



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.7.2003  
SEC(2003) 828

**COMMISSION STAFF WORKING PAPER**

*Annex to the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT AND THE COUNCIL**

**ON THE IMPLEMENTATION OF COMMITMENTS UNDERTAKEN BY  
THE ACCEDING COUNTRIES IN THE CONTEXT OF ACCESSION  
NEGOTIATIONS ON CHAPTER 21 – REGIONAL POLICY AND  
COORDINATION OF STRUCTURAL INSTRUMENTS**

{COM(2003)433 final}

## **1. INTRODUCTION**

The assessment of management and control systems in this Communication is based principally on the descriptions provided by the acceding countries on the basis of detailed questionnaires sent out by the Commission. It also takes account of other information available notably from the commitments made in the framework of Chapter 21, the implementation of the pre-accession instruments, from the programming exercise and from missions to the different acceding countries to assess the state of preparation of management systems to implement the Funds. Following adoption of the programmes and the finalisation of the implementation arrangements for the Cohesion and Structural Funds the Commission will complete its review of compliance of the systems<sup>1</sup>.

The following six categories have been evaluated:

- (a) Legislative framework
- (b) Institutional framework
- (c) Administrative capacity
- (d) Programming capacity
- (e) Financial and budgetary management
- (f) Project pipeline based on ISPA, Sapard, Phare experience

The findings of the Commission services are as follows:

## **2. LEGISLATIVE FRAMEWORK**

In accordance with the commitments undertaken in the context of the accession negotiations, the acceding countries are still in the process of aligning their legislation with the *acquis* in the areas of public procurement, state aids/competition, environment and equal opportunities. Harmonisation and full transposition of the legislation is a pre-condition for the implementation of Cohesion and Structural Funds assistance.

Public procurement legislation is still not in full compliance with EC legislation. It needs to be underlined that all projects co-financed by the Structural and Cohesion Funds must be implemented in full respect of EU public procurement rules. Public procurement legislation needs to be aligned and fully transposed by 31 December 2003 in order to fully benefit from project and expenditure eligibility as of 1 January 2004 as laid down in the Accession Treaty.

---

<sup>1</sup> In accordance with Article 6 of Regulation 438/2001 and Article 5(3) of Regulation 1386/2002 respectively.

Legislation still needs to be aligned in the areas of financial control and budgetary management. As regards financial control, the Commission has made clear in its Enlargement Strategy Paper of 9 October 2002 that Community funding cannot be approved until all conditions ensuring sound management of the funds are in place. As regards budgetary management, delays have occurred in a number of countries in the preparation and adoption of the legislation required for reorganising the budget structure, facilitating multi-annual commitments and reallocation of funds between and within the programmes.

While the acceding countries have made progress in the adoption of competition/state aid legislation, the process of notification of aid schemes to the Commission needs to be accelerated. Only state aid schemes that are approved by the end of 2003, will be eligible for assistance under Structural Funds from 1 January 2004. Specific procedural requirements are to be observed for state aid schemes that are envisaged to be co-financed by Structural Funds in transport, fishery and agriculture sector.

Legislation in the area of equal opportunities appears to be harmonised with the relevant EU rules in most acceding countries.

Concerning environmental protection, significant progress has been made in all acceding countries to align environmental protection legislation with the acquis. Nevertheless there are still a number of legislative provisions and implementing steps in the areas of environmental impact assessment, nature protection (designation of NATURA 2000 sites) and waste (adoption of waste management plans) that need to be completed by accession and whose application is a pre-condition for the implementation of Cohesion and Structural Funds.

### **3. INSTITUTIONAL FRAMEWORK**

In general, inter-ministerial co-ordination has improved. However, this is still a point of concern in many acceding countries. While structures to ensure inter-ministerial co-ordination have been established, practice shows that this co-ordination is often weak. In some cases, the responsible authority has not been sufficiently proactive nor shown sufficient commitment to steer this process. In others, there is a need to allow full participation and co-operation of all line Ministries.

#### **3.1 Managing Authorities and Intermediate bodies**

All acceding countries have designated the authorities responsible for the co-ordination of the management of Structural Funds assistance. In each country, these CSF/SPD Managing Authorities will also be responsible for the general management and co-ordination of Cohesion Fund operations.

The recommendation of the Commission to limit the number of Operational Programmes and thus of OP Managing Authorities has been taken into account. Delays have, however, occurred in finalising the architecture of the

implementation system. Institutional arrangements appear to be weak and insufficiently defined in a number of countries, in particular as regards the respective roles of the Managing Authorities and the Intermediate Bodies.

The recommendation of the Commission to limit the number of Intermediate Bodies per programme has been taken into account. However, it is important to complete the designation of the Intermediate Bodies as soon as possible. The same is true for the decisions on the sub-delegation of tasks, which have been delayed in some cases. In others, the foreseen high level of delegation of tasks to the Intermediate Bodies is a point of concern in relation to the real authority of the designated Managing Authorities to carry out their responsibilities effectively.

A clear description of the sub-delegation of tasks and the reporting lines between the designated Managing Authorities and the Intermediate Bodies still needs to be elaborated and laid down in written agreements in all acceding countries.

The experience of ISPA shows that procurement presents a particularly high risk which needs to be addressed by establishing structures and procedures which will give an assurance on compliance with the applicable legislation and rules. Whilst in some countries progress on the Extended Decentralised Implementation System (EDIS) provides an indicator as to actions being taken, in general it is clear that additional emphasis needs to be given to this both for Cohesion Fund and Structural Funds management.

The distinction between the two types of control requirements for the Structural Funds and the Cohesion Fund, namely verification checks<sup>2</sup> to be carried out by management and sample checks<sup>3</sup> to be carried out by staff independent of management and payment functions, is an essential element in the control framework for the Funds. The purpose of the sample checks is to provide assurance on the effective functioning of the internal control system, including the management checks, which is why they must be carried out by independent staff.

There appears to be a general problem in all acceding countries that at least for some Managing Authorities and/or Intermediate Bodies there is a failure to adequately distinguish between the two types of checks. Typically, no reference has been made to the management checks at all, or it is not clear that these would be carried out by a service different from the service carrying out sample checks. In order for the acceding countries to fulfil the regulatory requirements the bodies responsible for the two functions for each programme should be clearly designated as soon as possible.

Adequate internal audit arrangements are foreseen by acceding countries for most Managing Authorities and Intermediate Bodies. In Latvia, Slovenia and Hungary the audit arrangements are still in the process of being finalised. It

---

<sup>2</sup> Article 4 of Regulations 438/2001 and 1386/2002.

<sup>3</sup> Article 10 of Regulation 438/2001 and Article 9 of Regulation 1386/2002

must be ensured that fully operational internal audit arrangements are in place for all bodies participating in the implementation of Structural Funds and Cohesion Fund.

### **3.2 Paying Authorities**

All acceding countries have opted for a single Paying Authority for all the Structural Funds and the Cohesion Fund, which is located in the Ministry of Finance/State Treasury.

The legislative framework<sup>4</sup> specifies that the person or department certifying expenditure declarations to the Commission must be independent of any service approving claims. For a majority of acceding countries appropriate arrangements appear to be foreseen, typically building on the same service responsible for funds received from the Commission under pre-accession instruments.

However, for the Czech Republic there is an issue to be resolved on the independence of the units which apparently will assist both the Paying Authority and the Managing Authorities. For Slovakia there is no clear distinction between the function of the Paying Authority and the Intermediate Bodies which raises a question about the independence of the certifying role of the Paying Authority. In Latvia and Hungary it is not clear exactly which department or person would carry out the function of certification within the Paying Authority.

In view of the importance of the Paying Authority's role in ensuring the regularity of expenditure co-financed these points should be rapidly resolved to guarantee fully compliant arrangements in these countries.

Adequate internal audit arrangements are foreseen by all acceding countries for the Paying Authorities. However, in the Czech Republic it remains to be clarified which internal audit unit will be responsible for auditing the Payment Units assisting the Paying Authority in its task.

### **3.3 Financial Control Arrangements**

Apart from the checks which are the responsibility of the Managing Authority<sup>5</sup> and the certification process by the Paying Authority<sup>6</sup> the main requirements for financial control relate to sample checks and systems audits, including the appropriate separation of functions between the services carrying out these checks and any staff involved in implementation or payment procedures. An audit strategy should also be foreseen in order to provide for early implementation of the controls as well as the application of a methodology for the selection of operations to be checked.

---

<sup>4</sup> Article 9 (1) of Regulation 438/2001 and Article 8 of Regulation 1386/2002

<sup>5</sup> Article 4 of Regulations 438/2001 and 1386/2002

<sup>6</sup> Article 9 of Regulation. 438/2001 and Article 8 of Regulation 1386/2002

It appears that the acceding countries are aware of these requirements and have taken appropriate steps to ensure compliance. However, some clarification is still necessary and some issues must be addressed.

As regards the sample checks, a general problem has been detected in separating these from management checks (see above). For Latvia, Estonia, Lithuania and Cyprus clarifications are still needed for the Cohesion Fund.

As regards systems audits the details of the information provided by the acceding countries has generally been more limited. Some countries such as the Czech Republic, Latvia and Malta have made no direct reference to systems audits, but there are undertakings to comply with the relevant provisions of the Regulations<sup>7</sup>. Also, as for sample checks, information for the Cohesion Fund is missing from these three acceding countries and from Estonia, Lithuania and Cyprus. It is important that the requirement to carry out systems audits is clearly understood, but based on the experience of the pre-accession instruments and other information provided on audit activity, it is not expected that this would pose a significant difficulty.

As regards adequate separation of functions, in addition to the general issue mentioned under sample checks above, clarification is needed in Latvia and in Slovakia on the adequate segregation of certain control tasks from the functions of the Managing Authorities and Intermediate Bodies. These issues must be resolved for these acceding countries to fulfil the regulatory requirements and to be ready for accession.

As regards an audit strategy only three acceding countries, Estonia, Malta and Cyprus, have indicated that they have already taken specific steps. It is important at this stage is that the acceding countries are aware of the need to develop such a strategy in order to be ready for controls from the beginning of programme implementation. It appears that this awareness exists, and the establishment of the actual plans will be followed up.

#### **4. ADMINISTRATIVE CAPACITY**

##### **4.1 Staffing and Training**

All acceding countries have developed recruitment and training plans in line with the commitments made. Recruitment plans mainly address the human resources requirements for the Managing and Paying Authorities<sup>8</sup>, whereas the requirements for Intermediate Bodies are not covered in all plans. In several countries the recruitment of additional staff has been delayed due to either budgetary limits or outstanding final decisions on the administrative

---

<sup>7</sup> Article 10 of Regulation 438/2001

<sup>8</sup> The number of required staff per Managing or Paying Authority depends strongly on the national context and the degree of sub-delegation of tasks. Numbers of staff in EU-15 vary widely from one MA to the other. A minimum of 4-7 and a maximum of 12-14 dedicated staff are commonly required for carrying out the key tasks of the OPs. (Administrative Capacity Study, NEI, February 2002).

organisation. In other countries the reinforcement of staff is on schedule. All Managing and Paying Authorities are expected to be fully staffed by accession. Many Intermediate Bodies, where these have been designated, seem at the moment to be understaffed in view of their future tasks. Regional administrations, which will also play a role as Intermediate Bodies in mainly the larger acceding countries, are often weak. The implementation of the SAPARD programme<sup>9</sup>, which operates on a fully decentralised basis, provides evidence of the competence of the relevant bodies to implement some of the rural development measures, although some increases in staffing levels will be needed to cope with the increased size of post-accession programmes. Efforts are needed to attract and retain qualified and motivated staff.

Training programmes for the preparation of staff are on-going in all acceding countries. The programmes are often carried out by twinning experts from current Member States or other programmes financed by PHARE. These training programmes will continue to give continuous support to the administrations during the first years of implementation of Structural Fund programmes and Cohesion Fund projects until 2006. Training plans should include in addition to future Managing and Paying Authorities also Intermediate Bodies.

#### **4.2 Administrative organisation and project application flows**

The basic steps of project application flows have been identified for the majority of programmes, but further fine-tuning and clarification of responsibilities of the different actors involved in the selection process are required in order to be fully operational before accession. Also for this reason, the final identification of Intermediate Bodies is a matter of urgency. The different tasks of reception, assessment, selection, contracting, payment and monitoring of projects need to be clearly separated. There is a certain temptation in some acceding countries to establish new bodies and new structures for the selection of projects instead of building on experienced and proven structures (e.g. from pre-accession funds)<sup>10</sup>. This approach leads sometimes to overcomplicated and/or inexperienced organisational structures where tasks of different actors are overlapping. Moreover, there is a serious risk in these administrative organisations that the approval of projects will be delayed due to long and labour intensive selection procedures.

The role of the Intermediate Bodies as *assessor* is stipulated in the project application flows, whereas the more pro-active and innovative role of the intermediate bodies as *promoter* for new project proposals by giving information and advice to potential final beneficiaries remains underrepresented.

---

<sup>9</sup> Operational in all countries except MT and CY, to whom SAPARD was not available.

<sup>10</sup> Seven of the eight countries implementing the SAPARD programme have confirmed that the staff of the SAPARD agency will be responsible for rural development project selection post-accession, which will reduce problems and delays in the implementation of EAGGF Guidance-funded measures (the exception is PL where implementation of some measures may be sub-delegated to other bodies)

### **4.3 Programme guidelines, manuals or other tools**

All acceding countries are in the early stages of developing guidelines and programme-manuals for their programmes. These tools are essential to accumulate know-how within an organisation, and also to make it less vulnerable to fluctuation of staff. It is one of the core tasks of the Managing Authority to define the framework within which the different Intermediate Bodies will ensure respect of requirements for public procurement, environmental impact assessment, evaluation and monitoring. In the countries with a Community Support Framework this central role should be played by the Managing Authority for the CSF. A similar role should be played by the Paying Authority and Financial Control Departments for areas such as control and auditing. It is noted that currently many guidelines are being developed in a fragmented way with the risk of overlap. The availability of standard application forms that will give clear instructions to potential final beneficiaries needs to be ensured as soon as possible.

The new Member States are encouraged to fully explore the possibilities to co-finance certain additional administrative expenses from the future technical assistance budgets<sup>11</sup>.

## **5. PROGRAMMING CAPACITY**

### **5.1 State of progress**

Development Plans, draft Single Programming Documents (SPDs) and draft Operational Programmes (OPs) have been submitted to the Commission by the ten acceding countries. The attached table shows the date of submission for each of these documents. On the basis of a preliminary assessment made by the Commission services, all Plans, draft Operational Programmes and draft Single Programming Documents have been declared 'admissible' with a view to launching the procedures for their formal assessment.

The acceding countries made serious efforts in terms of reducing the number of Operational Programmes, priorities and measures. Most countries give priority to upgrading their infrastructure, to develop the competitiveness of their economies and to human resource development in line with the guidance provided in the Lisbon strategy. A number of countries have also chosen to turn towards a more knowledge based economy supported by a strong development of the information and technology sector.

Nevertheless, the Plans or Single Programming Documents submitted often appear to lack a coherent strategic framework due to difficulties in organising an effective inter-ministerial co-ordination. This is also illustrated by the potentially overlapping or unfocussed description of the priority and measures in many of the documents submitted. The description of the implementing provisions also remains generally unsatisfactory due to the still

---

<sup>11</sup> In line with eligibility rule No. 11 annexed to Regulation 1685/2000



incomplete definition of these arrangements. These are key concerns to be addressed in the framework of the ongoing consultations between the Commission services and the acceding countries.

The timely availability of both the Programme Complements and the ex-ante evaluations is crucial for successfully carrying out the negotiations with a view to having all Community Support Frameworks, Operational Programmes and Single Programming Documents agreed by the end of 2003 - subject to their formal adoption after accession:

The Czech Republic, Estonia and Poland have already submitted their draft Programme Complements to the Commission for information purposes. The draft Programme Complements from Cyprus, Latvia, Lithuania, Malta, Slovakia and Slovenia were intended to be submitted by June/July 2003. Hungary intends to submit its draft Programme Complements by September, in accordance with the timetable agreed under Chapter 21.

## **5.2 'Ownership' of the programmes and Partnership**

It is a remarkable feature of the preparation for the Structural Funds in the acceding countries that they have, in general, consulted regional and local actors, economic and social partners and other relevant institutions on a wide scale.

In a few cases (Latvia, Lithuania), the partners participated directly in the working groups set up for the preparation of the programming documents. In most cases, they were consulted either through existing structures – such as those established for the social dialogue in Malta, or the Regional Development Councils, the National Environmental Protection Council and the newly established National Romany Council in Hungary – or through newly established bodies like the Management and Co-ordination Committee established in 2001 in the Czech Republic, the NDP Monitoring Committee or the Consultative Committee for Programming set up by the Planning Bureau in Cyprus. A great number of seminars, workshops and conferences were organised at both national and regional level.

The process set in motion by consulting the partners on the Development Plans or Single Programming Documents has, in many cases, triggered a wider and ongoing debate on strategic issues and the future development of the country. While this reflects the particular constraints under which the first generation of Structural Funds programming documents were prepared, the next generation of programming documents will benefit from this emerging partnership culture.

## **5.3 Monitoring**

The setting up of a computerised system for the collection and exchange of the data required to fulfil the management, monitoring and evaluation requirements has been seriously delayed in most acceding countries. Only in the Czech Republic and Malta appears the introduction of the system to be on schedule, as it is being tested and training of users is being provided already,

so that it could effectively become operational in the third or fourth quarter of 2003. Delays have occurred in Poland and the system is now foreseen to be operational by the end of February 2004. In the other acceding countries, the timetables by which the system should be operational - ideally - by 1 January 2004 (or by accession) seem unrealistic, given that they are still in the process of designing the system or contracting the provider responsible for introducing a new system. In any event, appropriate physical and financial monitoring indicators need to be defined, and the Managing Authorities need to set up a system which enables them to gather this information and to provide for an adequate evaluation of the impact of the Structural Funds interventions. The definition of indicators has been identified as a weak point in most of the programming documents submitted.

In order for the monitoring system to provide reliable data, it is important to ensure the quality of any data input into the system. One of the best ways of providing reliable data is to ensure electronic links to other databases. Some of the acceding countries have already properly addressed this, e.g. Czech Republic and Poland, whereas most other acceding countries have not yet taken steps to ensure such links. It is highly recommended that such links are foreseen in the implementation of the monitoring system, not only because it increases data reliability, but also for saving resources otherwise necessary to provide manual reconciliation between systems.

The time left for testing the system and introducing it as well as providing training to users in all Managing Authorities and Intermediate Bodies appears to be too short.

## **6. FINANCIAL AND BUDGETARY MANAGEMENT**

In view of the number of bodies, final beneficiaries, Intermediate Bodies, Managing Authorities and the Paying Authority, involved in the financial and budgetary management, the establishment of adequate structures which can guarantee sound financial management is complex and time-consuming. The acceding countries and the Commission have experience of this from the implementation of the pre-accession instruments and notably the EDIS and SAPARD accreditation procedures. This demonstrates that structures and procedures, although correctly envisaged, have frequently had delays and deficiencies in their practical implementation. Accreditation of the SAPARD agencies, which manage EU funds on a fully decentralised basis, was dependent on the existence and operation of adequate systems for financial management and control. The acceding countries are therefore invited to take careful steps to ensure that the systems described are implemented in a correct and timely way

### **6.1 Flow of funds and audit trail**

The procedures described for payment claims by the final beneficiaries appear in most countries to be well defined, although in Lithuania, Slovenia and Hungary certain responsibilities are still to be assigned.

