

## **New Member States and the Structural Funds. Assessment of the Management Capacity**

**Reader Gabriela Drăgan, Ph.D.**  
**Faculty of International Business and Economics,**  
**Academy of Economic Studies, Bucharest**

### **The general overview of the programming period in the new member states**

In the case of the Structural Funds but not only the negotiations for accession to the EU should be more appropriately called “*entrance examination*” rather than negotiations<sup>1</sup>. New member states have not much to negotiate with respect to the overall amount of money that will be available for regional projects since the global amounts were allocated to the acceding countries long before they are able to enter the Union. In these conditions, for the new member states is important to demonstrate the capacity to manage those funds, other words their administrative capacity.

The administrative capacity of candidate countries is a multi-faceted concept that requires the existence of central and local administrative structure with competent staff, inclusion of the

private sector and other interested groups in all phases (from planning to implementation and to evaluation), preparation of integrated multi-annual programmes that are sufficient to utilize allocated funds, use of interim evaluation and ex post performance assessment techniques, and the ability to comply with the additionality principle.

At the accession negotiations it was essential for acceding countries to provide convincing information concerning the existence or the establishment of the necessary administrative machinery, identification of their regional needs, and identification of remedial measures.

According the Commission document “*Guidelines for programmes in the period 2000 to 2006*” (from 1 September 1999), candidate countries will be helped “*to prepare their programming strategy for each of the Objectives 1,2 and 3 of the Structural Funds and their links with the Cohesion Fund*” as to make the best possible use of Community assistance. Because the 10 new accession countries which should become members at 1

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<sup>1</sup> Frank Bollen, Ines Hartwig, Phaedon Nicolaides, EU Structural Funds beyond Agenda 2000. Reform and Implications for Current and Future Member States, European Institute of Public Administration, Maastricht, 2000, p.199

May 2004 had faced particular situations, the Commission has decided to publish a new document, “*Complement to the indicative guidelines*”, which constitutes a useful supplement and not a replacement of the former one.

Accession negotiations resulted in a financial allocation for the new Member States of 22 billion euro for Structural Funds (SF) and Cohesion Fund (CF) for the period 2004-2006 and that means a challenge for these countries in ensuring programmes conducive to growth and employment, the adequate absorption capacity and administrative structures for an efficient implementation of structural instruments.

In this context, the acceding countries have committed themselves to carry out the necessary preparations before the end of 2003 concerning the establishment and implementation of administrative structures as well as monitoring and control procedures which are indispensable for the sound implementation of these funds. The significance of this timetable rises given that the eligibility of projects to be funded under the SF and CF already starts on 1 January 2004. The EU has already made clear that the Commission will not be able to approve financial support until conditions set out in the EU regulations are satisfied.

The EU support for the candidate countries in the pre-accession period has been provided by three channels<sup>2</sup>:

1. Financial track, meaning support through the pre-accession financial instruments:

a. **ISPA** – offers preparation for the Cohesion Fund;

b. **SAPARD** assists the adaptation for the agricultural and rural sector and support the preparation for the European Agricultural Guidance and Guarantee Fund (EAGGF);

c. A significant part of **Phare** (namely the Economic and Social Cohesion and Cross-Border Cooperation components) which is a precursor of the SF’s programmes.

2. Technical assistance and administrative cooperation track through twinning, seminars, road maps to prepare for the SF and support for the preparation of programming documents;

3. Loans from the *European Investments Bank* for providing support for vital investments in the acceding countries, often supplementing grants from ISPA.

The first programming period for the new MS will be very short of three years instead of seven years as in the current MS. Even in these three years they will not be able to tackle and solve all their difficulties, they should establish clear priorities in order to concentrate the impact of the SI on their most crucial needs. Because all the regions of the 10 new member states are on the list of the 25% of regions with the lowest GDP per capita, they should promote as a main priority

<sup>2</sup> Cyprus and Malta did not benefit from ISPA and SAPARD programmes but they received special financial support, mainly for institutional support.

the growth enhancing conditions and factors that will lead to a real convergence among all regions.

