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

Ref: Operational Programmes
2007LV161PO001
2007LV161PO002

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Dear Mr Antonovs

On 5 July 2010, the Commission received the Annual Implementation Report (AIR) for the year 2009 concerning the Operational Programme "Entrepreneurship and Innovations" 2007-2013, and on 2 July the one concerning the Operational Programme "Infrastructure and Services" 2007-2013 which have been approved by the Monitoring Committee on 11 June 2010. On 16 July 2010 the Commission declared the Annual Implementation Reports admissible. The EC appreciates that the AIRs include a short summary in English.

As you might recall, the Commission accepted the AIRs for 2007 and 2008, but submitted a number of qualitative comments to be implemented in the subsequent AIRs for 2009 and onwards. The Commission position is that all comments expressed in previous years as well as those during Annual examination meetings should be followed up in the AIR 2009 and AIR 2010. The Commission has repeated this message also during the annual examination meeting on 24 March 2010 and its subsequent follow up letter of 19 July 2010 requesting an update on the implementation of the recommendations expressed.

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Before reacting to the annual report 2009, my services awaited the submission of your response to the observations and recommendations expressed in our letter following the annual examination meeting (received 08/11/2010).

In line with article 67§4 of EC Regulation 1083/2006 and taking into account the information provided, the Commission services have now finalised the qualitative assessment of the report and would like to present the following general comments that have to be taken into account for the AIR 2010 and following reports. If not specified otherwise, the comments relate to both OP 2007LV161PO001 and OP 2007LV161PO002 Annual Implementation Reports.

1. The strategic aspects

A. Progress towards the strategic objectives of the OPs

In general, now that the implementation is progressing, the Commission's expectation for the AIRs 2009 is to receive more substantial information and in depth qualitative analysis on the progress of the priorities in each programme. Of major interest for us is the information on the efforts by the managing authority to secure the contribution from the national public resources (state budget and municipalities budget) both in terms of available budgetary amounts and co-financing rates resources to the programmes implementation, and to target their use on the agreed long term and sustainable strategic objectives.

Observing actual implementation and decisions made on the allocation of EU funds, there does not seem to be a strong and prioritized plan leading to optimisation of the investment decisions and towards the achievement of pre-set targets and priorities, of the greatest impact and highest added value. The allocation of resources seems to be more driven by budgetary consideration than by strategic implementation. REGIO is concerned by the risk of massive substitution of national funding by ERDF resources and would like to have transparent reporting on this issue. The analysis of implementation has to be based on financial and physical indicators and complemented with the identification and interpretation of the bottlenecks and major factors impacting the progress of each priority and measure: the substance should concentrate more on qualitative assessment than on description. Furthermore, the length of the reports should be reduced by presenting the basic facts in tables and graphs and reporting in the annexes the necessary quantitative information.

B. Lisbon Policy links of the programme

We have requested that information is included in the Annual Implementation reports of 2009 on the expenditure under the activities related to the National Lisbon Programme:

2007LV161PO001: A short analysis of the provided figures would be welcome. How the identified measures would contribute towards the LNLP goals? Some comments at the activity level could be added (examples of achievements/failures). A brief description on the progress of implementation (or expected progress as most of the measures have not experienced any progress yet, except 2.2.1.) would be useful.

2007LV161PO002: Examples to be added on the activities with less progress. Which areas are expected to experience most progress during the coming year?

C. Baltic Sea Region Strategy

It would be useful to include a brief supplementary qualitative analysis addressing the following points: which priorities are going to support the common Baltic Sea Region Strategy? What has Latvia done/is planning to do in order to get more involved in the cooperation process with the neighbouring countries? Involvement of the managing authority to reach a closer cooperation between the OPs and EUSBSR. Better coordination and cooperation with the different line ministries and Intermediate Bodies.

D. Horizontal Priorities

Some concrete examples of implemented projects and their results/impact would be welcome. The 2009 AIRs do not demonstrate any progress in ensuring the HPs implementation, monitoring and impact assessment across the OPs activities. A qualitative analysis of the implementation progress by activity in relation to the achievements of the HPs objectives is necessary. How is the implementation of the HPs across the listed activities ensured? What are the main findings and conclusions of the implementation progress? Have the guidelines been used?

When will the planned evaluation study on the supervision system and assessment of monitoring indicators including vertical and horizontal priorities be done?

HP Information society. 2007LV161PO001: We note that there has been a lack of progress in implementing the HP on Information society. It is reported that in order to ensure a better co-ordination, monitoring and evaluation the responsible Ministry is going to elaborate a progress and evaluation methodology in 2010. However, in the current report the given information could be supplemented by more qualitative analysis of the current situation.

