



EUROPEAN COMMISSION
DG Employment, Social Affairs and Inclusion

Audit, Control
ESF I Audit and IPA

Limited¹

**Final audit report on the Financial Corrections for
Operational Programmes
"Human Resource Development" CCI2007RO051PO001 and
"Administrative Capacity Development" CCI2007RO051PO002
A-Rep N°1545/2012²**

Authority subject to audit:	Certifying authority (CA) Ministerul Finanțelor Publice
Member State:	Romania
Audit Period:	2007-2013
Date of the audit:	5th November 2012
Auditors:	Andris SKRASTINS and Silvia PAOLELLA

Date:

Signature:

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Head of Unit

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² This number should be mentioned in all correspondence relating to this audit.

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1. EXECUTIVE SUMMARY

1.1. Introduction

In accordance with its work plan for the year 2012 and in the context of compliance with Council Regulation (EC) No 1083/2006, Council Regulation (EC) No 1081/2006 and Commission Regulation (EC) No 1828/2006, Unit H/2 of DG EMPL³ conducted an audit on financial corrections detected and deducted from payment claims presented to the European Commission by the Romanian authorities as from the beginning of the programming period until the 15/10/2012 for the Operational Programmes "Human Resources Development" and "Administrative Capacity" (hereafter – OP 2007RO051PO001 and OP 2007RO051PO002).

On the 05th November 2012, the ESF auditors examined the conformity of the accounting system kept by the Certifying Authority (CA) - Ministerul Finanțelor Publice (hereafter - the auditee) -to ensure that adequate records of amounts recovered, withdrawn and corrected are maintained and that the provisions of the Articles 61(f), 70 and 98 of Council Regulation No 1083/2006 and 20 of Commission Regulation No 1828/2006 are complied with.

1.2. Common authorities subject to audit

The following auditee, which was the subject of this audit, has responsibilities and/or functions common to other Structural Funds or the Cohesion Fund:

<u>Authority</u>	<u>Responsibility/Function</u>	<u>Funds</u>
Ministerul Finanțelor Publice	Certifying authority (CA)	ESF/ERDF/CF/EFF

1.3. Management and control findings

The management control findings are summarised below:

<u>Finding n°</u>	<u>Management control issue</u>	<u>Reply MA/CA</u>	<u>Conclusions EC auditors</u>
1	Shortcomings in the systems for keeping the records.	Recommendation is accepted.	Recommendation can be closed.
2	Delays by MA of OP Human Resources Development in the follow-up of the results of audits carried out by the relevant audit bodies.	Recommendation is accepted.	Recommendation remains open.

³ DG Employment, Social Affairs and Inclusion, Directorate H: Audit, Controls, Unit H/2: Shared Management I (As of 01/01/2013 "ESF I and IPA audit")

2. OPINION

2.1. Operational programme "Human Resources Development" 2007RO051PO001

Based on the audit results, the audit team expresses an opinion on the management and control systems (MCS) in place. The audit opinion at November 5, 2012 is

Qualified with significant observations:

Based on the work carried out as indicated in chapter 3 of this audit report, the auditors of DG EMPL have obtained reasonable assurance that the management and control systems in place as at 05 November 2012 are functioning effectively and in compliance with the applicable regulations (Council Regulation (EC) No 1083/2006, Council Regulation (EC) No 1081/2006 and Commission Regulation (EC) No 1828/2006); **except for the following significant deficiencies which affect key element of the systems:**

- Shortcomings in the systems for keeping the records. (see finding 1, section 4)
- Adequate review and follow-up of the results of all audits carried out by the relevant audit bodies (see finding 2, section 4).

Level of assurance: **Category 3. Works partially, substantial improvements are needed.**⁴

The assessment, per key requirement, is as follows

Managing Authority/	Works well	Works, but some improvements needed	Works partially. Substantive improvements are needed	Essentially does not work
Key requirement 7: Necessary preventive and corrective action where systemic errors are detected by the Audit Authority			X	
Certifying Authority				
Key requirement 11: Satisfactory arrangements for keeping an account of amounts recoverable and for recovery of undue payments		X		

⁴ Deficiencies were found that have led or may lead to irregularities. The impact on the effective functioning of the key requirements/authorities/system is significant. Recommendations and/or an action plan are in place. The Member State/European Commission may decide to take corrective measures (e.g. interruption or suspension of payments) in order to mitigate the risk of improper use of EU funds.