As regards the submission of expenditure statements to the Commission by the Paying Authority, clarification is still necessary in the Czech Republic, Latvia, Lithuania, Slovenia and Slovakia, as to the checks to be carried out by the Paying Authority prior to certification and/or as regards the relationship between Paying Authority and the Managing Authorities/Intermediate Bodies in this process. This is a key element in ensuring the regularity of expenditure and where there are any doubts about the independence of the Paying Authority and the checks carried out,<sup>12</sup> the Commission may not be in a position to make payments to the Member State concerned.

A sufficient audit trail<sup>13</sup> is a prerequisite for a sound financial management system. From the information received it would appear that most acceding countries have already taken steps to ensure a satisfactory audit trail or are in the process of implementing the necessary arrangements.

However, one important requirement of an audit trail is the retention of supporting documents. It appears that most acceding countries have not introduced proper rules and procedures to ensure that documentation is kept until three years after the last payment by the Commission for a programme<sup>14</sup>. Rules must therefore be amended where necessary.

The provision of a winding-up declaration by an independent service has been foreseen by all acceding countries for the Structural Funds. However, Latvia, Lithuania and Cyprus still have to finalise the arrangements, and clarification on the work to be done by the independent body as a basis for the provision of the declaration is necessary for Slovakia For Latvia, Estonia and Poland, information about the arrangements for the Cohesion Fund are still outstanding. The general impression is that satisfactory arrangements will be in place by 1 January 2004.

## **6.2 Accounting system**

The situation regarding the provision of appropriate and separate accounting systems/accounting codes for the Structural Funds and the Cohesion Fund varies. Czech Republic, Malta, and Poland have already foreseen a separate accounting system for the Structural Funds and the Cohesion Fund, whereas others have not yet provided information on this (Slovakia and Hungary). Estonia plans to use the already established systems in each Ministry, rather than a single accounting system, which may create a risk for coherent data collection and links to the monitoring system (see above). For Slovenia it is unclear as to how the Paying Authority will use the accounting system for Structural Funds' and Cohesion Fund expenditure. Lithuania and Latvia have not foreseen a link with the monitoring system.

---

<sup>12</sup> In accordance with Article 9 of Regulation 438/2001 and Article 8 of Regulation 1386/2002.

<sup>13</sup> Requirements are set out in Annex I of Regulations 438/2001 and 1386/2002

<sup>14</sup> Article 38(6) of Regulation. 1260/1999 and Article G(3) of Annex II to Regulation.1164/1994

It appears that for most acceding countries there is still important action to be taken in order to ensure that satisfactory accounting systems are in place for Structural Funds and Cohesion Fund.

## **7. FUTURE PROJECT PIPELINE**

The future Member States face the double challenge of preparing a sufficient number of mature, good quality projects to absorb the greatly increased resources which will become available after accession and also of adapting to Structural Funds' procedures which differ in many respects from what they have been using until now.

The scale of the challenge to prepare an adequate project pipeline varies with the type of project: large infrastructure projects require a long period of preparation, often measured in years, before project proposals can reach a point where they can be approved for assistance by EU Funds. Smaller and less complex measures may be developed to the point where they can be included in Structural Fund operational programmes in a somewhat shorter time than the large infrastructure projects.

The pre-accession funds have been a useful learning experience for the future. For example, ISPA was conceived from the start as a precursor to the Cohesion Fund and its rules and procedures have followed those of the Cohesion Fund to the maximum extent possible. This should make the transition reasonably manageable in terms of procedures. Nonetheless, the volume of new funding is far larger than the amount that will be taken up by continuing projects and an immediate and substantial effort is still required to create a pipeline of new projects.

SAPARD was established following the Structural Funds programming approach, and is implemented on a fully decentralised basis using comparable structures and procedures to those required post-accession, specifically to prepare for future SF programmes. Many of the measures currently being implemented in SAPARD programmes will be transferred to the post-accession Structural Funds programmes, including those with the largest EAGGF allocations. Thus a project pipeline exists for a significant number of measures, covering a part of future expenditure.

PHARE is supporting since 2000 institution building and pilot investments in the preparation for Structural Funds. Since PHARE commitments are made on an annual basis there will be no carry-over from PHARE to Structural Funds. PHARE procedures differ in other aspects from those of the Structural Funds and so adapting to new procedures will be necessary as well as ensuring that there is an adequate pool of well prepared projects in the initial months after accession. Furthermore greater responsibility will fall on the national administrations after accession (for example, for financial control and public procurement) making the process of project preparation and implementation more complex than in the pre-accession period. This leads to the obligation for the acceding countries to strengthen further their administrative capacity.

A further risk factor for Structural Funds expenditure is the proposed reliance on untried and inexperienced agencies and structures, particularly at regional level. In several countries new regional structures which lacking of experience and independent resources will be expected to play a key role in delivering large numbers of relatively small scale projects and measures.

Not all acceding countries have fully appreciated the difficulty and complexity of developing a project pipeline to ensure that full use will be made of the greatly increased funds. A project pipeline requires proactive efforts on detailed proposals. The Commission is rather concerned by the vagueness of many of the acceding countries' project preparation proposals. Most countries have no targeted budgets or timetables for future project preparation.

Most acceding countries recognise the continuity between the pre-accession funds (especially ISPA and SAPARD) and the Structural and Cohesion Funds and most intend to actively use ISPA to prepare future Cohesion Fund projects. Preparation for Structural Funds in general appears to be on less firm ground. Many countries appear to be willing to rely on past experience with twinnings and PHARE resources for their future Structural Funds project pipeline but detail and timing are sparse. The Commission has serious concerns as to whether the actions planned, as described to date, will be sufficient to guarantee a full absorption of the Structural Funds in 2004.

One way of improving the situation would be to establish specific technical assistance measures for project preparation, particularly for large projects where the time required to develop mature proposals is longest. Pre-accession funds should be used to greatest extent possible but an important responsibility falls on the acceding countries themselves to provide additional resources, especially sufficient trained personnel, to ensure that best use is made of the new funds. All available sources of project preparation funding should be mobilised.

In addition, establishing an adequate project pipeline is only an early step in the project cycle. The experience of the pre-accession funds has shown that the implementation of projects after approval has been a major bottle-neck and key stages in the project cycle which have proved to be weak in the past, especially public procurement, will require special attention from the national authorities.

# POLAND

## 1. LEGISLATIVE FRAMEWORK

Poland has in accordance with the commitments undertaken in the Accession negotiations aligned, or is in the process of aligning, its legislative framework for the implementation of Structural Funds and the Cohesion Fund. However, the translation of legislation into daily practice in the context of an efficient absorption of the funds will require some further changes and fine-tuning. Manuals to apply existing legislation to Structural Funds are, for example, under preparation. Their finalisation is a matter of urgency.

As regards public procurement, Poland has still to amend its current Act or to adopt a new Act on Public procurement fully complying with EU legislation.

In the domain of competition policy/state aids discussions continue on new draft Polish legislation. This threatens to delay the notification to the Commission of state aid schemes which in turn potentially delays the availability of Structural Funds. Elaboration and notification of state aid schemes to the Commission needs to be accelerated in order to ensure that they are in place and operational before eligibility of expenditure for Structural Funds on 1 January 2004 as provided for in the Accession Treaty.

As regards equal opportunities bilateral contacts to exchange views on the correct transposition of the EC acquis are ongoing.

Concerning legislation in the field of environment, Poland has in place a number of the legislative requirements in the area of environment for the implementation of Cohesion Policy including environmental impact assessment and waste management plans at national and regional level. The designation of Natura 2000 sites still needs to be completed.

Legislation and procedures using a multi-annual budget mechanism still need to be fully applied in Poland as they have been created for the use with Structural and Cohesion Funds. Their effective implementation, including on the regional and local level, will be crucial for absorption. The availability of co-financing within the framework of the Act on Public Finance will also be critical, notably on the local level in some of the poorer areas in Poland. The Commission follows closely the ongoing discussions on the public finance reform, and their potential implications for Structural Funds implementation.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authorities and Intermediate Bodies

The overall co-ordination of the implementation of the Structural and Cohesion Funds in the framework of the Community Support Framework is ensured by the Ministry of Economy, Labour and Social Affairs. Managing

Authorities and Intermediate Bodies have been identified and work is ongoing to prepare programme complements. The Commission has already received early drafts for all programmes. These will need further adaptation, in terms of the eligibility of expenditure and the division of tasks and responsibilities between the various actors, as negotiations on the programmes progress.

Inter-ministerial co-ordination has been improved considerably. However, some parts of the central administration, such as the Ministry of Infrastructure, seem to exclude themselves from this essential process. This behaviour may threaten the effective implementation of the national strategy and management procedures. These difficulties appeared in the process of programming and are also reflected in the domain of administrative capacity development. Poland should review and address them urgently.

It is not clear from the information submitted by Poland whether management control, as defined in Article 4 of Regulation 438/2001 and Regulation 1386/02, is totally separated from the independent control in accordance with Article 10 of Regulation (EC) No 438/2001 (Structural Funds) and Article 9 of the Regulation (EC) No 1386/2002 (Cohesion Fund). Hence, Poland should pay particular attention to the principle of segregation of the aforementioned two functions.

Internal audit units have been established in all ministries and in Intermediate Bodies, following adoption of national acts in this field. These units function independently of operational and financial activities. Poland has made clear that this requirement has been fully respected.

## **2.2 Paying Authority**

The Ministry of Finance will operate as the Paying Authority. The information received from Poland shows that satisfactory arrangements have been made on paper in the domain of financial management and control.

## **2.3 Financial Control Arrangements**

The certification function provided for in Article 9 of Regulation 438/2001 (Structural Funds) and Article 8 of Regulation 1386/02 (Cohesion Fund) is fulfilled by the Foreign Assistance Fund Department in the Paying Authority, the Ministry of Finance. Appropriate arrangements have also been made by the Paying Authority for an independent internal audit. The Internal Audit Office is a separate unit functionally and hierarchically independent of the Paying Authority function. A manual for internal audit procedures was adopted in November 2002.

The 5 % and 15% sample checks will be performed by the sixteen Regional Treasury Control Offices (one in each Voivodship). Satisfactory arrangements have also been made for the Cohesion Fund in terms of design of the system. The system audits will be carried out by the Treasury Control Offices. Devising general control and audit plans will be the responsibility of the Bureau for International Treasury Relations in the Ministry of Finance.

These plans will cover the basic scope of the controls investigation as well as guidelines.

### **3. ADMINISTRATIVE CAPACITY**

Poland has, in the context of the Accession Negotiations on regional policy, made important commitments concerning the development of administrative capacity. It is implementing the 'Action Plan' which committed Poland in the context of management of Structural and Cohesion Funds to create some 2000 extra posts. This increase would bring the total number of staff working on the Funds in Poland on a national and a regional level on par with some of the current Cohesion countries.

Despite delays in the implementation of the Action Plan important progress is being made, both on national and regional levels. These efforts need to be maintained and further reinforced.

However, in some national level entities progress is lagging behind. The lack of progress in the regional self-government administration (Marshall offices), with important functions on the regional level, is a concern. The situation is also of particular concern regarding the Voivodship Labour Offices which fall under the responsibility of the regional self-governments. Furthermore the delay in establishing procedures and the creation of manuals creates bottlenecks for the effective training of staff. Unless further progress is made soon, these difficulties will form a very significant threat for absorption.

The time needed for finalising programming documents, which have to be agreed between the Commission and Poland, causes additional difficulties in making progress. On the local level, in particular, investments in the project pipeline are delayed until full clarity on these measures has been reached. Local entities must advance without delay so as to start using the Funds as soon as possible after 1 January 2004.

The ability of the Ministry of Finance to channel the Funds effectively while enforcing a sufficient control will be crucial to their absorption. Thus far, progress has been made and preparations appear to be advancing in terms of staffing and training. Experience with pre-accession funding suggests however that further significant progress will be essential for effective absorption.

### **4. PROGRAMMING CAPACITY**

#### **4.1 State of progress**

Poland has formally submitted to the Commission early 2003 a complete set of programming documents accompanied by an ex-ante evaluation and macro-economic impact assessment. All programming documents were declared admissible in the first quarter of 2003 and negotiations on the Community Support Framework started 27 June 2003.



It should be noted that the quality of the submitted programming documents left room for improvement. The drafting process was important in terms of the development of the programming capacity, which is still improving. The negotiations on the programmes, which should finish by the end of 2003 with a set of documents meeting the legal requirements, will considerably broaden the base for future programming exercises.

## **4.2 Partnership**

Poland organised an extensive partnership process in the drafting period of the programming documents. Many meetings and seminars were organised and documents were made available over the internet. An important first effort was made by the government through numerous events to reach out and involve socio-economic and local partners throughout Poland. Regional and local authorities also organised meetings, sessions and other events to discuss all sorts of issues related to the future implementation of the Funds. These efforts continue throughout Poland.

## **4.3 Monitoring**

Poland has run into some delays in the establishment of the computerised monitoring system ('SIMIK'), which is being established under the lead of the Ministry of Finance. It is envisaged that by the end of February 2004 the system should become operational, after a 6 months testing period, in all Ministries and on the regional level. This system will allow access to information on both financial and physical progress of projects and programmes. It will also help to identify bottlenecks and to address these. The computerised monitoring system will furthermore allow for separated accounts to be kept based on the Act on Accounting and to select projects for controls at random or on the basis of selected information elements. The subsystem for the European Social Fund ('PEFS'), expected to be operational in the first quarter of 2004, will complement main system and capture more detailed information at the level of ultimate recipients for the specific needs of the European Social Fund.

Delay in implementing the computerised monitoring system would pose a threat to effective project selection, implementation and financial management and control i.e. to the absorption of the Funds.

Progress is still needed on the identification of monitoring indicators. It is important that these be harmonised so that at a later stage results of projects and programmes can be effectively evaluated. The planning for this is in place and it seems that no unexpected delays will occur.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

The establishment of financial and budgetary management arrangements has on paper been satisfactory. Recent progress concerns notably the envisaged

procedure for claims and reimbursement by final beneficiary/final recipient to national bodies, the procedure for claims for reimbursement from the Commission, the audit trail and retention of documents in accordance with Annex 1 of Regulation 438/2001 and Regulation 1386/02, and winding up declarations. In this context some technical details concerning the Cohesion Fund need to be further worked out.

## **5.2 Accounting system**

As regards the Paying Authority (Ministry of Finance), Poland indicates that it is planned that the Financial Accounting System will be linked with both the IT monitoring system and the electronic banking system in order to efficiently deliver payments to beneficiaries. The IT Monitoring system will supply the data on payments to be made which are then processed through the electronic banking system.

## **6. PROJECT PIPELINE**

Information from ISPA, Phare and SAPARD as well as an independent Commission assessment suggests that while progress has been made in the last years on the project pipeline in quantitative and qualitative terms, further significant progress needs to be made. In addition, progress has mainly been recorded as concerns the ERDF project pipeline, while the situation for the ESF is more fragmented and will need particular attention. The basic issue is one of volume as well as quality and the consistency of available projects with the overall strategy.

As assistance to Poland will significantly increase current capacity will become insufficient. In the context of ISPA structures operate at maximum capacity. Projects that are produced through other structures are often created outside the national strategic framework, creating particular concerns in terms of Poland's capacity to fully execute the national strategy which will be contained in the Community Support Framework. Ensuring the quality of small projects will also pose a particular problem due to their large number, complexity and in many cases insufficient level of preparedness.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. Poland has already developed a pipeline capable of operating effectively. In this sense, the experience gained in particular through the implementation of the Measure 'rural infrastructure' (2092 applications received, 499 contracts signed by the end of May 2003) can be seen as an asset for the capacity to manage small projects. It constitutes a good starting point for absorption of post accession funding.

A particular issue that needs to be addressed concerns the ability to tender projects which have not yet been selected for implementation, and whose selection is therefore still uncertain. At present, tendering before final approval is very difficult. The complex and slow procedure leads to the loss of valuable time in the preparatory process. Projects that are fully prepared

for tendering will arrive later than necessary at the implementation stage, adding to absorption difficulties caused by a magnitude of other reasons. A failure to address the issue urgently will lead to a reduced absorption of the funds in Poland.

All these concerns underline the need for an effective monitoring aiming at shifting budgetary resources after the first period of implementation from non-absorbing areas.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

Poland has made considerable progress in terms of preparing for the Structural and Cohesion Funds. However, a number of crucial issues need attention in order to allow for the capacity building process to be concluded successfully until accession:

- Despite delays, Poland has made progress in implementing its 'Action Plan' for administrative capacity development. The highest priority should be given to further progress on national and regional level in establishing procedures and stable structures with effectively trained staff. Particular attention should be paid to administrative capacity development for some key entities on the national level as well as on the regional level, where notably progress in regional self-governments and Voivodship Labour Offices is lacking.
- Inter-ministerial co-ordination requires further improvement. For example, the involvement of key ministries such as the Ministry of Infrastructure in the overall process, are still a cause for serious concern.
- Further delays in the development of the computerised monitoring system would threaten the effective absorption and management of the Funds.
- Considerable efforts have been made to establish a culture of partnership between different entities on national, regional and local level. These efforts need to be built upon and to further expand from information on programming efforts, to project preparation and programme implementation.
- While progress has been made on the project pipeline, doubts remain and precise data is lacking. As projects are the heart of the Funds, further clarity is urgently needed.
- On paper financial management and control arrangements seem mostly satisfactory. However, clarifications are needed concerning the separation of management and control. Translating the arrangements into daily practice and an effective administration will require important efforts.
- Discussions in the domain of public finance may have important implications for co-financing and multi-annual budget planning and thus for the use of Structural and Cohesion Funds. The ongoing debate

therefore needs careful monitoring in the context of the Funds. The new Act on public procurement has to ensure full compliance with EU legislation.

- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under the Cohesion and Structural Funds immediately as of 1 January 2004.

# SLOVAKIA

## 1. LEGISLATIVE FRAMEWORK

Slovakia has or is in the process of aligning its national legislation for the implementation of Cohesion and Structural Funds. There are, however a number of areas where the transposition into national legislation is seriously delayed.

Concerning public procurement, the existing legislation of Slovakia is not in line with EC Directives. An amendment is being drafted and should enter into force on 1 January 2004. If it does not do so, this delay could severely affect eligibility for Structural Funds expenditure from 1 January 2004. Slovakia has an Office for Public Procurement which takes an overview of the process of public procurement, although in practice procedures are slow.

Regarding environmental protection, the Commission is concerned at the lack of information on how the EC directives will be implemented.

Legislation on equal opportunities do not call for specific comments at this stage, as far as it concerns future implementation of Cohesion and Structural Funds.

State aid implementation is described fully, but this hides the fact that several state aid schemes are not yet notified. Notification of state aid schemes under the interim procedure for existing state aid needs to be accelerated for those measures which the Slovak authorities intend to co-finance under Structural Funds. Schemes are to be approved by 1 January 2004 in order to fully benefit from the provisions of the Accession Treaty. Any delay risks to seriously hamper the drawing down a significant part of EU funds.

