



**EUROPEAN COMMISSION**  
Employment, Social Affairs and Equal Opportunities DG  
Audit, Controls  
ESF Audits

**Limited<sup>1</sup>**

**Final Projects Audit report for**  
**2007BG051PO001 – Human Resources Development**  
**A-Rep N° 2011 - 1375<sup>2</sup>**

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Authorities/Beneficiaries subject to audit:

BG051PO001-2.1.11 -Employment Agency-

BG051PO001-4.2.02 Ministry for Youth and Education

BG051PO001-2.1.04- [REDACTED]

BG051PO001-2.1.05 [REDACTED]

Country: Bulgaria

Region: Sofia

Period subject to audit: 2007 – 2013

Dates of the audit field work: 10-14 – October 2011 (projects audit)

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Report written on: 7 June 2012

Signature

P.O. Head of Unit

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<sup>2</sup> This number should be mentioned in all correspondence relating to this audit

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## **1. EXECUTIVE SUMMARY**

### **1.1. Introduction**

In accordance with its work plan for 2011 and in the context of compliance with Council Regulation (EC) No 1083/2006, Council Regulation (EC) No 1081/2006 and Commission Regulation (EC) No 1828/2006, Unit H/3, DG EMPL<sup>3</sup> conducted projects audit on the Operational Programme 2007BG051PO001 (hereafter –OP Human Resources Development). Between 10 October 2011 and 14 October 2011, the ESF auditors examined the regularity, legality and reliability of the expenditure certified to the EC under OP Human Resources Development from 31 August 2009 to 31 March 2011, under projects implemented by the Employment Agency (Direct Beneficiary), Ministry of Youth, Education (Direct Beneficiary), [REDACTED] and [REDACTED] (hereafter - the auditees). An exit meeting with the authorities concerned was held on 14 October 2011.

### **1.2. Common authorities subject to audit**

There were no common authorities subject to audit.

### **1.3. Findings**

#### *1.3.1. Management control<sup>4</sup>*

The management control findings are summarised below:

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<sup>3</sup> DG Employment, Social Affairs and Inclusion, Directorate H: Audit, Control, , Unit H/3: Shared management II

<sup>4</sup> Control system tested against designed control model (Guidance note on the evaluation of MCS)

<b>Finding n°</b>			<b>Reply MA/IB/</b>	<b>Conclusion EC auditors</b>
1	Lack of adequate evidence as for the activities incurred under management staff costs.		Partially agreed. Commitment for 10% correction.	Action accepted. Finding retained
2	Insufficient definition of selection criteria for awards recipients.		Disagreed. Additional evidence provided.	Additional evidence accepted. Finding closed.
3	Lack of sound financial management and possible breach of audit trail.		Partially agreed. Software developments implemented.	Additional evidence accepted. Finding closed.
4	Insufficient management verifications and possible breach of audit trail.		Agreed. Follow-up actions implemented.	Additional evidence accepted. Finding closed.

### *1.3.2. Findings concerning specific matters*

<b>Finding n°</b>	<b>Findings concerning specific matters</b>	<b>Reply MA/IB/CA</b>	<b>Conclusion EC auditors</b>
5	Lack of transparency throughout selection procedures and use of inflated and not justified rates for project work.	Partially agreed. Correction proposed.	Finding retained.
6	Lack of detailed enough basis for determination of voucher values.	Disagreed. Additional evidence provided.	Additional evidence accepted. Finding closed.

### *1.3.3. Financial findings*

The financial findings are summarised as follows:

<b>Finding n°</b>	<b>Compliance issue</b>	<b>Amount considered ineligible BGN</b>	<b>Comments MA/CA/AA</b>	<b>Conclusions EC auditors</b>
7	Ineligible expenditure	819	Agreed.	Finding

				retained.
8	Public Procurement shortcomings	5% of historical and future expenditure under ' [REDACTED]	Agreed.	Finding retained.
9	Public Procurement shortcomings	25% of historical and future expenditure under [REDACTED]	Agreed.	Finding retained.
10	Public Procurement shortcomings	25% of historical and future expenditure under " [REDACTED]	Agreed.	Finding retained.
11	Public Procurement shortcomings	25% of historical and future expenditure under " [REDACTED]	Agreed.	Finding retained.

## 2. OPINION

Based on the audit results for the four selected direct award schemes, the audit team expresses an opinion on the management and control systems (MCS) in place in the Intermediate Bodies for the measures and projects audited. Having in mind this limitation, audit opinion is:

### Qualified

The ESF auditors reviewed the systems in place and the selected projects in accordance with the audit scope and objectives set out in sections 4.2 and 4.3 of this audit report.

In our opinion, based on the audit methodology (section 4.4) and work performed (section 5), we have reasonable assurance that the management and control systems in place as at 14 October 2011 are functioning effectively and in compliance with the applicable regulations (Council Regulation (EC) No 1086/2006, Council Regulation (EC) No 1081/2006 and Commission Regulation (EC) No 1828/2006); except, however, for the material deficiencies which affect key elements of the systems of the Intermediate Body – Employment Agency and Intermediate Body – Ministry of Education.

- Key requirement 3: Adequate information and strategy to provide guidance to beneficiaries
- Key requirement 4: Adequate management verifications
- Key requirement 5: Adequate audit trail

Concerning the following measures 2.1.04- [REDACTED]; 2.1.05- [REDACTED]; [REDACTED]; 2.1.11- Voucher scheme "I can" and 4.2.02 – "Grants and awards for students":

- Key requirement 3: Adequate information and strategy to provide guidance to beneficiaries
- Key requirement 4: Adequate management verifications
- Key requirement 5: Adequate audit trail

At the end of the audit field work, the level of assurance obtained from the effectiveness of the systems of the Intermediate Bodies mentioned above for the audited direct awards can be classified as: **Category 3: Works partially; substantial improvements are needed.**<sup>5</sup>

This projects audit represents the assessment and evaluation of the design of the OP Human Resources at a specific point in time. Hence, this audit does not provide assurance

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<sup>5</sup> Deficiencies were found. These deficiencies have led or may lead to irregularities. The impact on the effective functioning of the key requirement/authorities/system is significant. Recommendations and/or an action plan have been formulated and should be implemented by the audited body.

for future periods in view of risks such as the weakening of the internal controls resulting from changes in conditions, or possible deterioration of the degree of compliance with legal requirements or procedures.

## Summary of assessment per key requirement

Following these facts, we suggest the assessment here below:

KEY REQUIREMENTS	Colour
Intermediate body ( Employment Agency and Ministry of Education, only for the schemes audited)	
Key requirement 3 (management and evidence for pension risks)	Orange
Key requirement 4 (management verifications)	Yellow
Key requirement 5 (audit work)	Orange
Overall assessment	Orange

## 3. SUBSEQUENT EVENTS AND CONCLUSIONS

After the end of the field work and before the end of the contradictory procedure, the Bulgarian authorities sent an action plan and submitted additional audit evidence addressing the issues raised in the exit meeting and other bi-lateral follow-ups. Based on the mitigating actions undertaken by the Managing Authority and the action plan (see chapter 6: Subsequent events), the Commission auditors could in principle raise the level of assurance to:

### Category 2. Works, but some improvements are needed.<sup>6</sup>

This level of assurance is based on information concerning the mitigating actions we received and analysed after the end of the audit field work. As such and also because the action plan and the commitments undertaken by the Bulgarian authorities within the contradictory procedure are in process of implementation by the national authorities, no audit work to test their effectiveness could yet be performed. The level of assurance is therefore subject to the correct and timely implementation of the action plan by the national authorities. Hence, no legitimate expectation can be derived from this provisional and conditional level of assurance.

Following the analysis of the action plan and the commitments undertaken by the Bulgarian authorities within the contradictory procedure, we suggest the re-assessment here below subject to the completion of the corrective actions and the financial corrections.

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

KEY REQUIREMENTS		Colour
Intermediate body ( Employment Agency and Ministry of Education, only for the schemes audited)		
Key requirement 1 (information and evidence for the findings)		
Key requirement 4 (management verifications)		Yellow
Key requirement 5 (audit trail)		Yellow
Overall assessment		Yellow

## 4. THE ENGAGEMENT CONTEXT

### 4.1. Legal Basis

The legal basis for this audit are Articles 14(2)(a) and 72 of Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the Structural Funds.

### 4.2. Audit scope

This audit covers expenditure declared from 31 August 2009 to 31 March 2011. It should be noted that the expenditure was declared under the priority axes 2, 3, 4 and 5 where corrective actions following the audit report Arep 1081/2010 as well as financial corrections are still undergoing.

Having that in mind, it was not possible for the auditors to ensure a complete and adequate follow up of the abovementioned audit report. Taking into account those circumstances, the auditors selected following risk based approach 4 direct award schemes (operations) within the declaration of expenditure submitted to the EC.

Based on the submitted documents, the desk review of the selected projects was performed in Brussels and the on the spot part was performed at the projects' premises.

