



EU REPORT 2009

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Report on EU Financial Management in the CR

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CONTENTS:

Introduction.....	5
A. General information.....	7
A.1 Current developments in EU budget implementation and control	7
A.1.1 Commission's initiatives in financial management	8
A.1.2 Annual summary of audits and declarations	9
A.1.3 National declarations.....	10
A.1.4 Annual Reports of the European Court of Auditors concerning the financial year 2007	11
A.1.5 Protection of financial interests	12
A.2 EU budget structure and its relation to the Czech Republic.....	13
A.2.1 Revenue.....	13
A.2.2 Expenditure.....	14
A.2.3 EU budget in relation to the Czech Republic	15
B. Sector matters.....	19
B.1 EU budget revenue	19
B.1.1 VAT administration and collection	19
B.1.2 Traditional own resources	22
B.2 Common Agricultural Policy of the EU.....	24
B.2.1 Current developments.....	24
B.2.2 Implementation of the Common Agricultural Policy in the Czech Republic.....	25
B.2.3 Audit activities and protection of the EU financial interests in the CAP area	30
B.3 EU Cohesion Policy.....	33
B.3.1 Current developments.....	34
B.3.2 Management and control systems in the programming period 2007-2013.....	39
B.3.3 SAO's audit activities	41
B.3.4 ECA's audit activities	43
B.3.5 Protection of the EU financial interests in the Cohesion Policy area	44
B.4 Other EU expenditure.....	45
B.4.1 Other EU financial instruments in the Czech Republic	46
B.4.2 Financial management and control in relation to other EU financial instruments	47
B.4.3 Protection of the EU financial interests	48

C. Other activities in the EU financial management area	51
C.1 Legal matters	51
C.1.1 Irregularities and violations of budgetary discipline	51
C.1.2 Partnerships.....	52
C.1.3 Grant award procedures	52
C.1.4 Delayed enactment of legislation	52
C.2 International SAO activities	53
C.2.1 Audit activities	53
C.2.2 Experience sharing and consultation activities	54
D. Literature and sources	57
E. Annexes	63

Introduction

This *Report on EU Financial Management in the Czech Republic* was prepared based on *The Audit Strategy of the Supreme Audit Office*. It reflects the importance represented by the financial relations with the EU budget for the Czech national economy and the role and position of the Supreme Audit Office as an independent audit authority.

As opposed to the first EU Report, containing information on the years 2004–2007, the *EU Report 2009* has been compiled using information above all related to the year 2008. In order to facilitate understanding of the relationships and to satisfy the need of putting the data into the context of historical development, our *EU Report 2009* includes also certain facts not directly linked to 2008. In addition to information on use of funds and comparison of available audits, the *EU Report 2009* draws attention to the current financial management trends, opportunities for further development, while it also presents key characteristics of protection of the EU financial interests.

Audit reports of both the Supreme Audit Office and the European Court of Auditors, as well as various publicly available resources were used as our source of information. At obtaining information at the national level, cooperation was maintained in particular with the Czech Ministry of Finance. Unfortunately, the efforts by the Supreme Audit Office to establish cooperation with selected units of the European Commission at preparation of the *EU Report 2009* once again met no success (similarly to the previous year).

Analyses of the audit conclusions of both the Supreme Audit Office and the European Court of Auditors showed that findings of these authorities are in agreement in most of the areas, while obviously the findings of the European Court of Auditors are related to the whole European Union and, very frequently, do not rely on the results of audits carried out in the Czech Republic. According to conclusions by the European Court of Auditors included in its annual reports, a major proportion of the European Union budget has been repetitively suffering from material errors and also functioning of control systems is deemed inadequate. The European Court of Auditors therefore has so far never issued an unqualified opinion on the legality and regularity of operations. The largest amount of errors is invariably detected in the cohesion policy.

The Supreme Audit Office, too, detected serious shortcomings during its audits focused on the cohesion policy in the Czech Republic. Recurring errors were identified in particular with regard to public procurement, eligible expenditure, monitoring systems, as well as quality of checks. A risk of the repayment of funds into the European Union budget exists in many cases. The levels of shortcomings identified both by the Supreme Audit Office and European Court of Auditors were substantially lower in other audited areas.

Furthermore, we deem important the fact that until now, the Czech Republic has remained a net recipient of the European Union funds, i.e. it received more funds from the European Union budget than contributed into it each year. In addition, the net position of the Czech Republic reached its historical high in 2008. As at 31.12.2008, substantial portions of respective allocations were still left to be drawn down for certain programmes co-financed from the European Union budget, thus posing a threat of forfeiture of the funds. However, relating to the economic crisis, which hit the global economy close to the end of 2008, the Member States were allowed to apply for postponing the deadline to request payments relating to the 2000–2006 programming period until 30.06.2009, which the Czech Republic made use of in case of most of the programmes.

