



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL  
REGIONAL AND URBAN POLICY  
The Director-General

Brussels,  
REGIO F/

**Subject: Regional Operational Programme (CCI 2007RO161PO001)  
Procedure to suspend ERDF interim payments (Article 92 of Regulation  
(EC) No 1083/2006)**

*Ref.: See list at end of letter*

Your Excellency

I refer to the audit authority's report submitted to the Commission services on 29 June 2012 on the assessment of the management and control system for public procurement. The report was sent in the context of the action plan implemented in 2011 by the Romanian authorities. The action plan was meant to address the deficiencies detected in the area of management verifications focused on public procurement performed by the Romanian authorities (letters of 28 July 2011 and 4 April 2012).

I refer to the audit carried out by the Commission services from 5 to 17 July 2012, to follow up the above-mentioned action plan implemented in 2011 by the Romanian authorities. The mission consisted in performing audit work related to the effective functioning of the bodies involved in the ex-ante public procurement verifications (ANRMAP<sup>1</sup> and UCVAP<sup>2</sup>) and the effectiveness of public procurement management verifications carried out by the managing authorities.

I write to inform you that, after an in-depth analysis of the report of 29 June 2012 provided by the national audit authority and the Commission audit work carried out in July 2012, the Commission services have concluded that, for the Regional Operational Programme, part of the interim payments may be suspended by the Commission.

The above-mentioned national audit report and Commission audit work show that there is (at least) a serious deficiency in the management and control system of the programme in question, within the meaning of Article 92(1) of Regulation (EC) No 1083/2006.

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<sup>1</sup> National Authority for Regulating and Monitoring Public Procurement

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The reasons for reaching these conclusions are described hereafter:

## **I. DESCRIPTION OF THE ASSISTANCE**

On 12 July 2007, the Commission adopted Decision C(2007)3470 for the "Regional Operational Programme for Community assistance from the European Regional Development Fund (ERDF) under the convergence objective" in the regions in Romania (CCI No 2007RO161PO001). On 12 August 2011, the Commission adopted Decision C(2011)5989 modifying the programme. The modification concerns a change in the financial table regarding the allocation per priority and changes in the text of the programme related to this reallocation. The total allocation is EUR 3 726 million.

The Regional Operational Programme has 6 priorities which concern:

- Priority 1: Support to sustainable development of urban growth poles
- Priority 2: Improvement of regional and local transport infrastructure
- Priority 3: Improvement of social infrastructure
- Priority 4: Strengthening the regional and local business environment
- Priority 5: Sustainable development and promotion of tourism
- Priority 6: Technical assistance

To date, an amount of EUR 1.121.606.882 has been paid by the ERDF as pre-financing (EUR 335.341.959) and interim payments within the framework of this assistance, which is 30.1% of the total ERDF contribution to the programme. The programme benefits from the top-up possibility. The certifying authority has withheld 10% of expenditure according to the agreement of December 2011 explained below in section II.

The managing authority is the Ministerul Dezvoltării Regionale și Turismului (Ministry of Regional Development and Tourism). The certifying authority is the Ministerul Finanțelor Publice (Ministry of Public Finance). The audit authority is an associated body to the Romanian Court of Account.

The managing authority has delegated some of its tasks to eight intermediate bodies which are set up within the Regional Development Agency structures and the Ministry for Regional Development and Tourism (Directorate for the Management of Tourism Promotion Component).

The National Authority for Regulating and Monitoring Public Procurement (ANRMAP) was set up to ensure coherence with Community *acquis*, ensure conformity in the application of legislation, fulfil EU Directive obligations, monitor, analyse and evaluate the methods used for awarding public contracts, develop public procurement strategies as well as advise and train personnel involved in procurement activities. The ANRMAP has set up the framework for Romanian national procurement methodologies and is providing advice and support. In the framework of management verifications for EU assistances, ANRMAP role consists mainly of the verifications performed during the publication phase. In addition, the Unit for Coordination and Verification of Public Procurement (UCVAP) within the Ministry of Public Finance has been appointed as the body responsible for ensuring ex-ante verification of public procurement procedures during the evaluation phase, including those carried out under the Structural and Cohesion Funds programmes.

