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EUROPEAN COMMISSION

Brussels, 18.2.2010  
COM(2010)52 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL AND THE COURT OF AUDITORS**

**Impact of the action plan to strengthen the Commission's supervisory role under shared  
management of structural actions**

# COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE COURT OF AUDITORS

## Impact of the action plan to strengthen the Commission's supervisory role under shared management of structural actions

### EXECUTIVE SUMMARY

In 2008, following the European Court of Auditors ("Court") Annual Report of 2006<sup>1</sup>, the Commission adopted an action plan to strengthen its supervision of Member States in relation to shared management of structural actions ("Action Plan")<sup>2</sup>. The objective of the Action Plan was to reinforce actions by the Commission to address the high level of errors in reimbursements for structural actions and weaknesses in the Member States management and control systems ("systems"). The Action Plan set out 37 actions, under 10 main headings (see Annex 4). Further measures and programmes were added during 2008 and 2009. Therefore, the supervisory activity by the Commission went beyond the scope initially stated in the Action Plan.

The main results were presented to the Budgetary Control Committee of the European Parliament by Commissioners Samecki and Špidla on 2 December 2009. The reports of 5 November 2008<sup>3</sup>, 3 February 2009<sup>4</sup> and 28 October 2009<sup>5</sup> provide further detail.

This Communication gives an assessment of the results and the first impact on the implementation of the Action Plan, as well as, on the implementation of additional actions by the Commission under the Joint Audit Strategy for Structural Actions ("Audit Strategy"). The assessment looks beyond simple quantitative indicators, such as error rates or amounts recovered, as it is difficult to tie such measures to individual actions. For example, guidance and training help to understand better legislative requirements but, they do not have a directly quantifiable impact in the short-term. Therefore, an appropriate mix of qualitative and quantitative indicators is used.

A major group of actions on the 1994-1999 and 2000-2006 programming periods involved targeting Commission audit activity and applying financial corrections in a more rigorous way. As a result, the value of financial corrections for both 1994-1999 and 2000-2006 periods has increased, totalling EUR 3.801 billion for 2008 and 2009, compared to approximately EUR 3.567 billion in total for the period 2000-2007. In cases where Member States accept the corrections proposed by the Commission (70% of the cases in 2000-2009) they may re-allocate the Commission contribution

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<sup>1</sup> European Court of Auditors, Annual Report for 2006 (OJ 273, 15.11.2007).

<sup>2</sup> COM(2008) 97.

<sup>3</sup> SEC(2008) 2756.

<sup>4</sup> COM(2009) 42.

<sup>5</sup> SEC(2009) 1463.

to additional eligible projects. Where corrections are decided by the Commission they are recovered for the EU budget.

The Action Plan covered three programming periods.

Main results and impact for the 1994-1999 programming period:

- The Action Plan focused, for this period, on concluding outstanding financial correction procedures. Overall, EUR 864 million of financial corrections were applied in 2008-2009 for ERDF, ESF and CF, in addition to the EUR 1.4 billion prior to the Action Plan. The results for 2008 and 2009 mainly arise from the 1994-1999 closure audit enquiry for ERDF concluded in January 2010. For ESF, 1994-1999 financial corrections include 13 programmes for which a Commission decision was adopted and another 17 procedures opened during 2008-2009.

Main results and impact for the 2000-2006 programming period:

- The Commission has focused its audit work on risk-prone areas and has performed and completed its own audits on 50 high-risk management bodies, continued the monitoring and conclusion of Member States' action plans and taken action on all errors detected by the Court in its 2006 Annual Report (action on the errors detected by the Court for 2007 and 2008 is on-going). The objectives of these actions are to reinforce systems and to apply suspension and financial correction procedures where weaknesses were detected to reduce the risk of loss to the EU budget. As a result of Commission audit work for the period 2000-2006, total financial corrections amount to EUR 2.9 billion for 2008 and 2009 (compared to EUR 2.1 billion for the eight years prior to the Action Plan). A positive impact is expected at programme closure, as detected errors have been eliminated. There are indications that risks are now limited to only a few Member States<sup>6</sup>, whereas the improvement in the systems in the Member States is further supported by the improved assessment of these systems in the Directorates Generals 2008 Annual Activity Reports.
- The Commission's actions on withdrawals and recoveries data from the Member States have yielded positive results. Analysis indicates that the completeness and accuracy of the data received has improved. The improvements make it possible to better assess the effectiveness of national control and corrective procedures. Nonetheless, there is still a margin for further progress.
- On the closure of 2000-2006 programmes, the Commission has carried out early preparatory work by setting out its own closure strategy, providing guidance and training to Member States and performing reviews on the preparations of winding-up bodies<sup>7</sup>. The impact of these preventive actions will

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<sup>6</sup> European Court of Auditors, Annual Report for 2008, Commission reply to par. 6.35.

<sup>7</sup> Audit bodies responsible for the closure declarations of operational programmes.

be visible at programme closure and measured through the residual<sup>8</sup> error rate after closure.

- The Commission has updated its guidance on the annual summaries and reiterated the importance of their added value to the Member States. In its Annual Report 2008, the Court noted the follow-up actions taken by the Commission, where Member States were found to be non-compliant, and the improvements, whereby some Member States added value to their summaries through additional analysis or other elements.

