





EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
REGIONAL POLICY  
The Director-General

Brussels,  
DG REGIO J2/BS/ib D(2011) 677045

**Subject: Enquiry Planning Memorandum: "To obtain assurance on functioning of systems 2007 – 2013 through review of work of Audit Authority" Final audit report on the assessment of Audit Authority in Romania**

**Ref:** Mission n° 2009/RO/REGIO/J2/779/1  
Mission n° 2009/RO/REGIO/J2/749/1  
Mission n° 2010/RO/REGIO/J2/818/1  
Mission n° 2010/RO/REGIO/J2/830/1  
Mission n° 2010/RO/REGIO/J2/831/1

Your Excellency

I write to inform you that the Commission services have completed the audit work planned within the above mentioned Enquiry Planning Memorandum concerning the Audit Authority, the associated body to the Court of Accounts in Romania.

Following the audit work and the analysis of the subsequent information provided by the national authorities to the related review letters and interim audit reports as referred to above, please find enclosed the final audit report setting out Commission's final position on all the remaining open findings and related actions and recommendations.

We would like to draw the attention to the fact that the re-performance of audits of operations under this enquiry was limited to operations sampled by the Audit Authority on expenditure declared in the year 2009 and therefore the overall opinion is based only on testing of expenditure declared in 2009. The Commission will therefore continue to closely monitor the results of the audits of operations carried out by the Audit Authority in future years as well as the quality of the work of the Audit Authority. In this respect, re-performance audits could be envisaged in subsequent years for those parts of the system which have been assessed by the Audit Authority into category 2 ("works, some improvements needed") or category 3 (" works partially, substantial improvements needed").

His Excellency Mr Mihnea Ioan Motoc  
Ambassador Extraordinary and Plenipotentiary Permanent Representative  
Permanent Representation of Romania to the EU  
Rue Montoyer / Montoyerstraat 12  
1000 Bruxelles/Brussel

I request that you treat the enclosed audit report as confidential until the follow up procedure set below has been brought to a final conclusion. If the whole or part of the report is transmitted to persons concerned by the audit to enable them to provide comments, please ensure that the information set out in this paragraph accompanies the transmission.

The national authorities are invited to inform the Commission on the implementation of actions and recommendations set out in part 5 of the final audit report and/or to provide their comments within two months of the receipt of this letter.

Furthermore, they are requested in their reply to confirm that findings which have a financial impact on the EU budget exceeding €10.000 have been reported to OLAF in the ECR system for reporting irregularities and to provide the related references.

Yours faithfully



Dirk Ahner

Enclosure: Final audit report

Copies: Mr Ioan Aron Popa  
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Mr Popens (Deputy Director-General – DG Regional Policy)

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Mrs Martinez Sarasola (DG Regional Policy, Unit I1)

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Mr Johnston (DG Maritime Affairs and Fisheries, Unit F.1)

Mr Cipriani – European Court of Auditors

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**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
REGIONAL POLICY  
Audit  
Control and audit

Brussels,  
REGIO J2/BS/ib D(2011) 677045

## **FINAL REPORT**

**Mission n° 2009/RO/REGIO/J2/779/1**

**Mission n° 2009/RO/REGIO/J2/749/1**

**Mission n° 2010/RO/REGIO/J2/818/1**

**Mission n° 2010/RO/REGIO/J2/830/1**

**Mission n° 2010/RO/REGIO/J2/831/1**

**ENQUIRY :** To obtain assurance on functioning of systems 2007-2013 through review of work of Audit Authorities

**FUND(S) :** European Regional Development Fund (ERDF) and Cohesion Fund (CF)

**MEMBER STATE :** ROMANIA

**AUDIT AUTHORITY :** *Audit Authority* – Associated Body to the Romanian Court of Accounts

**KEY REQUIREMENT(S):** Clear definition, allocation and separation of functions  
Adequate system audits  
Adequate audits of operations  
Adequate annual control report (ACR) and audit opinion

**AUDIT WORK MODULE(S):**

- Module 1 – Desk review and verification on the spot of the AA's functions; Sub-module 1.2 - Joint audits with the AA
- Module 2 – Review of working documents from system audits

- Module 3 – Re-performance of systems audits
- Module 4 - Re-performance of audits of operations

- OPERATIONAL PROGRAMME(S):**
- Operational Programme Regional Development - 2007RO161PO001;
  - Operational Programme Increase of Economic Competitiveness - 2007RO161PO002;
  - Operational Programme Transport - 2007RO161PO003;
  - Operational Programme Environment - 2007RO161PO004;
  - Operational Programme Technical Assistance - 2007RO161PO005;
  - Cross Border Operational Programme Romania-Bulgaria

**DATE OF MISSIONS :**

12 – 16 OCTOBER 2009

7 – 8 DECEMBER 2009

22 -26 MARCH 2010

12 – 16 JULY 2010

15 – 19 SEPTEMBER 2010

**DG/UNIT CHEF DE FILE :** DG REGIO J.2

**PRINCIPAL AUDITOR :** [REDACTED]

**ASSOCIATED AUDITOR(S) :** [REDACTED]  
[REDACTED]  
[REDACTED]

**ASSOCIATED DGs :** none

**EXTERNAL FIRM(S):** none

This report should be treated as confidential until the follow up procedure has been brought to a final conclusion. If the whole or part of the report is transmitted to persons concerned by the audit to enable them to provide comments, please ensure that the information set out in this paragraph accompanies the transmission.

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## **EXECUTIVE SUMMARY**

### **I. IDENTIFICATION**

**Audit Authority, associated body to Romanian Court of Accounts**

**Fund(s): ERDF / CF**

**Programme title(s) and CCI N°:**

Operational Programme Regional Development - 2007RO161PO001;

Operational Programme Increase of Economic Competitiveness - 2007RO161PO002;

Operational Programme Transport - 2007RO161PO003;

Operational Programme Environment –2007RO161PO004;

Operational Programme Technical Assistance - 2007RO161PO005;

Cross Border Operational Programme Romania-Bulgaria

### **II. AUDIT SCOPE AND OBJECTIVES**

#### **SCOPE**

The audits covered a review of the planning and execution of the work carried out and the systems and procedures put in place and applied by the Audit Authority in order to prepare an annual control report and to issue an annual opinion on functioning of the management and control systems.

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#### **OBJECTIVES**

The overall objective of the enquiry was to obtain reasonable assurance that the management and control systems are functioning effectively.

In order to reach this overall objective, the audit work carried out under this enquiry aimed to:

- obtain reasonable assurance that the work carried out by the Audit Authority is compliant with the requirements of Reg.1083/2006, in particular with Article 62,
- and, consequently, assess the degree of reliance to be placed on the results of the Audit Authority's audit work presented in the annual control reports and annual opinions.

### III. SUMMARY OF MAIN FINDINGS & ACTIONS/RECOMMENDATIONS

MAIN FINDINGS	MAIN ACTIONS/RECOMMENDATIONS
<b>ASSESSMENT OF THE FUNCTIONING OF THE FINANCIAL ELECTRONIC MONITORING SYSTEM (SMIS) FOR CERTIFYING AUTHORITY (KEY REQUIREMENT 2)</b>	
<p><b>Ref: Finding 1 -2009/RO/REGIO/J2/ 749/1</b></p> <p>The findings raised by AA in respect of the Certifying Authority for key requirement 2 – "adequate audit trail and computerized system" are the following:</p> <ol style="list-style-type: none"> <li>1. Reconciliation between SMIS financial information and accounting information has not been performed as SMIS was not updated;</li> <li>2. SMIS (module – Audit and control) has not always been updated with the results of the "on the spot" verification missions carried out by the Certifying Authority.</li> </ol> <p>It was concluded by the AA that the key requirement "Works well. Only minor improvements needed (Category 1) although the finding is of a more serious nature.</p>	<p>When drawing conclusions on key requirements, the Audit Authority was recommended to take into account the seriousness of the underlying findings.</p> <p>Remedial actions have been taken by the Romanian authorities in order to up-date the system and render it functional.</p> <p>Audit Authority assessed the implementation of the action plan and communicated the results to the Commission's services.</p> <p>Taking into account that Annual Summaries for 2009 and 2010 reported differences between SFC and SMIS financial information, Commission's services will follow-up this deficiency during future audit work.</p>
<b>ASSESSMENT OF THE FUNCTIONING OF THE FINANCIAL ELECTRONIC MONITORING SYSTEM (SMIS) FOR MANAGING AUTHORITY (KEY REQUIREMENT 6)</b>	
<p><b>Ref: Finding 1 -2009/RO/REGIO/J2/ 818/1</b></p> <p>The assessment made by the Audit Authority of SMIS deficiencies is not adequate.</p> <p>The functioning of the key requirement 6, "<i>Reliable accounting, monitoring and financial reporting system in computerised form</i>", was categorized as "functioning well, minor improvements are needed" - category 1 – at the level of Intermediate Body Oltenia.</p> <p>The deficiencies in relation with SMIS functioning are more severe: data input in the system is not complete, not even by the time certification of expenditure is to be performed to the EC, certain modules within SMIS are not interlinked for the information to be transferred automatically from one module into another (amounts, introduced as ineligible in the Control module, were not uploaded automatically in the Financial Monitoring Fiche of the project).</p>	<p>The audit authority was recommended to properly outline in the report the seriousness of the underlying findings. This would be a signal to encourage the auditee to take appropriate action in order to remediate the deficiencies.</p> <p>Remedial actions have been taken by the Romanian authorities in order to up-date the system and render it functional.</p> <p>Audit Authority assessed the implementation of the action plan and communicated the results to the Commission's services.</p> <p>Taking into account that Annual Summaries for 2009 and 2010 reported differences between SFC and SMIS financial information, Commission's services will follow-up this deficiency during future audit</p>