The fact that the European Court of Auditors has been unable so far to issue an unqualified opinion with respect to the legality and regularity of operations has been perceived negatively across the entire European Union. On the part of the Commission, therefore, in its position of the body responsible for the implementation of the budget, activities have been carried out aimed at changing the situation. The reforms being adopted consequently reflect topical needs and respond to the major issues of implementation of the European Union budget. The *EU Report 2009* includes both a general overview of the key reform steps towards the enhanced quality of existing systems and specific information on the key activities within separate sectors, such as a review of the progress of the Common Agricultural Policy, or the strategy to enhance the fight against VAT fraud.

We believe that summarising these facts into a single document will produce a coherent look at the issues of the European Union financial management in the Czech Republic. The scope of various information types reflects our intent to provide information in a transparent form to the widest possible range of interested persons, both from the professional public and responsible institutions. Our goal is to provoke a debate that would contribute to better quality of financial management of the European Union funds in the Czech Republic.

A. General Information

A.1 Current developments in EU budget implementation and control

Financial management of the European Union (EU) has been undergoing a dynamic development recently. The development is driven predominantly by an effort to improve the quality of the supervision and control systems at implementation of the EU budget, as well as by an effort to provide for adequate responding to the topical needs of the society.

The implementation of the EU budget is the responsibility of the European Commission (Commission). However, since the majority of the EU budget expenditure is subject to the so-called shared management between the Commission and Member States, an obligation exists for the Member States to cooperate with the Commission in a manner ensuring use of the budgeted funds in accordance with the sound financial management principles. Provision of adequate cooperation by the Member States is required also with respect to the EU budget revenue, since the own resources of the EU budget are obtained through the Member States.

The implementation of the EU budget is subjected to audits on an annual basis, carried out by the European Court of Auditors (ECA). Audit results are published in separate reports by the ECA. A summary opinion on the reliability of the accounts and on the legality and regularity of underlying transactions is then embodied in the so-called Statement of assurance (DAS¹), which is part of the annual report. Until publication of the Annual Reports 2007, the statement had been always qualified. For 2007, an unqualified statement was issued on the reliability of the annual accounts, while, for the same year, the statement was issued as



¹ From the French *déclaration d'assurance*

qualified with respect to the legality and regularity of operations. This fact has been perceived negatively, both by the European Parliament and the public. Achieving a positive DAS has become one of the strategic goals of the Commission and the effort represents one of the key drivers towards improved quality of the financial management, both at the EU level and at the level of individual Member States.

A.1.1 Commission's initiatives in financial management

Initiatives by the Commission in this area significantly impact management of budgetary funds, both at the entire EU level and at the level of individual Member States. The text below discusses three initiatives of the Commission, which significantly affect the implementation of the EU budget within the Member States.

A.1.1.1 Commission Action Plan towards an integrated internal control framework

A core initiative by the Commission, which should contribute to achieving a positive DAS, is the Commission *Action Plan towards an integrated internal control framework*² (Action Plan), adopted on 17 January 2006. The goal of the plan is to ensure more efficient and effective internal control of EU funds management. The Action Plan includes a series of measures that were designed to be implemented by the end of 2007. It follows from the interim progress report of the Commission on the implementation of the Action Plan³ that most of the actions were either completed or nearing completion already in February 2008 and that the actions have begun to show positive impacts on the control systems. A detailed overview of separate actions, together with their status of implementation and extent of impact is attached hereto as Annexe 2.

Positions on the implementation of goals of the Action Plan were taken also by both the ECA⁴ and the European Parliament. The ECA, in its Annual Reports 2007, presented an analysis of the Action Plan implementation⁵. According to the ECA, the Commission progressed in implementation of actions of the Action Plan, with one notable exception of Action 11N aimed at assessing recovery of erroneously paid out funds. It follows further from the analysis that the ECA and Commission do not agree as to the assessment of the status of implementation of the Action Plan. While the Commission considers certain actions finalised or nearly finalised, in the ECA's view they are currently open and not yet finalised. The ECA noted on the impact of separate actions that it was unable to find evidence for an improvement that would be directly and measurably linked to the particular actions.

The European Parliament, in its decision taken on discharge,⁶ welcomed the overall progress made by the Commission towards building the internal control systems. At the same time however, with respect to six actions included in the Action Plan, the Parliament refused to agree with a declaration by the Commission that the actions had been already completed⁷. Furthermore, the European Parliament expressed reservations as to whether these measures had been put in place at all. The Parliament also emphasised, with regard to ten actions,⁸ that the Commission was also dependant on cooperation with the Member States and urged the Commission to use every available tool at its disposal to implement them as soon as possible.