Scope limitation: The AA, CA and Agency for Social Assistance were not in the scope of the audit engagement. For the Intermediate Bodies Ministry of Education and Employment Agency, the scope covered only the Direct award projects:

2.1.11- Vouchers scheme "I can"

2.1.04 - [REDACTED] - Support for honourable work

2.1.05- [REDACTED] -Prevention of non formal economy

4.2.02- Grants, Specialisation and Doctorates

### 4.3. Audit objectives

The audit objectives were to:

- Determine the degree of effectiveness of the MCS relevant to each authority's activities;



- Identify weaknesses in the MCS where a control or a series of controls did not reasonably prevent or detect risks that could have had an adverse impact on the MCS' objectives for providing a reasonable assurance that:
  - the declarations of expenditure for the programme are reliable;
  - the objectives have been achieved and;
  - European and national legislation is complied with;
- Assess the adequacy of the internal controls in place on the auditee's activities and;
- Review whether the relationship between the OP Human Resources Development's objectives and the internal controls implemented by the auditee ensure that the risks associated with delivery of the OP Human Resources Development's objectives and policies and achievement of its goals are effectively mitigated, focusing, inter alia, on the reasonable prevention, detection and correction of errors, irregularities and presumptive fraud.

#### *4.3.1. Audit objectives relating to audits at bodies/firms carrying out the operations*

The audit objectives were to assess:

- Whether the authorities' accounting records corresponded with the supporting documents held by the body/firm;
- Whether the nature and timing of the relevant expenditure complied with the Community provisions and corresponded to the approved specifications of the operation and the work actually executed;
- Whether the use or intended use of the operation was consistent with the use described in the application for the Community co-financing;
- Whether the Community financial contributions were within the applicable limits provided for in the applicable regulations and were paid to the final beneficiaries without any reduction and unjustifiable delay, if applicable;
- Whether the appropriate national co-financing had in fact been made available;
- Whether the body/firm had complied with the Community rules and policies including on publicity, information, competition, award of public contracts, equality of opportunities, and protection of the environment.

#### **4.4. Audit methodology**

The audit was conducted in accordance with the general and specific standards for the professional practice of auditing, the Structural Funds Audit Manual, and the European Social Fund Audit Manual. The audit team examined and evaluated, on a test basis, evidence relating to the design and operating effectiveness of the MCS of OP Human Resources Development's against the criteria established in the "Guidance note on a common methodology for the assessment of MCS in the Member States (2007-2013 programming period)" and other policies, manuals, procedures, directives and guidelines related to OP Human Resources Developments' execution or implementation.

A letter N° 929239 announcing this audit was sent to Bulgaria on 3 August 2011.

The audit was planned in conformity with the audit planning requirements identified in the European Social Fund Audit Manual. A risk analysis was applied to identify the high-risk areas. On the basis of this risk analysis, the analysis of the system descriptions, the information received from the Member State and other relevant information, an agenda was drawn up and sent to the auditees.

Based on the risk analysis, 4 operations were selected for on the spot audit. The result of this selection was:

<b>Project number</b>	<b>Expenditure committed (BGN)</b>	<b>Expenditure claimed (BGN)</b>
BG051PO001-2.1.11 Employment Agency – Directorate Services and employment	<b>25 998 501 .97</b>	<b>267 884</b>
BG051PO001-2.1.04- [REDACTED]	<b>8 902 959</b>	<b>204 181</b>
BG051PO001-2.1.05- [REDACTED]	<b>8 902 959</b>	<b>644 350.41</b>
BG051PO001-4.2.02- Ministry of Education – Directorate Scholarships and Doctorates	<b>39 116 600</b>	<b>6 202 332.20</b>
<b>Total:</b>	<b>82 921 019.97</b>	<b>7 318 747.60</b>

An on-the-spot visit to a Beneficiary/Promoter was carried out to assess the compliance of the systems with the European Structural Funds Regulations.

## 5. DETAILED FINDINGS AND RECOMMENDATIONS

### 5.1. Management and control findings:

The management and control findings are as follows:

Finding n°: 1	Key element 3: Adequate information and strategy to provide guidance to beneficiaries
	Objective: Assess whether authorities' accounting records correspond with supporting documents held by the Beneficiaries
Responsible body: MA /IB	Volume of funding affected by the finding: Non quantifiable

Beneficiaries ' [REDACTED] ' [REDACTED] 051PO001 -2.1.05 and ' [REDACTED] ' 051PO001 -2.1.04

#### Description of the finding:

##### Indirect staff costs

For the audited period, there was no agreement between EC and MA for implementation of Art. 11(3) (b) of Reg. 1081/2006. According to the Council of Ministers' Decrees (PMS) 180 and 62- setting out the general and detailed eligibility rules under Human Resources Development Operational Programme – management overheads expenditure is allowed up to 10% of the direct expenditures of the Direct and Institutional Beneficiaries. No further detail of the indirect expenditure types or methodology of calculation has been adopted.

The incurred indirect costs were presented by the beneficiaries in their financial reports under Chapter 8 Indirect costs; mainly covering Staff Management Costs. There are following issues:

- First, the civil contracts to which reference is made which very often concern costs of an indirect nature, are charged in full, as direct cost, to the project.
- Secondly, in the absence of an adequate audit trail (no adequate timesheets or activities reports were available), the use of civil contracts under indirect expenditure may lead to double funding with the normal salary.

Moreover, in the project ' [REDACTED] ' the audit team observed invoices for telephone and internet used by the project team which were charged in full to the project under chapter "Indirect costs".

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Risks: the lack of a sound financial management and the evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and the financial corrections.

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#### Recommendation:

The MA/IB is requested to provide the underlying audit trail justifying the methodology for claiming indirect expenditure on a flat rate basis in line with the requirements of art

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11/3b) of 1081/2006. Secondly, the MA should develop and implement guidance for beneficiaries on the rules concerning the flat rate methodology.

Finally, in the case there is no audit trail to justify the use of the flat rates applied; appropriate financial corrections should be made.

Deadline for implementation of recommendation: 6 months after receipt of the audit report in national language	Nature of the recommendation: Prompt
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Comments from the responsible body (auditee):

**In finding 1, bullet 1:**

According to Decree № 180 of 27.07.2007 of Council of Ministers (CM) art. 11, para. 3, item (b) of Regulation 1081/2006 is not applicable direct beneficiaries schemes. The Decree stipulates that management costs:

- remuneration costs for the project staff including social insurance charged to the insurer;
- Costs of business trip /travel cost, per diems and accommodation/ for persons engaged in project management;
- Costs of materials, supplies and inventories;
- Cost of external services - rental costs, telephone / fax, electricity / heating, maintenance;
- Other management costs (unclassified in the above).

Under the audited schemes eligible management costs as defined in Article 4, paragraph 5 of the Decree № 180 of 27.07.2007 of CM should be up to 10 percent of the total eligible costs. In the process of verification the contracting authority verifies supporting documents and declares that all expenditures are eligible. Checks were carried out in order to ensure compliance with the Law on Value Added Tax, the Accountancy Act, Decree № 55 of 12.03.2007, Decree № 62 of 21.03.2007, Decree № 180 of 27.07.2007, Decree № 121 of 31.05.2007, Decree № 67 of 14.04.2010, Decree № 179 of 10.08.2010 and other applicable regulations. Checks are stipulated in annex 7.30 and 7.32 of the Manual of the Intermediate body (the Employment Agency) under OP HRD (*attachment K1.1*) according to Article. 3 of Decree № 180 of 27.07.2007 and art. 3, para. 1 of Decree № 62 of the Council of Ministers of 21.03.2007.

The amount of the eligible costs is calculated and shown in Information form on eligible / ineligible costs, inventory of the supporting documents (Attachment K1.2 – annex 7.6 from the Manual under OP HRD), ensuring compliance with the 10% limitation.

*Attachment K1.1 – Template of Information form on eligible / ineligible costs; Template of checklist for interim payment request and interim report on direct award, filled-in check lists annexes 7.30 and 7.32 for [REDACTED]*

*Attachment K1.2 - a list of supporting documents, Information on eligible / ineligible costs.*

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**Finding 1, bullet 2:**

a) In the project of Labour Confederation [REDACTED] the project team is entirely external to the organization and their commitment is only to the project management.

b) Part of the management team of [REDACTED] [REDACTED] [REDACTED] in Bulgaria experts are internal to the organization. They also carry out project management activities and there is a clear distinction between the two activities – under the labour contract to the organization and the civil contract to the project, as a typology of activity and as time-schedule for implementing it. Each civil contract is reported to the project as an expense in item 9 (management costs). Each contract is supported by reports for the implemented activities as per required by the contracting authority in order to avoid the possibility of double funding of one and the same activity.

- The job description of every employee includes clearly defines the rights and obligations under the basic labour contract as well as working time of the employee (*Annex K1.3 copy of the contract*).

- The civil contract envisages activities to be performed only to the project and do not cover the scope of the activities under the job description of the labour contract (*Annex K1.4 civil contract to the project and monthly reports*).

Regarding management cost under [REDACTED] contract made up to the entry into force of the Methodology on regulation of remunerations under OP HRD based on the audit findings and due to lack of audit trail the Contracting authority will impose 10% financial correction of the certified costs under this budget sub-item.

