



EUROPEAN COMMISSION
Employment, Social Affairs and Equal Opportunities DG
Audit, Controls
ESF Audits – Horizontal issues

**Final Systems Audit¹ report for
2007RO051PO001 Human Resources Development**

A-Rep N° 1069 ²

Limited³

Authorities subject to audit: Audit Authority (Body associated to the Romanian Court of Accounts), Managing Authority (Ministry of Labour, Family and Social protection), Intermediate Bodies (Ministry of Education, Research and Innovation; Regional Intermediate Body – Regional IB of the Ministry of Labour - North Vest).

Country: Romania

Region: Bucharest, Cluj-Napoca

Period subject to audit: Programming period 2007-2013

Dates of the audit field work: 7-11 December 2009

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¹ Systems audit also includes follow-up missions and thematic missions

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

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1. EXECUTIVE SUMMARY

1.1. Introduction

In accordance with its work plan for 2009 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 I/3, DG EMPL⁴ conducted a systems audit on the Operational Programme 2007RO051PO001 (hereafter – OP HRD). Between 7.12.2009 and 11.12.2009, the ESF auditors examined the design, efficiency and effectiveness of the MCS existing during the duration of OP HRD from 22.11.2007 to 11.12.2009 and implemented by the Ministry of Labour, Family and Social protection (MA), Ministry of Education, Research and Innovation (MECI), and the Regional Intermediate Body – Regional IB of the Ministry of Labour - North Vest (IBs) and the Audit Authority (AA) of Romania (hereafter - the auditee).

1.2. Common authorities subject to audit

The following auditees, which were the subject of this audit, have responsibilities and/or functions common to other Structural Funds or the Cohesion Fund:

<u>Authority/Body</u>	<u>Responsibility/Function</u>	<u>Funds</u>
AA (Body associated to the Romanian Court of Accounts)	Art. 62 of Council Regulation (EC) No 1083/2006	ERDF, EFF, CF

⁴ DG Employment, Social Affairs and Equal Opportunities, Directorate I: Audit, Controls, Evaluation, Unit I/3: ESF Audits

1.3. Findings

1.3.1. Management control⁵

The management control findings are summarised below:

Finding n°	Management control issue	Reply MA/IBs/AA
1	<p><i>KR 2 (AA)</i></p> <p>There are potential inadequacies in the methodology of the AA for determining the level of assurance resulting from system audits. (Cat. 2)</p>	<p>The AA has reviewed the documents of its system audit as regards the assessment of KR6 and the general assessment of the functioning of the system, provided to the EC further information as regards the basis for reaching its conclusions and maintained the assurance levels attributed initially.</p>

⁵ Control system tested against designed control model (Guidance on a common methodology for the assessment of management and control systems in the Member States, 2007-2013 programming period; COCOF 08/0019/00-EN). There are 4 categories for the assessment of the effectiveness of the key requirements, the authorities and the overall system:

- Category 1.** **Works well; only minor improvements needed.** There are no deficiencies or only minor deficiencies found. These deficiencies do not have any significant impact on the functioning of the key requirements / authorities / system.
- Category 2.** **Works, but some improvements are needed.** Some deficiencies were found. These deficiencies have a moderate impact on the functioning of the key requirements / authorities / system. Recommendations have been formulated for implementation by the audited body.
- Category 3.** **Works partially; substantial improvements are needed.** Deficiencies were found that have led or may lead to irregularities. The impact on the effective functioning of the key requirements / authorities / system is significant. Recommendations and/or an action plan have been put in place. The Member State / The European Commission may decide to take corrective action (e.g. interruption or suspension of payments) in order to mitigate the risk of improper use of EU funds.
- Category 4.** **Essentially does not work.** Numerous deficiencies were found which have led or may lead to irregularities. The impact on the effective functioning of the key requirements / authorities / system is significant – it functions poorly or does not function at all. The deficiencies are systemic and wide-ranging. As a consequence, no assurance can be obtained from the assessment of the key requirements / authorities / system. A formal action plan should be prepared and followed up. The Member State / European Commission take corrective action (e.g. suspension of payments) in order to mitigate the risk of improper use of EU funds.

