	2.427.127.170	1.077.862.318
EU 4	18.022.390.343	15.285.902.403	5.380.328.535
Cyprus	54.014.695	31.793.262	22.221.433
Czech Republic	1.228.077.241	796.786.963	431.290.278
Estonia	427.034.848	289.151.602	137.883.246
Hungary	1.482.597.185	780.102.018	702.495.167
Latvia	713.862.336	499.522.087	214.340.249
Lithuania	846.449.583	559.974.524	265.380.251
Malta	21.966.289	17.529.702	4.436.587
Poland	5.634.539.614	2.871.741.538	2.762.798.076
Slovakia	766.250.297	539.212.844	227.037.453
Slovenia	254.198.103	162.579.583	91.618.520
EU 10	11.428.990.190	6.548.394.123	4.859.501.260
Bulgaria	879.941.333	350.021.546	529.813.137
Romania	2.043.037.858	1.040.128.078	1.002.599.040
EU 2	2.922.979.191	1.390.149.624	1.532.412.177
TOTAL	32.374.359.723	23.224.446.150	11.772.241.972

Closure of projects from the 2000-2006 period

During 2008, 49 Cohesion Fund and ex-ISPA projects were closed, representing around €750 million of payments. At the end of 2008, the total number of closed CF projects for the 2000-2006 period (including ex-ISPA projects) reached 216 and the number of projects remaining open decreased to 976 out of 1.192 projects. Table 4 provides information on the projects closed until the end of 2008 per Member States.

Table 4: Number of CF projects closed until the end of 2008 (including ex-ISPA)

Member State	Total number of CF projects	Projects closed as of end 2008		Number of open projects as of end 2008
		Number of Projects	Total Paid in Euro	
Greece	124	34	886.825.780	90
Spain	407	80	2.363.473.998	327
Ireland	10	3	250.368.797	7
Portugal	109	24	580.082.620	85
EU 4	650	141	4.080.751.195	509
Czech Republic	58	14	192.671.263	44
Estonia	37	14	75.086.815	23
Cyprus	2	0	0	2
Latvia	46	10	44.331.604	36
Lithuania	51	9	82.084.499	42
Hungary	47	10	11.153.890	37
Malta	3	0	0	3
Poland	130	5	27.825.974	125
Slovenia	28	6	55.213.444	22
Slovakia	39	4	6.880.841	35
EU 10	441	72	495.248.330	369
Bulgaria	38	1	950.121	37
Romania	63	2	1.794.822	61
EU 2	101	3	2.744.943	98
TOTAL	1.192	216	4.578.744.468	976

2. ECONOMIC ENVIRONMENT AND CONDITIONALITY

Council Regulation (EC) No 1164/94, which governs the Cohesion Fund for projects approved prior to the end of 2006¹, attaches budgetary policy conditions to the disbursements by the Fund. It provides that "no new projects or, in the event of important projects, no new project stages shall be financed by the Fund in a Member State in the event of the Council, acting by a qualified majority on a recommendation from the Commission, finding that the Member State [...] has not implemented [its stability or convergence programme] in such a way as to avoid an excessive deficit". At the end of 2008, one Member State eligible for support under the Cohesion Fund (Hungary) remained in the excessive deficit procedure (EDP) which, according to the aforementioned Regulation, may under certain conditions be associated with the suspension of transfers from the Fund. There was however no need to adopt such a measure since the Council, on the basis of available information, decided that the Hungarian government had acted in a manner consistent with its recommendation. As noted in the previous annual report, the Council decided to abrogate the EDP for Slovakia, Portugal, Poland and the Czech Republic in July 2008.

Hungary entered EDP immediately upon accession in 2004, based on a general government deficit of 5.9% for 2003. Since then, Hungary's failure to take effective action in response to Council recommendations has been noted on two occasions, in January 2005 and in November 2005. Since Hungary is not a member of the euro area, it has a specific derogation from the application of further steps of the EDP. In July 2007, the Council issued a new set of recommendations under Article 104(7) of the treaty. On neither of these occasions did the Commission recommend a suspension of Cohesion Fund commitments to the Council. In July 2009 the Council decided, in view of the economic crisis, to issue a new deadline of 2011 to put an end to the excessive deficit in accordance with Article 104(7).