According to the Slovak Authorities national budgetary provisions seem in line with the Structural Funds multi-annual programming approach. However, it should be noted that with ISPA, there have been difficulties in securing multi-annual project budgets. One factor to bear in mind here is the risk of the overall lack of co-financing. The Slovak authorities appear reluctant to contract EIB loans because such loans are considered part of the government debt, which the present administration is committed to reduce.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authorities and Intermediate Bodies

Slovakia has designated Managing Authorities (MA) and Intermediate Bodies (IB) for the Community Support Framework (CSF) and for each programme, and has described their functions and responsibilities, including job descriptions. Unfortunately the descriptions are very formal and therefore do not clearly describe what will happen in practice.

Inter-ministerial co-ordination is the responsibility of the Managing Authority for the CSF, the Ministry of Construction and Regional Development. Co-ordination is ensured in principle through the meetings of the Preparatory Committee for Structural Funds, an embryonic CSF Monitoring Committee. In practice such co-ordination is very weak for several reasons linked to the quality and capacity of the administration, and the apparent lack of ownership and of a proactive, responsible approach from the Ministry in charge.

The programme complements are being prepared by the respective Managing Authorities that are situated in the corresponding sectoral ministries. However, for the most part, it appears international consultants have been hired to do the job. The programme complements were due to be sent to the Commission by the end of April 2003, according to the original Chapter 21 timetable. It is now planned that they will be received by the Commission mid 2003.

There are Intermediate Bodies attached to most of the programmes, which are mainly agencies of the Managing Authority and which have been in existence for some time. Although they were set up to deal with the pre-accession instruments, they generally need to familiarise themselves with the Structural Funds and the increased amount of money that will be available, which are new to them. However, the full design of the implementation structure is not yet clarified and consequently written agreements are still to be established between the Managing Authorities and their Intermediate Bodies on the segregation of tasks and responsibilities.

The Slovak authorities have given a commitment to ensure compliance with Community policies, but this is often by way of quoting relevant Slovak legislation, and little information is given to clarify their understanding in this area. The Managing Authorities and Intermediate Bodies are responsible for correct application of the rules of public procurement. However, it is not specified how the responsibilities will be divided between them. The Managing Authority for the Community Support Framework (Ministry of Construction and Regional Development) will prepare a manual in this field.

Each Managing Authorities complies in principle with the obligations on information and publicity by giving a commitment to keep the social partners informed, and to inform the public of the assistance given by the EU.

The Managing Authorities should ensure separate accounting systems or coding for all bodies involved in management and implementation. The implementation of this commitment will have to be closely monitored. It is indicated by the Slovak Authorities that bodies involved in the management and implementation of EU co-financed projects will maintain either a separate accounting system or an adequate coding for all transactions. It should be noted that the experience under ISPA has not been encouraging in this respect.

To ensure correctness of operations financed and the implementation of internal controls, adequate arrangements have been made, according to the

information provided, by the OP Managing Authorities and co-ordination will be ensured by the CSF Managing Authority which is also responsible for devising procedure manuals. Training of staff will be needed. The number of staff needed is specified. For the Cohesion Fund, in accordance with Article 4 of Regulation 1386/2002 the management controls are delegated by the Managing Authority. However, it is not clear which body will carry out these controls and which methodology will be used.

The arrangements for internal audit with regard to the CSF Managing Authority and the OP Managing Authorities seem satisfactory, at this stage. However, it should be noted that some internal audit units have only 1 person at present.

## **2.2 Paying Authority**

Concerning the function of certification of expenditure to the Commission, it seems that essential control activities of the Paying Authorities (PA) related to both the paying and the certification functions have been delegated to 7 Intermediate Bodies in the line ministries in charge of implementation. The Intermediate Bodies are situated in the Finance and Budgetary Departments of these ministries. Their responsibilities include *ex-ante* controls (before payment) and on-going controls during project implementation. This does not appear acceptable. It seems that the Paying Authority has effectively delegated the control work - which is essential to obtain assurance about the regularity of expenditure - to these Intermediate Bodies in the line ministries. It seems that the advantage of having one Paying Authority for the Structural Funds (ensuring independence in relation to the Managing Authority and a coherent level of control) is largely removed by this delegation. The internal audit arrangements seem adequate, although there is no information on the methodology to be used.

## **2.3 Financial Control Arrangements**

Concerning the 5% sample checks required by Article 10 of Regulation 438/01, the identity and the administrative position of the services carrying out these checks and the timetable for the checks are all unclear. Moreover, it is indicated that the audit planning is prepared by the Managing Authority, which is not acceptable. The audit planning should be prepared by the relevant audit services and these must be functionally independent from the Managing Authority, as required by Article 10(2) of Regulation 438/2001.

Systems audit and the separation of functions arrangements [Article 10(2) of Regulation 438/01] seem adequate, apart from the clarification needed in relation to the 5% sample checks which is described above.

There is no indication of a control/audit strategy for the Structural Funds or the Cohesion Fund. The issue should be reviewed once the audit manuals for the bodies in charge of the Article 10 checks have, subject to a twinning project, been finalised.

### 3. ADMINISTRATIVE CAPACITY

Staffing numbers seem to vary among the different Managing Authorities, with commitments given to increases in all areas during 2003. For the most part, the commitments given in the negotiations on Chapter 21 have been respected. For example, the CSF Management Department of the Ministry of Construction and Regional Development has only 9 employees at present, although this is due to increase to 35 during the course of 2003. For the rest of the 8 programmes, there are at present 38 staff, due to rise to 72 by the end of 2003. The Managing Authority for the Cohesion Fund has 4 employees, which is due to increase to only 5 during 2003. The Paying Authority for the Structural Funds has 14 employees, which is due to increase by 9 during 2003. The Paying Authority for the Cohesion Fund will increase its number of employees by 2 during 2003. The Intermediate Bodies too are due to increase their staffing substantially during 2003, particularly in the Ministries of Environment and Transport (Intermediate Bodies for the Basic Infrastructures OP).

It is welcome that staffing numbers are due to increase across the board during 2003, and the Commission will monitor the implementation. Suitable job descriptions are needed for each new recruit. As such, the numbers planned for the end of the year may be sufficient, but much will depend on the competence and commitment of the staff when they take up their post. Conversely, individuals are recruited and trained, only then to be lost to the private sector where salaries are higher. To deal with this last issue, the Slovak government has recently agreed to increase salaries for certain staff working on European issues, and sometimes the increases are quite substantial. Slovakia needs to continue to take measures to encourage staff performance and retention.

Attention needs to be given to the role of, and communication with, the Intermediate Bodies.

The Ministry of Construction and Regional Development (Managing Authority of the CSF) prepared a human resources development strategy in October 2002. Training is being given to civil servants in languages, in preparation for work with the European institutions, in European integration and in law. Each Managing Authority is undertaking its own on-going training in these areas. It should be mentioned that each Managing Authority will be allocated a Pre-Accession Advisor under two twinning arrangements organised to begin (or which have begun already) during 2003, funded under the PHARE programme. The role of the Advisor in relation to Managing Authorities is to support and encourage development of the administrative capacity to manage Structural and Cohesion Funds.



## **4. PROGRAMMING CAPACITY**

### **4.1 State of progress**

The National Development Plan (NDP) and five programme documents (Objective-2 Single Programming Document and Operational Programmes) were received by the Commission on time on 17 March 2003. The Single Programming Document (SPD) Objective-3 arrived at the end of March 2003. The majority of the documents were considered admissible, but two major programmes, namely the Industry and Services OP and the Basic Infrastructures OP were considered inadmissible. Revised version were submitted in the meantime that meet requirements. Apart from the NDP and the SPD Objective 2, the authors of the documents were the respective Ministries themselves. The Ministry of Construction and Regional Development had asked a private consultant to write the NDP and the SPD Objective 2 and there is a concern about ownership and real knowledge of these programmes.

The ex-ante evaluations have been undertaken for all the programming documents, for the most part working to a very short, tight timetable. The majority of the programmes have been evaluated but the quality varies.

### **4.2 Partnership**

Local and regional authorities, social partners, and NGOs are members of the Preparatory Committee for Structural Funds, which will become the CSF Monitoring Committee. In addition, the Managing Authority of each individual Operational Programme has undertaken consultation of the Operational Programmes wider constituency when drawing up its respective documents, through the organisation of workshops and by placing the OP document on the Ministry's website. The results of some of the consultations are included in the National Development Plan. Even so, some regions and a number of NGOs have complained that they did not have enough information or were not consulted sufficiently.

### **4.3 Monitoring**

As regards definition of actors and tasks, the Slovak authorities intend to install a monitoring system at the Ministry of Finance, where the Managing Authority for the CSF (Ministry of Construction and Regional Development) will be responsible for physical data collection, and the Paying Authority (Ministry of Finance) will be responsible for financial data collection. A comprehensive integrated system is desirable.

The Monitoring Committees exist on paper, but have obviously not met yet, apart from the inter-ministerial Preparatory Committee for Structural Funds, which will become the CSF Monitoring Committee.

Key indicators need to be established as an integral part of the programming complement. As a first step a common reporting format is necessary. The

Managing Authorities appear to have done little as yet in regard to formulating indicators for their programmes.

The timetable for setting up the monitoring system foresees completion by August 2003, with the aim that the system be functional by April 2004. A testing period is foreseen and user training will begin at the end of 2003. The establishment of a fully functioning monitoring system needs to be in place for Slovakia to profit from the provision in the Accession Treaty concerning eligibility of expenditure from 1 January 2004.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

For the procedure for claim and reimbursement by final beneficiary/final recipient to national bodies, the arrangements seem adequate.

For the procedure for claim for reimbursement from the Commission, the arrangements also seem adequate. Concerning claims for reimbursement for the Cohesion Fund, reference should be made to Regulation 1386/2002 .

Concerning the audit trail/retention of documents in accordance with Annex 1 of Regulation 438/01, the arrangements are adequate. For the Cohesion Fund, reference should be made to Annex 1 of Regulation 1386/2002.).

Concerning the winding-up declaration, the arrangements appear generally adequate. The State Audit Office will be responsible for the winding-up declaration. However, it is not clear on which basis (by assessment of audit reports issued by other bodies, or by audits performed by the State Audit Office, etc) the declaration will be signed.

Arrangements in this whole area look satisfactory on paper, but it should be noted that they have yet to be tested.

### **5.2 Accounting system**

Separate accounting systems or coding will be established, although the details of the accounting system are not elaborated yet. Manuals will not be available before October 2003.

## **6. PROJECT PIPELINE**

For some time now, the Commission has encouraged all the Managing Authorities to consider putting a project pipeline in place because of the time needed to prepare and sign contracts, or to fulfil public procurement or state aid requirements. Although assistance under PHARE will be available this year to the Slovak authorities to give information on Structural Funds and prepare potential project promoters, this might come too late for the beginning of the programming period. An unknown factor at this point concerns the extent to which the newly-formed regional bodies and the

Regional Development Agencies could be conduits of information and/or project promoters themselves, even if the Commission has real doubts concerning their administrative capacity.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. In this respect the performance of Slovakia's SAPARD programme judged on the basis of commitments made to final beneficiaries has been modest. The Slovak Authorities have however initiated a series of actions to address this situation (for example through initiatives to encourage private sector finance; improved co-ordination in programme administration; improved publicity and information as well as modifications to the programme). These changes should result in a pipeline capable of operating effectively, which could constitute a good starting point for absorption of post accession funding.

The project pipeline for the Cohesion Fund is relatively advanced. A technical assistance proposal under ISPA has been submitted to prepare 10 projects for the Cohesion Fund and the Commission has seen a draft strategic reference framework for the Cohesion Fund, which goes into detail on the types of project that could be put forward. In transport, the needs are beginning to be identified and transport infrastructure is costly, so funds are more easily taken up here, as has been illustrated by the experience under ISPA. In environment sector a project pipeline is emerging and the strong involvement of the regional water companies should increase the absorption capacity in the sector.

Also, the experience with SAPARD and PHARE, where expenditure is still very low, would indicate certain difficulties in getting projects off the ground. Finally, it is feared that the national authorities are putting forward proposals in sectors which may not be in a position to absorb funds.

Widespread information and publicity activities are to be undertaken by the Slovak authorities now to encourage the generation of a project pipeline.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

It has to be concluded from above that further enormous efforts remain to be undertaken in Slovakia in order to allow for the capacity building process to be concluded successfully until accession:

- Commitment is urgently needed on the Slovak side to complete on time all programming documents, including the programme complements.
- It needs to be ensured that a complete legislative framework is in place for public procurement.
- Urgent attention needs to be given to the timely notification of the envisaged state aid schemes under the Structural Funds.

- The Slovakia authorities should address as a matter of priority the lack of co-financing by identifying the needed resources, if appropriate with recourse to EIB loans or other international banking facilities.
- The Slovak authorities are requested to reinforce administrative capacity by expediting recruitment of qualified and experienced staff. In addition, a proper mechanism to ensure full inter-ministerial co-ordination is strongly needed.
- The Slovak authorities are requested to review their arrangements and to ensure that the Paying Authority carries out the checks necessary to obtain reasonable assurance about the eligibility of expenditure declared. Such checks should not be delegated to Intermediate Bodies in the line Ministries
- The administrative position of the services in charge of the 5% checks and their functional independence from the implementing services should be clarified. Furthermore, it should be ensured that the audit planning will be carried out by the audit services concerned and not by the Managing Authority.
- Work on establishing and implementing a computerised monitoring system should urgently be speeded up.
- Urgent attention should also be given to the preparation of a proper project pipeline. Support to regional partners and potential beneficiaries is urgently needed to give information on Structural Funds and to provide help in making project funding applications. This must be organised immediately through the respective Managing Authorities.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

# SLOVENIA

## 1. LEGISLATIVE FRAMEWORK

Slovenia has aligned or is in the process of aligning its national legislation for the implementation of Cohesion and Structural Funds.

Amendments to the Slovenian Public Procurement Act are currently being prepared with the intention of ensuring full alignment with the corresponding public procurement directives. In addition, Slovenian legislation on remedies needs to be amended to fully align it with corresponding directives. No indication regarding timing is provided.

The Managing Authority has started to work in close co-operation with the Section for State Aid Control (Ministry of Finance). Slovenia appears to have undertaken notification of state aid schemes to the Commission. Therefore, urgent action in line with the specific procedures for notifications of state aid in the fishery sector is needed if support under Structural Funds shall be extended to the fishery industry.

Regarding environmental protection, a "Co-ordinating Committee for Strategic Assessment of Environmental Impacts of the NDP and SPD" has been established. Slovenia has taken the necessary decisions in order for the polluter pays principle to be respected. The polluter pays principle, and the necessary environmental impact assessments will be performed according to EC Directives. A national waste management plan is in place. The designation of sites under Natura 2000 is ongoing and needs to be completed by accession.

Slovenia has taken particular care on the issue of equal opportunities. The gender aspect and the promotion of equality will be included in the selection criteria of all projects. In addition, all reports will be required to provide gender breakdowns of included persons and completions wherever relevant. The Government Equal Opportunities Office will be consulted during the planning, implementation, monitoring and evaluation of all operations. The Slovenian Authorities should however make a clear distinction between social inclusion and equal opportunities between men and women.

Slovenia has a Public Finance Act in place that defines the basis of multi-annual budget programming. The budget memorandum sets a four-year framework and limits for the state budget expenditures. The Development Programmes Plan, adopted by the parliament each year as part of the State Budget, is another tool for medium-term planning. The Public Finance Act introduced the legal basis for the adoption of two-year budgets.

The flexibility of the adopted budgets is ensured through the Law on Execution of the State Budget which sets rules for reallocations of approved expenditures in the State Budget and changes of investment projects. Appropriations for EU funds and national co-financing can be transferred

from year to year. These rules can be changed with each consecutive new Law on Execution of the State Budget.

All credits for purposes of national co-financing of Cohesion and Structural Funds should thus be appropriated to budget items distinguished from other national expenditures. The Slovenian authorities intend to introduce more flexible rules for transfers between priorities and programmes.

## **2. INSTITUTIONAL FRAMEWORK**

### **2.1 Managing Authorities and Intermediate Bodies**

The initially planned implementation system has been modified last December. The Government Office for Structural Policy and Regional Development (GOSP) was set up in December 2002 and nominated Managing Authority for the Structural Funds and the Cohesion Fund.

Interministerial co-ordination, which is also a responsibility of the GOSP, needs to be further strengthened.

Three Intermediate Bodies (IB) have been appointed (one per each Fund) in the Ministry of Economy the Ministry of Labour and the Ministry of Agriculture. The responsible departments in the ministries still have to be defined,

The decree establishing this new Managing Authority stated that its internal would be defined in the course of January 2003. However, according to the latest informations received, the Slovenian authorities now plan to define the internal organisation of the MA and the functions to be delegated to the Intermediate Bodies in December 2003.

As a result, the definition of each body's responsibilities and functions, the written agreements specifying the links between the Managing Authority, the Paying Authority and the Intermediate Bodies, and the description of procedures (e.g. manuals, application forms) cannot be prepared.

Slovenia needs to address this issue urgently in order not to hinder the process of absorption of the funds.

The planned timetable will not allow for efficient implementation of the cohesion policy at the beginning of 2004. This delay in specifying responsibilities will also hinder the adequate recruitment of staff, as the allocation of human resources. Failure to take urgent action on this issue would result in a significant risk for the sound and efficient implementation of EU funding.

In order to comply with the obligations on information and publicity, Slovenia has adopted an ambitious communication action plan. Given the strong efforts already made to communicate details of the programming documents in the regions, this plan has good prospects.

Compliance with Community policies will be checked at three levels: the Managing Authority is responsible for checking the compliance at SPD level; the Intermediate Bodies and the final beneficiaries will check the compliance at measure level and at project level. The Managing Authority still has to prepare the relevant guidelines. This issue should be dealt with urgently.

Although a separate accounting system appears to be envisaged, it is not clearly indicated how the MA will ensure that a separate accounting system / accounting code is in place. This issue must be clarified prior to accession. The information received from Slovenia mainly concerns the accounting system in use for the implementation of the general budget.

The Slovene authorities state that the Managing Authorities and Intermediate Bodies are responsible for the establishment and maintenance of a sound system of financial management and control and internal audit. Departments within the Intermediate bodies will carry out regular financial control, including procedures to verify the delivery of the co-financed products and services and the expenditure declared. The Budget Supervisory Service (BSS) within the Ministry of Finance bears responsibility as regards co-ordination and harmonisation of the financial control activity. The BSS has established Guidelines for the internal auditing. Every year the auditing services will have to report on their activities to the BSS.

The specific regulatory requirements of Article 4 of Regulation 438/2001 and Article 4 of Regulation 1386/2002 have not been addressed yet and remain an important issue to be clarified prior to accession.

Whether the Governmental Office for Structural Policy and Regional Development (GOSP) should introduce its own internal audit service is currently under consideration.

Globally, satisfactory arrangements appear to have been made as regards internal audit but the issue of the Internal Audit of GOSP has to be clarified.

## **2.2 Paying Authority**

The National Fund within the Ministry of Finance has been designated as the single Paying Authority that will also perform the function of certification of expenditure to Commission. Currently, it acts as the central treasury through which EU aid is directed in the pre-accession period. The arrangements for the certification appear satisfactory as regards the independence of the certifying body.

No decision on the eventual designation of Intermediate Bodies for the PA.

The internal audit Unit of the Ministry of Finance will be in charge of the internal audit of the future Paying Authority, as the National Fund does not have its own internal audit unit. This unit has its own audit manual and checklists for carrying out its audit work.

No detailed organisational chart has been provided, and Slovenia also plans to finalise the organisation of the Paying Authority and the definition of tasks delegated to IBs at the end of 2003. The concerns expressed for the MA are also applicable to the Paying Authority.

