THE STRUCTURAL FUNDS' IMPLEMENTATION IN POLAND – CHALLENGES FOR 2007–2013
This study was requested by the European Parliament's Committee on Budgetary Control

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Executive summary

The study is set in the wider framework of the European Parliament's responsibilities in relation to the European Union's policy for furthering economic and social cohesion, known as Cohesion Policy, and aims to understand the performance of the the Structural Funds in Poland.

In the Structural Funds programming period 2007-2013, Poland will receive €67 billion (over 19% of entire Structural Funds resources). Difficulties with the implementation of the 2004-2006 Structural Funds have resulted in low absorption rates, and point to challenges for the effective implementation of the 2007-2013 Structural Funds. Indeed, at the end of 2005, European Regional Development Fund absorption rates stood at 18.5% of total resources for 2004-2006. Only two other Member States had even lower absorption rates.

The present study therefore aims to address two questions: What are the main reasons limiting the effective implementation of the Structural Funds in 2004-2006? and what can be done to overcome these difficulties in order to ensure a successful 2007-2013 programming period?

The study has adopted a constructive outlook: considering the 2007-2013 programming period's advanced stage of preparation, the study aims to identify limitations to effective Structural Funds implementation, and make practical recommendations to improve the effectiveness of implementation arrangements. Moreover, considering the study's scope and resources (26 working days over the months June and July 2007), the focus is on discussing, in a concise way, the main limitations to effective Structural Funds implementation, and not to provide a comprehensive assessment of all aspects of Structural Funds implementation in Poland.

The methodology adopted for delivering the study has combined desk research with stakeholder consultations, in a two-stage approach. First, during June 2007, desk research and first consultations with the European Commission and Poland’s Permanent Representation to the European Union have identified the main limitations to effective Structural Funds implementation. The limitations and measures to overcome them have then be discussed with relevant stakeholders in Poland during July 2007 (at central level, and in the regions of Zachodniopomorskie, Wielkopolskie and Warminsko-Mazurskie).

The main findings and conclusions can be briefly summarised as follows:

European Union financial assistance for Poland has increased significantly from Pre-Accession funding of €1.1 billion in 2003 and 2004, to €12.8 billion for the Structural Funds period 2004-2006 (average annual spending of €2.6 billion until 2008), and €67.3 billion for the Structural Funds period 2007-2013 (average annual spending of €7.5 billion until 2015). This funding increase represents an important challenge, in terms of establishing the necessary legal, organisational and human resources framework in order to allow for the effective use of support.

The overall low absorption rates in 2004 and 2005, point to deficiencies in the Structural Funds implementation systems, with problems more pronounced for the Cohesion Fund than for the European Regional Development Fund. Whilst the situation has improved for the European Regional Development Fund, the Cohesion Fund absorption rate remains low. Indeed, whilst the absorption rate for the European Regional Development Fund has increased from 18.52% at the end of 2005 to 52.64% in June 2007 (the fourth best rate among the new Member States), the Cohesion
Fund rate has only increased from 0.8% to 27.2% (the second lowest rate among the new Member States).

Looking in more detail at the pre-conditions for effective Structural Funds implementation (and thus high absorption), several weaknesses become evident.

The legal framework for Structural Funds implementation has been established late, and has been subject to frequent change. Public finance law in 2004 and 2005 did not sufficiently facilitate access to the necessary co-financing for the Structural Funds. Reforms in 2006 have improved the situation, however, the absence of multiannual budgets and insufficient provisions for public-private partnerships still complicate the use of the Structural Funds. Before reforms in 2006, public procurement procedures were very demanding, and allowed for excessive appeal procedures. Reforms in 2006 have made public procurement procedures more efficient. The failure of proposed Structural Funds interventions to comply with European Union environmental legislation (e.g. in the area of Environmental Impact Assessment), is leading to the suspension of funds, thus contributing to low absorption rates.

There have also been deficiencies with regard to some aspects of the organisational framework. Structural Funds leadership has been weak in 2004 and 2005. The situation has improved with the concentration of Structural Funds competencies in the Ministry of Regional Development as of 2006. However, with the concentration of functions within a single institution, concerns have been rising over the required independence between Structural Funds functions (management and payment / certification). Financial control systems, generally function well (there is little evidence of irregularities), however control procedures in 2004 and 2005 have been excessive, and this has negatively affected payments to final beneficiaries (and contributed to low absorption). Monitoring systems have not been fully operational in 2004-2006, and a new system will be introduced for 2007-2013.

Finally, human resource constraints constitute one of the most important limitations to effective Structural Funds implementation (number and qualification of staff working in Structural Funds authorities as well as within final beneficiaries as well as high staff turnover). Whilst the situation keeps improving, overall staff figures remain low.

This assessment raises the question as to whether the implementation of the 2007-2013 Structural Funds can be expected to be more effective? The Polish Structural Funds Authorities have recognised weaknesses in Structural Funds implementation, and introduced a series of important reforms in 2005 and 2006. This has contributed to an overall improvement in the absorption of funds during 2006. The promising performance of Poland's Integrated Operational Programme for Regional Development raises hopes for the future 16 Regional Operational Programmes. However, the continuing low absorption rate for the Cohesion Fund shows that significant further efforts are required.

As the legal framework is largely established, additional efforts mainly concern the correct application of Polish and European Union legal requirements (e.g. compliance with public procurement or environmental legislation). Moreover, just as the volume of funding is experiencing significant increases, the human resources capacities also need to be strengthened. In this area, the recently announced government plans to improve Structural Funds staff conditions are likely to come late for the new programming period's first years of implementation. Whilst there are plans to make more use of Technical Assistance funds to strengthen staff capacities and improve staff conditions in 2007-2013, the poor track record with Technical Assistance utilisation for the
Cohesion Fund in 2004-2006 casts a doubt over the willingness to use available Technical Assistance funds. Finally, the proposed introduction of a new Structural Funds monitoring system merits close scrutiny. Indeed, considering the rather fruitless efforts in relation to the 2004-2006 monitoring system, the fact that the system proposed for 2007-2013 is still largely at design stage, does not bode well for effective monitoring as of programme start (in late 2007 / early 2008).

The assessment has resulted in a series of recommendations:

The first two recommendations are addressed to the European Parliament and the European Commission. For early 2009, it is recommended that the European Parliament carries out an assessment of whether Structural Funds performance levels in the new Member States continue to be lower than in the old Member States. The year 2008 is the final year for implementation of the 2004-2006 Structural Funds, and most probably, the first year of implementation of the 2007-2013 Structural Funds, and carrying out the assessment in early 2009, would therefore allow a good understanding of the extent to which new Member States require preparation and support for using the Structural Funds. Moreover, it is recommended that the European Commission evaluates the implementation of the Structural Funds in the new Member States, half way through the 2007-2013 programming period.

A further six recommendations are addressed to the Polish Structural Funds authorities:

- Ensure that the legal framework for 2007-2013 is completed as soon as possible to allow for an efficient start of implementation in late 2007 / early 2008;

- Examine the introduction of multi-annual budgets in the context of ongoing public finance reform in order to facilitate access to co-financing;

- Organise training on public procurement and environmental legislation for Structural Funds authorities and final beneficiaries at central, regional and local level. Technical Assistance funds can be used for this purpose;

- Ensure close monitoring of implementation with a specific focus on the independence between different Structural Funds functions. i.e. in the framework of evaluations during programme implementation;

- Complete the new monitoring system by end 2007 in order to allow for effective monitoring as of the start of the new programmes towards the end of 2007 / beginning of 2008;

- Use Technical Assistance to establish attractive incentives for Structural Funds staff, including improved salaries as well as training. A further incentive could take the form of twinning arrangements for the exchange of experience with Structural Funds authorities in the old Member States. Technical Assistance funds can be used for this purpose.
Introduction

The present study is presented by Roland Blomeyer S.L. in the framework of Specific Contract No IP/D/BUDG/CONT/FWC/2006-072/lot2/C1/SC1 implementing Framework Service Contract IP/D/BUDG/CONT/FWC/2006-072/lot2/C1 for external expertise in the area of Cohesion Policy for the European Parliament Committees on Budgets and Budgetary Control.1

The introduction presents the study's objectives (1.1), the methodology (1.2), and the structure of the present report (1.3).

1.1 Study objectives

The study is set in the wider framework of the European Parliament's responsibilities in relation to the European Union's policy for furthering economic and social cohesion, commonly known as Cohesion Policy.2 More specifically, the study aims to understand the performance of the main instrument supporting the European Union's Cohesion Policy, i.e. the Structural Funds, in one of the new Member States, i.e. Poland.

In the Structural Funds programming period 2007-2013,3 Poland will receive a total of €67 billion, accounting for over 19% of the entire Structural Funds resources.4 The allocation is explained by the country's size (313 000 km² / 38 million inhabitants) and level of economic development. For 2004, the European Commission reports Gross Domestic Product (GDP) for Poland at 50.7 per head in Purchasing Power Standard (PPS) as compared to the European Union average of 100 (see maps below on GDP in the European Union in 2004 and Structural Funds coverage in 2007-2013).5

Difficulties with the implementation of the 2004-2006 Structural Funds have resulted in low absorption rates (funds actually used by Polish final beneficiaries),6 and point to a series of challenges for the effective implementation of the 2007-2013 Structural Funds. Indeed, at the end of 2005 European Regional Development Fund absorption rates stood at 18.5% of total resources for 2004-2006. Only two other Member States, Cyprus and Malta, had even lower absorption rates.7

The present study therefore aims to address two questions:

- What are the main reasons limiting the effective implementation of the Structural Funds in

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1 The present study report has been written by Roland Blomeyer. Stakeholder consultations in Poland have been conducted by Witold Sartorius.
2 European Union cohesion policy is anchored in Treaty articles 158 and 159.
3 Structural Funds support is organised or programmed in multiannual periods. The relevant periods for Poland include 2004-2006 (the first round of Structural Funds benefitting Poland since European Union accession in 2004) and 2007-2013.
4 For comparison: Spain benefits of the second biggest allocation, i.e. €35 billion, followed by Italy with €29 billion. All figures are current prices.
6 Final beneficiaries are the bodies and public or private firms responsible for commissioning a specific Structural Funds intervention. Article 9, Council Regulation 1260/1999 of 21 June 1999 laying down general provisions on the Structural Fund
7 17th Annual Report on Structural Funds Implementation (2005), European Commission, 2006
and what can be done to overcome these difficulties in order to ensure a successful 2007-2013 programming period?