## II. PROCEDURE

In November 2010 and in March 2011, the Commission services carried out 2 audits of operations from key area of intervention 2.1 (missions no. 2010/RO/REGIO/J2/934 – audit report of 21 March 2011 and mission no. 2011/RO/REGIO/J2/956 – audit report of 10 June 2011). The audit covered the adequacy of the management verifications (and more particularly legality and regularity of expenditure declared under public procurement contracts) and covered expenditure paid for 12 projects in amount of MEUR 47.63 (RON 200 027 756), which represents about 15% of the expenditure certified at the moment of the audit under area of intervention 2.1.

The audit reports of 21 March 2011 and 10 June 2011 showed serious deficiencies in the management and control system of the Regional Operational Programme which affect the reliability of the procedure for certification of payments and for which corrective measures had not been taken. As neither the ANRMAP and UCVAP, in charge of ex-ante verifications, nor the managing authority nor the certifying authority detected the irregularities identified, it was demonstrated that the system in place at the time for verifying public procurement procedures was not effective. Moreover, given the nature and the frequency of the irregularities, these deficiencies were considered systemic by the Commission services.

Therefore, by letter of 17 June 2011, the Commission services notified the Romanian authorities of its intention to interrupt payment deadlines (Article 91(a) of Regulation (EC) No 1083/2006) for expenditure declared under priority 2 (area of intervention 2.1) and also launched a suspension procedure (Article 92 of Regulation (EC) No 1083/2006). The letter was accompanied by a draft audit report of 10 June 2011 (related to the Commission audit mission of March 2011). The audit report included two parts. The first part concerned only findings related to priority 2. The second part set out an action plan to remedy the detected deficiencies in the public procurement control framework of the Romanian programmes (the Romanian language version of the draft audit report was sent on 12 August 2011).

Following further audit work, a meeting between the Commission services and the Romanian authorities was held on 27 June 2011. The Commission services noted that:

- the system set up and functioning arrangements foreseen in relation to public procurement were similar for all programmes;
- the two ex-ante public procurement verification bodies (ANRMAP and UCVAP) were placed outside the management and control systems and their verifications did not effectively detect the irregularities;
- the managing authorities did not take responsibility over the decisions made on public procurement issues as foreseen in Article 58(a) and Article 59(2) of Regulation (EC) No 1083/2006;
- the managing authority and certifying authority for the programme "Regional Operational Programme" (CCI2007RO161PO001), as well as for the programmes "Increasing Economic Competitiveness" (CCI2007RO161PO002), "Transport" (CCI2007RO161PO003), "Environment" (CCI2007RO161PO004) failed to carry out ex-post verifications on public procurement and did not supervise the quality and efficiency of the ex-ante verifications carried out by the national bodies ANRMAP and UCVAP.

As a consequence, a warning letter was sent on 28 July 2011 by the Commission services to the Romanian authorities raising attention on these facts. Therefore, two parallel action plans, one to lift the interruption for priority 2, key area of intervention 2.1, of the Regional

Operational Programme and a general action plan annexed to the warning letter valid for all programmes in Romania, were launched in 2011 to address the deficiencies found in the management and control systems related to public procurement in Romania.

On 1 October 2011, the Romanian authorities implemented part of the changes requested by the Commission services in the general action plan of 28 July 2011. The ANRMAP and UCVAP were integrated in the management and control system, making them auditable by the audit authority.

By letter of 11 October 2011, the managing authority for the Regional Operational Programme confirmed that it had screened all works contracts under priority 2, key area of intervention 2.1, that it had found irregularities and had proposed corrections for the amount EUR 20,5 million for 29 contracts. This represents, on average, 2,7% of the contracted amount.

