

Status of Implementation of EU Funds in Romania on 31 July 2009

A. Pre-accession Programmes: PHARE and TF, ISPA, SAPARD (Budget 2004 to 2006)

1. Programme Description

The PHARE, Transition Facility (TF), ISPA and SAPARD programmes are pre-accession instruments financed by the European Union to assist applicant countries of Central and Eastern Europe in their preparations for joining the European Union.

- The objectives of the PHARE programme and Transition Facility are: institution-building, convergence with the acquis and socio-economic cohesion. PHARE is managed by three Implementing Agencies under the Extended Decentralised Implementation System (EDIS).
- SAPARD supports the structural adjustment in the agricultural sector and in rural areas and convergence to the relevant acquis. SAPARD is managed by a Paying Agency which is accredited by Romania. In addition, conferral of management has to be granted by the Commission for each specific measure before it can be funded.¹
- ISPA supports infrastructure projects in the areas of transport and environment and is managed under shared management between the Commission and Romania, similar to the Cohesion Fund.²

¹ SAPARD was established by Council Regulation 1268/1999 in June 1999.

² ISPA was established by Council Regulation No. 1267/1999 in June 1999 and is managed since accession of Romania to the EU under the Cohesion Fund Regulation 1164/1994.

2. Financial Data: Budget 2004-2006

Instrument	Amount of Original allocation of EU funds over the period (in EUR million)	Amount of payment requests by Romania (in EUR million)	Amount paid by the Commission (in EUR million)	Amount not used ³ (in EUR million)	Payments under suspension ⁴ (in EUR million) (at 31 July, 2009)
PHARE	1.360,533	1.056,828	980,094	169,055	none
Transition Facility	46,500	23,250	23,250 ⁵	none ⁶	none
SAPARD	527,390	400,209	398,338	none	none ⁷
Ex-ISPA Pre-accession assistance	1.040,578	294,873	294,128	none ⁸	none
TOTAL:	2.975,001	1.775,160	1.695,810	169,055	none

- Explanatory Notes -

- PHARE: The contracting deadline was set at 31/11/2008. EUR 169,055 million can be considered as not used and have been partially de committed or will soon be. EUR 211 million remain to be paid (provided payments request will be submitted and eligibility of payments checked).
- SAPARD: The contracting deadline was set at 31/10/2007 and deadline for submission of payments applications to the Commission is 31/12/2009. Available committed amount for which no expenditure has been declared as of this date will be subjected to de-commitment by the Commission (automatic rule "n+2"). So far, no funds have de-committed.
- ISPA: There is no contracting deadline as such. The end of eligibility is 31/12/2010 in terms of real payments expenditures. So far no amounts have been de-committed. EUR 745,7 million has not yet been submitted for payment. Any amounts not submitted until the final date will be de-committed.

3. Status of Implementation

- Summary -

In order to protect the financial interests of the EU, the Commission suspended payments under the SAPARD programme in July 2008 due to weaknesses and irregularities identified by its services. Upon the recommendation by the Commission, Romania addressed these deficiencies in an action

³ Amounts not used due to:

- expiry of the contracting deadline (PHARE/)

- expiry of the deadline for the receipt of payment applications (SAPARD).

⁴ Decisions for interruption of payments taken by the Authorising Officer by Delegation due to insufficient reasonable assurance for authorising payments to Romania in order to prevent a financial loss to the Community Budget.

⁵ Amounts paid by the Commission under the TF are advance payments and subject to change.

⁶ EUR 30,863 million is considered at risk due to the approaching expiry of the contracting deadline (15 December 2009).

⁷ EUR 187,2 million were suspended from 9 July 2008 to 10 July 2009, based on Article 7(6) (f) of Section A of the Multi-annual Financing Agreement concluded with Romania.

⁸ A financial correction of EUR 11,183 million was applied as a result of audits by the Commission and accepted by Romania.

plan which allowed the Commission to withdraw the suspension of payments in July 2009. No funds have been left unused so far for Romania under SAPARD. However, in view of the approaching deadline for the receipt of payment applications (31 December 2009), such a risk exists at the end of the year.

The Commission established an intensive dialogue with Romania in order to address some weaknesses in the implementation of pre-accession funds, in particular in order to correct some irregularities in the application of public procurement rules and in internal management procedures which had resulted in delays in programme implementation.

- Specific Comments -

- PHARE / TF

Shortcomings identified and recommendations issued by the Commission:

The Commission identified implementation delays and a risk of low absorption concerning the Transition Facility. It recommended to Romania to improve controls over project implementation so as to ensure timely project delivery.

Corrective actions implemented by Romania:

Romania corrected internal procedures and improved the supervision and monitoring of contracting procedures.

- SAPARD

Shortcomings identified and recommendations issued by the Commission:

The Commission identified important deficiencies regarding the respect of accreditation criteria⁹ and systemic control deficiencies in 2008. In addition, the Commission identified weaknesses related to the decentralised management system of SAPARD in Romania. The Commission suggested to Romania to address these deficiencies in an action plan.