**Finding 1, bullet 3:**

As a result of public tender conducted under the project [REDACTED] has concluded a separate contract with [REDACTED] for telephone and Internet services only for the purposes of the project. The similar type of services that [REDACTED] uses its typical activities are funded by another contract that is not part of the project. The costs for telephony and Internet as part of the management costs of the project are reported in a separate invoice and the average monthly cost up to date for the entire team is 70.56 lv. (*Annex: Scanned invoices, [REDACTED] contract and contract for telephony for the typical activity of [REDACTED] - K.1.5*).

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**Analysis of the reply by the Commission:**

The Commission accepts the explanations given and the additional information submitted in relation to the procedural rules of management verification of expenditure and the controls on claims of direct and indirect costs. In relation to the particular projects audited by the Commission, the justification of the indirect expenditure on a real cost basis should have been supported by documents evidencing the eligibility of the expenditure and serving as proof for the achievement of maximum result for the (financial) resources invested, in accordance with the principles of sound financial management.

The documents provided in Annexes K1.3 and K1.4 (remuneration of the project management team of [REDACTED] represent information already reviewed by the auditors during the mission in 2011. We therefore retain the finding of absence of adequate audit trail. In fact, the monthly activity reports of [REDACTED] project management team do not provide for a clear, comprehensive and traceable connection between the expenditure

claimed and the project activity actually taking place. The general description in documents has insufficient details to enable tracing the time worked on the ESF project, especially in comparison with the same people's full time labour contract.

In furtherance of the foregoing and in order to avoid the risk of double financing of the activity, the Commission strongly discourages the existing practice people employed under a full time labour contract to have also continuous engagement for labour duties under a civil contract for an ESF project.

**Finding retained.** The Commission takes note of the actions presented in the Action Plan (action 1, page 1) that you decided to implement a 10% flat rate correction on the project management staff costs. We will consider this recommendation to be closed once the corrections are implemented.

The second part of the observation concerns the phone/telecommunication expenditure claimed by [REDACTED]. The Commission appreciates the additional supporting evidence – invoice, service contract and the related documentation. **The Commission withdraws this part of the finding** and considers the matter closed.

Finding n°: 2	Key element 3: Adequate information and strategy to provide guidance to beneficiaries	
	Key element 5: Adequate audit trail	
	Objective: Assess whether authorities' accounting records correspond with supporting documents held by Beneficiaries. Assess whether the Beneficiary complies with Community rules and policies	
Responsible body: MA/IB	Volume of funding affected by the finding: Non quantifiable	

Beneficiary : Ministry of Education and Youth – [REDACTED]

#### Description of the finding

According to PMS 90 from 26.05.2000, amended 17.02.2009, art 9 and the Instructions from Minister of Education, one-off awards of 200BGN disbursed to students enrolled in the technical scientific faculties in Bulgarian universities. All national and private universities are eligible.

The auditors observed that as a common practice, the university submits to the Ministry of Education- Directorate "Scholarships, Doctorates" the documents concerning the justification of award to certain students. Nevertheless, the lack of precise definition and criteria for selecting the recipients of awards caused different interpretations and differences in the methodology applied. Moreover, some of the awards were paid to students in cash. During the audit, there was no evidence of those payments in case of 2 out of 4 universities. Although the universities provided a list of names of the students awarded, the selection criteria remain ambiguous.

Risks: The lack of a sound financial management and the evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and financial corrections.

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**Recommendation:**

The Beneficiary should quantify the error deriving from payments in cash for which there is no proof. This amount will be considered ineligible having in mind the breach of the audit trail and the lack of evidence of the reimbursement of costs.

Secondly, Ministry of Education, Youth and Science should set out and monitor the implementation of precise, fair, equitable and verifiable criteria for the selection of the recipients for awards. Those criteria should be coherent amongst the universities, - and moreover, a proof of the selection of the students should be kept in the file. It would be important if the students could have access to the evidence throughout the entire selection process from the moment they apply and that way, have an overview and follow-up the selection process.

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Deadline for implementation of recommendation: 6 months after receipt of the audit report in national language	Nature of the recommendation: Prompt
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**Comments from the responsible body (auditee):**

After the Intermediate Body – Ministry of Education, Youth and Science reviewed once again the whole documentation included in the payment request audited by the EC audit mission, it determined that payments in cash were made up only in the following two cases:

1. [REDACTED] – **Sofia**. Six awards (of BGN 200 each) have been paid off to six students for which the following accounting documents are available in the interim financial report:
  - Register signed by the rector and the chief accountant, and sealed with the official seal of the university;
  - Bank payment transfer (from Beneficiary to the [REDACTED]);
  - Bank Statement of the [REDACTED] bank account;
  - Ex-ante control check list signed by a financial controller according to the Public Sector Financial Management and Control Act;
  - Order for award payments, signed by the Rector of the [REDACTED];
  - Payroll (a list of awarded students signed by the recipients of the awards);
  - Spending Cash Order No 1185/04.09.2009 r. (cash receipt) for the payments exerted in cash.
  
2. [REDACTED] – **Sofia**. One award (200 BGN) was paid on the basis of the following payment documents available in the interim financial report:
  - Register signed by the rector and the chief accountant, and sealed with the official seal of the university;
  - Bank payment transfer (from Beneficiary to [REDACTED]);
  - Bank statement of [REDACTED] bank account;
  - Ex-ante control check list signed by a financial controller according to the Public Sector Financial Management and Control Act;
  - Spending Cash Order No 410/24.08.2009 r. (cash receipt) for the payment in cash, **signed by the student-recipient of the award**. The payment document is signed by the following servants/persons: **the person who prepared the document (signature No 1), the chief accountant of [REDACTED] (signature No**

2), **the manager** (signature No 3), **person, who gave the cash** (signature No 4) and **the student – recipient of the cash** (signature No 5).

We attach copies of all the above mentioned documents. These documents have been presented to the representatives of DG Employment on the February 9<sup>th</sup> 2012 during a meeting with Mrs. [REDACTED] Deputy Minister of Education, Youth and Science (*Attachment F 2.1*).

Our opinion is that all relevant accounting documents concerning payments in cash are available and reliable, and there is no breach of the audit trail. Moreover, in 2009 when the payments were made, no legal restriction for payments in cash existed (Bulgarian *Limitation of Cash Payments Act* was promulgated in 2011, SG No. 16/22.02.2011 and amendment of Decree 180/2007 of CM of 8.10.2010 - SG). All primary accounting documents are in compliance with the Accountancy Act (SG No. 98/16.11.2001).

The selection and final listing of students receiving awards is made **on the basis of their grades score exclusively**. Participation of students in research, scholarly or practical projects (papers) is a prerequisite condition for applying for awards. The final listing is completed exclusively on the grades score basis. This approach is the only one that could guarantee equal treatment of students from different departments and courses. The forms and areas of students' promotion or creative activities could vary and are practically uncountable. They could hardly be classified: for example, this could be a written paper of scholarly research, delivering of a presentation, winning first prize in Olympiad, participation in drama or other kind of performance winning international competition, drafting of an architectural model/layout/plan, etc.

These several examples show that it is not possible to create common criteria covering and evaluating all possible projects and activities of the students. Precisely that is the reason why the only selection criterion is student's grades score, on the basis of which the final listing is made. Participation in research, scholarly or practical papers, or other creative activity is a prerequisite (*condition sine qua non*) for proceeding of an application.

Besides, student's supervisor signs a special document (the so-called administrative certificate), sealed with university's official seal, certifying that certain project or paper have been presented by the student and is of quality fitting the requirements for the application for an award. Students attach this administrative certificate to their application forms and provide its registration number to the projects' information system (<http://eurostipendii.mon.bg>); however, the original certificate is kept at the university records.

Such a certificate is the only possible way to prove the elaboration/creation of an object (for example, a model of a building), or participation in a conference – as in these cases one cannot attach those items to the application form. The administrative certificate is not necessary when there is unambiguous and indisputable evidence of a student's achievement: a certificate from international Olympiad, contest certificate, etc.

In the Art. 6 of the Instruction of the Minister of Education, Youth and Science on scholarships and awards granted from Human Resources Development OP all supporting documents for student awards are explicitly pointed out:

1) *award application form (according to a template approved by MEYS)* – the documents of all applicants are kept at the universities and in the information application system (<http://eurostipendii.mon.bg>) as well; and

2) *evidences for students' grade score and their participation in scholarly research or*



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*practical projects* – such documents are also kept at the universities, part of them are attached to beneficiary's technical reports and are described in Register forms.

Art. 7 (3) of the Instruction stipulates the following: „Participation in research, scholarly or practical projects is being proved by copies of publications, certificates and other documents”. The quotation of documents is not exhaustive and creates opportunities for various kinds of certifying documents.

The number of distributed awards is 29 510 approximately and the documentation volume is enormous. It is precisely because of this reason why universities decided to certify students' achievements by issuing the above-mentioned (administrative) certificate. Each certificate is an official document of the issuing organization, bearing registration number, sealed with the official seal and signed by an authorized employee.