Subsequent to the Romanian authorities reply of 14 November 2011 on the results of the implementation of the action plan for lifting the interruption for key area of intervention 2.1, the Commission's auditors organised a review meeting with the managing authority of the Regional Programme which took place in Brussels on 16 and 17 November 2011 in order to review the adequacy of the verifications carried out and the corrective measures proposed for expenditure declared under past contracts affected by irregularities in the area of public procurement. During the review meeting, the Commission services identified in the sample verified by the managing authority public procurement procedures for which there was an unjustified use of systematically shortened deadlines under Article 38(4) of Directive 2004/18/EC. The Commission services were not satisfied with the identification and quantification of the financial impact of the errors found by the Romanian authorities as the proposed corrections did not take into account cases of unjustified use of accelerated procedure and shortened deadlines. Besides, it was noted that decisions on irregularities were not taken independently from the process of recovery and from what could be recovered from the final beneficiary. The Commission services concluded therefore that there were still deficiencies as regards the first-level management verifications.

On 21 November 2011, the Romanian authorities communicated an updated position for priority 2, key area of intervention 2.1 taking into account the additional irregularities discussed during the review meeting of 16 and 17 November 2011. The error rate reported was of about 10,48% of the value of contracts (compared to 2,7% reported in October 2011).

By letter of 23 November 2011, the Commission services expressed concerns in relation to the role of UCVAP and ANRMAP in public procurement verifications and other problems of a systemic nature.

As a consequence, the Commission services called for a meeting with the managing authority, ACIS<sup>3</sup> and the certifying authority, which was held in Brussels on 29 November 2011. The Commission services requested the managing authority to re-verify contracts under priority 2, key area of intervention 2.1, in the light of the above-mentioned additional issues (mainly unjustified use of shortened deadlines as per Article 38(4) of Directive 2004/18/EC and decisions on irregularities to be taken independently from the recovery process). During this meeting, the Romanian authorities undertook additional commitments which were confirmed by the Romanian authorities' letter dated 2 December 2011. The main areas in which

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<sup>3</sup> ACIS – Authority for the Coordination of Structural Instruments

commitments were taken were: (1) decisions on the establishment of irregularities to be taken independently from the process of recovery from the final beneficiary; (2) decisions on the corrective mechanism to be implemented in cases of disagreements between managing authorities and the audit authority; (3) the Romanian authorities to undertake actions to better identify conflict of interests and possible fraud cases; (4) the Romanian authorities to undertake action to increase administrative capacity by providing training on verifications on public procurement to be carried out by the managing authorities.

In addition, the audit authority carried out an assessment of the verifications performed by the managing authority and identified public procurement irregularities on which financial corrections were proposed. As a consequence, by letter of 19 December 2011, the audit authority communicated its assessment on the management verifications performed by the managing authority before 1 October 2011. The audit authority's opinion, confirmed by the results of the review meeting with Commission services, was that substantial improvements were necessary in the area of management verifications of public procurement as existing irregularities were not identified in all cases by the managing authority. The audit authority communicated also the financial corrections in the amount of EUR 71.85 million for the Regional Operational Programme, of which EUR 62 million related to priority 2, key area of intervention 2.1. The percentage of corrections proposed for key area of intervention 2.1 was 10.60% of the value of the contracts verified and approximately 5% calculated at contract level for the rest of the priorities.

On the basis of the actions undertaken and the additional commitments taken by Romanian authorities, the interruption and pre-suspension of 17 June 2011 for priority 2, key area of intervention 2.1 of the Regional Operational Programme was lifted and payments for submitted payment claims were executed by the European Commission with certain conditions. By letter of 22 December 2011, the Commission services accepted that the Romanian authorities submit payment claims for programmes in Romania with an approach which safeguards the EU budget. One of the key elements was the confirmation by the certifying authority to apply a provisional withholding of the expenditure expressed as a percentage applied to the certifiable expenditure. In respect of the Regional Operational Programme, the precautionary level of withholding was established at 10%, based on the provisional error rate communicated by the Romanian authorities for key area of intervention 2.1.

On 22 February 2012, the managing authority updated its position of 11 October 2011 in respect of the findings raised in Commission's draft audit report for mission no. 2011/RO/REGIO/J2/956 by accepting most of the financial corrections proposed.