	work.
<b>PUBLIC PROCUREMENT RELATED FINDINGS</b>	
<p><b>Ref: Finding 2 -2009/RO/REGIO/J2/ 749/1</b></p> <p><b>Inadequate use of experience criteria</b></p> <p>In the examined UCVAP reports, it is stated that the contracting authorities have used the experience criterion as one of the criteria to award the service contracts.</p> <p>This criterion is considered not to be linked to the subject matter of the public contract in question which constitutes an irregularity.</p> <p>The transposition of the public procurement directive in the national legislation had been incorrectly done. Following the findings raised by the Commission's services, the legislative framework was corrected.</p>	<p>A horizontal audit was carried out by the Audit Authority, addressing the use of the experience criterion in awarding service contracts.</p> <p>DG REGIO was informed on the results of this audit.</p> <p>This finding will be closed when evidence on recoveries will be provided.</p>
<p><b>Ref: Finding 6 -2009/RO/REGIO/J2/ 818/1</b></p> <p><b>Public procurement for additional works</b></p> <p>At the date of the audit, a series of contracts for additional works had been concluded by the final beneficiary, subsequent to the system audit carried by AA at the end of 2009.</p> <p>At the level of the Managing Authority/ Intermediate Body there is no procedure to check compliance with public procurement rules for contract addenda.</p> <p>Subsequent audit work showed that this irregularity was recurrent in Romania. Therefore, there is a risk that ineligible expenditure arises from such addenda if conclusion of such addenda is not public procurement compliant.</p>	<p>The Audit Authority was recommended to assess if public procurement checks on contract addenda were properly performed.</p> <p>The Managing Authority was recommended to have clear procedure in place in order to check public procurement compliance for contract addenda.</p> <p>The Commission's services were informed on the actions already taken by the national authorities.</p> <p>Nevertheless, this finding is considered open.</p>
	<p>The Audit Authority is requested to pay special attention to this risk factor and to communicate the results of the audits of operations carried out in relation to expenditure declared in 2010.</p>
<p><b>Ref: Finding 2 -2009/RO/REGIO/J2/ 830/1</b></p> <p>Project SMIS code 1383</p> <p>A very short deadline (28 days) for submission of tenders has been used in the public procurement procedure for the supervision of a works contract (contract notice date 3 October 2008, deadline for submission of tenders 31 October 2008). The deadline is below the minimum foreseen by Article 38 of Directive 2004/18/EC</p>	<p>The Audit Authority was recommended to raise an audit finding whenever the deadline foreseen by Article 38 of Directive 2004/18/EC is not respected and corrective measures are not implemented by the prior levels of control.</p> <p>Financial correction had been applied in respect to this irregularity.</p> <p>This finding is considered open in the</p>

<p>This finding has not been identified by the Audit Authority, nor pointed out as a breach of Article 38 of Directive 2004/18/EC in the UCVAP report.</p> <p>Moreover, the deadlines established for the submission of tender documents should take into account the complexity of the contract to be tendered.</p>	<p>context of this audit mission.</p> <p>This irregularity is identified as a specific systemic risk to public procurement in Romania.</p> <p>The Audit Authority is requested to pay special attention to this risk factor and to communicate the results of the audits of operations carried out in relation to expenditure declared in 2010.</p>
<p><b>FOLLOW-UP OF OPEN AUDIT FINDINGS</b></p>	
<p><b>Ref: Finding 5 -2009/RO/REGIO/J2/ 818/1</b></p> <p><b>Implementation of audit recommendations</b></p> <p>A series of audit recommendations, issued during the first system audit, have not been implemented by the audited body. (e.g. finding in relation to possible conflict of interest of evaluators)</p>	<p>The audit authority was recommended to regularly follow-up the implementation of the recommendations by the auditee and to take a final position and propose the necessary corrections in case of no action by the auditee. The findings should be considered final and forthcoming actions for resolving the situation specified, including the application of possible financial corrections.</p> <p>The Commission takes note on the reply of the Audit Authority.</p> <p>This finding is considered closed in the context of this audit mission.</p>
<p><b>QUALITY REVIEW RELATED FINDING</b></p>	
<p><b>Ref: Finding 3 -2009/RO/REGIO/J2/ 830/1</b></p> <p>Error rate - operations audit report – OP Regional Development</p> <p>In the preliminary audit report drafted for the operations audit for OP Regional Development, the error rate was 5.5%. Subsequently, in the final audit report the error rate was 0.9% (175,828.88 euro).</p> <p>This was mainly due to dropping one of the audit findings concerning the Brasov project (SMIS Code 1510).</p> <p>The draft audit report points out ineligible expenditure in amount of 634,294.14 EUR in relation to the Brasov project (SMIS Code 1510), due to works which had been carried out before the date of the grant letter.</p> <p>It is not clear why the Audit Authority changed the assessment and the financial quantification in the final</p>	<p>The Audit Authority was requested to clarify the reasons for not quantifying the financial impact of the operations audit finding in the Brasov project (SMIS Code 1510).</p> <p>Following the clarifications provided by the auditee during the contradictory procedure, the Audit Authority dropped the finding.</p> <p>Nonetheless, The AA is recommended to include in their reports the arguments brought by the auditee in order to support the outcome of the contradictory procedure.</p> <p>This finding is considered closed in the context of this audit mission.</p>

report.	
<b>ANNUAL CONTROL REPORTS AND ANNUAL AUDIT OPINION RELATED COMMENTS</b>	
Comments included in the quality assessment letters concerned: <ul style="list-style-type: none"> <li>• clarifications on reaching to the annual audit opinion based on the audit work performed;</li> <li>• inclusion in the audit strategy of audits, developed as a result of the high risk areas identified for each programme based on the audit work already carried out;</li> <li>• the Audit Authority to be more proactive in the follow-up process, by monitoring closely systems and bodies assessed as "functioning, but significant improvements are needed"; information included in the annual control reports with regards to the non-statistical sampling method;</li> <li>• calculation of the projected error rate.</li> </ul>	Reply from AA has been received.  Acceptance letter has been sent by the Commission's services

#### **IV. OVERALL CONCLUSION/ OPINION:**

Based on the work carried out as indicated in sections 2 above, we have obtained reasonable assurance that the work carried out by the Audit Authority is compliant with the requirements of Regulation (EC) No. 1083/2006, in particular with Article 62, and the results of the Audit Authority's audit work presented in the annual control reports and annual opinions can be relied on for building the overall assurance for the Annual Activity Report (Article 73 of Regulation (EC) 1083/2006), except for the following deficiencies:

- assessment of functioning of the financial monitoring system (SMIS) should be properly carry out by taking into account the seriousness of the deficiencies identified;
- the Audit Authority should improve their effectiveness in auditing public procurement to better address issues relating to the interpretation of Community public procurement provisions (i.e. irregular use of experience criterion, additional works, unjustified shortened deadlines, etc);
- the Audit Authority should be more pro-active with regards to the follow up of open findings, especially for systems assessed as "functioning, but significant improvements are needed";
- the Audit Authority should correctly apply their quality review procedures so as to enable the correct understanding of the information included in the audit reports for an external reviewer;

- when applicable, projected error rates should be calculated and included in the annual control reports.

According to the reply received from the Audit Authority, measures have already been taken to address the above deficiencies. The Audit Authority is requested to inform the Commission on the implementation of the actions as set out in Section 5.

**Emphasis of matter**

Without further qualifying our opinion, we draw the attention to the following issues:

- Re-performance of audits of operations under this enquiry was limited to operations sampled by the Audit Authority on expenditure declared in the year 2009 and therefore the overall opinion is based only on testing of expenditure declared in 2009.
- The audit work carried out by the Commission's services in respect to 2010 and 2011 expenditure identified deficiencies concerning the management verifications in the area of public procurement which need to be followed-up.
- Taking into account that the 2009 expenditure was mainly related to technical assistance and based on the recent audit work carried out by the Commission services, the conclusions of the audit work carried out for 2009 expenditure may no longer be representative for expenditure incurred in 2010 and 2011.
- In this respect, we advise the Audit Authority to revise the risk assessment while paying special attention to the irregularities identified by recent audit missions carried out.

## **List of Acronyms**

AA	Audit Authority
ACR	Annual control report
EC	European Commission
KR	Key requirement
OP	Operational programme

## 1. LEGAL BASIS

- The audit was performed in the context of the Enquiry Planning Memorandum 'To obtain assurance on functioning of systems 2007-2013 through review of work of Audit Authorities'.
- The legal base for the Commission audits in the Member States in relation to structural actions expenditure is provided by Article 72.2 of Council Regulation 1083/2006.

## 2. AUDIT SCOPE

The audits covered a review of the planning and execution of the work carried out and the systems and procedures put in place and applied by the Audit Authority in order to prepare an annual control report and to issue an annual opinion on functioning of the management and control systems.

The audit work carried out covered all four key requirements related to the Audit Authority identified in the EC guidance for assessment of management and control systems<sup>1</sup>:

- Clear definition, allocation and separation of functions (art. 58 a), b) and 62.3 of Regulation 1083, art. 23 a), b), d) of Regulation 1828).
- Adequate systems audits (art. 62.1 a) of Regulation 1083, art. 23 c) of Regulation 1828)
- Adequate audits of operations (art. 62.1 b) and 98.4 of Regulation 1083, art. 16-17, 23 c) and Annex IV of Regulation 1828)
- Adequate annual control report and audit opinion (art. 62.1 d), (i) & (ii) of Regulation 1083, art. 18.2 and Annexes VI and VII of Regulation 1828)

### **Module 1 and 2 - Mission n° 2009/RO/REGIO/J2/779/1 covered:**

- Follow-up of the desk review of the AA's audit methodology carried out on the basis of the documentation provided by the AA (updated audit strategy, audit manual, administrative regulation for the establishment of the AA, updated annual audit plan for 2009, standard checklists and standard audit reports, updated overview of the management and control system).
- Review of the working papers for the system audit reports already submitted to the Commission for the mainstream Operational Programmes:
  - Operational Programme Regional Development - 2007RO161PO001;

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<sup>1</sup> COCOFC 08/0019/00-EN: Guidance on a common methodology for the assessment of management and control systems in the Member States (2007 – 2013 programming period)

- Operational Programme Increase of Economic Competitiveness - 2007RO161PO002;
- Operational Programme Environment – 2007RO161PO004;
- Operational Programme Technical Assistance - 2007RO161PO005.

which have been finalized by the Audit Authority and submitted to the EC.