The assessment of criteria regarding corrections and recoveries for the Certifying Authority, in accordance with the scope of the audit, is as follows:

Certifying Authority	Works well; only minor improvements needed	Works, but some improvements are needed.	Works partially; substantial improvements are needed.	Essentially does not work.
General evaluation: the Certifying Authority has appropriate rules to keep records of amounts recovered, to be recovered, withdrawn, to be withdrawn, and/or corrected, to be corrected. The data registered are:				
1) Exact (correct):	X			
2 Exhaustive (complete)		X		
3) Real	X			
4) Valid	X			
5) Controlled	X			
6) Reliable		X		
7) Tracable	X			
8) Follow up	X			

Subsequent events and conclusions - updated opinion at 12.02.2013

After the end of the audit field work the Member State's authorities presented an action plan addressing the issues raised in the draft report.

The completeness of the records held at the AA and progress of the implementation of the action plan has been verified by the auditors of DG EMPL during the follow up audit mission AREP 1565 which took place during 28.01- 01.02.2013.

Based on the mitigating actions taken in accordance to the action plan suggested by the Managing Authority (see chapter: Subsequent events), the Commission auditors could in principle raise the level of assurance to:

Category 2. Works, but some improvements are needed ⁵.

This level of assurance is based on information concerning the mitigating actions we received and analysed after the end of the audit field work. As such and also because this action plan is in the phase of implementation by the national authorities, no audit work to test its effectiveness could yet be performed. The level of assurance is therefore subject to the correct and timely implementation of the action plan by the national authorities and its effectiveness will be subject to a revision by the Commission after the end of its implementation. Hence, no legitimate expectation can be derived from this provisional and conditional level of assurance.

⁵ Some deficiencies were found. These deficiencies have a moderate impact on the functioning of the key requirements. Recommendations have been formulated and should be implemented by the audited body.

2.2. Operational programme "Administrative Capacity Development" 2007RO051PO002

Based on the audit results, the audit team expresses an opinion on the MCS in place. The audit opinion at November 5, 2012 is

Qualified with minor observations

Based on the work carried out as indicated in chapter 3 of this audit report, the auditors of DG EMPL have reasonable assurance that the Certifying Authority has the appropriate system in place to apply the necessary financial corrections following individual or systemic irregularities detected in the operations or in the operational programmes and for maintaining appropriate records of the amounts recovered, withdrawn and recoverable following cancellation of all or part of the contribution for an operation, in compliance with Articles 61(f), 70 and 98 of Council Regulation No 1083/2006 and 20 of Commission Regulation No 1828/2006 **except for the following minor deficiency which affect a key element of the systems:**

- Shortcomings in the systems for keeping the records. (see section 4.1)

Level of assurance: **Category 2. Works, but some improvements are needed⁶**

The assessment of criteria regarding corrections and recoveries for the Certifying Authority, in accordance with the scope of the audit, is as follows:

Certifying Authority	Works well; only minor improvements needed	Works, but some improvements are needed.	Works partially; substantial improvements are needed.	Essentially does not work.
General evaluation: the Certifying Authority has appropriate rules to keep records of amounts recovered, to be recovered, withdrawn, to be withdrawn, and/or corrected, to be corrected. The data registered are:				
1) Exact (correct):	X			
2 Exhaustive (complete)		X		
3) Real	X			
4) Valid	X			
5) Controlled	X			
6) Reliable		X		
7) Tracable	X			
8) Follow up	X			

⁶ Some deficiencies were found. These deficiencies have a moderate impact on the functioning of the key requirements. Recommendations have been formulated and should be implemented by the audited body.