Main results and impact for the 2007-2013 programming period:

- The Commission has implemented strict preventive actions for the 2007-2013 programming period, to ensure reliable systems are set up in Member States from the start of the programming period, before any interim payment requests are reimbursed. The first instrument is the compliance assessment of the systems set up by the Member States. By the end of 2009 DG Regional Policy (DG REGIO) and DG Employment, Social Affairs and Equal Opportunities (DG EMPL) had approved compliance assessment reports covering 91.6% and 90.8%, respectively, of the total decided amounts. The second preventive measure is the national audit strategies. By the end of 2009, DG REGIO and DG EMPL approved strategies covering respectively 97.1% and 100% of programmes.
- The Commission has carried out an audit of a random sample of projects, following a similar methodology to the Court. The preliminary error rate of around 5% resulting from this enquiry provides an indication that the actions taken by the Commission through the Action Plan, the Audit Strategy, and the enhanced regulatory control provisions for the period 2007-2013, are going in the right direction. However, the results of the enquiry should be interpreted in a prudent way since the population audited covers payments made at an early stage of the programming period until 31 May 2009 from 15 Member States which had declared expenditure by that time.
- The Regulations for the 2007-2013 period have been amended to simplify the rules and in particular to allow for the use of lump sums, standard scales of unit costs and indirect costs on a flat rate basis. The provisions on simplified costs are intended to reduce the administrative burden on Member States and contribute to a more efficient and correct use of the Funds and eventually lead to fewer errors.
- Finally, the actions for the programming period 2000-2006 have also had a positive spill over effect on the set-up and functioning of the 2007-2013 programmes, since all stakeholders are more aware of possible deficiencies in systems and the potential consequences, thanks to important efforts in the area of guidance and training.

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<sup>8</sup> The remaining risk after all expenditure has undergone all types of checks and financial corrections.

Overall, the Commission has enhanced its capacity to better supervise the structural actions under shared management.

## INTRODUCTION TO RESULTS AND IMPACT

As stated in the Communication on an Action plan<sup>9</sup>, the Action Plan was designed to complement the current high level of audit activity under the Audit Strategy and to continue relevant actions under the Commission Action Plan towards an Integrated Internal Control Framework<sup>10</sup>. Therefore, it has not been operating in isolation, as other measures are also being taken to improve control of EU co-financing in the area of Cohesion policy. As a result, while the measures put in place by the Action Plan are intended to contribute to an improvement in control and ultimately a reduction in the error rate, it will not be possible to isolate the specific impact of this Action Plan nor of individual actions on the error rate. The results are detailed in section 1 and the impact and conclusions in section 2.

### 1. RESULTS OF THE ACTION PLAN AS OF 31 DECEMBER 2009

#### 1.1. Heading 1 - Actions under the Structural Actions Joint Audit Strategy for 2000-2006

**Action 1.1:** The Commission considers that this action has improved the effectiveness of the selected high-risk management bodies and thus decreased significantly the risk of errors prior to closure.

**Key supporting information:** Outcome of the 50 completed audits: 11 positive conclusions on the functioning of the system, 2 adverse opinions, where the Commission has already launched procedures to apply financial corrections, 37 qualified opinions, where services are following up or have followed up the findings. DG REGIO and DG EMPL performed a further 11 and 6 additional audits respectively in 2009.

**Action 1.2:** DG REGIO and DG EMPL have completed the follow-up on 24 of the 27 national action plans for improving system deficiencies<sup>11</sup>. This action has addressed problems already identified in Member States' systems and contributed to the prevention of further errors.

**Key supporting information:** 22 positive conclusions on the completion of the required actions by the Member States and 2 applications of financial corrections by Commission decision. For the remaining 3 action plans, the Commission has launched procedures to suspend payments.

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<sup>9</sup> COM(2008) 97.

<sup>10</sup> COM(2006) 9.

<sup>11</sup> DG REGIO has completed the follow-up of the 10<sup>th</sup> action plan in January 2010.

**Action 1.3:** For the 2000-2006 programming period, the Commission has brought to a conclusion financial correction procedures concerning 32 ERDF programmes, 11 ESF programmes and 60<sup>12</sup> Cohesion Fund projects.

This action also includes the completion of financial correction procedures for 34 ERDF programmes for the 1994-1999 period<sup>13</sup>, in the scope of a closure enquiry that involved the audit of 54 programmes, covering 31.55% of total ERDF decided amounts for the period, and a sample of 1500 projects within these programmes. The total financial corrections from this enquiry were EUR 777<sup>14</sup> million, mainly applied in 2008 and 2009, and which correspond to 2.9% of the total eligible expenditure audited. Although ESF 1994-1999 financial correction procedures were not included in the Action Plan, progress was made during 2008-2009, as 13 procedures were closed through Commission decisions recovering a total amount of EUR 44.8 million and 17 new correction procedures were opened.

Therefore, the action has ensured that corrected amounts are re-directed towards legal and regular projects or recovered for the EU budget.

**Key supporting information:** The Commission has reported quarterly to the European Parliament on financial corrections applied. Annexes 1, 2 and 3.

**Action 1.4:** The Commission reinforced its follow-up of the DAS cases. DG REGIO and DG EMPL have taken a final position on all 74 cases of systemic and individual errors identified by the Court in audited projects for the 2006 DAS. The follow-up allowed errors to be corrected, Member States systems to be improved and contributed to the prevention of further errors.

**Key supporting information:** In 28 cases the Member State made corrections; in 30 cases the Commission launched financial correction procedures and 16 cases were closed with no correction since the Member States were able to provide evidence of the regularity and legality of the payments. The follow-up by the Commission of the 2006 DAS cases was assessed by the Court as being effective<sup>15</sup>. For DAS 2007 DG REGIO and DG EMPL have taken a final position for 84% of the cases and started the recovery process, where necessary. For DAS 2008, the Commission had already begun the follow-up in 2009.

