

**OPERATIONAL RISKS OF THE MANAGEMENT AND CONTROL  
SYSTEM OF THE MANAGEMENT AUTHORITY OF THE  
OPERATIONAL PROGRAMME HUMAN RESOURCE DEVELOPMENT  
2014-2020**

**Petya Naydenova<sup>1</sup>**

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***Abstract***

*Effective management and control over the spending of EU funds is one of the key requirements together with the existence of clear programming documents and a legal and institutional framework in place for the use of Structural and Cohesion Funds. The management and control is effective only with a synchronized action of a system of control impacts. The aim of the researcher is to define the risk factors in the functioning of the management and control system of the Managing Authority of the Operational Programme Human Resources Development 2014-2020 in Bulgaria according to the European commitments.*

**Keywords:** *system, risk, management, control, European programmes*

**JEL Codes:** *G32, P40, M11,*

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**1. Introduction**

The European Union Funds Management System in Bulgaria is designed to meet national and European regulatory requirements and according to the best international standards and practices but still does not achieve the desired results. The detection and resolution of critical problem areas is an ongoing task of the executive and legislative authorities, the European Union, researchers, and the control system itself.

The article aims to define the risk factors in the functioning of the management and control system of the Managing Authority of the Operational Programme Human Resources Development 2014-2020 in Bulgaria. The subject of the research is the management and control systems in the Managing Authority of the Operational Programme Human Resources Development 2014-2020 in Bulgaria and the subject - the risk factors in its operation.

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<sup>1</sup> Department of Public Administration, University of National and World Economy, Ph.D., naydenova.petia@gmail.com

The study uses the system approach, comparative, analytical, inductive and deductive methods.

## **2. The risk factors in the functioning of the management and control system of the Managing Authority of the Operational Programme Human Resources Development 2014-2020 in Bulgaria**

For Managing the Operational Programme Human Resources Development (HRD OP) 2014-2020, the Managing Authority (MA) - Directorate General "European Funds, International Programmes and Projects" at the Ministry of Labor and Social Policy (MLSP) has developed a manual<sup>1</sup>, which describes the internal rules and procedures for the management of the Operational Programme Human Resources Development covering the entire management cycle - from programming to the impact assessment of the financed activities.

The audit trails described in the manual are intended to provide reasonable assurance in two respects:

- ✓ All information subject to processing and reporting is correct;
- ✓ The management and control system includes procedures that ensure the accuracy and credibility of the expenditure declared under the programme and cover the administrative, financial, technical and physical aspects of the operations.

Risk identification is an activity carried out by the MA in order to identify the existing or potential risks endangering the achievement of the objectives set by the MA, including the risks associated with the fight against fraud.

On the basis of the objectives set, the potential risks to their achievement are identified and measures are taken to manage these risks. This requires a continuous process of assessing and managing the impacts of risks in an effective manner, and the MA should have employees with the appropriate knowledge and skills to identify and assess potential risks.

When identifying the risks of the MA, the inherent and control risks as well as the findings of the audited reports are taken into account. The residual risk is also evaluated.

Risks are classified as:

- External risks - these are risks related to external circumstances of the MA (external organizations, media, etc.)
- Internal risks - these are risks related to the activities and functions of the MA.

One of the main objectives of the risk assessment is to inform the management of the MA on the areas of risk where specific actions should be taken to mitigate the potential risks and the relative priority of these areas. Using such an assessment, risks can be classified by priority and their priority assigned. This information serves as a basis for

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<sup>1</sup> www.esf.bg, According to the Procedural Manuals of the MA of the HRD OP 2014-2020, last verified on 15.03.2019

management decisions regarding the risks to be addressed (for example, risks with a high potential impact or risks with a high probability of occurrence).

The most common method of assessing identified risks is by qualitatively determining the expectation of the risk occurring and the impact that will be on the MA's activity.

The MA also carries out an assessment of the risk of fraud and effective and proportionate anti-fraud measures (Regulation (EU) No 1303/2013), as a commitment to the Managing Authority to create effective and proportionate anti-fraud measures to take account of identified risks.

Control activities are introduced to provide reasonable assurance that the risks identified in the risk management process are limited within acceptable limits.

The Manual of OP Managing Authority of the HRD OP does not have a procedure for checking for common and often repetitive fraud schemes by means of relevant indicators ("red flags")<sup>1</sup>.

There is also no control mechanism or procedure in the Procedural Manuals of MA of HRD OP which is practically implemented and used to assess the impact and the likelihood of occurrence of the most common risks of fraud.