Such documents are available for all students who are recipients of awards. In all cases there are evidences of students' participation in scholarly, research or practical projects and activities. Therefore, in our opinion, as far as students' awards are concerned, there is sufficient audit trail for each student and every award granted, because supporting documents for eligibility of students are available.

We attach the Instruction of the Minister of Education, Youth and Science on scholarships and awards granted from Human Resources Development OP (Attachment F2.2) and copies of certificates of awarded students from [REDACTED] – Sofia and the [REDACTED] (Attachment F2.3). We can present award supporting documents from other universities and colleges as well.

**Students participate directly in the selection process** through their representatives appointed by the Student Councils: half of the members of the selection committees are students. Students' participation in these committees guarantees procedures' transparency and equal treatment of all students. Furthermore, since the 2009/2010 academic year an information system had been elaborated (eurostipendii.mon.bg). Since that moment, students submit their application forms online and any time whoever can check how many students have submitted application forms and what is the lowest grade score selected for scholarship or/and award by the universities and their departments.

The platform is open for public access and the minimum grades for the awards is visible under each specialty in the respective university. The number of the administrative certificate verifying the student's achievement is filled in the application form. The administrative certificate is based on the variety of the student's works that cannot be systemized, e.g. performance, picture etc. Analogous to the procedure applicable for scholarships the official certificate for the awards is issued by the relevant teacher/head and is signed by the university giving detailed description of the work. Some universities attach a copy of the work where appropriate. When the work is certified by certificate for participation, order etc. other certificate is not issued by the university. If the work is published the name of the edition and the page is written in the application form. These documents are kept in the respective university and each student is given access to the archive.

The described below works are few examples of those available in the system:

- Scientific work “Kirkegor's existential course”, no. ФсФ 5 / 29.03.2012 г.
  - 12<sup>th</sup> international practical conference, Tula, 15 - 18 Febraury 2011, report, page 216 - 220; “Nurse” Magazine, “Russina doctor”
  - First award certificate for participation in the contest held in “Practice week”, [REDACTED] Plovdiv branch
  - Certificate of Official certificate no.19/02.04.2012.
  - Certificate for participation in the Internatioanal conference dedicated to the
-

Nobel laureate for literature, Veliko Tarnovo city, 2011

- Participation in [REDACTED] "Introduction of the innovative colour concept "Life" Introduction to the [REDACTED] target groups ", 03-04.12.2011
- Real estate assessment report, official certificate

As the student's grades are criteria for selection it is given public access while the works are criteria for eligibility of the student. For each selected student the university has certified his/her work. For the purposes of audits the universities can submit detailed information and copies of all works. Ranking is made online and grades of each student are visible. 50% of the committee members are students according to the Instruction of the Minister of education, youth and science.

The documentation is at disposal for checks at the universities including checks performed by the students themselves which ensures the transparency of the procedure. Each university designates students as members of the selection committee.

**Attachment:** screenshots from eurostipendii.mon.bg (*Attachment F 2.4*).

Analysis of the reply by the Commission:

The Commission accepts the explanations given and the additional evidence provided.

The EC audit team considers that the audited payments in cash to students are substantiated by accounting documents of equivalent probative value to a bank transfer. This part of the finding is therefore withdrawn.

**Finding and Recommendation closed.** The Commission has received the evidence of the functionalities developed in the software system eurostipendii.mon.bg which address the issues described in the finding.

Finding n°: 3	Key element 3: Adequate information and strategy to provide guidance to beneficiaries
	Key element 5: Adequate audit trail
	Objective: Assess whether authorities' accounting records correspond with supporting documents held by Beneficiaries.
Responsible body: MA /IB	Volume of funding affected by the finding: Non quantifiable

Beneficiary : Ministry of Education and youth – Directorate Scholarships and Doctorates

#### Description of the finding

According to the procedures for granting awards to students, the Beneficiary Ministry of Education- Directorate "Scholarships and Doctorates" has established agreements with all participating universities. There was a budget quote part predefined for scholarships for each university. This quote part usually presented 10% of the students in the university. In relation to the process of reimbursement of grants, the audit team had the following observations:

The Directorate "Scholarships and Doctorates" within the Ministry of Education first receives records of recipients from the universities and only then it proceeded to payments of the grants and the university paid subsequently the students. Nevertheless, it was only afterwards that the universities sent the supporting papers justifying the eligibility of the students. The average success rate was different amongst universities and was determined mainly by the 10% quota availabilities.

Following the checks of the students records at one randomly selected university ( ) it appeared that there were minor deviations in the final average scores, the data was processed mainly manually which undermined the correct calculation of the scores for the best 10% students. Moreover, it appeared that the students were only signing the application form but the score was calculated by the university administration so the students had no information on other applications or other records.

Risks: The lack of a sound financial management and evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and financial corrections.

#### Recommendation:

We would recommend that the Ministry of Education - Directorate "Scholarships and Doctorates" receives the registers and scores before proceeding to the payment of the grants to the universities. Reconciliations should be done systematically having in mind that the data might not always be reliable due to the manual calculations.

We would also recommend that the students have access to the application process, have information on how many people had applied and the notes of the other applicants so that there would not be any doubt on the transparency of the choice of the 10% best scores. Since there is a platform already existing between the Ministry of Education and the universities for an exchange of data and a reporting, we would suggest that there is an additional option created for the student profiles, and process of the students' selections.

Deadline for implementation of recommendation: 6 months after receipt of	Nature of the recommendation: Prompt
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the audit report in national language	
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Comments from the responsible body (auditee):

We hereby present a detailed information on the procedure for scholarship payment:

- 1) Students apply for scholarships on the basis of their grades score from the previous two terms (first grade students during the second term apply on the basis of their grades score from the first term).
- 2) A special committee (including 50% students), appointed by the rector's order, prepares a descending list of all applying students on the basis of their grades scores. 10 % of the higher grades students are listed in a Framework Register officially signed by the Rector and the chief accountant and is sent to the Beneficiary - Ministry of education, youth and science. **It is at this stage that the eligibility of students is being checked.** This selection committee has access to all students' files and verifies the grade scores.
- 3) Based on these Framework Registers the Ministry of education, youth and science makes payments to universities; and, respectively, the universities make payments to students.
- 4) After the payments are completed, the universities collect all payment papers from banks and send them to the Ministry of education, youth and science in its capacity of beneficiary, together with the Framework Registers. The project team of the beneficiary - Ministry of Education, youth and science reviews and classifies the papers and prepares interim/final reports for the Contracting Authority - IB of HRD OP.

The eligibility of students is checked at the selection stage that is being carried out within the universities before sending the Framework Registers to the Ministry of education, youth and science. Half of the members of the selection committees are students. This guarantees the transparency of the selection process. In addition, please take into consideration the information given to *Finding 2* in regards with the information system <http://eurostipendii.mon.bg>, and the screenshots from the system presented during the meeting with DG Employment on February 9<sup>th</sup>, 2012 in Brussels (*see also the attachment F 2.4*)

Analysis of the reply by the Commission:

The Commission accepts the explanations given on the process of selection of students receiving scholarship and the further developments presented in the content and functionalities of the information system servicing the awarding of scholarships. .

**Finding and recommendation closed.** The Commission has received an overview of the current functionality of the information system servicing <http://eurostipendii.mon.bg>. The functionality addresses the finding and enables every student to trace minimum academic score of recipients of scholarship.

Finding 4	<p>Key requirement 4 – Adequate Management verifications</p> <p>Objective: Assess whether the use of the operation is consistent with the use described in the application for Community co-financing.</p>
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Beneficiary - Employment Agency Directorate Services and Employment – BG051PO001-2.1.11

Description of the finding

According to PMS 251 from 21.10.2009 and its subsequent instructions, the employed/self- employed people could apply for trainings for acquiring key competences or professional degrees. The licensed training providers are listed by Employment Agency. The Employment Agency provides named and labelled vouchers which the trainee presents to the trainers and subsequently the trainers get reimbursed. This procedure was tested with two providers from the Sofia region. Several facts came to the attention of the audit team, namely:

- It appeared that the trainees were all from one company. The application forms were filled by the company's administration and not by the individuals. There was a non-compliance with the legal prescriptions for vouchers stipulated in PMS 251, art 1-3. In practice, It was rather companies than individuals which benefited from participating in these schemes. Following the management verifications, the Employment agency (Intermediate Body) did not seem to question the fact that all employees for certain training were coming from the same company.
- The trainings were divided into theoretical and practical part. The practical part was usually taking place in a training company affiliated (or even same) to the company of origin. (the employer) This fact and also the fact that the employees attending trainings were all from the same company, leads to the conclusion that the company was saving training costs and yet the employees were still working. This was not in compliance with the prescriptions of PMS 251.
- After the end of training, the employees were given questionnaires. It appeared that those cards were filled with the same handwriting and it was rather the administration of the company that filled them and not the employees themselves.
- The auditors also noted that there was a "Declaration of employment" which each employee had to sign in order to be eligible for the training. The auditors noticed that the Employment Agency in its function as Intermediate Body did not carry any cross checks on the truthfulness of those declarations. Even though in the reviewed cases where the employees were actually working in the company, there is still a risk of wrong reporting.

