

THE EU FUNDS AND A SCHEME OF FINANCIAL CONTROL ON THEIR UTILIZATION

**Chief Assistant Prof. Dr. Jivko Raikov,
SWU “Neofit Rilski”**

Abstract: The contents of this paper refer to the discussion of the basic levels of financial control regarding the implementation and utilization of the financial means from the European funds intended for Bulgaria. Discussed are also the specific procedures of the financial control and audit regarding the use and reporting on the financial means granted under operative programs, operations or projects from the funds of the European Union and the protection of the financial interest of the European Union.

Key words: financial management and control, internal audit, financial inspection, funds of the European Union

Introduction:

The present report treats the theme that is in connection with the establishment of new framework of the financial control system in our country that ended in 2006. The aim is to be presented in front of our scientific society, beyond the borders of our country the new structure, the normative and institutional settlement of the financial control applied in connection with the means of the EU funds. This is comparatively new theme in our country and the interest towards it is high. There is interest in line with the institutions of different levels of management of the operative programs for the structural funds, that have no experience with the pre-accession funds and programs. Also demonstrated by non-governmental organizations and entities that are possible participants in the partnership for projects of the EU funds. The presentation has envisioning nature and is close to the nature of scientific announcement, but its larger volume gives it the characteristics of scientific survey report.

In the current 2007 Bulgaria became a member of the European Union. This event was preceded by a process lasting a couple of years and encompassing institutional and normative adjustment of the country to the norms and requirements of the European

law. This was carried out within the framework of the accepted approach and praxis of the European Union for the accession of the new countries-members to carry out negotiations and consultations on all identified problematic spheres. Essentially the process of negotiations encompassed all basic public spheres. The process of adaptation and harmonization with the European law toughed also the structure of the control and specifically the financial control in the public sector. This found an expression in the bringing closer together and harmonization of the norms and regulations for financial control with those of the European Union. The aim was to accept the European practices of financial control at a national level. This also included the guaranteeing of a good management of the European financial means and the protection of the financial interests of the European Union. This refers basically to the utilization of the financial means granted to the Bulgaria under the pre-accession programs PHARE, ISPA, SAPARD, and others, but also the forthcoming obtaining of financial means from the structural and the Cohesion funds of the community. The subject of this paper is the newly accepted financial control normative and institutional framework in the public sector and the specific mechanisms and procedures of application of the

financial control and audit in the utilization of the financial means from the structure funds and the Cohesion funds of the European Union for Bulgaria.

The Structural and the Cohesion Funds of the European Union

The European Regional Development Fund - ERDF

The European Social Fund - ESF

The Cohesion Fund

The financial means granted under these funds represent an instrument for carrying out the policy of the European Union for coming together and reduction of the differences in the economic and social characteristics of the countries-members. These funds are releases predominantly for countries-members and their regions, which are retarded and can with difficulty cover the basic targets of this policy and especially for Bulgaria- the targets of the plan –period 2007-2013.

For this period the basic defined targets of the policy of coming closer are directed into the following:

- to achieve the convergence of the social and economic characteristics;
- regional competitiveness and labour employment;
- territorial cooperation.

Bulgaria finds itself mainly in the convergence target of priority. For the achievement of these targets of priority of total 381 billion EURO as foreseen by the European Commission for the plan period 2007-2013, from the structural funds and the Cohesion funds are granted over 6 billion EURO for Bulgaria only. Only for the first two years 2007-2009 have been foreseen 2,3 billion EURO. Well be directed in to transport infrastructure, regional development and increase competition. (2)

Besides, it is expected the country to obtain also means from The European Agricultural Guidance and Guarantee Fund – EAGGF-5 billion EURO, also from the European Investment Bank and from other financial instruments. These are considerable means and their effective and

complete implementation is important for the development of the country. An important requirement of the European Union and the European Commission as regard the common means of the Community is that the financial means are to be managed well observing the principles of publicity and transparency, observation of the law, effectiveness, efficiency and economic and to the purpose utilization.

The utilization of these means shall require also the obligatory co-financing at a national level, whereby the minimum is 15% from the means granted. For the achievement of the targets and to meet the requirements set in the policy of convergence with the European Union an important place and part is to be taken and played by the financial control.

Implementation of a new normative and institutional framework of the state internal financial control

The amendments in the normative regulations and the institutional framework of the internal financial control in the public sector, in the context of acceptance of Bulgaria into the European Union began as early as in 2001, when the Act on the state internal financial control came into validity. This law set the structure and functions of the agency for state internal financial control and its control functions. What was characteristic was that this law united three control functions implemented into the practices of the European Union, namely those of the systems for financial management and control, the internal audit and the anti-fraud control under one separate control agency under the control of the Ministry of Finance. With regard to the budget organizations it has been controlling, this agency had been an external subject of control and it delegated it internal auditors for long periods to these organizations for the carrying of the different controls.