The MA's fraud risk assessment is only formally described in the MA's Manual but does not contain an effective audit trail that reflects that the MA through the actions taken receives information on the presence / absence of fraud.

A new point in the 2014-2020 programming period is the possibility of initiating a procedure for discontinuing payments and imposing financial corrections if the performance benchmarks are not met, but the weaker results should be due to clearly identified performance weaknesses, and the European Commission is required to inform the Member State of identified weaknesses.

Until the adoption of the Fund Management Act of the European Structural and Investment Funds, the imposition of financial corrections was not regulated by law, and the order and methods for making financial corrections in domestic law were fully regulated by secondary legislation and the appeal on a court order was not explicitly regulated, resulting in contradictory case-law and the impossibility of a wide range of EU fund users to defend their rights. (Yonkova, N., 2017, p.42)

If the Member State has not taken corrective action to address the weaknesses, the EC may temporarily suspend payments to it. At the end of the programming period, if the Member State has not yet been able to take corrective action to address the weaknesses, the EC may apply financial corrections.

The risk to sound financial management is represented by the HRD OP budget:

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<sup>1</sup> Implementing Recommendations 9 in COCOF Information Note 09/0003/00-EN on Fraud Indicators for ERDF, ESF and CF.

- ✓ not to be used as intended, for the purposes and according to the rules established by the budgetary authority (legality and regularity of expenditure);
- ✓ not be properly accounted for in the annual financial statements (reliability of the accounts);
- ✓ not to be spent in a reasonable way, in accordance with the principles of sound financial management (economy, efficiency and effectiveness); and
- ✓ EU spending should not bring added value and the expected benefits are not realized (EU-added value).

The sound management of these risks should result in good cost quality, costs that are used in an economical, efficient and efficient manner and in accordance with the rules.

Analyzing the procedural actions of the MA and the implementation of control mechanisms when selecting a financing operation it becomes clear that the controls only confirm predefined conditions and parameters without identifying the risks and possible future problems.

In order to achieve policy effectiveness, it is not only important to set clear objectives and take into account the results at the programming stage. It is essential during the implementation phase of HRD OP to follow a result-oriented approach as the effectiveness of a policy is mainly determined by the quality of the projects financed and their added value in terms of tangible results. (Daskalova, 2009, p.170) In the selection procedures used by the Managing Authorities, priority should be given to selecting those projects that are most appropriate to the objectives that are most likely to achieve results and to ensuring that the funds allocated are spent in accordance with with the rules.

In 2014, the process of using the Aharne tool in the EU started. Bulgaria has planned the introduction and use of the EC-developed Aharne system as a tool for risk assessment under Operational Programmes.

This provides an operational software tool for identifying the most risky projects, as well as allowing continuous, systematic monitoring and review of data from internal and external sources regarding projects, beneficiaries, contracts, and contractors.

In addition, the use of Aharne as a risk assessment tool is foreseen to be included in the description of the Management and Control Systems of the Managing Authorities.

The Arahne system as a risk assessment tool is described in the Procedural Manuals the MA of the HRD OP as an opportunity to use but in practice there is no control procedure for this.

There are various types of external and financial risks as well as the risks related to the activity, which may arise when the budget of the HRD OP is spent. If these risks become a reality, they can lead to:

- ✓ Non-implementation of policies or failure to achieve the intended objectives due to the wrong or inappropriate processes used to achieve the desired impact and results;

✓ The lack of added value, especially at European level. EU funds are able to bring benefits to EU citizens or other beneficiaries, but without these costs having a specific dimension at EU level. It may also be a case in which the achievement of the results would have been achieved with other funds or with less EU funds;

✓ Actions or omissions that harm the EU or the reputation of the MA;

✓ Non-implementation of appropriate operational methods or management methods in order to achieve the policy objectives; the results could be achieved in a satisfactory way or other methods would have resulted in better results; (Vasilev, 2017, pp. 153-157)

✓ Non-implementation of appropriate internal control systems to achieve the objectives (taking into account management, operations, legality and regularity of operations, finance, public procurement, fraud and other irregularities, the use of information technology, human resources, assets, health and safety, etc.) or lack of a performance management system in place to monitor progress;

✓ Complex and wide-ranging conditions may make it difficult for both the beneficiaries to comply with them and the managing authorities to check compliance. Where conditions are not clearly defined, they may lead to different interpretations and approval of expenditure in the culture of spending (ie to create pressure for spending available budget regardless of whether it meets real needs );

✓ Checks and controls by the Member States' managing authorities and auditors have not helped to prevent, detect and correct misstatements of expenditure;