- Review of the working papers of the audit of operations report for the mainstream Operational Programme Technical Assistance - 2007RO161PO005.
- Participation as observers in the system audit under progress during EC mission (Increase of Economic Competitiveness, Transport and Regional Development Operational Programmes).

**Module 3 - Mission n° 2009/RO/REGIO/J2/749/1 covered:**

- Re-performance of the systems audit carried out by the Audit Authority with regard to following audit bodies and respective key requirements within the Operational Programme Environment:

Managing Authority OP Environment:

Key requirement 2: Adequate procedures for the selection of operations

Key requirement 4: Adequate management verifications

Intermediate Body Bucharest OP Environment:

Key requirement 1: Clear definition, allocation and separation of functions between and within the managing authority / intermediate body/ies

Certifying Authority:

Key requirement 1: Clear definition, allocation and separation of functions between and within the certifying authority

Key requirement 2: Adequate audit trail and computerised system

Key requirement 3: Adequate arrangements for the certification of expenditure to be reliable and soundly based

Key requirement 4: Satisfactory arrangements for keeping an account of amounts recoverable and for recovery of undue payments

Work was carried out on the spot at the level of Managing Authority, Intermediate Body – Bucharest and Certifying Authority.

**Module 3 - Mission n° 2010/RO/REGIO/J2/818/1 covered:**

- Re-performance of the systems audit carried out by the Audit Authority with regard to following audit bodies and respective key requirements within the Operational Programme Regional Development.

Work was carried out on the spot at the level of Managing Authority and the Intermediate Body – Agency for Regional Development South – West - Oltenia.

Re-performance has been carried out on a series of control tests using the same sample as the Audit Authority as follows:

Project Codes: 3050, 3071, 3094, 3790, 4066, 4029 for Intermediate Body Oltenia and  
Project Codes: 1582, 1573, 1575, 4375, 2142, 2053, 2119, 1672, 1581, 973, 1472, 1147, 3071, 1781, 1113, 1510 for Managing Authority

Managing Authority OP Regional Development:

Key requirement 2: Adequate procedures for the selection of operations

Key requirement 4: Adequate management verifications

Key requirement 6: Reliable accounting, monitoring and financial reporting system in computerised form

Intermediate Body (IB) – Agency for Regional Development - South – West - Oltenia:

Key requirement 2: Adequate procedures for the selection of operations

Key requirement 4: Adequate management verifications

The system audit report for OP Regional Development, the basis of our re-performance, has been sent to the Commission, via SFC 2007, on 17 February 2010.

**Module 4 - Mission n° 2010/RO/REGIO/J2/830/1 covered:**

- Re-performance of the operations audit carried out by the Audit Authority with regard to following projects/payment claims:

OP Technical Assistance -2007RO161PO005

Project SMIS code 932 - ACIS/MFP, Payment claim no. 4

OP Increase of Economic Competitiveness -2007RO161PO003

Project SMIS code 6444 - [REDACTED], Payment claim no. 1

Project SMIS code 2730 - [REDACTED], Payment claim no. 1

OP Environment -2007RO161PO003

Project SMIS code 1383 - [REDACTED] S.A., Payment claim no. 2

Project SMIS code 1383 - [REDACTED], Payment claim no. 4

OP Regional Development -2007RO161PO001

Project SMIS code 2339 - [REDACTED]  
[REDACTED] Payment claim no. 1



**Module 4 - Mission n° 2010/RO/REGIO/J2/831/1 covered:**

- Re-performance of the operations audit carried out by the Audit Authority with regard to following projects/payment claims:

OP Regional Development -2007RO161PO001

Project SMIS code 3044 - Unitatea administrativ-teritoriala Judetul Gorj, "Rehabilitation of the county road in Gorj (DJ665, Km 0+000-54+500 and DJ 675C Km 0+000-4+300" - Payment claim no. 3

OP Increase of Economic Competitiveness -2007RO161PO002

Project SMIS code 6446 - [REDACTED], "Modernisation of cardboard production line" - Payment claim no. 1

OP Transport -2007RO161PO003

Project SMIS code 3460 – National Road Company, "Construction Highway Cernavoda – Constanta" - Payment claim no. 1

Project SMIS code 3461 – National Road Company, "Construction Bypass Constanta" - Payment claim no. 1

Cross Border Romania – Bulgaria OP -2007RO163PO021

Project SMIS code 12/13 - Managing Authority for Cross Border Romania Bulgaria OP, "Financing activities of the Managing Authority from Technical Assistance Axis for 2008" - Payment claim no. 1

### **3. OBJECTIVES**

The overall objective of the enquiry was to obtain reasonable assurance that the management and control systems are functioning effectively.

In order to reach this overall objective, the audit work carried out under this enquiry aimed to:

- obtain reasonable assurance that the work carried out by the Audit Authority (together with the work carried out by other audit bodies on which the Audit Authority will rely if applicable) is compliant with the requirements of Reg.1083/2006, in particular with Article 62,
- and, consequently, assess the degree of reliance to be placed on the results of AA's audit work presented in the annual control reports and annual opinions (as part of the overall assurance for the AAR).

These general objectives correspond to the following more detailed objectives relating to four key requirements (KR) indentified for the Audit Authority:

#### **KR 1: Clear definition, allocation and separation of functions**

- 1.1) To verify that (i) the Audit Authority is adequately staffed, (ii) there is clear definition and attribution of audit work, (iii) the Audit Authority is fully independent and (iv) delegated tasks are properly monitored and supervised.

## **KR 2: Adequate systems audits**

- 2.1) To verify whether the AA methodology provides for correct (i) selection of audit priorities – systems, OPs etc. (risk assessment), (ii) assessment of the system's key elements, (iii) determination of assurance level gained from the systems and (iv) determination of technical parameters of the sampling (in case the statistical sampling is applied)
- 2.2) To verify (to a limited extent - desk review) whether (i) the AA methodology was correctly applied (adequate coverage of bodies and key elements, correct conclusions taken etc.), (ii) the audit strategy was complied with
- 2.3) To verify (i) whether the AA methodology was correctly applied (ii) the quality and the reliability of the audit work - compliance with international auditing standards (including sufficient audit trail of the work carried out)
- 2.4) To obtain a reasonable assurance that (i) the AA's methodology was correctly applied, (ii) the work carried out by the AA provides sufficient appropriate basis to conclude on the functioning of the systems and (iii) conclusions reached by the AA are adequate and correspond to the audit work carried out

## **KR 3: Adequate audits of operations**

- 3.1) To verify whether the AA methodology (i) is in line with EC regulations as regards technical parameters, (ii) provides for selection of a proper sample of operations to be audited, (iii) provides for sufficient coverage of all the aspects of the operation (eligibility, public procurement, reality of expenditure, etc.) and (iv) includes proper procedures in relation to a complementary sample
- 3.2) To verify (i) whether the AA methodology was correctly applied (adequate coverage, correct conclusions taken etc.), (ii) whether the audit strategy was complied with, (iii) quality and reliability of audit work - compliance with international auditing standards (including sufficient audit trail of the work carried out)
- 3.3) To obtain a reasonable assurance that (i) the actual application of the AA's methodology for audits of operations was correctly executed, (ii) the work carried out by the AA ensures that legality and regularity of expenditure was properly checked and (iii) conclusions reached by the AA are adequate and correspond to the audit work carried out.

## **KR 4: Adequate annual control report (ACR) and audit opinion**

- 4.1) To obtain a reasonable assurance that (i) conclusions reached by the AA are adequate and correspond to the audit work carried out and (ii) the Commission auditors can rely on the work of the AA presented in the ACR and audit opinion with regard to the effective functioning of the systems.

#### **4. WORK DONE**

##### **Module 1 and 2 - Mission n° 2009/RO/REGIO/J2/779/1**

- Audit engagement combined both modules 1 and 2 of the EPM. The purpose was to review the working papers for the reports already submitted to the Commission for the mainstream Operational Programmes by September 2009.
- At the same time, a second team participated as observers in the system audits under progress during EC mission.

##### **Module 3 - Mission n° 2009/RO/REGIO/J2/749/1 and Mission n° 2010/RO/REGIO/J2/818/1**

- Two missions were carried out under module 3 in order to re-perform part of the audit work carried out by the Audit Authority for the system audits. In the context of this mission the following bodies were selected:
  - Certifying Authority, Managing Authority and Intermediate Body – Bucharest for Operational Programme "Environment".
  - Managing Authority and Intermediate Body Craiova for Operational Programme "Regional Development".

##### **Module 4 - Mission n° 2010/RO/REGIO/J2/830/1 and Mission n° 2010/RO/REGIO/J2/831/1**

- Two audit missions have been carried out under module 4 in order to assess the audit work performed by the Audit Authority for the audits of operations performed.
- Payment claims were selected in relation to 10 projects from all programmes for which audits of operations had been carried out by September 2010.

In addition, the **Annual Control Reports** submitted by the Audit Authority for the years 2009 and 2010 have been analysed by the auditors.