A.1.1.2 European Economic Recovery Plan

The Commission adopted *A European Economic Recovery Plan*⁹ in November 2008, aiming at introducing the measures to address the adverse impact of the economic crisis. The plan was subsequently approved by the European Council in its December meeting¹⁰ and the Commission began to adopt measures for its implementation.

2 Communication from the Commission to the Council, the European Parliament and the European Court of Auditors: *Commission Action Plan towards an Integrated Internal Control Framework*, COM(2006) 9 of 17.01.2006

3 Communication from the Commission to the Council, the European Parliament and the European Court of Auditors: *Report on the Commission Action Plan towards an Integrated Internal Control*, COM(2008) 110 of 27.02.2008

4 Points 2.29 to 2.42, ECA's Annual Reports concerning the financial year 2007

5 Table 2.3, ECA's Annual Reports concerning the financial year 2007

6 European Parliament decision on discharge in respect of the implementation of the European Union general budget for the financial year 2006, section III – Commission (No P6_TA(2008)0133)

7 Actions No 1, 3, 3N, 5, 8 and 13 (see Annexe 2)

8 Actions No 1, 3, 3N, 5, 10, 10N, 11, 11N, 13 a 15 (see Annexe 2)

9 Communication from the Commission to the European Council: *A European Economic Recovery Plan*, COM(2008) 800 of 26.11.2008

10 Presidency conclusions of the Brussels European Council (11 and 12 December 2008), available at www.consilium.europa.eu

The measures proposed by the *European Economic Recovery Plan* concern predominantly monetary and credit aspects, budgetary policy and the prioritised areas of the Lisbon strategy for growth and employment. Many of the measures will impact on management of the EU budget funds. They include e.g. reinforced interventions from the European Investment Bank into selected areas, speeded-up decision-making processes in channelling state aid, as well as accelerated implementation of the Structural Funds (in particular through increased pre-financing or widened utilisation flat rate based payments).

Consequences of the economic crisis require close coordination of the EU and Member States activities in order to be effectively mitigated. Many of the activities envisaged by the *European Economic Recovery Plan* will also immediately impact on the implementation of the EU budget as put into practice by the Member States, and the Member States will therefore have to provide necessary cooperation in the implementation of separate measures.

A.1.1.3 Action plan to strengthen the Commission's supervisory role under shared management of structural actions

In February 2008, the Commission published *An action plan to strengthen the Commission's supervisory role under shared management of structural actions* (Action plan to strengthen the Commission's supervisory role)¹¹, which is designed to assist in reaching the strategic goal, in order to obtain a positive DAS from the ECA. The reason for adopting this action plan consisted in the fact that despite all measures adopted under the integrated internal control framework, the ECA observed in its Annual Report 2006 that no improvement was noted with respect to structural measures.

The Action plan to strengthen the Commission's supervisory role is aimed at bringing the Member States to reduce the error rate in their expenditure claims certified to the Commission for co-financing under structural actions. If such actions fail, a loss to the Community (EC) budget should be prevented by financial corrections.

There are ten actions under the plan (see Annexe 3), addressing both of the programming periods. For the programming period 2000–2006, the actions will mainly cover improved effectiveness of post-payment controls. The efforts over the current programming period focus mainly on setting national supervision and control systems in a manner ensuring their effective operation. Where the goal is missed in certain cases, early detection of shortcomings and application of corrective measures should be ensured. According to the interim progress report of the Commission of November 2008 on the Action Plan to strengthen the Commission's supervisory role¹², separate actions are implemented on a continuous basis and, except for three actions, the Commission expects the set schedule will be met (see Annexe 3).

A.1.2 Annual summary of audits and declarations

At the end of 2006, the financial regulation stipulating management of the EU budget funds was significantly amended¹³. One of the newly introduced measures included an obligation of Member States to produce an annual summary of the available audits and declarations. The documents are required to be drawn up at an adequate national level and should relate to the EU budget funds under shared management. The goal of the new instrument is to contribute to the improved responsibilities of the Member States for appropriate financial management of the EU budget funds.

An annual summary of audits and declarations relates both to the agricultural expenditure and structural and other related actions. The documents are submitted to the Commission on an annual basis, as at each 15 February of the year following after the year, with respect to which the audit and declaration summaries are presented. The Member States were for the first time required to prepare their summaries of audits and declarations for the period of 2007 and present them to the Commission by 15 February 2008.

11 Communication from Commission to the European Parliament, the Council and the European Court of Auditors: *An action plan to strengthen the Commission's supervisory role under shared management of structural actions*, COM(2008) 97 of 19.02.2008

12 Communication from Commissioners Hübner and Špidla to the Commission giving an interim progress report on the action plan to strengthen the Commission's supervision role under shared management of structural actions, SEC(2008) 2756

13 Council Regulation (EC,Euratom) No 1995/2006 amending Regulation (EC,Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

During 2008, the Commission bodies took an interim assessment of how the Member States managed to meet their new obligations¹⁴. As revealed by the assessment, most of the Member States complied duly with the obligations. In some instances, however, certain shortcomings occurred (such as late submissions or presented incomplete documents) and there has been still space left for improving quality of the documents.