### **2.3 Financial Control Arrangements**

The BSS (Department for Audit and Certification), an independent body established within the Ministry of Finance, will be responsible for checking 5% (Structural Funds) and 15% (Cohesion Fund) of total eligible expenditure in accordance with, respectively, Article 10 of Regulation 438/2001 and Article 9 of Regulation 1386/2002. Based on the information received, the arrangements are considered satisfactory.

The arrangements for systems audits are considered satisfactory, as the BSS (Department for Audit and Certification) will carry out systems audits of the bodies using EU funds.

The Slovene authorities are aware of the requirement of an adequate separation of functions (Article 10(2) of Regulation 438/2001 and Article 9(2) of Regulation 1386/2002) and this requirement appears to have been fulfilled.

Slovenia indicates that the sampling of operations to be checked will be based on risk analysis and that in the case of reported irregularities special audits will be performed. No indication was given regarding the overall audit strategy or the existence of audit manuals. There is thus a clear need to put these procedures in place prior to accession.

## **3. ADMINISTRATIVE CAPACITY**

The majority of the staff already involved in the implementation of pre-accession instruments will be involved in Community funding implementation. This continuity should secure precious experience and allow for easier transfer of know-how to newly recruited staff.

The administrative capacity of the Managing Authority, the Paying Authority, and the Intermediate Bodies and other relevant bodies needs to be further reinforced. No detailed organisation charts have yet been submitted. These charts form the basis for further definition of jobs and functions necessary for correct implementation of the important responsibilities devoted to these bodies and for the adequate selection of additional staff. The adequacy of number of staff proposed (an increase from 16 to 25 for the MA, for instance) cannot therefore be evaluated.

A training programme has been planned. Slovenia is running late on these issues which are of great importance. Urgent action needs to be undertaken.



## **4. PROGRAMMING CAPACITY**

### **4.1 State of progress**

The official draft Single Programming Document (SPD) was submitted on 25 April 2003, and accepted for negotiations. The ex-ante evaluation has been integrated. The programme complement is planned to be submitted in July 2003.

### **4.2 Partnership**

The Slovenian authorities have presented the draft SPD in all "Slovenian regions" in order to raise awareness and launch an open discussion on the document. The strong wish to establish a broad partnership is reflected in the planned constitution of the monitoring committee which will involve the Ministries concerned and a broad range of social and economic partners, thus following the rules of the present monitoring committee for the NDP for Slovenia. The more precise definition of the composition and rules of procedures of this committee should however be dealt with rapidly.

### **4.3 Monitoring**

Slovenia plans to establish a single computerised monitoring system for all funds developed with the central Monitoring system of the Managing Authority (ISNARD). It is envisaged that this system will be set up to be operational by the end of 2003, with September to November 2003 as a testing period during which training will take place.

The collection of data from official sources will be organised through direct transfer from other databases (Ministry of Finance, Statistical Office) and direct online entering of other data from the final beneficiaries into the central IT system. The Commission draws the attention to the fact that Slovenia has to ensure that the specific needs concerning ESF are fully covered.

This is clearly an issue on which Slovenia needs to work in order to secure an efficient monitoring of the funds. The setting up of the system will take place within a very tight schedule that will not allow for any delay.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

Although the procedures for claims and reimbursement by final beneficiary/final recipient to national bodies seem to be adequate, the relation mentioned is directly between the final beneficiary and the Paying Authority, without reference to the IB and the MA. Clarifications are needed on this issue prior to accession. If the IB or MA does not authorise the claim prior to payment by the PA, then the PA will both authorise and certify claims, which is not in line with to Article 9(1) of Regulation 438/2001.

The information provided on the procedure for claims for reimbursement to the Commission is not sufficient as regards the checks that the Paying Authority will carry out in conformity with Article 9(2) of Regulation 438/2001 before certifying the statements of expenditure. Furthermore, it is not clear how the Managing Authority will keep the Paying Authority informed of the procedures operated by itself and by the IB in conformity with Article 9(3) of that regulation. These issues must be clarified prior to accession.

The Slovene authorities have only indicated that the National Fund (future PA) will prepare guidelines on the provisions for the audit trail of the management and control system. No specific information has been provided as regards the audit trails and the retention of documents. This also has to be tackled urgently in order not to hinder progress.

The Budget Supervisory Service will be responsible for winding-up declarations for the Structural Funds and the Cohesion Fund. The arrangements as regards the independence of the BSS from the MA and from the PA appear satisfactory.

## **5.2 Accounting system**

Although a separate accounting system seems to be envisaged, it is not clearly indicated how the PA will use this system with respect to the expenditure co-financed from the Funds. This must be clarified prior to accession.

## **6. PROJECT PIPELINE**

The definition of the project pipeline is planned to be decided upon during the discussions on the programme complement.

The ISPA instrument has contributed to the preparation of the programming exercise of the future Cohesion Fund. The Reference Framework for the Cohesion Fund for the period 2004-2006 has been recently submitted to the Commission by the Slovene authorities and constitutes basically the continuation of the ISPA programme.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. Slovenia has made substantial progress with regard to the proportion of available SAPARD appropriations committed to final beneficiaries since the start of its SAPARD programme. This indicates that Slovenia has been able to develop a pipeline capable of operating effectively. It also constitutes a good starting point for absorption of post accession funding.

Since 2001 Phare has financed grant schemes in the National Programme and the Cross-Border Co-operation Programmes aiming at providing the authorities concerned with experience in the management of measures in the

area of Economic and Social Cohesion. The 2003 Phare National Programme plans to finance six grant schemes relating to activities which will significantly contribute to the preparation of the future project pipeline and provide further experience in the management of measures. The Phare contribution is equally divided between (European Regional Development Fund (ERDF) and European Social Fund (ESF)-type measures.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

While Slovenia has made considerable progress in terms of preparing for the Cohesion and Structural Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- The overall institutional arrangements, though on paper fulfilling many requirements, still appear weak and insufficiently defined, particularly as far as it concerns the respective roles of the Managing Authority and the Intermediate Bodies, or the possible designation of Intermediate Bodies for the Paying Authority.
- The delays in designing the institutional framework also affect negatively the preparation of rules of procedures and guidelines, as well as the definition and setting up of an adequate project pipeline.
- It is a particular concern that the information from the Slovenian authorities foresees further delays in the decision process that had not been planned up to now. Slovenia is reminded that Community funding cannot be approved until the conditions ensuring sound management of the Funds are in place. Reference is made to the support to be provided through future twinning projects: the delay in the implementation of technical assistance cannot be a reason for not fulfilling the commitments made during the negotiations.
- Interministerial co-ordination needs to be strengthened to allow full participation of all sectoral services.
- The Slovenian government's commitment to a continued involvement of the socio-economic and regional partners in the process of programming and implementation of the assistance is to be encouraged.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under the Cohesion and Structural Funds immediately as of 1 January 2004.

# MALTA

## 1. LEGISLATIVE FRAMEWORK

Malta has already in place a number of the legislative requirements for the implementation of the Cohesion Policy, such as the Competition Act, a State Aid Board, the Equality for Men and Women Act and the Environmental Impact Assessment Regulations. However, some necessary amendments to existing legislation are still pending. Provided that the legislative process is concluded as planned and that the preparation of respective guidelines and manuals is completed in parallel, the implementation of the adjusted legislation should not face significant difficulties. In particular as far as environment is concerned the designation of Natura 2000 sites and the waste management plan need to be completed by accession.

The amendments to the Public Service (Procurement) Regulation that will ensure full alignment to the *acquis* are still to be adopted. Tendering and contracting will remain under the direct responsibility of the Ministry of Finance and Economic Affairs. The potential capacity bottleneck due to the increased volume of public procurement to be handled in a highly limited period of time should be looked into.

The new Public Finance Management Act ensuring multi-annual budgeting and flexibility is planned to be adopted by the third quarter of 2003. The draft Act also regulates financial control, division of responsibilities as well as the provision of co-funding over the programming period. Malta should make sure that no delay occurs in the adoption of the text.

The procedure followed and progress made concerning the harmonisation of the legal framework and the introduction of procedures seem satisfactory. However, the information provided is not sufficient to determine whether all specific provisions have been adopted to apply the relevant Community rules as from 1 January 2004 in order to make sure that Malta can benefit from the eligibility of expenditure under the Structural and Cohesion Funds as laid down in the Accession Treaty.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authorities and Intermediate Bodies

The Regional Policy Directorate within the Prime Minister's Office has been designated as Managing Authority for the Structural Funds and the Cohesion Fund. It has the overall responsibility for the preparation of Structural and Cohesion Policy and will also ensure inter-ministerial co-ordination.

Four line ministries are designated to act in their respective policy areas as Intermediate Bodies. Their tasks include all conceptual and operational works related to measures, starting from their design to implementation,

monitoring and eligibility checks of expenses. Written agreements ("covenants") describing the links between the Managing Authorities and each respective Intermediate Body are being drafted. The Managing Authority also bears responsibility for ensuring the necessary selection of individual projects.

Following the study on the specific needs for Gozo, a "Regional committee for Gozo" (not an Intermediate Body) will be responsible for preparing all projects relating to Gozo. The terms of reference detailing the precise functions and tasks of this committee, its composition, its links with the Intermediate Bodies and the Managing Authority, has been under preparation for some time now without much output. Decisions should be taken soon on this issue to ensure that an adequate project pipeline is set up on all issues relating to Gozo.

Detailed organisational charts of the Managing Authorities and each Intermediate Body have been provided.

The Managing Authority has set up a system to ensure at each step full compliance with Community policies and the provisions of obligations on information and publicity.

From the information received, it can clearly be seen that a separate accounting system will be used by the Managing and the Paying Authority and the Treasury.

The procedures established and described seem satisfactory. The Internal Audit and Investigations Directorate (IAID) of the Internal Audit Investigations Board, an independent body, is responsible for the systems audits and 5% checks in accordance with Article 10 of Regulation 438/2001.

There is no clear reference to Article 4 of Regulation 438/2001 in the information provided . This issue must be clarified prior to accession

As regards the Intermediate Bodies, the Managing and the Paying Authority, the information received describes in a fairly detailed way which monitoring actions and checks have to be carried out by them. The description makes clear what the different bodies do.

The internal audit work is carried out by the IAID. It covers all departments and ministries of the Maltese government.

## **2.2 Paying Authority**

The Ministry of Finance and Economic Affairs has been designated as Paying Authority.

The Fund Managers of the Intermediate Bodies will verify the correctness of the documents submitted with the payment claims. The payment request is subsequently submitted to the Accountant General and must invariably be endorsed by the Paying Authority.

Malta should also make sure that the PA also provides checks in conformity with Art. 9 of Reg. 438/2001.

Verification and validation of claims for reimbursement is carried out by the Managing Authority before transmission to the certification unit of the Paying Authority which carries out necessary verifications before submission to the Commission. The procedure is perhaps unnecessarily complex but gives acceptable assurance.

An independent body, the Internal Audit and Investigations Directorate (IAID) is responsible for the monitoring and certification of financial control, procurement and operational management structures and systems in the management of EU funds. The internal audit arrangements are considered satisfactory.

### **2.3 Financial Control Arrangements**

Although the 5 % sample checks in accordance with Article 10 of Regulation 438/2001 is explicitly included under the tasks to be performed by the IAID, no specific reference to the Regulation or any explanation concerning the selection of the sample was provided in the information received. The methodology should be clarified prior to accession.

Systems audits are a specific task of the IAID. The IAID is working according to a two-year strategic audit plan. It may also undertake self-generated audits.

From the information received it can be concluded that the separation of functions (Article 10(2) of Regulation 438/2001) is satisfactory.

### **3. ADMINISTRATIVE CAPACITY**

Malta has regularly reinforced the administrative capacity of the Managing Authority. The Paying Authority has gradually also been set up in line with the commitments taken under chapter 21.

Though delays in the recruitment plan have taken place, there is no serious concern at present that the commitments might not be met in due time.

Extensive training has been going on through seminars, twinning projects, bilateral meetings. The private sector has also developed several workshops in co-operation with the MA.

There does not seem to be any problem to recruit staff at the requested level, nor is there any shortage of adequately trained staff in the concerned fields. Malta has made sure that the recruited staff have a sufficient knowledge in IT.

## **4. PROGRAMMING CAPACITY**

### **4.1 State of progress**

Malta has submitted its Single Programming Document with some delay. The document is accompanied by an ex-ante evaluation. The document has been declared receivable.

The programme complement is being drafted and should be provided in September . The negotiations are foreseen to be completed y the end of 2003.

### **4.2 Partnership**

The partnership consultation process for the programming documents relied on the existing structures for social dialogue. A number of sectoral working groups have been set up and broad workshops were organised between April 2002 and April 2003 to discuss the programming document. This process is considered to have been in line with the requirements of Regulation 1260/1999.

### **4.3 Monitoring**

The composition of the Monitoring Committee is being revised so as to make sure of a broad partnership. A second committee including the social and economic partners has been set up which is regularly informed and consulted on the implementation of the SPD.

According to the information received, the computerised monitoring of the programmes and projects for the SPD 2004-2006 will be ensured. The development of the monitoring system is currently in its final stage. Extensive training and testing is foreseen for the third and fourth quarters of 2003.

However, the envisaged monitoring key indicators that have been defined are still under discussion internally in order to ensure appropriate methodologies. This needs to be decided upon as a matter of urgency.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

The arrangements for claim procedures and reimbursement by final beneficiary/final recipient to national bodies are described in great detail and appear satisfactory. The PA is the Internal Relations Directorate (IRD) within the Ministry of Finance. The Central Bank of Malta will carry out the payments.

The arrangements for submission of claims for reimbursement to the Commission are clearly described and are acceptable.

The audit trail is described in great detail and it is clear which are the tasks of the various bodies involved. However, precise information about the retention period of the documents is not supplied. The Maltese authorities should be asked to confirm that the relevant documents must be retained until three years after the last payment.

The IAID is designated to issue the declaration of winding-up of assistance.

## **5.2 Accounting system**

The Paying Authority will keep the accounts of assistance received from the European Community in a separate accounting system, while the Treasury will continue to use the current system (Departmental Accounting System or DAS).

From the information received it can be concluded that the PA's system will be used in the monitoring system. As a link will be made between the two systems this does not pose a problem.

## **6. PROJECT PIPELINE**

Malta is currently working on the setting up of an efficient project pipeline. The system is to be decided during the work undertaken on the Programme Complement. There is no serious concern of the Commission on this issue at this stage, apart from the already mentioned concern relating to the Regional Committee for Gozo.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

While Malta has made considerable progress in its preparation for the Cohesion and Structural Funds a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- Even if Malta has already in place most of the legislative requirements for the implementation of the Cohesion policy, some amendments to existing legislation are still pending. Their approval becomes now a matter of urgency.
- The administrative capacity of both the Managing and the Paying Authorities has developed according to plans. Interministerial co-ordination and the discussions with the partners have also seen quite good progress. However, inter-ministerial co-ordination remains an issue to work upon since it relies too heavily on the Managing Authority.
- A main concern of the Commission lies in the delay in the creation of the Regional Committee for Gozo that could jeopardise the implementation of projects in Gozo and put at risk quite an important part of the Structural and Cohesion Funds devoted to Malta.



- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

# LITHUANIA

## 1. LEGISLATIVE FRAMEWORK

Lithuania has aligned or is in the process of aligning its legislation with the *acquis* in order to prepare for the implementation of Cohesion and Structural Funds.

The National Law on Public Procurement came in force in March 2003. The Managing Authority is expected to prepare procedure manuals for the Intermediate Bodies and implementing bodies in each of the Funds. The implementing bodies are responsible for tendering and contracting. The Public Procurement Office will supervise the introduction of correct procedures. Fulfilment of procedural requirements for sound, fair and transparent public procurement continues to be one of the most difficult problems in the implementation of the pre-accession instruments ISPA and Phare.

The Ministry of Finance together with implementing Ministries will have to establish detailed descriptions of those state aid schemes for which Structural Funds' support is envisaged. Those schemes' compliance with competition policy will be checked by the Competition Council.

The Law on Environmental Impact Assessment is adopted and will be universally applied. A national waste management plan was adopted in 2002. The SPD pays attention to the Birds and Habitat Directive with regard to Natura 2000 protection. Currently stakeholders are being consulted on the provisional list of protected sites. Respect of polluter pays principle and the impact on the environment will be checked by the Ministry of Environment for every project application. However, the division of responsibility between the Environmental Protection Agency -a uniformed corps in the Ministry– and the Directorate responsible for European Assistance in the Ministry of Environment–still needs to be clarified.

The use of the Funds will be required to respect equal opportunity principles and the Managing Authority will produce disaggregated statistics by gender in order to provide for adequate monitoring.

The budget legislation in place satisfies requirements for multi-annual programming and flexibility to shift funds.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authority and Intermediate Bodies

The Managing Authority of the Objective 1 Single Programming Document for 2004-2006 and of the Cohesion Fund will be in the Ministry of Finance,

Financial Assistance Department. Interministerial co-ordination is ensured by the same service.

Six sector Ministries and a committee have been nominated as Intermediate Bodies. They are charged with programming, implementation, monitoring, reporting and auditing of the SPD in their respective sectors.

However, these formally designated Intermediate Bodies are in a somewhat undefined position. They are responsible for the policy approaches to be adopted in their respective areas and for the measures, but the Project Selection Committee will have an as yet undefined responsibility not only for major projects but also general guidelines. Moreover, there is a risk that the Managing Authority in the Ministry of Finance, because of its relative strong position in relation to the other relevant Ministries, involves itself into a micromanager of individual projects delaying their implementation unnecessarily.

In addition there will be six Implementing Bodies or Implementing Agencies which might be considered to be final beneficiaries within the meaning of Article 9 of Regulation 1260/1999. These are:

- Central Project Management Agency;
- Lithuanian Business Support Agency of the Ministry of Economy;
- Transport Investment Directorate;
- Environment Implementing Agency;
- Human Resources Development Programs Support Foundation;
- National Paying Agency (ex-SAPARD).

These bodies will be responsible for all aspects of implementation including management of applications, contracting and monitoring. However, the extent of detailed control by the respective Ministry is unclear. Therefore, the correct transposition of the requirements, especially in the areas of public procurement and the environment, will need to be verified.

The internal audit division of the Ministry of Finance has been operating since mid-2000. It will supervise the work of the internal audit units being set up in each Intermediate Body, including the Ministry of Environment and Ministry of Transport responsible for the Cohesion Fund, which are described in detail. Internal Audit Guidelines and a Cohesion Fund Audit Manual are to be prepared by the third quarter of 2003. This is considered satisfactory if they are in place by accession.

## **2.2 Paying Authority**

The National Fund Department of the Ministry of Finance will carry out the functions of a single Paying Authority for the Structural Funds and the

Cohesion Fund. As it will rely on checks carried out mainly by Implementing Agencies, it is important that these responsibilities are clearly defined in the procedure manuals. It is stated that the Paying Authority will have access to all audit findings. It should have the right to question any declaration of expenditure or individual matters arising from it and to receive explanations. The Paying Authority will be audited by the internal audit division of the Ministry of Finance.