## 1.2. **Heading 2: Main ongoing actions under the Action Plan towards an Integrated Internal Control Framework**

There has been increased coordination between the Structural Fund audit services and national audit authorities to standardise audit methods; collection of data on cost of controls for the Communication on the tolerable risk of error<sup>16</sup>; guidance and training to managing and certifying authorities; and 9 "Contracts of Confidence" have been signed.

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<sup>12</sup> For one project the formal Commission decision was adopted in January 2010.

<sup>13</sup> The Action Plan did not include closure of financial correction procedures for ESF 1994-1999 programmes.

<sup>14</sup> Includes the remaining and last decision adopted in January 2010 for EUR116 million.

<sup>15</sup> Annual Report for 2008 -chapter 6, annex 6.2.

<sup>16</sup> COM(2008) 866.

**Key supporting information:** As reported in the Impact Report on the Commission Action Plan towards an Integrated Internal Control Framework<sup>17</sup> adopted in February 2009 these actions are completed.

### 1.3. **Heading 3: Preventive actions for closure of 2000-2006 programmes and projects**

The Commission has concluded its audit enquiry on winding-up bodies, which are now in a better position to deal with the closure process. Deficiencies noted are actively followed-up by the Commission and the bodies concerned and will be taken into account for the Commission's audit strategy for closure.

In addition to the closure seminars in Member States, the Commission organised a closure seminar in Brussels for all Member States in 2008 and a technical meeting for winding-up bodies in 2009, which included presentations by Member States, promoting mutual learning from best practices.

**Key supporting information:** The enquiry was performed on winding-up bodies representing 76% of the overall expenditure. A register of Questions and Answers and other material from the closure conference can be found at [http://ec.europa.eu/regional\\_policy/conferences/closure/qa\\_en.htm](http://ec.europa.eu/regional_policy/conferences/closure/qa_en.htm). Technical meeting material is on the CIRCA website, <http://circa.europa.eu>.

### 1.4. **Heading 4: Preventive actions for the 2007-2013 programming period**

By end of 2009 DG REGIO and DG EMPL received compliance assessment reports from 428 programmes, representing 98.6% of the total. 379 of these were approved, 20 rejected, for re-submission by the Member States, and the remainder were interrupted or are still under examination. The general conclusion is that the Commission guidance has been largely followed and that the Commission could rely for the vast majority of the cases on the positive opinion expressed by the independent auditors on the compliant set-up of the systems. The compliance assessment is a key element in bringing down the risk of error in structural actions, since the Commission cannot make an interim payment to a programme until approval of the set-up of its systems. The Commission and the Member States made considerable investment in this new preventive mechanism, in order to have reliable and fully compliant systems from the very beginning of the programming period.

The Commission received 425 national audit strategies, representing 98.6% of the total programmes. It approved 420, rejected 2 and is examining 3. This ensures that Member States have planned sound audit strategies to quickly detect systems weaknesses and risks of error.

In 2008 and 2009 the Commission proposed and the Council and Parliament adopted a number of significant simplification measures for the 2007-2013 regulatory framework. Some of the most important measures concern financial engineering instruments, revenue generating projects and allowing lump sums and standard scales of unit costs for both the ERDF and the ESF, and extending the possibility of

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<sup>17</sup> COM(2009) 43.



declaring indirect costs on a flat rate basis to ERDF expenditure, thereby simplifying significantly the management of projects implemented by small organisations.

The Commission has issued detailed guidance with examples of good practice, held training on the provisions of the 2007-2013 Regulations, further disseminated training material to Member States and has encouraged national authorities to use the new possibilities for simplified costs.

**Key supporting information:** Simplification measures have been incorporated in Regulations (EC) No 396/2009 and No 397/2009 of 6 May 2009; Regulation (EC) No 1341/2008 of 18 December 2008 and No 846/2009 of 1 September 2009. The eligibility brochure can be found at [http://ec.europa.eu/regional\\_policy/sources/docgener/presenta/pres\\_en.htm](http://ec.europa.eu/regional_policy/sources/docgener/presenta/pres_en.htm). The guidance note on simplified costs was thoroughly discussed with Member States' experts and finalised in January 2010. All guidance notes are on <http://circa.europa.eu>.

### 1.5. **Heading 5: Actions to improve primary controls at national level**

The Commission has carried out all planned actions to increase the effectiveness of first-level management verifications, which are the primary line of defence against errors. It organised seminars for managing and certifying authorities, including public procurement seminars, and issued all guidance notes mentioned in the Action Plan.

**Key supporting information:** Information on the seminars held for managing and certifying authorities can be found at [http://ec.europa.eu/regional\\_policy/conferences/manauth/programme\\_en.htm](http://ec.europa.eu/regional_policy/conferences/manauth/programme_en.htm) and [http://ec.europa.eu/regional\\_policy/conferences/trainers/programme\\_en.htm](http://ec.europa.eu/regional_policy/conferences/trainers/programme_en.htm). Results of a questionnaire from the train-the-trainers seminar show that all the respondents had used the information from the seminar to provide further training/material to their national colleagues.

### 1.6. **Heading 6: Actions to improve reporting on financial corrections by Member States**

The Commission made significant efforts to improve Member States' systems on financial corrections. The amounts reported for 2008 are much higher than the previous years, due to the fact that Member States provide more complete information<sup>18</sup>. The Commission has made on-the-spot verifications of the quality of the Member States' systems for recoveries (missions to 10<sup>19</sup> Member States in 2008 and to another 9<sup>20</sup> in 2009). The remaining Member States will be visited in 2010. The results so far show that Member States' authorities generally follow the requirements, although as confirmed by the Court, some weaknesses exist in respect of the completeness of data and the systems for recording and reporting irregularities.