In the Czech Republic (CR), summaries of audits and declarations are prepared on agricultural expenditure and on structural action expenditure. The Czech Ministry of Finance (MF) is responsible for preparation of the documents with respect to expenditure by the Structural Funds and *Cohesion Fund*. The section on summary of audits includes audit observations regarding separate bodies along the implementing structure, while the section on declarations includes certificates issued by the Certifying Authority (CA) for the respective expenditure. MF submitted the first version of the summary of audits and declarations to the Commission by the due date, i.e. prior to 15. February 2008. As a result of differing interpretations of the respective provision of the Financial Regulation however, the above first version of the document covered only the data for the programming period 2007–2013. Following a specified requirement by the Commission, MF prepared the second version of the document, which included also information on the previous programming period. The version was sent additionally to the Commission in the course of March 2008. It follows from the summary analysis contained in the end of the document that, regarding Structural Funds, no observations of a systemic nature were identified in the CR¹⁵.

With respect to agricultural expenditure, the section on declarations has been prepared by the paying agency, i.e. State Agricultural Intervention Fund (SAIF). The summary of audits is represented by a certificate issued by CA, the function of which in the Czech Republic is performed by the company BDO Prima CA s. r. o. The documents are dispatched annually to the Commission, together with the annual accounts of the paying agency¹⁶. For 2007, both the statement of assurance and certificates were issued as unqualified for the area of the Common Agricultural Policy (CAP)¹⁷. It follows from the foregoing that, according to the paying agency and CA, no material shortcomings exist in the national control system in this respect¹⁸.

A.1.3 National declarations

In addition to issuance of the above summaries of audits and declarations, some of the Member States¹⁹ have also commenced to produce voluntary declarations to report on management of the EU budget funds in their respective country. By doing so, such Member States satisfied repeated calls by the European Parliament for introducing national declarations of Member States that would deal with all EC funds subjected to shared management.

The aim of these declarations is to emphasise individual accountability of each state for use of the EU funds under shared management and thus help improve management of those funds. The declarations are drawn up by governmental institutions (ministries of finance as a rule) of individual countries and subsequently audited by the supreme audit institutions (SAIs), who issue their own positions on the declarations. Respective national parliaments are the key addressees of the declarations.

In the CR, preparation of such national declarations has not been underway as yet²⁰.

14 A letter by the Directorate-General for Regional Policy of 21.04.2008 No D(2008) 970056; A letter by the Commissioner for Agriculture and Rural Development of 16.04.2008 No CAB/D/389; Assessment of the annual summaries on structural actions provided by the designated bodies of the member states pursuant to article 53b(3) of the financial regulation

15 Summary of available audits and declarations 2007, Ministry of Finance

16 Art. 8(1)(c)(iii), Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy

17 A letter by the Commissioner for Agriculture and Rural Development of 16.04.2008 No CAB/D/389

18 Page 4 Guideline No 4 on the Statement of assurance to be provided by the director of a Paying agency pursuant to article 8(1)(c)(iii) of Council Regulation (EC) No 1290/2005, European Commission 2007

19 E.g. the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and Sweden

20 Source: Ministry of Finance

A.1.4 Annual Reports of the European Court of Auditors concerning the financial year 2007

In November 2008, the ECA published its *Annual Reports concerning the financial year 2007*, traditionally containing both a DAS and further observations on the implementation of the budget. These observations are discussed in greater detail in Chapter B. The DAS includes two types of opinions: an opinion on the reliability of the annual accounts and an opinion on the legality and regularity of operations, which underlie the annual accounts.

With respect to the reliability of the EC annual accounts, the ECA has issued, for the first time in history, an unqualified statement. The ECA has spelled out its position that the *Annual Accounts of the European Communities present fairly, in all material respects, the financial position of the Communities as of 31 December 2007, and the results of their operations and cash flows for the year then ended*²¹. At the same time, the ECA drew attention to the fact that weaknesses in the accounting systems, which are partly due to the complex legal and financial framework, still put at risk the quality of financial information of certain Directorates-General of the Commission and decentralised bodies whose accounts are subject to consolidation²².

With respect to the legality and regularity of operations, which underlie the annual accounts, the ECA issued a positive opinion only on the budget revenue and on two of the expenditure chapters. However, regarding an overwhelming majority of expenditure, a negative opinion persists as to the legality and regularity of operations. The ECA maintains the view that payments in the other areas of expenditure are still materially affected by errors, although to different levels²³.

