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REPORT FROM THE COMMISSION
ANNUAL REPORT ON THE COHESION FUND (2005)

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ANNUAL REPORT ON THE COHESION FUND (2005)

This report is presented in conformity with Article 14.1 of Regulation (EC) n°1164/1994 establishing a Cohesion Fund. It covers the activities of the Cohesion Fund during 2005.

1. BUDGET EXECUTION

Cohesion Fund resources available for commitments in 2005 amounted to € 5 131 932 989 (current prices) for the 13 beneficiary Member States. This amount includes technical assistance credits (€ 8 100 000). It should be noted that the Cohesion Fund covers 12 Member States and that Ireland, as a result of economic growth, is no longer eligible since 1 January 2004.

The commitment appropriations were virtually entirely used (99.99 %) and no appropriations were carried over to 2006.

Table 1. Implementation of commitments in 2005 (in Euro)

Commitment appropriations	Initial	Movements	Final resources	Outturn	Cancelled	Carryovers 2006
2005 budget	5 131 932 989	0	5 131 932 989	5 131 394 095	0	0
Appropriations carried over from 2004	2 084 326	0	2 084 326	2 084 326	0	0
Appropriations made available again	0	0	0	0	0	0
Repayments	0	0	0	0	0	0
Totals	5 134 017 315	0	5 134 017 315	5 133 478 421	0	0

Table 2. Implementation of payments in 2005 (in Euro)

Payment appropriations	Initial	Movements	Final resources	Outturn	Cancelled	Carryovers 2006
2005 budget	3 005 500 000	- 905 667 578	2 099 832 422	2 095 501 859	4 330 562	0
Appropriations carried over from 2004	133 138 854	0	133 138 854	133 138 854	0	0
Appropriations made available again	7 413 307	0	7 413 307	7 352 531	0	60 775
Repayments	0	0	0	0	0	0

Totals	3 146 052 161	- 905 667 578	2 240 384 583	2 235 993 244	4 330 562	60 775
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Due to a relative slow rate of implementation of payments in the first nine months of the year, a total of € 905.6 million of payment appropriations was transferred from the Cohesion Fund to the ERDF as part of the global transfer procedure with other Structural Funds. This transfer meant that some 99.8 % of the payment appropriations were implemented in 2005.

Budget implementation of appropriations in 2005 by Member State

Table 3. Commitment appropriations 2005 (in Euro)

Member State	Environment		Transport		Technical Assistance	Total	
	Amount	% Envir	Amount	% Transp.	Amount	Amount	% MS on total
España	852 915 773	47.2	955 633 794	52.8	-	1 808 549 567	35.2
Ellada	108 808 087	25.3	321 689 418	74.7	-	430 497 505	8.5
Portugal	289 926 872	59.2	199 774 911	40.8	-	489 701 783	9.5
Kypros	13 122 653	86.9	1 976 824	13.1	-	15 099 477	0.3
Ceska Republika	125 984 675	49.1	130 826 766	50.9	-	256 811 441	5.0
Eesti	33 779 915	38.5	53 970 504	61.5	-	87 750 419	1.8
Magyarország	157 491 180	50.7	153 050 527	49.3	-	310 541 707	6.0
Latvija	78 180 693	50.6	76 219 129	49.4	-	154 399 822	3.0
Lietuva	117 185 363	68.3	54 376 851	31.7	-	171 562 214	3.3
Malta	0	0	5 347 620	100	-	5 347 620	0.1
Polska	673 535 292	57.8	491 996 252	42.2	-	1 165 531 544	22.7
Slovensko	79 538 582	51.0	76 448 510	49.0	-	155 987 092	3.0
Slovenija	47 140 815	90.9	4 694 914	9.1	-	51 835 729	1.0
Technical Assistance	0	0	0	0	29 862 501	29 862 501	0.6
Total	2 577 609 900	50.2	2 526 006 020	49.8	29 862 501	5 133 478 421	100 %

Table 4. Payment appropriations 2005 (in Euro)

Figures for the new Member States refer only to payments for projects adopted under the Cohesion Fund as from 1 May 2004 (i.e. not taking into account pre-accession

aid for ISPA projects). Table no 5 below shows the payments effected in 2005 in relation to ISPA projects adopted before accession in 2004.