Council Regulation (EC) No 1084/2006, which governs the Cohesion Fund for the period 2007-2013², has cleared up several uncertainties that surrounded the application of Cohesion Fund conditionality in the past. It foresees that, following an Article 104(8) decision the Commission may propose the suspension of Cohesion Fund support. In turn, the Council may decide to suspend all or part of the commitments, with effect from 1 January of the year following the decision. If the Council subsequently finds, in the context of the EDP, that the Member State has taken the necessary corrective action, this automatically implies a decision to lift the suspension of Cohesion Fund commitments. Rules for re-budgeting the suspended commitments have been laid down.

3. AUDITS AND FINANCIAL CORRECTIONS

2008 was a year of overlap between the management of the final stage of implementation of the 2000-2006 programming period including the preparation for its closure, and the opening of the 2007-13 programming period. The management and control environment in place in 2008 was therefore meant to address both risks

¹ Based on Article 6 of Council Regulation (EC) No 1164/94.

² Council Regulation (EC) No 1084/2006 of 11 July 2006.

related to the preparation for closure of past programmes and projects and the risks of set up of management and control systems in the new programmes.

Audit work for Programming period 1994-1999 - EU 4 (Greece, Ireland, Portugal, Spain).

The Cohesion Fund closure enquiry concerning the period 1994-1999 covered 10% of Cohesion Fund projects representing 20% of the co-financed expenditure during this period. The fieldwork was finalised in 2003 and the main deficiencies found were insufficient management verifications resulting in ineligible expenditure and breaches of public procurement rules. Financial correction procedures resulting from the closure enquiry were concluded during 2008, except for three remaining projects (two in Spain, one in Portugal) which will be finalised in 2009.

Audit work for Programming period 2000-2006 - EU 14 (EU 10 + EU 4).

For EU-14 Member States in 2008, four audit missions were carried out which focused on the follow-up of previous audit recommendations. In addition, five missions for the review of winding-up bodies were performed in order to verify the preparation of Member States for closure and to identify and mitigate related risks.

In 2008, DG Regional Policy examined winding up declarations submitted for the closure of 2000-2006 Cohesion Fund projects, of which 60 (representing 5% of all CF projects) related to Spanish projects.

Other audit work for the programming period 2000-2006 included the examination of the annual control reports received under Article 12 of Regulation No. 1386/2002. By the end of 2008, the majority of reports had been analysed, and replies sent to the Member States with observations and, where necessary, requests for additional information in order to be able to draw as much assurance as possible from the results of national audit work. Furthermore, a number of national system audit reports were received in 2008.

The last of the annual bilateral coordination meetings with the Directorate General for Regional Policy for the year 2007 was held in February 2008. As 2008 was a transitional year, it was decided to reschedule the bilateral coordination meetings for 2008 to the first half of 2009. Bilateral meetings are held annually with national audit authorities to exchange information on the implementation of audit work and to discuss progress on sample checks and follow-up of audit findings. The meetings in 2009 will cover issues concerning both programming periods 2000-2006 and 2007-2013.

Impact of controls

Financial corrections

In the exercise of its supervisory role, DG Regional Policy has implemented a policy of suspending interim payments and applying financial corrections as soon as it is established that there are serious deficiencies which put at risk the reimbursements of Funds made to Member States. It also established a revised manual of procedures to streamline the internal arrangements for the adoption of suspension and correction decisions.

Where, after due verifications, the Commission finds that the expenditure certified in an interim payment application is linked to a serious irregularity and not immediate remedial action is taken by the Member State, the formal suspension of payments procedure is launched. During 2008 DG REGIO adopted for the Cohesion Fund one suspension decision concerning Bulgaria in relation to two projects in the road sector.