This audit on financial corrections examined and evaluated the measures adopted by the Certifying Authority (Ministerul Finanțelor Publice) to ***apply the necessary financial corrections*** following individual or systemic irregularities detected in the operations or in the operational programmes and to ensure that ***adequate records of amounts recovered, recoverable and withdrawn following cancellation of all or part of the contribution for an operation are maintained*** in compliance with Articles 61(f), 70 and 98 of Council Regulation No 1083/2006 and 20 of Commission Regulation No 1828/2006 ***at a specific point in time***.

Hence, this audit does not provide assurance for the future periods in view of the risk of weakening of the internal controls influenced by changes in conditions, or possible deterioration of the degree of compliance with legal requirements or procedures.

3. THE ENGAGEMENT CONTEXT

3.1. Legal basis

The audit mission has been carried out in accordance with the audit plan for ESF updated on the 30/10/2012 and of the applicable audit strategy.

The legal basis for this audit on the work of the CA is article 72§2 of the Council Regulation (EC) No 1083/2006 of 11th July 2006.

Article 72(2) "Without prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits to verify the effective functioning of the management and control systems, which may include audits on operations included in operational programmes."

3.2. Audit scope

The audit covered a sample of all the corrections and recoveries, detected and declared as from the beginning of the programming period until the 15/10/2012, which have been withdrawn and/or are to be withdrawn from payment claims presented to the European Commission and which are or are not agreed in the context of an action plan.

The corrections examined relate to the ESF Programme 2007-2013 "Human Resources Development"(2007RO051PO001) and "Administrative Capacity" (2007RO051PO002) and cover data recorded by the Managing Authorities and the Certifying Authority concerned.

The audit was based on the work conducted by the CA in compliance with articles 61 point f), 70 and 98 of the Council Regulation No 1083/2006 and 20 of Commission Regulation No 1828/2006.

3.3. Objectives

The general objective is to gain reasonable assurance that financial corrections detected and implemented by the Romanian authorities, in accordance with Article 98 of Council Regulation No 1083/2006, have been deducted from statements of expenditure presented to the European Commission and the Certifying Authority maintains adequate records in compliance with the relevant community regulation applicable.

The above mentioned objective will be considered as satisfactory if the below dispositions are respected:

1 – the Certifying Authority has appropriate rules to keep records of amounts recovered, to be recovered and withdrawn following annulation of total or partial contribution to an operation, in conformity with 61 point f), art. 70 of Council Regulation No 1083/2006 and art. 20 of Commission Regulation No 1828/2006;

2 – data registered in the debtor ledger of Certifying Authority concerning financial corrections are:

- Exact (correct): they correspond to irregularities detected by the MS or by the EC;
 - Exhaustive (complete): all irregularities identified and validated are registered;
-

- Real: amounts recovered or withdrawn have to be deducted from the expenditures declared for the year in which they have been registered in the accounts of the CA;
- Valid: registered and authorised (valid transaction/controlled at the appropriate level);
- Controlled: a control procedure is in place before they are sent to the EC,
- Reliable: the accounting system includes adequate control procedures to ensure that no transaction is deleted nor modified after validation. For each transaction the system keeps historical data and identifies them in a unique manner;
- Traceable: based on supporting evidence that can be verified (audit trail);
- Follow up: the accounting system allows a follow-up of different financial processes related to treatment of irregularities. For example, the withdrawal of a specific expenditure by the MA, its subsequent deduction presented to the EC and the commitment of the amount on other operations.

3.4. Audit methodology

The audit was conducted in accordance with the general and specific standards for the professional practice of auditing, the Structural Funds Audit Manual, the European Social Fund Audit Manual, and the Enquiry Planning Memorandum on financial corrections.

The audit team examined and evaluated, on a test basis, evidence relating to the operating effectiveness of the work of the CA against the criteria established against in the "Guidance note on a common methodology for the assessment of MCS in the Member States (2007-2013 programming period)" and other policies, manuals, procedures, directives and guidelines related to OP 2007RO051PO001 and 2007RO051PO002's execution or implementation.