The agency had also sanction powers regarding the financial fraud. In this period began also the implementation and

utilization of the systems of management and control and procedures of internal audit in the public sector new for Bulgaria. The state internal financial control together with the other control institutions in the country practiced also the control on the financial means from the pre-accession funds and programs of the European Union. In the process of negotiations with the European Commission under chapter "Financial Control" were formulated the final visions for the normative framework and the institutional structure. In 2006 the state internal financial control was transformed into three new acts, which divide the three basic control tasks that had been executed until that moment. This was done by the acceptance of the Act on financial management and control in the public sector, the Act on the Internal Audit in the public sector and the Act on the state Financial Inspection Office, whereby the latter act arranges also the transformation of the Agency for state internal financial control into an Agency for state financial inspection. These acts arrange currently the state financial internal control in the country. The Act on the National Audit Office arranges the internal independent audit of the state budget and the other public means. At the same time was established also a harmonizing unit to the Ministry of Finance, which coordinates and methodically prepares the fulfillment of the tasks of state internal financial control. As regards the financial means from the funds of the European Union, control and supervision functions and co-ordination with the European Commission are performed also by two of the Directorates at the Ministry of Finance, i.e. the "Management of EU Funds" Directorate and "Audit of EU Funds" Directorate.

Scheme of financial control on the financial means from the European funds

The Scheme of financial control on the financial means from the European funds is defined in the normative and institutional framework. This scheme has five levels.

The first level is the providing of a good functioning of the systems for financial management and control with the beneficiaries of financial means from the funds of the European Union. The setting up and functioning of the systems for financial management and control had been set even as early as in the former act. With the experience accumulated this became the task and responsibility of the managers of the organizations disposing of budget financial means as credits and financial means from the funds of the European Union. In the organizations of the public sector it is required that internal rules for financial management and control are worked out and implemented, which to be contained in an internal administrative act. The basic tasks and their organization and execution, which have to be provided by the systems for financial management and control in an organization belonging to the public sector, is: to provide a reasonable assurance with the management that the targets of the organization shall be executed by means of:

- I. Conformity with the law, respectively the legislation and the internal normative acts and contracts;
- II. Reliability and comprehensiveness of the financial and operative information;
- III. Economic reasonableness, effectiveness and efficiency of the activities.

The financial management and control executed by the managers of the organizations includes the following basic elements: formation of a control environment, risk management, control activities, information and communication and monitoring. As regards the financial means coming from the funds of the European Union, the managers of the organizations are to organize, substantiate by documents and report before higher and competent authorities the measures they have taken to prevent risk of fraud and any discrepancies relating to the financial interests of the European Union. Their obligation is to work out in writing the policies and procedures of the control

activities. These activities secure in the highest degree the good functioning of the system of financial management and control. These include the following:

1. procedures of solution and approval
2. separation of responsibilities, one office shall not any more undertake at one and the same time the responsibilities of approval, execution, accounting and control
3. the system of double signing of expenditures made or obligations undertaken with the signature of the manager and the signature of the accountant responsible.
4. rules for access to the assets and the information
5. preliminary control on the conformity with the law executed by a person appointed for the purpose, a financial controlling person

6. procedures for complete, true, exact and in due time accounting of all operations in compliance with the accounting act. When setting up and implementing the systems of information and communication in the organizations of the public sector beside a reliable, true and received in due time information and a clear and comprehensive communication a system shall be required and the respective rules for substantiating by documents. This has to provide the substantiation by documents of all operations, processes and transactions in order to make these capable of being followed and monitored by means of adequate auditing methods. The auditing methods represent a comparatively new element in the practices of the internal financial control and audit in Bulgaria and have been implemented first with regard to the financial means coming from the pre-accession funds and programs of the EU. These aim at providing transparency of the management and the movement of the financial means coming from the EU. They represent a very good form of providing follow up of the activities of granting, spending and accounting of the financial means all the way from the EU to the final beneficiary and back (i.e. downwards and upwards following the audit path). The audit

path provides also the possibility of follow up of the separation of the functions of management, control, payment and accounting within the framework of the separate organization from the public sector. It makes possible to assess the adequacy and efficiency of the systems of financial management and control and to define the possible risk factors in the organization. The audit path is a very important unit of the financial control of the financial means coming from the EU, therefore in this paper an accent is made on this form of control. The audit path has to specify:

- the procedures accepted and the persons responsible
- the issue of documents and the person responsible for this activity
- the accepted systems of management and control of the flow of financial data, the persons responsible for their checking
- the control on the expenditures and the persons responsible for that

Requirements are being worked out as regards the forms and processing of the accounting information. More specifically these are relating to the following:

1. the accounting records have to contain the date of their creation, the total amount of the expenditure and as per the items, the kind of the accompanying documents, the way of payment and the date of payment;
2. the exact distribution of the acceptable expenditures under jointly financed operations and other expenditures made by the beneficiary;
3. in case of co-financed operations are to be demanded independent and improved accounts of the expenditures including all separate sums and the total approved and spent sum.

The introduction of the auditing paths presupposes the preparation of master-forms of documents. These shall ensure the auditor's follow up from the first to the last stage of the operations and the processes.

The second level of the financial control is the internal audit

The changes which occurred in 2006 and the adoption of the Internal audit act the audit was transferred from being the responsibility of the already former Agency of State Internal Financial Control to becoming the responsibility of the managers of the organizations from the public sector, including those disposing of financial means coming from the EU. As far as contents and method of accomplishment are concerned this represents in itself internal audit, the same as the one implemented with the private sector, but taking into account the specifics of the public sector. There from is the modification in the purposes and tasks of the internal audit in the public sector. The act on the internal audit in the public sector has provided also internal audit of the financial means coming from the EU. The contents of chapter five of the Act include requirements to the specific audit activities relating the funds and the programs of the EU. In this paper accent is made on these only. These are the control checks on the operations concerning the acceptable expenditures under the separate funds of the EU and under the pre-accession programs by means of suitable audit excerpts. At the second place this is the issue of a certificate or a declaration (statement) on the conclusion of a separate project or program of the EU. The internal audit follows up also the indicators of fraud in the cases when these have been built-in into the systems of financial management and control. The indicators are actually the sign, which makes possible to draw well-grounded conclusions for an intended untrue or inexact presentation of facts.

The second level includes also the control carried out by the State Financial Inspection. With regard to the financial means coming from the funds of the European Union, this finds expression basically in the participation of non-governmental organizations and persons in the implementation of the financial means

under concrete projects, in the cases when these have been assigned under the Law on the public procurement. The control checks of the State financial inspection relate to the conformity with the law and correct carrying out of the tender procedures in the public procurement order.

The third level of financial control is to be executed by the "Audit of EU Funds" Directorate (AEUFD) at the Ministry of Finance. The department has the task to carry out the internal audit under chapter Five, namely "Specific audit activities relating the funds and programs of the EU" from the Act on the internal audit in the public sector. The tasks of "Audit of EU Funds" Directorate (AEUFD) is to provide the assuredness that the systems of financial management and control of the financial means from the EU are adequate and functioning effectively and efficiently and that the interests of the European community have been well provided for and protected. /3/. This is executed by means of the specific audit activities specified in this task. The activities of the "Audit of EU Funds" Directorate (AEUFD) are accomplished in compliance with the internationally accepted standards of auditing in the public sectors, the national legislation and the regulations of the EU but also in compliance with the international agreements on obtaining financial means from the EU, to which the Republic of Bulgaria is a party. The specific audit activities under the funds and programs of the EU the auditing of the systems of those disposing of financial means from the European Union, excerpt checks and the issue of final declarations (statements) under the pre-accession instrument ISPA, the Structural and the Cohesion funds, separately the certification under the programs SAPARD, SOCRATES, LEONARDO DA VINCI and their sub-programs. The issue of such documents is based on the assessment of the systems of financial management and control the checks carried out until now and, in case of necessity, the carrying out of additional

checks on the transactions. The certification is to prove that the accounts, that are to be sent to the European Commission, are true to the facts, complete and exact. The auditing carried out on the financial means coming from the funds of the European Union guarantees that the financial means have been spent to the purpose within the terms set and under the concrete projects. The declarations and the certification document that the financial means have been spent to the purpose without any deviations. The minister of finance has the task to appoint the teams of internal auditors for carrying out the specific activities of auditing the financial means coming from the funds of the European Union and also the issue of regulations and other normative documents referring to the co-ordination and harmonization of these activities. The "Audit of EU Funds" Directorate is responsible for the auditing activities under the funds and programs of the EU. This Directorate submits to the European Commission the necessary documents relating to these financial means in compliance with the international agreements for granting financial means by the European Union and the regulations of the European Union in this field.