### **2.3 Financial Control Arrangements**

On paper, the arrangements for the 5% and systems audits for the Structural Funds (to be carried out by the Internal Audit Units within the Intermediate Bodies), as well as the separation of audit functions from implementation and payments, are satisfactory. Their performance in practice remains to be seen. However, no reference is made to equivalent arrangements for the Cohesion Fund required by Article 9 of Regulation 1386/02. This question needs urgent clarification. The State Control Office will deliver the winding up declaration. A control of the counterpart financing to the ESF is to be assured at all levels of the management and control system.

The intended audit manual, guidelines and the legislation and policy paper on audit appear to be a sound basis for developing an audit strategy, which should of course include the Cohesion Fund.

## **3. ADMINISTRATIVE CAPACITY**

A staffing/recruitment plan is available from the Ministry of Finance.

The future Managing Authority employs currently 25 persons. Many of the staff have received training either through pre-accession assistance or in formal courses offered through Member States.

The designated Intermediate Bodies are all rapidly expanding their staff after relatively long periods of unimplemented plans. In most cases the focus is on the implementing agencies which are becoming quite substantial bodies (up to 59 for the Central Project Management Agency).

After a slow start, recruitment now seems to be rapid and most bodies should be fully staffed by the end of the year. Training is now progressing, especially through Pre-Accession Advisors from Member States and in the area of audit which is being developed under the aegis of the introduction of the extended decentralised implementation system (EDIS) for pre-accession funds. The undefined position of the Intermediate Bodies (ministries) may have delayed recruitment and training at this level but work on procedures is well-advanced thanks in part to the Pre-Accession Advisors.

## **4. PROGRAMMING CAPACITY**

### **4.1 State of progress**

The draft Single Programming Document (SPD) has been submitted and accepted as admissible. The ex-ante evaluation has also been communicated. However, a full and final ex-ante evaluation has been requested before negotiations commence. There is evidence that comments by the Commission and the evaluators on earlier drafts have been taken into account in later drafts.

A preliminary version of the Programme Complement under preparation has been sent to the Commission. It is understood that agreement on the allocation of funding among measures has just been reached.

### **4.2 Partnership**

Efforts have been made to involve a wide partnership in the preparation and implementation of the programme. An SPD Working Group was created including state, regional and local administrations, business and labour federations, chambers of commerce etc. Other groups and NGOs were encouraged to participate in the sub-groups on specific topics. Progress of the process was regularly reported on a special website.

### **4.3 Monitoring**

A single management and monitoring information system for the Structural Funds is under development. This should operate with both financial and physical data for monitoring, payments and audit. The implementation contract is planned to be signed in June 2003 and the system should be operational by April 2004. The tight deadlines give some cause for concern – it is not unknown for computer-based projects to encounter unexpected delays. Regulation 438/2001 (Article 18 and Annex IV) requires the occasional communication of project data from the system to the Commission for audit purposes. Given the key importance of the programme database and the widespread experience of plans to fall behind schedule, the Lithuanian authorities are urged to monitor adherence to the timetable closely so as to be able to take corrective action should it begin to slip.

Progress on the definitions of data and indicators at programme level and also at the level of each priority and measure is also needed. There is always a danger that indicators may prove to be a more difficult task to control than anticipated.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

Clarification is still needed on a number of issues such as the responsibilities for checking the claims of the final beneficiaries, the content of the checks including the nature of the supporting documents examined, the procedures

of the Paying Authority for preparing expenditure declarations towards the Commission and for carrying out the associated checks, the audit trails for different measures and the responsibilities for retention of supporting documentation at every level. Manuals are expected to precisely define the relevant procedures to be followed. Requests for payment from Intermediate Bodies have to be sent to the Management Authority for data consolidation prior to the transmission to the Paying Authority.

The arrangements for winding-up declarations, including those for Cohesion Fund, need to be finalised as soon as possible and prior to accession.

## **5.2 Accounting system**

There is an intention to require all implementing agencies to maintain either a separate accounting system or adequate accounting codes to distinguish EU-financed projects. The development and introduction of adequate data systems should be accorded priority as experience shows that the time required for such development is often underestimated.

A decision on the link between the monitoring and the accounting system should be taken as soon as possible so that the link is working by accession. A link is preferable as periodic manual reconciliation of financial data between the monitoring and accounting systems, though possible, often proves to be unsatisfactory.

## **6. PROJECT PIPELINE**

The project pipeline can be divided into two streams: the major investment projects and the smaller-scale assistance and aid schemes.

Most of the major projects needed in Lithuania will be financed under the Cohesion Fund. It is not realistic to launch and fund a major project in the period available under the Structural Funds. However, there will be preparations for major projects, including in the sectors of urban transport and energy, that may be implemented in future programming periods.

For the smaller aid schemes and other projects, planning and publicity is already advanced. Market research has been undertaken to assess the size of the demand but the principal bottleneck is likely to be processing of the applications and implementing the decisions to fund.

In relation to rural development and agricultural measures, implementation will continue on the basis of the experience gained through SAPARD. This experience indicates that Lithuania has already developed a pipeline capable of operating effectively and constituting a reasonable starting point for absorption of post-accession funding.

## 7. CONCLUSIONS AND RECOMMENDATIONS

While Lithuania has made considerable progress in terms of preparing for the Structural and Cohesion Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully until accession:

- Public procurement is still a major concern. The adoption of necessary amendments to the public procurement law are a matter of urgency. Moreover, experience with ISPA and Phare, and in the preparation for the extended decentralisation implementation system (EDIS), shows that progress is being made but that practical implementation still faces obstacles. .
- Finalisation and notification of state aid schemes under Structural Funds need to be accelerated so that they become eligible without delay
- The leading position of the Ministry of Finance, which will act as Managing and Paying Authority, risks to hamper the 'ownership' of some of the sectoral ministries over the process. It is a matter of great concern that the Resolution concerning the management of the Structural and Cohesion Funds has not yet been presented to Parliament.
- Within the intermediate bodies and implementing agencies there is still no clear delimitation of tasks and this also means that there is still not a full appreciation of the workload necessary for selection and management of, in some cases, large numbers of projects within a measure. Selection processes, cut-off size of projects, document flows and financial approval procedures are all still to be finalised.
- Reinforcement of inter-ministerial co-ordination is crucial to ensure efficient implementation of the Structural and Cohesion Funds interventions and compliance with EU policies.
- Efforts must be maintained so that the internal audit manuals are effectively ready by summer.
- The implementation of a computer-based management and monitoring system, together with the necessary physical equipment, will need careful attention since the time available is very limited.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds as from 1 January 2004.

# LATVIA

## 1. LEGISLATIVE FRAMEWORK

Latvia has aligned or is in the process of aligning its legislative framework for the implementation of the Structural Funds and the Cohesion Fund.

As regards public procurement, the Law on Procurement for Government and Municipal Needs came in force in July 2001. This law largely implements the relevant acquis but needs to be amended on several points to achieve full alignment. The Latvian authorities have committed themselves to amend the law as a matter of priority. The Procurement Monitoring Bureau of Latvia will supervise the introduction of correct procedures.

As regards compliance with the Competition legislation, The draft Single Programming Document (SPD) contains a table of State Aid schemes to be notified. The notification procedures must be started without a delay to ensure the smooth start of the implementation of the Structural Funds.

The Law on Environmental Impact Assessment provides the legal basis for the assessment of important projects and State Environmental Impact Assessment Bureau (SEIAB) is responsible for the environmental impact of the projects. A National Waste Management Plan was adopted in 2002. The designation of sites under Natura 2000 is ongoing and needs to be completed by accession. In general, the exact procedures for checking the compliance with the other Community policies including the Environmental Policy and Equal Opportunities must be set up.

As regards multi-annual budgeting, the act "On Budget and Financial Management" allows the needed flexibility when foreign assistance is used. The act authorises the Minister of Finance to increase appropriations of annual State budget in the case of possible transfers between priorities and funds. This will facilitate the Managing Authority and the Monitoring Committee to adapt the financial table of the programme more easily to changing circumstances.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authority, the "Partner Institutions" and Intermediate Bodies

The Managing Authority of the Objective1 Single Programming Document for 2004-2006 and for Cohesion Fund will be the Ministry of Finance. It will be responsible for carrying out the Managing Authority functions as provided in the Regulation (EC) No 1260/1999, article 34 and perform the following tasks e.g. ensuring preparation and implementation of the SPD and the Programme Complement, drafting the annual implementation report, stating a joint strategy for information and publicity. The Ministry will also act as



Secretariat of the Monitoring Committee and ensure the compliance with Community policies.

In the field of financial management and control, Ministry of Finance is responsible for ensuring correctness of operations financed/implementation of internal controls and arrangements for internal audit. However, more information has to be provided how the Managing Authority will ensure that a separate accounting system or an adequate accounting code, is maintained by bodies involved in the management and implementation of assistance.

The Ministry of Finance is the key actor in the preparation and implementation of the Structural and Cohesion Funds. The nomination of the whole Ministry of Finance as a Managing Authority has proven problematic. Clear information on implementation provisions should be provided on the actual location of the department/unit, which has responsibility of the Managing Authority. Consequently, also here it is not possible to see clearly at this stage that there will be adequate segregation of functions.

The Latvian authorities have gained experience from the inter-ministerial co-ordination in the programming phase and now this work should be intensified and made more efficient when completing the preparation for the Structural Funds and starting the implementation of the SPD.

In Latvia three Partner Institutions have been nominated to ensure the management and co-ordination of the funds and to perform tasks delegated by the Managing Authority. The following Partner Institutions of the Managing Authority have been designated<sup>15</sup>:

- Ministry of Regional Development and Local Governments – for the European Regional Development Fund (ERDF);
- Ministry of Welfare – for the European Social Fund (ESF);
- Ministry of Agriculture – for the European Agricultural Guidance and Guarantee Fund (EAGGF) and the Financial Instrument for Fisheries Guidance (FIFG).

The Partner Institutions have been planned to be responsible for preparation of the priorities, evaluation of project applications and their approval, co-ordination and monitoring of the SPD priorities, organisation information and publicity and reporting to the Managing Authority on progress of the implementation.

---

<sup>15</sup> According to the Decision of the Cabinet of Ministers of 5 February 2002 and the Guidelines on management, monitoring, evaluation and control system of the EU Structural instruments of 19 March 2002, Regional Policy and Planning Directorate in the Ministry of Finance was nominated as a Partner Institution for ERDF. Later on, the new Ministry of Regional Development and Local Administration was established. The Cabinet of Ministers decision has not been amended.

According to the Regulation 438/2001, article 2, it is planned that there will be the following Intermediate Bodies:

- Central Finance and Contracting Unit – for the ERDF;
- State Employment Service – for the ESF;
- Rural Support Service – for the EAGGF and the FIFG.

Tasks of the Intermediate Bodies cover developing project preparation guidelines and project application forms, receiving project applications and submitting them for evaluation and approval to the Partner Institution. They will be also responsible for ensuring the procurement procedures, contracting and gathering of monitoring information at the project level. The intermediate bodies are planned to prepare payment orders and expenditure declarations as well as carry out the management checks under article 4 of Regulation 438/2001 and 5 % on-the-spot checks in accordance with the article 10 of the Regulation 438/2001. There is insufficient assurance of a clear separation between the verifications under article 4 and the sample checks under article 10 of the Regulation. It needs to be ensured that the responsible control body submits also an annual audit report, in line with Regulation 438/2001.

Formally under article 2 of Regulation 438/2001, the “Partner institutions” are also Intermediate Bodies and their relationship with the Managing Authority must comply with the provisions of the Regulation. The above mentioned system leaves also the other line ministries (e.g. Ministry of Transport, Ministry of Environment, Ministry of Economy and Ministry of Education) in a somewhat undefined position and their role in the implementation system should be clarified. The relevant line ministries should be integrated into the implementation system in their policy fields.

Latvia still has to clearly define the tasks to be delegated by the Managing Authority and must formalise the arrangements in a Government Decision on management, implementation, monitoring and control of the Structural Funds and Cohesion Fund that needs to be urgently adopted.

## **2.2 Paying Authority**

The Latvian State Treasury will operate as the Paying Authority for the Structural Funds. On base of the current information, the distribution of the responsibilities for the Paying Authority is not clear. Further efforts must be made to determine which department will draw up the certificates in accordance with the article 9 of Regulation. 438/2001. It is not possible to see clearly at this stage that there will be adequate segregation of functions. However, the internal audit arrangements seem satisfactory.

## **2.3 Financial Control Arrangements**

The internal audit has been effectively organised for the Managing Authority and for Intermediate bodies. However, there is still an apparent need for an

overall audit strategy because no link is made between systems audits and the work of internal audit units and the sample checks.

As regards financial control, the Internal Audit Unit of the Managing Authority will carry out audits on the management and control system but it should be clarified if this work is intended to be in fulfilment of the requirement under the article 10 of Regulation 438/2001. The responsible departments in the Intermediate Bodies should be specified for project implementation, verifications under article 4 of the Regulation and sample checks under article 10 in order to ensure the separation of functions.

### **3. ADMINISTRATIVE CAPACITY**

Latvia has in the context of the negotiations of the chapter 21, on regional policy, made commitments concerning the development of administrative capacity. In the budget for 2003 financing has been reserved for increasing the amount of persons directly involved in the implementation of the Funds. Currently, Managing Authority, Partner Institutions and Intermediate Bodies are recruiting additional staff and the majority of the bodies should be staffed by the end of the year 2003. However, the lack of decision on the implementation system of the Funds has caused delays in the implementation of the 'Human Resource Development Plan' (analysis of the current administrative capacity, preparation of the development plan and action plan for training) which aims to strengthen administrative capacity.

Despite the efforts to increase the amount of persons working with the Funds, some of the ministries are still very dependent on success of the current recruitment procedure and the existing administrative capacity remains rather low.

### **4. PROGRAMMING CAPACITY**

#### **4.1 State of progress**

The draft Single Programming Document (SPD) has been submitted in March 2003 and accepted as admissible. The ex-ante evaluation has also been communicated. The Programme Complement is under preparation and the document was planned to be submitted in June 2003.

#### **4.2 Partnership**

Efforts have been made to involve a partnership in the preparation and implementation of the programme. The SPD Working Groups included state and regional administrations, business and social partners, chambers of commerce etc. Other groups and NGOs were encouraged to participate in the Working Groups. Public discussions were organised during the month of September 2002 to give general public and interested organisations and bodies an opportunity to comment the first draft SPD.

### **4.3 Monitoring**

The draft SPD includes information on the monitoring arrangements and potential members of the Monitoring Committee, however, no information has been provided concerning specific programme evaluation arrangements. The members of the Monitoring Committee will represent different bodies involved in the implementation of the Funds, social and economic partners, NGOs and regional as well as local administration.

A single management and monitoring information system for the Structural Funds is under development. The proposals for structure of the computerised monitoring system of the EU Structural Funds and basic requirement specification for the system has been finalised. The system should be operational in January 2004. In the field of accounting, no reference is made to an interface with the monitoring system. The link should be clarified.

As a conclusion, the chosen approach of setting up a monitoring system is relatively fragmented and causes some concern. The given timetable is rather unrealistic. Further financial and human resources should be invested in the setting up of an operational and tested monitoring system before accession.

As regards monitoring indicators, the draft SPD includes the indicators at the programme, priority and measure levels.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

As regards the financial and budgetary management arrangements, the description for procedures for claim and reimbursement by final beneficiary/final recipient to national bodies is satisfactory.

In general, limited information has been provided as to how the Paying Authority will obtain assurance of the regularity of expenditure declared for the purposes of certification in accordance with article 9 of the Regulation 438/2001..

It must be ensured that required supporting documents are kept for the full period laid down for the Structural Funds and the Cohesion Fund.

Recently, it has been indicated that a new financial control unit within the Ministry of Finance will be established as the winding up body. However, an excessive number of bodies involved in the control of Funds can create overlaps and decrease efficiency of the control mechanism. In any event, arrangements for the winding up body should be finalised shortly. Information for the Cohesion Fund should also be provided.

Compatibility (electronic links) between the accounting systems to be used and the monitoring system being developed should be ensured.

## **6. PROJECT PIPELINE**

The project pipeline for Cohesion Fund has been established under ISPA Technical Assistance. First project applications will probably be finalised at the end of this year. The Phare projects support the setting up the project pipeline for the Structural Funds.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. Latvia has made substantial progress with regard to the proportion of available SAPARD appropriations committed to final beneficiaries since the start of its SAPARD programme. This indicates that Latvia has been able to develop a pipeline capable of operating effectively. It also constitutes a reasonable starting point for absorption of post accession funding.

Particular attention should be given to ensure that the Intermediate Bodies and Final Beneficiaries, which are responsible for tendering and contracting of the Funds have training and manuals for public procurement available in the due time.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

While Latvia has made considerable progress in terms of preparing for the Cohesion and Structural Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- Although the legal framework for the implementation of the Structural Funds is mainly in place and the main bodies for the Structural Funds have been designated, the separation of functions between Managing and Paying Authorities has to be clarified as a matter of urgency.
- Furthermore, urgent action is needed to finalise the implementation system for the Structural Funds and to formalise it by a Cabinet Decision. The Decision should aim to simplify the implementation system by treating the Partner Institutions as Intermediate Bodies and thus eliminating an additional administrative layer. The line ministries should also be given a clear role in the implementation and also be nominated as Intermediate Bodies.
- Latvia is encouraged to further strengthen the practical arrangements for inter-ministerial co-ordination which is a prerequisite for ensuring the coherence and consistency of the SPD in the ongoing programming exercise.
- To ensure administrative capacity the current efforts to increase the number of the persons working in the implementation of the Funds should be continued and intensified. Finalisation and formalisation of the implementation system is urgently needed in order to be able start training

recently hired staff in all relevant bodies to bring the administrative capacity up to the level required.

- Further clarification has to be provided on how certain requirements of financial management and control will be fulfilled and executed in accordance with the relevant regulations.
- The experience of pre-accession instruments reveals that there are problems in the programming and especially in the project implementation. Therefore all available technical assistance should be used for project preparation and local authorities should be supported by the Ministries.
- Moreover, urgent action is needed to establish a monitoring and evaluation system including a computerised monitoring system for the Funds.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

# HUNGARY

## 1. LEGISLATIVE FRAMEWORK

In accordance with the commitments undertaken under the Accession negotiations, Hungary has aligned or is in the process of aligning its legislation with the *acquis* in the areas of public procurement, State aids/competition, environment and equal opportunities. A proposal for a new law on public procurement has been prepared and is expected to be adopted by the Parliament in October 2003. Environmental impact assessment legislation has already been harmonised. The designation of sites under Natura 2000 is ongoing and needs to be completed by accession. The National Waste Management Plan has been adopted and the regional waste management plans are foreseen to be completed by the date of accession.

While the delays which occurred in terms of the preparation of the Public Internal Financial Control Strategy Paper and its implementation through legislation are being monitored under Chapter 28, this issue is of particular relevance for the Structural and Cohesion Funds. The Commission expressed its serious concern about this situation in an 'early warning letter' sent to the Hungarian authorities in March 2003, stressing in particular the potential implications for the establishment of sound and efficient management structures for future Structural and Cohesion Funds and the proper protection of EU financial interests.

