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The Director-General

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Dear Deputy Prime Minister,

**Subject: State of Implementation of the Cohesion Policy in Bulgaria**

I wish you, your family and all your colleagues an excellent new year.

At the start of this new year, the fourth of the programming period 2007-13, allow me to share with you my analysis and concerns of the state of implementation of the Cohesion Policy in Bulgaria, as reflected in technical meetings and Monitoring Committees in November and December. We believe that in this time of economic downturn the efficient and regular use of the European Regional Development Fund and the Cohesion Fund is an important tool to boost the economy and overcome the crisis. However, as you will see, a number of the points raised below are somewhat preoccupying and I accordingly count on you and your colleagues to take the necessary corrective action to increase the efficiency of implementation, both in terms of absorption, regularity and strategic use of the funding.

**Absorption**

Absorption has been at the forefront of our discussions since the very beginning of implementation, as only timely implementation of actions will avoid a loss of available funding. In this respect the performance of the Cohesion Fund Ex-ISPA, which with one more year to go has today reached a total payment rate of only 36%, demonstrates with possible clarity the risk of non-absorption. We may already now conclude that none of the environment infrastructure projects will be finished within the deadline of end 2010, and also for the Plovdiv-Svilengrad project full absorption is by now out of reach, which will mean that Bulgaria will in many cases have to finance the finalisation of projects by its own means.

As to funding period 2007-13, the contracting rate this autumn (LOTHAR date for third and fourth quarter as per end November has been marked by an adequate increase. However, this improvement is limited to the Operational Programme Regional Development (+ 162 million €) and Operational Programme Competitiveness (+ 123

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million €), whereas the progress under Operational Programme Environment (+18 million €) and Operational Programme Transport (+4 million €) is close to insignificant. With an overall contracting rate of 23%, Bulgaria fares quite well, but the outlook for further contracts is gloomy, in as far as the Operational Programmes Transport and Environment are both marked by problematic and insufficient project pipelines. In the environment sector precious time was lost with the preparation of the previous sub-optimal grant schemes (now cancelled), while in the transport sector the strong focus on the launch of the first tenders for the Trakya motorway does not mask the fact that all other projects, rail or road, are delayed. As to the Operational Programme Competitiveness, we note that 200 million € are listed as contracted, although at this stage no funding has been paid into the JEREMIE holding fund yet.

Allow me in this context also to draw your attention to the fact that for the two major projects, for which tenders were already launched (Sofia Waste; Trakya Motorway), the corresponding major project applications have not yet been submitted to the Commission. As stated at numerous occasions in the past, the Commission services will only decide whether or not to finance these projects, once due application forms have been officially submitted, and it is accordingly in the interest of the Member State to ensure timely submission to minimise the risk of misunderstandings.

While the focus has so far been on contracting (i.e. the allocation of funding to specific projects), it is now adequate to turn the attention also to payments made and certified for re-imbusement. Here the picture is most problematic, with total internal payments reaching 59 million €, or 1,07% of total available EU funding. As to the certifications, i.e. the amount to be reimbursed by the European Commission, reimbursement requests are currently stuck at 43 million €, or a mere 0,8% of total.

**To put it short, three years into the 7 year programming period, only 1% of funding has reached beneficiaries, a result which is definitely not sufficient to have a significant impact on the economy in a time of crisis. I rely on you to look into the reasons behind the considerable gap that has now built up between the funds allocated (1,2 billion € EU contribution) and the funds paid (59 million € EU contribution), i.e. a mere 5% absorption of projects under contract. Such a low level of absorption would seem to point to either inefficient physical implementation, or an inefficient cash flow, but only a detailed analysis, sector by sector, will give you a true picture.**

In this context it has been brought to our attention that a number of municipalities and enterprises are currently waiting for reimbursement of expenditure made and that the procedures at the level of the Intermediate Bodies, Managing Authorities and Certifying Authority seem extremely lengthy. This issue should be looked into, and if necessary, corrective action should be taken in order to simplify the system without diminishing the quality of control.