## 5. FINDINGS AND ACTIONS TO BE TAKEN/ RECOMMENDATIONS

Nº	FINDING	ACTION TO BE TAKEN/ RECOMMENDATIONS	RESPONSIBLE BODY (AUDITEE)	DEADLINE (DAYS)	PRIORITY HIGH/MED IUM/LOW	ACCEPTANCE BY THE MEMBER STATE COMMENTS FROM THE MEMBER STATE	FINAL POSITION OF THE COMMISSION
<b>Key requirement no. 1: Clear definition, allocation and separation of functions</b>							
	None						
<b>Key requirement no. 2: Adequate system audits</b>							
1.	<p><b>Ref: Finding 1 - 2009/RO/REGIO/J2/749/1</b></p> <p><b>Assessment of the functioning of SMIS for Certifying Authority (key requirement 2)</b></p> <p>The findings raised by AA in respect of the key requirement 2 – "adequate audit trail and computerized system" are the following:</p> <p>1. Reconciliation between SMIS financial information and accounting information has not been performed as SMIS was not updated;</p>	<p>Adequate conclusions regarding the functioning of the key requirement should be drawn. The seriousness of the underlying findings should be taken into account. These would be a signal that would encourage the auditee to take appropriate action in order to remediate the deficiencies.</p>	Audit Authority	Permanent	Medium	<p><b>Accepted recommendation</b></p> <p><b>First reply</b></p> <p>1. Concerning the finding of the Audit Authority at the level of Certifying Authority, regarding key requirement 2 "adequate audit trail and computerised system" we present following clarifications:</p> <p>-at the date of the system audit carried out by the Audit Authority between February and June 2009, the input of the historical data in SMIS was ongoing activity (deficiency signalled by the Audit Authority for key requirement 6 at the level of Managing Authority for OP Environment). This impacted the performing of this reconciliation by the Certifying Authority. It is to be stated that despite that the reconciliation between SMIS and the accounting records was performed the results were not satisfactory due to the fact that this input</p>	<p><b>First reply</b></p> <p><b>Ref: finding 1- 2009/RO/REGIO/J2/749/1</b></p> <p>The Commission takes note of the additional information provided by the Audit Authority. The assessment of key requirement 2 "adequate audit trail and computerised system" at the level of Certifying Authority as "works well, only minor improvements needed" (Category 1) is not considered adequate. Finding is maintained.</p> <p><b>Final position:</b></p> <p><b>FOLLOW UP</b></p> <p>Commission services takes note of the information sent by AA. Nevertheless, taking into account that Annual Summaries</p>

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	<p>2. SMIS (module – Audit and control) has not been updated with the results of the "on the spot" verification mission carried out 2-3 February regarding payments 1, 2 and 3.</p> <p>It was concluded by the AA that the key requirement "Works well. Only minor improvements needed (Category 1) although the finding is of a more serious nature.</p>					<p>of the data in SMIS was not finalized.</p> <p>Moreover, the Certifying Authority performed the reconciliation according to the internal procedures and started remediating actions for the deficiency – it requested the Managing Authority for OP Environment to urgently introduce historical date in SMIS and ACIS (in its role as system administrator for SMIS – NSRF) to ensure the technical support for the case where the deficiencies have a different nature.</p> <p>At the level of the Certifying Authority the reconciliation has been performed between the accounting records and the data from the monthly payment claims approved by the Managing Authority and submitted in hard copy to the Certifying Authority.</p> <p>Thus the conclusion of the Audit Authority was "Works. Minor improvements are needed." In the case the deficiencies concerning the "adequate audit trail and computerized system" are maintained or other deficiencies intervene, we would ensure that the conclusions regarding the evaluation of the key requirement would be correspondingly presented and this key requirement would be rated according to the impact of the deficiencies in a higher</p>	<p>for 2009 and 2010 reported differences between SFC and SMIS financial information, <b>Commission's services will follow-up this deficiency during future audit work.</b></p> <p>This finding is considered <u>open</u>.</p>

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						<p>category than 1 – complying with the Guidance on systems audits.</p> <p>2. Concerning the input of the data in SMIS (Audit and Control module) we provide following clarifications:</p> <p>Subsequent to the on the spot mission on 2-3 February carried out by the Certifying Authority for certifying the eligibility of expenditure included in reimbursement claims no. 1, 2 and 3 sent to the EC, no deficiencies with financial impact have been identified – ineligible expenditure declared by the Managing Authority, these would require immediate input in the SMIS, so as to be deducted from the reimbursement claims generated by SMIS).</p> <p>Consequently, the AA considered that not immediate update of the module Audit and Control in SMIS with results of the on the spot mission of the Certifying Authority, mission which did not point out deficiencies with financial impact, represents a deficiency with minor impact. Considering the above circumstances we consider justified category 1, given that the deficiency can be easily rectified.</p> <p>Also, the recommendation drafted by the Audit Authority regarding the deficiency above has been implemented – this has</p>	

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						<p>been acknowledged during a preliminary follow-up carried out in November 2009 and which will be confirmed in the systems audit report to be finalized in March 2010.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>By letter No 40425/AP of 19 March 2010, the Audit Authority (AA) expressed its point of view as regards the finding and recommendation of the European Commission and at the same time provided the Commission with additional information concerning the professional reasoning that led to placing the key requirement in question into category 1.</p> <p>The AA considered and continues to consider that the failure to update the Audit and Control Module of the SMIS system with data relating to the on-the-spot check carried out by the Certifying and Paying Authority, which did not find any deficiencies with financial impact, is a shortcoming with limited impact.</p> <p>Moreover, the conclusion that the key element 'functions well and only minor improvements are necessary' (category 1) took into account the fact that the deficiency could be rectified.</p>	

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						<p>Indeed, the recommendation made by the AA in respect of the deficiency mentioned above has been implemented, as found by the AA during the follow-up mission carried out in the first semester of 2010.</p> <p>At the same time, taking into account that the deadline established by the Commission for implementing the recommendation is 'permanent', the AA will take into account the Commission's recommendation to draw up conclusions commensurate with the seriousness of the findings for each key requirement evaluated and for each future audit.</p>	
2.	<p><b>Ref: Finding 1 - 2009/RO/REGIO/J2/818/1</b></p> <p><b>Assessment of the functioning of SMIS for Managing Authority (key requirement 6)</b> The functioning of the key requirement 6, "<i>Reliable accounting, monitoring and financial reporting system in computerised form</i>", was categorized as "functioning well, minor improvements are needed" - category 1 – at</p>	<p><b>Assessment of key requirements:</b></p> <p>The seriousness of the underlying findings should be properly outlined in the report. This would be a signal that would encourage the auditee to take appropriate action in order to remediate the deficiencies.</p>	Audit Authority	Permanent	High	<p><b>First reply</b></p> <p><b>Partly accepted recommendation</b></p> <p>Audit Authority gave particular attention to this matter and carried out in June a specific audit mission to follow-up the implementation of the recommendations in the "Action Plan for real time functioning of SMIS-CSNR", whose specific objectives were as follows:</p> <ul style="list-style-type: none"> <li>- verify the measures undertaken by ACIS for the real time functioning of SMIS;</li> <li>- assess the state of updating the information in SMIS regarding project form and expenditure already declared;</li> </ul>	<p><b>Ref: finding 1- 2010/RO/REGIO/J2/818/1</b></p> <p>Audit Authority assesses key requirement 6, "<i>Reliable accounting, monitoring and financial reporting system in computerised form</i>" as "functioning well, minor improvements are needed" - category 1 – at the level of Intermediate Body Oltenia and as "functioning well, some improvements are needed" - category 2- at the level of the Managing Authority.</p>



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	<p>the level of Intermediate Body Oltenia.</p> <p>The deficiencies in relation with SMIS functioning are more severe: data input in the system is not complete, not even by the time certification of expenditure is to be performed to the EC, certain modules within SMIS are not interlinked for the information to be transferred automatically from one module into another (amounts, introduced as ineligible in the Control module, were not uploaded automatically in the Financial Monitoring Fiche of the project).</p> <p>The assessment of SMIS deficiencies is not adequate.</p>					<p>- verify that expenditure declared to the European Commission is recorded in SMIS.</p> <p>The mission encompassed all operational programmes financed within the Convergence Objective from the European Regional Development Fund, Cohesion Fund and European Social Fund and was carried out at the headquarters of the responsible Managing Authorities and the headquarter of ACIS.</p> <p>The conclusions of this mission were transmitted to the European Commission on 27 July 2010 via letter no. 40913.</p> <p>We consider that the assessment of the Audit Authority for key requirement 6 is adequate, in the sense that the accounting and monitoring system is functional but requires some improvements – category 2, given that also the results of the last audit mission confirm that deficiencies related to input of data in SMIS have been remedied and the accounting system did not raise problems of correctly reflecting the financial information in relation to the program.</p> <p>In this context, the objective of the functioning of SMIS is a priority for the Audit Authority and the results of the checks will be considered when concluding adequately in the context of</p>	<p>At the date of DG REGIO mission Managing Authority was incurring serious delays in inputting data in the SMIS for already incurred expenditure on the Technical Assistance Axis. Therefore the reconciliation of expenditure declared to the EC and data in SMIS could not be performed as at that date.</p> <p>Commission takes note that you report progress on the input of data in SMIS via letter no. 40913 from 27 July 2010.</p> <p>Nonetheless Commission does not consider that the assessment for key requirement 6 at the level of Intermediate Body Oltenia and Managing Authority was adequate.</p> <p>The finding is <b>maintained</b> in the context of the audit.</p> <p><b>Final position:</b></p> <p><b>FOLLOW UP</b></p> <p>Commission services takes note on the information sent by MS.</p> <p>Nevertheless, taking into account that Annual Summaries</p>

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						<p>the future systems audits missions.</p> <p>Taken into account, the focus of the Audit Authority on this objective together with the results of the last audit mission carried out, we consider that the priority rating for this finding should be modified from "high" to "medium".</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>The Audit Authority issued the conclusion referring to the key requirement 'Reliable accounting, follow-up and financial reporting in electronic format' for each audited entity taking into account the seriousness of the deficiencies identified.</p> <p>At the Intermediate Body for the Regional Operational Programme for Oltenia, the deficiencies identified consisted of delays in entering the data. The deficiencies were subsequently rectified and no new delays were found, as indicated in the system audit report No 41553 of 13 December 2010 sent via the SFC system on the same day.</p> <p>Given that the Managing Authority is responsible for ensuring that the data are entered on time and accurately in the SMIS system, and that it is also working in direct partnership with the Certifying Authority and the Coordinating Authority for Structural Instruments (ACIS) in this</p>	<p>for 2009 and 2010 reported differences between SFC and SMIS financial information, <b>Commission's services will follow-up this deficiency during future audit work.</b></p> <p>This finding is considered <b>open</b>.</p>