Risks: The lack of a sound financial management and the evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and financial corrections. Failure of complying with prescription of art 13 of Commission Regulation 1828/2006.

Recommendation:

The Employment Agency – Directorate "Service and Employment" is recommended to strictly monitor the compliance with art 1-3 of PMS 251. The vouchers should not finance the structures of the companies but should rather be targeting the individual

needs of the employed people. Moreover the Intermediate Body Employment agency should monitor in a more regular basis the reality of those trainings and should be more critical in its checklists on the conditions in which trainings take place.

Deadline for implementation of recommendation: 6 months after receipt of the audit report in national language

Nature of the recommendation: Prompt

Comments from the responsible body (auditee):

Employment Agency has identified potential risks in the process of training conducted by training providers and has taken the following actions:

1. **Guidelines № 91Ф/0020 30.07.2010 (Attachment F 4.1)** of the Executive Director of the Employment Agency has been sent to all training providers, included in the List to article 7 of the Council of Ministers Decree No. 251 of 30.10.2009. It sets restrictions to the trainers when using the material and technical base of the employer, except in the following cases:

- when the material and technical base is in the license of the training providers, i.e. verified by the National Agency for Vocational Education and Training;
- there is no other material and technical base for a particular practical training in the same region.

In that case the Guidelines envisage prohibition for employees of the same employer for practice trainers and requires all production during practices to be retired. The training providers submit reports as an evidence of the disposal.

**2. The Intermediate body has signed agreements with the "General labour Inspectorate" Executive Agency and the National Agency for Vocational Education and Training for the control of employees and the quality of training (Attachment F 4.2).**

During an inspection by the Employment Agency for all ongoing and conducted trainings within the two schemes "I can" (BG051PO001-2.1.11 and BG051PO001-2.1.13) it was found, that cases, in with more than 15 individuals employed by the same employer, who are trained by one training provider are only 3528 people out of 57 942 people included in training under the scheme (*Attachment F 4.3 - reference*).

3. As a result of the findings and observations of the quality of provided trainings, after inspections conducted by officials of "Labour Office" Directorates, "Regional Employment Service" Directorates and Management Team in the central administration of Employment Agency, a **Risk Register of Training Providers** was prepared. The decision to include providers of training in Risk Register is made on the basis of the number of trainees by the same supplier, and later on the basis of signals, complaints and appeals received concerning trainings. **Since July 2010** the frequency of inspections of the provided trainings, included in the **List of risk training providers**, is three times a week in irregular order. Checks are carried out by teams of employees in "Labour Office" Directorates included in Director's order and who are in charge with this activity. From February 2010 to 30.09.2010, 25 575 inspections have been carried out during the trainings throughout the country, and by the end of 2011 the total number of inspections increased to over 37 000. In the period of project implementation 260 on-the-spot visits are carried out by the Contracting Authority at the beneficiary and 55 site visits at the training providers under the scheme.

**In June 2010, an amendment of the template of Findings report and Questionnaire of training was made.** In the Findings report template date and time of the check is

added as well as name and signature of the trainee. The template of the Questionnaire includes name and signature of the trainee and date. The number of questionnaires is 116 186, of which 104 473 filled-in during the training and the remaining 11 713 were filled-in at the end of training (*Attachment F4.4 - templates of Findings report and Questionnaire*). Following Annex to Agreements under Art. 7, paragraph 7 of Council of Ministers Decree No. 251 of 30.10.2009, with all providers of training, **an opportunity to suspend the training if any infringement is found**. As a result of control activities of Employment agency the **agreements with two of the training provider were terminated** and the vouchers are cancelled (*Attachment F4.5 - Annex to the Agreement*).

**4. The procedure for issuing vouchers has been amended from September 2010** providing for the option for the trainee to choose the training provider. By that amendment the training provider was pointed out in the Application form by the person, after the amendment "Notification letter" was introduced which the person approved for training presents to the selected training provider, who fills it in and indicates a specific starting date for the training. Trainees receive detailed information about upcoming trainings by personal contact with the training provider.

**5. Until October 2011** training vouchers were issued after check in the National Labor Market Database, if applicants are not registered as "unemployed" in the territorial structures of the Employment Agency. After entry into force (01.10.2011) of the Guidelines for beneficiaries and the signed Annex to the Agreement for cooperation with the National Revenue Agency (NRA) ) an Instruction for inspection and access to records of contracts registered in NRA (*Attachment F 4.6 - agreement with the NRA*) has been prepared. Right of access to records have all the "Labour Office" Directorates, "Regional Employment Service" Directorates and Experts from the central administration of EA. In January 2012 the Employment Agency has examined 20% (9106 persons) of persons involved in training throughout the country (out of 57 952) and no cases of providing vouchers to persons outside the target group were found.

**6. In March 2010** Managing Authority has performed on-the-spot visits at the premises for theoretical and practical training of 158 training providers for vocational qualifications and key competences on the territory of Republic of Bulgaria. It was found that 135 providers meet the requirements, regulated in Decree No. 251 of 30.10.2009 – premises are either suitable or in process of adaptation for the training requirements. All the inspected organizations have their own and / or leased premises and meeting the required capacity to carry out trainings. In the remaining 13 providers weaknesses were founded for which Employment agency was informed and the appropriate actions were taken.

**7. In the period March 2010 - December 2011** 250 on-the-spot visits were carried out by the Managing Authority at the training providers, "Labour Office" Directorates, "Regional Employment Service" Directorates and beneficiaries. They were registered in the Unified Management and Information System. After the checks, monthly summary reports are prepared, which are sent to the Employment Agency to prepare an action plan. Managing Authority experts during follow-up checks monitor the implementation of the actions.

*Attachment F4.1 – Guidelines 91F/0020 - 30.07.2010g*

*Attachment F4.2 - Agreements with [REDACTED] and [REDACTED]*

*Attachment F4.3 – List of Employers*

*Attachment F.4 – Amended templates Findings report and Questionnaire*

*Attachment F.5 - Annex to the Agreement*

*Attachment F.6 - Supplementary Agreement with NIA*

Analysis of the reply by the Commission:

The Commission accepts the explanations given and follow-up actions suggested by the Managing Authority. Nevertheless, the EC team wishes to highlight that it limited its review to expenditure declared before 31 March 2011 and the Managing Authority was still undertaking corrective actions (see also 3.2 – audit scope).

**Finding and Recommendation closed.** The Commission has received the updated guidelines to beneficiaries and evidence of strengthening the management verification process through risk scoring of beneficiaries and the introduction of cross checks through database of the National Revenue Agency. These actions are considered to address adequately the issues described above.



## 5.2. Findings concerning specific matters

The specific compliance findings are as follows:

Finding n°: 5	Final beneficiary: [REDACTED]
	Project number: 051PO001 -2.1.04 and 051PO001 -2.1.05

### Description of the finding:

During the verification, the audit team checked 3 recruitment procedures for experts for project work. It should be noted that the recruitment of those experts in both projects were part of a tendering procedures with respectively 6 (Beneficiary [REDACTED]), 21 (Beneficiary [REDACTED]) and 69 (Beneficiary [REDACTED]) positions (lots). The budget value for each position (estimated salary for the duration of the project) was already disclosed in the announcement.

As result of those tenders, there was exactly one candidate for each position. Moreover, the candidates' offers mentioned exactly the same amount as the tender announcement. Although a complex coefficient was developed for the evaluation of the candidates capabilities, at the end, each candidate was selected with no competition. There is exactly the same number of applications than the number of positions announced and thus there are no conditions for competition. No sound explanations were provided as to what justifies the use of a tender procedure for individuals' recruitment rather than an open fair selection.

It should also be reported that, in the project [REDACTED] the budget wage amounts were considered inflated. The remunerations were determined following a market survey. Nevertheless, the audit team did not find this survey a sound basis for the salary decisions.

For example, a key expert was recruited with 20 250BGN salary for 45 days in 2010. In the month of March 2010 she received 4416 BGN salary for 15 days work and according to another timesheet for same month and for another 5 days, she was paid 1480 BGN. Totally in march 2010 for 20 days she was paid 5855BGN. Despite the high qualification of the expert in question and her recognition with which the Beneficiary explained the rate paid, the audit team noted this rate was inflated and not justified by the nature of the work performed in the framework of the project.

Risks: The lack of sound a financial management and the evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and the financial corrections.

### Recommendation:

The IB should respect national fair and approved grids for salaries for professionals namely the Methodology for setting up HRD OP salaries issued by MA or the Statistical Institute Information on wages in different sectors. Regarding ESF projects, civil contracts should be concluded on a sound transparent basis, taking into account the expertise levels and the needs of the project. Hourly rates for the ESF activities should not differ from the hourly rates for the non-ESF activities.

The beneficiaries should avoid public procurement for recruiting individuals with civil contracts. Transparent selections should rather be conducted putting the accent on the quality of the resources and the free competition.