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<sup>18</sup> Based on data provided by Member States total withdrawals and recoveries, performed by the national authorities by the end of 2008, were EUR 3.556 billion – SEC(2009) 1495.

<sup>19</sup> Belgium, UK, Slovenia, Spain, France, Italy, Portugal, Greece, Ireland and the Slovak Republic.

<sup>20</sup> Germany, Cyprus, Latvia, Hungary, the Netherlands, Austria, Poland, Sweden and Finland.

Taking into account the findings, the Commission revised its guidance note on withdrawals and recoveries, which was presented to Member States in January 2010, in time for the last annual report for 2000-2006 programmes and the first report for the 2007-2013 programmes.

**Key supporting information:** The guidance note on withdrawals and recoveries was presented to Member States in COCOF (Coordination Committee of the Funds) in January 2010. The Court in its 2008 Annual Report has assessed the Member State systems for recoveries as “partially effective”.

**1.7. Headings 7 and 8: Actions to improve reporting and increase impact of Commission audit activity**

The more rigorous approach has increased the level of financial corrections and suspensions. During 2009, the Commission adopted 7 suspension of payment decisions, in addition to the 10 adopted in 2008<sup>21</sup>. Following Commission audit activity, financial corrections totalling EUR 3.80 billion have been made in 2008 and 2009, compared to EUR 3.57 billion made in the years 2000 to 2007. A further estimated EUR 942 million of financial corrections were in progress at the end of 2009.

**Key supporting information:** See Annexes 1, 2 and 3. Also, the Court in its 2008 Annual Report stated that the Commission is reporting reliable figures on financial corrections resulting from its own audit activities (par. 1.16).

**1.8. Headings 9 and 10: Actions to improve assurance provided by AAR and to maximise value of annual summaries under Article 53b of the Financial Regulation**

DG REGIO and DG EMPL fully implemented in their 2007 Annual Activity reports all the actions listed in the Action Plan, taking account of recommendations by the Court.

Concerning annual summaries, where Member States had provided a conclusion or declaration of assurance, the Directorates General had used this to corroborate their own assessment of the national systems.

Also, the Commission revised its guidance note taking into account recommendations of the study commissioned by the European Parliament, such as emphasizing the value-added elements and reducing redundant information.

**Key supporting information:** The Court recognised in its Annual Reports of 2007 and 2008 the positive evolution in the quality and usefulness of the Annual Activity Reports of DG REGIO and DG EMPL and on the adequate supervision of the annual summaries by the Commission by issuing clear guidance and by dealing with cases of non-compliance. The revised guidance note on annual summaries was discussed with Member States in COCOF meetings of October and December 2009.

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<sup>21</sup> All suspension decisions have been lifted in 2009 or are in the process of being lifted.

## 2. FIRST IMPACT OF THE ACTION PLAN AND CONCLUSIONS

Due to the nature of the actions and the fact that reducing the error rate is a steady but lengthy process, this first impact assessment can only be preliminary. Further indications, which will essentially be measured globally for the Action Plan according to the evolution of error rates, will be obtained following the forthcoming audit activity by national or EU authorities.

There are at least three areas in which the Commission expects to see a tangible impact resulting from the actions implemented under the Action Plan:

### 2.1. The first audits of the 2007-2013 programmes indicate positive results

To assess whether the actions described above have had a **first positive impact on the legality of operations for the newly implemented 2007-2013 programmes**, the Commission decided to perform an audit inquiry following a methodology similar to that of the Court for its DAS audits. The specific objective of the enquiry was to estimate, on the basis of a random statistical sample of 180 operations, the error rate in the expenditure declared to the Commission by the Member States between 1 January 2007 and 31 May 2009 in relation to the Structural Funds and Cohesion Fund for the 2007-2013 period<sup>22</sup>. On the basis of the preliminary results, the error rate is around 5%. These results provide an indication that the enhanced control provisions for the 2007-2013 regulatory framework and the preventive measures taken by the Commission, as described in this Communication, are going in the right direction. However, the error rate resulting from this enquiry needs to be interpreted in a prudent way, due to the fact that the enquiry was carried out at the beginning of the programming period and that the population from which the sample of payments was selected was limited to 15 Member States<sup>23</sup> which had submitted interim payment claims by the end of May 2009. The results of the enquiry will be finalised in the first half of 2010, once the contradictory procedure with the Member States is complete.

Further indications on the impact on the error rate will be obtained with the results of the forthcoming audit activity, either by national audit authorities that have to report annually audit results based on statistical samples of operations, or EU authorities (Commission audits, DAS audits).

### 2.2. The Commission has improved its supervisory role on the shared management of the Funds

The **strengthened supervisory role** of the **Commission** could be assessed against the background of the increased effectiveness of the existing multi-annual control system. As regards the 2000-2006 period, the Annual Activity Reports for 2008 of

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<sup>22</sup> The selection of projects was done in two stages: the first stage was the random selection of 18 payment claims received by end May 2009 and the second stage was the selection of 10 operations in each claim. The parameters used were a 95% confidence level and 2% materiality.

<sup>23</sup> EE, LT, HU, RO, DE, FR, LV, PL, IE, PT, SI, AT, SE, DK and IT, of which the first 10 Member States were included in the sample.

the two Directorates General show a marked improvement on the functioning of the systems in Member States between the years 2007 and 2008<sup>24</sup>.