#### Quality of interventions

Whereas absorption is an important feature of our collaboration, the quality of our intervention must be assured at all times. Since the beginning of implementation, we have experienced a number of problems related to the absence of sound financial management in some of the projects and programmes. Our main concerns are related to the lack of a genuine needs justification and too low cost-efficiency of certain of the technical solutions chosen. In this respect there is a clear and urgent need to improve the

selection methods for projects notably under the Operational Programmes for Environment and Competitiveness.

The Ministry of Environment has fully recognised the problem, which amongst others leads to the cancellation of two calls for proposals worth some 600 million € this summer, and this ministry is currently displaying serious efforts to identify new and improve existing project proposals. This effort is, however, limited by the lack of sufficient and adequate human resources within the Ministry, and I rely on your support for the Ministry to upgrade its capacity.

As to the Ministry of Economy, the presentation of a new series of unfocused and unstrategic grant schemes to the recent Monitoring Committee points to the need for serious rethinking within this ministry of the way, in which European funding is allocated.

As to projects already contracted, we have signalled our concerns over the quality of a great part of the 29 environment investment projects and 157 environment technical assistance projects currently under implementation. By letter of 26 June 2009 to previous Minister Chakarov we called for investigations to be made with a view to protect the interest of the European expenditure. Almost half a year later, Commission services are still awaiting your feed back. Unless due account is provided before the end of January 2010 of the actions taken to preserve the regularity and efficiency of investments, the Commission services will envisage interrupting funding for the entire Operational Programme concerned.

### Regularity

We welcome the fact that reviewed Compliance Assessment Reports have now been submitted and can assure you that their evaluation on the Commission side will be considered a priority. In this context we continue to stress the need for the development of a comprehensive and realistic strategy for the further strengthening of the Audit Authority. Over the past 1,5 years, the Director of the Audit Authority has changed three times and the institutional set has been changed. Time has now come to seriously stabilise this service, the quality of which is pivotal to ensure regularity of expenditure.

Globally speaking it is important not only to detect errors, irregularities and fraud but also to take corrective action in due time. In this respect, I would like to signal the failure of the Audit Authority to reply to my letter of 23 February 2009 concerning the misuse of the negotiated procedure in the environment sector, and further of the Ministry of Environment to report on any findings and corrective actions concerning the above mentioned environment projects currently financed. Moreover, it should be noted that the failure of the Managing Authority for Environment to report the environmental non-compliance of one of the Six Landfills project (2000 BG 16 PPE 002) financed under Ex-ISPA constitutes a major omission and that the closure of this project will accordingly be problematic. As to a potential conflict of interest signalled to the Ministry of Economy in July 2009 (the "Todorov case"), also here we are awaiting the reply of the Managing Authority. In these and similar cases I call on you to ensure that problems and errors signalled by the European Commission services are dealt with swiftly and that corrective action is taken.

### Administrative Capacity

Currently we note a slow down in the performance of even the most advanced Operational Programmes, notably Regional Development, a fact that seems not only attributable to the political change last summer, but to a more widespread lack of sufficient and sufficiently qualified human resources. The Commission services have repeatedly called for a better and more extensive use of the funding available under both the Operational Programme Technical Assistance and each specific Operational Programme, altogether more than 240 million €, to strengthen the administrative capacity of the institutions involved in implementation. In this context I draw your attention to the necessity to consider not only the need of the Managing Authorities, but also that of the Intermediate Bodies and beneficiaries. In particular three of these, the Road Agency, the Rail Agency and the Co-ordinating Unit of the Council of Ministers, deserve special attention, as their work is crucial for the overall success of fund implementation. As to the Managing Authorities themselves, we note that of that four out of five Heads of Managing Authority positions are still vacant. Also here there is a clear and urgent need to stabilise the situation, in order to avoid losing momentum.

To sum up, the European Commission services are globally satisfied with the level of contracting but worried about the extremely low level of financial implementation, which points to inefficient physical implementation on the ground and/or inefficient cash flow. We call on you to ensure that regularity problems signalled by the Commission services are dealt with swiftly and consequently, and to ensure that all services involved in the implementation have the necessary capacity to lift the burden. The above issues will be further discussed at the Annual Review Meeting and the NSRF Monitoring Committee scheduled for 14 and 15 January 2010. As ever, I and my colleagues remain at your disposal for exchange of views within the spirit of shared management.

Yours sincerely,



Dirk Ahner

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