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						<p>area, it was placed into a different category taking into account also other deficiencies identified.</p> <p>In the annual opinions, one of the reasons leading to a qualified opinion referred to the key requirement 'Reliable accounting, follow-up and financial reporting in electronic format'.</p> <p>At the same time, taking into account the fact that the deadline established by the Commission for implementing the recommendation is 'permanent', the AA will take into account the Commission's recommendation to draw up conclusions commensurate with the seriousness of the findings for each key requirement evaluated and for each future audit.</p>	
3.	<p><b>Ref: Finding 3 - 2009/RO/REGIO/J2/818/1</b></p> <p><b>Information in the audit report</b></p> <p>a) The tests of control are performed on a sample of operations selected during the planning phase of the audit. The details of the sample selected are</p>	<p><b>Information in the audit report</b></p> <p>a) The sample used for tests of controls should be detailed in the system audit report.</p> <p>The audit report should present in detail the projects/operations</p>	Audit Authority	Permanent	Medium	<p><b>First reply</b></p> <p><b>Not accepted recommendation</b></p> <p>a) The details of the selected sample, including the criteria used for selecting the samples (as the EC auditors noticed) are presented in detail in the planning document for the audit mission. Considering that the audit plan is part of the audit file, we do not consider necessary to make a detailed presentation in the audit report of this extended</p>	<p><b>Ref: finding 3-2010/RO/REGIO/J2/818/1</b></p> <p>In order to assess the conclusion by key requirement it is necessary to obtain the details of the control testing, knowing that planning and realization may differ. The Commission recommends that the details of the selected sample are presented as part of the audit report sent via SFC2007. The</p>

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	<p>presented extensively in the planning document, but few details are included in the audit report.</p> <p>b) The financial information included in the report showed inconsistencies and the EC auditors could not reconcile the figures during the desk review of the document (e.g. total amount for project applications, total amount of contracted works).</p>	<p>selected at the level of each axis and Intermediate Body, as well as the population and the criteria used for selecting the sample.</p> <p>b) The financial information presented in the report should be accurate.</p>				<p>information.</p> <p>b) in respect of the error identified on page 15 of the first system audit report, taking into account the singular character of this error and that the providers of this information are the audited entities, we consider that the Audit Authority presents correct information in its reports.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>The Audit Authority took into account the Commission's recommendation concerning the detailed presentation of the sample of projects checked during the system audits, as can be seen in the ROP system audit report No 41553 of 13 December 2010, sent via the SFC system on the same day.</p> <p>Moreover, considering that the deadline established by the Commission for implementing the recommendation is 'permanent', the AA will take this aspect into account for future audits.</p>	<p>finding is considered <b>open</b> in the context of the audit.</p> <p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <b>closed</b> in the context of this audit mission.</p>
4.	<p><b>Ref: Finding 5 - 2009/RO/REGIO/J2/ 818/1</b></p> <p><b>Implementation of audit recommendations</b></p> <p>A series of audit recommendations, issued</p>	<p><b>Implementation of audit recommendations</b></p> <p>Audit recommendations should be implemented by the</p>	Audit Authority	Permanent	High	<p><b>First reply</b></p> <p>These observations have been presented to the auditors and within the follow-up process which is carried out as foreseen in the audit manual, they should also consider the implications on the subject project/ programme. According to the</p>	<p><b>Ref: finding 5- 2010/RO/REGIO/J2/818/1</b></p> <p>Commission <b>maintains</b> its finding and recommendation that audit recommendations should be implemented by the audited bodies with priority and</p>

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	during the first system audit, have not been implemented by the audited body. (e.g. finding in relation to possible conflict of interest of evaluators)	<p>audited bodies with priority and followed up regularly by the Audit Authority.</p> <p>The closure of the follow-up procedure should be initiated in case of no action by the auditee. The findings should be considered final and forthcoming actions for resolving the situation specified, including the application of possible financial corrections.</p>				<p>audit strategy during a calendar year the Audit Authority carries out a separate operations audit and separate systems audit for each operational programme which are carried out as a rule in the first semester and second semester respectively. Consequently there will be a separate section within the audit report dedicated to record the follow-up status on the recommendations so as to ensure timely monitoring of the recommendations every 6 months. Audit Authority recommendations which were not implemented will be submitted to the attention of the state secretary/ minister and where it is applicable financial corrections will be initiated and will be sent to the Managing Authority and Certifying Authority so as to be considered before certifying expenditure to the European Commission. Audit recommendations in respect of the management and control system which have not been implemented would be considered when drafting the annual control report and when formulating the annual audit opinion.</p> <p>Considering the above presented we consider the level of this finding medium.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>The Audit Authority took into account the</p>	<p>followed up regularly by the Audit Authority.</p> <p>The closure of the follow-up procedure should be initiated in case of no action by the auditee. The findings should be considered final and forthcoming actions for resolving the situation specified, including the application of possible financial corrections.</p> <p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <b>closed</b> in the context of this audit mission.</p>

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						<p>recommendation made by the Commission during the system audits for the Regional Operational Programme, the Sectoral Operational Programme for Increasing Economic Competitiveness, the Technical Assistance Operational Programme, the Sectoral Operational Programme for the Environment and the Sectoral Operational Programme for Transport carried out in the second semester of 2010, one of the audit objectives being to check the implementation of the recommendations made during previous audits.</p> <p>The details concerning implementation by the audited entities, the conclusion issued by the Audit Authority (implemented, not implemented, partially implemented) and any proposed financial adjustments are presented, for each finding, in the system audit reports sent via the SFC system.</p> <p>Moreover, considering that the deadline established by the Commission for implementing the recommendation is 'permanent', the AA will take this aspect into account for future audits.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>To ensure that the data and the information are entered in the Salv@tor system, editing rights have been established for each operational programme, which make it possible to</p>	

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						<p>enter data and information on the state of implementation of the recommendations made in the audit reports in relation to the operational programmes financed under the ERDF and the CF.</p> <p>The process of entering or updating the data in the database takes into account the recommendations made during the system audits and the operational audits. The process covers the following operational programmes: Regional Operational Programme, Sectoral Operational Programme for Increasing Economic Competitiveness, Technical Assistance Operational Programme, Sectoral Operational Programme for the Environment, and Sectoral Operational Programme for Transport.</p> <p>The template of the checklist for following up the recommendations in the database has been updated and it now contains information referring, among other things, to the type of error, the level of priority, the deadline and the entities/directorates responsible for implementing the recommendations, and the state of implementation of the recommendations.</p>	

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<b>Key requirement no. 2 and Key requirement no. 3</b>							
5.	<p><b>Ref: Finding 4 - 2009/RO/REGIO/J2/779/1</b></p> <p><u>Audit manual related finding:</u></p> <p><b>Monitoring tool</b> - A monitoring tool for the follow-up of findings is not mentioned in the audit manual.</p> <p>A web-based monitoring tool (Salv@tor) for the audit findings is used for the programming period 2000-2006. This tool is a MS Access Database.</p> <p>According to the management the same tool is scheduled to be introduced for monitoring the follow up of audit findings for the programming period 2007-2013.</p> <p>Although it is mentioned</p>	<p>A monitoring tool should be presented in the new version of the audit manual.</p> <p>The monitoring tool for the follow up of audit findings should be implemented as soon as possible and improved by taking into account at least the issues mentioned under this finding (access/ edit rights and relevant fields to be included in the database).</p>	Audit Authority	90	High	<p><b>Fist reply</b></p> <p><b>Partly accepted recommendation</b></p> <p>The audit manual contains a chapter on the follow-up of the method of implementation of recommendations, in which both the working methods and the documentation of this stage are specified. The results of the follow-up activity will be reflected in the completion of a "Follow-up Sheet on the Implementation of Audit Recommendations" (Annex MA III 8). Thus, the completion of this sheet will reveal information with regard to:</p> <ul style="list-style-type: none"> <li>- the recommendations subject to the follow-up process</li> <li>- the measures to be taken, the time limits as well as the entities responsible for implementation</li> <li>- the implementing stage (implemented, partially implemented or not implemented), setting out the reasons which led to a particular assessment stage in the implementation of recommendations.</li> </ul> <p>Likewise, this sheet contains information</p>	<p><b>Ref: finding 4-2009/RO/REGIO/J2/779/1</b></p> <p>The Commission takes note of the clarifications provided by the Audit Authority and would like to be informed about the state of play concerning the computerized monitoring system. This finding is considered <b>open</b> in the context of the audit.</p> <p><b>Final position:</b></p> <p><b>FOLLOW UP</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>Nonetheless, this finding is considered <b>open</b>.</p> <p>AA is requested to provide information exported from this data base showing its structure and the update.</p>



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	<p>that this tool is a first version, the following points are considered relevant to be taken into consideration:</p> <ul style="list-style-type: none"> <li>Continuation should be ensured by granting sufficient and adequate number of edit rights to the Database.</li> <li>Useful columns, such as type of error, financial / non-financial, principal auditor responsible for follow-up and prioritisation (low, medium, high) are missing in the version presented</li> </ul>					<p>with regard to the date on which it was prepared as well as to the persons responsible with the preparation and revision of the information contained therein.</p> <p>We consider from the above that there is a monitoring instrument for the findings at the Audit Authority level.</p> <p>As regards computerised monitoring, we note that account will be taken of the recommendation made in the development of the MS Access Database.</p> <p>At the same time, elements will be introduced with regard to the type of error and the level of their prioritisation in the revised manual, including in the annexes thereto.</p> <p>Taking account of the above, we consider that the level of importance of the recommendation should be "average" and with regard to the implementing time limit, we consider that it should be 120 days because the MS Access Database must be developed with the participation of other experts as well from the Court of Accounts of Romania (which holds the responsibility for the management and development of the MS Access Database).</p> <p>Second reply (letter 41388/7.01.2011):</p>	

