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Procedure for Designating the Management and Control System for Structural and Investment European Funds

Iulian MISERCIU*¹

Abstract

For the 2014-2020 programming period, the European Commission foresaw by Regulation (EU) No 1303/2013 that each Member State, before requesting reimbursement of the costs incurred in the implementation of the projects included in the first interim payment application, must undergo the so-called designation procedure. The designation procedure involves the accreditation of the constituent institutions of the management and control system for each operational program financed by the Structural and Investment Funds. The entities involved in the implementation and audit of the European funds, for each operational program, requires an assessment of their compliance with the criteria, foreseen by the European regulation, regarding the evaluation and selection of the projects, management verification, risk assessment and monitoring of the establishment of the projects. The designation of authorities at national level is based on the audit opinion issued by the Audit Authority in accordance with internationally accepted auditing standards, which should be unqualified. Issuing a different opinion leads to non-settlement of expenditure on the operational program concerned by the European Commission. Thus, the Member State obtains a guarantee as to the necessary and appropriate institutional structure set up for the implementation and audit of the funds. The present article aims to present the procedure for the designation of the institutional framework of program financed from the European money and the evaluation criteria envisaged. The importance of this step is given by the fact that, depending on how these management and control systems are built, the implementation of funds can be easier or more cumbersome and the administrative bureaucratic burden for the beneficiaries can be eliminated in time. Even though the designation procedure is successfully completed, not all the premises that the implementation of the funds will meet expectations are ensured.

Keywords: *management; control; risks; evaluation.*

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1. Introduction

For 2014-2020 programming period, the European Union has issued a number of common regulations to improve the management and the implementation of structural and investment funds contributing under the European Policy for Cohesion. These funds are “the European Regional Development Fund, the European Social Fund and the Cohesion Fund, with the implementation of the Rural Development Fund, namely the European Agricultural Fund for Rural Development and the Fund for the Maritime and Fisheries Sector, namely the European Maritime and Fisheries Fund. The legislative package promoted in this regard for the implementation of the Structural and Investment European Funds 2014-2020, contains a series of regulations that impose administrative actions on Member States to establish the institutional framework for the management of these funds”. [1]

On its own initiative, the Member State may establish a coordinating entity at national level, whose responsibility is to communicate with the European Commission and to coordinate the activities of other entities relevant to the management and control of the funds. At the same time, there is a need to establish at Member State level entities responsible for the implementation and audit of the European funds for 2014- 2020.

The European Commission has issued a working document, which provides technical guidance on how to interpret and apply European rules, in order to provide explanations and interpretations by the European Commission services on the implementation of operational programs and to encourage good practices. The guidance document includes a checklist, which is important “to be used as an assessment tool by the Managing Authority and the Certification Authority during the preparation of the description of the management and control system and by the independent audit body within the audit actions to facilitate and record its own activity”. [2]

In Romania, by government decision, it is proposed to initiate the process of designation, namely the nomination of the main bodies involved in the implementation and audit of the European Funds, previously established under the partnership 2014-2020. The nominations are made so that the expertise accumulated during the 2007-2013 period is exploited, respecting the European regulatory framework and the implementation framework established by the 2014-2020 operational programs. It was established at the level of the “Ministry of European Funds”, the coordination body, respectively the entities implicated in the administration of the “Structural and Investment European Funds 2014-2020”. [3]

The institutional framework in Romania for the 2014-2020 period focuses on the management functions of three key ministries, which have already demonstrated good management capacity: “the Ministry of Regional Development and Public Administration, the Ministry of Agriculture and Rural Development and the Ministry of European Funds”. [3]

Given that the institutions engaged in the co-ordination, handling and control of European funds for the 2007-2013 programming period remained essentially the same for the 2014-2020 programming period and taking into account the overlapping of the two financial years in 2014-2016, it was necessary to establish a single implementation framework with the intention of reducing the administrative weight for all the entities involved. At the same time, it was necessary “to regulate the institutional framework for coordination and management through a single normative act, for both programming periods”. [4]

In this regard, the attributions of the Audit Authority of the Court of Accounts as well as of the Certification and Payment Authority within the Ministry of Public Finance, have been maintained, as assumed by the Romanian authorities and in the Partnership Agreement, a strategic document approved by the Commission Decision European no. 5515/06.08.2014. By maintaining the same responsibilities for the Certifying and Paying Authority, financial discipline is strengthened, with the Ministry of Public Finance managing the whole process of reimbursement by the European Commission, starting from the forecasts for payment applications up to the final amounts requested for reimbursement and subsequently received by Romania. [1]

2. Theoretical Background

The designation procedure for 2014-2020 was the responsibility of the Member States and represents good approach over the measures applicable for the last period, in order to obtain the necessary guarantee regarding the structure of institutional framework for the implementation and audit of the funds. There is a lot of likeness to the accreditation procedure for the last period. The designation of authorities at national level was based on the audit opinion issued by the Audit Authority in line with internationally accepted auditing standards, which should be unqualified.