✓ In order not to lose the budget they manage, the spending authorities prefer to focus on spending within the given deadlines rather than on using it in an appropriate or efficient way that strengthens the culture that is more focused on net balances and redistribution of the EU budget rather than on how EU funds can be better invested and used for the common good;

✓ The EU budget is used to fund activities and projects that are not self-sustaining or are not maintained after an EU support break. Consequently, the money originally used may not be used economically expeditiously;

✓ There is no information about what has actually been achieved and what benefits have been obtained. Sometimes partial information is provided, for example when individual countries produce reports on activities in their territories (in relation to performance objectives, assessments, etc.). However, no picture is given of the overall picture of the results of the performance nor is it allowed to make comparisons across the EU. As a result, the only coherent and comparable data available across the EU budget is on funding levels, and this can strengthen the culture of absorption of the budget;

✓ Member States may also complicate the rules by adding conditions in national legislation (for example in the field of public procurement) or other guidance, or by establishing their own eligibility criteria (for example, for Cohesion Policy expenditure) . These additional requirements may be unnecessary and impose unnecessary administrative obstacles and complicated aspects of EU spending;

✓ Control systems at different levels are not always sufficient to verify all conditions; (Kresnaliska, Chorbadzhiyska, 2017, pp.21-27)

✓ Management information systems do not provide sufficient data on how the funds are used, as well as on their impact and added value;

✓ Reporting and management accountability systems are not designed to evaluate end products or to track performance according to the plan;

✓ There are no indicators to measure the achievement of sound financial management (economy, efficiency and effectiveness), or indicators are inappropriate and stimulate unfair behavior.

From the evaluation of the management and control systems of the HRD OP 2014-2020, the following conclusions can be drawn:

1. The approach used to spend the EU budget is solely for the inputs, which means that the managing and supervising authorities focus on compliance with the rules without paying attention to the achievement of results. It is possible that financial management is largely focused on using the available budget.

2. Implementation of the budget brings European added value where the expenditure is justified and effectively contributes to the effective achievement of EU policy objectives and promotes capacity building and prosperity in the Member States. The EU budget provides funding in areas of exclusive competence of the Union but can also add value by creating networks (both physical and material) to enable the rapprochement of citizens and EU Member States.

3. The budget finances innovative activities and the availability of EU funds can stimulate Member States to adopt measures that they would otherwise not consider.

Reducing the administrative burden on beneficiaries is a horizontal priority set out in the applicable regulations and the Partnership Agreement, which is the focus of the Managing Authorities in the preparation of the 2014-2020 programmes and the procedures for their implementation as well as throughout the period of their implementation.

However, the actions taken are still not considered sufficient. Further efforts are needed to simplify the rules for reporting certain costs, such as staff costs; minimizing the change of manuals and, where appropriate, explicitly notifying the beneficiaries and conducting explanatory meetings; shortening the time for evaluating project proposals and verifying costs; timely posting of questions and answers; to define the needs and to develop the necessary databases; analyze needs and bottlenecks and make recommendations to the Central Coordination Unit to optimize Unified Management Information System for the EU Structural Instruments in Bulgaria UMIS 2020 and increase its functionality - including in terms of e-application, input of indicators and generation of reports.

In relation to the planned activities to reduce administrative burdens in the Procedural Manuals for the Management and Implementation of Operational

Programmes, incl. of the HRD OP, electronic application, electronic communication, document verification by electronic means, uniform payment rates for project management teams, expenditure limits for a learner, etc. are introduced under all procedures for granting the grant.

It is necessary to strike a balance between effective control over the spending of ESIF funds and the reduction of the administrative burden on beneficiaries. The administrative requirements should be proportionate to the potential risk of intervention, which may be related to the categorization of "simple, normal and complex" interventions with the relevant set of requirements and procedures. (Vasilev, Kirov, 2018)

### **3. Conclusion**

The orientation of programmes towards results depends on a number of interacting elements, including good needs analysis, reliable intervention logic with clear specific objectives, well-selected performance indicators reflected in the selection criteria, and a well-structured implementation framework with realistic and achievable milestones and common goals.

Good governance of public spending implies that European taxpayers' money is used for priorities that are recognized as useful and desirable by society (through its elected representatives) where the objectives are achieved in an efficient, efficient and cost-effective way, and the availability of a system of checks and balanced competences ensures compliance with the democratic principle of accountability and effective management.

The MA should aim to simplify procedures and increase the flexibility and adaptability of the management and control systems for 2014-2020.

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