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						<p>To ensure that the data and the information are entered in the Salv@tor system, editing rights have been established for each operational programme, which make it possible to enter data and information on the state of implementation of the recommendations made in the audit reports in relation to the operational programmes financed under the ERDF and the CF.</p> <p>The process of entering or updating the data in the database takes into account the recommendations made during the system audits and the operational audits. The process covers the following operational programmes: Regional Operational Programme, Sectoral Operational Programme for Increasing Economic Competitiveness, Technical Assistance Operational Programme, Sectoral Operational Programme for the Environment, and Sectoral Operational Programme for Transport.</p> <p>The template of the checklist for following up the recommendations in the database has been updated and it now contains information referring, among other things, to the type of error, the level of priority, the deadline and the entities/directorates responsible for implementing the recommendations, and the state of implementation of the</p>	

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						recommendations.	
<b>Public Procurement findings raised during audits performed for module 3</b>							
6.	<p><b>Ref: Finding 2 - 2009/RO/REGIO/J2/749/1</b></p> <p><b>Inadequate use of experience criteria</b></p> <p>In the examined UCVAP reports, it is stated that the contracting authorities have used the experience criterion as one of the criteria to award the service contracts. This criterion is considered not to be linked to the subject matter of the public contract in question which constitutes an irregularity.</p>	<p>A horizontal audit should be carried out by the Audit Authority, addressing the issue of the use of the experience criterion in awarding service contracts.</p> <p>DG REGIO should be informed of the results of this audit, as well as of the corrective measures taken at national level for all the Operational Programmes for programming period 2007-2013.</p>	Managing Authority, Audit Authority	120 days	High	<p><b>First reply:</b></p> <p>Audit Authority will implement EC recommendation as follows:</p> <ul style="list-style-type: none"> <li>- For Operational Program Environment and Operational Program Transport, the checks on whether the contracting authorities have used the experience criterion at the award stage will be carried out April – June 2010 during the operations audits mission.</li> <li>- For Regional Development Operational Program, for Increase of Economic Competitiveness Operational Programme and for Technical Assistance Operational Programme, the checks are already ongoing and will be finalized in June 2010.</li> </ul> <p>Nonetheless, in view of the large number of service contracts which have been concluded for Operational Programme Environment, Regional Development Operational Program and Increase of Economic Competitiveness Operational Programme as well as the fact that for all priority axis except Technical Assistance, tender documents are held at the level of</p>	<p>The Commission takes note of the actions taken by the Audit Authority. The audit report sent via letter 40931 of 29 July 2010 has been reviewed for its results. Nonetheless a final position will be taken on the finding when the results of the actions will be presented for remaining contracts in priority axes not covered by the Audit Authority in the context of the above mentioned audit report. Finding is <b>open</b> in the context of the audit.</p> <p><b>Final position:</b></p> <p><b>FOLLOW UP</b></p> <p>Commission services takes note of the information sent by AA. Nonetheless, this finding is considered <b>open</b>.</p> <p>This finding will be closed when evidence on recoveries will be provided.</p>

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						<p>final beneficiaries (spread in the territory), EC is requested to consider a possible extension of the deadline for implementation of this recommendation, in case the AA cannot verify all the procurement procedures in the specified period.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>By letter No 40425/AP of 19 March 2010, the AA expressed its point of view as regards the finding and recommendation included by the Commission in the audit report ref. 2009/RO/REGIO/J2/749/1.</p> <p>Thus, for purposes of implementation, the Audit Authority took the following actions:</p> <p>- During the operational audit relating to the operational programme for the environment, concluded by issuing report No 40817/AP of 1 July 2010, the AA carried out a horizontal check covering all the cases where the public procurement process included the experience of the experts as one of the assessment criteria for awarding services contracts, a procedure that constitutes a violation of the Community directives on public procurement.</p> <p>To achieve this additional objective, the</p>	

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						<p>investigation examined all the services contracts concluded, for all the priority axes of the operational programme for the environment, where the tender procedure took place prior to the amendment of Article 15 of Government Decision No 925/2006. The investigation also examined the documents relating to the tender procedures carried out in order to award those contracts (purchasing datasheets and procedure reports).</p> <p>The findings of the checks carried out by the AA were submitted to the Commission by letter No 40931 of 29 July 2010.</p> <p>In the second semester of 2010, we carried out a follow-up to the operational audit and we also checked the implementation of the recommendations referring to those irregularities. We found that the corrections proposed by the AA had been applied correctly;</p> <p>- As regards the Sectoral Operational Programme for Transport, we checked all the services contracts concluded between 1 January 2007 and 31 December 2009, to establish whether the professional experience and/or training of the experts had been used as one of the assessment criteria.</p> <p>The check was carried out between</p>	

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						<p>22 February and 30 April 2010, at the same time as the operational audit, and was concluded by issuing report No 40786/AP of 28 June 2010.</p> <p>The check found that the 'experience of the experts' had not been used as one of the assessment criteria for granting the services contracts financed under the Sectoral Operational Programme for Transport;</p> <p>- For the Technical Assistance Operational Programme, this recommendation was implemented and all the services contracts were checked during the operational audit carried out in the first semester of 2010. The AA submitted the findings to the Commission by letter No 40931 of 29 July 2010.</p> <p>The check found that the 'experience of the experts' had not been used as one of the assessment criteria for granting the services contracts financed under the Technical Assistance Operational Programme;</p> <p>- In the case of the Regional Operational Programme, by letter No 40931 of 29 July 2010, the AA submitted to the Commission the findings of its sample checks that were part of the operational audit carried out in the first semester of 2010 and the findings of the checks</p>	

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						<p>carried out by the Managing Authority for operations not covered by the AA sample.</p> <p>In the second semester of 2010, there was an audit whose objectives also included the follow-up to the operational audit. This involved checking the implementation of the recommendations referring to those irregularities, and it was found that the corrections proposed by the AA had not been applied. This finding was noted in system audit report No 41553 of 13 December 2010, concerning the Regional Operational Programme, sent via the SFC system on the same day;</p> <p>- In the case of the Sectoral Operational Programme for Increasing Economic Competitiveness, the AA checked only some of the services contracts during the operational audit carried out in the first semester of 2010 and recommended that the Managing Authority check the remaining unaudited services contracts.</p> <p>The system audit also checked the implementation of this recommendation and a conclusion will be issued when the final audit report is finalised, in January 2011.</p> <p>The checking of this aspect will stay on the AA's agenda, being included also in the checklists for public procurements,</p>	

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						and will be part of future audits.	
7.	<p><b>Ref: Finding 6 - 2009/RO/REGIO/J2/ 818/1</b></p> <p><b>Public procurement for additional works</b></p> <p>At the date of the audit a series of contracts for additional works had been concluded by the final beneficiary, subsequent to the system audit carried by AA at the end of 2009.</p> <p>At the level of the Managing Authority/ Intermediate Body there is no procedure to check compliance with public procurement rules for contract addenda.</p> <p>There is a risk that ineligible expenditure arises from such addenda if conclusion of such addenda is not public procurement compliant.</p>	<p>a) Managing Authority should have clear procedure in place to check public procurement compliance for contract addenda or clear provisions in the agreement with UCVAP to cover this specific area.</p> <p>b) Audit Authority should assess if public procurement checks on contract addenda are properly performed in the context of future audit missions.</p>	Managing Authority, Audit Authority	120 day	High	<p><b>First reply</b></p> <p>In the context of the subsequent audit missions, this European Commission recommendation will be considered for all operational programmes, also considering the applicable rules for each programme and the measures which have been undertaken by the managing authorities.</p> <p>We consider that the proposed deadline of 120 days is not sufficient for implementing this recommendation and we propose 180 days for implementing the recommendation.</p> <p><b>Second reply (letter 41388/7.01.2011):</b></p> <p>The Audit Authority took into account the recommendation made by the Commission during the system audits for the Regional Operational Programme, the Sectoral Operational Programme for Increasing Economic Competitiveness, the Technical Assistance Operational Programme, the Sectoral Operational Programme for the Environment and the Sectoral Operational Programme for Transport carried out in the second semester of 2010, one of the audit objectives being to check whether the audited entities have introduced</p>	<p>The Commission accepts the proposed deadline for implementation of action and would like to be informed of the audit results within the deadline of reply to this letter.</p> <p>The finding is considered <b>open</b> in the context of the audit.</p> <p><b>Final position:</b></p> <p><b>FOLLOW-UP</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>Nonetheless, this finding is considered <b>open</b>.</p> <p>The Audit Authority is requested to communicate the results of the audits of operations carried out in relation to expenditure declared in 2010.</p>



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						<p>procedures to adequately check compliance with Community and national rules on public procurement.</p> <p>The findings of the checks were presented in the system audit reports sent via the SFC system.</p> <p>The AA will continue to pay particular attention to this issue during all future audits.</p>	
<b>Key requirement no. 3: Adequate audits of operations</b>							
8.	<p><b>Ref: Finding 1 - 2009/RO/REGIO/J2/ 830/1</b></p> <p>Project SMIS code 932</p> <p>There is not sufficient audit focus on the unsuccessful bids in the tender procedures.</p> <p>In the public procurement process for support services for ACIS and Managing Authority of the Technical Assistance OP – 4 of the 7 submitted bids have been excluded at the selection phase, one of them having a lower price than the winning bid.</p>	<p>More audit focus should be placed on excluded bids.</p> <p>In particular, audit tests should be designed to evaluate excluded bidders at the selection phase that had a lower price than the winning tender.</p>	Audit Authority	permanent	High	<p><b>Reply (Letter 41309/17.11.2010)</b></p> <p><b>Partially accepted recommendation</b></p> <p>Following the observations expressed by the auditors of the European Commission, the Audit Authority has reviewed the issues identified and shall make the following notes:</p> <p>The Audit Authority attaches particular importance to the public procurement process, conducting checks during the missions involving the audit of operations with regard to all the stages of this process, including the stages of qualification and selection of tenderers, as well as the contract award stage.</p> <p>During the qualification and selection stages, checks are carried out with regard to whether the criteria set out in the award documentation comply with</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <b>closed</b> in the context of this audit mission.</p>