The summary of 2007 DAS results on the legality and regularity of underlying transactions in the individual headings is shown in Table 1:

Headings	Functioning of supervisory and control systems	Error range	Legend:	
Revenue				effective
Agriculture and natural resources				partially effective
Cohesion				not effective
Research, energy and transport			Error range	
External aid, development and enlargement				less than 2%
Education and citizenship				between 2% and 5%
Economic and financial affairs				greater than 5%
Administrative and other expenditure				

Source: ECA's *Annual Reports concerning the financial year 2007*, Table 1.3, page 29.

Expenditure made under the chapter *Agriculture and Natural Resources* and chapter *Cohesion* represent approx. 80 % out of all EU budget expenditure for the year 2007. Expenditure activities under these chapters are subject to shared management, where the tasks of implementation of the budget are assigned to the Member States. A negative opinion issued on these areas is therefore based both on the shortcomings identified with respect to the Commission and on the shortcomings for that the Member States are responsible.

For the purposes of preparing the DAS 2007, the ECA carried out five audit missions in the Czech Republic (two missions regarded agriculture, two the cohesion policy and one education and culture). The missions concerned with the cohesion policy and CAP detected shortcomings that were subsequently reflected in the DAS wording²⁴. Negative opinions expressed by the DAS on the areas subjected to shared management are therefore based, *inter alia*, on the shortcomings for which the CR is also accountable.

21 Paragraph VII, DAS, ECA's Annual Reports concerning the financial year 2007

22 Paragraph VIII, DAS, ECA's Annual Reports concerning the financial year 2007

23 Paragraph X, DAS, ECA's Annual Reports concerning the financial year 2007

24 A letter by the Director-General for the Budget of 11.11.2008 No D(2008) 59019

A.1.5 Protection of financial interests

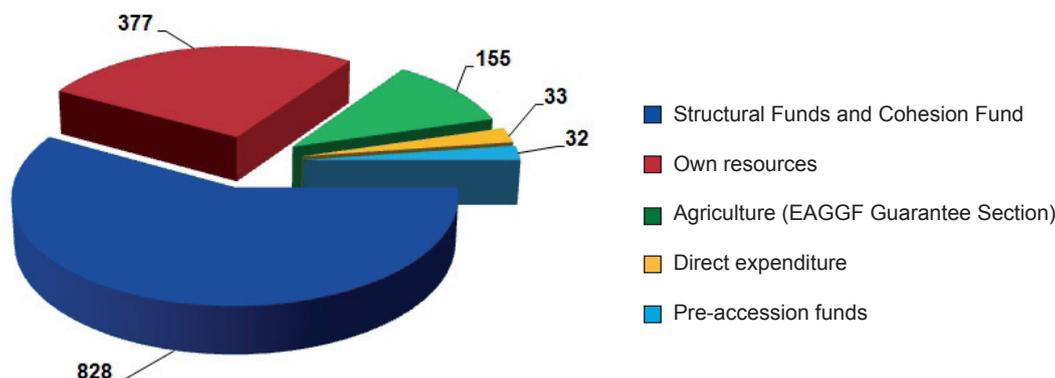
The EC and Member States share their responsibility for the protection of the EC financial interests and fight against fraud. The Member States are accountable for the protection of the EU financial interests particularly with respect to management of the EU budget funds under shared management, as well as to the collection of traditional own resources of the EU budget and their provision to the Commission. The EC and Member States cooperate in protection of the EC financial interests, primarily with the European Anti-Fraud Office (OLAF²⁵), which is responsible in particular for exercising the investigative powers of the Commission in the area of protection of the financial interests and for developing a concept for the fight against fraud.

Protection of the EC financial interests is implemented in the Member States through the prevention, detection, remedy and reporting of irregularities and suspected fraud. In terms of the EC legislation, irregularities mean: *any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure*²⁶. Fraud means any intentionally caused irregularity bearing any of the signs of acts described in the *Convention on protection of the EC financial interests*²⁷.

The Member States tackle irregularities and fraud using both administrative measures (such as financial reviews, recovery of amounts and mutual exchange of information) and criminal law instruments. Both the foregoing require mutual cooperation between the Member States and the Commission, as well as mutually between the Member States.

Compliant to the EC legal provisions, the Member States are required to notify the Commission regularly on the detected irregularities and suspected fraud, while the Commission subsequently prepares its statistical assessment of the data, and presents it to the European Parliament and the Council. Starting from 2007, information has been available for the first time on irregularities detected by the Commission departments in the areas of the directly and centrally managed budget. There were 11 444 irregularities reported in total for the year 2007 (incl. suspected fraud), whose overall financial impact on the budget was estimated at EUR 1 425 million²⁸.

Graph 1 Total estimated financial impact of irregularities in 2007 (EUR million)



Source: Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008

Details of the issues of irregularities for separate segments of the budget are discussed in Chapter B.