Corrective actions implemented by Romania:

Romania implemented all corrective actions following the action plan, strengthening the relevant audit procedures and the application of additional ex-post checks. The implementation of the action plan was certified by an independent audit report.

- ISPA

Shortcomings identified and recommendations issued by the Commission:

The Commission identified irregularities in the application of public procurement rules such as a frequent recourse to the negotiated procedure, weaknesses in evaluation committees, and unjustified contract extensions. In response, the Commission issued specific recommendations for corrective actions and monitored their application in close cooperation with Romania.

To improve financial management, the Commission assisted the Romanian Paying Authority in improving budgetary planning and suggested a monthly monitoring of payment forecasts. The Commission also provided advice on the simplification of contract management procedures, recommended to strengthen administrative capacity and implement measures to reduce staff turnover.

⁹ The non-respect of accreditation criteria such as the lack of internal control activities, lack of audit trail including approvals of projects under unauthorised procedures.

Corrective actions implemented by Romania:

Romania implemented Commissions' recommendations on public procurement, financial management and contract management and adopted legislation to ensure compliance with the *acquis* on public procurement. In addition, Romania adopted guidelines on project management for final beneficiaries.

B. Structural Funds (ERDF, ESF), Cohesion Fund, EAFRD and EFF (Budget 2007 to 2009)

1. Programme Description

The European Regional Development Fund (ERDF) operates in all Member States and co-finances infrastructure and productive investment together with other measures supporting regional and local development.

The European Social Fund (ESF) supports measures to improve employment opportunities for workers to increase their mobility and to facilitate their adaptation to industrial change throughout the Union. Moreover, it also provides assistance for qualitative initial and continuous education and training and better access to education and life long learning, for facilitating labour market reinsertion and enhancing social inclusion as well as improving the administrative capacity of the Romanian authorities.

The Cohesion Fund co-finances trans-European networks (TEN) in the area of transport infrastructure (including energy efficiency, renewable energy and sustainable transport modes) and environment projects (water transport, sewage...) in Member States in which the Gross National Income (GNI) per capita is less than 90 % of the EU-25 average.

The European Agricultural Fund for Rural Development (EAFRD) implements through co-financed programmes proposed by Member States the Rural development policy of the Union. The rural development policy for 2007-2013 focuses on three major axes:

- Improving competitiveness for farming and forestry;
- Enhancing the environment and the countryside through support for land management;
- Improving the quality of life in rural areas while diversifying the rural economy.

The European Fishery Fund (EFF) contributes to the economic diversification of regions affected by a reduction in fishing activity, to the adjustment of fleet capacity and to fleet renewal that does not involve an increase in fishing.

All these funds include advance payments paid to Member States at the beginning of the period 2007-2013. These advance payments are paid automatically by the Commission without any specific request by the Member State.

Interim payments are paid throughout the programming period, based on payments made to the final beneficiary by the Member State, and claims submitted by the latter to the Commission for reimbursement. However, for ERDF, ESF, Cohesion fund and EFF, interim payments can only be made after the approval of the Management and Control System (MCS) (EAFRD uses the same institutional set-up as EAGF (see next section) and do require specific preliminary system approval).

The implementation of the funds is based on the principle of shared management between the Commission and the Member States.

2. Financial Data: Budget 2007-2009

Instrument	Commitments (2007-2009) (in EUR million)	Amount of advance payment paid by the Commission (2007-2009) (in EUR million)	Amount of interim payment requested by (2007- 31/7/2009) (in EUR million)	Amount of interim payment made by the Commission (2007- 31/7/2009) (in EUR million)	Number of operational programmes with MCS ¹⁰ submitted by Romania/ approved by Commission
ERDF	2.616,007	807,882	93,098.	93,098	5/5
ESF	1.084,858	331,573	0,335	0,335	2/2
Cohesion Fund	1.941,869	688,004	0,730	0,730	2/2
EAFRD	2.589,559	561,575	315,220	171,212 ¹¹	N.A.
EFF	67,441	37,285	0	0	1/0 ¹²

3. Status of Implementation

- Summary –

Operational programmes in Romania have been effectively launched and projects already contracted are at satisfactory level of implementation; at the same time several cohesion fund projects have already been adopted. Compliance assessments of the Management and Control System have been granted to all the Operational Programmes (under ERDF and ESF), which entitles the respective Managing Authorities to proceed with submitting claims for interim payments.

The JASPERS facility assists national authorities in preparing major projects and Romania is well advanced in presenting major projects for financing to the Commission.

The EAFRD Rural Development Programme has been launched and projects are on-going.

The Commission monitors closely the coherent application of public procurement rules and has established a close cooperation with Romania to support the implementing authorities in improving advice and supervision of the final beneficiaries at local level. The Commission recommended to Romania to step up efforts to build sufficient capacity for financial management and control at local level.

The Commission services established a close cooperation with the Romanian government and with the competent implementing authorities to ensure that lessons are learnt in the transition from pre-accession funds to Structural Funds and to assist Romania in the compliance assessment procedure.