The Commission also considers that **the residual risk of error** after closure of the programmes could provide evidence of the effectiveness of a system. It is not possible now to conclude on the level of residual risk at closure for the 2000-2006 period, since the majority of the programmes will be closed in 2010, and the results may be auditable only in 2011 onwards. However, DG REGIO's non-statistical closure audit enquiry on a sample of 1994-1999 ERDF programmes<sup>25</sup> finalised in January 2010 gives an indication that at closure, and after all financial corrections have been made, the overall risk of error was substantially reduced.

In addition, the numerous preventive actions taken for closure of the 2000-2006 programmes (see 1.3 above) provide expectations that the closure process for 2000-2006 could produce equally positive results.

### **2.3. The Commission has applied financial corrections in an effective way to reduce the risk of loss to the EU budget**

A major group of actions on the 1994-1999 and 2000-2006 programming periods involved targeting Commission audit activity and applying financial correction procedures in a more rigorous way. As a result, the value of financial corrections for both periods has increased, totalling EUR 3.801 billion for 2008 and 2009, compared to approximately EUR 3.567 billion in total for the period 2000-2007. The Commission has aimed to ensure that corrected amounts are re-directed towards legal and regular projects or recovered for the EU budget. In total, EUR 5.2 billion corrections were proposed by the Commission and accepted by Member States (in which case the Member States may reallocate the said expenditure to other projects), and EUR 2.1 billion corrections were decided by the Commission (in which case the amounts are recovered for the EU budget).

The level of financial corrections shows the Commission's resolute response to the detection of significant systems deficiencies in Member States. They provide a deterrent effect on Member States from any future mismanagement of EU funds – even where the funds remain within the Member States, the Member State must find the money to co-finance projects which replace those subject to financial corrections – and assist in eliminating errors detected during the implementation period, thereby reducing the residual risk of error at closure.

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<sup>24</sup> European Court of Auditors, Annual Report for 2008, Commission reply to par. 6.23.

<sup>25</sup> Given that the selection of programmes for this enquiry was risk-based, the higher risk programmes were covered by the audit.

## 2.4. Conclusions

Overall, the Commission has strengthened its capacity to supervise structural actions under shared management and has taken vigorous measures to address the Court's outstanding recommendations.

- The Commission has produced results for all the actions and has laid the foundations for continued improvements. It, therefore, considers the Action Plan completed and the objectives achieved.
- The Commission will seek to reap the full benefits of the legislative provisions for the new programming period 2007-2013, including the simplification of cost options, in terms of a reduction in the error rates and will keep up the momentum generated by the Action Plan and pursue rigorous supervisory actions in the context of its Audit Strategy and report on the situation in the Annual Activity Reports.
- The goal of a control system is to reduce errors as far as possible: in structural actions, this control system aims to minimise the residual risk of error on a multi-annual basis. However, control systems must not impose an undue level of cost and must be based on a clear and shared understanding of the cost-risk balance taking into account the EU added value of investing in certain areas. Progress in this area will be ensured through the Commission's tolerable risk of error initiative. The Commission will make a proposal for the tolerable risk of error level for Cohesion policy at latest in 2012, based on 2010 expenditure which will for the most part be governed by the 2007-2013 legislation. [The Commission invites the Council and the European Parliament to develop a shared political appraisal of the costs of controls attached to EU interventions and consequently to consider the level of risk of error which can be tolerated for each such area.](#)
- All stakeholders should be aware that changes to legislation take time to filter through to the error rates. The legislative framework for the 2007-2013 period was adopted in 2006 but will only govern the majority of structural actions' expenditure from 2010. To ensure coherence with future legislative initiatives, it will be vital to consider the political objectives of Cohesion policy together with its delivery mode and management and control arrangements.
- Member States must demonstrate a commitment to improved accountability by following the Commission guidance on annual summaries and transforming these into a valuable additional source of assurance. While the legal base for the annual summaries does not at present provide for an overall assurance statement, the Commission encourages all Member States to follow the example of seven others which in 2009 included assurance statements and to take other appropriate measures (including voluntary national declarations) to demonstrate their commitment to ensuring sound management of funds.
- As **noted by the Court**, there is still room for improvement “on the ground”. This improvement can only be generated by the full implication of the Member States, which have primary responsibility for the effective functioning of their systems.

The Lisbon Treaty, along with the enhanced control provisions for 2007-2013, reinforces this responsibility.

**Annex 1 – Summary of financial corrections<sup>26</sup> proposed or decided by the Commission for the Structural Funds<sup>27</sup> and the Cohesion Fund (as of 31 December 2009), on an accrual basis, in EUR million**

| Fund/period              | Total Financial Corrections 2000-2007 <sup>28</sup> | Total Financial Corrections 2008 <sup>29</sup> | Financial Corrections accepted by Member States 2009 | Financial Corrections by Commission decision 2009 (Annex 3) | Total Financial Corrections 2009 | Total Financial Corrections 2008/2009 | Grand total 2000-2009 |
|--------------------------|---|--|--|---|----------------------------------|---------------------------------------|-----------------------|
| ERDF 2000-06             | 1 561   | 619  | 1 465  | 79  | 1 544                            | 2 163                                 | 3 724                 |
| CF 2000-06               | 103   | 54   | 68   | 2   | 70                               | 124                                   | 227                   |
| ESF 2000-06              | 475   | 496  | 154  | 0   | 154                              | 650                                   | 1 125                 |
| <b>Sub-total 2000-06</b> | <b>2 139</b>  | 1 169  | 1 687  | 81  | 1 768                            | <b>2 937</b>                          | <b>5 076</b>          |
| ERDF 1994-99             | 858   | 330  | 55   | 386   | 441                              | 771                                   | 1 629                 |
| CF 1994-99               | 225   | 38   | 10   | 0   | 10                               | 48                                    | 273                   |
| ESF 1994-99              | 345   | 26   | 0  | 19  | 19                               | 45                                    | 390                   |
| <b>Sub-total 1994-99</b> | <b>1 428</b>  | 394  | 65   | 405   | 470                              | <b>864</b>                            | <b>2 292</b>          |
| <b>Total</b>             | <b>3 567</b>  | 1 563  | 1 752  | 486   | 2 238                            | <b>3 801</b>                          | <b>7 368</b>          |

<sup>26</sup> Amounts are provisional and subject to audit by the Court for the 2009 Annual Accounts.