25 From the French *l'Office européen de lutte antifraude*

26 Art. 1(2), Council Regulation (EC, Euratom) No 2988/95 on the protection of the European Communities financial interests; EC segment rules set down their own specific definitions of irregularities

27 Art. 1(1), *Convention on the protection of the financial interests of the European Communities* of 26 July 1995

28 Commission report to the European Parliament and Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 of 22.07.2008

During 2007 and 2008, a series of major changes took place in the CR with respect to the protection of the EC financial interests. In September 2007, the Czech Government approved a transfer of the central contact point function of the AFCOS system²⁹ from the Supreme Public Prosecutor's Office to the MF³⁰. The transfer came into effect as of 01.01.2008. As from the date, the MF has been newly responsible for coordinating activities in the area of irregularities reporting³¹.

During 2008, the Government adopted the new *National Strategy towards the protection of the EC's financial interests* (National Strategy). Further adopted as a follow-up of the National Strategy was the *Action Plan for the implementation of priorities and goals of the strategy*³². The key goal of the documents consists in providing for the implementation of commitments arising for the CR from the EC laws with respect to the protection of the EC's financial interests. The two documents summarise the developments to date and set the goals to be achieved. In the above Action Plan, the four below key tasks were set down, which should help to enhance the system of protection of the EC's financial interests in the CR:

- Draft a new law to supersede the current Act on Financial Control in Public Administration.
- Ensure a uniform approach to presenting assurance of the appropriateness and functionality of the internal management and control system.
- Reinforce the independence of the internal audit.
- Define specific elements and procedures under the system of protection of the EC financial interests.

However, a weakness of the National Strategy may be seen in the fact that it is targeting predominantly the issues of structural operations, while an insufficient amount of attention is given to the other areas of the EU budget.

With respect to the criminal law area of the protection of the EC's financial interests, the Czech Penal Code was substantially amended in 2008³³. The amendment act is intended to ensure implementation of certain requirements stipulated by the *Convention on the protection of the EC's financial interests*, which the CR previously committed itself to ratify in the EU Accession Agreement of 2003³⁴. The goal of the amendment act was to enable ratification of the above Convention.

A.2 EU budget structure and its relation to the Czech Republic

A.2.1 Revenue

Revenue of the EU budget consists of so-called own resources, collected from the Member States based on the EC legislation, and of other budget resources.

The own resources are as follows:

Traditional own resources, comprising the customs duties collected on imports of products originating outside the EU, levies imposed on the agricultural products imported from third countries, and levies collected from the producers of sugar and isoglucose. The Member States remit to the EU budget 75% of the funds obtained from the above resources. They may keep the remaining proportion to compensate for their expense relating to the collection.

Resource based on the Value Added Tax, defined as the revenue from a flat percentage rate binding upon all Member States and applied to the harmonised assessment base of the Value Added Tax (VAT).

29 From: *Anti-Fraud Co-ordination Structure*. A network of contact points established for the purpose of simplified and more efficient communication with the OLAF and for reporting irregularities to the office

30 Czech Government Resolution No 1010 of 5 September 2007 on amending the position of the central contact point under the Anti-Fraud Co-ordination Structure (AFCOS) in the Czech Republic

31 P. 27-28, *National Strategy towards the protection of the financial interests of the European Communities*, available at www.mfcr.cz

32 Czech Government Resolution No 535 of 14 May 2008 and Czech Government Resolution No 1275 of 15 October 2008

33 Act No 122/2008 Coll., amending Act No 140/1961 Coll., Penal Code, as subsequently amended, and Act No 337/1992 Coll., on the administration of taxes and fees, as subsequently amended

34 This specifically involved introduction of new criminal offence "Causing harm to the financial interests of the European Communities" and an extended definition of the public official

The rate amount is identical for all states, however, for the purpose of easing the financial load for the less prosperous EU Members, the total equivalent of the harmonised base is limited to 50 % of the gross national income (GNI) of each Member State³⁵.

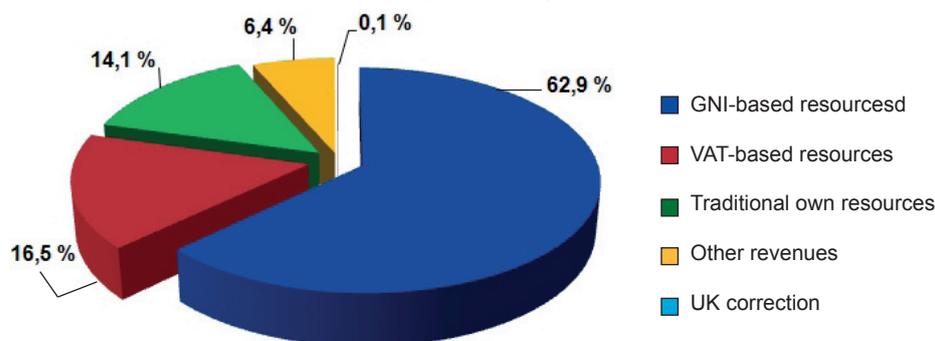
Resource based on the GNI, serving to make up for the difference between the revenue obtained from all other resources and projected expenditure of the EU budget. A flat rate used to compute it is applied to all Member States.