The provisions for the proper financial management of the Funds are another area of concern, as illustrated by the on-going delays in the preparation and adoption of the legislation required for reorganising the budget structure, facilitating multi-annual commitments as well as the possibility for the Managing Authority to reallocate funds between (respectively) the Community Support Framework (CSF) and Operational Programme (OP) priorities or measures in accordance with Article 34(3) of Regulation 1260/1999. The complex budget structure and the centralised system of payments through the Treasury need to be considerably streamlined with a view to the practical requirements of the financial management of the assistance and the payments to a large number of final beneficiaries. Similarly, the number of central and local budgetary institutions should be reduced. A report on the conception of the national financing of the Structural and Cohesion Funds has been prepared by the Ministry of Finance. This report will form the basis for an amendment of the Act on Public Finances to be adopted by the Parliament before the end of 2003.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authorities and Intermediate Bodies

Hungary designated its Managing Authorities and Paying Authorities by Government Decision No 2199 of 26 June 2002. In December 2002, the

government adopted a comprehensive document on the institutional system foreseen for managing the Structural and Cohesion Funds, which included a preliminary list of Intermediate Bodies and a provisional outline of the tasks to be delegated to them by each Managing Authority. Both the list of Intermediate Bodies and the tasks to be assigned to them are in the process of being reviewed on the basis of an independent assessment performed by the Government Control Office (GCO).

Notwithstanding the role of the relevant Monitoring Committees, the CSF Managing Authority, the Cohesion Fund Managing Authority and the OP Managing Authorities will be responsible for organising and ensuring the required inter-ministerial co-ordination within their respective area of competence. A 'CSF Management Committee' was established in September 2002 in order to assist the CSF Managing Authority in elaborating guidelines applying to all or several Operational Programmes and the Cohesion Fund. Its permanent members will be the head of the CSF Managing Authority (National Development Office within the Prime Minister's Office - chairman), the heads of the OP and Cohesion Fund Managing Authorities, as well as of the Paying Authority and the Cohesion Fund Intermediate Bodies. The Management Committee will be responsible for ensuring that – where necessary – any horizontal guidelines are subsequently transposed into the appropriate level of national legislation (e.g. Government decisions and decrees). In order to ensure sufficient flexibility, OP Managing Authorities may decide to use procedural solutions that are specific to their Operational Programme. However, in order to ensure consistency, such solutions will be subject to a discussion in the CSF Management Committee. Furthermore, Hungary intends to establish an 'ESF Policy Co-ordination Committee', chaired by the Ministry of Employment and Labour, for ensuring policy coherence and effective co-ordination of the ESF implementation under the two relevant Operational Programmes. In this context, ESF assistance must be directed in support of the European Employment Strategy (in particular the multi-annual National Employment Action Plans) as well as the Social Inclusion Strategy.

The 'tasks' identified for each OP Managing Authority in the documents submitted by Hungary are, in principle, strictly based on the responsibilities defined for those bodies in Article 34 of Regulation 1260/1999. While the capacity of the Intermediate Bodies is being assessed in a comprehensive and thorough way and efforts have been made to further reduce their number, the information submitted in the reply to the Commission *questionnaire* does not provide a clear definition of the tasks assigned to those bodies. In that context, particular attention needs to be given to establishing the *real authority* of the designated Managing Authorities to effectively carry out their responsibilities. This is also particularly relevant in the context of the decision taken by the government on 25 June 2003 to confer to the Hungarian State Treasury the role of Intermediate Body in relation to the checks on payments as well as the verifications of operations in accordance with Article 4 of Regulation 438/2001. The decision shall apply to all Programme Managing Authorities except the one which will manage the EAGGF and FIFG. Following this decision and with due regard to the



‘Concept for the financial control and audit system concerning Structural and Cohesion Funds’ prepared by the Ministry of Finance, Hungary should now finalise without further delay the design of the implementation structure for the Structural Funds providing for a clear definition, a clear allocation and an adequate separation of functions in line with the provisions of Regulation 438/2001.

Hungary has provided information on the steps taken for making sure that operations financed by the Structural Funds or the Cohesion Fund comply with Community policies and legislation as provided for by Article 12 of Regulation 1260/1999. However, the information provided for the Programme Managing Authorities is not always coherent (this task should be included in the description of all bodies concerned, i.e. Managing Authorities and Intermediate Bodies).

The information provided is not coherent in terms of the need to ensure separate accounting systems or accounting codes. In this context, adequate arrangements should be made for *all* relevant bodies to ensure separate accounting systems or separate accounting codes for Structural Fund-co-financed operations.

The information provided for the various OP Managing Authorities in respect of financial control is not coherent. For example, in the case of the Regional Development OP Managing Authority, it is rightly pointed out that it is responsible for ensuring an adequate audit trail, while no such information is given for other Managing Authorities. Moreover, there is no reference to the requirements of Regulations 438/2001 and 1386/2002 in this respect. The relevant details with regard to the requirements of Regulations 1260/1999, 438/2001 and 1386/2002 should be included in the Operational Manuals which are being prepared by the CSF Managing Authority.

The arrangements with regard to the internal audit functions in the Managing Authorities, as described in the replies to the questionnaire, are generally satisfactory. However for some Managing Authorities (e.g. the HRD OP MA and the ECOP MA) there is no indication that an internal audit charter will be established to determine, in particular, the authority, independence and the scope of the activities of the internal audit function. Such a charter should be devised for all the internal audit functions.

## **2.2 Paying Authority**

There is one single Paying Authority in Hungary with regard to the Structural Funds and the Cohesion Fund that will be located in the Ministry of Finance.

Concerning the certification of expenditure to the Commission, the arrangements described appear generally adequate. However, the organisation chart contained in the information provided raises a question concerning the function of the ‘Institutional Building Department’ in the Certification Unit. Moreover, it is not clear which of the two departments of the Certification Unit will be in charge of the certification function. This point needs to be clarified. In addition, the relevant details of the

responsibilities of the Paying Authority under Regulations 1260/1999 and 438/2001 should be included in the Operational Manuals which are being prepared by the CSF Managing Authority.

The internal audit arrangements within the Paying Authority appear to be adequate.

### **2.3 Financial Control Arrangements**

The financial control arrangements will need to be reviewed on the basis of the government decision of 25 June 2003 on the role of the Hungarian State Treasury in the institutional system for managing Structural Funds assistance, which concerns in particular first level controls and the verifications in accordance with Article 4 of Regulation 438/2001.

The arrangements for the 5% sample checks and the separation of functions in accordance with Article 10 of Regulation 438/2001, as well as for the system audits, appear to be adequate. However, detailed audit manuals in relation to the CSF are still under development in the framework of a twinning project and with the support of an external audit firm. These manuals will need to be further reviewed by the Commission.

There is no indication or elaboration of a control/audit strategy. The issue will need to be reviewed after the finalisation of the audit manuals for the bodies in charge of the Article 10-checks.

With respect to the Cohesion Fund, the approach for financial management and control will in essence follow the structure which has been set up for ISPA. This structure appears to be adequate as regards its set up.

Sample checks and systems audits required under Article 9 of Regulation 1386/2002 are to be carried out by the Government Control Office and the internal audit units and inspection units of the Ministry of Environment and Water and the Ministry of Economy and Transport.

## **3. ADMINISTRATIVE CAPACITY**

169 out of the 190 persons to be recruited by 31 March 2003 are recorded under the present staff levels of the Managing and Paying Authorities. The final staff level now envisaged is 217 persons<sup>16</sup>. There continue to be delays in the recruitment procedures for the Managing Authorities of the Environment Protection and Infrastructure Programme (with 6 out of 15 posts still to be filled) as well as the Regional Development Programme (with 15 out of 25 posts to be filled).

The National Development Office within the Prime Minister's Office (NDO), which comprises the CSF and the Cohesion Fund Managing

---

<sup>16</sup> Information based on the reply by Hungary (30 April 2003) on the Commission questionnaire on Chapter 21, page 140.

Authority as well as other departments responsible for, inter alia, co-ordination of programming as well as monitoring, evaluation and communication at the CSF level, presently consists of 69 people. Its size is expected to rise to 81 staff members. However, out of the 81 expected staff members of the NDO, only 14 would belong to the Department for Structural Funds Co-ordination (CSF Managing Authority) and 12 to the Department for Cohesion Fund Co-ordination (CF Managing Authority).

According to the figures referred to above, the average size of the five OP Managing Authorities would be of the order of 20 to 25 staff members, while the Paying Authority would consist of 48 people. At present, the OP Managing Authorities consist of 15 people on average. 31 people are reported to work in the department designated as the Paying Authorities within the Ministry of Finance.

No major increase of staff, compared to the levels referred to above, is foreseen at this stage. No information is provided on the staff levels foreseen for the Intermediate Bodies.

On the basis of the above-mentioned Government Decision of December 2002, the GCO was entrusted with carrying out an assessment of the present capacity, gaps and requirements of the Managing Authorities, the Paying Authorities and the pre-selected Intermediate Bodies in terms of fulfilling the tasks to be assigned to them in accordance with the Structural and Cohesion Funds regulations. As a result, the number of Intermediate Bodies was reduced and 'gap filling' strategies were elaborated by each body concerned. All bodies to be involved in the managing of the Structural and Cohesion Funds will elaborate human resources development strategies including a detailed training plan during the coming months, and not later than 31 August 2003. The gap filling process will be subject to an independent compliance assessment (by the GCO) to be finalised before the end of 2003.

Training is mainly ensured through twinning programmes co-financed by Phare: the Special Preparatory Programme (II) covers three areas: establishing the CSF and OP Managing Authorities (including assistance to the preparation of the programme complements), establishing the Cohesion Fund implementation structures, and financial management and control. The Regional Preparatory Programme, which was focussed on the needs of regional and local actions as well as the preparation of the Regional Development OP, is now being completed.

Additionally, a number of training and development programmes are to be organised by the Managing Authorities for the Intermediate Bodies.

#### **4. PROGRAMMING CAPACITY**

##### **4.1 State of progress**

Following the above-mentioned Government Decision of June 2002, the Prime Minister's Office (NDO) took over the responsibility for co-ordinating

the preparation of the National Development Plan (NDP) from the Ministry of Economy. The Operational Programmes were drafted under the responsibility of the relevant Managing Authorities. The Ministries were assisted by Hungarian and Member States' experts financed mainly through Phare and also by own national means.

The preparation of the programming documents has been delayed by three to four months compared to the initial schedule set out under Chapter 21. The National Development Plan (NDP) was submitted officially to the Commission on 31 March 2003, while the five draft Operational Programmes as well as the Cohesion Fund Reference Framework were submitted on 5 May 2003. Hungary intends to submit its draft Programme Complements by September 2003, in line with its commitment under Chapter 21.

Following an initial appraisal of the documents submitted in the light of the requirements of Regulation 1260/1999, the Commission services concluded that they provide a sufficient basis for starting the formal appraisal and negotiation procedures. However, this is subject to the completion of the ongoing ex-ante evaluations for each of the documents submitted and, for some of them, to the inclusion of further elements in line with the relevant Regulations. The timely completion of the ex-ante evaluations, which has been considerably delayed as compared to the schedule set under Chapter 21, is, therefore, a crucial element for drawing up the Community Support Framework (CSF) and concluding the negotiations on the Operational Programmes by the end of the year.

## **4.2 Partnership**

An extensive process of consulting a wide range of partner organisations on the NDP and the draft OPs has taken place at national and regional level. This process is well documented in the NDP and in most Operational Programmes.

The preparation of the Plan is considered as the first phase of a more effective and continuous partnership process. In this context, the Hungarian government intends to continue the dialogue with the partners on the merits of major national strategic choices and the necessary developments.

Representatives of the regions, the economic and social partners as well as representatives of organisation with 'horizontal' competencies (equal opportunities, environment, minority issues) are foreseen to participate as permanent members to the CSF Monitoring Committee as well as each of the OP Monitoring Committees.

## **4.3 Monitoring**

The programming documents submitted contain only a limited number of indicators, which need to be reviewed and further elaborated in the framework of the ex-ante evaluation and the preparation of the Programme Complements.

The setting up of the computerised monitoring system has been severely delayed. In early 2003, the Hungarian authorities came to the conclusion that the system developed for the monitoring of pre-accession instruments was not providing the technical solution in terms of the requirements of the Structural Funds. Accordingly, Hungary intends to develop its own system on the basis of a call for tender which was carried out in June 2003. The software development and installation of the system by the contractor is expected to be realised between July and December 2003. Training of the users would follow in November-December 2003. On the basis of the practical experience of Member States, it is, however, difficult to envisage how a new system could be developed, introduced and tested within such a short period.

While it is mentioned that the system should support audits by the Commission services, there is no indication with regard to the requirement in Article 18 of Regulation 438/2001 concerning computerised records at project level. Moreover, there is no indication as to whether an 'interface' between the accounting system and the monitoring system or other appropriate measures are planned in order to ensure the coherence of the data recorded. Both these requirements need to be met.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail:**

- The procedure proposed for payment claims by final beneficiaries or final recipients to national bodies seems adequate. However, the government decision of 25 June 2003 on the role of the Treasury as Intermediate Body requires these procedures to be reviewed.
- The procedure for submission of claims for reimbursement to the Commission seems adequate.
- Audit trail/retention of documents in accordance with Annex 1 of Regulation 438/2001: The responsibility of the OP Managing Authorities to ensure an appropriate audit trail is not always referred to (see point II.1 above). The relevant details will have to be included in the procedure manuals which are presently being developed.
- The arrangements foreseen for the winding-up declaration for both Cohesion Fund and Structural Funds appear adequate.

### **5.2 Accounting system**

The details of the accounting system are not yet defined.

## **6. PROJECT PIPELINE**

Under the Phare 2002 National programme 15 million euro (complemented by 12 million euro of national co-finance) were allocated to support the

creation of a project pipeline. The so-called 'Project Generation Facility' (PGF) aims at preparing 150 projects to be co-financed by the ERDF and 500 projects to be co-financed by the ESF. The procedure for identifying applications eligible for support under the PGF under a country-wide call for proposals is underway. It is expected that the assistance to the selected potential project beneficiaries (technical, financial and legal design, environmental impact assessment) will be available in early autumn 2003.

The programming exercise of ISPA through the ISPA National Strategies has contributed to the definition of the Strategic Reference Framework and programming exercise of the future Cohesion Fund. The Strategic Reference Framework for the Cohesion Fund for the period 2004-2006 has been recently submitted by the Hungarian authorities to the Commission and basically constitutes the continuation and extension of the ISPA programme. The Strategic Reference Framework already establishes the list of indicative projects that will constitute the future Cohesion Fund project pipeline. Within this context, the Commission is currently proceeding to the approval of an envelope of technical assistance financed by ISPA (around 12 million euro for both sectors) to prepare this project pipeline in sufficient time for the Hungarian authorities to have mature and sufficient well-prepared projects ready to absorb the 2004-2006 allocation of the future Cohesion Fund.

The implementation of rural development and agricultural measures (supported by EAGGF) will be based on the experience gained through SAPARD. Since the start of implementation in early 2003, Hungary has made fast progress with regard to the proportion of available SAPARD appropriations committed to final beneficiaries. Through implementing SAPARD Hungary is, therefore, developing a pipeline capable of operating effectively.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

While Hungary has made considerable progress in terms of preparing for the Structural and Cohesion Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- The highest priority should be given to introducing and implementing the legislative arrangements required in terms of the EU public procurement directives, financial control and financial management.
- On the basis of the assessment carried out by the Government Control Office (GCO) and the recent government decision on the role of the Hungarian State Treasury in the institutional system managing Structural Funds assistance, the design of the implementation structure for the Structural and Cohesion Funds (providing for a clear definition, a clear allocation and an adequate separation of functions in line with the provisions of the relevant financial management and control regulations should now be finalised without further delay.

- Hungary is encouraged to further strengthen its administrative and practical arrangements for inter-ministerial co-ordination. A strengthened inter-ministerial co-ordination will also be required in the ongoing programming exercise in order to ensure the coherence and consistency of the programming documents.
- Overall, Hungary is meeting its commitments in terms of the staffing levels targeted in Chapter 21. However, there are still delays in the recruitment procedures and particularly within the Managing Authority for the Regional Development Programme where progress seems to be hampered by an internal reorganisation of the Prime Ministers Office. Whether the staffing levels foreseen are sufficient will depend on the final design of the implementation structure and, in particular, the allocation of tasks and resources to the Intermediate Bodies.
- While the development plan and draft Operational Programmes submitted to the European Commission are considered to provide a sufficient basis for starting the preparation of the Community Support Framework and the negotiations on the Operational Programmes, the completion of the ex-ante evaluations and programme complements is crucial in terms of meeting the timetable set for the conclusion of that process.
- The setting up of a functioning monitoring system, implying the definition of data and indicators to be collected and the training of users, is a matter of urgency. In parallel to the setting up of the computerised system, a paper-based back-up system needs to be prepared.
- The government's commitment to a continued involvement of the partners in the process of programming and implementation of the assistance is to be encouraged. This is particularly relevant in the context of Hungary's efforts to build up an adequate project pipeline.
- Attention should also be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

# ESTONIA

## 1. LEGISLATIVE FRAMEWORK

Estonia has aligned or is in to process of aligning its legislative framework for the implementation of Cohesion and Structural Funds.

The National Law on Public Procurement entered into force in 2001. An amendment has been elaborated to harmonise the act with EC directives and should be presented to the Parliament in summer 2003. The Intermediate Bodies will be responsible for tendering and contracting. Manuals for contracting authorities will be prepared in 2003 and training will be provided to them. The Public Procurement Office exercises the state supervision.

The Competition Act is harmonised with EU legislation. The Ministry of Finance is responsible for ensuring compliance with EU policies and for giving written permission at national level for any state aid to be granted. Further to the details included in the Programme Complement, additional procedures will be established for implementation of state aide schemes. Clarification is needed on how the Ministry of Finance will be able to cope with the heavy administrative burden related to the different state aid schemes that are foreseen under Structural Funds.

Environmental legislation is being harmonised to ensure conformity with EU environmental policies. The environmental impact of projects will be checked for every project application. The national waste management plan has been adopted. Legislative provisions to complete harmonisation of nature protection legislation are still outstanding. However a preliminary list of protected areas has been prepared. A clear separation of tasks between the Ministry of Environment (County environmental departments) and the Environmental Investment Centre is needed for the implementation of ERDF measures.

Equality opportunities shall be guaranteed by introducing a gender dimension to the processing of project or aid scheme proposals.

Multi-annual budget programming and flexibility is ensured by the State Budget Act, with some further amendments for additional flexibility to adjust financial tables.

## 2. INSTITUTIONAL FRAMEWORK

### 2.1 Managing Authority and Intermediate Bodies

The final definition of the implementation system is resolved.

The Managing Authority of the Objective-1 Single Programming Document for 2004-2006 and for Cohesion Fund will be the Foreign Financing



Department of the Ministry of Finance. In addition, the Managing Authority also provides for the necessary interministerial co-ordination.

Line ministries are designated to act as Intermediate Bodies. They are charged with programming, implementation and monitoring in their respective sectors. The line ministries involved are Ministry of Economic Affairs and Communication, Ministry of Social Affairs, Ministry of Education and Research, Ministry of Agriculture, Ministry of Environment and the Ministry of Internal Affairs.

At the implementation level there will also be a number of Implementing Bodies or Implementing Agencies (Foundation Enterprise Estonia, Environmental Investment Centre, Foundation for Vocational Education and Training Reform, Labour Market Board, Agricultural Registers and Information Board, Road and Rail Administration, State Chancellery) whose main functions are participation in drawing up programme documents and in elaborating measures, implementation and monitoring of measures (including technical and financial assessment of applications), tendering and contracting, checking and endorsing payment requests.