Deadline for implementation of recommendation: 3 months after receipt of the audit report in national language

Nature of the recommendation: Urgent

Comments from the responsible body (auditee):

Following the findings of the final audit report of the systems on 2007BG051PO001 - "Human Resources Development" № A-Rep № 2010-1081 DG "Employment, Social Affairs and Equal Opportunities" of the European Commission and in order to achieve transparency and equal treatment in the determination and the actual payment of the funds concerning salaries of persons employed to implement and manage the projects funded under the HRD OP, MA developed "Methodology for the regulation of fees under the OP HRD" (*Attachment F 5.1 – The Methodology and the study to it*). The fees defined in the Methodology are based on net values irrespective of the type of contract (civil or labour). As regards the contracts concluded before the entry into force of the Methodology, it is being implemented in the reporting part of the activities in the verification of expenditure by the contracting authority.

Regarding the rates: in [REDACTED] remunerations correspond to the usual one for the public sector for activities similar to those set in the project, and are analogous and in most of the cases even lower than the rates provided in the Methodology.

In [REDACTED] there is evidence that show the proportionality of the rates under the project to the remuneration which the same people receive for analogous work (*Attachment F 5.2 – [REDACTED]*). When comparing the remuneration under the project paid under civil contracts with the hourly rates provided in the Methodology it was found that after deducting the expenditures made (25%) under Art. 29, Para. 1, p. 3 of the Law for the taxes on physical persons' incomes (all supplementary expenses for the activity – travel expenses, accommodation and overheads are covered by the experts from their remuneration) for 8 experts out of 46 included in the payment claim the rates were exceeded. For the experts under labour contracts there was no exceeding of Methodology rates (*Attachment F 5.3 – Table of the remunerations to an hourly rate recalculated in accordance with Methodology.*)

The Contracting authority has recalculated remuneration costs under 8 budget items. The amount exceeding the limits set out in the Methodology after off-setting the operating expenses set out in the Income Taxes on Natural Persons Act (25%) is 50 510.14 BGN of which: the amount of the verified remuneration costs up to now (since first till eight interim request for payment) is 49 210.59 BGN and the amount of the non-verified insurance costs is 1299.55 BGN.

The net value of the fees is determined after the reduction of 25% operating expenses and that net value forms the basis of the comparative analysis of the paid expenditure under the project in comparison to the fees defined in the Methodology.

Correction of 50 510.14 BGN direct costs will be imposed and the amount will be deducted in the next certification report as per the attached action plan. Irregularity will be registered.

Regarding the recommendation to avoid procedures beneficiaries should avoid procurement procedures for hiring persons under civil contracts with amendments of CoM Decree 55/2007 at the initiative of the MA the beneficiary was given the

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opportunity to indicate in the project proposal the experts who will participate in the project. This is not a subject to subcontracting under procurement procedure. They are subject to assessment at the selection of projects level under CoM Decree 121/2007 - Art. 2, Para. 3, p. 1. In this manner ensuring that the beneficiary has sufficient capacity to implement the project.

The procedure for selection applied by the direct beneficiary is more complicated than those provided for in the national legislation – under the Labour Code there are no requirements for the employers to conduct competition when hiring people under labour contracts. (*Attachment F5.4 - Tender documentation for selection of experts*).

*Attachment F 5.1 – The Methodology and the study to it*

*Attachment F 5.2 – Study and Analysis of [REDACTED]*

*Attachment F 5.3 – Table of the remunerations to an hourly rate recalculated in accordance with Methodology*

*Attachment F 5.4 - Tender documentation for selection of experts*

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Analysis of the reply by the Commission:

The additional information provided by the Managing Authority does not address the shortcomings concerning the remuneration levels in the audited ESF claims that should be consistent with the principles of sound financial management. The Commission accepts, however, the explanations and the follow-up actions suggested by the Managing Authority concerning the application of the remuneration grids set in the *Methodology for the regulation of fees under the OP HRD*, namely correction of expenditure in past claims down to the Methodology's levels and application of the Methodology in future verification of by all beneficiaries, including the direct award projects.

**Finding and Recommendation retained.** Hourly rates for the engagement of people under the ESF projects should: (i) be consistent with the remuneration grids of the Methodology for the regulation of fees under the OP HRD; and (ii) not differ from the rates of their non-ESF labour activity.

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Finding 6	Beneficiary - Employment Agency Directorate Services and Employment Project number- BG051PO001-2.1.11
<u>Description of the finding</u>	
<p>The nominal values for the vouchers were set based following a survey done by the Beneficiary Employment agency- Directorate "Employment and Services". The survey included a comparison between the training costs from the National system for similar categories of trainings in 2007 and 2008 and the questionnaires amongst 10 training institutions for the costs they would charge for the training. The auditors reviewed the methodology, the rates set are reasonable; however the auditors have several remarks concerning the transparency and traceability of the calculations.</p> <p>There are three sources of information for the determination of the vouchers – past trainings, current training costs practiced and national state rates in the secondary school for similar courses. The rates on past training are lower than the rates resulting from the survey amongst the training providers. The questionnaires were anonymous and there are no explanations behind the expenditures. The basis of determination of the voucher value is 300h, 660h or 960h - respectively the amounts obtained per head are 900 BGN, 1700 BGN and 2 400BGN as a result of the survey with the provider and is 500 BGN, 810 BGN and 900 BGN as a result of the past trainings. So the final average nominal values were set at 600 BGN, 1200 BGN and 1400 BGN for 300h, 660h and 960 h.</p> <p>The audit team has several doubts as to :</p> <ul style="list-style-type: none"> <li>• How the definitive rates published in the PMS 90 were decided?</li> <li>• How much the specificities of the trainings, the geographical zone of the trainings and the number of persons attending the trainings, were taken into account?</li> </ul>	
<u>Risks:</u> The lack of a sound financial management and transparency in setting up the basis of eligible costs.	
<u>Recommendation:</u>	
<p>The Employment Agency – Directorate Employment and Services is recommended that the next surveys are better documented and regarding fixed costs which are included (missions, materials, and hourly rates). It would also be more transparent if the specificities were taken into account. The survey is a source document from which the law on vouchers derives so it is of great importance, that it is absolutely transparent and understandable for external parties. It would also be useful if the names of the companies in the survey could be recovered (at least for verification/ auditing purposes).</p>	
Deadline for implementation of recommendation: 6 months after receipt of the audit report in national language	Nature of the recommendation: Prompt
<u>Comments from the responsible body (auditee):</u>	
<p>By determining the value of the voucher the working group, formed in MLSP took into account not only the research conducted and provided to the audit team, but also the similar costs, foreseen under the national budget - the National Action Plan for</p>	

Employment (NAPE) 2009, 2010, 2011, adopted by the government in implementing the Law on Employment Promotion. (*Attachment 6.1 - National plans*). NAPE has national scope and does not make a distinction according to geographical zone of the training.

Trainings in accordance with the prices stipulated in CoM Decree 251/2009	NAPE 2009	NAPE 2010	NAPE 2011	NAPE 2012
Training for acquiring first grade of professional qualification (300 hours) BGN 600	BGN 600	BGN 600	BGN 600	BGN 600
Training for acquiring second grade of professional qualification (660 hours) BGN 1200	BGN 1200	BGN 1200	BGN 1200	BGN 1200
Training for acquiring third grade of professional qualification (960 hours) BGN 1800	BGN 1800	BGN 1800	BGN 1800	BGN 1800

According to Council of Ministers Decree No 251 "The value of the voucher includes all inherent expenditures related to the training, incl. taxes due according to the Bulgarian legislation. This excludes expenditures for scholarships and transportation when the trainees are unemployed persons". The CoM Decree No 251 Supplementary Provisions specifies that "Inherent training expenditures" are expenditures related to original training materials, supplies, insurances for vocational trainings, issuing documents for completed training, remuneration of lecturers, social security insurances, rent of equipment and premises, and all administrative, overhead and other expenditures, including expenditures made by the training provider related to the provision of the training". The draft Decree has been consulted with all members of the Council of Ministers and their recommendations have been reflected in its final version. (*Attachment F6.2 CoM Decree No 251/2009 accompanied with the draft decree and table of position of the Council of Ministers*)

In addition to the above described, the EA has taken the following actions:

1. The EA made a written request for information to the [REDACTED] concerning the prices for delivery of a training, respectively, to acquire a vocational qualification, vocational qualification as part of a profession and training in key competencies at the time of preparation of CoM Decree 251/2009 / the middle of the 2009/ and at this time. The information shows that the average prices for the conduction of the training are similar to prices determined by CoM 251/2009 (*Attachment F 6.3 Correspondence with [REDACTED]*).

2. The EA has carried out a study of the market prices for similar training from the official websites of educational institutions. (*Annex K 6.4 Information from websites*)

A survey in Internet on prices for key competences and professional qualification trainings offered found out that the nominal value of the vouchers is in general lower than the market prices. It should be noted that in some cases the offers published were not clear what is included in the training price (e.g. text books, training materials etc.).