The study has adopted a constructive outlook: considering the 2007-2013 programming period's advanced stage of preparation,\(^8\) the study aims to identify limitations to effective Structural Funds implementation, and make practical recommendations to improve the effectiveness of implementation arrangements.

It should also be stressed that, whilst the study focuses on limitations to effective Structural Funds implementation, and thus, 'by nature' sheds a rather critical light on the situation of the Structural Funds in Poland, this does not aim to belittle the Polish Structural Funds authorities' significant efforts to establish the implementation framework for the Structural Funds. On the contrary, pointing at the difficulties aims to help the Polish authorities to address remaining limitations.

Moreover, with regard to recommendations for improving the effectiveness of Structural Funds implementation, it should be noted that recommendations are likely to be of interest to all the new Member States (and Candidate Countries preparing for the Structural Funds), as limitations identified in Poland are likely to be present to some extent in all new Member States.

Finally, considering the study's scope and resources (26 working days over the months June and July 2007), the focus is on discussing, in a concise way, the main limitations to effective Structural Funds implementation, and not to provide a comprehensive assessment of all aspects of Structural Funds implementation in Poland.

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Explanatory note – the Structural Funds

When referring, in general terms, to 'the Structural Funds', and unless otherwise noted, this includes all specific instruments which the European Union has established to realise its Cohesion Policy objectives of strengthening economic and social cohesion.\(^9\)

For Poland's 2004-2006 programming period, these Cohesion Policy instruments include the four funds known as the Structural Funds, namely the European Regional Development Fund (ERDF), the European Social Fund (ESF), the European Agricultural Guidance and Guarantee Fund (EAGGF), and the Financial Instrument for Fisheries Guidance (FIFG), as well as the Cohesion Fund (CF). For the 2007-2013 programming period, Poland will receive Structural Funds support under the ERDF, ESF and CF.

The ERDF is intended to help reduce imbalances between regions of the Community. The Fund was set up in 1975 and grants financial assistance for development projects in the poorer regions. The CF was set up in 1993 to provide financial help for projects in the fields of environment and transport infrastructure. Finance from the Fund goes only to the poorer Member States (under 90% of the EU average GDP), the aim being to reduce the disparities between EU members' economies.

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\(^8\) The content of Structural Funds support for Poland has been largely agreed upon. The European Commission has approved Poland's National Strategic Reference Framework on 7 May 2007, and the first round of negotiations on the Operational Programmes has been completed in June 2007.

The study focuses specifically on the ERDF, being the most important instrument in terms of total funding. Detailed information will also be provided on the CF, as this instrument's implementation is experiencing significant problems in Poland.
GDP per head in 2004 / Structural Funds 2007-2013

GDP per head (PPS), 2004

1.2 Methodology

The methodology adopted for delivering the study has combined desk research with stakeholder consultations, in a two-stage approach.

- First, during June 2007, desk research and first consultations with the European Commission and Poland’s Permanent Representation to the European Union have identified the main limitations to effective Structural Funds implementation;

- The limitations and measures to overcome them have then be discussed with relevant stakeholders in Poland during July 2007.

The methodology and progress with the preparation of the study have been discussed at two meetings with the European Parliament on 6 and 27 June 2007.

Note in this context that the main difficulty encountered in the course of the study's delivery has been the limited availability of the Polish Structural Funds authorities at the regional level to provide feedback during July 2007. This is explained by the still ongoing negotiation on Poland's 2007-2013 Operational Programmes (the first negotiating round was completed in June 2007, the second round is scheduled for late July / early August 2007), as well as limited availability due to summer holidays.

1.2.1 Desk research

Desk research aimed to identify the main limitations to an effective implementation of the Structural Funds, looking both at the ongoing programming period 2004-2006 (on the basis of feedback on the implementation of the Community Support Framework, i.e. the main programming document for 2004-2006),\(^\text{11}\) as well as to the next programming period 2007-2013 (on the basis of feedback on the National Strategic Reference Framework, the programming document for 2007-2013).\(^\text{12}\)

Desk research included a review of programming documents and related reports (e.g. Poland's Community Support Framework 2004-2006, and the recent National Strategic Reference Framework for 2007-2013) and recent assessments of Structural Funds implementation in Poland (e.g. annual implementation reports). Documentation was facilitated by the European Commission's Directorate General Regional Policy,\(^\text{13}\) Directorate General Enlargement,\(^\text{14}\) as well as by Poland's Permanent Representation to the European Union. A bibliography is presented in Annex 1.

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\(^{11}\) The Community Support Frameworks (CSFs) coordinate EU regional activities, occasionally involving the four Structural Funds (ERDF, ESF, EAGGF, FIFG) and the EIB. In each case, however, the projects must be incorporated into plans already developed by national authorities, regional authorities and their economic partners.

\(^{12}\) The National Strategic Reference Framework (NSRF) is a new system programming instrument applicable for the period 2007-13. It is not a management instrument, as were the CSFs used in the preceding periods; above all it defines policy priorities whilst suggesting the key elements of implementation.

\(^{13}\) Directorate H - Interventions in Bulgaria, Poland, Portugal, Romania, Slovenia and IPA/ISPA – Unit for Poland, and Directorate I Audit – Unit Control and Audit III

\(^{14}\) Directorate E – Resources - Unit Evaluation
1.2.2 Stakeholder consultations

Stakeholder consultations aimed to discuss limitations to effective Structural Funds implementation with relevant stakeholders, with a view to identifying ways to overcome these limitations.

Consultations were organised with Poland's Structural Funds administrations at central level (Ministry of Regional Development) and at regional level, as well as with the European Commission's Directorate General Regional Policy (the list of stakeholder consultations is attached in Annex 2).

Consultations at regional level were conducted in the region of Zachodniopomorskie in North West Poland (47.2 GDP per head in PPS, EU27=100, 2004), in the region of Wielkopolskie in Central / Western Poland (54.5 GDP per head in PPS, EU27=100, 2004), and in the region of Warminsko-Mazurskie at the Eastern border of Poland (39.4 GDP per head in PPS, EU27=100, 2004). The three regions were selected on the basis of their different levels of economic development (Warminsko-Mazurskie and Zachodniopomorskie are below, and Wielkopolskie is above the Polish average), and different experiences with the implementation of European Union funds (e.g. the region of Zachodniopomorskie has a long standing experience with the implementation of different cross-border cooperation programmes, i.e. Phare CBC and INTERREG; Warminsko-Mazurskie belongs to the 5 eastern regions which have been included in a special Operational Programme for Eastern Poland for the programming period 2007-2013).

Discussions with stakeholders were supported by consultation guidelines, aiming to stimulate discussions on key issues for the effective implementation of the Structural Funds (the consultation guidelines are attached in Annex 3).

1.3 Report structure

The report includes three main sections and four annexes.

Further to the present introduction (Section 1), Section 2 sets the context (i.e. the overall financial framework), presents findings (i.e. the main limitations to effective Structural Funds implementation) and notes a series of conclusions.

Finally, Section 3 presents recommendations on how to improve Structural Funds implementation arrangements. Recommendations address the European Commission as well as the Polish Structural Funds authorities.

The four annexes include the bibliography (Annex 1), a list of stakeholder consultations (Annex 2), the consultation guidelines (Annex 3) as well as the financial framework for Structural Funds support in 2007-2013, as presented in Poland’s National Strategic Reference Framework (Annex 4).
2 Findings

In order to establish the context for the findings, the financial framework for European Union funding in Poland is presented. This comprises European Union Pre-Accession support in 2003 and 2004, the 2004-2006 Community Support Framework, and the 2007-2013 National Strategic Reference Framework, including the latest available figures on the absorption (funds actually used) of the Structural Funds in Poland (2.1).

This is followed by the presentation of findings, i.e. the main limitations to Structural Funds implementation in Poland as identified by desk research and stakeholder consultations (2.2).

Section 2.3 presents the conclusions.

2.1 The financial framework

This section briefly presents information on the Pre-Accession and Structural Funds financial framework in Poland. Most of the section focuses on the Structural Funds, i.e. funding for the programming periods 2004-2006 and 2007-2013. However, data on the years 2003 and 2004 (Pre-Accession funding) is also presented in order to illustrate the significant increase of European Union funding in Poland.16

Difficulties with the implementation of the Structural Funds will be illustrated on the basis of an analysis of the actual use of available funding in 2005 and 2007 (absorption rates).

Explanatory note – the N+2 rule

Before presenting the financial framework, it is worth explaining the requirement for incurring actual expenditure within a limited timeframe, known as N+2.

More specifically, the Structural Funds are subject to the so-called 'N+2' rule. The Structural Funds general regulation stipulates the automatic decommitment of funds (i.e. funds are no longer available) by the end of the second year following the commitment, which has not been settled by a payment on account or for which the Commission has not received an acceptable payment application (the Commission makes commitments 'by 30 April each year on the basis of the decision to grant a contribution from the Funds').17 This means, e.g. for commitments made by the European Commission in April 2004, that the Polish authorities need to submit payment applications by the end of 2006 in order to avoid decommitment.

The new Structural Funds general regulation foresees a more 'relaxed' timeframe for Poland for 2007-2010. During this period, N+3 will apply. As of 2011, Structural Funds in Poland will again be subject to N+2 (commitments are made in 'by 30 April each year by the Commission on the basis of the decision to grant a contribution from the Funds').18

16 Poland is eligible for Structural Funds support as of 2004, the year of European Union accession.
17 Article 31, Council Regulation 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds
2.1.1 Pre-Accession 2003 and 2004

2003 is the last year of regular Pre-Accession funding for Poland (Phare, ISPA, SAPARD). Note that whilst 2003 was the final Pre-Accession programming year for Poland, contracting of projects continued till 2005, and payments based on these contracts continued till 2006. Poland became eligible for Structural Funds support in 2004, however, in 2004, Poland also benefited from a Transition Facility created by Article 34 of the Act of Accession to address the continued need for strengthening institutional capacity in certain areas through actions which cannot be financed by the Structural Funds.

Looking at the funds in detail: In 2003, Phare funds of €0.5 billion were committed for Poland. In the same year, ISPA commitments amounted to €0.4 billion, and SAPARD commitments amounted to €0.2 billion. Finally, in 2004, Poland benefited from a Transition Facility worth €50 million.

The sum of Phare, ISPA, SAPARD and transition facility funding for Poland in 2003 and 2004, adds up to €1.1 billion.

2.1.2 The Community Support Framework (2004-2006)

With accession in 2004, Poland became eligible for the Structural Funds. The first Structural Funds support for Poland was organised in the framework of the 2004-2006 Community Support Framework.