Financial corrections totalling €92.7 million were made in 2008 as follow-up to audits by the Commission or the Court or Auditors or to OLAF enquiries. Of this total, €38.2 million related to projects of the 1994-99 programming period and €54.5 million to the 2000-2006 period. The corrections were either applied by formal Commission decisions (€66.2 million) or were accepted by the Member States without the need for a decision (€26.5 million).

Four financial correction decisions related to Cohesion Fund projects in the 1994-1999 programming period were adopted for an amount of €31.5 million and nine for the 2000-2006 programming period for an amount of €34.7 million.

Of the €26.5 million of corrections accepted by the Member States €6.7 million related to 1994-1999 and €19.8 million to 2000-2006. These are implemented by deduction from payment claims or from the balance payable at closure.

Table 5 illustrates the amount of financial corrections by Member State and programming period.

Table 5: Cohesion Fund financial corrections in 2008 by period and country (in EUR)

Member State	Cohesion Fund		TOTAL
	Period 2000-2006	Period 1994-1999	
Greece	23,405,436	5,674,477	29,079,913
Spain	19,927,164	32,483,151	52,410,315
Ireland	-	-	-
Portugal	11,062,188	-	11,062,188
EU 4	63,259,764	38,157,628	92,552,416
Cyprus	-	-	-
Czech Republic	-	-	-
Estonia	125,073	-	125,073
Hungary	-	-	-
Latvia	-	-	-
Lithuania	65,833	-	65,833
Malta	-	-	-
Poland	123	-	123
Slovenia	-	-	-
Slovakia	-	-	-
EU 10	191,029	-	191,029
Bulgaria	6,156	-	6,156
Romania	-	-	-
EU 2	6,156	-	6,156
TOTAL	54,591,973	38,157,628	92,749,601

Management and Control systems

In the Directorate General's Annual Activity Report for 2008, for the functioning of the management and control systems (2000-2006), an unqualified opinion, signifying that there are no material deficiencies in key elements of the system, was given for the Cohesion Fund systems in seven Member States (Cyprus, Estonia, Hungary – transport sector, Latvia, Malta, Portugal and Slovenia) corresponding to 15.45% of payments made in 2008 as a proportion of total payments for the Cohesion Fund.

For ten Member States, representing 84.55% of CF payments made in 2008, the opinion was qualified, signifying the existence of material deficiencies in key system

elements. This concerned Bulgaria, the Czech Republic, Greece, Hungary (environment sector), Ireland, Lithuania, Poland, Romania, Slovakia and Spain. In all cases the impact of the deficiencies was judged to be moderate, except for the road sector in Bulgaria.

For the road sector in Bulgaria the opinion was qualified with the impact of the material deficiencies affecting key elements of the system being judged significant. Accordingly, a reservation was made for the road sector in Bulgaria in the Directorate General's Annual Activity report for 2008. The Commission suspended payments to the Bulgarian road sector projects between July 2008 and May 2009 for this reason.

Details on the audits and the financial corrections for each Member State are presented in the Annex to this report.

4. IRREGULARITIES NOTIFIED BY THE MEMBER STATES

In 2008, the Member States communicated to the Commission, in accordance with Regulation (EC) No 1831/94, 140 notifications of irregularities involving a total affected amount of € 56,328,911 in respect of co-financed projects. Out of this amount, € 19,768,042 has been recovered, and the remaining amount is to be recovered. The Member States reporting the majority of cases are Spain, Portugal, Hungary and Greece (64, 22, 13 and 12 respectively). Spain reported more than 46% of the total of the cases and 44% of the involved amount. However, it is to be pointed out that Ireland, with three notifications relating to the 1994-1999 period, stands on the second highest level in terms of amount involved, followed by Lithuania.

The number of notifications shows an increase, with a radical decrease of the involved amount, compared to the previous year. The main types of irregularities reported are ineligible expenditure, and infringements to public procurement rules. These two typologies cover almost 75% of all cases reported. However, the Lithuanian authorities reported two cases of "suspected fraud". The involved amount concerning both cases is yet to be calculated.