2	<p><i>KR 1 (MA & IBs)</i></p> <p>Fragmented, confusing and inefficient internal organisation within the MA and the IBs; Inconsistency between the agreements of delegation of functions and the practical distribution of duties among the MA and IBs. (Cat. 2)</p>	The MS details in its Action Plan the corrective measures taken or in the process of being taken.
3	<p><i>KR 3 (MA & IBs)</i></p> <p>Unclear guidance to beneficiaries and excessively bureaucratic requirements at the stage of project application. (Cat. 2)</p>	The MS details in its Action Plan the corrective measures taken or in the process of being taken.
4	<p><i>KR 6 (MA & IBs)</i></p> <p>There is no reliable accounting, monitoring and financial reporting system in computerised form in place and thus no reasonable assurance that the declarations of expenditure to the EC are reliable. (Cat. 4)</p>	The MS details in its Action Plan the corrective measures taken or in the process of being taken. The MS indicates the deadline for implementation of this recommendation: May 2010.

All findings and recommendations of the Draft Report have been accepted by the MS through Letter 2849 of 14.04.2010. In addition, an Action Plan for the fulfilment of the recommendations has been submitted. Following the analysis of this Action Plan by the EC, Recommendation 1 is considered closed. The progress in implementing the recommendations 2, 3 and 4 by the MS will be regularly analysed and followed up by the EC services until all recommendations are fully implemented.

1.3.2. Findings concerning specific matters

None

1.3.3. Financial findings

None

2. OPINION

Based on the audit results, the audit team expresses an opinion on the management and control systems (MCS) in place. The 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 3.2 and 3.3 of this audit report.

In our opinion, based on the audit methodology (section 3.4) and work performed (section 4), we have reasonable assurance that the management and control systems in place as at 11/12/2009 are functioning effectively and in compliance with the applicable regulations (Council Regulation (EC) No 1260/1999 and Council Regulation (EC) No 1086/2006, Council Regulation (EC) No 1081/2006 and Commission Regulation (EC) No 1828/2006); except, however, for the following material deficiencies which affect key elements of the systems:

- There is no reliable accounting, monitoring and financial reporting system in computerised form in place and thus no reasonable assurance that the declarations of expenditure to the EC are reliable. (Cat. 4)
- Fragmented, confusing and inefficient internal organisation within the MA and the IBs; Inconsistency between the agreements of delegation of functions and the practical distribution of duties among the MA and IBs. (Cat. 2)
- Unclear guidance to beneficiaries and excessively bureaucratic requirements at the stage of project application. (Cat. 2)

The level of assurance obtained from the effectiveness of the systems can be classified as:

Category 3. Works partially; substantial improvements are needed.⁶

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

⁶ Deficiencies were found that have led or may lead to irregularities. The impact on the effective functioning of the key requirements/authorities/system is significant. Recommendations and/or an action plan are in place. The Member State/European Commission may decide to take corrective measures (e.g. interruption or suspension of payments) in order to mitigate the risk of improper use of EU funds.

3. THE ENGAGEMENT CONTEXT

3.1. Legal Basis

The legal basis for the audit is Article 38(2) of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds, and Article 6 of Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the MCS for assistance granted under the Structural Funds.

3.2. Audit scope

The audit covered the functioning of the MCS, operational since 22.11.2007 (Commission Decision for approval of the OP) and namely the following entities of the OP HRD 2007RO051PO001: Ministry of Labour, Family and Social protection (MA), Ministry of Education, Research and Innovation (MECI), and the Regional Intermediate Body – Regional IB of the Ministry of Labour - North Vest (IBs), Audit Authority (AA) of Romania.

The scope of the audit was limited to the following Key Requirements/audited body:

Audited Body	KR
AA	2 (limited to one system audit report)
MA	1,2,3,4,6
IB1: MECI	1,2,3,4,6
IB2: Office of the Ministry of Labour – Region NV	1,2,3,4,6

3.3. Audit objectives

The audit objectives were to:

- Determine the degree of the 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 of providing reasonable assurance that:
 - the declarations of expenditure for the programme are reliable;
 - the objectives have been achieved; and
 - European and national legislation are complied with;
- Assess the adequacy of the internal controls in place on the auditee's activities; and
- Review whether the relationship between the OP HRD's objectives and the internal controls implemented by the auditee ensures that the risks associated with delivery of the OP HRD'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.

3.4. Audit methodology

The audit was conducted in accordance with the general and specific standards for the professional practice of auditing, the Structural Funds Audit Manual, 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 HRD 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 HRD's execution or implementation.

A letter, announcing this audit, was sent to the Member State on 10.11.2009.

The audit was planned in conformity with the audit planning requirements identified in the Structural Funds Audit Manual and 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 system descriptions and other relevant information, an agenda was drawn up and sent to the Member State.