The fourth level of financial control, as regards the financial means coming from the funds of the European Union, is the external independent audit of the budget executed by the Bulgarian National Audit Office. The National Audit Office Act states that the office has the powers to carry out external audit also on the financial means coming from the funds and programs of the European Union including to audit the management of these financial funds on the part of the state bodies and on the part of the end-users (beneficiaries) of the financial means. The methods used for the auditing are standardized and follow the principles and standards of INTOSAI (the International organization of the Supreme Auditing Institutions) as accepted by the Bulgarian National Audit Office. As regards the financial control on the EU fund, the

Bulgarian National Audit Office executes a close interaction and co-ordination with the European Audit Office.

As well as in the process of executing audits it is supervised for any breach of the procedures for public orders including in relation to organizations and entities that dispose with means of the EU. The Bulgarian National Audit Office as a supreme auditing institution of the country bears high responsibility about the undertaken international engagements due to Bulgarian membership in the EU about the financial control and especially for the means of the EU funds. Its auditing activity and the cooperation with the European Audit Office, in the process of accession, guarantee to a higher degree that the requirements for good management, transparency and efficiency in utilization will be achieved also for the funds of the EU after the Bulgarian accession.

The fifth level is the level of EU. The activity for financial control is executed mainly by the European Audit Office. Its activity is broadly made public. We should note that it has the tasks and authorities to audit all financial means of the EU and the accounts in connection with them. It is especially this Office that audits all institutions and entities of the EU, the national, regional and local authorities and the end receivers of the means of EU. Regarding the means of the funds of EU for Bulgaria, the European Audit Office could execute audits at any time and to transfer audits to any independent auditor on its account. It could also execute mutual audits together with the Bulgarian Audit Office. The antifraud actions and the defense of the financial interests of the EU are ensured by the European Antifraud Office General Directorate. This service has the authorities to execute external researches also in the member-states. Every member-state has a contact department with the European Antifraud Office. For Bulgaria this level is AFCOS.

Thus described the scheme of levels of the financial control reflects one multi-scope control system for financial control at the utilization of the mutual means of the EU.

Problems:

The main problems are found in the yet limited experience of the Bulgarian administration and controlling bodies for the utilization of the means of funds of the EU and the implementation of the contemporary European practices for financial control over it. Serious problem is the weak administrative capacity especially on a local, municipal level for the preparation and approval of the projects according to the operative programs. This to a greater or lesser stage will made it difficult to control their management and execution.

Deductions:

Up to date in Bulgaria it is established and implemented adequate and

harmonized with the European law, normative and institutional system of management and control of the means released for the our country in line with the European funds. Yet in it does not exist the necessary administrative and management capacity for its smooth functioning. This was noted also in the monitoring reports of the Commission of EU dated 2006 and of the European Audit Office dated June 2006 /4/. In coordination with the entities of EU and the great efforts of the government, the Bulgarian National Audit Office and other entities have taken measures for raising this capacity. These are mainly measures for effective personnel management and maintaining the competency level of the employees in the organizations of the public sector of different levels. The administrative and management capacity of the financing control entities in the country is at comparatively good level.

References:

1. Bulgarian Legislation Documents:
 - The financial Management and Control in Public Sector Act;
 - Internal Audit in Public Sector Act;
 - State financial inspection Act;
 - National Audit Office Act;
 - Bulgarian Public Procurement Act.
2. Challenges of the EU Structural Funds, Part 1, European Institute Foundation, Sofia, 2006;
3. Challenges of the EU Structural Funds, Part 2, European Institute Foundation, Sofia, 2006;
4. EU Regulations:
 - 1260/1999
 - 1080/2006
 - 1081/2006
 - 1083/2006
 - 1084/2006
5. Dimitrov, P., Intangible Tourism Assets Management and Rural Areas Sustainable Development, Scientific Symposium "Rural areas in the new development conditions" Ohrid, Macedonia, 30.03.2006 – 01.04.2006;
6. Ganchev, G., "Macroeconomic and Structural Policy up to and after the accession of Bulgaria to the European Union", part VI "Financial control", Siela, Sofia, 2005;
7. Madgerova, R., Contemporary Approaches and Strategies for Sustainable Tourism, "Economics and Management", Blagoevgrad, Issue No. 2/2006;
8. Nikolov, Ch., "Macroeconomic and Structural Policy up to and after the accession of Bulgaria to the European Union", part IV "Structural processes", Siela, Sofia, 2005;
9. Stoilova, D., Financing Rural Areas Development in Bulgaria, International Scientific Symposium "Rural Areas in the Modern Development Conditions", Vol.2, PMF, p.509-527, Institute of Geography, Ohrid, Macedonia, 2006.
10. www.europe.bg