Table 6 illustrates the number of irregularities and the related financial amounts communicated by Member States under Regulation (EC) No 1831/94 in 2008.

Table 6: Irregularities communicated by Member States in 2008 (in EUR)

Member State	Number of irregularities	Financial amounts	Amounts awaiting recovery
Greece	12	4,937,771	326,398
Spain	64	24,827,955	14,442,900
Ireland	3	9,498,140	0
Portugal	22	5,655,879	2,602,188
EU 4	101	44,919,745	17,371,486
Cyprus	0	0	0
Czech Republic	2	88,210	0
Estonia	2	129,614	0
Hungary	13	1,400,938	1,033,292
Latvia	5	86,279	86,279
Lithuania	8	8,280,568	47,056
Malta	0	0	0
Poland	7	214,754	65,550
Slovenia	0	0	0
Slovakia	2	1,208,803	1,164,379
EU 10	39	11,409,166	2,396,556
TOTAL	140	56,328,911	19,768,042

5. EVALUATION

The Commission and the Member States carry out appraisal and evaluation of all co-financed projects. The projects to be financed by the Fund are adopted by the Commission in agreement with the beneficiary Member States.

Each request for assistance is accompanied by a cost-benefit analysis (CBA) of the project. The CBA has to demonstrate that the socio-economic benefits in the medium term are proportionate to the financial resources mobilised. The Commission examines this CBA on the basis of the principles set out in the guide for cost-benefit analysis. The guide, first published in 2003, was updated in 2008 to incorporate the development of Community policies, financial instruments and the new regulatory framework under which major projects will be financed during the 2007-2013 programming period.

In 2008, the Commission continued to assist Member States through actions of capacity building aiming to improve the consistency of the ex-ante financial and economic analysis of the projects. As a result, the Guide rapidly achieved a wider circulation, both within civil servants in Member States and candidate countries as well as within the staff of financial institutions and consultants involved in the preparation and evaluation of major projects. A printed version of the Guide was therefore published, providing methodological guidance to project promoters in the Member States and candidate countries, while serving as a reference to Commission officials involved in the appraisal of major projects.

In addition, the Commission carries out ex-post evaluation on samples of projects co-financed by the Cohesion Fund. The last evaluation was published in 2005 and looked at a sample of 200 projects implemented over the 1993-2002 period. The next ex-post evaluation will be launched in the last quarter of 2009 and will look at a sample of both Cohesion Fund and ISPA projects implemented during the 2000-2006 period.

6. INFORMATION AND PUBLICITY

As indicated in the annual report for 2007, issues concerning the Cohesion Fund are, as from 1 January 2007, dealt within the Coordination Committee of the Funds (COCOF, according to Regulation (EC) No 1083/2006).

Apart from issues of common interest for ERDF and Cohesion Fund, some issues of specific interest for the Cohesion Fund were presented or discussed during the following meetings of the COCOF: in February the revised "Guidelines for the amendment of Cohesion Fund projects 2000-2006", and in April the "Guidelines on the closure of Cohesion Fund and Ex-ISPA projects 2000-2006", which were adopted by the Commission on 4 April (No (SEC(2008)415).

As regards the Commission measures on information and publicity, the focus in 2008 was on implementation of the publicity requirements for the 2007-2013 period. One of the biggest challenges was the examination of compatibility of the communication plans, as requested by Commission Regulation (EC) No 1828/2006. A network of communication officers responsible for implementation of the information and publicity rules for ERDF and Cohesion Fund ("INFORM") met in June and in November. DG Regional Policy published a "Review of EU Cohesion Policy Communication Plans 2007-2013 - Activities of national and regional managing authorities in the field of communication". The review, materials from the INFORM meetings, as well as various information and publicity tools prepared for both Cohesion Fund and ERDF, are available at a dedicated website³.

³ http://ec.europa.eu/regional_policy/country/commu/index_en.cfm?nmenu=1