Structural Funds allocations for Poland for 2004-2006 amount to €12.8 billion (with nearly €5 billion for the European Regional Development Fund and €4.2 billion for the Cohesion Fund). Average annual spending amounts to €2.6 billion until 2008 (dividing total funding by the number of eligible years). The following table shows the annual commitments in € billion for the years 2004-2006.

<table>
<thead>
<tr>
<th>Table 1: ERDF and CF commitments 2004-2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2004</strong></td>
</tr>
<tr>
<td>ERDF</td>
</tr>
<tr>
<td>CF</td>
</tr>
</tbody>
</table>

19 Phare was the main financial instrument for the pre-accession strategy for the 12 new Member States; ISPA stands for Instrument for Structural Programmes for Pre Accession (similar to the Cohesion Fund in the European Union); SAPARD stands for Special Accession Programme for Agriculture and Rural Development.
21 Ibid
22 This includes the four Structural Funds instruments as well as the Cohesion Fund. European Commission Decision of 23 September 2003 / Fact Sheet The European Structural Funds 2004-2006 Poland, European Commission, 2004
23 Community Support Framework, 2003 and European Commission Annual Reports on the Cohesion Fund; for CF 2006, own calculations
Absorption rates at the end of 2005

Problems with the effective implementation of the Structural Funds in Poland are evidenced by the funds' low absorption rates, i.e. the percentage of funds paid (or actually used for implementation) in relation to the funds decided on (allocated to Poland on the basis of a European Commission decision).

Looking specifically at the European Regional Development Fund, European Commission data shows Poland's absorption rate at the end of 2005 at 18.5%\(^{24}\). This compares poorly with other Member States as the average absorption rate for the entire European Union stands at 55.9%. Comparing Poland's performance with other new Member States shows that only Cyprus and Malta have lower absorption rates (respectively 16.7% and 17.4%), whilst four new Member States (Slovenia, Estonia, Lithuania and Hungary) have achieved absorption rates of over 20%, and one new Member State (Slovenia) has an absorption rate of above 30%\(^{25}\).

The following tables show financial data for the Structural Funds in Poland at the end of 2005 as well as comparative information on ERDF absorption rates for the new Member States\(^ {26}\).

### Table 2: Structural Funds absorption rates in Poland at the end of 2005

<table>
<thead>
<tr>
<th>Financial execution 2000–2006 (M€)</th>
<th>ERDF</th>
<th>ESF</th>
<th>EAGGF</th>
<th>FIFG</th>
<th>Total SF</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Decided</td>
<td>4972.79</td>
<td>1908.50</td>
<td>1192.69</td>
<td>201.83</td>
<td>8275.81</td>
</tr>
<tr>
<td>(2) Committed</td>
<td>4972.79</td>
<td>1908.50</td>
<td>676.79</td>
<td>114.51</td>
<td>7672.60</td>
</tr>
<tr>
<td>(3) Paid</td>
<td>920.92</td>
<td>373.25</td>
<td>292.93</td>
<td>52.60</td>
<td>1639.71</td>
</tr>
<tr>
<td>% (2) out of (1)</td>
<td>100.00 %</td>
<td>100.00 %</td>
<td>56.75 %</td>
<td>56.74 %</td>
<td>92.71 %</td>
</tr>
<tr>
<td>% (3) out of (1)</td>
<td>18.52 %</td>
<td>19.56 %</td>
<td>24.56 %</td>
<td>26.06 %</td>
<td>19.81 %</td>
</tr>
</tbody>
</table>

### Table 3: ERDF absorption rates in the new Member States in 2005

<table>
<thead>
<tr>
<th>Country</th>
<th>Absorption rate at the end of 2005 (% of funds paid as of funds decided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slovenia</td>
<td>31.87</td>
</tr>
<tr>
<td>Estonia</td>
<td>27.77</td>
</tr>
<tr>
<td>Lithuania</td>
<td>26.15</td>
</tr>
<tr>
<td>Hungary</td>
<td>22.91</td>
</tr>
<tr>
<td>Slovakia</td>
<td>20.33</td>
</tr>
<tr>
<td>Latvia</td>
<td>19.06</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>18.77</td>
</tr>
<tr>
<td><strong>Poland</strong></td>
<td><strong>18.52</strong></td>
</tr>
<tr>
<td>Malta</td>
<td>17.44</td>
</tr>
<tr>
<td>Cyprus</td>
<td>16.74</td>
</tr>
</tbody>
</table>

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\(^{24}\) 2005 is the most recent year for which a European Commission annual report is available: 17\(^{th}\) Annual Report on Structural Funds Implementation (2005), European Commission, 2006

\(^{25}\) 17\(^{th}\) Annual Report on Structural Funds Implementation (2005), European Commission, 2006

\(^{26}\) Ibid, this does not include the Cohesion Fund.
The situation of the **Cohesion Fund** is even more alarming. For the end of 2005, Poland's absorption rate stands at **0.8%**. However, five other new Member States have even lower absorption rates.\(^{27}\)

### Table 4: Cohesion Fund absorption rates in the new Member States in 2005

<table>
<thead>
<tr>
<th>Country</th>
<th>Absorption rate at the end of 2005 (% of funds paid as of funds decided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hungary</td>
<td>3.5</td>
</tr>
<tr>
<td>Lithuania</td>
<td>2.2</td>
</tr>
<tr>
<td>Slovakia</td>
<td>1.9</td>
</tr>
<tr>
<td>Latvia</td>
<td>0.9</td>
</tr>
<tr>
<td><strong>Poland</strong></td>
<td><strong>0.8</strong></td>
</tr>
<tr>
<td>Czech Republic</td>
<td>0.7</td>
</tr>
<tr>
<td>Slovenia</td>
<td>0.4</td>
</tr>
<tr>
<td>Cyprus</td>
<td>0.3</td>
</tr>
<tr>
<td>Estonia</td>
<td>0.2</td>
</tr>
<tr>
<td>Malta</td>
<td>0</td>
</tr>
</tbody>
</table>

**Absorption rates in June 2007**

Further to a request for data for the present study, the European Commission's Directorate General Regional Policy has provided an update with regard to the utilisation of the European Regional Development Fund and the Cohesion Fund on 25 June 2007.

For the **European Regional Development Fund**, the data shows a considerably improved absorption rate in Poland of **52.6%**. This is the fourth best absorption rate for the new Member States (only Slovenia, Estonia and Hungary have higher absorption rates), and compares with a European Union average absorption rate of **72.1%**. The improved absorption rate indicates that early obstacles to Structural Funds implementation have been adressed (see 2.2).

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\(^{27}\) Annual Report on the Cohesion Fund (2005), European Commission, 2006
Table 5: ERDF absorption rates in the new Member States in 2007

<table>
<thead>
<tr>
<th>Country</th>
<th>Absorption rate at the end of 2005 (% of funds paid as of funds decided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slovenia</td>
<td>81.59</td>
</tr>
<tr>
<td>Estonia</td>
<td>60.09</td>
</tr>
<tr>
<td>Hungary</td>
<td>59.52</td>
</tr>
<tr>
<td><strong>Poland</strong></td>
<td><strong>52.64</strong></td>
</tr>
<tr>
<td>Lithuania</td>
<td>52.02</td>
</tr>
<tr>
<td>Slovakian</td>
<td>51.38</td>
</tr>
<tr>
<td>Malta</td>
<td>45.44</td>
</tr>
<tr>
<td>Cyprus</td>
<td>44.17</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>44.06</td>
</tr>
<tr>
<td>Latvia</td>
<td>35.78</td>
</tr>
</tbody>
</table>

For the **Cohesion Fund**, the absorption rate remains critical, with Poland loosing ground in comparison with other new Member States. Indeed, at **27.2%**, Poland has the second lowest absorption rate of all new Member States (including Bulgaria and Romania), with only Malta showing even worse performance (the European Union average absorption rate stands at 48.07%).

Table 6: Cohesion Fund absorption rates in the new Member States in 2007

<table>
<thead>
<tr>
<th>Country</th>
<th>Absorption rate at the end of 2005 (% of funds paid as of funds decided)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Latvia</td>
<td>46.13</td>
</tr>
<tr>
<td>Slovakian</td>
<td>43.85</td>
</tr>
<tr>
<td>Estonia</td>
<td>43.37</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>41.92</td>
</tr>
<tr>
<td>Cyprus</td>
<td>39.76</td>
</tr>
<tr>
<td>Slovenia</td>
<td>36.97</td>
</tr>
<tr>
<td>Lithuania</td>
<td>36.91</td>
</tr>
<tr>
<td>Hungary</td>
<td>36.13</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>28.54</td>
</tr>
<tr>
<td>Romania</td>
<td>28.15</td>
</tr>
<tr>
<td><strong>Poland</strong></td>
<td><strong>27.20</strong></td>
</tr>
<tr>
<td>Malta</td>
<td>23.22</td>
</tr>
</tbody>
</table>

Looking at the two areas that the Cohesion Fund is supporting, i.e. transport and environment, the absorption rate for environment stands at 21.1% and the rate for transport stands at 33.6% (37.4% for rail transport and 46.5% for road transport). The low absorption rate for the Cohesion Fund is explained by several projects failing to comply with European Union environmental legislation (see 2.2.1).²⁸

It is also noteworthy that the absorption rate for Technical Assistance support for the Cohesion Fund stands at only 5.3%. This implies that available funds for project preparation (e.g. for the preparation of an Environmental Impact Assessment for an infrastructure intervention) are not used.

N+2

The N+2 rule has been introduced above. Low absorption rates bear a significant risk, i.e. if funds are not absorbed in time, they are subject to automatic decommitment (by the end of the second year following the commitment which has not been settled by a payment on account or for which the Commission has not received an acceptable payment application).

Together with the update on the absorption rates in June 2007, Directorate General Regional Policy has provided information on the situation with N+2 for the European Regional Development Fund (see table 7 below).

First, it should be noted that there have been no decommitments for 2004 funds (the deadline for the 2004 funds was the end of 2006), mainly because the allocations for 2004 were rather low (€1.2 billion).

However, with regard to the absorption deadline for the 2005 funds, there are performance differences between the four Operational Programmes supported by the European Regional Development Fund. Indeed, the Integrated Operational Programme for Regional Development is not facing any decommitment risk for the end of 2007. The three other Operational Programmes (Improvement of Competitiveness, Transport and Technical Assistance) have experienced low absorption of 2005 commitments, and therefore face the risk of losing funds by the end of 2007. The Operational Programme Transport faces the most important decommitment threat, as €0.21 billion might be lost at the end of 2007 (out of a total of €0.34 billion facing decommitment).