<sup>27</sup> Figures for EAGGF and FIFG are not included.

<sup>28</sup> Source: Note 6 of the Commission Annual Accounts for 2007; figures may be rounded compared to previous reports.



**Annex 2 – Summary of suspension decisions in 2009 and financial corrections underway (as of 31 December 2009)**

| Fund/period  | Number of adopted Commission suspension decisions | Financial corrections underway <sup>30</sup> |                                 |
|--------------|---|--|---------------------------------|
|              |   | Number of programmes/ projects               | Estimated amount in EUR million |
| ERDF 2000-06 | 6   | 67   | 325                             |
| CF 2000-06   |   | 99   | 153                             |
| ESF 2000-06  | 1   | 13   | 141                             |
| ERDF 1994-99 |   | 1 <sup>31</sup>                              | 116                             |
| CF 1994-99   |   | 3  | 3                               |
| ESF 1994-99  |   | 17   | 204                             |
| <b>Total</b> | <b>7</b>  | <b>200</b>                                   | <b>942</b>                      |

<sup>29</sup> Source: Note 6 of the Commission Annual Accounts for 2008; figures may be rounded compared to previous reports.

<sup>30</sup> The figures are provisional and are subject to adjustments or cancellation in respect of ongoing contradictory proceedings. The "Estimated amount in EUR million" of potential corrections are best estimates, taking into account the state of play of the follow-up of audits, implementation of national action plans, final position letters issued to Member States and the results of hearings.

<sup>31</sup> Relates to procedure under Action 1.3.

**Annex 3 – Details of financial correction and suspension decisions adopted by the Commission in 2009 (as of 31 December 2009)**

|                                     | <b>Member State</b> | <b>Programme period</b> | <b>Fund</b> | <b>Programme</b>       | <b>Amount (EUR million)</b> |
|-------------------------------------|---------------------|-------------------------|-------------|------------------------|-----------------------------|
| <b><u>Financial corrections</u></b> | Italy               | 2000-2006               | ERDF        | Puglia                 | 79.33                       |
|                                     | Germany             | 2000-2006               | ERDF        | Mecklenburg-Vorpommern | 0.05                        |
|                                     |                     |                         |             | <b>Sub-total</b>       | <b>79.38</b>                |
|                                     | Spain               | 2000-2006               | CF          | Asturias               | 0.07                        |
|                                     | Spain               | 2000-2006               | CF          | Cantabria              | 0.69                        |
|                                     | Spain               | 2000-2006               | CF          | Norte-Galicia          | 0.87                        |
|                                     | Spain               | 2000-2006               | CF          | Galicia                | 0.17                        |
|                                     |                     |                         |             | <b>Sub-total</b>       | <b>1.80</b>                 |
|                                     | Germany             | 1994-1999               | ERDF        | SMEs Sachsen-Anhalt    | 1.95                        |
|                                     | Germany             | 1994-1999               | ERDF        | Sachsen-Anhalt         | 5.14                        |
|                                     | Germany             | 1994-1999               | ERDF        | Schleswig-Holstein     | 0.48                        |
|                                     | Germany             | 1994-1999               | ERDF        | Saarland Obj.2         | 8.33                        |
|                                     | Germany             | 1994-1999               | ERDF        | Saarland               | 4.99                        |

|  |            |           |      |                                     |               |
|--|------------|-----------|------|-------------------------------------|---------------|
|  | Germany    | 1994-1999 | ERDF | Nordrhein-Westfalen-Leader          | 0.22          |
|  | Germany    | 1994-1999 | ERDF | Nordrhein-Westfalen                 | 23.55         |
|  | Italy      | 1994-1999 | ERDF | Sardenia                            | 40.50         |
|  | Italy      | 1994-1999 | ERDF | Energia                             | 0.50          |
|  | Portugal   | 1994-1999 | ERDF | MTE                                 | 18.52         |
|  | Spain      | 1994-1999 | ERDF | Andalucia                           | 219.33        |
|  | Spain      | 1994-1999 | ERDF | Pais Vasco                          | 27.88         |
|  | UK         | 1994-1999 | ERDF | North East of England Objective 2   | 8.44          |
|  | UK         | 1994-1999 | ERDF | Manchester, Lancashire and Cheshire | 18.04         |
|  | Interreg   | 1994-1999 | ERDF | Cadses IT, EL, DE                   | 1.55          |
|  | Interreg   | 1994-1999 | ERDF | Rhin-Meuse                          | 7.07          |
|  |            |           |      | <b>Sub-total</b>                    | <b>386.49</b> |
|  | Luxembourg | 1994-1999 | ESF  | Obj.3 (public promoters)            | 0.84          |
|  | Luxembourg | 1994-1999 | ESF  | Obj.3 (private promoters)           | 0.64          |
|  | Luxembourg | 1994-1999 | ESF  | Obj. 5b                             | 0.13          |