Detailed discussion, in particular, an appraisal of progress to date on the implementation of the MCS with a review of a sample of project files and control reports, took place with the Director, Managers, and other key staff members from the Managing Authority, Intermediate Bodies and Audit Authority.

Using a random selection method, the ESF audit team selected several projects for desk verification, checking compliance of KR 2, 3, 4, 6. The result of this selection was:

<i>Project number</i>	<i>Expenditure claimed (€)</i>
MA (Ministry of Labour)	
<i>Priority Axis 3/ Area of intervention 3.3/ Project ID 4625/ [REDACTED]</i>	38.823,88
<i>Priority Axis 3/ Area of intervention 3.1/ Project ID 4282/ [REDACTED]</i>	No expenditure claimed to the EC at the time of the audit
IB 1 (Ministry of Education)	
<i>Priority Axis 1/ Area of intervention 1.5/ Project ID 7676/ [REDACTED]</i>	298.971,54
<i>Priority Axis 1/ Area of intervention 1.2/ Project ID 3933/ [REDACTED]</i>	No expenditure claimed to the EC at the time of the audit
<i>Priority Axis 1/ Area of intervention 1.2/ Project [REDACTED]</i>	No expenditure claimed to the EC

ID 22459/ [REDACTED]	<i>at the time of the audit</i>
Priority Axis 1/ Area of intervention 1.4/ Project ID 10700/ [REDACTED]	<i>No expenditure claimed to the EC at the time of the audit</i>
Priority Axis 2/ Area of intervention 2.2/ Project ID 7859/ [REDACTED]	<i>No expenditure claimed to the EC at the time of the audit</i>
IB 2 (Ministry of Labour - Region NV, Cluj)	
Priority Axis 3/ Area of intervention 3.2/ Project ID 11665/ [REDACTED]	<i>No expenditure claimed to the EC at the time of the audit</i>
Priority Axis 3/ Area of intervention 3.2/ Project ID 36498/ [REDACTED]	<i>No expenditure claimed to the EC at the time of the audit</i>

The value of this sample cannot be calculated as the sample included projects for which expenditure was not yet claimed to the EC by the time of the audit. The sample had to include these projects as by the time of the audit only a limited amount of expenditure had been declared to the EC. Two of the projects from the sample had expenditure declared to the EC: total of € 337.795,42 of certified expenditure. This represents 18,4 % of the total expenditure declared (total € 1.830.672,4).

No on-the-spot visits to Final Beneficiaries were carried out.

4. DETAILED FINDINGS AND RECOMMENDATIONS

4.1. Management and control findings:

The management and control findings are as follows:

Finding n°: 1	Key Requirement 2 (AA): Adequate system audits.
	Objective: Determine the degree of the effectiveness of the MCS relevant to each authority's activities; Identify weaknesses in the MCS.
Responsible body: AA	Volume of funding affected by the finding: NA

Description of the finding: The analysis of the AA' draft system audit report of 16.11.2009 concerning the OP HRD shows a potential inadequacy in the methodology of the AA for determining the level of assurance resulting from system audits. There are inconsistencies between the findings, the recommendations and the assigned level of assurance for the Key Requirement (KR) 6 and for the overall assurance level on the system. There seems to be some inconsistencies between the seriousness of the detected shortcomings and the classification of the KRs.

KR6 (Reliable accounting, monitoring and financial reporting systems in computerised form) is evaluated at Category 2 (Works, but some improvements are needed) although the findings of the AA show that the computerised system which was put in place for this purpose, SMIS, is not operational. It does not contain up-to-date information, as there are big delays in inputting the data into the system at all levels of the MCS. The payment claims submitted to the EC are not generated from SMIS but are based on Excel sheets. Moreover, there is no reconciliation between the accounting data and the SMIS.

The general level of assurance on the system is set by the AA at Category 2 (Works, but some improvements are needed) while the level of assurance placed on the MA is set at Category 3 (Works partially; substantial improvements are needed).

Risks: General level of assurance for the system set too high; underestimation of the impact of the findings at the level of the MA on the overall functioning of the system.

Recommendation (A-Rep No. 1069-1): Additional information should be provided regarding the compliance of KR6 with Art. 58 (d) of Regulation (EC) 1083/2001, including the basis for obtaining the level of assurance. It is not clear in how far at the present moment the systems which are in place are capable of providing reliable and relevant information. In view of the above, the AA should review its assessment of the

compliance of KR6 and the general assessment on the functioning of the system.