It is very important that the Managing Authority elaborates special provisions to establish all rights, duties and procedures for the different Implementing Bodies/Agencies involved. Presently, the division of tasks among them and the Managing Authority/Intermediate Bodies remains unclear, as well as the control by the respective ministries. Written agreements will be based on the draft Structural Funds Act which has been elaborated and will be sent to Parliament in September/October 2003. Manuals and guidelines will be prepared until the beginning of 2004 using support under PHARE twinning.

The foreseen structure for ESF implementation requires a strong inter-ministerial co-operation with clear delegation of tasks and responsibilities. There is a clear need for a body or institution which ensures the horizontal co-ordination of all ESF matters at the level of the Single Programming Document (SPD), but also between the SPD and EQUAL as well as for maintaining institutional relations with the Commission and national authorities on matter affecting ESF. This could be the task of the Ministry of Social Affairs.

Clarification is also needed on the establishment of a separate accounting system.

## **2.2 Paying Authority**

There will be one single Paying Authority for Cohesion and Structural Funds: the National Funds Department of the Ministry of Finance. This department is functionally independent and will be responsible for compiling declaration of expenditure, issue of certificates and forwarding the documents to the Commission.

### **2.3 Financial Control Arrangements**

As far as it concerns financial control arrangements, the legal framework and the manuals for the 5% sample checks in accordance with Article 10 of Regulation 438/2001 seem to be in place. But no specific information has been provided for the Cohesion Fund. Similar provisions are necessary to verify the effectiveness of the systems and the 15% sample checks on expenditure, mentioned respectively in the Articles 8 and 9 of Regulation 1386/2002.

The Intermediate Bodies will carry out the day to day monitoring of projects, checking of expenditure declarations and verification of reality of expenditure claimed, in line with Article 4 of Regulation 438/2001.

Functionally independent internal audit units are established in all intermediate bodies. The required separation of functions (Article 10(2) of Regulation 438/2001) has been fulfilled. The Financial Control Department of the Ministry of Finance is preparing a "SF audit manual" which will give detailed descriptions of SF auditing procedures.

## **3. ADMINISTRATIVE CAPACITY**

Estonia foresees to reach the adequate level of administrative capacity in the beginning of 2004. Estonia needs to continue its efforts with a view to reach the necessary administrative capacity to implement Structural Funds before the date of accession. This is of particular importance for the ESF since it did not benefit from a pre-accession instrument or experience. During 2003 Estonia has allocated budgetary resources to hire 76 additional officials mainly to increase the capacities of the Intermediate Bodies. However, in the light of the needs as assessed on the base of the Programme Complement, the staff may need to be further increased.

The major part of the training will be financed under PHARE twinning (completing preparations for the management of Structural Funds, phase II). Specific training for sectors is also available under other PHARE projects.

The recruitment of staff is a positive measure to strengthen the administrative capacity in particular as regards the Implementing Bodies for ESF. It has, however, to be kept in mind that potential turnover of staff in the Estonian public sector could create major difficulties especially in small administrative entities.

## **4. PROGRAMMING CAPACITY**

### **4.1 State of progress**

The draft Single Programming Document, submitted on 18 March 2003, has been assessed by the Commission as admissible. The Programme Complement has also been submitted in spring 2003. An ex-ante evaluation

and a strategic environmental assessment have been carried out and submitted to the Commission.

## **4.2 Partnership**

The Managing Authority has consulted a wide partnership. By November 2001 about 110 partners had joined the programme-related consultation process. A total number of about 220 comments and proposals have been received. A consolidated table including the comments and the information to be taken into consideration was made available on the website of the Ministry of Finance. A methodological working group was established in 2001 to elaborate the programme. Separate working groups dealing with the priorities were also formed. The partnership, which will be also strongly represented in the Monitoring Committee, is regarded sufficient with some room for strengthening.

## **4.3 Monitoring**

The actors to participate in the monitoring of the implementation and their tasks are defined. A single management and monitoring information system is under development. The involved ministries have agreed on the key indicators. However, the development of the computerised monitoring system is seriously delayed. The timetable according to which it becomes operational in January 2004 does not seem realistic. There is a serious risk that the failure to establish a functioning system will have a negative impact on the disbursement of funds.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

- procedure for claim for reimbursement by final beneficiary/final recipient to national bodies: The arrangements planned appear satisfactory. All payments to final recipients will be made directly by the Paying Authority/State Treasury Department after receiving a checked payment application through an Intermediate Body.
- procedure for claim for reimbursement to the Commission: The arrangements planned appear satisfactory. The MA and ministry responsible for the measure review the declaration of expenditure and payment application made by intermediary bodies at priority level and give a notification that the activities confirm with the aid decision to the PA. The PA checks the documents received and prepares a consolidated declaration of expenditure and certificate.
- Audit trail/retention of documents in accordance with Annex I of Regulation 438/2001: The audit trail seems satisfactory but the requirement for retention of accounting and other supporting documents also by the final recipients might need to be confirmed as the Estonians refer to the accounting law stipulating that documents have to be kept for

7 years. Detailed procedures for activities, which also include filing arrangements will be elaborated by the end of 2003, but it seems that these will only concern the retention of documents by the public authorities and not by the final recipients.

- Winding up-declaration: The Financial Control Department of the Ministry of Finance has been designated to issue the winding-up declaration. However, from the information provided it is not clear whether this applies for the Cohesion Fund as well. To be confirmed prior to accession.

## **5.2 Accounting system**

The National Fund Department of the Ministry of Finance as the PA and Intermediate Bodies will keep accounts on assistance received from the Community. The accounting systems that are currently in use in the relevant institutions are going to be used also for the Structural Funds and the Cohesion Fund. It must be ensured that separate accounting codes are used in these systems.

## **6. PROJECT PIPELINE**

The major investment projects in the environment and transport sector will be funded by Cohesion Fund. The Reference Framework for the Cohesion Fund for both sectors have been submitted including the project pipeline for 2004-2006. Technical assistance is presently used to prepare the project pipeline. The situation in the environment sector is less advanced than in the transport sector due to the project complexity and the small project size which might require grouping of several projects to reach the threshold under the Cohesion Fund.

Project preparation for Structural Funds is assisted under PHARE. A major concern is the project preparation on local level due to the lack of experience of local stakeholders.

Public procurement has been one of the most difficult issues in the implementation of ISPA and PHARE. Improvement is expected from experience and additional training, as well as from the fact that Estonia has significantly advanced with the preparation for the extended decentralised implementation system (EDIS) for pre-accession assistance ISPA.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. Estonia has made substantial progress with regard to the proportion of available SAPARD appropriations committed to final beneficiaries since the start of its SAPARD programme. This indicates that Estonia has been able to develop a pipeline capable of operating effectively. It also constitutes a good starting point for absorption of post accession funding.

## 7. CONCLUSIONS AND RECOMMENDATIONS

While Estonia has made considerable progress in terms of preparing for the Structural and Cohesion Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- The planned amendments to the National Law on Public Procurement are still to be adopted and to be followed by the necessary training on Public Procurement rules for the staff in charge of these issues.
- The Managing Authority must clearly establish the rights, obligations and tasks of the different Intermediate Bodies involved. This should be strengthened by manuals for rights, duties and procedures.
- Important efforts have been made to strengthen the administrative capacity but need to be maintained. Available technical assistance should be used for project preparation and local authorities should be trained about the functioning and rules of the Cohesion and Structural Funds.
- A separate accounting systems has to be established.
- A major point of concern is the state of preparedness of a computerised monitoring system for gathering all financial and physical data. There is a risk that the failure to establish a functioning system will have a negative impact on the disbursement of funds. Therefore, there is an urgent need to speed up its implementation.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 01 January 2004.

# CYPRUS

## 1. LEGISLATIVE FRAMEWORK

As regards public procurement, Cyprus is in the process of harmonising its national legislation with the relevant Community directives. The legislative framework will consist of two new laws, the Public Tenders Law and the Public Tenders Law for Utilities. These laws are planned to enter into force by 31 October 2003. The Public Procurement Directorate within the Treasury of the Republic will be responsible for providing the ex-ante control for all tenders financed by Cohesion and Structural Funds. A technical assistance project financed under pre-accession funds will be launched in 2003 for the purpose of familiarising prospective contracting authorities with the new legislation through the preparation of manuals and development of a training programme. The project is, however, expected to start only in the last quarter of 2003.

As regards compliance with competition/state aids provisions, the necessary legislation is in place. The draft SPD submitted in May 2003 foresees that state aids schemes will be approved under the interim procedure. Notification to the Commission of schemes to be approved under the interim procedure for existing aid and to be co-financed under Structural Funds should be accelerated to ensure that they are in place by 1 January 2004.

Regarding equal opportunities, an assessment of the effects on gender equality will be undertaken for all operations to be selected under interventions supported by Structural Funds. It should be noted as a positive aspect that Cyprus is committed to develop measure-specific gender indicators at the level of the programme complement.

Concerning environmental legislation and in particular the application of the Directives 79/409/EC (Birds), and 92/43/EC (Habitats), the relevant lists of areas have been provisionally finalised and consultation with stakeholders has begun but no timetable is provided for when they will be transmitted to the Commission. The national waste plan still needs to be adopted by the government. Environmental impact assessment legislation has been harmonised.

Multi-annual budget programming, in order to provide the national co-financing for Structural and Cohesion Fund assistance and allow for sufficient flexibility for adjusting financial tables, is ensured through the existing legislative framework.

## 2. INSTITUTIONAL FRAMEWORK

The presented division of responsibilities and tasks between the Managing Authority (MA), Paying Authority (PA), the Intermediate Bodies (IBs), and

Final Beneficiaries (FBs) demonstrates the functional independence and adequate separation of functions.

## **2.1 Managing Authority and Intermediate Bodies**

The Planning Bureau has been designated as the unique Managing Authority for both Structural and Cohesion Funds. The Structural Funds Unit within the Planning Bureau will carry out the tasks of the Managing Authority. An organisation chart has been prepared. The Planning Bureau is also responsible for interministerial co-ordination. The responsible political authority for the Planning Bureau is the Minister of Finance.

Certain tasks relating to management and monitoring of the Structural Funds programmes have been delegated to Intermediate Bodies, through a decision of the Council of Ministers of 30 April 2003. Besides the Council Decision, it would appear that no additional written agreement between the Managing Authority and the Intermediate Bodies has been or will be prepared.

Three Intermediate Bodies have been appointed, i.e. the Ministry of Interior for selected measures of the Objective 2 SPD, the Ministry of Labour and Social Insurance for the whole Objective 3 SPD and the Ministry of Agriculture, Natural Resources and the Environment for the whole FIFG SPD.

The Intermediate Bodies are responsible for the maintenance of either a separate accounting system or an appropriate accounting code of all transactions that are related to the SPD. As regards compliance with Community policies, it seems that both the Managing Authority and the Intermediate Bodies are involved. From the information provided, the division of labour between MA and IBs in this field is not clear.

The Intermediate Bodies will carry out the day-to-day monitoring of projects, checking of expenditure declarations and verifications of reality of expenditure claimed in accordance with Article 4 of Regulation 438/2001.

The Intermediate Bodies will again certify that the expenditure claimed is eligible and only then it will be inputted into the Management Information System from where the PA will extract the data for preparing the claims for reimbursement.

An internal audit unit has been established in each ministry involved in the implementation of the SPD. The independence issues, legal status and procedural matters seem to have been dealt with satisfactorily.

## **2.2 Paying Authority**

The Treasury of the Republic of Cyprus has been designated as the Single Paying Authority for all the Structural Funds and the Cohesion Fund by the Council of Ministers' Decision dated 12 February 2002.

It is noted that the Treasury and more specifically, the unit which will be acting as the PA and which will be certifying the statements of interim and

final expenditure, will not be involved in any way in the management of project implementation.

### **2.3 Financial control arrangements**

As regards ensuring correctness of operations financed and implementation of internal controls, the procedures established seem satisfactory.

The Internal Audit Directorate of the Treasury will carry out system audits and 5% controls of expenditure in accordance with Article 10 of Regulation 438/2001. In addition an Internal Audit Board has been established to monitor, provide guidelines and review the quality of the work of the Internal Audit Directorate and monitor the response of the various Ministries and Departments on the recommendations of the Internal Audit Directorate. The legal framework, strategic plans, training, handbooks and manuals, checklists and sufficient staff seem to be available to carry out the audit and control functions satisfactorily.

An Internal Audit Charter has been developed and was approved by the Council of Ministers in September 2002. An Annual Work Plan is prepared by the Internal Audit Directorate each year after a careful assessment of the risks associated with a number of potential audit areas for all the Ministries and Departments. An Internal Audit Manual has been developed and was introduced at the beginning of 2002 based on the Standards for the Professional Practice of Internal Auditing.

Cyprus is in the process of establishing in 2003 a new, fully independent internal structure to assume the responsibility to carry out the internal audit function in the public sector. This body will take over tasks previously assigned to the Directorate of Internal Audit of the Treasury of the Republic following a commitment made under the EDIS process. This is a positive move in terms of ensuring separation of functions between the audit function and implementation/payment procedures. This new body once established will undertake the 5% sample checks in accordance with Article 10 of Regulation 438/2001. The commitment should be implemented prior to accession. Whilst this is a positive development, this body is not yet in function. Legislation has been passed but recruitment will be completed only by November 2004.

It remains to be confirmed whether the above arrangements also apply to the Cohesion Fund.

### **3. ADMINISTRATIVE CAPACITY**

Considerable steps have been made recently to strengthen the administrative capacity, particularly at the level of the Managing Authority.

The actions that have been undertaken include estimation of staff required, definition of qualifications required and recruitment of new staff both on a temporary and permanent basis.



The Structural Funds unit within the Planning Bureau was reinforced at the beginning of 2003 with additional staff. It is presently composed of 10 people with additionally the secondment of an official from another department responsible for the setting up of the Management Information System. The foreseen professional and supporting staff of the Structural Funds Unit will comprise of 26 people in total. No timetable is however provided for when recruitment will be completed.

As regards preparation of manuals for implementation, these will be prepared under a project co-financed under pre-accession funding. This project is due to start in the second part of 2003 only.

As regards Intermediate Bodies, whereas organisational charts have been prepared and staffing levels for implementation of Structural Funds programmes have been fixed, it is not clear by when recruitment will take place. Given the need for adequate training, it is necessary that recruitment takes place as soon as possible in order to have stable personnel for the implementation of Structural and Cohesion Funds as from accession.

Training for staff in the Managing Authority and Intermediate Bodies would be necessary to ensure effective and efficient implementation. Some training modules have already been implemented and planned for the period June-September 2003. A more intensive training programme will be carried out funded by pre-accession funding between September 2003 and February 2004. A training action plan for new staff should be developed.

#### **4. PROGRAMMING CAPACITY**

##### **4.1 State of progress**

Cyprus formally submitted its Structural Funds programmes (one SPD for Objective-2, one SPD for Objective-3 and one SPD for FIG) as well as the Reference Frameworks for the Cohesion Fund in May 2003. These were accepted for negotiations. Each Single Programming Document (SPD) was accompanied by an ex-ante evaluation. The programme complements are due to be submitted in July 2003. Submission was later than promised within the framework of the Accession Negotiations.

##### **4.2 Partnership**

During programming, broad consultation exercises were undertaken in line with established practice regarding partnership and consultation procedures for preparation of previous programmes. The Planning Bureau has co-ordinated the procedure, organising seminars and setting up a consultative committee for programming composed by public sector bodies, social and economic partners as well as non-governmental organisations.

The Monitoring Committee will be composed by all relevant stakeholders from central and local government, NGOs and economic and social partners.

### **4.3 Monitoring**

Cyprus is planning to use the same computerised Management Information System (MIS) used by Greece instead of developing a completely new system. The reasons for using it are those of cost-effectiveness and urgency. The proper use of the MIS could provide assurance that separate accounting is in place. The Greek IT Management Information System needs, however, to be adapted. The MIS system will be in place only by the end of February 2004, leaving very little time for testing and adequate personnel training before accession. Training in the use of the MIS should start well before February 2004, as the development of the main elements of the system would become available.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

As regards the procedures for claim and reimbursement by final beneficiary/final recipient to national bodies, the arrangements planned appear satisfactory. All payments to final recipients will be made directly by the Accountant General or another Senior Officer in the PA who will be designated by the Accountant General, after receiving a checked payment application from the Managing Authority confirming incurred certified expenditure.

Procedures for claims for reimbursement from the Commission also appear satisfactory. The expenditure certified by the Final Beneficiaries will be reported to the Intermediate Bodies. The Intermediate Bodies will again certify that the expenditure claimed is eligible and only then it will be inputted into the Management Information System and submitted to the Managing Authority. The Paying Authority will be responsible for ensuring that adequate checks are undertaken at the Managing Authority level before certifying expenditure to the Commission.

A sufficient audit trail, within the meaning of Article 7 of Regulation 438/2001, will be ensured by the MIS operations. The MIS satisfies the requirement of Article 8(2) of that Regulation for a sufficient audit trail, since all cumulative amounts at any level can be traced to the lowest level of expenditure, which is accompanied by the relevant documentation. Concerning the retention of documents, all accounting books and records used by the government departments are authorised by the Accountant General and, according to the financial and accounting instructions, are preserved for a minimum period of 5 or 10 years depending on the type of records. This would not necessarily be in accordance with Structural and Cohesion Funds retention rules, which provide for documents to be kept 3 years after the last payment to an action. Clarification of this issue must be ensured prior to accession.

The winding up declaration specified by Article 15 of Regulation 438/2001 will be issued by the Internal Audit Directorate of the Treasury. This function

will be assumed at a later stage by the new Internal Audit Service when this service is established. This arrangement is considered satisfactory on the condition that the roadmap for the functional independence of the Internal Audit is implemented prior to accession.

## **5.2 Accounting system**

The funds received from the European Commission will be recorded in the MIS and will be transferred to the Government General Account updating at the same time the national accounting system by recording the revenue received. A new computerised accounting system is under development. It is expected that by 1 January 2004 the basic modules of the new system will be operational. The system must be in place prior to accession.

## **6. PROJECT PIPELINE**

Project pipeline is well established as regards the Cohesion Fund. Funding has been set aside under pre-accession funding for preparing project application but tendering for project preparation has been delayed. Preparation of infrastructure projects requires a long time and it is important that necessary steps are taken quickly.

As regards Structural Funds, the SPD programming was based also on a call for proposals from local authorities and other potential interested parties. It is likely however that project preparation may not start in earnest until a broad agreement is reached on the main priority axes during the negotiations with the Commission. The Cypriot authorities will need to devise a strategy which will take into account timing requirements for the implementation of different types of projects, in order to absorb commitment allocations as well as providing sufficient expenditure to meet the N+2 rule.

## **7. CONCLUSIONS AND RECOMMENDATIONS**

While Cyprus has made considerable progress in terms of preparing for Cohesion and the Structural Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession:

- Attention should be given, in particular, to ensure full alignment of the national legislation to the EU public procurement directives. The Cypriot authorities are recommended to accelerate the preparation of manuals in the field of public procurement, which according to the information provided, is planned to take place quite late.
- As regards the definition of the responsibilities between the Managing Authority and the Intermediate Bodies, no detailed written agreements are in place. The Cypriot authorities are requested to address this issue.