Table 7: ERDF payments situation on 11 June 2007 including information on N+2 (in € billion)

<table>
<thead>
<tr>
<th>Operational Programme</th>
<th>Decided</th>
<th>Committed</th>
<th>Total consumption</th>
<th>At risk N+2 in 2007</th>
<th>Paid / Decided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrated Regional Development</td>
<td>2.530</td>
<td>1.436</td>
<td>1.436</td>
<td>0</td>
<td>56.7%</td>
</tr>
<tr>
<td>Improvement of Competitiveness</td>
<td>1.251</td>
<td>0.710</td>
<td>0.581</td>
<td>0.128</td>
<td>46.5%</td>
</tr>
<tr>
<td>Transport</td>
<td>1.163</td>
<td>0.660</td>
<td>0.445</td>
<td>0.215</td>
<td>38.2%</td>
</tr>
<tr>
<td>Technical Assistance</td>
<td>0.028</td>
<td>0.016</td>
<td>0.015</td>
<td>0.001</td>
<td>54.4%</td>
</tr>
<tr>
<td></td>
<td>4.972</td>
<td>2.822</td>
<td>2.477</td>
<td>0.344</td>
<td>49.8%</td>
</tr>
</tbody>
</table>

29 The Structural Funds can support technical assistance, i.e. preparatory, management, monitoring, evaluation, information and control activities and activities to reinforce administrative capacity. See e.g. Article 46, Council Regulation 1083/2006 of 11 July 2006.
30 Article 28, Council Regulation 1260/1999 of 21 June 1999
31 Article 31, Council Regulation 1260/1999 of 21 June 1999
Poland has been allocated a total of €12.8 billion for the Structural Funds period 2004-2006 (average annual spending of €2.6 billion until 2008).

The low Structural Funds absorption rate in 2005 indicates the presence of obstacles to effective implementation in 2004 and 2005. Whilst the situation has improved for the European Regional Development Fund, the situation for the Cohesion Fund continues to cause concern.

The absorption rate for the European Regional Development Fund has increased from 18.52% at the end of 2005 to 52.64% in June 2007 (the fourth best rate among the new Member States), and for the Cohesion Fund from 0.8% to 27.2% (the second lowest rate among the new Member States). European Union average rates in June 2007 stand at 72.13% for the European Regional Development Fund and 48.07% for the Cohesion Fund.

2.1.3 The National Strategic Reference Framework (2007-2013)

Structural Funds allocations for 2007-2013 amount to €67.3 billion.\(^{32}\) The National Strategic Reference Framework, which sets the framework for the 2007-2013 Structural Funds programming period, foresees a budget of €67.3 billion from the Structural Funds. The average annual spending amounts to €7.5 billion until 2015 (dividing total funding by the number of eligible years).\(^{33}\)

The allocation for the European Regional Development Fund for this period amounts to €34.1 billion and the Cohesion Fund allocation stands at €21.5 billion.

The following table presents the division of funds under the proposed six Operational Programmes:

<table>
<thead>
<tr>
<th>Operational Programme</th>
<th>Resources (% of total)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure and Environment</td>
<td>41.3%</td>
</tr>
<tr>
<td>Regional Operational Programmes (16)</td>
<td>23.8%</td>
</tr>
<tr>
<td>Human Capital</td>
<td>14.4%</td>
</tr>
<tr>
<td>Innovative Economy</td>
<td>12.3%</td>
</tr>
<tr>
<td>Development of Eastern Poland</td>
<td>3.4%</td>
</tr>
<tr>
<td>Technical Assistance</td>
<td>0.8%</td>
</tr>
</tbody>
</table>

The following table shows the annual ERDF and CF commitments in € billion or the years 2007-2013.\(^{35}\)

\(^{32}\) European Commission Decisions of 4 August 2006

\(^{33}\) National Strategic Reference Framework, adopted by Poland's Council of Ministers on 29 November 2006

\(^{34}\) Ibid

\(^{35}\) Ibid
The complete financial framework, as presented in the National Strategic Reference Framework, is included in Annex 4.

Poland has been allocated a total of €67.3 billion for the Structural Funds period 2007-2013 (average annual spending of €7.5 billion until 2015).

### 2.2 Limitations to effective Structural Funds implementation

This section presents limitations to effective Structural Funds implementation. As noted in the introduction, the scope of the present study does not allow for a comprehensive assessment of all aspects of Structural Funds implementation. Instead, the focus is on discussing in a concise way some of the most important obstacles to effective Structural Funds implementation, as identified on the basis of desk research and stakeholder consultations (see 1.2 for further detail on the methodology).

Limitations to effective Structural Funds implementation have been identified in relation to three areas:

- The **legal framework** – how is the implementation of the Structural Funds regulated? (2.2.1);
- the **organisational framework** - how is implementation organised? (2.2.2);
- and, the **human resources framework** – who implements the Structural Funds? (2.2.3).

#### 2.2.1 Legal framework

A precondition for effective Structural Funds implementation is the existence of a well established legal framework, regulating the implementation of Structural Funds in all its aspects (e.g. how to apply for funds? who can apply for funds? which types of activities can be funded?). Ideally, this framework is established well before the start of Structural Funds implementation in order to allow for the efficient use of funds as soon as they become available. The stability of the legal framework is also important, as frequent changes in the legal framework can hinder effective Structural Funds implementation. Indeed, Structural Funds authorities and final beneficiaries need time to develop experience with applying new regulations.

In general terms, it is worth noting that the legal framework for Structural Funds implementation in
Poland has only been completed in 2005. Moreover, the preparation of the related implementation guidelines and formats, such as application and reporting formats could only be completed after the completion of work on the basic legal texts (with some implementing regulations only in force since 2006). The legal framework was therefore not complete when Poland became eligible for the Structural Funds in 2004.

Subsequently, this body of legislation has been frequently amended (National Development Plan Act amendments entered into force as late as 6 September 2006). The amendments reflect early implementation experience (most amendments aimed to eliminate excessive regulation), and changes in some of the Operational Programmes (basically, the programming process overlapped with the development of the legal framework).

Moreover, important legislation related to Structural Funds implementation has been subject to important reforms in 2005 and 2006, e.g. public procurement law (public procurement law is particularly relevant to Structural Funds support for infrastructure, as this support is delivered on the basis of tenders for public works contracts).

This situation in itself, i.e. the late establishment of the legal framework and frequent changes in the legal framework, can be considered as a limitation to effective Structural Funds implementation. The start of implementation was delayed, as effective implementation of the Structural Funds could only start in late 2005 / early 2006, when the legal framework was completed. Moreover, it is likely that implementation processes were slowed down as Structural Funds administrators needed time before developing sufficient experience with new regulations to allow for their efficient application. This situation contributes to explaining the low Structural Funds absorption rates in 2005. Along the same lines, the consolidation of the legal framework in 2006, can help explaining the significantly improved absorption rates in June 2007.

Looking in more detail into specific elements of the legal framework, important limitations to effective Structural Funds implementation have been identified in the areas of **public finance**, **public procurement** as well as in the area of **environment**. Deficiencies in these three areas concern the legal framework (e.g. the required legal basis does not exist or is insufficiently developed) as well as its application (e.g. failure to apply existing legislation). What explains the importance of these three areas for effective Structural Funds implementation?

- **Public finance:** Structural Funds support is based on the principle of co-financing, i.e. the Structural Funds will cover a specific percentage of the costs of a planned intervention, whilst national sources will co-finance the remaining part. Public finance law needs to establish a facilitating framework, allowing for eligible public authorities to co-finance a Structural Funds investment. If the eligible authorities can not provide for the required co-financing, the planned Structural Funds intervention can not be realised, resulting in low absorption rates.

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36 Whilst the National Development Plan Act was already prepared in 2004 (20 April 2004), the text was subject to important amendments in 2005, and several related executive acts were only prepared in 2005.

37 E.g. Several INTERREG agreements and related regulations (e.g. on pre-financing) only entered into force in 2006.

38 E.g. in 2005, the National Development Plan Act as well as 22 other executive acts to the National Development Plan Act were amended. For a comprehensive description of the legal framework, see the Report on the implementation in 2005 of the National Development Plan for 2004-2006, Ministry for Regional Development of the Republic of Poland, 2006

39 Other important legislation includes the National Capital Fund Act (entry into force in August 2005), the Public Private Partnership Act (entry into force in October 2005), and the Public Finance Act (amended in 2006?).

40 Co-financing rates: ERDF: between 75% and 85%; Cohesion Fund: 85%.
**Public procurement:** The Structural Funds are public funds, and any funding for works, services or supplies are therefore subject to public procurement law. E.g. if the Structural Funds are to be used to construct a bridge, the works contract for the construction will undergo public tender procedures for the selection of the works contractor. Public procurement law needs to facilitate the efficient selection of a contractor. Excessively long public procurement procedures can delay the implementation of the Structural Funds, creating conflicts with the N+2 requirement (see 2.1.2), and ultimately contributing to low absorption rates.

**Environment:** Sustainable development and the protection of the environment count among the principles of Structural Funds assistance. Environmental Impact Assessment (EIA) is one of the main mechanisms to ensure that an intervention, supported by the Structural Funds, complies with environmental requirements. Indeed, any Structural Fund intervention needs to comply with the EIA Directive, which foresees the assessment of the effects of certain public and private projects on the environment. This is particularly relevant for large transport and environment infrastructure supported by the European Regional Development Fund and the Cohesion Fund. The European Commission will not approve a project that fails to comply with the EIA Directive. A further problem is that EIA procedures in Poland can take between three months to over one year. Failure to secure European Commission authorisation or lengthy EIA procedures can contribute to low absorption rates.

The legal framework for Structural Funds implementation has been established late, and has been subject to frequent change. Significant problems have been experienced in the areas of public finance (difficult access to co-financing), public procurement (lengthy procedures) and environment (failure to comply with European Union environmental legislation). This has contributed to low absorption rates in 2004 and 2005.

Public finance

As noted above, public finance law needs to establish a facilitating framework, allowing for eligible public authorities to co-finance a Structural Funds investment. Difficult access to co-financing contributes to low absorption rates.

---


43 In 2000-2006, CF and major ERDF projects (worth over €50 million) are subject to ex-ante authorisation by the European Commission (ERDF, Article 26, Council Regulation 1260/1999 of 21 June 1999; CF, Article 10, Council Regulation 1164/94 of 16 May 1994). In 2007-2013, CF and major ERDF projects (worth over €25 (environment) / €50 million (other fields)) are subject to ex-ante authorisation by the European Commission (Article 41, Council Regulation 1083/2006 of 11 July 2006).