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	Further, the evaluation report of the public procurement procedure is not sufficiently detailed and precise, particularly on the reasons for exclusion of one of the bidders. e.g. The evaluation report quotes that key expert does not fulfil academic criteria – supporting documents show that the key expert holds a diploma for "economics engineer", not only for "constructions engineer".					<p>the legal provisions, and with regard to the reasons which led to the rejection of the tenderers who had failed to comply with such provisions.</p> <p>In accordance with the legal provisions, the tendered price is not a criterion for qualification and selection.</p> <p>Although in the case you had specified, the assessment report could have been more detailed and more precise, one must not disregard the fact that all the rejected tenders failed to comply with the formal qualification and selection requirements set out in the award documentation, i.e. certain experts failed to meet the conditions imposed for studies in the case concerned.</p> <p>In accordance with the legal provisions, in order to be able to enter the following stage, i.e. the contract award stage, tenderers must meet the qualification and selection criteria set out in the award documentation, irrespective of the tender price.</p> <p>At the same time, note that in the case concerned, the award criterion for this contract was not the lowest price but the most economically advantageous offer.</p> <p>The Audit Authority will continue to pay increased attention to the public</p>	

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						procurement process and it will focus its audit tests on the high risk areas identified in the course of its audit missions, including on rejected tenders.	
9.	<p><b>Ref: Finding 2 - 2009/RO/REGIO/J2/ 830/1</b></p> <p>Project SMIS code 1383</p> <p>A very short deadline (28 days) for submission of tenders has been used in the public procurement procedure for the supervision of a works contract (contract notice date 3 October 2008, deadline for submission of tenders 31 October 2008). The deadline is below the minimum foreseen by Article 38 of Directive 2004/18/EC</p> <p>This finding has not been identified by the Audit Authority, nor pointed out as a breach of Article 38 of Directive 2004/18/EC in the UCVAP report.</p>	<p>It is recommended that a contracting authority ensures that the prior information notice includes all the information required for the contract notice (Annex VII A of Directive 2004/18/EC) and that all other provisions for the reduction of the time limits are respected before a decision on shortening of the time limits is made.</p> <p>When the deadline foreseen by Article 38 of Directive 2004/18/EC is not respected and corrective measures are not implemented by the prior levels of control, the Audit Authority should raise an audit finding</p>	Audit Authority	permanent	High	<p><b>Reply (Letter 41309/17.11.2010)</b></p> <p><b>Accepted recommendation</b></p> <p>The Audit Authority has already initiated measures in order to implement the European Commission's recommendation.</p> <p>Thus, during the ongoing mission, with regard to the audit of the management and control system established for the Environment Operational Programme, the additional objective set by the Audit Authority is the re-assessment of the public procurement process for the award of Contract No 3289/16 February 2008 "<i>Technical Assistance for the Supervision of Projects</i>" under the SMIS CODE 1383 Project.</p> <p>Considering the fact that, for this type of irregularity which consists in the excessive shortening of the time limit for the submission of tenders, the EC applied financial corrections between 5% and 10%, in the case of Contract No 3289/16 February 2008, similar corrective measures shall be undertaken because the period between the date</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <u>open</u> in the context of this audit mission.</p> <p>Nonetheless, this irregularity is identified as a specific systemic risk to public procurement in Romania.</p> <p>The Audit Authority is requested to pay special attention to this risk factor and to communicate the results of the audits of operations carried out in relation to expenditure declared in 2010.</p>

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		in this respect.				when the contract notice was transmitted for publication in OJEU, i.e. 03 October 2008, and the time limit for the opening of tenders, i.e. 31 October 2008, was unlawfully reduced by 12 days.	
10.	<p><b>Ref: Finding 3 - 2009/RO/REGIO/J2/ 830/1</b></p> <p>Error rate - operations audit report – OP Regional Development</p> <p>In the preliminary audit report drafted for the operations audit for OP Regional Development, the error rate was 5.5%. Subsequently, in the final audit report the error rate was 0.9% (175,828.88 euro).</p> <p>This was mainly due to dropping one of the audit findings concerning the Brasov project (SMIS Code 1510).</p> <p>The draft audit report points out ineligible expenditure in amount of 634,294.14 EUR in relation to the Brasov</p>	<p>Audit Authority should clarify which are the reasons for not quantifying the financial impact of the operations audit finding in the Brasov project (SMIS Code 1510)</p>	<p>Audit Authority</p>	<p>30 days</p>	<p>High</p>	<p><b>Reply (Letter 41309/17.11.2010)</b></p> <p><b>Recommendation not accepted</b></p> <p>First of all, it is noteworthy that, on the date when the European Commission's auditors carried out the mission, the audit report was merely a draft version, and not all the audit procedures had been carried out for purposes of issuing a final report.</p> <p>In accordance with the provisions of the audit manual, throughout the contradictory procedure, the auditors have the possibility to clarify a series of findings in the draft report and, based on the written explanations and on the additional supporting documents provided by the audited entities, it may decide whether such findings are to be included in the final report.</p> <p>Following the reconciliation meeting of 07 July 2010, which was held with the audited entities, for the project in Brasov (SMIS Code 1510), the Managing Authority submitted a series of additional information to the Audit</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>The AA is recommended to include in their reports the arguments brought by the auditee in order to support the outcome of the contradictory procedure.</p> <p>This finding is considered <u>closed</u> in the context of this audit mission.</p>

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	<p>project (SMIS Code 1510), due to works which had been carried out before the date of the grant letter.</p> <p>It is not clear why the Audit Authority changed the assessment and the financial quantification in the final report.</p>					<p>Authority.</p> <p>Based on the analysis of all the documents available, the auditors concluded that the expenses settled to the beneficiary's account are eligible and that they meet the requirements of Government Decision No 759/2007 on the eligibility rules concerning expenditure incurred under the operations financed from Operational Programmes (DETAILS in the Annex)</p> <p>The reasons why the financial impact of the finding relating to the project with SMIS Code 1510 was not quantified in the Final Report on the audit of operations were set out in the working papers and are included in the current file of the mission of audit of operations.</p> <p>Considering that the documents concerning the contradictory procedure are included in the file of the audit mission, we do not deem necessary anymore to include in the audit report this information concerning the reasons for the non-quantification of certain findings which had been clarified.</p>	
11.	<p><b>Ref: Finding 1 - 2009/RO/REGIO/J2/ 831/1</b></p> <p>Project SMIS code 3044</p>	AA should ask for the quantification of such works – which are not eligible and identify the irregular amount	Audit Authority, Final Beneficiary	30 days	High	<p><b>First reply (letter 41368/22.12.2010):</b></p> <p>Similar to the findings of the European Commission's auditors, the Audit Authority has also found that the brief</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note</p>

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	<p>An addendum for works contract for the rehabilitation of the county road in Gorj (DJ665, Km 0+000-54+500 and DJ 675C Km 0+000-4+300) has been concluded. The addendum refers to 13 variation orders which have been issued in 2009.</p> <p>Some of the variation orders provide for supplementary works which have not been included in the initial tender dossier such as, variation order no. 2 including supplementary parking spaces.</p> <p>At the same time, the technical solution appears to have been altered as compared to the one included in the tender dossiers. For a significant part of the road, the abrasive polishing activity ("frezare") has been replaced by a layer of equalizing asphalt</p>	<p>in the audit report. Error rate should be recomputed considering all such errors in the audited sample.</p> <p>Amendments to contracts increasing the budget or modifying the scope of work should be concluded in accordance with applicable procurement rules.</p> <p>Audit Authority is requested to present the final conclusion on the finding raised in respect of this project – including the financial quantification and its impact on the reported error rate.</p>				<p>design relating to the project SMIS CODE 3044 includes a series of deficiencies identified during the execution of the works by the responsible parties involved in the project, which required significant changes in technical solutions. In this respect, a number of 13 site orders were issued and they included order cancellation notes and/or additional order notes adjusted against each other and registered under Addendum No 1/15 October 2009 to Works Contract No 322/14 January 2009, which was concluded by Gorj County Council, as the Beneficiary, and [REDACTED] with a value of RON 0.</p> <p>Considering the long period of time, i.e. about two years, from the date when the brief design was prepared in 2007 to the date when the works started in 2009, the condition of the county road being prone to wearing to a much larger extent, the Audit Authority deemed it necessary to recommend to the Managing Authority "To examine the method of implementation of the project from the technical and financial viewpoint in order to deliver its opinion with regard to whether compliance was ensured with the technical rules applying to county roads and with regard to whether the changes in the technical solutions and the</p>	<p>of the information sent by AA.</p> <p>This finding is considered <u>closed</u> in the context of this audit mission.</p>

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	<p>mixture (strat de egalizare din mixtură asfaltică).</p> <p>Significant modifications to the initial conditions stipulated in the terms of reference of the tender can result in an infringement of the principle of equal treatment and non discrimination and alter the market competition conditions existing at the time of the award of the initial contract.</p> <p>Audit Authority raised a finding in relation to the 13 variation orders/addendum for this works contract.</p>					<p><i>completion of additional works were opportune and/or accurately performed"</i></p> <p>The Managing Authority sent a technical assessment report on 15 December 2010, which was prepared as a result of the checks carried out by an independent technical expert and which is currently being analysed by the Audit Authority.</p> <p>The Audit Authority will deliver its final conclusions after it has clarified all the necessary issues with the Managing Authority and the Authority Regulating and Monitoring Public Procurement Actions. The time limit for the delivery of the final conclusions is 30 January 2011.</p> <p><b>Second reply on the results of technical analysis (letter 50182/10.02.2011):</b></p> <p>Following the technical analysis of the modifications, the amount of 17596.13 lei (approx. 4300Eur) was related to additional works and considered as not being eligible.</p>	
12.	<p><b>Ref: Finding 2 - 2009/RO/REGIO/J2/ 831/1</b></p> <p>State Aid – OP Increase of Economic Competitiveness</p> <p>Compliance with</p>	<p>More elaborated questions should be included in the checklist in order to guide the auditor to identify easily weather a state aid scheme or applicable state aid</p>	Audit Authority	permanent	Medium	<p><b>Reply (letter 41368/22.12.2010):</b></p> <p>The Audit Authority paid increased attention to this issue, and the question in the checklist in this thematic area, i.e. <i>"is compliance ensured with the ceiling and the conditions for the allocation of the State aid in accordance with the applicable aid scheme?"</i>, although</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <b>closed</b> in the context of this</p>

