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Mr Andžs Ūbelis
Deputy State Secretary
Ministry of Finance
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Latvia

Please, note the below references and the above registration number on all correspondence with the Commission.

Subject: Observations on the Annual Implementation Reports (AIR), article 67§4 of EC Regulation 1083/2006

Ref.: Operational Programmes:
2007LV161PO001 Entrepreneurship and Innovations
2007LV161PO002 Infrastructure and Services
Annual Implementation Reports 2007

Dear Mr Ūbelis,

The Commission received the Annual Implementation Reports 2007 for the following programmes:

- on 15.07.2008 Entrepreneurship and Innovations Operational Programme, which has been approved by the Monitoring Committee on 20.6.2008;
- on 15.07.2008 Infrastructure and Services Operational Programme, which has been approved by the Monitoring Committee on 20.6.2008.

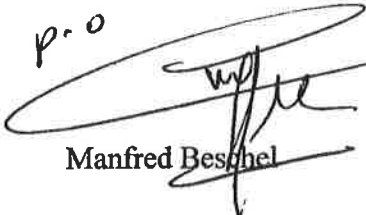
On 31.07.2008 the Commission declared the Annual Implementation Reports admissible.

In line with article 67§4 of EC Regulation 1083/2006, the Commission services have now finalised the qualitative assessment of the reports and found them satisfactory. However, we would like to present in annexes to this letter the following comments that we request to be reflected in future Annual Implementation Reports.

In addition, the Managing Authority via the report has asked the Commission about application of art 55 of regulation (EC) 1083/2006 (chapter 2.2). I refer to the ongoing discussion in COCOF and the coming modification of this article of the regulation.

Furthermore I want to confirm that there is no formal obligation to apply the co-financing rate of the priority axis to projects.

Yours sincerely,

p.o.

Manfred Beschel

Annexes: 2

Copy: Ms Karina Zencova (Ministry of Finance)
Mr Loranca-Garcia (Employment, Social Affairs and Equal Opportunities Directorate-General, Unit C1)
Mr Kissmeyer-Nielsen (Agriculture and Rural Development Directorate-General, Unit F2)
Ms Veits (Maritime Affairs and Fisheries Directorate-General, Unit C3)
Mr Charles Groutage (Regional Policy Directorate-General, Unit A3)
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Mr Bernard Lange (Regional Policy Directorate-General, Unit D1)
Mr Aderito Pinto (Regional Policy Directorate-General, Unit J4)

Annex XVIII of the Commission Regulation no 1828/2006 presents the template that sets out the format of the *minimum* required information, and the Member States are invited to further develop this template to the specific needs in order to contribute to the more strategic discussions in the Monitoring Committees and in the Annual Examinations of Programmes between the Commission and the Managing Authorities.

The scope of the reports should therefore be adjusted in comparison to the experience of the programme period of 2000-2006 including more qualitative analysis on:

- the strategic aspects and content of the interventions;
- the financial and physical progress in the implementation;
- the management and control activities.

Hereby we present, following the model template of the Regulation, the proposals for additional/improved elements that should be included in the future reports.

2- Overview of the implementation of the Operational Programme

2.1. Achievement and analysis of the progress

This section should mostly deal with the strategic progress – i.e. progress in relation with the sectorial strategies underlying the OPs and the strategic goals of the OPs.

Under this section, we recommend also providing a presentation and critical analysis of quantitative and qualitative contribution of the programme to the targets established for Latvia in the National Strategic Reference Framework and the Lisbon reform programme. Therefore annual reports should provide information on how objectives established in these strategic reference documents were addressed by the programme.

Therefore, the achievement analysis section should describe the arrangements made in order to ensure that the strategic priorities are sufficiently and properly reflected and actually translated into project selection, as well as a description how the contribution made towards the strategic targets has been monitored and measured.

2.1.5 Cumulative information on categories of expenditure

In line with Article 11 of Regulation no 1828/2006, the managing authority is requested to fill in the cumulative figures on earmarking categories on selected operations (in other words, committed projects). In order to remain consistent with the OP, please include in SFC2007 the value 0 for all those categories used in the programmes where contracting has not taken place yet. Exceptionally for 2007 as the OP implementation has not started yet, the table could stay empty.

In addition, the information on any significant changes in allocations between categories as a result of policy changes should be explained beneath the table.

2.2. Information about compliance with Community law

We recommend including here the targets and obligations arising from the accession treaty, particularly in the water, wastewater and waste sectors, but also in other sectors, when appropriate. Then the progress made in the implementation of the programmes (and national instruments) can be compared with the targets and deadlines.

2.3 Significant problems encountered and measures taken to overcome them

We invite you to introduce an annual risk-assessment exercise results under this section. During the implementing period, this approach will have to continue, with annual analysis and re-assessment of the risks. The Commission is interested to have annual follow-up analysis, if the risks described in the assessment actually realised to some extent or whether the mitigation measures undertaken ensured that the risks did not realise.