Member State	Environment		Transport		Technical Assistance	Total	
	Amount	% Envir.	Amount	% Transp.	Amount	Amount	%
España	654 401 989	47.2	732 303 612	52.8	-	1 386 705 601	62.0
Ellada	156 508 198	49.9	157 306 438	50.1	-	313 814 636	14.0
Ireland	12 004 179	73.2	4 391 663	26.8	-	16 395 842	0.7
Portugal	124 050 708	45.1	150 776 339	54.9	-	274 827 047	12.3
Kypros	0	0	5 058 456	100	-	5 058 456	0.3
Ceska Republika	0	0	15 326 716	100	-	15 326 716	0.7
Eesti	2 543 159	66.8	1 264 006	33.2	-	3 807 166	0.2
Magyarország	3 190 375	4.0	74 988 467	96.0	-	78 178 843	3.5
Latvija	0	0	20 441 701	100	-	20 441 701	0.9
Lietuva	0	0	48 866 247	100	-	48 866 247	2.2
Malta	0	0	0	0	-	0	0
Polska	0	0	17 411 326	100	-	17 411 326	0.8
Slovensko	2 664 822	61.3	40 784 213	38.7	-	43 449 035	1.9
Slovenija	0	0	8 542 556	100	-	8 542 556	0.4
Technical Assistance	0	0	0	0	3 168 067	3 168 067	0.1
Total	955 363 431	42.8	1 277 461 745	57.2	3 168 067	2 235 993 244	100 %

For the fourth year running, there was tendency for payments in favour of projects in the transport sector, although the distribution between transport and environment varies considerably among Member States.

Table 5. New Member States – Payments made in 2005 related to former ISPA projects (excluding technical assistance)

Member State	Environment		Transport		Total	
	Amount	% Envir.	Amount	% Transport	Amount	%
Ceska Republika	37.842.669,97	64,2%	21.083.316,98	35,8%	58.925.986,95	11,4%
Eesti	16.146.155,41	56,6%	12.363.826,57	43,4%	28.509.981,98	5,5%

Magyarország	28.224.506,00	39,8%	42.706.981,30	60,2%	70.931.487,30	13,7%
Latvija	24.905.962,19	41,6%	34.943.875,20	58,4%	59.849.837,39	11,5%
Lietuva	12.859.292,90	38,6%	20.464.144,41	61,4%	33.323.437,31	6,4%
Polska	85.207.452,51	40,3%	26.464.614,43	59,7%	211.672.066,94	40,8%
Slovensko	20.033.296,36	43,4%	26.147.266,92	56,6%	46.180.563,28	8,9%
Slovenija	1.009.431,70	11,0%	8.137.626,12	89,0%	9.147.057,82	1,8%
Total	226.228.767,04	41,9%	292.311.651,93	58,1%	518.540.418,97	100,0%

Table 6. Settlement in 2005 of commitments for the period 1993-99 (in euro)

Member State	Initial amount to be settled	Decommitments	Payments	Final amount to be settled
España	305 739 244	30 456 151	70 983 944	204 299 149
Ellada	171 283 818	59 732 167	29 386 156	82 165 494
Ireland	33 705 504		4 067 959	29 637 545
Portugal	31 638 853		2 124 257	29 514 596
Total	542 367 419	90 188 318	106 562 316	345 616 784

NB: The initial amounts to be settled in 2005 do not correspond to the final amounts presented in the annual report for 2004, due to inaccuracies in the table for the year 2004.

Cohesion Fund commitments are made from differentiated appropriations. In other words, the payments follow the initial commitments of resources. If all the projects are implemented in line with the decisions, an amount to be settled exists "automatically" because of the gap between the date of the decision and the date of payment of the balance (normally 4 to 5 years).

In order to avoid an excessive delay between commitments and payments, a particular effort to clear outstanding appropriations on actions begun in 2000 was continued. Some 36.2 % of the outstanding appropriations existing at the beginning of the year were either paid or subject to decommitment in 2005. By the end of 2005, outstanding appropriations had fallen to just 6.7 % of the annual budget of the Cohesion Fund (compared to some 50 % at the end of 2002 and 39 % at the end of 2003). This effort to reduce outstanding appropriations will be maintained in 2006 in partnership with the national authorities who are responsible for project implementation and the related payment claims.

Details on the projects adopted in 2005 for each Member States are presented in the Annex to this report.

2. ECONOMIC ENVIRONMENT AND CONDITIONNALITY

The Council Regulation on the Cohesion Fund¹ attaches macro-economic conditions to the use of the Fund. It states that “no new projects or, in the event of important projects, no new project stages shall be financed by the Fund in a Member State in the event of the Council, acting by a qualified majority on a recommendation from the Commission, finding that the Member State has not implemented [its stability or convergence programme] in such a way as to avoid an excessive deficit.” This reflects the role of the Cohesion Fund as an instrument of budgetary support at national level helping Member States to maintain macro-economic rigour.

