

**Realigning Execution of the European Social Fund Budget:
Implementing the European Commission's
Integrated Internal Control Framework in a EU Structural Fund (C)**

A function of the internal control framework within DG EMPL was to enable the directorate-general to make effective use of the Commission's long-standing and expanded prerogatives under Council regulation 1083/2006. The long-standing prerogatives were suspension of payments and financial corrections. The expanded prerogatives included postponing first interim payments for an operational programme, if the Commission was not satisfied with its compliance assessment, and interrupting payments if its implementation was otherwise called into question.

Making Observations on Compliance Assessments

Even before the 2007-13 execution cycle, DG EMPL had asked Member States to provide a single document that outlined control systems for operational programmes. The request ended up revealing national differences in approach to communicating about this subject. "In 2000-06, we asked Member States to provide picture of systems, admittedly without clear guidance. "Some Member States sent two pages, others boxes!" recalled Themis Galeros, Head of Unit for ESF Audit, some years later. An external signal that some standardization was required came from the European Court of Auditors. In Galeros' words, "ECA said year on year that the managing authorities did not receive sufficient guidance."

Council regulation 1083/2006 obliged Member States to provide the Commission with a compliance assessment of the management and auditing systems of its operational programmes. The compliance assessments were due within a year of such a programme being adopted by the Commission, triggering an advance payment. The Commission's response to compliance assessments was to take the form of "observations." Approval of the first interim payment depended on the outcome of the back-and-forth between the Commission and Member States over compliance assessments.

During the first two years of the 2007-13 execution cycle, DG EMPL examined 117 compliance assessments. Observations were made on a large proportion of them, resulting in postponement of first interim payments – a situation that preoccupied the Director-General, Nikolaus van der Pas:

Most compliance assessments we have received we sent back as not good enough. We are now at 2008 and allocations haven't started because member States are struggling with these assessments. If

member states were responsible themselves, this burden would be a bit lighter.

The struggle with compliance assessments reflected a change of attitude in Brussels. In the words of Marie Donnelly, Director for Resources and Communications, "Shall we say, the benefit of doubt no longer rests with the Member States. In effect, we assume that their management and control systems for an operational programme are not functioning unless we get proof to the contrary. And that's a shift, vis-à-vis previously."

Interrupting and Suspending Payments

Following approval and disbursement of the advance and first interim payments, DG EMPL's appreciations of operational programmes had bearing on how it would respond to Member States' application for subsequent interim payments. Under Council regulation 1083/2006, DG EMPL had full authority to postpone a scheduled interim payment for six months. This authority was strongly exercised, according to the Head of Section for Budget and Financial Coordination:

If there is a problem in May, we stop payments in May, we don't wait until December. And that is a new development. We do not pay if we have a doubt.

When payments were interrupted, the Geo units sent out a pre-suspension letter to Member States, which, in effect, threatened to invoke the Commission's conditional but otherwise full authority to suspend payments. Such an escalation could be avoided by Member State cooperation. Specifically, Member States and DG EMPL would have to agree to an action plan. In the words of Themis Galeros, the Head of Unit for ESF Audit: "We check that the action plan has been implemented with an audit or by assessing a Member State's declaration, then we begin payments again."

Absent a satisfactory action plan and its follow-up, DG EMPL would indeed escalate, beginning with a suspension letter. According to Galeros:

Legally, we must send a letter to the Member State and have a meeting with them before the Commission can make its final decision. Within the Commission, it is the College that agrees suspension, but the Secretariat General has devolved power over that. So the DG prepares the decision and then the Commission signs. It doesn't need to go to the College to be signed.

The clearer procedures, compared to the 2000-6 execution cycle, had its proponents outside DG EMPL. According to Franck Sébert, Head of Unit, Relations with the Control Authorities within the Directorate for Audit and Controls, "There are now legal frameworks with tight time-scales which have to be adhered to. "If a suspension procedure and an action plan are on the table, the Commission continues to work with Member States, and MEP's are made aware of the action taken."

Marie Donnelly summed up the situation for 2008 in the following terms:

For the 66 operational programmes (of 117 in total) we had in reserve, we had stopped payments, pending the establishment and implementation of an action plan for correction by the member states. We had something like 22 operational programmes in Spain alone blocked. With Spain, we had suspended payments of €1.8 billion, which is a sizeable amount of money.

As a lower-level insider put it:

We don't control the Member States. We can only pressurise. But now with pressure from Parliament we are between two fires. Hence, the big jump in the number of suspensions this year. It is the only way of maintaining a credible story.

Moving Fast on Financial Corrections

Some action plans required Member States to undertake "financial corrections," a procedure codified in the financial management title of Council regulation 1083/2006. If Member States did not make financial corrections, then the Commission was entitled to begin a legal procedure to impose them. During the 2007-13 execution cycle, DG EMPL's intention was to enable to Commission to complete the legal procedure for financial corrections during the same year in which payments had been suspended. According to Donnelly:

The Court [of Auditors] was saying, "Well, you whinge and you whine about multi-annularity and all that, but we don't see the corrections, where are your corrections?" And of course we had a lot of cases that were kind of rumbling along. We now have an internal procedure that says, "You work the member states, they get two months, you assess the things, that's two months, and within two months you're in a Commission decision." It was a management decision to say that, within six months of a case coming up, we have to be in a Commission decision. That was a response to the [European Court of Auditors'] negative DAS [Declaration of Assurance].

According to Nikolaus van der Pas:

Previously, files would stay on the director-general's desk for years. We now know at each point every year where we are in relation to the recovery of money. We now say we aim to recover money within six months. We are able to say that we are very tough.