2.6 Complementarity with other instruments

Given the early stage of implementation of the programme, it is understandable that the annual reports could not presently demonstrate complementarities with ESF, EAFRD, EFF operations and ERDF interventions in other programmes, but as the implementation progresses, complementarities and demarcation issues should be described in more detail, if possible with the example of concrete projects and situations encountered.

Annual reports in the future should also summarise results of this coordination as well as explain in more detail practicalities of mechanisms established and complementarities and mutual reinforcement of ESF/ EAFRD/EFF and ERDF operations, referring to the strategic context of the interventions.

Short description of coordination with purely national instruments and non-EU international instruments could be provided, including respective financial amounts involved in specific sectors.

It is equally important to assess the effectiveness of measures taken to avoid double-funding of similar activities through different financial sources.

Apart from concrete examples, annual reports should demonstrate how, at the stage of selection of project checks against demarcation lines are envisaged in the procedure of selection of projects (including with projects financed from non-EU funding instruments).

2.7 Monitoring arrangements

2.7.x. Governance of OP

This section should describe measures undertaken in order to improve the governance of Managing Authority administration in implementing the operational programme and in delivering the strategic targets.

2.7.y. Managements verifications

Under this section, we propose to include an overview of the work and results of the management and control system. The Commission is, as stressed during the implementation of 2000 – 2006 programmes, continuously interested in the quantitative and qualitative information on verifications carried out under Article 60 of Regulation (EC) No 1083/2006, which cover administrative, financial, technical and physical aspects of operations, conducted by the Implementing Bodies under the responsibility of the Managing Authority.

For Article 60 "on the desk checks" and "on the spot checks", the information should include distinctly:

- i. a short reminder of the division of tasks between 1st and 2nd level intermediate bodies and Managing Authority and an overview of the principles of checks (at what stage of implementation the checks are carried out, what elements are checked, number of checks, number and financial value of projects checked, etc.); as verifications are not exhaustive, but are performed on a sample of operations, short description of the sampling method;
- ii. the overview of guidance, support and supervision activities by the Managing Authorities regarding Article 60 checks implementation, including documents issued by Managing Authority to the intermediate bodies and indication of other efforts to ensure quality and consistency of the checks between intermediate bodies and to improve the capabilities of the IT system in documenting the management checks;
- iii. the total yearly amounts checked and % of checks (coverage of Art. 60 checks) by year from (as far as possible per Implementing Body). The reports should include the total coverage of checks (including number of projects and financial amounts checked compared to total number of projects and total amounts and % of expenditure yearly declared to Implementing Bodies.
- iv. the main findings of Article 60 checks, broken down by priority and/or intermediate body, indicating whether a finding is systemic or not and the financial value of the incorrect errors/ineligibilities found in Article 60 checks leading to the deduction (with or without possible replacement) of expenditure presented by the final recipient;
- v. the information on the amounts of irregularities communicated and remaining to be communicated to national judicial authorities and/or OLAF following Art. 60 checks;
- vi. the corrective measures taken in respect of discrepancies and degree of implementation of these corrective measures.

2.7.z. IT systems

The Structural Funds Information System (EURA 2007 and Wepa 2007) should be described in more detail (their possibilities, development activities, system's shortcomings, problems detected during the use of the system).

Section on monitoring and data collection should include more specific reporting on cross-financing between ERDF and ESF, particularly on how data on cross-financing is collected and the level of cross-financing is monitored; it would be also welcomed if reports summarise categories of cross-financed costs to give an idea on how flexibility is used.

3- Implementation by priority

3.1 Priority

3.1.1. a) Achievement of targets and analysis of the progress

The programming period 2007-2013 puts a larger emphasis on the "management by objectives" approach which resulted in a more strategic nature of the programmes with clearly defined quantifiable objectives at the level of both programme and priority axes. This requires that the results of "ongoing evaluation" are part of the programme implementation from the beginning for "early detection" of problems in achieving the targets set out in the programmes. In this context it is recommended that next annual reports present annual targets for next year's indicators for all indicators.

Presentation of interim targets and data on committed projects will give a better overview of the real state of progress and would allow for active management of the programme and early identification of problems and corrective measures. As the SFC2007 indicators' module is limited to elements described in Annex XVIII of the Regulation 1828/2006, it is recommended that the achievements based on committed projects are reported in hard copy of the reports in a separate, additional line of the table.

One of the major concerns of the Commission is the information on actions taken to ensure cost effectiveness and value for money achieved with the projects. First of all, this is ensured with the application of proper selection criteria in selecting the projects, but cost-effectiveness can also be achieved in developing the projects proposed by the beneficiaries. Also it is possible to find synergies and develop initial distinct project ideas into improved joint project. Therefore we request reporting on the activities undertaken by intermediate bodies in this framework.

While reporting on the progress in priority axes, the future report should include rather detailed description of (types of) activities supported under every priority axes in order to verify that these are in line with the strategic objectives of the programme, especially for rather wide or particularly complex priority axes. In this respect we recommend to include:

- the expected long term impact, the economic, social and environmental sustainability of the implemented activities, as the complementarities and added value rationale should be explained;
- the links and the selection rationale of the groups of operations (formerly called "measures") as regard particular objectives should be presented and the possible changes in the content of the priority and measures and in the selection system should be described and justified.