Following the analysis of the information received from the Romanian authorities on the verifications carried out by the managing authorities and the assessment made by the audit authority by letter of 19 December 2011, the Commission services decided to allow the Romanian authorities time to put in place the new set-up of the management and control system in relation to public procurement and to demonstrate its effective functioning in the first semester of 2012. The deadline for implementation of the action plan was the end of June 2012. This deadline was formally communicated by Commission services letter of 1 March 2012. The letter stipulated that after the end of June 2012, any further payment claims should not be submitted by the Romanian authorities, until the Romanian audit authority had given its positive assessment of the proper functioning of the management and control system (at the level of managing authorities, certifying authority and all the actors intervening in the management and control system, including the role and capacity of ANRMAP and UCVAP).

Following the request of the Commission services sent on 4 April 2012, the Romanian authorities updated the information about the financial corrections for the entire programme. According to several exchanges of information from May and June 2012, the value of the financial corrections proposed by the Romanian authorities (including relating to the Commission's audit work) is approximately EUR 90 million for the Regional Operational Programme (RON 377.553.040,73), out of which EUR 80.26 million is related to contracts under key area of intervention 2.1. This amount represents on average 15% of contract value for key area of intervention 2.1 and approximately 5% for the other priorities.

Based on its own audit work, the Commission services calculated a similar average error rate for the contracts audited under priority 2, key area of intervention 2.1 (see audit missions 2010/RO/REGIO/J2/934 and 2011/RO/REGIO/J2/956). By letter of 27 June 2012, the Commission services sent out its final position on all the remaining open findings and related actions and recommendations from the audit mission 2011/RO/REGIO/J2/956.

On 29 June 2012, the audit authority provided a follow-up of the assessment of the management and control system for public procurement. The audit authority's opinion categorises the system as "working, but significant improvements are needed".

By letter of 4 July 2012, the Romanian authorities communicated the measures put in place in order to address the general action plan regarding the establishing of irregularities independent from the recovery process, conflict of interest and increasing administrative capacity. The Commission services analysed the reply provided and acknowledged that the management verifications should start to focus more on risky areas of the public procurement process and on the substance of the operations, especially following the review meetings in November 2011 and June 2012 with the Commission services on correction of past expenditure.

Between 5 and 17 July 2012, the Commission's service carried out a follow-up review announced on 25 June 2012. The mission consisted in performing audit work related to:

- the effective functioning of the bodies involved in the ex-ante public procurement verifications - ANRMAP and UCVAP;
- the effectiveness of public procurement management verifications carried out by the managing authorities at the level of operations verified after 1 July 2011 under the programmes Transport, Regional, Environment and Increase of Economic Competitiveness.

By letter of 31 July 2012, in reply to the final report of 27 June 2012 issued by the Commission services for the audit mission 2011/RO/REGIO/J2/956, the managing authority provided additional financial information of the verification carried out in 2011 by the managing authority, as well as additional measures to be implemented to ensure effective functioning of the management and control system with regard to public procurement verifications.

By letter of 3 August 2012, the Commission services proposed financial corrections for the Regional Operational Programme, based on serious deficiencies in the management and control system of the programme which have put at risk the Union contribution already paid to the programme and on irregular expenditure contained in certified statement of expenditures which has not been previously corrected by the Romanian authorities. The

financial correction proposed has to be applied at the level of the contracts with public procurement launched in SEAP before 1 October 2011.

### **III. DEFICIENCIES FOUND BY THE COMMISSION**

The Commission considers that there are **serious deficiencies in the management and control system** of the Regional Operational Programme which affect the reliability of the procedure for management verifications and certification of payments for public procurement procedures and for which the corrective measures are not sufficient.

These deficiencies are mainly related to:

- **The first-level management verifications of the managing authority** (Article 58(c),(h), 60(b), 70 of Regulation (EC) No 1083/2006; Article 13(2)-(4) of Regulation (EC) No 1828/2006).
- **The organisation of the management bodies** (Articles 58(e) and 59(2) of Regulation (EC) No 1083/2006 and Articles 12 and 13(2) of Regulation (EC) No 1828/2006).