## The assessment of the management and control systems in the acceding countries

In order to evaluate the state of preparation of new countries' management systems in implementing the Funds, the Commission made a complete assessment<sup>3</sup> with a year before their accession (see the *Communication from the Commission to the European Parliament and the Council*, from 16 July 2003<sup>4</sup>). The document has evaluated the following six categories, namely:

- *legislative framework*
- *institutional framework*
- *administrative capacity*
- *programming capacity*
- *financial and budgetary management*
- *project pipeline based on ISPA, SAPARD and Phare experience.*

Further on, we'll try to focus on the main conclusions of the Commission document.

### **Legislative framework**

<sup>3</sup> In accordance with the Article 6 of the Regulation 438/2001 and Article 5(3) of Regulation 1386/2002

<sup>4</sup> Commission of the European Communities, *Communication from the Commission to the European Parliament and the Council on the implementation of the commitments undertaken by the acceding countries in the context of accession negotiations on chapter 21 – Regional Policy and Coordination of Structural Instruments*, Brussels, 16.7.2003, COM(2003) 433 final

Harmonization and full transposition of the legislation are an essential pre-condition for the implementation of Cohesion and SF assistance. Therefore, the compliance with the *acquis* is absolutely necessary in the areas of public procurement, state aids / competition, equal opportunities or environmental protection.

Because the public procurement legislation was not in full compliance with EC rules, this legislation must be aligned and full transposed by 31 December 2003 in order to fully benefit from project and expenditure eligibility from 1 January as laid down in the Accession Treaty.

However, in the field of competition and state aid legislation it must be retained that only state aid schemes approved by the end of 2003 will be eligible for assistance under SF from 1 January 2004. Specific procedural requirements are to be observed for state aid schemes that will be co-financed by SF in transport, fishery, and agricultural sector.

Issues to be resolved still remain in the area of environmental impact assessment, nature protection (designation of NATURA 2000 site) and waste management (adoption of waste management plans) as a pre-condition for the implementation of the SF and CF.

### **Institutional framework**

Problems related to institutional framework included the *inter-ministerial co-ordination* but also institutional arrangements of the implementation system, an issue of particular concern be-

ing the number and role of *Intermediate Bodies* (IB), the recommendation of the Commission to limit the number of IB per programme has been taken into account. A clear description of tasks between the designated Managing Authorities (MA) and IB still need to be elaborated and laid down in written agreements in all acceding countries.

As *Paying Authorities* all acceding countries have opted for a single one for all SF and CF, located in the Ministry of Finance. The legislative framework provides that the person or department certifying expenditure declarations to the Commission must be independent of any service approving claims.

Apart from the checks which are the responsibility of the MA<sup>5</sup> and the certification process – responsibility of PA<sup>6</sup>, the main requirements for financial control involve sample checks and *systems of audits*, including the clear delimitation between the services carrying out these checks and the staff involved in the implementation or payment procedures. All acceding countries must establish an audit strategy in order to provide an early implementation of the control as well as the application of a methodology for the selection of operations to be checked.

### ***Administrative capacity***

As regard the administrative capacity most candidate countries have developed *recruitment and training plans*. In general, this kind of plans addresses

<sup>5</sup> Art. 4 of Regulation 438/2001 and 1386/2002

<sup>6</sup> Art. 9 of Regulation 438/2001 and Art 8 of Regulation 1386/2002

the requirements of MA and PA and the needs of IB are not covered. At the same time, particular attention needs to be paid to reinforce administrative capacity of regional and local administration. In most cases, the public administrations have problems in attracting and retaining qualified and motivated staff.

Because there is a certain temptation in some of the acceding countries to establish new bodies and new structures for the selection of projects instead of building on those from the pre-accession funds, this could be a serious risk in *overcomplicating an inexperienced organizational structure* where tasks of different actors are overlapping.

All acceding countries are in the early stages of developing guidelines and programme manuals. It must be noted that currently many guidelines were being developed in a fragmented way with the risk of overlapping. Also, it is very important to underline that the new member states are encourage exploring the possibilities to co-finance certain additional administrative expenses from the future technical assistance budgets<sup>7</sup>.

### ***Programming capacity***

In line with the Commission recommendations, the acceding countries have adopted a simplified programming approach with a significant number of Operational Programmes (OP), priorities and measures. Most countries gave priority to upgrading their infrastructure and to develop the com-

<sup>7</sup> Rule no 11 annexed to Regulation 1685/2000

petitiveness of their economies in line with Lisbon strategy.