Other revenue comprise e.g. budget surplus amounts from the previous periods, fines imposed for breach of the fair competition rules or other acts, tax paid by the EU institutions staff, and also contributions from non-member countries to EU programmes.

Own resource is represented also by the **correction mechanism** through which the United Kingdom of Great Britain and Northern Ireland is refunded part of the contribution initially remitted to the EU budget in order to remove imbalances of remittance and revenue of the country. The cost of the measure is shared among the other Member States.

The below Graph 2 shows the shares of individual types of the EU budget revenue in the total revenue in 2007.³⁶

Graph 2 Breakdown of the EU budget by type of revenues



Source: European Commission – *EU Budget 2007 – Financial Report*

A.2.2 Expenditure

The 2007 budget was prepared based on a new Financial Framework 2007–2013³⁷. Expenditure of the budget now comprises six chapters as opposed to the original eight under the Financial Framework 2000–2006.

The Financial Framework 2007–2013 chapters include the following:

The chapter **Sustainable growth**, comprises two sub-chapters, while the first of them, *Competitiveness for Growth and Employment*, provides finance to e.g. educational activities, science and research, as well as development of the Trans-European Transport and Energy Networks. The second sub-chapter *Cohesion for Growth and Employment* is focused on enhancements of the economic, social and territorial cohesion.

The chapter **Preservation and management of natural resources** includes the funds allotted for the CAP, rural development, fisheries and the environment. Together with the first chapter, they represent more than 80 % out of the total budget expenditure.

The chapter **Citizenship, freedom, security and justice** comprises the subchapters *Freedom, security and justice and Citizenship*. The first one is designed for activities towards support of cooperation between the police and justice authorities and towards support of the immigration policy. The second subchapter includes expenditure for the EU culture, health protection and reinforced solidarity within the EU.

³⁵ European Commission – *EU Budget 2007 – Financial Report*

³⁶ We are setting out information for the financial year 2007, as the final figures for 2008 were unavailable at the time of preparation of the *EU Report 2009*

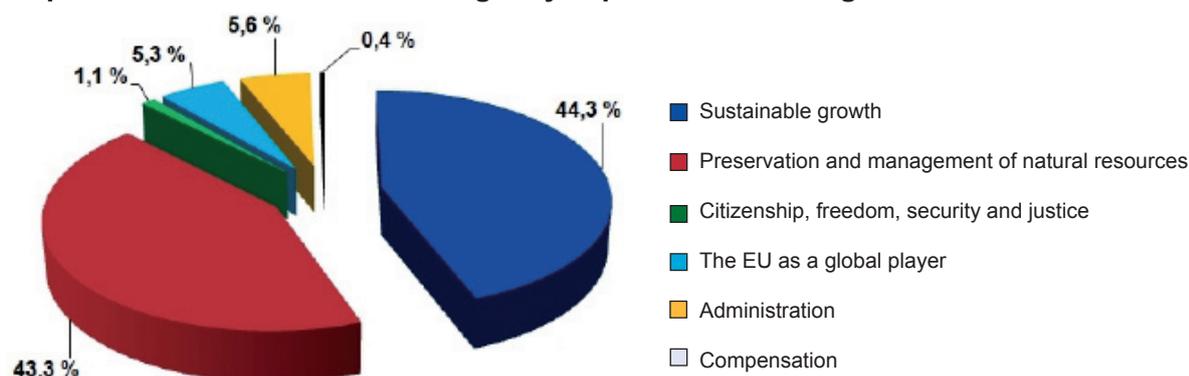
³⁷ Annex I, Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management

The chapter *The EU as a global player* serves to cover expenditure for the pre-accession instruments for the candidate countries and other cross-border activities, and also expenditure for humanitarian and development assistance.

The last two chapters include expenditure for administration and temporary compensations³⁸ to the new Member States, who acceded in 2007 (Bulgaria and Romania).

The following Graph 3 presents the structure of the EU budget expenditure in the financial year 2007, analysed by chapters.

Graph 3 Breakdown of the EU budget by expenditure headings in 2007



Source: European Commission – *EU Budget 2007 – Financial Report*

A.2.3 EU budget in relation to the Czech Republic

The CR, like all other EU Member States, is obligated to contribute into the shared EU budget and, on the other side, it may draw down funds from the budget, allotted e.g. for the CAP, Cohesion Policy and for many other areas.