*Attachment F6.1 - National plans for 2009, 2010, 2011*

*Attachment F6.2 CoM Decree No 251/2009 with attached draft decree and table of*

*position of the Council of Ministers*  
*Attachment F 6.3 Correspondence with [REDACTED]*  
*Attachment F 6.4 Information from websites*

Analysis of the reply by the Commission:

The Commission accepts the explanations and additional supporting evidences provided by the Managing Authority.

**Finding and Recommendation closed.** Future revision and update of the voucher's rates on annual or other basis should also be justified and consistent with the principles of sound financial management and transparency.

### 5.3. Financial findings:

The financial findings are as follows:

Finding n°: 7	Final beneficiary: Ministry of Education – Scholarships and Doctorates
	Project number: 051PO001 4.2.02

	BGN		BGN	% certified amount
Total amount claimed	6,202,332.00	Audited	717,032.20	11.56%
ESF funding	5 271 982.20	Ineligible expenditure	819.00	0.10%
National cofinancing	930 349.80	Non-quantifiable erros		
Other	0.00			

#### Description of the finding:

During the audit, an invoice N° 260003593 from 19/08/2009 for 819BGN for the purchase of a camera was randomly checked. This invoice was claimed for reimbursement in the financial report of the Beneficiary under chapters "Materials" and "VAT".

During the audit visit, the camera was not available for the audit team to check its existence. On the other hand, the necessity of buying a camera was questionable itself. Since, there was a separate contract with a service provider for the visualisation and the publicity of the project and moreover there were only 2 communication events, there is not enough justification for the purchase of a special camera. The price is also estimated high and therefore, the usefulness and opportunity of the costs are to be re considered.

Risks: The lack of a sound financial management and the evidence as to support the incurred costs will lead to an ineligible expenditure in relation to the project activities and financial corrections.

#### Recommendation:

Appropriate financial corrections on the certified amount should be made. Where TVA is not included in the invoice concerned, appropriate corrections of TVA account should be made. The corrections of the Direct costs should be adequately reflected in the Indirect costs amount.

Deadline for implementation of recommendation: 3 months after receipt of the audit report in national language	Nature of the recommendation: Urgent
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Comments from the responsible body (auditee):

Accepted. Irregularity is registered.

*(Attachment K7.1. Request to the beneficiary for recovery of the ineligible costs).*

Analysis of the reply by the Commission:

The Commission accepts the follow-up actions suggested by the Managing Authority.

**Finding and Recommendation retained.** The Commission will close the recommendation upon the implementation of the recovery.

Finding n°: 8	Final beneficiary: Ministry of Education – Scholarships and Doctorates
	Project number: 051PO001 4 2 02

	BGN
Total amount claimed	6,202,332.00
ESF funding	5 271 982.20
National cofinancing	930 349.80
Other	0.00

	BGN	% certified amount
Audited	717 032.20	11.56%
Ineligible expenditure		
Non-quantifiable erros	5%*	

\*- 5% of historical and future expenditure incurred under contract [REDACTED]

#### Description of the finding:

##### Public procurement

The audit team reviewed the horizontal open public procurement procedure conducted by the Ministry of Education- (Directorate for public procurement services) for accounting services for the projects for which MOMN is a beneficiary. Several shortcomings were noticed and are reported below:

- There were two submitted offers and one of them was rejected on the basis of the selection criteria (administrative non compliance - non submission of guarantees for the whole duration of the project and outdated legal status documents). This administrative non compliance caused the exclusion of the bidder (the National Procurement Act "ZOP" does not foresee requests for additional information in such cases) and therefore, the offer of the other candidate was accepted. Under these conditions, there was no real competition and the price offered by the only candidate was accepted. (respectively 120, 100 and 80 BGN daily for accountant depending on the degree)
- The tender announcement mentioned the nature and the subject of the contract (accounting services) without mentioning any budget foreseen, the offer which was accepted and the subsequent contract mentioned the daily rate per accounting professional. Nevertheless, the award letter from the Ministry of Education (Directorate responsible for the outsourcing) to the beneficiary Directorate "Scholarships and Doctorates" for accounting services for the particular project reviewed from 12.05.2010 mentioned a lump sum of 44 000 BGN (VAT excl) which as such did not correspond to the conditions in the contract (daily rates per expert). - The award letter from the Ministry of Education (Directorate responsible for the outsourcing) to the beneficiary Directorate "Scholarships and Doctorates" is from 12.05.2010, the project duration is from 04.11.2008 to 04.11.2010. In the letter, it is mentioned that [REDACTED] will be paid 44000 BGN excluding VAT (this amount corresponds to 5 months or 8800 BGN a month). So, the payment is based on a fixed amount and not on a daily rate as agreed in the contract and resulting from the tendering procedure. It is not clear how the daily rate of 120 BGN relates to the amount of 8800 BGN paid monthly. The appropriateness of signing an award letter in the event of a contract in force between the Ministry of Education and [REDACTED] is questionable. It is obvious that the conditions from the award letter deviated from the conditions of the contract (lump sum allocated instead of daily rates agreed).
- The duration of the contract as per the tender notification was fixed at 48 months (after signature); the effective date of the contract is 04.06 2009 ( although date of letter is 12.05.2010) and in art. 4 of the contract end is 31.12.2012. Therefore, the duration of the contract was reduced (instead of 04 06 2013 –it became 31 12 2012). No



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explanations on that were provided.

- The tendering documentation was sold at the price of 400BGN which is considered high and not relevant to the volume of the documents.

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Risks: Lack of transparency and equal treatment throughout selection procedure.

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Recommendation:

It is recommended that the National Procurement Acts ("ZOP" and PMS 55) are modified so as to allow for requesting additional information in cases where administrative documents are missing. This will enhance the competition and prevent unjustified exclusions.

Following the numerous shortcomings described above, the responsible authorities need to implement a financial correction as per the Guidance Note COCOF 07/0037/02-EN/21.11/2007 at the level of 5% based on non compliance with several ancillary elements:

- attribution of contract without competition based on exclusion caused by te administrative non compliance of a candidate
- non respect of the conditions of the contract in the subsequent implementation.

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Deadline for implementation of recommendation: 3 months after receipt of the report in national language	Nature of the recommendation: Urgent
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Comments from the responsible body (auditee):

Accepted. Irregularity is registered. (*Attachment K7.1. Request to the beneficiary for recovery of the ineligible costs*).

As far as it concerns the recommendation for supplement of PPA and Decree 55/2007 of CM, we would like to present the following legal amendments: PPA in force since 9.07.2010: according to art. 68, para. 11 the Selection Committee can require at any time: clarification on the data submitted by the candidates; additional supporting documents without leading to changes in the technical or financial offers. Similar approach is followed in Decree 55/2007 of CM – art. 26a, according to which the beneficiary, who is also contracting authority, may at any time during the selection procedure request clarification on the offer and the submitted supporting documents.

We have made a suggestion for supplement of the decree analogous to PPA stipulating the option to terminate the procedure in case of only 1 offer selected. (*attachment K8.1 – copy of PPA and Decree 55/2007 of CM*).

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Analysis of the reply by the Commission:

The Commission accepts the explanations given and the follow-up actions suggested by the Managing Authority.

**Finding and Recommendation retained.** The Commission will close the recommendation for financial correction upon its completion.

Secondly, the Commission will follow-up the adoption of the above mentioned amendment to Decree 55/2007, suggested by the Managing Authority. Information on the progress is requested within three months from the date of the report.

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Finding n°: 9

Final beneficiary: [REDACTED]

Project number: 051PO001 2 1 05

	BGN
Total amount claimed	663,215.31
ESF funding	563 733.01
National cofinancing	99 482.3
Other	0.00

	BGN	% certified amount
Audited	234 158.96	35.30%
Ineligible expenditure		
Non-quantifiable errors	25%*	

\*- 25% of historical and future expenditure incurred under contract '[REDACTED]'

**Description of the finding:**

The audit team reviewed the tendering procedure according to art 1 of PMS 55 for renting office premises for the [REDACTED] and for renting administrative offices for the project staff. There was only one offer and subsequently, this offer was accepted. The rent agreed was 755 995 BGN (for the National Centre) for 47 months (duration of project) and 215 307 BGN for a project office for 47 months (total 971 302 BGN or 20 666 BGN monthly). Several facts are to be reported :

- There was only one bidder with a price identical to the price in the budget in the tender announcement.
- The property which was subject to rent was bought from [REDACTED] (successful bidder) after the tender announcement (30.10.2009) on the 10.12.2009. The bidder [REDACTED] was established on the 24.11.2009. The offer was submitted on 22.01.2010 and the contract for rental was concluded on the 2.2.2010.
- The monthly instalment for rent was 20 666 BGN (16 085 BGN +4581 BGN for both offices). The duration of the rental contract is 47 months. The purchase value of the building subsequently rented is 700 000 EUR. (Approximately 1 372 000 BGN). This means that the Beneficiary, in 47 months (4 years), will pay back 70% of the purchase value of the property. This fact questions the cost effectiveness of this transaction and undermines the sound financial management of the project namely the need of renting an entire building.
- The cost effectiveness of renting a surface of 355 msq (for three persons in the team project) and two garages for the project purposes is very questionable. Moreover, on its web-site, <http://www.bica-bg.org/contacts.php>, the [REDACTED] quotes as its official address the address of the ESF project. Having in mind that the project is only one of the organisation's activities, it appears that the ESF has been used to contribute to the functioning of the [REDACTED] structure beyond the project needs.