### **IV. LEGAL ASSESSMENT**

- 1) The Commission considers that there are **serious deficiencies with the first-level verifications of the managing authority for public procurement procedures** in respect of which the corrective measures are not sufficient.

In the audit report sent by the audit authority on 29 June 2012 as regards the follow-up of the assessment of the audit authority on the functioning of the management and control system in respect to public procurement for the Regional Operational Programme, the audit authority examined 65 public procurement procedures, covering all priorities, for which expenditure was declared to the Commission between January and March 2012. 23 of the 65 sampled contracts had also been subject to verifications carried out by the intermediate bodies of the Regional Operational Programme in 2012. 11 irregularities were still found as not being detected during management verifications. The irregularities affected priorities 1, 2, 3 and 5. The main types of irregularities were related to: restrictive qualification criteria, use of illegal evaluation factors, additional works awarded by negotiated procedure and failure to comply with the principles of equal treatment and transparency. The error rate resulting from the audit procedures carried out on 65 contracts in 2012 is as follows: 5.60% for priority 1, 3.77% for priority 2, 4.39% for priority 3, 10.66% for priority 5. These error rates are above the materiality level of 2% foreseen in Annex IV of Regulation (EC) No 1828/2006. No findings with financial impact were raised for priorities 4 and 6.

The audit authority concluded that the verifications performed by the managing authority and intermediate bodies did not manage to identify all irregularities in respect to public procurement. The audit authority assessed the functioning of the management and control system for the programme as "working partially, substantial improvements are needed" in the area of the management verifications performed in relation to public procurement.

During its follow-up review audit mission in July 2012, for the Regional Operational Programme, the Commission auditors made a follow-up of the progress made since December 2011 and confirmed the evaluation performed by the audit authority based on the work carried out. As explained above, the audit authority identified additional public procurement errors which were not detected by the first level of control mainly in priorities 1, 3 and 5. For priority 2 (key area of intervention 2.1), the Commission services are satisfied with the level

of corrections carried out by the national authorities for public procurement procedures launched in SEAP before 1 October 2011.

As a consequence, the first-level management verifications of the managing authority and intermediate bodies acting by delegation of the managing authority cannot be considered to be effective and reliable and thus do not fulfil the requirements of Article 58(c) of Regulation (EC) No 1083/2006 (procedures for ensuring the correctness and regularity of expenditure declared under the programme), Article 60(b) of Regulation (EC) No 1083/2006 (verification that the expenditure declared by the beneficiary for operations has actually been incurred and complies with Union and national rules), and Article 13(2), (3) – (4) of Regulation (EC) No 1828/2006 (verifications that the operations and expenditure comply with Union and national rules); Articles 58(h) and 70 of Regulation (EC) No 1083/2006 (investigating irregularities and making financial corrections required; recovering amounts unduly paid).

2) **The Commission considers that there are serious deficiencies in the organisation of the management bodies.**

The serious deficiencies in the management and control systems of the intermediate bodies acting by delegation of the managing authorities have not been identified by the managing authorities. It follows from the insufficient management verifications performed by the intermediate bodies as regards operations where public procurement was applicable that the supervision of the intermediate bodies by the managing authorities is not functioning effectively. The managing authorities have delegated tasks to the intermediate bodies but have not supervised adequately the work of the intermediate bodies to ensure that the first level management verifications in public procurement are properly performed.

As a consequence, the organisation of the management and control bodies cannot be considered appropriate and/or effective and does not fulfil the requirements of Article 58(e) of Regulation (EC) No 1083/2006 (the management and control systems of programmes set up by Romanian authorities must provide a system of reporting and monitoring where the responsible body entrusts the execution of tasks to another body), Article 59(2) of Regulation (EC) No 1083/2006 (for each programme, the Romanian authorities may designate one of more intermediate bodies to carry out some of all of the tasks of the managing authority under the responsibility of that authority), and Articles 12 and 13(2) of Regulation (EC) No 1828/2006 (the provisions of the Regulation concerning the managing authority must apply to the intermediate body who then must carry out verifications pursuant to Article 60(b) of Regulation (EC) No 1083/2006).