No decisions were taken by the Council in 2005 to suspend the financing by the Fund to any of the recipient countries. Six recently acceded Member States were confirmed as having an excessive deficit in 2004 – the Czech Republic, Cyprus, Malta, Hungary, Poland and Slovakia. With the exception of Hungary, no further action was deemed necessary by budgetary developments in 2005, after the Commission concluded in December 2004 that all of the Member States concerned had taken effective action in response to the Council recommendations. Cyprus was able to correct its excessive deficit by 2005, while the convergence programmes of the other countries (except for Poland) are in line with the Council recommendations, with target dates for the correction of the excessive deficit, respectively in 2006 for Malta, in 2007 for Slovakia, and in 2008 for the Czech Republic. The 2005 update of the Polish convergence programme proposes to reduce general government deficit below 3% by 2009, as opposed to the 2007 deadline in the July 2004 Council recommendation. In the opinion of the Council, this does not constitute an effective correction of the excessive deficit by 2007, and the Commission intends to recommend further steps under the excessive deficit procedure as required by the Stability and Growth Pact.

In 2005, three Member States covered by the Cohesion Fund (Greece, Hungary and Portugal) were involved in additional steps in the excessive deficit procedure.

For Portugal, the excessive deficit procedure was restarted after the 2004 abrogation of the previous procedure initiated in 2002. After the deficit outturn of 2.9% in 2004, the Council reopened the excessive deficit procedure in reaction to the foreseen 6.2% deficit for 2005, and recommended a correction of the situation by the end of 2008 at latest. The Council, in its Opinion on the 2005 update of the Portuguese stability programme, noted that the programme was consistent with the correction of the excessive deficit by 2008.

The Council decided in January 2005 that Greece and Hungary had not taken effective action in response to the Council recommendations in July 2004. In the case of Greece, however, the Commission concluded in April 2005 that effective action was being taken to bring its budget deficit below 3% in 2006 in response to the Council notice of February 2005. The Council notice extended the deadline for the correction of the excessive deficit to 2006, and this is mirrored in the deadline set by the 2005 update of the Greek stability programme for remedying the situation.

¹ Based on Article 6 of Council Regulation (EC) No 1164/94, as in the codified version presented by the Commission.

As regards Hungary, the Council issued in March 2005 a new recommendation requesting the country to introduce additional budgetary measures by July 2005 and to correct its excessive deficit by 2008. In July 2005, the Commission issued a communication to the Council stating that the Hungarian authorities have taken effective action for the 2005 budget deficit, but further action may be required and important and decisive adjustments are needed to reach the 2006 deficit target. In October 2005, the Commission re-assessed the budgetary situation of Hungary and recommended to the Council to decide for the second time in 2005 that Hungary has failed to take effective action to correct its deficit. The re-assessment concluded that budgetary targets for 2005 and 2006 would be missed by a large margin, calling into question the previously established 2008 deadline for the correction of the excessive deficit. On the basis of this situation, in November 2005 the Council issued a second Article 104(8) decision for Hungary. The 2005 update of the Hungarian convergence programme was submitted in December 2005, with a plan to bring down the excessive deficit by 2008. This was considered to be subject to substantial risk by the Council in its opinion, as the tightening of the expenditure was not based on clearly defined and quantified measures. Hence, the Council invited Hungary to present, by 1 September 2006, a revised update of its convergence programme.

Conditionality provisions will continue to apply after 2007: the proposed new regulation on the Cohesion Fund for the next programming period² further clarifies the application of the conditionality clause. In particular, the Council can decide on the suspension of either the totality or part of the financial assistance from the Fund for the Member State concerned with effect from 1st January of the year following the decision. The suspension will concern new commitments.

3. COORDINATION WITH TRANSPORT AND ENVIRONMENTAL POLICIES

3.1. Transport

In 2005, the transport sector accounted for a fraction less than half (49.8%) of total Cohesion Fund commitments. As in the past, in order to improve the modal balance, the Commission asked the Member States to give particular preference to railway projects. The projects adopted in 2005 by Member States are set out in the Annex to this report.

In the transport sector, Community support is delivered in a coordinated way by a variety of instruments: Cohesion Fund, ISPA, ERDF, Trans-European Networks programmes, EIB loans. Financial support from these instruments is essentially directed towards the Trans-European transport networks (TEN-T).

The Community guidelines for the development of TEN-T were established by Decision n°1692/96/EC as amended by Decision n°884/2004/EC. The Decision specified 30 priority projects of European interest, out of which 14 are the revised Essen projects. The Decision calls on Member States to give priority to these projects.