The Structural Funds financing system is based on reimbursement, i.e. on the basis of a contract for a specific project, a final beneficiary is entitled to reimbursement of part of the incurred expenditure (i.e. the part corresponding to the support from the Structural Funds). Reimbursement implies that the final beneficiary needs to pre-finance both, the Structural Funds support as well as the national co-financing. This can be particularly difficult for public sector entities with limited budgets such as small municipalities.

In Poland, different mechanisms have been established to support public sector entities with insufficient own budgets with financing:

- A system for pre-financing national co-financing: State Budget Purpose Reserves allow public sector entities with insufficient own budgets to apply to the Ministry of Finance for granting the required national co-financing (in 2005, two Purpose Reserves are in operation);

- A system for pre-financing national co-financing and Structural Funds support: Loan instruments e.g. interest-free or low-interest loans for pre-financing (to be reimbursed upon receiving funds from the European Union); Purpose funds (e.g. Labour Fund, National Environmental Protection and Water Management Fund, State Fund for Rehabilitation of Disabled Persons);

- For 2006, funds for pre-financing (of total or part of project costs) were included into the budgets of specific public sector entities. The Ministry of Regional Development is responsible for the distribution of budget reserves for the implementation of the Structural Funds. \(^{45}\) Structural Funds are now fully integrated in national budgets and not handled separately, thus facilitating access. However, funding allocations continue to be made for individual budget years (no multi-annual budgets). There are only limited possibilities for going beyond the allocation limits set for each year (e.g. in cases of high absorption), and if the allocation is not used (e.g. as a result of slow public procurement procedures), it can not be carried forward to the next budget year, and is therefore lost (ultimately resulting in decommitment).

Stakeholder consultations indicate that these mechanisms have not been working very well, and that the poor alignment of public finance law with Structural Funds requirements has contributed to low absorption rates in 2004 and 2005. In this context, it also needs to be noted that, in 2005, the public finance system was incomplete, and subject to important reforms in 2005 and 2006 in order to facilitate access to pre-financing.

This situation was further exacerbated by the limited availability of private sector co-financing (national co-financing can come from the public or private sector). Indeed the Public-Private Partnership Act, aiming to facilitate private sector co-financing for public sector investments, only entered into force in July 2005, and has been subsequently amended in June 2006. ‘Public-private partnerships’ (PPP) refer to contractual agreements formed between a public and a private sector entity that allow for private sector participation in the delivery of mostly infrastructure projects. In Poland, public-private partnership is still a new concept. Before the introduction of the Public-Private Partnership Act, there were only very few joint public-private projects, and since the new law’s introduction there have been difficulties in organizing public-private partnerships that comply

with Polish law as well as Structural Funds requirements (feedback from Warminsko-Mazurskie indicates that not a single public-private partnership has been established since the new law entered into force). The government is therefore planning to introduce further reforms.

The poor performance of the public finance system has led to the preparation of a new public finance law, which is expected to enter into force in January 2008. The proposed law is expected to have a positive impact on Structural Funds implementation, as local authority budgets are to be strengthened, however, the new law does not foresee the establishment of multi-annual budgets.

Public finance law in 2004 and 2005 did not facilitate access to the necessary co-financing for the Structural Funds. Reforms in 2006 have improved the situation, however, the absence of multiannual budgets complicates the use of the Structural Funds. Further reforms are foreseen for 2008.

Public procurement

As noted above, excessively long public procurement procedures can delay the implementation of the Structural Funds, creating conflicts with the N+2 requirement, and ultimately contribute to low absorption rates.

Stakeholder consultations indicate that public procurement law created bottlenecks in Structural Funds implementation prior to the reform of the Public Procurement Act in 2006. Indeed, before 2006, public procurement legislation foresaw demanding requirements and lengthy appeal procedures for tenders of a value as low as €6000. Following reforms in 2006 and 2007 (the latest amendments were introduced in April 2007), court appeals and complaints on bids below €60000 are no longer possible. Moreover, the number of entities covered by the obligation to apply the legislation has been restricted, and generally, thresholds for applying specific provisions increased. This has resulted in a notable reduction in the number of appeals in public procurement bids (e.g. more than 400 in October 2005 as compared to around 200 in October 2006).

Stakeholder feedback (Zachodniopomorskie and Warminsko-Mazurskie regions) confirms the increased efficiency of new public procurement procedures.

In the wider context of public procurement, stakeholder consultations have revealed a further problem. Poland has experienced significant infrastructure cost increases over the last two years due to the strong development of the construction/housing industry. However, Structural Funds support for infrastructure investments were negotiated and agreed upon in 2003 and 2004. This has resulted in significant difficulties in attracting Polish companies to bid for works contracts for Structural Funds infrastructure projects (e.g. 2003 budgets are not considered feasible in 2007). The issue is known to the Polish Structural Funds authorities as well as the European Commission, however, a solution is not yet in sight: The Polish authorities propose that additional Structural Funds are made available or that the scope of planned works is reduced, whilst the European Commission suggests that national co-financing needs to be increased. The consequence for Structural Funds absorption rates is clear: in the absence of any valid offers for construction works, the funds can not be spent.

46 Ibid
47 EU funds in Poland: absorption issues and economic impact, Robert Sierhej, IMF Regional Office, 2006
48 An example is the Warsaw Waste Water Treatment Plant, with no valid offer after two tender procedures.
Environment

European Commission approval can only be granted to Structural Funds applications which fully comply with European Union environmental legislation. Environmental Impact Assessment (EIA) is one of the main mechanisms to ensure that an intervention, supported by the Structural Funds, complies with environmental requirements. Failure to comply with EIA requirements, can therefore result in important bottlenecks, and ultimately in low absorption rates.

Poland's Environmental Protection Law of 3 April 2001 was amended on 18 May 2005 in order to strengthen compliance with the EIA Directive. However, as the European Commission continued to express doubts on the Polish legislation's compatibility, the law continued to undergo several amendments, with further amendments underway. The frequent amendments have introduced an element of uncertainty amongst project promoters which, as stakeholder consultations indicate, explains to some extent the generally poor quality of EIAs. Moreover, stakeholder consultations note the infrastructure promoters’ generally limited consideration of environmental requirements.

As a result, the European Commission has received several applications for European Regional Development Fund and Cohesion Fund support for infrastructure interventions that do not include sufficient information on EIA (EIA information is either of poor quality or altogether absent). The proposed interventions can therefore not be approved. European Commission data for 2004 shows that Poland submitted 45 Cohesion Fund projects. Almost all projects (42) were assessed to present major environmental problems (the 10 new Member States together submitted 120 projects, out of which 62 present major environmental problems). Stakeholder feedback confirms that for many projects, full EIA did not exist and was only carried out ex-post.

The poor track record with EIA compliance can be illustrated with a case that has recently been assessed by the European Parliament's Committee on Petitions, and that concerns Cohesion Fund support for Poland's A1 motorway. EIA procedures were not completed when the project was submitted for co-financing to the European Commission in August 2004, and payments have therefore been made conditional on full EIA compliance. As the Polish authorities failed to demonstrate EIA compliance, no payments were made (by July 2006).

The situation has not improved. Stakeholder consultations (European Commission Directorate General Environment is responsible for assessing the compliance of proposed Structural Funds interventions with EU environmental legislation.

51 European Commission Directorate General Environment is responsible for assessing the compliance of proposed Structural Funds interventions with EU environmental legislation.
52 See Petition 0482/2005 by Bronislaw Da-Via, objecting to the EU-funded Polish A1 motorway, European Parliament, Committee on Petitions, 3 July 2006.
General Regional Policy) highlight problems over EU environmental legislation as one of the key obstacles to effective Structural Funds implementation. Currently, the European Commission is blocking support of a value of some €1.2 billion (15 environment and five transport projects) due to the Polish promoters' failure to fully comply with European Union environmental legislation.53

Problems in this area are exacerbated by the limited use of Structural Funds support for Technical Assistance. Indeed, available Structural Funds support for the preparation of projects, including Environmental Impact Assessment, is not used.54

In this context, Directorate General Regional Policy also confirms that environmental considerations remain weak in the 2007-2013 Structural Funds programmes. Indeed, this is one of the main outstanding issues after the completion of the first round of negotiations on the new Structural Funds programmes in June 2007.

Finally, it is noteworthy that failure to comply with environmental legislation also relates to other areas of EU environmental law (e.g. Poland experiences significant problems in relation to Natura 2000 requirements (92/43/EEC), as the complete list of Natura 2000 sites has not yet been communicated to the European Commission).

The failure of proposed Structural Funds interventions to comply with European Union environmental legislation, is leading to the suspension of funds, thus contributing to low absorption rates.

53 Information provided by the European Commission Directorate General Regional Policy for the purpose of the study.
54 See also 2.1.2 on low absorption rates for Technical Assistance supported under the Cohesion Fund
2.2.2 Organisational framework

Desk research and interviews confirm weaknesses in the organisational framework, thus limiting effective Structural Funds implementation. More specifically, desk research and stakeholder consultations have pointed to weaknesses in the areas of leadership as well as oversight mechanisms (e.g. monitoring and control) established for the Structural Funds' implementation.

Leadership

Stakeholder feedback notes limited Structural Funds leadership as one of the main obstacles to effective implementation in 2004 and 2005.

In 2004 and 2005, the Ministry of Economy, Labour and Social Policy was responsible for Structural Funds implementation (Managing Authority). However, the delivery of the Structural Funds was just one of the Ministry's many important tasks. Moreover, Structural Funds functions were dispersed between the Ministry of Economy (the main Structural Funds Managing Authority) and the Ministry of Finance (the Structural Funds Paying Authority). The dispersion of functions, exacerbated by weak leadership has reportedly contributed to some of the implementation problems, note e.g. the weak supply of monitoring data by several Structural Funds authorities to the Ministry of Economy monitoring database for the Structural Funds. The transfer of Structural Funds competency to the Ministry of Regional Development (the Ministry of Regional Development was established in October 2005; Structural Funds competencies were transferred as of January 2006) is considered to have addressed the leadership gap.

Indeed, weaknesses in the organisational framework have been recognised at an early stage, and in 2005 it was decided to concentrate Structural Funds management functions within the Ministry of Regional Development (taking over management functions from the Ministry of Economy, Labour and Social Policy and from the Ministry of Infrastructure). The Ministry of Regional Development now ensures the overall coordination of the Structural Funds. For the 2007-2013 programming period, additional functions will be transferred to the Ministry of Regional Development, including the Structural Funds monitoring system and the Certifying Authority function (the Certifying Authority is responsible for the preparation of statements of expenditure and applications for payment and carrying out related controls).