## **V. CONCLUSIONS AND NEXT STEPS IN THE PROCEDURE**

In view of the above, the Commission services are of the opinion that the conditions for the application of Article 92 of Regulation (EC) No 1083/2006 are fulfilled.

The suspension would cover all expenditure in the programme with the exception of:

- contracts for priority 2, key area of intervention 2.1, published in the national electronic system for public procurement (SEAP) before 1 October 2011,

Pursuant to Article 92 of Regulation (EC) No 1083/2006, the Romanian authorities are requested to submit, **within two months** of receipt of the national language of this letter, their **observations** together with a description of **measures** taken to improve their effective functioning of the management and control system of the assistance in question for the future

and the **related opinion of the audit authority**. The Romanian authorities have to demonstrate the effective functioning of the measures described below.

The measures to improve the functioning of the management and control system for the future must be such as to prevent the recurrence of the identified deficiencies and may be subject to verification by the Commission services.

In this context the Romanian authorities are requested to implement the following corrective measures:

1) Related to the **general action plan** included in the warning letter of 28 July 2011 and the additional commitments taken by the Romanian authorities (see Commission services letter of 23 November 2011 and the Romanian authorities letters of 2 December 2011 and 4 July 2012, the measures that still need to be implemented and the deliverables are presented in the **Annex I** of this letter.

2) The managing authority and/or intermediate bodies must take appropriate procedural, organisational and operational measures in order to ensure the effectiveness and quality of the management verifications as well as the legality and regularity of public procurement procedures and expenditure certified to the Commission. The **managing authority** must inform the Commission services about the **measures specific to the Regional Operational Programme to be implemented to strengthen the process of public procurement management verifications** (letter of 31 July 2012).

- modification of the unit "Authorisation Directorate" by splitting the unit in charge of verification of payment claims in one unit in charge only with public procurement management verifications (including conflict of interest and fraud) and one unit in charge with the other management verifications. The purpose of this reorganisation is to specialise staff in public procurement issues and to discharge them of other tasks.
- modification of the procedure linked to public procurement: after the signature of the contract, the public procurement dossier has to be sent for verification at the intermediate body rapidly even when there is no payment claim. The intermediate body has to check it rapidly and send it to the managing authority, which must rapidly verify and issue a conformity note to be attached at each reimbursement claim dossier. The Commission services underline the fact that the managing authority must verify the key and procurement procedures before submitting the reimbursement claim to the certifying authority based on a clear and documented risk assessment procedure. The management authority must implement an adequate risk assessment procedure which must be regularly updated by taking into account: organisation and latest changes in the management and control system in Romania, lessons learnt and results of the verifications and audits carried out.
- development of a new procedure for the evaluation of the performance of the intermediate bodies: for 3 months of activity starting with 1 August 2012, the managing authority decided to verify 100% of the public procurement procedures already checked by the intermediate bodies in order to monitor the results of the public procurement verification process at the level of each intermediate body (IB). After this 3-month period, the managing authority will establish an error rate based on the results of the monitoring process and this error rate will be taken into account for results indicators of the IB's effective functioning. The Commission services underline the importance of an in-depth evaluation of the performance of the IBs. Based on the information obtained after the 3-month period, the managing authority must put in

place an adequate system in order to assure an effective and regular supervision of the IBs and that the effective corrective measures are duly taken to remedy the identified deficiencies. The corrective measures must aim at strengthening of the capacity of the IBs so that to ensure the legality and regularity of expenditure declared under public procurement contracts.

- Ensuring the effective functioning, on a continuous basis, of the actions implemented by the managing authority to ensure legality and regularity of expenditure certified to the Commission.

The Commission services underline that the above required actions are not exhaustive and the Romanian authorities may develop a more detailed action plan.