Deadline for implementation of recommendation: *Three months at the latest after receipt of the final report in the Member State's language*

Nature of the recommendation: Specific⁷

Comments from the responsible body (auditee): The AA has reviewed the documents of its system audit as regards the assessment of KR6 and the general assessment of the functioning of the system, provided to the EC further information as regards the basis for reaching its conclusions, and maintained the assurance levels attributed initially.

Analysis of the reply by the Commission: The information provided by the AA is considered satisfactory. The recommendation is therefore **closed**. However, it should be noted that this recommendation will be followed up in the framework of the EC audit mission A-Rep 2010-1123.

Colour code: **green**

⁷ See annex 1

Finding n°: 2	Key requirement 1 (MA & IBs): Clear definition, allocation and separation of functions between and within the MA/IBs
	Objective: Determine the degree of the effectiveness of the MCS relevant to each authority's activities; Identify weaknesses in the MCS.
Responsible body: MA/IBs	Volume of funding affected by the finding: 4.089.358.714 €

Description of the finding:

1. Fragmented, confusing and inefficient internal organisation within the MA and the IB (MECI).

The organigrams of the MA and the IBs depict a fragmented internal organisation (a multitude of directions, departments and compartments) with sometimes unclear functions, artificial divisions (eg. technical and financial verification of the projects) and overlap of duties (eg. monitoring of delegated functions at the level of the MA). Due to this heavy structure, the flow of information between the staff of the different departments (eg. evaluation and selection, management verifications) is not optimal. There is no centralised filing system per project, with information on the lifetime of a project scattered in different places. This does not allow for a unique, general and complete overview on the financial information or progress of the individual projects. Moreover, in some cases, tasks allocated to a given department are executed in practice by staff from other departments (eg. MECI, selection of operations).

2. Relation MA-Intermediate Bodies

Inconsistency between the officially delegated functions from the MA to the IBs and the actual performance of those tasks by the IBs. The MA decides at random to suspend some tasks of the IBs without presenting the grounds for its decision (projects submitted at the end of 2008); in some cases there is a re-performance by the MA of some of the tasks delegated to the IBs (Call 38). In addition, there is no clear indication of the part of funding of the total value of the OP to be administrated by the IBs;

Use of human resources at the level of the MA/IBs: there is no balance between the high workload at the level of the MA and the insufficient workload among the staff at the level of the IBs. This is due to the fact that the MA has opted to predominately launch calls for high-value strategic projects (managed by the MA) as opposed to low-value grants (managed by the IBs).

Risks: Breach of audit trail, delays in processing payment claims; uneven distribution of the workload between the MA and the IBs; centralisation of activities at the level of the MA.

Recommendation:

1. (A-Rep No. 1069-2): Although the separation of functions is an important element of a well functioning MCS, an overly fragmented internal organisation can lead to confusion, overlaps and duplication of work. The current situation is unsustainable in the medium and long term when the workload will increase. The internal organisation

should be simplified and streamlined in order to avoid overlaps, facilitate the flow of information and ensure an effective use of human resources and concentration of staff in those areas which are crucial for the functioning of the system (eg. Selection of projects, management verifications, reliable accounting, financial and monitoring system in computerised form). A unique, centralized filing system could be established in order to allow a complete overview at the level of each project.

2. (A-Rep No. 1069-3): The IBs are an important part of the MCS, aimed at offering technical expertise and safeguarding the regional dimension of the projects. Therefore, the MA should show strategic vision by ensuring a coherent link between the type of calls which are launched and the involvement of the IBs in the management of the OP. The agreement on the delegated functions should be respected in practice or amended in order to reflect the real distribution of functions. The MA should not re-perform the activities that have been delegated but only ensure through (sample) checks that the delegated functions are performed well. An optimal use of the staff in the IBs should be ensured by maintaining a balance between the workload at the level of the MA and IBs.

An agreement between the MA and the IBs on the financial allocation to be managed by each of the IBs could ensure a better distribution of tasks among the bodies of the MCS.

Deadline for implementation of recommendation: *Three months at the latest after receipt of the final report in the Member State's language.*

Nature of the recommendation: *Prompt*⁸

Comments from the responsible body (auditee): The MS has submitted on 14.04.2010 an Action Plan detailing the corrective measures taken or in the process of being taken.

Analysis of the reply by the Commission: The actions taken by the MS are being analysed by the EC. The recommendation remains **open** and should be implemented at the latest according to the above mentioned deadline.