¹⁰ MCS: The Member State submits a description of its Management and Control System for each Operational Programme together with an independent audit report and an audit opinion for approval to the Commission as part of the compliance assessment procedure foreseen under respective regulations and in line with the principle of shared management. MCS have been submitted for all programmes by Romania.

¹¹ The figure does not include payments requested by 31 July 2009 but made in September 2009.

¹² See specific comments for EFF.

In this context, the Commission stressed the importance of sufficient administrative capacity and advised Romania to use the technical assistance OP for an incentive-based human resources policy.

- Specific Comments -

- Programme Implementation: ERDF/CF and ESF

Shortcomings identified and recommendations issued by the Commission:

The Commission identified weaknesses in the application of public procurement rules such as frequent recourse to the negotiated procedure and weaknesses in application procedures, selection criteria and the system of remedies. The Commission recommended a revision of the national legal framework for public procurement in order to ensure compliance with Community rules and encouraged Romania to issue guidelines on tender evaluations and to promote the use of standardised documentation. The Commission advised Romania on procedural simplification and suggested a performance agreement to better assist and monitor progress in the transport sector. To improve the speed of implementation, in particular of the ESF-OPs and Transport OP, the Commission recommended Romania to increase administrative capacity. The Commission established a close cooperation with the competent Romanian authorities in order to assist Romania in the application of corrective actions.

Corrective actions implemented by Romania:

Romania passed several laws to address the Commission's concerns on weaknesses in public procurement. This legal revision aims in particular at simplifying and accelerating procedures and at transposing the new acquis.

- EAFRD

Shortcomings identified and recommendations issued by the Commission:

The Commission recommended that Romania applies the lessons learnt from the management of SAPARD to the EAFRD and established a close cooperation with the competent authorities to this end.

- EFF

Shortcomings identified and recommendations issued by the Commission:

The Commission identified weaknesses in the administrative capacity of the new managing authority within the Ministry of Agriculture. The Commission recommended Romania the adoption of an action plan to improve the institutional framework and enhance administrative capacity. The compliance assessment for the Operational Programme has not been approved by the Commission. Romania was invited to submit a revised version of the compliance assessment. In addition, the Commission advised the Romanian authorities not to proceed with projects implementation until the new structures in the Ministry of Agriculture become operational.

Corrective actions implemented by Romania:

An Action Plan for the administrative capacity has been agreed upon in July 2009 and is currently being implemented.

C. Agricultural Guarantee Fund (EAGF) (Budget 2007-2009)

1. Programme Description

The Agricultural Guarantee Fund (EAGF) implements the Common Agriculture Policy (CAP). The objectives of the CAP derive directly from the European Community Treaty. The CAP should, in particular, ensure a fair standard of living in the farming community, stabilise markets and guarantee security of supplies.

2. Financial Data

Relevant Budgetary Year of Commitments	Amount paid by the Commission (in EUR million)
2007	6,890
2008	473,979
2009	553,400

3. Status of Implementation

Concerning EAGF, weaknesses have been identified in the Integrated Administration and Control System (IACS) for the implementation of direct payments. The Commission noted deficiencies in particular as regards the Land parcel identification system (LPIS) and regarding on-the-spot checks, which are subject to on-going conformity clearance procedures and may result in financial corrections as of claim year 2007. To remedy the existing shortcomings and improve the implementation system for agricultural funds, the Commission proposed an action plan in June 2009 which Romania agreed to implement over the next three years. Within this action plan, Romania has committed itself to improve the quality and timing of on-the-spot checks and to correct the error level in the lodging of claims by farmers with the help of specific guidance in particular as regards the determination of eligible area.

There are no frozen payments for Romania.

D. Cash Flow and Schengen Facility (Budget 2007-2009)

1. Description

The Cash Flow and Schengen Facility is a temporary instrument (1 January 2007 to 31 December 2009) designed to help Romania finance actions at the new external borders of the Union for the implementation of the Schengen acquis and external border control and to help improve cash-flow in national budgets. The instrument is therefore divided in two parts: the Schengen part (to finance the implementation of the Schengen acquis) and the Cash-flow Facility, where the Schengen part has to represent at least 50% of the total funds. Payments are made by the Commission monthly in advance based on annual amounts defined in article 32 of the Accession Treaty. A Clearance of accounts procedure will take place at the end of the period which allows the Commission to recover appropriations spent irregularly. The deadline for contracting of the Schengen Facility is 31 December 2009.

2. Financial Data

Relevant Budgetary Year of Commitments	Commitments (2007-2009) (in EUR million)	Amount paid by the Commission (in EUR million)
2007	315,391	315,391
2008	142,665	142,665
2009	144,414	84,241
Total	602,470	542,297

3. Status of Implementation

Romania experienced delays in the initial set up of the management and control system of the Schengen Facility; however no significant problems have been identified in the implementation system in the operational stages. The Commission has established a close cooperation with the competent Romanian authorities. It is expected that by the end of 2009 Romania will be able to contract the full amount allocated for the Schengen part of the Instrument, as required by the Treaty of Accession.