² Article 4, Proposal for a Council Regulation establishing the Cohesion Fund, COM(2004) 494 final, 2004/0166(CNS).

In agreement with Article 3 of Regulation (EC) 1164/94 as amended by Regulation 1264/1999, the Cohesion Fund may provide assistance for the transport infrastructure projects of common interest, financed by Member States and which are identified within the framework of the Guidelines on TEN-T.

3.2. Environment

In 2005, the environment sector accounted for just over half (50.2%) of total Cohesion Fund commitments. In general, the projects supported by the cohesion Fund contributed to the global objectives of environmental policy in relation to sustainable development, in particular to the achievement of the priority areas of the sixth Action Programme, notably on the management of natural resources, waste management and in relation to investments that seek to limit impacts on climatic changes. The projects adopted in 2005 by Member States are set out in the Annex to this report.

During 2005, the Cohesion Fund continued to contribute to the implementation of environmental legislation, not only through the direct financing of infrastructures, but also by providing incentives encouraging the application of directives. This concerns thematic interventions with territorial dimension such as nature preservation, solid waste and waste-water management and the environmental impact assessment (EIA).

The new Member States have set water and solid waste management as important priorities for expenditures. Investments and infrastructure needs remain high in the majority of cases in order to meet the conditions of the key directives in fields such as solid waste and water (in particular urban waste-water treatment), but also in the fields of air quality and the effort to reduce industrial pollution. Support for environmental infrastructure under the Cohesion Fund is therefore important for the new Member States.

4. INSPECTIONS

The audit work of the EU 4 (Greece, Ireland, Portugal, Spain) in 2005 continued to focus on following up outstanding issues in the effective operation of management and control systems in three Member States. The action plans agreed with the Member States (Greece, Portugal and Spain at central level) continued to be monitored so that the necessary adaptations could be made.

The audit scope included both compliance tests for the systems as a whole and substantive testing of project expenditure focusing on the effective implementation of verification checks at management level, compliance with the requirements for public procurement, eligible expenditure and publicity to seek assurance on the legality and regularity of payment requests. In addition, a separate audit enquiry started in 2005 for projects that had been formally closed in order to examine the audit work carried out by the winding up bodies before providing an audit opinion. One mission was carried out in Spain and in Portugal in the transport sector.

Twenty Cohesion Fund projects were audited in depth in 2005, the large majority in Spain and Portugal while the audit effort for Greece concentrated on compliance tests.

At systems level, the shortcomings noted regarded insufficient ex-ante controls (management or operational verifications) and the unsatisfactory fulfillment of the Article 9 of Commission Regulation (EC) n°1386/2002 on sample checks. At projects level, the main deficiencies observed concerned the procedures for the award of public contracts. The irregularities which were observed are subject to contradictory procedures with the Member States concerned, and to determine whether, and to what extent, there will be recourse to the application of possible financial corrections.

With regard to the systems set up by the ten new Member States to fulfill the requirements of Commission Regulation (EC) n°1386/2002, desk reviews were completed in the period January-March 2005 enabling the Commission to gain assurance on the set-up of the systems. Systems audits began in 2005 to check that the systems in place correspond to the description and function effectively. In addition, a separate enquiry was launched during 2005 with the objective of verifying the correct application of public procurement procedures based on a sample of contracts concluded after accession.

5. IRREGULARITIES AND SUSPENSION OF AID

During 2005, the European Anti-Fraud Office (OLAF) opened five cases in relation to the information received concerning Cohesion Fund. Among these, two cases led to external enquiries and one case has already been closed as a “non case”. The two remaining cases have been transferred to the year 2006 waiting for an evaluation. No control missions linked to Reg. (CE) n°2185/96³ have been realised.

According to Article 3 of Reg. (CE) n° 1831/94⁴ concerning irregularities and the recovery of amounts unduly paid, as well as the organisation of an information system in this area, and some eight of the beneficiary Member States communicated 204 irregularity cases involving € 129 250 528 of Community contribution. These cases have been the subject of initial administrative or judicial findings of fact.

It is worth noting that the majority of these cases (192) have been communicated by the four original beneficiary Member States, with a predominance of Greek cases (152), involving a total of € 91 653 202 in Community contribution, of which € 24 872 456 remain to be recovered. The cases communicated by the Irish authorities (18) involved a total of € 21 714 607 deducted before the presentation of the final payment requests to the Commission. On the contrary, for the 16 cases communicated by the Portuguese authorities involving € 6 205 143 in Community contribution, and for the 6 cases communicated by the Spanish authorities involving € 8 668 985, amounts of respectively € 4 131 494 and € 8 378 744 remain to be recovered.