- Preparation of computerised manuals, including project application forms and selection criteria, monitoring systems and training programmes is taking place relatively late, funded by pre-accession funds. The Cypriot authorities are encouraged to ensure that these important building blocks for the Cohesion and Structural Funds are in place and embedded in the relevant structures as soon as possible.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

# CZECH REPUBLIC

## 1. LEGISLATIVE FRAMEWORK

The legislative framework for the implementation of Structural Fund programmes and Cohesion Fund projects is in place in the Czech Republic with one important exception: public procurement legislation. The current legislation is not in compliance with EU legislation, which could have serious consequences for the adoption of Cohesion Fund and Structural Fund projects where public or similar bodies will be final beneficiaries. A new Act on Public Procurement has been adopted by the Czech government and needs to be adopted by the Czech Parliament in the course of 2003 and implemented before accession.

As regards environment, Czech legislation provides in addition to the obligation of Environmental Impact Assessments (EIA) for specified projects, Environmental Impact Assessment of Development Concepts and Programmes (SEA). These requirements resulted in strategic environmental assessment documents for all Operational Programmes (OP), the National Development Plan (NDP) and the Single Programming Document (SPD) Objective 2 for Prague. Some amendments to environmental impact assessment legislation to achieve compliance with the EU legislation and full transposition of the SEA directive will be adopted before end 2003. All programmes pay also attention to the Habitat and Birds Directive with regard to Natura 2000. The identification of provisional Natura 2000 sites is near completion and consultation with stakeholders about to begin. The national waste management plan will be adopted by government in July 2003 with regional plans to follow within twelve months.

A permanent advisory body to the Government, the Council for Equal Opportunities of Women and Men, was established in 2001 and will monitor the issue of equal opportunities. In the programmes this horizontal principle can be monitored on the basis of relevant monitoring indicators: all data related to persons are consistently split up by gender in order to monitor effects on equal opportunities.

National competition legislation is in compliance with the *acquis*, but the working relationships between the Office for the Protection of Competition and the different Managing Authorities, responsible for updating the standard state aid table in each programme, still need further clarification. The Czech authorities are encouraged to accelerate under the 'interim procedure for existing aid' submission of State aid measures that they would like to co-finance under Structural Funds programmes.

The Czech Republic has already met its commitments for multi-annual budget planning. In addition an amendment in the Act on Budgetary Rules, which comes into force on 1 January 2004, will allow more flexibility for possible transfer of national budgets between years, priorities, programmes and funds in the case of amendments in financial tables of programmes. This

will allow the Managing Authorities and the Monitoring Committees to adapt the financial tables of the programmes more easily to changing circumstances.

## **2. INSTITUTIONAL FRAMEWORK**

### **2.1 Inter-ministerial co-ordination**

Inter-ministerial co-ordination is guaranteed by the Management Committee for the Community Support Framework, in which all Managing Authorities of the Operational Programmes and Paying Authority participate in order to discuss day to day management issues. This Committee has an advisory role to the Managing Authority and the Monitoring Committee for the Community Support Framework.

### **2.2 Managing Authorities**

All Managing Authorities have been designated at department level in each Ministry; they will be mainly responsible for programme management and overall co-ordination, whereas the Intermediate Bodies will be entrusted with the tasks related to the implementation and monitoring of projects. The broad lines of sub-delegation of tasks by the Managing Authorities are known but they still need to be defined in detail and laid down in written agreements between the Managing Authority and the Intermediate Bodies. In most cases the Managing Authority will remain responsible for concluding contracts with the final beneficiaries (there are some exceptions, as in the case of the OP Human Resources Development and OP Industry and Enterprise). Managing Authorities are also responsible for the development of programme manuals and for issuing guidelines and methodological directives for Intermediate Bodies and will supervise them; most of these manuals and guidelines are still under preparation and should be ready during the second half of 2003. These manuals should also clearly describe the procedures to be followed at project level for ensuring compliance with Community policies (although this is not explicitly stated in the tasks of the Managing Authorities for Joint Regional OP (JROP), SPDs for Prague Obj. 2 and Obj. 3 and OP Rural Development and Multi-functional Agricultural ). Other general management tasks, such as preparation of the annual reports and information and publicity, will remain a direct responsibility of the Managing Authority.

A separate accounting system is not clearly stated as a requirement for the Managing Authorities for two OPs, namely OP Rural Development and Multi-functional Agriculture and OP Industry and Enterprise. The implementation of internal controls in order to ensure that operations are correctly implemented is carried out or delegated by the Managing Authorities. However, for some OPs (Rural Development and Multi-functional Agriculture, Infrastructure, Industry and Enterprise) it is not specified how management control in accordance with Article 4 of Regulation 438/2001 will be separated from the independent control in accordance with Article 10 of that regulation. In view of the separation of

functions seen for other OPs it is considered that the Czech authorities will be able to specify this satisfactorily prior to accession.

### 2.3 Intermediate Bodies

Intermediate Bodies have in principle been identified for all programmes and their number has been kept relatively limited, in line with recommendations from the Commission. The number of Intermediate Bodies per programme ranges from eight (JROP) and seven (OP Human Resources Development) to two (OP Industry and Enterprise). A final overview of Intermediate Bodies is still expected for OP Rural Development and Multi-functional Agriculture and OP Human Resources Development in the near future. As mentioned before, the sub-delegated tasks for Intermediate Bodies still need to be laid down in written agreements, but it is now already clear that all Intermediate Bodies will play a central role for their programme and that a broad range of administrative, assessment and selection tasks will fall under their responsibility. As a consequence, the allocation of human resources should be in line with the degree of sub-delegated tasks, which might require further reflection for some programmes. The role of the Intermediate Bodies is in general strongly focussed on selection procedures for projects, whereas their pro-active task as promoter for the development of a project pipeline remains somewhat underrepresented. There is a general tendency to make administrative procedures unnecessarily heavy and complicated with several layers of assessment and evaluation procedures. This tendency entails a serious risk of delay for the approval of projects; the Czech authorities are recommended to seek further simplification in administrative procedures where possible.

Internal audit has been ensured for all Managing Authorities and many Intermediate Bodies, although the information for the Intermediate Bodies is not yet complete (JROP, OP Rural Development and Multi-functional Agriculture, SPD Prague Objective-2 and Objective-3, Cohesion Fund (Ministry of Environment)). In some cases the tasks of assessment, selection, payment, audit and control are concentrated in the same Intermediate Body. In those cases specific attention should be paid to the internal organisational structure in order to guarantee separation of tasks in different units (e.g. the role of the State Environmental Fund as Intermediate Body for the OP Infrastructure).

### 2.4 Paying Authority

The Czech Republic has opted for a central Paying Authority for all Funds in the Ministry of Finance (National Fund), which will certify expenditure to the Commission. Payment Units in the different Ministries will carry out the payments to the final beneficiaries. There will be one Payment Unit per programme, with the exception for the OP Infrastructure with two Payment Units (one in Ministry of Environment and one in Ministry of Transport), adding to the complexity of the financial management for this OP. The functions to be carried out will be stipulated in an agreement between the Paying Authority and each Payment Unit. The functions to be carried out may differ between programmes. All Payment Units have been identified,

but agreements with the Paying Authority have not been closed yet. It is not clear if the Payment Units will be responsible only for payments of EU-funds or will also transfer national public co-financing to final beneficiaries. Only in the case of the JROP will the Payment Unit pay both EU and national public financing to final beneficiaries (but not regional public co-financing).

A separate accounting system will be used by all Payment Units for Structural Fund assistance. The arrangements for certification are satisfactory as regards the independence of the certifying body (Ministry of Finance, National Fund Department). However, a question arises as regards the command line for the Payment Units in the line Ministries. As these Payment Units perform tasks which are the responsibility of both the Paying Authority and the Managing Authority, there is a risk that the command line may not be clear. The agreements between the Paying Authority and the Payment Units must ensure that the reporting line is clear, in particular as regards the expenditure statements.

Satisfactory arrangements for internal audits have been made for the Paying Authority. However, it is not clear to which Internal Audit department the Payment Units will be subject. The Internal Audit of the Ministry of Finance must have audit access to the Payment Units in order for the Paying Authority to base its certification of expenditure to the Commission on their work. For the Cohesion Fund, detailed information on the arrangements for internal audit is missing. The only reference is to the setting up of an internal audit unit responsible to the Minister and performing the necessary functions in accordance with Regulation 1386/2002.

## **2.5 Financial Control Arrangements**

Satisfactory arrangements for financial control (5% sample checks in accordance with Article 10 of Regulation 438/2001) have been made for all programmes except two: OP Rural Development and Multi-functional Agriculture and OP Infrastructure. However, the Czech authorities have given assurance that these arrangements will be set out prior to Accession. Satisfactory arrangements have been made for the Cohesion Fund as well (15% sample checks).

Information on systems audits does not refer specifically to the systems audits to be carried out in accordance with Article 10 of Regulation 438/2001 and Article 9 of Regulation 1386/2002. However, a clear undertaking has been made to respect the requirements of these regulations. Information should be provided as to who will carry out these checks. The Czech authorities have a clear understanding of the need for separation of functions (Article 10(2) of Regulation 438/2001) and the requirements appear to have been fulfilled. However, there are a few clarifications to be provided on how the role of some Managing Authorities for internal management controls will be separated from independent control (see previous comments). No separate audit strategy has been seen for each OP, but from the general information received from the Ministry of Finance it appears that a plan for devising these strategies has been made and the general points set out by the Ministry of Finance are very promising.



### **3. ADMINISTRATIVE CAPACITY**

There is an urgent need for additional staff and training, given that accession will occur within less than one year. This urgency applies in principle to all bodies involved, with special attention to the regional administrations and other Intermediate Bodies, which are going to play a crucial role in all programmes. The Ministry for Regional Development in co-operation with the Czech Republic Office of the Government has prepared a draft report on the administrative capacity needed to ensure the functioning of the implementation system for using EU Structural Funds and Cohesion Fund. The estimated *additional* staff figures for all ministries and other bodies for the years 2003 and 2004 is assessed at 1,338, leading to a total number of 2,361 staff at national and regional level involved in implementation of these programmes. However, this increase of staff seems difficult to meet in view of the public finances situation in the Czech Republic. Additional staff for the implementation of Structural Funds programmes and Cohesion Fund projects should therefore be realised by internal re-allocation of staff within the ministries. Neither the above-mentioned draft report nor the budget linked to it have yet been approved by the government.

Some Ministries intend to build up, extend or strengthen their regionalised structures in view of the implementation of their programmes (OP Rural Development and Multi-functional Agriculture, OP Industry and Enterprise, OP Human Resources Development, JROP). It would be worth to evaluate the possibilities for combining and/or co-ordinating actions in order to achieve synergies and make savings on staffing by avoiding the building up of parallel, partly overlapping regionalised structures.

Project application flows for all programmes have been thoroughly built up. All necessary steps are included and described in detail but there seems to be ample scope for further simplification in many programmes. Projects will be in some cases evaluated and/or assessed at two or three different levels. This leads to time-consuming and labour intensive procedures which might cause delays in the approval of projects. It is recommended that at least time-limits are built in for each step of the project application flow and that fewer administrative layers in the necessary procedures are sought.

The project application flow for the Cohesion Fund (Environment) does not include the essential role of the European Commission, responsible for selection and decision of each individual project. Project application flows for both sectors of the Cohesion Fund, environment and transport, need to be further harmonised.

### **4. PROGRAMMING CAPACITY**

#### **4.1 State of progress**

All programmes and draft versions of their Programme Complements were submitted to the European Commission for official negotiations between end of February and mid-April 2003. All documents were accepted by the

European Commission for negotiations with the requirement of some additional information for several programmes. The Czech Republic will implement one Community Support Framework with five Operational Programmes for Objective 1 and two Single Programming Documents for Prague, one for Objective 2 and one for Objective 3 during the period 2004-2006.

The Commission has also received the Reference Framework for the Transport section of the Cohesion Fund; the Environment section is awaited for the near future. The programmes for the Community Initiatives INTERREG and EQUAL will be submitted during the second half of 2003.

All programmes have been written by the responsible Ministries, in some cases supported by external experts. The ex-ante evaluations were carried out for all programmes in parallel to the drafting of the programmes, in line with the guidelines issued by the Commission, resulting in a maximum benefit from useful, high quality evaluations (e.g. for National Development Plan). It is positive to note that in several cases Czech universities and other research institutes were also involved in the evaluation exercise. In addition to the ex-ante evaluations, separate Strategic Environmental Assessments (SEA) were also prepared for each programme.

## **4.2 Partnership**

The Management and Co-ordination Committee (MCC), established in 2001, serves as the main tool for partnership arrangements. This predecessor of the Monitoring Committee for the Community Support Framework includes both public partners (Ministries and regions) and non public partners (social partners, NGOs) and discusses the progress of the National Development Plan. Within this Management and Co-ordination Committee a Working Group has been established (all Managing Authorities and regions) to draft the National Development Plan. All relevant partners have been involved/addressed in the preparation phase of each programme through e.g. seminars, workshops, web-sites and written consultations. All relevant partners, including social partners and NGOs, will also participate in the Monitoring Committees of each programme, but the specific organisations still need to be identified.

## **4.3 Monitoring**

The Ministry for Regional Development is responsible for establishing and financing the Monitoring System for the Structural Funds (MSSF), which will cover Pre-accession Funds, Structural Funds and Cohesion Fund. It is a common system that will provide both financial and physical data, to be used by all Managing Authorities, Paying Authority/Payment Units and Intermediate Bodies. It will be linked to the national accounting system of the Ministry of Finance (Viola) and can be linked to specific subsystems (e.g. MONIT for regions) and aggregate data at different levels. MSSF has been prepared to meet the requirements for computerised data-transfers with the Commission and specific data requirements per Fund. A pilot phase was closed in January 2002, the final version should be operational during the 3<sup>rd</sup>

quarter of 2003. Current users are trained continually and further training costs to strengthen the administrative capacity are included in the previously mentioned human resources plan. It is not clear if audit/control data are covered by MSSF and there is not yet a description of the system in place for each Managing Authority.

All programmes contain (or will contain in the near future) output, result and impact indicators at the different levels (programme, priority, measure) of the programme for which baseline and targets are formulated. The approach is fully in line with the guidelines from the Commission.

## **5. FINANCIAL AND BUDGETARY MANAGEMENT**

### **5.1 Flow of funds and audit trail**

The arrangements for claim and reimbursement procedures by final beneficiary/final recipient to national bodies appear to have been made in a satisfactory way. The information on procedures for claiming reimbursement from the Commission is generally also satisfactory. One question does arise however as to how the Managing Authority makes a statement to the Paying Authority. For most OPs it appears that the Payment Unit reports to the Paying Authority, but as the Payment Unit is considered as part of the Paying Authority in the Czech system, it is not clear how the Managing Authority itself will make a statement of expenditure. It is considered that the problem can be solved by the guidelines to be issued.

Whereas the audit trail is specified as regards the bodies involved, information is still required as regards the arrangements for the retention of documents (in accordance with Annex 1 of Regulation 438/2001). For example, the retention of control reports for two years after the submission of the winding up declaration is not in accordance with the EU rule requiring retention for three years after the last payment.

It appears that satisfactory arrangements have been made for the winding-up declaration. The Department of Financial Control in the Ministry of Finance has been appointed to fulfil this task.

### **5.2 Accounting system**

A separate accounting system is envisaged, which will be used by all Payment Units. In order to ensure the efficiency of this system the interface with the general database MSSF is important, which the Czech authorities have realised.

## **6. PROJECT PIPELINE**

The development of a project pipeline for the Cohesion Fund is partly supported by technical assistance facilities under ISPA. The Reference Framework for the Transport section of the Cohesion Fund identifies fifteen larger potential projects for co-financing after 2004. The strategy for the

Environment section still needs to be submitted, but a draft list of potential projects has been identified, which should yield enough projects to cover at least the first appropriations under the Cohesion Fund.

The implementation of rural development and agricultural measures (supported by EAGGF) will continue on the basis of the experience gained through SAPARD. In this respect the Czech Republic is the most advanced acceding country with regard to the proportion of available SAPARD appropriations committed to final beneficiaries.. This result indicates that the Czech Republic has already developed a project pipeline capable of operating effectively. It constitutes a good starting point for absorption of post accession funding.

The development of a project pipeline for the other Funds will be mainly based on the experience gained with Phare twinning projects and Phare projects for Economic and Social Cohesion aimed, inter alia, at increasing the absorption capacity at national level and in the regions, implementation of selected pilot measures of Operational Programmes and specific programmes for target regions. Indicative figures on expected number of projects and budget are not given.

## 7. CONCLUSIONS AND RECOMMENDATIONS

While the Czech Republic has made considerable progress in terms of preparing for the Cohesion and Structural Funds, a number of crucial issues need to be tackled urgently in order to allow for the capacity building process to be concluded successfully before accession :

- High priority should be given to the completion of the legislative framework for the implementation of Structural Fund Programmes and Cohesion Fund projects with the adoption as soon as possible by the Czech Parliament and implementation of a new Public Procurement Act which fully complies with EU law.
- In line with the commitments made under chapter 21, the Czech government is requested to adopt and implement in the near future a realistic human resources plan in order to strengthen the administrative capacity of the different bodies involved in the implementation of Structural Funds programmes and Cohesion Fund projects, with special attention to the staffing of Intermediate Bodies and regional administrations.
- The different Managing Authorities and Intermediate Bodies are encouraged to finalise their programme manuals, including guidelines and standard application forms, as soon as possible in order to inform and stimulate potential final beneficiaries about the possibilities for support.
- In this context it is noted that selection procedures for projects are in general well described, but the Czech authorities are recommended to further streamline their organisations and to reduce the administrative

layers in order to reduce the risk of unnecessary delays in the approval of projects.

- The preparation of an appropriate project pipeline should be given urgent attention.
- The reporting lines of the Payment Units towards on one hand, the Paying Authority and, on the other hand, the Managing Authority need to be clearly laid down in written agreements.
- Attention should be given to the elaboration of specific provisions for ensuring eligibility of expenditure under Cohesion and Structural Funds immediately as of 1 January 2004.

## Negotiations with Acceding Countries : Timetable

Country	Plan	Draft Operational Programme (OP)		Single Programming Document	
		Date of submission	Name	Date of submission	Name/Type
Czech Republic	3/03/2003	3/03/2003	Human Resources Development	27/02/2003	Prague Obj. 2
		4/03/2003	Agriculture	3/03/2003	Prague Obj. 3
		22/04/2003	Joint Regional Infrastructure Industry		
Hungary	31/03/2003	5/05/2003	Environment Protection and Infrastructure		
			Economic Competitiveness		
			Regional Development		
			Human Resources Development		
	Agriculture and Rural Development				
Poland	22/01/2003	26/02/2003	Improvement of Competitiveness of the Economy		
			Transport and Maritime Economy		
			Human Resources Development		
			Rural Development and Modernisation of the Food sector		
			Fisheries and Fish Processing		
		Integrated Regional OP			
21/03/2003	Technical assistance				
Slovakia	17/03/2003	17/03/2003	Agriculture and Rural Development	17/03/2003	Bratislava Obj. 2
			Human Resources Development		Bratislava Obj. 3
		(3/04/2003)	* Industry and Services (re-submitted 12/06/03) * Basic infrastructure (re-submitted 12/06/03)		
Cyprus				4/06/2003	Cyprus Obj. 2 Cyprus Obj. 3 Rural development Fisheries
Estonia				21/03/2003	Estonian Obj. 1
Latvia				24/03/2003	Latvian Obj. 1
Lithuania				3/04/2003	Lithuanian Obj. 1
Malta				27/05/2003	Maltese Obj. 1
Slovenia				24/04/2003	Slovene Obj. 1