**Risks:** Lack of transparency and equal treatment throughout selection procedures. Lack of sound financial management and financing a structure rather than a project.

**Recommendation:**

It is recommended that the National Procurement Acts (ZOP and PMS 55) are modified so as to allow for requesting additional information in cases where administrative documents are missing. This will enhance the competition and prevent unjustified

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exclusions. In the absence of tight deadlines when there is only one bidder for important tender values, the Beneficiaries should conduct again the tendering procedure.

According to the COCOF note for financial corrections (COCOF 07/0037/03-EN) for direct attribution of contract in the absence of competition and for other elements undermining the transparency and cost effectiveness of the rental procedure, we suggest a 25% correction of the value of the contract.

This correction is also justified by the absence of sound financial management in the implementation of the project.

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Deadline for implementation of recommendation: 3 months after receipt of the report in national language	Nature of the recommendation: Urgent
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Comments from the responsible body (auditee):

1. The contracting authority accepts the recommendation and will impose 25% financial correction as per the attached action plan.
2. The Managing authority has proposed amendment in Council of Ministers Decree 55/2007 envisaging the option for termination of the procurement procedure in case of one offer available and which enables the contracting authority to cease the procedure due to lack of competition. (*attachment K9.1- letter for amendment*).

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Analysis of the reply by the Commission:

The Commission accepts the follow-up actions suggested by the Managing Authority.

**Finding and Recommendation retained.** The Commission will close the recommendation for financial correction upon its completion.

Secondly, the Commission will follow-up the adoption of the above mentioned amendment to Decree 55/2007, suggested by the Managing Authority. Information on the progress is requested within three months from the date of the report.

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Finding n°: 10

Final beneficiary: [REDACTED]

Project number: 051PO001 2 1 05

	BGN
Total amount claimed	663,215.31
ESF funding	563 733.01
National cofinancing	99 482.3
Other	0.00

	BGN	% certified amount
Audited	234 158.96	35.30%
Ineligible expenditure		
Non-quantifiable errors	25%*	

\*- 25% of historical and future expenditure incurred under contract [REDACTED]

## Description of the finding

The audit team reviewed the tendering procedure according to art 1 of PMS 55 for advertising services. There was only one offer and subsequently, this offer was accepted. The concluded contract was with [REDACTED] for 967 200 BGN for a duration of 49 months. Several facts are to be reported :

- There was only one bidder with a price identical to the price in the budget in the tender announcement.
- The tender announcement was published only at national level (as per the instructions of PMS 55). There was no announcement in the Official Journal of the European Union even though it was above the threshold for open international procedure.

Risks: Lack of transparency and equal treatment throughout selection procedures.

## Recommendation:

It is recommended that the National Procurement Acts (ZOP and PMS) are modified so as to allow for requesting additional information in cases where administrative documents are missing. This will enhance the competition and prevent unjustified exclusions. In the absence of tight deadlines when there is only one bidder for important tender values, the Beneficiaries should conduct again the tendering procedure.

It is recommended that for open procedures PMS 55 includes the obligation of communication of the tender announcement in the official Journal of the European union according to the provisions of Directive 18/2004.

According to the COCOF note for financial corrections (COCOF 07/0037/03-EN) for attribution of contract in absence of competition and non compliance with advertising requirements, we suggest a 25% correction of the value of the contract.

Deadline for implementation of recommendation: 3 months after receipt of the report in national language

Nature of the recommendation: Urgent

## Comments from the responsible body (auditee):

The contracting authority accepts the recommendation and will impose 25% financial correction as per the attached action plan.

## Analysis of the reply by the Commission:

The Commission accepts the follow-up actions suggested by the Managing Authority.

**Finding and Recommendation retained.** The Commission will close the recommendation upon the implementation of the financial correction.

Finding n°: 11	Final beneficiary: [REDACTED]
	Project number: 051PO001 2 1 04

	BGN
Total amount claimed	244 510.09
ESF funding	207 833.57
National cofinancing	36 676.52
Other	0.00

	BGN	% certified amount
Audited	204 181	0.83%
Ineligible expenditure		
Non-quantifiable errors	25%*	

\*- 25% of historical and future expenditure incurred under contract "[REDACTED]"

#### Description of the finding:

The auditors reviewed the tendering procedure according to art 1 of PMS 55 for advertising services. The concluded contract was with "[REDACTED]". Several facts are to be reported :

- In the Technical Specifications, section "Technical experience", it was required that the successful bidder have at least 15 employees on a permanent basis, should have produced in the last 3 years similar advertising materials like in the tender announcement, should have implemented in the last 3 years similar main contracts and should have a total annual turnover from similar activities for the past three years of 4 000 000 BGN. Moreover, it was mentioned that at least one of the contracts should have been of the same amount as the amount of the financial offer. These criteria put together are quite restrictive and limit the market to only a small number of companies. The subject of the tendering would not justify such restriction.
- There was no evidence of the publication of the announcement in the Official Journal of the European Union according to the requirement of the Directive 18/2004. It should be mentioned that the PMS 55 requires only a publication in the daily Bulgarian newspaper.
- 4 offers were received, two of which were eliminated based on non administrative compliance.

Risks: Lack of transparency and equal treatment throughout selection procedures. Restriction of the market to some companies.

#### Recommendation:

It is recommended that for open procedures, PMS 55 includes the obligation of communication of the tender announcement in the official Journal of the European union according to Directive 18/2004.

According to the COCOF note for financial corrections (COCOF 07/0037/03-EN) for the attribution of a contract in presence of restrictive criteria and non compliance with advertising requirements, we suggest a 25% correction of the value of the contract.

Deadline for implementation of recommendation: 3 months after receipt of the report in national language	Nature of the recommendation: Urgent
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Comments from the responsible body (auditee):

The contracting authority accepts the recommendation and will impose 25% financial correction as per the attached action plan.

Analysis of the reply by the Commission:

The Commission accepts the follow-up actions suggested by the Managing Authority.

**Finding and Recommendation retained.** The Commission will close the recommendation upon the implementation of the financial correction.

## 6. SUBSEQUENT EVENTS

Following the end of the field work, the Bulgarian authorities sent an Action plan to the Commission together with some additional supporting evidence (Ares (2012) 503247). This Action plan describes corrective measures suggested to mitigate the risks arising for the eligibility of expenditure, and the effectiveness, efficiency and economy of its underlying supporting contracts.

The Commission acknowledge the improvements implemented by the Intermediate Body Employment Agency for strengthening the management verification process of the voucher schemes under PMS 251/2009 for the periods following the audit review.

Concerning deficiencies connected to staff payments, the comments made by the Managing Authority generally limit themselves to addressing the individual irregularities identified within the audited projects for the (short) period reviewed and quoting the existing national legislation. The observations raised by the audit team do not question the existence of such legislation or rules. The observations question their impact on the sound financial management of the projects co-financed by the ESF, hence on the eligibility of the expenditure declared to the Commission.

Nevertheless, the Action plan addresses most of the issues of this audit. Even if some of them are not yet implemented, we have analysed it.

On the basis of the mitigating actions undertaken by the Managing Authority, taking into consideration the limitation to the scope of this audit and in line with the provisions section 4.4 of the Commission's guidance note on the evaluation of management and control systems (COCOF 08/0019/01), the Commission auditors have decided to raise the level of assurance to:

### **Category 2. Works, but some improvements are needed.**

This level of assurance is based on information concerning mitigating actions we have received and analysed after the end of the audit field work. As such and also because the action plan and the commitments undertaken by the Bulgarian authorities within the contradictory procedure are in process of implementation by the national authorities, no audit work to test their effectiveness could yet be performed. The level of assurance is therefore subject to the correct and timely implementation of the action plan by the national authorities. Hence, no legitimate expectation can be derived from this provisional and conditional level of assurance.

## ANNEX 1

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

**Prompt remedial action is required:** There is a weakness or deficiency in control which, although not fundamental, exposes individual areas of the existing management and control systems to a less immediate level of risk of error, irregularity or fraud. Such a risk could have an impact on the effectiveness of the management and control systems and on its operational objectives and should be of concern to the auditee's management. Prompt remedial action should be taken. The recommendation should be implemented three months at the latest after receipt of the final report in the Member State's language

**Specific remedial action is required:** There is a weakness or deficiency in control which individually has no major impact but where improved controls would benefit the implementation of the programme and/or allow the auditee to achieve greater effectiveness and/or efficiency. There is a possibility of undesirable effects at the process level, which, combined with other weaknesses, could give cause for concern. Specific remedial action should be taken. The recommendation should be implemented three months at the latest after receipt of the final report in the Member State's language.

