



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL AND URBAN POLICY
Audit
The Director

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Brussels,
REGIO C2/15/10/s D(2015) 4282857

Subject: Final Position Letter
Procedure under Article 99(1) of Council Regulation (EC) No 1083/2006
Module 4 - Re-performance of audits of operations
Environment OP CCI 2007BG161P0005
Regional Development OP CCI 2007BG161P0001
Competitiveness OP CCI 2007BG161P0003
Mission n°2013/BG/REGIO/J2/1237/I of 23 September 2013 to 4 October 2013

Ref.: Final audit report of 7 May 2015 (Ares(2015)1943290)
Member State reply to the final audit report of 16 July 2015 (Ares(2015)3816489)
Member State reply to the final audit report of 12 September 2015 (Ares(2015)3816628)
Member State reply to the final audit report of 15 September 2015 (Ares(2015)3816301)

Your Excellency

I am writing to inform you that the Directorate-General Regional and Urban Policy has concluded the audit carried out on the functioning of systems in place for the 2007-2013 programming period through review of the work of the audit authority performed in the period 23 September – 04 October 2013.

Following the analysis of the information provided in the above-mentioned Member State replies to the final audit report in English, you will find in **Annex I** our conclusions in this regard.

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As your reply has been analysed by the Commission and your clarifications for the identified issues have been accepted, no further action will be taken. The audit is therefore closed.

For information purposes, please also find attached the final audit report in Bulgarian.

I would like to remind you that under Article 90(1) of Council Regulation (EC) N° 1083/2006, the competent bodies and authorities are required to keep available all relevant documents for a period of three years following the closure of an operational programme as defined in Article 89(3) of the Regulation or three years following the year in which partial closure takes place, in case of documents regarding expenditure and audits on operations referred to in 90(2) of the said Regulation.

Yours faithfully,




Franck Sébert


Enclosures:

Annex I – DG Regional and Urban Policy's conclusions
Annex II – Final Audit Report in Bulgarian


c.c.:




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ANNEX I – DG REGIONAL AND URBAN POLICY’S CONCLUSIONS

All findings except finding 12 were closed with the final audit report of 7 May 2015 (ARES(2015)1943290)

Finding n° 12: Poor state of investment

Improvement of services in the field of culture in Elin Pelin, by updating the related infrastructure

The audit authority proposed several financial corrections in its 'mini-reports' in relation to the poor state of the investment and discrepancies in the capacity of the heating equipment which were identified by its on-the-spot visits carried out in the first half of 2013. These problems were not identified by the management verifications of the managing authority.

Action n° 12

The managing authority should identify the poor state of investments through its management verifications and ensure that the beneficiaries enforce contract conditions (repairs within guarantee period).

First Member State reply (summary)

The managing authority has registered two complaints for an irregularity: No 652 of 26 August 2013 regarding infringements during the physical implementation of the project and No 653 of 26 August 2013 regarding ineligible expenditure and an indication of fraud.

With regard to complaint No 652 the MA has imposed:

— a financial correction in the amount of BGN 186 394.33, including VAT, representing 5 % of the actual contractual expenditure verified under Contract No BG 161RP0001/1.1-01 / 2007/055 'Repair and rehabilitation of cultural centres in Elin Pelin' whose beneficiary is the municipality of Elin Pelin, after deduction of ineligible project expenditure;

— a financial correction in the amount of BGN 29 209.76, including VAT, representing the exact amount of the financial loss of public funds, namely 100 % of the expenditure for 2 boilers VICTRIX 500 at the National Cultural Centre 'Ivan Vazov', village of Novi Khan.

Irregularity No OPRR/13/RR/599 was entered in the irregularities register of the MA of RDOP.

With regard to complaint No 653, the MA has imposed:

— a final financial correction of BGN 96 896.54, including VAT, representing the exact amount of the financial loss of public funding, namely 100 % of the overall value of the boilers supplied to the cultural centre in the village of Gara Pelin Elin and the cultural centre in the town of Elin Pelin.

Irregularity No OPRR/13/RR/598 was entered in the irregularities register of the MA of RDOP.

The beneficiary was notified by letter (ref. No 99-00-6-9204/03.10.2013) with a copy to the Audit of EU Funds Executive Agency. The beneficiary was also informed that under the terms and conditions of grant contract No BG161P0001/1.1-01/2007/055, the municipality continues to be obliged, within five years from the expiry of the contract, to comply with the requirements for sustainability of the investment and the results of the project.