55 Article 9, Council Regulation 1260/1999 of 21 June 1999. The managing authority is any public or private authority or body at national, regional or local level designated by the Member State (...) to manage assistance for the purpose of this regulation.

56 Article 9, Council Regulation 1260/1999 of 21 June 1999. The paying authority is a body designated for the purposes of drawing up and submitting payment applications and receiving payments from the European Commission.


Table 10: Managing Authority functions 2004-2013

<table>
<thead>
<tr>
<th></th>
<th>2004 - 2005</th>
<th>2006</th>
<th>2007-2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Economy, Labour and Social Policy for OPs 1, 2, 6, 7</td>
<td>Ministry of Regional Development for OPs 1, 2, 3, 6, 7</td>
<td>Ministry of Regional Development for all Sectoral OPs</td>
<td></td>
</tr>
<tr>
<td>Ministry of Agriculture and Rural Development for OPs 4 and 5</td>
<td>Ministry of Agriculture and Rural Development for OPs 4 and 5</td>
<td>16 Voivodship Boards for the 16 Regional Operational Programmes</td>
<td></td>
</tr>
<tr>
<td>Ministry of Infrastructure for OP 3</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

According to stakeholder consultations (European Commission Directorate General Regional Policy) the establishment and strengthened role of the Ministry of Regional Development is considered to have been instrumental for the improved Structural Funds performance as of 2006. Moreover, there are positive expectations for 2007-2013 as the role of the Ministry has been further strengthened (additional responsibilities include the Certifying Authority functions and the monitoring system).

However, the strengthened role of the Ministry of Regional Development also has a downside, i.e. the concentration of Structural Funds functions within a single institution. This casts a doubt over whether independence between specific Structural Funds functions, as foreseen by the Structural Funds regulations in order to prevent conflicts of interest, can really be guaranteed. The National Strategic Reference Framework notes in this context, that ex-ante evaluation revealed a need for more independence between different Structural Funds functions, recommending, specifically, more independence of the Certifying Authority function.

Whilst the National Strategic Reference Framework claims that this recommendation has been addressed (ensuring the Certifying Authority's functional autonomy from the Managing Authority), the designated Certifying Authority remains within the Ministry of Regional Development, the same institution which has been designated Managing Authority for all centrally managed programmes.

Whilst the Structural Funds general regulation allows for one authority covering different Structural Funds functions, it will be necessary to closely monitor independence between the functions in 2007-2013. An example taken from a European Commission Directorate General Regional Policy audit mission in November 2005, on the functioning of the Integrated Operational Programme for Regional Development, illustrates the need for independence between the managing and certifying (formerly paying) functions. Indeed the audit noted the necessity of more accurate verification by the paying body of applications for refund and documents received from managing bodies. It is evident that if both bodies are organised under the same roof, it is likely to be more difficult for the Certifying Authority to probe into materials prepared by the Managing Authority.

59 OPs (Operational Programmes): 1) Business Competitiveness, 2) Human Resources, 3) Transport, 4) Restructuring and modernisation of the food sector and rural development, 5) Fisheries and processing of fishery products, 6) Integrated regional operational programme for regional development and 7) Technical Assistance.

60 Art. 58, Council Regulation (EC) No 1083/2006 of 11 July 2006 notes the principle of separation of different Structural Funds functions


Leadership has been weak in 2004 and 2005. The situation has improved with the concentration of Structural Funds competencies in the Ministry of Regional Development as of 2006. However, with the concentration of functions within a single institution, concerns have been rising over the required independence between Structural Funds functions (management and payment/certification).

Structural Funds oversight

Two issues will be addressed: financial control as well as monitoring.

Financial control

European Commission and national assessments have confirmed the compliance of Poland's financial control mechanisms with Structural Funds regulatory requirements. European Commission and national assessments have confirmed the compliance of Poland's financial control mechanisms with Structural Funds regulatory requirements. Between March and November 2005, the European Commission approved the descriptions of Structural Funds management and control systems, thus confirming the compliance of these systems with the Structural Funds regulations. In November 2005, the aforementioned European Commission Directorate General Regional Policy audit mission on the functioning of the Integrated Operational Programme for Regional Development confirmed overall compliance of control systems. However, a series of issues were noted, including the necessity of more accurate verification by the paying body of applications for refund and documents received from managing bodies, and insufficient staff resources of the entity responsible for coordinating the process of carrying out sample checks (not allowing effective coordination of audits).

Stakeholder consultations (European Commission Directorate General Regional Policy) confirm significant improvements since 2005, however, remaining problems with implementation systems including financial control are also noted. Key problems include the numerous and frequent changes in the system, high staff turnover and insufficient staff qualifications. However, it is emphasised that system deficiencies in Poland are not more pronounced than in other new Member States. Overall compliance of financial control can be illustrated with data from the European Anti Fraud Office: Out of nine active European Anti Fraud Office cases in Poland at the end of 2005, not a single case related to the Structural Funds.

Whilst financial control, generally, functions well, desk research and stakeholder consultations confirm that excessive control in 2004 and 2005 has resulted in delayed payments to final beneficiaries, and contributed to the low absorption rates in these years.

In 2006, the Supreme Chamber of Control of the Republic of Poland carried out an audit on the functioning of the internal financial control system of the Structural Funds. Whilst the overall system was found to be working in line with EU requirements, the Supreme Chamber of Control noted weaknesses in the area of payment procedures (creation of a too complex system, which hampered due and prompt development and verification of payment and refund applications. The solutions that had been adopted resulted in dispersed responsibility, prolongation and repetition of

63 See Joint Audit Strategy For Structural Actions, European Commission, 2007
64 Article 5, Regulation 438/2001 of 2 March 2001
65 Sixth Activity Report for the period 1 July 2004 to 31 December 2005, European Anti Fraud Office, 2006
activities in the process of multi-level verification of applications'). Similarly, referring to the 2004-2006 programming period, the National Strategic Reference Framework notes the 'long refunding time of expenditures in favour of beneficiaries'.

The experience with implementing the Integrated Regional Operational Programme, can illustrate difficulties over payment procedures. Indeed, payment applications were subject to controls by the Marshall Offices (Regional Government authorities), as well as in the Voivodship Offices (Regional State Governors appointed by the Prime Minister).

Payment systems were therefore reviewed in 2006 in the framework of the government's Repair programme improving absorption of the Structural Funds in the framework of the National Development Plan 2004 – 2006. This foresees a simplification of procedures for verifying applications for payments. More specifically, legal amendments foresee a reduction in the number of documents required with a payment application, and allowing technical corrections in the applications for reimbursements without sending them back to the final beneficiary for corrections. Stakeholder consultations (Zachodniopomorskie, Wielkopolskie and Warminsko-Mazurskie regions) indicates that payment procedures have improved since 2006. Note in this context, that for the 2007-2013 programming period, and as far as the Regional Operational Programmes are concerned, the National Strategic Reference Framework foresees a concentration of management, implementation and payment tasks in the Marshall Offices, thus contributing to more efficient payment procedures.

Monitoring

The aforementioned Supreme Chamber of Control 2006 audit on the functioning of the Structural Funds systems also identified weaknesses in the area of monitoring ('failure to implement the IT system for monitoring and financial control although PLN 12.6 million were spent on the purpose').

Whilst preparations for the monitoring system started in 2002, and monitoring software was delivered in December 2004, there were significant delays in making the system operational. By September 2005, SIMIK only covered European Social Fund interventions, and most monitoring was therefore undertaken on the basis of paper reports (with delays between action and reporting, and reporting format problems). However, stakeholder consultations (European Commission Directorate General Regional Policy, Poland's Permanent Representation to the EU) indicate that problems have been as much of an organisational as of a technical nature. Indeed, there has been limited coordination between concerned institutions, with generally incomplete and late input of data. Moreover, weak coordination resulted in some regions establishing their own regional monitoring systems, however, without ensuring compatibility with SIMIK data.

Problems with SIMIK have led to the decision to establish a new monitoring system for the 2007-2013 programming period. Moreover, the responsibility for the monitoring system has been

66 Summary of the results of the audit 'Functioning of the internal financial control system of the Structural Funds', Supreme Chamber of Control of the Republic of Poland, 2006
67 Adopted by the Council of Ministers on 6 December 2005 (also referred to as Remedial programme for the acquisition of EU funds)
68 For a presentation of the Repair Programme, see National Reform Programme for 2005-2008 to implement the Lisbon Strategy – First Annual Progress Report, Council of Ministers of the Republic of Poland, 2006
69 Summary of the results of the audit 'Functioning of the internal financial control system of the Structural Funds', Supreme Chamber of Control of the Republic of Poland, 2006

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transferred to the Ministry of Regional Development. The new system will be web based and less ambitious than SIMIK (focusing on key data).

Note in this context, that further efforts are required with the indicator systems for the 2007-2013 programmes. Indeed, European Commission Directorate General Regional Policy feedback confirms that indicator systems remain weak in the 2007-2013 Structural Funds programmes. This is considered to be one of the main outstanding issues after the completion of the first round of negotiations on Structural Funds programmes in June 2007.

Financial control systems, generally function well (there is little evidence of irregularities), however control procedures in 2004 and 2005 have been excessive and this has negatively affected payments to final beneficiaries (and contributed to low absorption). The monitoring systems for 2004-2006 is not fully operational.

### 2.2.3 Human resources framework

Further limitations to effective Structural Funds implementation are related to insufficient staff numbers in Structural Funds authorities as well as their limited experience, and the final beneficiaries' limited experience with project preparation. These deficiencies contribute to delays (e.g. in selection procedures) and account for the poor quality of project proposals, factors which can contribute to low absorption rates.

At the end of 2006, Polish Structural Funds authorities employed a total of 5000 staff, as compared to around 1500 in 2003, 3500 in 2004, and 4500 in 2005.70 Despite the significant increase, the Ministry of Regional Development recognises the need to further increase staffing levels.71 A simple calculation helps illustrating the need for additional staff (dividing the 2004-2006 and 2007-2013 funding by the number of staff working in Structural Funds authorities). At the end of 2006, one staff can be related to €2.6 million. Maintaining the 2006 staff levels for the 2007-2013 programming period would imply one staff for €13.5 million.72

Insufficient staff levels have been confirmed by recent European Commission and national assessments. The aforementioned Supreme Chamber of Control 2006 audit noted weaknesses in the area of human resources ('staff rotations, insufficiently qualified personnel and insufficient number of employees in some institutions').73 Similarly, European Commission assessments have highlighted problems with staffing levels. An audit mission in November 2005 on the functioning of the Integrated Operational Programme for Regional Development noted insufficient staff resources of the entity responsible for coordinating the process of carrying out sample checks.74

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71 Ibid
72 Calculation for illustration purposes; the different length of the two programming periods and increasing experience of staff is not considered.
73 Summary of the results of the audit 'Functioning of the internal financial control system of the Structural Funds', Supreme Chamber of Control of the Republic of Poland, 2006
74 See Joint Audit Strategy For Structural Actions, European Commission, 2007
Moreover, the Polish Structural Funds authorities have experienced high staff turnover, implying a loss of experience. This is reportedly due to the low salary levels in the Structural Funds authorities. High staff turnover is considered as one of the major problems by all stakeholders, at the central as much as at the regional levels.