|                           |            |           |      |                    |   |
|---------------------------|------------|-----------|------|--------------------|---|
|                           | Luxembourg | 1994-1999 | ESF  | Obj. 4             | 0.26                                    |
|                           | Spain      | 1994-1999 | ESF  | Andalucía          | 16.84                                   |
|                           | Belgium    | 1994-1999 | ESF  | Meetjesland Obj. 5 | 0.04                                    |
|                           | Finland    | 1994-1999 | ESF  | Obj. 3             | 0.01                                    |
|                           |            |           |      | Sub-total          | <b>18.76</b>                            |
|                           |            |           |      | <b>Grand Total</b> | <b>486.43</b>                           |
|                           |            |           |      |                    | <b>Date of adoption<br/>of decision</b> |
| <b><u>Suspensions</u></b> | Italy      | 2000-2006 | ERDF | Abruzzo            | 28 January<br>2009 <sup>32</sup>        |
|                           | Interreg   | 2000-2006 | ERDF | Greece/Italy       | 28 January<br>2009 <sup>33</sup>        |
|                           | Interreg   | 2000-2006 | ERDF | Archimed           | 12 June 2009                            |
|                           | Interreg   | 2000-2006 | ERDF | Denmark/Sweden     | 2 September<br>2009                     |
|                           | Germany    | 2000-2006 | ERDF | Saarland           | 5 October 2009                          |

<sup>32</sup> Commission decision was subsequently taken in 2009 to lift the suspension.

<sup>33</sup> Commission decision was subsequently taken in 2009 to lift the suspension.

|  |         |           |      |                        |                     |
|--|---------|-----------|------|------------------------|---------------------|
|  | Germany | 2000-2006 | ERDF | Baden-Württemberg      | 18 November<br>2009 |
|  | Spain   | 2000-2006 | ESF  | Iniciativa Empresarial | 21 August 2009      |

## Annex 4 - Action Plan

|   | Action  | ECA recommendation addressed  | Objective   |
|---|---|---|---|
| <b>1. Actions under the Structural Actions joint audit strategy for 2000-2006</b> |   |   |   |
| 1.1.  | Carry out targeted audits on high-risk management bodies (2000-06)  | Focus on improving the primary controls at management level in the Member States<br><br>Improve effectiveness of Commission's supervisory controls to mitigate the risk of failure in Member States systems | Focus audit resources on high-risk bodies so as to reduce potential residual risk   |
| 1.2.  | Complete the follow-up of the Member States' implementation of 27 current action plans to remedy serious deficiencies in those Member States' management and control systems            | Focus on improving the primary controls at management level in the Member States<br><br>Improve effectiveness of Commission's supervisory controls to mitigate the risk of failure in Member States systems | Obtain reasonable assurance that the management and control systems in the Member States function effectively and safeguard the EU budget |
| 1.3.  | Bring to conclusion the 20 suspension and financial correction procedures currently underway for 2000-2006 and the 34 financial correction procedures from closure audits for 1994-1999 | Increase the impact of Commission audit activity through more effective use of suspension and financial correction procedures   | Obtain reasonable assurance that the management and control systems in the Member States function effectively and safeguard the EU budget |
| 1.4.  | Follow up the individual substantive error cases for DAS 2006 together with any systemic implications   | Improve effectiveness of Commission's supervisory controls to mitigate the risk of failure in Member States systems   | Obtain assurance that required corrections have been made to protect the EU budget  |

| <b>2. Main ongoing actions under the Action Plan towards an Integrated Internal Control Framework</b> |   |  |  |
|---|---|--|--|
| 2.1.  | Action 9 – Construct effective tools for sharing audit and control results and promote the single audit approach  | Reinforce the feedback mechanisms in the control systems in the Structural Funds   | Coordinate audit and control work in order to maximise its effectiveness   |
| 2.2.  | Action 10 - Conduct an initial estimation and analysis of in the costs of controls for the ERDF   | Implement the Commission's action plan on the Integrated Internal Control Framework in accordance with Court Opinion No 2/2004 | Provide a basis for establishing a balance between the costs and benefits of controls                              |
| 2.3.  | Action 11N - examine the reliability of national monitoring and reporting systems for recoveries and financial corrections  | Ensure provision of complete, transparent and reliable information on financial corrections and recoveries                     | Improve reporting on financial corrections (see action 6 below)  |
| 2.4.  | Action 14b - provide guidelines for beneficiaries and/or intermediate levels on controls and responsibilities in the control chain  | Encourage and facilitate the use of simplifications for the 2007-13 period   | To prevent errors and reduce the risk to the EU budget (see actions 4 and 5.2 below)                               |
| 2.5.  | Action 15 - promote the 'Contracts of Confidence' initiative for Structural Funds (enabling Commission to place reliance on national audit work for 2000-06 period and creating basis for similar cooperation in 2007-13) | Improve the effectiveness of the Commission's supervisory controls to mitigate the risk of failure in Member States' systems   | Improve the coordination of audit work so as to be able to place reliance on the work of the national audit bodies |
| 2.6.  | Action 16 - coordinate audit standards, error rate reporting, etc. for Structural Funds   | Improve the effectiveness of the Commission's supervisory controls to mitigate the risk of failure in Member States' systems   | Improve the integrated internal control framework by standardising audit methods                                   |