By letter (Reg. No 99-00-6-10864/4.10.2013), the MA of the Regional Development OP informed the Audit of EU Funds Executive Agency of the actions taken in response to the audit report, and presented relevant evidence.

By letter (Reg. No 99-00-6-10981/8.10.2013), the MA of the RDOP requested the competent authorities of the Regional Prosecution Office — Elin Pelin with a copy to the Supreme Cassation Prosecutor's Office, to examine whether there was an offence (a documentary offence), involving the submission of a document with false statements. A prosecution case was opened in connection with the complaint.

The audit authority (AA) replied that it has established and reported on the irregularity in its draft report on the audit of operations for expenditure certified in 2012 in Annex No 6. Before issuing a final report on this audit (11.12.2013), the AA followed up the actions taken to act upon the draft audit report and confirmed the information provided by the MA.

Therefore, with respect to complaint No 652, the AA inspected the irregularities register and confirmed the registration of irregularities No OPRR/13/RR/597 and No OPRR/13/RR/599. The AA examined the accounting reporting of the financial corrections — entered by the MA on 3 October 2013 in the amount of BGN 186 394.33, respectively BGN 29 209.76. By letter No 99-00-6-9204 of 3 October 2013, the MA notified the beneficiary of the financial corrections and invited it to recover the funds on a voluntary basis. (no financial impact was detected on the expenditure declared in the Commission in 2012)

With respect to complaint no 653, the AA inspected the irregularities register and confirmed the registration of irregularity No OPRR/13/RR/598. The audit authority examined the accounting reporting of the financial correction — entered by MA on 3 October 2013 in the amount of BGN 96 896.54. By letter No 99-00-6-9204 of 3 October 2013, the MA notified the beneficiary of the financial correction and invited it to recover the funds on a voluntary basis.

The audit authority presented the information in the annual control report on the RDOP regarding the errors detected under the project BG161POOO 1-1.1.01-0095-C0001 of the municipality of Elin Pelin with financial impact on the expenditure declared to the Commission in 2012.

Subsequent audits will follow up the recovery of the adjusted amounts and closing of irregularities.

First Commission position

Although the reply sets out the action taken in respect of the two specific cases, the managing authority is requested to explain how it intends to address the underlying weaknesses in its management verifications:

- a) How it will identify cases of poor implementation through its management verifications;
- b) How it will ensure that the beneficiaries enforce contract conditions including enforcing any necessary repair work covered by the guaranteed period.

The finding is **open** pending receipt of information on how the managing authority has improved its procedures in this area.

Second Member State reply (summary)

According to the Member State, the MA conducts on-the-spot visits for projects in progress, in order to determine the quality of the physical implementation of the activities under the individual projects co-financed under the regional development operational programme, as well as on-the-spot visits for completed projects, in order to check the sustainability of the results achieved within the completed projects in the period of implementation.

In this respect, in case of identified poor implementation, the MA requires the Beneficiary to take all necessary action in order to correct the findings. In case of unsatisfactory implementation, the MA proceeds to either to the closure of the case or reporting the irregularity, with a view to impose a financial correction.

With regard to the period of sustainability of projects, each completed project is subject to a minimum of 2 on-the-spot visits, conducted in the second and the fourth year of the sustainability period. Should there be indication that the Beneficiaries are not following the recommendations of the MA, or that the sustainability of the projects is not guaranteed, the MA can perform ad-hoc on-the-spot visits, during which the MA makes findings and recommendations with definite deadline for implementation, requires the Beneficiaries to take proper corrective measures and report to the MA by submitting evidence for the implementation of the recommendations.

Moreover, in respect of the completed projects, Beneficiaries are required to conduct checks of the physical condition of the investment and their use according to intended purpose, on three occasions - during the first, third and fifth year, following the date of completion of the grant contract. The results must be reported to the MA, providing evidence of the condition of investment, within 10 working days of the date of the respective inspection. The accuracy of such verification will be verified by the MA with the occasion of the on-the spot verification during the sustainability period.

The managing authority also provided to the European Commission the detailed procedures they have in place for the performance of the on the spot management verifications concerning the quality and sustainability of the investments.

Final Commission position

The Commission is of the opinion the necessary procedures are in place in order for the managing authority to verify and address the underlying weaknesses in its management verifications. Therefore this finding is **closed**.