However, the programming documents often appear to lack a coherent strategic framework due to difficulties in organizing an effective inter-ministerial co-ordination, by the potentially overlapping or insufficiently focused description of the measures in many of the documents submitted. What it is a remarkable features of the preparation for SF in candidates countries is that they have, generally speaking, consulted regional and local actors, economic and social partners and other relevant institutions.

Another important observation of the Commission Communication is that the definition of monitoring indicators and the setting up of a computerized system for the collection and exchange of the data required to fulfill the management, monitoring and evaluation requirements has been seriously delayed in most countries.

### ***Financial and budgetary management***

Because the number of bodies, final beneficiaries, IBs, MAs, PAs, involved in the financial and budgetary management of SI, an appropriate establishment of the structure which can guarantee a sound financial management has been very complex. Satisfactory management arrangements are expected to be in place by 1 January 2004. The acceding countries but also the Commission has experienced this in the implementation process of the

pre-accession instruments and notably the EDIS and SAPARD accreditation process.

The distinction between the two types of control requirements for the SF and the CF, namely verification checks to be carried out by management and sample checks to be carried out by staff independent of management and payment functions, is an essential element in the control framework for the Funds. The situation regarding the provision of appropriate and separate accounting systems for the SF and CF is different from country to country.

### ***Future project pipeline***

It seems that not all acceding countries have taken into consideration the difficulty and complexity of developing a project pipeline to ensure the full use of funds; some of them have not targeted budgets or timetables for future project preparation and that could generate an inefficient absorption of the SF and CF. Project preparation should include the identification and provision of financial means of co-financing.

Any case, the experience of the pre-accession funds has shown that the projection of the project is only an early step in the project cycle because the implementation of projects after approval would be a major bottleneck and that key stages in the project cycle which have proved to be weak in the past, especially public procurement, will require special attention from national authorities.

**Conclusions**

It is obvious that even all acceding countries have made considerable progress in their preparation for ensuring a sound and effective management of SF and CF, many remains to be done. We should have in mind the fact that acceding countries, as was agreed in the accession negotiations, will benefit of eligibility of project and expenditure by structural instruments already from 1 January 2004. Therefore, all legislation relevant for the SF and CF needs to be aligned and fully transposed by 31 December 2003.

A list of ten items must pay attention for all the acceding countries as follows:

1. An adequate reinforcement of the bodies and mechanisms ensuring proper implementation of public procurement rules;
2. Inter-ministerial co-ordination must be reinforced, particularly concerned the properly defining of institutional arrangements for the management of SF, namely the roles of the MA and IBs;
3. Concerning the financial management and control, the main weaknesses are the confusion between the management checks which are the responsibility of the MA or IB and the independent sample checks and the insufficient segregation of functions between the implementing bodies and control bodies;
4. An adequate accounting system, a prerequisite for a sound financial management, is not established in all acceding countries;
5. Significant efforts in terms of timely recruitment and training are still necessary, the acceding countries being encouraged to fully explore the possibilities to co-finance certain additional administrative expenses from the future technical assistance budgets;
6. The negotiations must be finalized by the end of December 2003 in order to avoid any delays regarding the implementation of the SF programmes;
7. The efforts for project preparation must be strongly reinforced, including the use of specific technical assistance where is necessary;
8. All acceding countries have made a significant effort to implement the partnership principle;
9. The issue of setting up the monitoring systems must need to be address with urgency since the proper functioning of these systems conditions the transparency of the implementation of the programmes and plays a decisive role in terms of financial absorption;
10. A careful planning of the national co-financing components linked to the SF and CF represents an essential part of the successful implementation of cohesion policy in the acceding countries.

By and large, any successful integration should have three fundamental characteristics: identification of own structural needs identification of appropri-

ate remedial measures and establishment of an effective management capacity. For Romania, as for the other acceding countries, it is very important to have in mind the fact that SF and SF preparation represents a long and complex process that needs leaders, strategic thinking, shared policy, involvement, partnership, skilled managers, and motivated staff. All these “soft” elements can not be created by Government acts only, but need time, resources, culture and concentrated efforts to emerge.

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