“The description of the functions and procedures in place for the Managing Authority and the Certifying Authority is the document submitted to the European Commission, prepared by the two entities according to the model set out in Annex III to Implementing Regulation (EU) No.

1011/2014. Depending on the structure of the management and control system, different authorities or bodies were responsible for preparing the different parts of the description. For operational programs where the managing authority delegated a number of functions and tasks to intermediate bodies, it had to take responsibility for describing the functions delegated to the intermediary bodies under its supervision”. [5]

The designation of the authorities had to be built on an audit report and also an audit viewpoint from the audit authority that assessed the fulfillment of the conditions set out in European regulation. The models for this report, as well as for the audit viewpoint with regard to the conformity of the nominated bodies' systems with the specified criteria are set out in the European regulations.

The evaluation of the management and control systems for each Operational Programs was done taking into account the results of the last audit missions, respectively during the 2007-2013 programming period. This has ensured an assessment of the changes made, of the internal procedures / rules reflecting these changes. It has been pursued how to remedy some of the previous weaknesses of the system presented in the latest System Audit Report, the general and specific improvements to the SMC together with the completion of the procedural framework based on them.

As parts of the new management and control system are basically the same as in the former programming interval and there is evidence that they have been effective, it could be concluded that the relevant designation criteria in Annex XIII of Regulation 1303/2013 have been met. However, an audit activity was needed to assess compliance for new criteria: “risk management procedures and anti-fraud measures, procedures for drawing up the management declaration / annual summary / accounts and procedures to ensure the reliability of data on indicators / milestones / program progress in achieving its objectives”. [2]

Where managing authorities appointed tasks to other bodies, they had to watch that they had appropriate working procedures in force to oversee their effectiveness, based on officially registered written agreements. “The audit authority had to obtain assurance on the adequacy of the structure of the management and control systems implemented in relation to these delegated functions at the intermediate body level”. [5]

As regards the assessment of the audit authority, this is the responsibility of the European Commission's audit services.

3. Argument of the paper

The stages of the designation process carried out by the Audit Authority were the following:

- receiving the final characterization of the operational program management and control system (key date for the designation process), the supporting documents (that support the description of the entities established at the level of the audited operational program) as well as the planning of the audit activities – “description of the system has clearly defined the responsibilities assumed by the joint authorities, common control elements, separation of functions, aspects of horizontal systems and those that are separate for each program”. [2]
- examining the description of the management and control system and verifying supporting documents in the field audit mission;
- elaborating the findings and conclusions, preparing the preliminary audit report / management letter, conducting the conciliation procedure;
- issue of the final audit report and opinion - based on the overall conclusions for each authority, the overall conclusion was reached at the level of the operational program presented in the report. This conclusion served as the basis for the audit opinion on the compliance of the management and control system with the designation criteria.
- submission of the final audit report and opinion to the entities audited and to the body with powers in designating the authorities, at national level;
- submitting the final version of the system description, final report and opinion to the European Commission at its request - according to European regulation, the Member State shall inform of the date and form of the designation before the first interim payment application. The system description and / or the audit report and opinion shall be transmitted through the SFC 2014.

The designation criteria that were taken into account in assessing the compliance of the management and certification authorities as part of the management and control system for each operational program are set out in European regulation as follows:

1. “Internal control environment” [6]
 - an organizational structure who cover all the roles and attributions of the authorities in the management and control system, and their allocation within each of these authorities to be done in accordance with the “principle of separation of functions”. [6]
 - if the entities involved in management of the operational program has delegated some of the tasks to a number of intermediate bodies, it has

been necessary to establish an appropriate legal and procedural framework for defining their responsibilities and obligations, verifying their administrative capacity to perform the tasks delegated and the reporting process is properly in place.

- ensuring procedures to prevent, detect and correct the irregularities, and to report all of them, and recovering amounts unduly paid.
- ensuring competent human resources with the necessary skills for financial and technical purpose and for different positions.

2. “Risk management” [6]

An appropriate framework has been imposed to guarantee that the exercise regarding risk management is in place correctly, for all situations and particularly in case of significant changes in activities, taking into account the principle of proportionality.

3. “Management and control activities” [6]

A. Managing Authority - appropriate procedures for:

- evaluation - selection of proposed projects to be finance from the operational program, including clear instructions and guidelines for the beneficiaries regarding the role of projects to the completion of the goals of the operational program.
- administrative checks in relation to each request for reimbursement of funds by beneficiaries and on-the-spot checks of projects.
- authorizing, performing and accounting for payments to beneficiaries.
- system for gathering, recording and preserving in electronic form the inputs on each project as well as ensuring system security compliance with internationally recognized standards.
- the beneficiaries have a distinct accounting system or an appropriate accounting code for all dealings connected with a project.
- establishing effective and proportionate anti-fraud actions.
- audit path and an appropriate archiving system.
- that all the information presenting the conditions under which financial support for each project is made available to the beneficiary.