**3) The audit authority must provide an audit opinion** on the effective functioning of the management and control system in place which has to take into account:

- the general corrective measures to ensure the effectiveness of the management and control system on public procurement according to Commission services assessment, as presented in Annex I.
- the measures specific to the Regional Operational Programme as communicated by letter of 31 July 2012 and briefly outlined under point 2 above.

The audit authority's opinion on the new management and control system in place must be **based on the review of public procurement procedures launched in SEAP after 1 October 2011**. The audit authority is encouraged to report on any other improvements made to the management and control system.

Until such time as the above issues are resolved, whenever new expenditure is certified to the Commission under the Regional Operational Programme, the certifying authority must identify in a statement which new expenditure relates to contracts for priority 2, key area of intervention 2.1, published in the national electronic system for public procurement (SEAP) before 1 October 2011.

As the withholding mechanism applied during the 1<sup>st</sup> semester 2012 is no longer applicable (see letters of 22 December 2011 and 1 March 2012), the Commission might be in a position to reimburse the full amount of certified expenditure. However, the Romanian authorities are requested to confirm, with regard to future applications for payment, that the new expenditure declared to the Commission results from a management and control system which is free from the deficiencies identified and complies with the requirements of all applicable rules, in particular Regulation (EC) No 1083/2006 and 1828/2006.

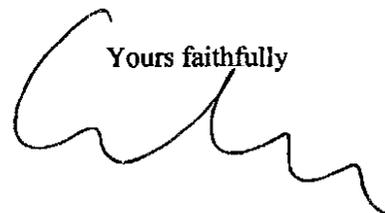
Moreover, the Romanian authorities are asked to ensure that the beneficiaries and any third parties, for whom a suspension or reduction of the EU assistance could have negative consequences, are duly informed.

Following your reply or in the absence of a reply within two months of receipt of the national language version of this letter, the Commission may, in accordance with Article 92 of Regulation (EC) No 1083/2006, **without any further delay**, take a decision to **suspend ERDF interim payments** for the Regional Operational Programme in relation to the assistance in question, on the basis of the information at its disposal.

The Commission may then, pursuant to Articles 99 and 100 of Regulation (EC) No 1083/2006, initiate the procedure to make **financial corrections** by cancelling all or part of the ERDF contribution to the programme in question.

The Romanian authorities can at any point of the procedure avoid such a financial correction by taking the necessary measures themselves. The amounts released in this way can be re-used by the Romanian authorities for the programme concerned (Articles 100(4) and 98(2) of Regulation (EC) No 1083/2006). It should however be stressed that, according to Article 98(3) of Regulation (EC) No 1083/2006, the contribution cancelled by the national authorities may not be re-used for the operation or operations that were the subject of the correction, nor, where a financial correction was made for a systemic irregularity, for existing operations within the whole or part of the priority axis where the systemic irregularity occurred.

Yours faithfully



Walter Deffaa

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Mr Johnston, DG Maritime Affairs and Fisheries, Unit F1  
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Mr Xenakis, Head of Unit D.4, OLAF

*References:*

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- Commission letter of 10 June 2011 (Ares(2011)630530)*
- Commission letter of 17 June 2011 (Ares(2011)654490)*
- Meeting between Commission and Romanian authorities – 27 June 2011*
- Commission letter of 28 July (Ares(2011)823545)*
- Romanian authorities letter of 11 October 2011 (Ares(011)1076539)*
- Romanian authorities letter of 24 October 2011 (Ares(2011)1129227)*
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- Commission letter of 1 March 2012 (Ares(2012)242234)*
- Commission letter of 4 April 2012 (Ares(2012)410915)*
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- Commission letter of 27 June 2012 (Ares(2012)774012) – final report mission no. 2011/RO/REGIO/J2/956*
- Email of the Romanian authorities (letter no 50334/29.06.2012) on the audit authority opinion on the functioning of the management and control systems - 29 June 2012 (Ares(2012)803864)*
- Letter from the Romanian authorities on the measures addressing the deficiencies in the management and control system related to public procurement procedures for EU co-financed projects in Romania - 4 July 2012 – Ares(2012)810018*
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- Commission letter of 3 August 2012 (Ares(2012)944610)*
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