³ OJ n°L 292, 15.11.1996, p.2

⁴ OJ n°L 191, 29.07.1994, p.1

Among the new Member States, only the Czech Republic, Estonia, Hungary and Lithuania have notified cases (respectively 6, 2, 1 and 3 cases), involving less important amounts than those cited above. For almost all cases, the amounts involved have been deducted before presentation of the payment requests to the Commission.

The other new Member States have informed the Commission that no irregularities have been observed during 2005. However, the attention of Member States must be drawn to the fact that a certain number of cases detected during national and/or Community audit missions have not led to a notification according to the relevant regulation.

In most notified cases, irregularities relate to the application of public procurement rules, and for the remaining cases, the presentation of ineligible expenditure.

During the year 2005 Regulation (CE) n° 1831/94 was modified by Regulation (CE) n° 2168/2005⁵. The amendments concern: the definition of irregularity as stated in Article 1.2 of Regulation (CE) n° 2988/95 of the Council; the definition of suspicion of fraud; the clarification of the moment when a case must be notified; the definition of “bankruptcy” and the exclusion of the obligation to notify cases of bankruptcy, except some cases, namely when there is a suspicion of fraud; the electronic transmission of irregularity cases; the increase of the notification threshold from € 4 000 to € 10 000; the redefinition of the objectives, stressing on risk analysis.

6. EVALUATION

In accordance with the provisions of Article 13 of the revised Regulation (CE) n°1164/94 of 16 May 1994, the Commission and Member States have to ensure effectiveness of Community aid when implementing projects co-financed under the Cohesion Fund. This implies recourse to monitoring and evaluation measures likely to allow adaptation of the projects according to the results of the monitoring and of the evaluation.

Commission and Member States carry out, if necessary in cooperation with the European Investment Bank, appraisal and evaluation of all co-financed projects (11 in 2005).

During the implementation of projects and after their completion, the Commission and Member States monitor the realisation of the projects, the respect of their objectives and the impact of their implementation. At methodological level, each request for assistance is accompanied by a cost-benefit analysis (CBA). The CBA has to demonstrate that the socio-economic benefits in the medium term are proportional with the financial resources mobilised. The Commission examines this evaluation on the basis of principles set out in the guide for cost-benefit analysis published in 2003⁶, used both by project sponsors and by the Commission.

On this basis, the Commission provided during 2005 important methodological support and assisted Member States through actions of capacity building aiming to

⁵ OJ n°L 345, 21.12.2005, p.15

⁶ http://europa.eu.int/comm/regional_policy/sources/docgener/guides/cost/guide02_en.pdf

improve the consistency of the ex-ante financial and economic analysis of the projects. Thus, dedicated software (called CBA Software) was developed which, after a test phase, is now fully operational. Its aim is to give the Commission and the benefiting Member States thereafter, a tool likely to help them carry out the cost-benefit analysis for projects financed by the Cohesion Fund.

In addition, the ex post evaluation of a sample of 200 projects co-financed by the Cohesion Fund during the period 1993-2002, carried out in 2004 gave in 2005 important follow-up work: an ad hoc working group was set up to proceed to the prioritisation and to the reformulation of the recommendations of this report.

7. INFORMATION AND PUBLICITY

On 9 March, the Commission sent a set of guidance documents to the Member States. These documents had the objective of recalling certain provisions of Regulation 1164/94 and set rules to ensure the respect of the principle of sound financial management: The arrangements for the payment of the 20% payment on account; the procedure for implementing the repayment, in whole or in part, of the payment on account (“M+12 rule”); the procedure to be applied under Art.C5 of Annex II of Reg. 1164/94 (“M+24 rule”); the guidelines for the amendments of decisions on Cohesion Fund projects; the transition arrangements from ISPA to Cohesion Fund for the Member States concerned.

Two information meetings with the 25 Member States were held in Brussels, on 20 April and 15 December. At the first meeting, the Commission presented a follow up of the ex-post evaluation of 200 Cohesion Fund projects, whose conclusions were discussed during the previous meeting, in November 2004. At the December meeting, an exchange of good practice on the Environmental Impact Assessment (EIA) compliance took place.

Following adoption on 1 April of Commission regulation (CE) n°621/2004 on information and publicity measures, the Directorate general published a fact sheet on the Inforegio website and an update to the Cohesion Fund reference website.