A further issue of concern is the level of training activity. Until 2005, there has been significant training (including study visits) in the framework of twinning projects supported under the European Union's Pre-Accession programmes, however, these projects have ended in 2005. The twinning support for training has not been replaced by any new support mechanisms of similar intensity.

Stakeholder consultations in June 2007 (European Commission Directorate General Regional Policy, Ministry of Regional Development, Zachodniopomorskie, Wielkopolskie and Warmińsko-Mazurskie regions) confirm that human resource constraints continue to limit effective Structural Funds implementation, e.g. in the Warmińsko-Mazurskie region, only 48 out of the foreseen 152 Structural Funds staff are in place.

Moreover, stakeholder feedback indicates that human resource constraints are likely to create significant difficulties for the closure of the 2004-2006 programming period. Indeed, for the regional programmes (Integrated Regional Operational Programme for 2004-2006 / 16 Regional Operational Programmes for 2007-2013), the National Strategic Reference Framework foresees an important transfer of competencies from the Voivodship Offices (Regional State Governors appointed by the Prime Minister) to the Marshall Offices (Regional Government authorities). Voivodship staff is therefore expected to seek employment in the Marshall Offices for the implementation of the 2007-2013 programmes, leaving the Voivodship Offices with insufficient staff for the closure of the 2004-2006 programmes.

The European Commission, expects improvements, as the 2007-2013 programming period allows for the use of the Structural Funds to strengthen salaries in Structural Funds authorities (Technical Assistance funds can be used to cover staff costs in Structural Funds authorities).

Moreover, there are government plans to address human resource constraints. The government intends to form a cadre of highly qualified officials, who will be responsible for the utilisation of European Union funds, thus counteracting the outflow of young people working in administration, who frequently move to better-paid jobs in the private sector. This will be facilitated by an action plan with training measures and changes to the salary system (e.g. more results oriented). However, there is also resistance to these plans (e.g. complaints from civil servants not working on Structural Funds).  

Finally, human resource constraints are also relevant with regard to Structural Funds final beneficiaries. Final beneficiaries often lack sufficient knowledge in the area of public procurement or European Union environmental legislation, in order to prepare applications for the Structural Funds that are of sufficient quality to be processed and approved (e.g. weak or absent Environmental Impact Assessments for infrastructure interventions). Stakeholder consultations (European Commission Directorate General Regional Policy) highlight problems over public procurement as one of the key obstacles to effective Structural Funds implementation, noting specifically, the final beneficiaries' limited knowledge of public procurement procedures. The

75 Prime Minister Chancellery press release of 17 April 2007
situation is expected to improve in 2007-2013, as Technical Assistance funds will be used for awareness raising on public procurement (this is based on Directorate General Regional Policy recommendations to the Polish authorities).

Human resource constraints constitute one of the most important limitations to effective Structural Funds implementation (number, qualification, and turnover of staff working in Structural Funds authorities as well as within final beneficiaries). Whilst the situation keeps improving, overall staff figures still remain low.
2.3 Conclusions

The following section notes the main conclusions.

As presented in section 2.1 above, European Union financial assistance for Poland has increased significantly over the period covered by this report, from Pre-Accession funding of €1.1 billion in 2003 and 2004, to €12.8 billion for the Structural Funds period 2004-2006 (average annual spending of €2.6 billion until 2008), and €67.3 billion for the Structural Funds period 2007-2013 (average annual spending of €7.5 billion until 2015). This funding increase represents an important challenge, in terms of establishing the necessary legal, organisational and human resources framework in order to allow for the effective use of support.

The overall low absorption rates in 2004 and 2005, point to deficiencies in the Structural Funds implementation systems, with problems more pronounced for the Cohesion Fund than for the European Regional Development Fund. Whilst the situation has improved for the European Regional Development Fund, the Cohesion Fund absorption rate remains worryingly low. Indeed, whilst the absorption rate for the European Regional Development Fund has increased from 18.52% at the end of 2005 to 52.64% in June 2007 (the fourth best rate among the new Member States), the Cohesion Fund rate has only increased from 0.8% to 27.2% (the second lowest rate among the new Member States).\(^{76}\)

Looking in more detail at the pre-conditions for effective Structural Funds implementation (and thus high absorption), several weaknesses become evident.

- **With regard to the legal framework:**
  The legal framework for Structural Funds implementation (National Development Plan Act) has been established late, and has been subject to frequent change. Public finance law in 2004 and 2005 did not sufficiently facilitate access to the necessary co-financing for the Structural Funds. Reforms in 2006 have improved the situation, however, the absence of multiannual budgets still complicates the use of the Structural Funds. Before reforms in 2006, public procurement procedures were very demanding, and allowed for appeal procedures for tenders of a value as low as €6000. Reforms in 2006 have made public procurement procedures more efficient. The failure of proposed Structural Funds interventions to comply with European Union environmental legislation (e.g. in the area of Environmental Impact Assessment), is leading to the suspension of funds, thus contributing to low absorption rates.

- **With regard to the organisational framework:**
  There have also been deficiencies with regard to some aspects of the organisational framework. Structural Funds leadership has been weak in 2004 and 2005. The situation has improved with the concentration of Structural Funds competencies in the Ministry of Regional Development as of 2006. However, with the concentration of functions within a single institution, concerns have been rising over the required independence between Structural Funds functions (management and payment / certification). Financial control systems, generally function well (there is little evidence of irregularities), however control procedures in 2004 and 2005 have been excessive, and this has negatively affected payments to final beneficiaries (and contributed to low absorption). Monitoring systems have not been

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76 For comparison, European Union average rates in June 2007 stand at 72.13% for the European Regional Development fund and 48.07% for the Cohesion Fund.
fully operational in 2004-2006, and a new system will be introduced for 2007-2013.

- With regard to the human resources framework:
  
  Finally, human resource constraints constitute one of the most important limitations to effective Structural Funds implementation (number and qualification of staff working in Structural Funds authorities as well as within final beneficiaries). Whilst the situation keeps improving, overall staff figures still remain low.

This assessment raises the question as to whether the implementation of the 2007-2013 Structural Funds can be expected to be more effective? The Polish Structural Funds Authorities have recognised weaknesses in Structural Funds implementation, and introduced a series of important reforms in 2005 and 2006. This has contributed to an overall improvement in the absorption of funds during 2006. The promising performance of Poland's Integrated Operational Programme for Regional Development (one of the 2004-2006 programmes) raises hopes for the future 16 Regional Operational Programmes (2007-2013 programming period). However, the continuing low absorption rate for the Cohesion Fund shows that significant further efforts are still required. As the legal framework is largely established, additional efforts mainly concern the correct application of Polish and European Union legal requirements (e.g. compliance with public procurement or environmental legislation).

Moreover, just as the volume of funding is experiencing significant increases (from average annual spending of €2.6 billion until 2008 to €7.5 billion until 2015), the human resources capacities also need to be strengthened (to date, increases in staff figures are not proportional to increases in funding). In this area, the recently announced reforms (government plans to improve Structural Funds staff conditions) are likely to come late for the new programming period's first years of implementation. Whilst there are plans to make more use of Technical Assistance funds to strengthen staff capacities and improve staff conditions in 2007-2013, the poor track record with Technical Assistance utilisation for the Cohesion Fund in 2004-2006 casts a doubt over the willingness to use available Technical Assistance funds. Finally, the proposed introduction of a new Structural Funds monitoring system merits close scrutiny. Indeed, considering the rather fruitless efforts in relation to the 2004-2006 monitoring system, the fact that the system proposed for 2007-2013 is still largely at design stage, does not bode well for effective monitoring as of programme start (in late 2007 / early 2008).
3 Recommendations for effective Structural Funds in 2007-2013

The final section presents recommendations as to how the identified limitations to Structural Funds implementation in Poland might be overcome. Recommendations are made to two different adresses, i.e. the European Commission (3.1), and the Polish Structural Funds authorities (3.2).

However, a first recommendation is addressed to the European Parliament. Indeed, for early 2009, it is recommended to carry out an assessment of whether Structural Funds performance levels in the new Member States continue to be lower than in the old Member States (the final year for implementation of the 2004-2006 Structural Funds is 2008).

The following table presents an overview of the problems identified and related recommendations.
Table 11: Recommendations to improve effective Structural Funds implementation

<table>
<thead>
<tr>
<th>Reference</th>
<th>Relevant section in this report</th>
<th>Problem identified</th>
<th>Recommendation</th>
<th>Addressee</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General recommendations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1</td>
<td>2.1.2</td>
<td>Generally, lower Structural Funds performance in the new Member States</td>
<td>Assessment on changes in performance levels in 2009</td>
<td>European Parliament</td>
</tr>
<tr>
<td>2</td>
<td>2.1.2</td>
<td>Low Structural Funds absorption rates</td>
<td>Evaluations of Structural Funds performance at mid term stage (2010)</td>
<td>European Commission / Polish Structural Funds authorities</td>
</tr>
<tr>
<td><strong>Specific recommendations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>2.2</td>
<td>Late establishment of the legal framework / frequent changes</td>
<td>Ensure that legal framework for 2007-2013 is completed by end 2007</td>
<td>Polish Structural Funds authorities</td>
</tr>
<tr>
<td>4</td>
<td>2.2.1</td>
<td>Difficult access to co-financing</td>
<td>Examine introduction of multi-annual budgets</td>
<td>Polish Structural Funds authorities</td>
</tr>
<tr>
<td>5</td>
<td>2.2.1</td>
<td>Inefficient public procurement / Weak application of European Union environmental legislation</td>
<td>Training for Structural Funds authorities and final beneficiaries / Use of Technical Assistance</td>
<td>Polish Structural Funds authorities</td>
</tr>
<tr>
<td>6</td>
<td>2.2.2</td>
<td>Threatened independence between Structural Funds functions</td>
<td>Close monitoring of independence between Structural Funds functions / Assessment in context of mid term evaluation</td>
<td>European Commission / Polish Structural Funds authorities</td>
</tr>
<tr>
<td>7</td>
<td>2.2.2</td>
<td>Weak monitoring system</td>
<td>Completion of the new monitoring system by end 2007 / training for users</td>
<td>Polish Structural Funds authorities</td>
</tr>
<tr>
<td>8</td>
<td>2.2.3</td>
<td>Limited attractiveness of Structural Funds 'jobs' (low salary, limited training)</td>
<td>Use of Technical Assistance to provide incentives (salary / training)</td>
<td>Polish Structural Funds authorities</td>
</tr>
</tbody>
</table>
A first recommendation is addressed to the European Parliament:

For early 2009, it is recommended to carry out an assessment of whether Structural Funds performance levels in the new Member States continue to be lower than in the old Member States. The year 2008 is the final year for implementation of the 2004-2006 Structural Funds, and most probably, the first year of implementation of the 2007-2013 Structural Funds. Carrying out the assessment in early 2009, would therefore allow a good understanding of the extent to which new Member States require preparation and support for using the Structural Funds. In this context, it can also be verified to which extent the recommendations from the present study have been addressed.