| <b>3. Preventive actions for closure of 2000-2006 programmes and projects</b> |  |  |   |
|---|--|--|---|
| 3.1.  | Complete the audit enquiry on the review of the work of the winding-up bodies (2000-06)  | Ensure sound closure procedures  | Preventive control to ensure the closure process will be effective in detecting irregular expenditure |
| 3.2.  | Finalise the internal procedures to ensure rigorous examination of closure documents   | Ensure sound closure procedures  | Ensure proper preparation for the closure of programmes within the Commission services                |
| 3.3.  | Raise awareness of Member States of the closure guidelines issued by the Commission in 2006  | Ensure sound closure procedures  | Ensure proper preparation for the closure of programmes within the Member States                      |
| <b>4. Preventive actions for the 2007-13 programming period</b>               |  |  |   |
| 4.1.  | Review of compliance assessment reports and opinions   | Ensure full implementation of the legal framework for the programming period 2007-13   | To ensure that effective management and control systems are in place early on in the period           |
| 4.2.  | Review of national audit strategies  | Ensure full implementation of the legal framework for the programming period 2007-13   | To ensure national audit strategies compliant with the regulations                                    |
| 4.3.  | Actions on simplification:   | Encourage and facilitate the use of simplifications for the programming period 2007-13 | To prevent errors and reduce the risk to the EU budget  |
|   | a) Note on partial closure under Article 88 of Regulation (EC) No 1083/2006 followed up in annual meetings with managing authorities |  |   |
|   | b) Note on use of flat rates for indirect costs (ESF only) followed up in annual meetings with managing authorities                  |  |   |



|   |   |   |  |
|---|---|---|--|
| 4.4.  | Review and provide clarification on eligibility issues for 2007-13:   | Ensure full implementation of the legal framework for the programming period 2007-13  | Ensure that the regulations are clear to the national authorities applying them and to the beneficiaries |
|   | a) Compilation of EU eligibility rules for 2007-13 period as single brochure  |   |  |
|   | b) Note on application of Article 55 of Regulation (EC) No 1083/2006 – revenue-generating projects                              |   |  |
|   | c) Note on application of State aid rules   |   |  |
| 4.5.  | Raise awareness of public procurement rules   | Focus on improving the primary controls at management level in the Member States  | To reduce the errors from this source in the use of the Structural and Cohesion Funds                    |
| <b>5. Actions to improve primary controls at national level</b> |   |   |  |
| 5.1.  | Organise seminar for managing authorities and certifying authorities and follow up in annual meetings with managing authorities | Focus on improving the primary controls at management level in the Member States  | Address the risk of weak primary controls  |
| 5.2.  | Update guidance on good practice for primary controls and the certification function for 2007-2013                              | Focus on improving the primary controls at management level in the Member States<br>Reinforce feedback mechanisms in the control system | Address the risk of weak primary controls and certification function                                     |
| 5.3.  | Provide self-assessment tools for managing authorities on compliance  | Focus on improving the primary controls at management level in the Member States  | Address the risk of weak primary controls  |

| <b>6. Actions to improve reporting on financial corrections by Member States</b> |  |   |   |
|--|--|---|---|
| 6.1.   | Follow up on data reported to complete gaps and correct inaccuracies   | Improve provision of complete, transparent and reliable information on financial corrections and recoveries   | Improve reporting on financial corrections and recoveries   |
| 6.2.   | Carry out on the spot verifications of a sample of Member States' data   | Improve provision of complete, transparent and reliable information on financial corrections and recoveries   | Verify accuracy of data reported  |
| <b>7. Actions to improve reporting by Commission on impact of audit activity</b> |  |   |   |
| 7.1.   | Improve systems for recording and reporting on follow up of audit recommendations  | Improve effectiveness of Commission's supervisory controls to mitigate the risk of failure in Member States' systems<br><br>Reinforce feedback mechanisms in the control system | Improve monitoring processes and facilitate sharing of audit results  |
| 7.2.   | Improve systems for recording and reporting on corrections resulting from Commission control and audit activity  | Improve provision of complete, transparent and reliable information on financial corrections and recoveries   | Improve information on recoveries and financial corrections as a partial indicator of the impact of the Commission's audit activity       |
| <b>8. Actions to increase impact of Commission audit activity</b>                |  |   |   |
| 8.1.   | Establish and implement policy of suspending payments by Commission decision as soon as possible following detection of serious weakness in national systems | Increase the impact of the Commission's audit activity through more effective use of suspension and financial correction procedures   | Obtain reasonable assurance that the management and control systems in the Member States function effectively and safeguard the EU budget |

|  |  |   |   |
|--|--|---|---|
| 8.2.   | Modify internal procedures for suspension and financial corrections to speed up application  | Increase the impact of the Commission's audit activity through more effective use of suspension and financial correction procedures | Obtain reasonable assurance that the management and control systems in the Member States function effectively and safeguard the EU budget |
| <b>9. Actions to improve assurance provided by AAR</b> |  |   |   |
| 9.1.   | Carry out the following actions in relation to preparation of Annual Activity Reports:   | Improve the quality of DGs' AAR   | Improve the transparency and continuity of reporting on the assessment of Member States' systems in order to better monitor progress      |
|  | a) Provide information on follow-up of all systems for which material systemic deficiencies were detected in 2006  |   |   |
|  | b) Report on the execution of action plans implemented by Member States to correct deficiencies  |   |   |
|  | c) Report on decisions to suspend interim payments, other precautionary actions by AOSD in respect of interim payments, financial corrections made by Member States at request of Commission, and financial correction decisions adopted by the Commission |   |   |
|  | d) Provide detailed justification for absence of reservation where material systemic weaknesses are identified   |   |   |
|  | e) Report on follow-up of previous recommendations of Court  |   |   |

|            |  |   |  |
|------------|--|---|--|
| <b>10.</b> | <b>Actions to maximise value of annual summaries under Article 53b of the Financial Regulation</b>                             |   |  |
|            | Analyse summaries received, include results in AAR, and take action in respect of Member States not complying with obligations | To undertake adequate supervision of the annual summaries to ensure that they are consistent, comparable and useful | Improve level of assurance obtained from Member States |