A letter, announcing this audit, was sent to the Member State on 17/10/2012 Ref. Ares(2012)1224186.

4. DETAILED MANAGEMENT AND CONTROL FINDINGS

The management and control findings are as follows:

Finding n°:1	<p>Shortcomings in the systems for keeping the records.</p> <p>Objective: Data registered in the debtor ledgers of the Certifying Authority concerning financial corrections are <u>reliable</u> (the accounting system includes adequate control procedures to ensure that no transaction is deleted nor modified after validation. For each transaction the system keeps historical data and identifies them in a unique manner)</p>
Responsible body: CA	Volume of funding affected by the finding: N/A
<p>Description of the finding :</p> <p>Although the CA could present all required data in various Excel registers it maintains, the procedures suffer from practical constraints. Due to the high number of records – in particular for the OP Human Resources Development – and due to the frequent data updates related to the recoveries and irregularities, the use of the Excel files is impractical and is prone to errors.</p>	
<p>Risk:</p> <p>The reliability of the data held at the CA can be impaired.</p>	
<p>Recommendation :</p> <p>Due to the high number of transactions to be followed up, in particular for the Human Resources Development OP, we recommend the CA to consider simplifying the procedures and / or to establish a unique database tool in order to ensure that each transaction is registered in the system, identified in a unique manner and that historical records are kept after validation.</p>	
<p>Deadline for implementation of recommendation:</p> <p>Two months after receipt of the final report in the Member State's language.</p>	<p>Importance of the recommendation :</p> <p>Low⁷</p>
<p>Comments from the CA:</p> <p>Recommendation is accepted.</p> <p>With a letter dated 22.04.2013 - Ares(2013)1040966, the CA informed EC services that it has requested support from the Ministry of European Funding (manager of the informatics system SMIS-CSNR), in view of creating a new reporting module concerning debtors ledger. A technical solution with clear implementation deadlines has not yet been found.</p> <p>Until the creation of the module, new columns with information have been introduced in the Debtors/ Irregularities Ledger, in order to reflect the debits in relation with the payment applications.</p>	
<p>Analysis of the reply by the Commission:</p> <p>Commission services take note of the investigation of the opportunities to develop a new module in the common information system for structural funds and steps taken by the CA to simplify the</p>	

⁷ See Annex 1

reporting/ follow up process.

Commission services note that given the late stage of the current programming period, implementation of new module in the common information system may be impractical; however such module may be used for the next period.

In the view of steps taken by the Certifying Authority, the recommendation can be closed.

Finding n°:2	<p>Delays in the follow-up of the results of audits carried out by the relevant audit bodies by MA of OP Human Resources Development.</p> <p>Key requirement 7: Necessary preventive and corrective action where systemic errors are detected by the audit (art 98.1 of R 1083/2006 and art. 16.3 of R 1828/2006).</p> <p>Objective: Data registered in the debtor ledger of Certifying Authority concerning financial corrections are <u>Exhaustive</u>.</p>
Responsible body: MA of OP HRD / Audit Authority	Volume of funding affected by the finding: N/A
<p>Description of the finding :</p> <p>It resorts from the lists of the CA that the majority of the findings of the Audit Authority relating to the expenditure declared in 2010, have not yet been followed up by the MA of the OP Human Resource Development. E.g. project SMIS code 3965: out of 6 findings with potential financial impact, only one had been followed up in full at the time of the audit and none had been fully recovered by the MA.</p>	
<p>Risk:</p> <p>Delays in the follow up of the recommendations from the audits carried out by the relevant audit bodies can lead to the situations where similar errors continue to be incurred in the subsequent payment claims and non-eligible expenditure is not recovered.</p>	
<p>Recommendation:</p> <p>1. MA should take appropriate actions to timely implement the recommendations of the audit bodies and to recover irregularities detected.</p> <p>2. After the corrective actions are taken by the MA, the AA has to verify the correctness and completeness of these actions. Such verification by the AA could be undertaken jointly with DG EMPL auditors during the visit that is currently planned for January 29-February 1, 2013.</p>	
<p>Deadline for implementation of recommendation:</p> <p>The recommendation should normally be implemented one month at the latest after receipt of the final report in the Member State's language.</p> <p>However MA can present any progress on the implementation of the recommendation during forthcoming audit by DG EMPL on January 29, 2013.</p>	<p>Importance of the recommendation: HIGH⁸</p>
<p>Comments from the CA and MA:</p> <p>Recommendation is accepted.</p> <p>1. During the follow-up mission audit AREP 1565 (28.01-01.02.2013) the MA presented an action plan committing specific deadlines in order to expedite decisions on the issues identified by the various audit bodies with a deadline to issue decisions on the recoveries by 31/03/2013. With letter dated 22.04.2013- Ares(2013)1040966, the CA provided information which indicates that there has</p>	