### 3.1 Recommendations to the European Commission

Recommendations to the European Commission concern the area of evaluation:

The new Structural Funds regulation allows the European Commission to carry out 'Strategic Evaluations' at any time.\(^7\) Moreover, the regulation allows the European Commission to carry out evaluations during programme implementation in cases where there is a 'significant departure from goals initially set'.\(^8\) (note that the 2000-2006 Structural Funds system included 'compulsory' mid-term evaluation for all programmes, independent of performance).

It is recommended that the European Commission makes use of these possibilities, and evaluates the implementation of the Structural Funds in the new Member States, half way through the 2007-2013 programming period. Note in this context that in 2011, N+2 will replace N+3 for the new Member States as well as Greece and Portugal.

### 3.2 Recommendations to the Polish Structural Funds authorities

There are six recommendations to the Polish Structural Funds authorities:

#### 3.2.1 Ensure that the legal framework for 2007-2013 is completed

The late establishment of the legal framework for the 2004-2006 programming period, and subsequent frequent changes in the legal framework, constituted an important obstacle to effective Structural Funds implementation (delayed start of implementation). It is therefore recommended that the Polish Structural Funds authorities ensure that the legal framework for the 2007-2013 programming period (including the preparation of application and reporting formats) is completed as early as possible to allow for an efficient start of implementation in late 2007 / early 2008.

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\(^7\) Art. 49.1, COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999

\(^8\) Art. 49.2, COUNCIL REGULATION (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999
3.2.2 Examine introduction of multi-annual budgets

As seen in section 2.2.1, public finance systems in 2004-2006 have not sufficiently facilitated access to co-finance for Structural Funds investments. Moreover, funding allocations continue to be made for individual budget years (no multi-annual budgets), and final beneficiaries can not go beyond the allocation limits set for each year. If the allocation is not used, it can not be carried forward to the next budget year and is therefore lost. It is therefore recommended that the Polish authorities consider the introduction of multi-annual budgets in the context of ongoing public finance reform.

3.2.3 Training for Structural Funds authorities and final beneficiaries

Poor performance in the area of public procurement and compliance with European Union environmental legislation has contributed to low absorption rates in the 2004-2006 programming period. It is therefore recommended that training on public procurement and environmental legislation is organised at central, regional and local level and including both, Structural Funds authorities and beneficiaries. Technical Assistance funds can be used for this purpose.

3.2.4 Close monitoring of implementation

The new Structural Funds regulation foresees Member State evaluations during programme implementation in cases where there is a 'significant departure from goals initially set' 79 (note that the 2000-2006 Structural Funds system included 'compulsory' mid-term evaluation for all programmes, independent of performance). It is recommended that the Polish authorities undertake frequent evaluations of implementation over the 2007-2013 programming period, with a specific focus on the independence between different Structural Funds functions.

3.2.5 Completion of the new monitoring system by end 2007

The monitoring system for the 2004-2006 programming period has not performed well, and the Polish authorities are proposing the establishment of a new system for the 2007-2013 programming period. It is recommended that the new monitoring system is established and tested before the end of 2007 (including training on the use of the system), in order to allow for effective monitoring as of the start of the new programmes towards the end of 2007 / beginning of 2008.

3.2.6 Use of Technical Assistance to provide incentives

A key recommendation concerns the strengthening of the Structural Funds human resources framework. In order to address high staff turnover, it is recommended to establish attractive incentives for Structural Funds staff, including improved salaries as well as training. A further incentive could take the form of twinning arrangements for the exchange of experience with Structural Funds authorities in the old Member States. Technical Assistance funds can be used for this purpose.
Annexes
Annex 1 Bibliography


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European Commission Comprehensive monitoring report on Poland’s preparations for membership, 2003

Communication to the European Parliament and the Council on the implementation of commitments undertaken by the acceding countries in the context of accession negotiations on Chapter 21 – Regional Policy and coordination of Structural Instruments, European Commission, 2003

Annex 2  List of stakeholder consultations

Monika Dolowiec, First Secretary, Section Coordinator, Permanent Representation of Poland to the EU, Regional and Cohesion Policy Section

Piotr Zuber, Director, Department for Structural Policy, Ministry of Regional Development

Michal Olszewski, Head of Structural Funds Information Unit, Ministry for Regional Development (until April 2007, since then Acting Director of the EU Funds Department of the City of Warsaw)

Justyna Malicka, Marshall Office, Zachodniopomorskie region

Dorota Kopec, Deputy Director, Regional Operational Programme Department, Marshall Office, Warminsko-Mazurskie region

Monika Kapturska, Director, Representative office in Brussels, Marshall Office Wielkopolskie region

Teresa Ochodek, Department for Regional Policy, Marshall Office Wielkopolskie region

Pawel Suchanecki, Head of Department for Regional Policy, Marshall Office, Wielkopolskie Region

Pawel Kaszubski, Department for Regional Policy, Marshall Office, Warminsko-Mazurskie Region

Pascal Boijmans, Deputy Head of Unit, European Commission, Directorate General Regional Policy, Directorate H Interventions in Bulgaria, Poland, Portugal, Romania, Slovenia and IPA/ISPA, Unit Poland

Marek Teplansky, European Commission, Directorate General Regional Policy, Directorate H Interventions in Bulgaria, Poland, Portugal, Romania, Slovenia and IPA/ISPA, Unit Poland

Joanna Metaxopoulou, Auditor, European Commission, Directorate General Regional Policy, Directorate I Audit, Unit Control and Audit III

Elvira Maria Angulo Rodriguez, European Commission, Directorate General Enlargement, Directorate E Resources, Unit Evaluation
Annex 3  Consultation guidelines

European Parliament Study on the Structural Funds' implementation in Poland

Questionnaire to Structural Funds Administration representatives in Poland

Note:
The present questionnaire forms part of the European Parliament study “The European Union Structural Funds in Poland”. In the framework of this study, the arrangements for the Structural Funds’ implementation will be assessed in order to elaborate recommendations for the successful implementation of the Structural Funds over the 2007-2013 programming period.


Moreover, the questionnaire is informed by a series of assessments of Structural Funds implementation in Poland, namely: the European Commission's Comprehensive monitoring report on Poland’s preparations for membership (2003), the Annual Reports on the implementation of the Structural and Cohesion Funds in 2005 (2006), Poland's National Strategic Reference Framework (2006) and a series of papers presented at the 6th European Organisation of Supreme Audit Institutions (EUROSAI) Training Event (Prague, 6-8 November 2006)

Legal Framework

1. What are problems with public procurement legislation for the effective implementation of the Structural Funds (has the Public Procurement Law as adopted by the Sejm on 10 March 2006 solved problems)? Are there any plans to further amend public procurement legislation in order to facilitate the effective implementation of the Structural Funds?

2. Does any other legislation (e.g. state aids, environment (e.g. Environmental Impact Assessment), Public Private Partnerships, local authority finance) require further reform in order to facilitate the effective implementation of the Structural Funds?

Institutional Framework

3. How can coordination mechanisms between different bodies responsible for the Structural Funds' implementation be made more effective? Has the National Strategic Reference Framework introduced any improvements for 2007-2013?

4. How is the independence between different bodies responsible for the Structural Funds' implementation ensured, e.g. between control and management functions? (Independence between the Certifying Authority, Audit Authority and Managing Authority?) or between evaluation and monitoring (are monitoring and evaluation units located in different departments)? What are the changes from 2004-2006 to 2007-2013?
Administrative and Programming Capacity

5. Do you consider that the Structural Funds administrations are sufficiently equipped with human resources (sufficient number of staff and adequate experience of staff?) and operational resources (e.g. to carry out on-site monitoring visits)? Are there plans to recruit additional staff for 2007-2013?

6. Are there any training / capacity building programmes in place? Which incentives are in place to maintain well qualified staff (how is the high staff turnover addressed)?

7. Have you established guidelines / manuals on the Structural Funds' implementation (give examples)? Which guidelines require further review?

8. What is done to ensure that there is an adequate project pipeline to ensure the timely absorption of funds for 2007-2013? What are the difficulties in preparing suitable project proposals? Is there sufficient technical assistance funding available to support project preparation?

9. Do co-financing requirements present any difficulties at the regional and local level, and how are these difficulties addressed?

Financial Control and Audit

10. When will the Polish monitoring system (SIMIK) be fully operational at central and regional level? What are the problems and how can the system be improved?

11. What is done to reduce delays in payments to final beneficiaries and what are the most common causes for delays?

12. Please describe typical irregularities as identified by audits? What is done to ensure that irregularities do not occur in the future?

13. Which additional measures have been adopted to address the low utilisation of Structural Funds (e.g. low expenditure levels under for the Sectoral Operational Programme “Transport” or for the Sectoral Operational Programme “Increase in Competitiveness of Enterprises”)? Are there any initiatives to streamline procedures (e.g. first results of the “Repair programme improving absorption of the Structural Funds in the framework of the National Development Plan 2004 – 2006”)?
Annex 4  The financial framework for Structural Funds support in 2007-2013\textsuperscript{80}

\textsuperscript{80} Financial data as presented in the National Strategic Reference Framework, adopted by Poland's Council of Ministers on 29 November 2006
<table>
<thead>
<tr>
<th>Operational Programme</th>
<th>Fund</th>
<th>EU contribution</th>
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<tbody>
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<td></td>
<td>Total</td>
<td>2007</td>
</tr>
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<td>16 Regional Operational Programmes</td>
<td>ERDF</td>
<td>15 985 900</td>
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<td></td>
<td></td>
<td>2 354 777</td>
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<td>951 003 820</td>
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