B. Certification Authority – procedures for:

- registered interim payment applications addressed to the EC.
- accounts elaboration and certification that they are authentic, exhaustive and precise and that they respect the legislation applied at EU and national level, considering the conclusion of all audits.
- an appropriate audit trail by keeping accounting records in electronic format, including all information on established, recovered or declared non-recoverable debits.

- the certification authority obtains appropriate input from the management authority on the checking achieved on each individual project as well as the outcomes of the audits completed by/under the charge of the audit authority.

4. "Monitoring

A. Managing Authority

- Procedures to support the work of the monitoring committee.
- Procedures for the preparation and submission to the European Commission of the annual and final implementation reports.

B. Certification Authority

- Procedures for fulfilling the responsibilities of the certification authority for monitoring the results of verifications performed by the managing authority and audit results by the audit authority prior to submitting the payment requests to the Commission". [6]

4. Arguments to support the thesis

The outcome of the audit procedures was mentioned in the audit report and the overall conclusion was reached at the level of the management and control system of each Operational Program, established for 2014-2020, regarding "the compliance of the authorities with the designation criteria:

- The structure of the systems within the MA ensures that it is in a position to fulfill the responsibilities set out in Articles 72 and 125 of Regulation (EU) 1303/2013;

- The structure of the CA systems ensures that it is in a position to fulfill its responsibilities under Article 126 of Regulation (EU) 1303/2013". [6]

The opinion of the Audit Authority on the two entities was unqualified and the Member State, through the coordinating body, appointed itself and informed the European Commission accordingly of the date and form of the designation before the first interim payment request was submitted.

Regulation (EU) No. 1303/2013 includes an obligation for the Member State through the coordinating body to monitor the designated bodies throughout the whole period. The European Commission is required to check annually the documents provided by the Member State on the implementation reports on each operational program and the results and conclusions of the audits of the national audit entities and the European Union. The purpose of the analysis of these documents is to conclude if the

implementation and control systems function effectively throughout the implementation of the programs. “Authorized representatives of the European Commission may carry out on-the-spot audits and may include, in particular, verification of the effective functioning of the management and control systems in a program or part thereof and the evaluation of the financial management of the projects under the programs. Depending on the results of these verifications, the European Commission may require a Member State to take the necessary measures and actions to ensure the proper functioning of its management and control systems or to verify the correctness and legality of the expenditure declared in the settlement applications submitted for settlement”.[6]

5. Arguments to argue the thesis

One of the arguments to argue the necessity of designation procedure was, even that the management authority and the certification authority have the necessary and adequate structure to fulfill their responsibilities, is not sufficient to give the assurance that management and control system will operate efficiently and effectively. The member states do not understand the necessity of the process of designation (accreditation) and why cannot send to the European Commission any application for the payment of project expenditure already paid from the state budget, until this process is not finalized. In the context of closure for 2007 – 2013 period, this process of accreditation was a supplementary work for the entities implicated in the implementation and control of the European funds. The member states consider is not easy task and is not in accordance with simplification process of accessing the European money.

6. Dismantling the arguments against

The arguments that support this new process of accreditation are the new elements regarding procedures for establishing enough anti-fraud measures and procedures for issue the annual accounts in accordance with the European regulation. One of the main purpose of this process is to correct some deficiencies from the 2007 – 2013 period, and to eliminate them from the beginning of the implementation of the European funds.

7. Conclusions

The designation procedure was regarded by the Member States as an additional administrative burden in the context of the closure of the operational programs for 2007 - 2013. Practice has shown that this accreditation exercise was completed after March 2017, the date of submission of the closure package 2007 - 2013. With each new financial programming period, the European Commission has imposed stricter rules, even new elements such as anti-fraud measures and annual accounts, although at European level, there is talk of simplifying the procedures for accessing European money.

Given that the management and control system remained the same as in the old programming period, a new designation exercise was imposed only where major changes occurred, through the emergence of new entities or new responsibilities. The fact that now closing execution accounts is done annually strengthens financial discipline, and many of the financial decisions can no longer be prolonged from year to year. It is also a positive element that the anti-fraud measures are further standardized, with a strong impact both on public opinion and on the behavior of project beneficiaries.

The importance of this step is given by the fact that, depending on how these management and control systems are built, the implementation of funds can be prevented in time by a series of problems that can generate financial penalties. However, there is also a negative element because some calls for projects have not been launched in time, the fact that the new rules have sometimes imposed even more documents led to absorption at this time not being in the desired parameters. The current absorption rate of 6.84% on structural and investment funds is supported by phased projects, those projects started in the previous programming period.

The European Commission has noticed both the advantages and disadvantages of this designation procedure by proposing to phase out this procedure for the new programming period 2021-2026.

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