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	<p>applicable state aid rules is one of the key audit matters which should be addressed in respect to final beneficiary as private entity.</p> <p>The checklist used currently by the Audit Authority does not provide sufficient guidance to the auditor.</p> <p>It is useful that the auditor quotes the specific state aid scheme applicable for the operation which was audited.</p> <p>No specific reference to the national legislation is provided for each call for projects.</p>	rules are respected (e.g. de minimis)				<p>broadly expressed, covers all the types of State aids.</p> <p>The auditor has the possibility to complete the column of comments in the checklist and the working papers with all the data regarding the type of State aid scheme and with the requirements to be met under the applicable legislation.</p> <p>During the planned audit of operations, according to the audit strategy, in the first semester of 2011, the overall question in the checklist will be detailed with specific questions depending on the requirements of the State aid scheme which is applicable to the operations in the sample to be audited.</p>	audit mission.
13.	<p><b>Ref: Finding 2 - 2009/RO/REGIO/J2/83 1/1</b></p> <p>Evaluation Committee - works contract Medgidia – Constanta motorway section</p> <p>The evaluation report of works contract for</p>	<p>An adequate number of evaluators should be ensured in order to carry out a sound evaluation of the submitted bids.</p> <p>Specifically for the evaluation report for Medgidia- Constanta</p>	Audit Authority, Final Beneficiary	30 days	High	<p><b>Reply (letter 41368/22.12.2010):</b></p> <p>As regards the assurance of an adequate number of assessors, note that the EIB Guide, which provided the basis for the development of the procurement action, does not contain provisions requiring:</p> <p>- a number of members in the Committee, e.g. even or odd, not less</p>	<p><b>Final position:</b></p> <p><b>CLOSED</b></p> <p>Commission services takes note of the information sent by AA.</p> <p>This finding is considered <b>closed</b> in the context of this audit mission.</p>



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	<p>Medgidia- Constanta motorway section was signed only by four out of the seven appointed members of the committee, which lead to non compliance with the quorum requirements (2/3 from total number of members). Furthermore, one of the members abstained from taking a decision and refused to sign the report.</p> <p>The fact that the evaluation report has not been signed raises questions in respect of the due care of the evaluation process.</p>	Motorway, the contracting authority should clarify which are the reasons for approving an evaluation report which has not been signed by an adequate quorum.				<p>than 3 or not less than 5</p> <ul style="list-style-type: none"> <li>- the structure of the Committee (chairman, members, experts, secretary) and their right to vote;</li> <li>- the necessary quorum for the approval of the evaluation report (majority or 2/3).</li> </ul> <p>In these conditions, the AA's auditors deemed that the signing of the evaluation report by four out of the seven members was not a misconduct, considering the following:</p> <ul style="list-style-type: none"> <li>- the evaluation report was signed by most of the members in the Committee, and the applicable rules did not provide for a quorum of two thirds;</li> <li>- the national legislation on public procurement provides for the possibility to adopt a decision by the vote of the majority of the members in the Evaluation Committee (Government Decision No 925/2006);</li> <li>- the documents made available have revealed the reasons for the absence of assessing members from the actual evaluation and the reasons for one person's refusal to sign the report;</li> <li>- given the circumstances, the management of the Contracting</li> </ul>	

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						<p>Authority took responsibility for the approval of the Evaluation Report following additional investigations and after having requested some opinions from the specialised directorates. The details are found in the Minutes approving the Evaluation Report prepared by the President of the Evaluation Committee; the minutes were approved by the general manager of the Contracting Authority.</p> <p>In conclusion, the checks carried out by the AA's auditors revealed that the evaluation procedure was carried out in accordance with the EIB rules, the requirements in the Tender Documents were met in the tender assessment stage, the successful tenderer met the requirements in the Tender Documents and he had the lowest price.</p> <p><b><u>Final beneficiary</u></b></p> <p>At the request of AA, CNADNR (the National Company of National Motorways and Roads in Romania) delivered an opinion by Letter No 41438/AP/24 November 2010, as a Contracting Authority, with regard to the reasons and circumstances which led to the approval of the evaluation report without the signature of all assessing members.</p>	

N°	FINDING	ACTION TO BE TAKEN/ RECOMMENDATIONS	RESPONSIBLE BODY (AUDITEE)	DEADLINE (DAYS)	PRIORITY HIGH/MED IUM/LOW	ACCEPTANCE BY THE MEMBER STATE COMMENTS FROM THE MEMBER STATE	FINAL POSITION OF THE COMMISSION
						The documents and explanations submitted are in compliance with those provided to the auditors with the occasion of the on-the-spot check.	
<b>Key requirement 4: Adequate annual control report and audit opinion</b>							
14.	Comments included in the quality assessment letters concerned: <ul style="list-style-type: none"> <li>• clarifications on reaching to the annual audit opinion based on the audit work performed;</li> <li>• inclusion in the audit strategy of audits, developed as a result of the high risk areas identified for each programme based on the audit work already carried out;</li> <li>• the Audit Authority to be more proactive in the follow-up process, by monitoring closely systems and bodies assessed as "functioning, but significant improvements are needed";</li> <li>• information included in the annual control reports with regards to the non-statistical sampling method;</li> <li>• calculation of the projected error rate.</li> </ul>					Reply has been provided by AA, including the recalculation of the error rate where required.	Acceptance letter has been issued by the Commission's service.

## 6. OVERALL CONCLUSIONS AND RECOMMENDATIONS

On the basis of the audit work performed the auditors concludes that:

- **Key Requirement no 1: clear definition, allocation and separation of functions** is fulfilled by the Audit Authority.
- **Key Requirement no 2: adequate system audits** is fulfilled by the Audit Authority with regard to the methodology, documentation of the audit work and reporting, except for:
  - assessment of functioning of the financial monitoring system (SMIS) which should be properly carry out by taking into account the seriousness of the deficiencies identified;
- **Key Requirement no 3: adequate audits of operations** is fulfilled by the Audit Authority with regard to the methodology for audits of operations and documentation of the audit work, except for:
  - the Audit Authority should improve their effectiveness in auditing public procurement to better address issues relating to the interpretation of Community public procurement provisions (i.e. irregular use of experience criterion, additional works, unjustified shortened deadlines, etc);
  - the Audit Authority should correctly apply their quality review procedures so as to enable the correct understanding of the information included in the audit reports for an external reviewer.
- **Key Requirement no. 4: adequate annual control report and audit opinion** pursuant to the Article 62.1 d), (i) and (ii) of Regulation 1083/2006, Article 18.2 and Annexes VI and VII of Regulation 1828/2006 is fulfilled by the Audit Authority, except for:
  - the Audit Authority should be more pro-active with regard to the follow up of open findings and assessment of systems as "functioning, but significant improvements are needed" (by taking a final position and proposing the necessary corrections);
  - the absence of projected error rates in the Annual Control Reports on the Regional Development OP, Environment and Environment OP

**In conclusion, the functioning of the above key requirements is assessed as follows:**

Key Requirement	Assessment
No. 1: clear definition, allocation and separation of functions	Category 1: works well.
No. 2: adequate system audits	Category 2: works, but some improvements needed.
No. 3: adequate audits of operations	Category 2: works, but some improvements needed.
No. 4: adequate annual control report and audit opinion	Category 2: works, but some improvements needed.

## 7. OPINION

Based on the work carried out as indicated in sections 2 and 4 above, the auditors have obtained reasonable assurance that the work carried out by the Audit Authority is compliant with the requirements of Regulation (EC) No. 1083/2006, in particular with Article 62, and the results of the Audit Authority's audit work presented in the annual control reports and annual opinions can be relied on for building the overall assurance for the Annual Activity Report (Article 73 of Regulation (EC) No. 1083/2006), except for the following deficiencies relating to the system audits (Key Requirement no. 2), audits of operations (Key Requirement no. 3) and the adequate annual control reports (Key Requirement no. 4):

- assessment of functioning of the financial monitoring system (SMIS) should be properly carry out by taking into account the seriousness of the deficiencies identified;
- the Audit Authority should improve their effectiveness in auditing public procurement to better address issues relating to the interpretation of Community public procurement provisions (i.e. irregular use of experience criterion, additional works, unjustified shortened deadlines, etc);
- the Audit Authority should be more pro-active with regards to the follow up of open findings, especially for systems assessed as "functioning, but significant improvements are needed";
- the Audit Authority should correctly apply their quality review procedures so as to enable the correct understanding of the information included in the audit reports for an external reviewer;
- when applicable, projected error rates should be calculated and included in the annual control reports.

According to the reply received from the Audit Authority, measures have already been taken to address the above deficiencies. The Audit Authority is requested to inform the Commission on the implementation of the actions as set out in Section 5.

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### Emphasis of matter

Without further qualifying our opinion, we draw the attention to the following issues:

- Re-performance of audits of operations under this enquiry was limited to operations sampled by the Audit Authority on expenditure declared in the year 2009 and therefore the overall opinion is based only on testing of expenditure declared in 2009.
- The audit work carried out by the Commission's services in respect to 2010 and 2011 expenditure identified deficiencies concerning the management verifications in the area of public procurement which need to be followed-up.
- Taking into account that the 2009 expenditure was mainly related to technical assistance and based on the recent audit work carried out by the Commission

services, the conclusions of the audit work carried out for 2009 expenditure may no longer be representative for expenditure incurred in 2010 and 2011.

- In this respect, we advise the Audit Authority to revise the risk assessment while paying special attention to the irregularities identified by recent audit missions carried out.

Signatures and date

25/7/2011

[Redacted signature]  
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[Redacted name]

25/7/2011

[Redacted signature]  
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[Redacted name]

25/7/2011

[Redacted signature]  
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[Redacted name] (head of unit)

1. The first part of the paper discusses the importance of the study and the objectives of the research.

2. The second part of the paper discusses the methodology used in the study.

3. The third part of the paper discusses the results of the study.

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