⁸ See Annex 1

been some delays in the implementation of the aforementioned action plan.

2. The CA and MA OP HRD have initiated a conciliatory procedure for the information in the Audit/Control Register of the CA, the Debtors/Irregularities Ledger and the information in the evidences of the MA OP HRD in order to verify completeness/ accuracy of the data records held at the two bodies.

Analysis of the reply by the Commission:

EC takes note of the action plan undertaken by the MA and commitment to take appropriate decisions on recovery by the MA (see section 5: Subsequent events).

While we acknowledge that initial commitment by the MA may have been too optimistic, any unjustified delays in the follow up can have adverse effect on the evaluation of the functioning of systems as such.

Recommendation remains open.

5. SUBSEQUENT EVENTS AND CONCLUSIONS

Following the end of the audit field work, the Member State's authorities presented the Commission an Action Plan during the audit mission AREP 1565, committing specific deadlines in order to expedite decisions on the issues identified by the various audit bodies with a deadline to issue decisions on the recoveries by 31/03/2013. This action plan describes the measures which aim at strengthening the Management and Control Systems in order to remedy the deficiencies found.

Completeness and accuracy of the action plan has been verified by Commission services during follow up mission AREP 1565 in 28.01- 01.02.2013.

Based on the mitigating actions taken and on the action plan suggested by the Managing Authority, the Commission auditors could in principle, in line with the provisions explained in chapter 4.4 of the Commission's guidance note on the evaluation of management and control systems (COCOF 08/0019/00), raise the level of assurance to: **Category 2. Works, but some improvements are needed**⁹.

This level of assurance is based on information concerning the mitigating actions we received and analysed after the end of the audit field work. The level of assurance is therefore subject to the correct and timely implementation of the action plan by the national authorities and its effectiveness will be subject to a revision by the Commission after the end of its implementation. Hence, no legitimate expectation can be derived from this provisional and conditional level of assurance.

⁹ Some deficiencies were found. These deficiencies have a moderate impact on the functioning of the key requirements. Recommendations have been formulated and should be implemented by the audited body.

Annex 1 – Importance of the recommendation

High: The key controls in the management and control systems are absent or are not complied with on a regular basis. There is a fundamental weakness or deficiency in control which involves a substantial risk of error, irregularity or fraud. There is a substantial risk of failure to achieve those objectives of the management and control systems which concern the reliability of financial reporting for the programme, the effectiveness and efficiency of the operations and activities and compliance with national and community regulations. Such risks could have an adverse impact on the programme's financial report. Urgent remedial action should be taken. The recommendation should normally be implemented one month at the latest after receipt of the final report in the Member State's language.

Medium: There is a weakness or deficiency in control which, although not fundamental, exposes individual areas of the existing management and control systems to a less immediate level of risk of error, irregularity or fraud. Such a risk could have an impact on the effectiveness of the management and control systems and on its operational objectives and should be of concern to the auditee's management. Prompt remedial action should be taken.

Low: There is a weakness or deficiency in control which individually has no major impact but where improved controls would benefit the implementation of the programme and/or allow the auditee to achieve greater effectiveness and/or efficiency. There is a possibility of undesirable effects at the process level, which, combined with other weaknesses, could give cause for concern. Specific remedial action should be taken.