3.1.1. b) Horizontal priorities

Though it is understandable that the progress in implementation of the programme does not allow demonstrating how the horizontal priorities were implemented through ERDF interventions, the Commission expects that the next annual reports will monitor this principle and include more qualitative information the number of projects with impact on horizontal priorities does not reveal much information.

The 2007 report however describes the system how the horizontal priorities will be followed up. The Commission notes that while some responsible bodies are actively drafting guidelines, others, in particular the bodies responsible for the horizontal priorities Information Society and environmental protection only react to enquires. The Commission recommends to the Managing Authority to require guidelines for all horizontal priorities.

In addition, the Commission would like to clarify that the understanding of the equal opportunities principle is not only limited to between women and men. It is important to take into account all the dimensions of this principle. It will be very relevant for example to ensure that ERDF operations respond to specific conditions of disabled persons through adaptation of infrastructure to the needs of disabled. The Commission would recommend that annual reports in the future present the broadest possible understanding of the principle of equal opportunities. Furthermore this principle can be implemented at various stages: in ERDF operations themselves, in the process of monitoring of the OP (for example membership of the Monitoring Committee, presentation of indicators related to persons in gender breakdown). All these aspects should be taken into account in reporting on how the principle was implemented.

3.1.2. Significant problems encountered and measures taken to overcome them

Following Art 61 of Regulation 1083/2006 based on the independent audits and other information known at the time of reporting, the Certifying Authority is invited to express conclusive statement if it is satisfied or not with the level and the quality of Article 60 checks and if the management and control system in place is effective or not (supported with justification). Justification should include references to work done by audit authority in their system checks and sample audits that will give confidence on the effectiveness of management verifications.

This section should also include the overview of the results of audits carried out pursuant Article 62 of Regulation 1083/2006. Audit coverage and audit findings will enable to conclude, if the management and control system is functioning properly and if its effectiveness has been verified with outside audits.

5. ERDF/CF programmes: major projects

We recommend extending the monitoring measures on projects that are not major projects as defined in the regulation, but which nevertheless have high budgetary importance in relation to the volume of the programme. We might refer to them as "large projects" and define these as projects that are planned to absorb over 1% of EU assistance of the programme.

We recommend putting in place more detailed arrangements to allow for monitoring of major or large projects as the success of the programme depends largely on the success of the implementation of these projects. Pursuant to Article 67.2.g of the EC Regulation 1083/2006, the report should include, the information on the progress and financing of major projects. This part should refer not only to the status of the list of major projects as a whole but it should also present the state of play project per project. (physical and financial) and state of preparation activities (state of technical design, EIA, CBA, state aid notification, land acquisition, public procurement, construction permits etc.) for projects planned. JASPERS involvement should be specified.

In particular, the report should also deliver the information on monitoring of the EIA procedure with a focus on fulfilment of conditional clauses which might be included in the national grant agreements. Additionally, the information should also be given on foreseen dates of submission of requests for confirmation of assistance, in particular as regards the year in which the report was submitted.

6. Technical Assistance

The use of **Technical Assistance** should be broken down by implementing body.

7. Information and publicity

The information required under art. 4.2 of Regulation 1828/2006 should be presented, especially any major modifications to the Communication Plan of the OP. In addition, please also include:

- indicators from the Communication Plan for the OP and, if relevant, from the OP;
- arrangements for publication of list of beneficiaries, the names of operations, and the amount of public funding allocated to them;
- examples of measures taken to provide information and publicity on the OP, including examples of good practices.

Conclusion

The Commission recommends that the future Annual Implementation Reports conclude with a number of conclusions/recommendations to be adopted by the Monitoring Committee and that could automatically serve as the starting point for the agenda of the Annual Examinations of programmes. Among these recommendations, proposals for commissioning evaluations should be provided, as it is the duty of Monitoring Committee to decide on these.

Annex II

We have some **clarifications on the financial implementation table** in SFC, based on the questions raised by other Member States that might prove to be useful for Latvian authorities as well.

- the information provided in Column 1 (Expenditure paid out by the beneficiaries included in the payment claims sent to the managing authority) should include only the applications for payments sent to the managing authority unless the managing authority has expressly delegated this task to an intermediate body;
- the information provided in Column 4 (Expenditure paid by the body responsible for making payments to the beneficiaries) refers more in general to "the body responsible for making payments" and includes therefore also the payments made by intermediate bodies to the beneficiaries. According to Article 61 of Regulation (EC) No 1083/2006, only the statements of expenditure and the applications for payment submitted to the Commission have to be certified. Therefore, the expenditure paid by the body responsible for making payments to the beneficiaries includes all the payments made and not only those which have already been certified;
- the information provided in Column 5 (total payments received from the Commission) should include only interim payments