Results of the general energy efficiency horizontal priority has to be included (requested also by our letter ref. 12350/19.12.2008).

2. The financial and physical progress.

The reports do not provide any kind of analysis of the current progress: information on the number of projects decided/number of applications submitted under the different versions of selection criteria as the Commission had requested. Despite the specific provisions under the Financial Memorandum of Understanding the budgetary constraints have heavily impacted the approval of the decisions. The start and the implementation of some projects and measures have been cancelled or postponed. I would like to urge the Latvian managing authority to speed up the implementation process using in full the specially allocated budgetary resources.

Information on the activities taken by MA in order to better coordinate the selection process (e.g. provide continued guidance to the intermediate bodies, supervise the way the selection process is applied by them and check carefully the appropriateness of the chosen selection criteria and procedure) has to be provided. I would like to remind that the monitoring committee has to approve the applicable selection criteria (Article 65 (a) of Council Regulation No 1083/2006).

Statistical analysis of the number and amounts of projects under public procurement rules and the results of their compliance assessment have to be provided.

The managing authority and the Latvian contracting authorities should take all the necessary actions to ensure that the contracts implementing projects under the OPs are tendered in compliance with the relevant EU procurement acquis, i.e. Directive 2004/17/EC, Directive 2004/18/EC, Regulation (EC) No 1564/2005 and the General Principles from the EU Treaties where applicable, as interpreted by the relevant ECJ case law. Given the importance of the topic and the past experience in the field of public procurement, it seems necessary to elaborate in more detail the "gaps" mentioned with reference to public procurements in order to give the Commission assurance on the proper execution of the programmes.

3. The Management and control activities.

A. Indicators

In the Reports there is no indication on the new approach to use Core indicators and how these have been applied/compared to existing national indicators. An analysis should be provided for the indicators where the target value has obviously been underestimated or where the discrepancy between the target and the execution is significant. I would like to remind also the question raised under the horizontal priorities paragraph on the evaluation study for assessing the monitoring indicators system.

B. Risk management

The risk management approach and corrective and preventive measures have not been reflected in the AIR though it was previously communicated that information on the risk management system would be included in the Annual Implementation reports 2009.

C. Reasonable assurance of the managing authority

The Commission services will be interested to receive information from the managing authority on the basis and methods used to build its assessment and degree of assurance on the compliance of the implemented activities and projects with the European acquis.

4. Information and publicity

We would invite the Latvian authorities to improve reporting on publicity and information to better reflect the progress regarding outputs according to the Communication Plan. For a better overview we would invite the authorities to demonstrate the achievements in a tabular format and by fund. The same would apply to reporting on results, expected in 2010 according to the joint Communication Plan.

5. Conclusion

To conclude, I would like to thank the managing authority for its efforts to improve the annual implementation reports. In view of the above comments, I would like to invite you to send the additional qualitative data and analysis as well as the clarifications requested before 31 January 2011. The Commission services will need the requested information sufficiently in advance before the next annual examination meeting to enable a qualitative discussion on the implementation and future challenges with regard to the OPs.

Recommendations to the Monitoring Committee

Last year we recommended that the future Annual Implementation Reports conclude with a number of proposals to be discussed and adopted by the monitoring committee.

The purpose of the recommendations to the monitoring committee is to try to respond to the challenges and solve possible problems in the implementation of the programmes. Therefore, these recommendations for remedial actions should derive from and reflect the issues raised in the evaluation, risk analysis, and in identifying deviations from the strategic objectives during the implementation. They also have to reflect the Commission observations.

The Commission would in particular like to invite the managing authority to report and inform the monitoring committee during the next meetings on:

- (1) Its level of assurance as regards the soundness of financial management in 2009 considering the insufficient coverage of the on-the-spot checks in 2009;
- (2) The actions to be taken to remedy the identified risks of deviation from the targeted objectives in implementing the different priorities;
- (3) The actions to strengthen the supervision of:
 - the selection process and proposals to reinforce alignment of the implementation with the objectives;
 - the financial management and respect of EU and national regulations as regards public procurement rules, state aid schemes;
 - implementation of horizontal principles such as environmental protection and non discrimination.
- (4) Proposals on evaluation studies to be launched in 2011

These conclusions/recommendations could also serve as the starting point for the agenda of the next annual examination meeting and their inclusion would help to strengthen the strategic value of the future annual reports and contribute to more strategic discussions.

Yours sincerely

Charlina Vitcheva