Colour code: **yellow**

⁸ See annex 1

Finding n°: 3	Key requirement 3 (MA & IBs): Adequate information and strategy to provide guidance to beneficiaries
	Objective: Determine the degree of the effectiveness of the MCS relevant to each authority's activities; Identify weaknesses in the MCS.
Responsible body: MA/IB	Volume of funding affected by the finding: 4.089.358.714 €

Description of the finding:

There is a very high rejection rate of applications at the level of the call for projects managed by the IB MECI (eg. Call 23). One of the reasons is unclear guidance to beneficiaries as to how to interpret the application form, which is not user-friendly, sometimes ambiguous and not clear. Moreover, there are excessively bureaucratic requirements (eg. Non-disclosure of the beneficiaries' identity) at the stage of the application which favour mistakes from the side of most of the beneficiaries and can lead to the rejection of projects of potentially good quality.

Risks: Confusion at the level of the beneficiaries; Potentially good projects rejected during the evaluation stage.

Recommendation (A-Rep No. 1069-4):

The MA should ensure the coherence and user-friendliness of the application form and offer additional support and guidance to the beneficiaries. The MA should facilitate a smooth application process for the beneficiaries by eliminating cumbersome and bureaucratic obstacles in the application procedure. Application forms should avoid ambiguities which could lead to the rejection of good applicants. Quality should prevail over form.

Deadline for implementation of recommendation: <i>Three months at the latest after receipt of the final report in the Member State's language.</i>	Nature of the recommendation: <i>Specific</i> ⁹
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Comments from the responsible body (auditee): The MS has submitted on 14.04.2010 an Action Plan detailing the corrective measures taken or in the process of being taken.

Analysis of the reply by the Commission: The actions taken by the MS are being analysed by the EC. The recommendation remains **open** and should be implemented at the latest according to the above mentioned deadline.

Colour code: **yellow**

⁹ See annex 1

Finding n°: 4	Key requirement 6 (MA & IBs): Reliable accounting, monitoring and financial reporting systems in computerised form
	Objective: Determine the degree of the effectiveness of the MCS relevant to each authority's activities; Identify weaknesses in the MCS.
Responsible body: MA/IBs	Volume of funding affected by the finding: 4.089.358.714 €

Description of the finding:

There is no reliable accounting, monitoring and financial reporting system in computerised form in place. *SMIS* (Single management information system), a system put in place by the Ministry of Finance (ACIS - Authority in charge of the coordination of all Structural Funds) for all Structural Funds to serve this purpose is not operational at the level of the ESF. There is a big delay in inserting data into *SMIS* at all levels. Moreover, there are allegations coming from the users of the system that the workload needed to introduce the data into the system is too heavy and that the system is not fully compatible with ESF specificity. Another system, *ActionWeb*, is used to liaise with the beneficiaries as regards their applications and the processing of their payment claims. However, the final claims for reimbursement submitted to the EC are generated based on Excel tables. There is no consistency between the financial data existing in the various databases which increases the possibility of error and breach of audit trail and gives no reasonable assurance that the declarations of expenditure to the EC are reliable.

Risks: Insufficient audit rail, declarations of expenditure are not reliable.

Recommendation (A-Rep No. 1069-5): The MA should liaise with ACIS in order to find a solution as regards the use of the SMIS for the ESF. Rapid action should be taken that would ensure that there is a computerised system in place, capable of providing reliable accounting, monitoring and financial reporting information for the management of the ESF.

Deadline for implementation of recommendation: <i>One month after receipt of the final report in the Member State's language</i>	Nature of the recommendation: <i>Urgent</i> ¹⁰
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Comments from the responsible body (auditee): The MS has submitted on 14.04.2010 an Action Plan detailing the corrective measures taken or in the process of being taken. Project related information for the reimbursements claims submitted by the CA to the EC throughout 2009 was introduced in SMIS. The verification of completion of insertion of data into SMIS is to be finalised on 16.04.2010. The verification of the accuracy of the data inserted into SMIS is to be finalised on 30.04.2010. An additional reporting method allowing identification of expenditure statements submitted by the CA to the EC was identified and implemented. The MS indicates as the deadline for

¹⁰ See annex 1

implementation of this recommendation: May 2010.

Analysis of the reply by the Commission: The recommendation remains **open** and should be implemented by the MS at the latest within one month from the receipt of the final report in the MS's language. The MS should inform the EC as soon as this recommendation is fully implemented. The EC will follow-up the implementation of this recommendation.

Colour code: **red**

4.2. Financial findings:

There are no financial findings.

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.