A.2.3.1 EU budget revenue from the Czech Republic

The Czech payments to the EU budget have been increasing each year since the country's accession. They grew by approx. 5% year on year between 2005 and 2006, and by approx. 13% in 2007, compared to 2006³⁹. The payments totalled more than EUR 1 166 million in 2007, see the below Table 2.

Table 2 Overview of the EU budget revenues originating from the CR in 2004–2007 (EUR million)

	2004	2005	2006	2007	2004–2007
Traditional own resources	60,4	146,1	149,0	178,8	534,3
VAT-based resource	80,1	150,6	173,7	199,9	604,3
GNI-based resource	373,0	614,6	632,5	703,8	2 323,9
UK correction	51,6	78,8	80,1	84,4	294,9
Total	565,1	990,1	1 035,3	1 166,9	3 757,4

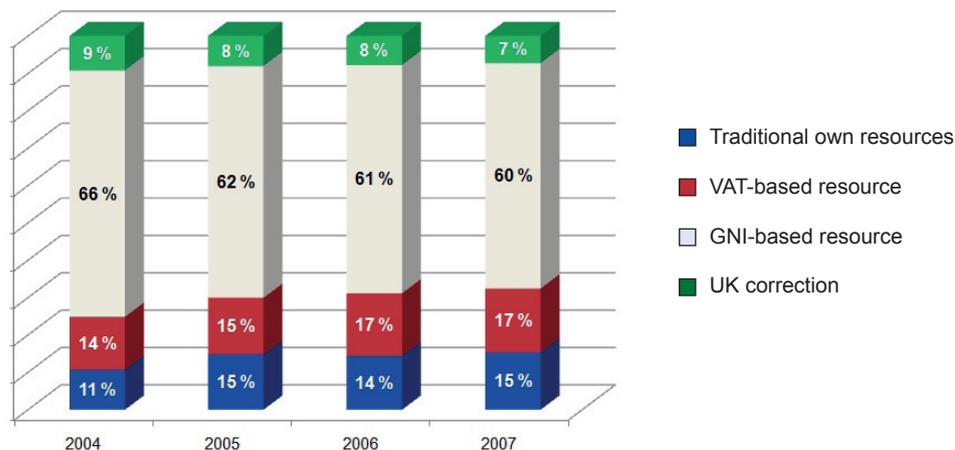
Source: European Commission – *EU Budget 2007 – Financial Report*

Shares by individual type of revenue has been however remaining more or less constant since 2004, as shown clearly by Graph 4.

³⁸ The compensation serves to provide for a positive balance of the new Member States as the funds drawn down by them during the initial years of their membership from the EU budget do not match their payments

³⁹ Lower payments in 2004 were mainly due to the fact that the CR acceded to the EU as late as of 1 May 2004

Graph 4 Share of individual revenues of the EU budget originating from the CR in 2004–2007



Source: European Commission – *EU Budget 2007 – Financial Report*

A.2.3.2 EU budget expenditure for the Czech Republic

In 2007, the CR obtained more than EUR 1 720 million from the EU budget. The revenue was by almost 30 % higher and the growth dynamics by almost 6 % higher compared to 2006, see the below Table 3 setting out the data for the period 2004–2007.

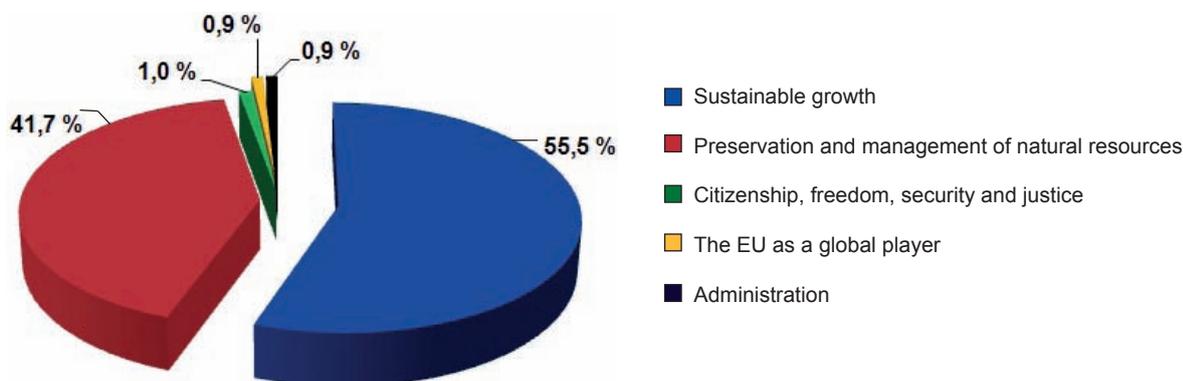
Table 3 Financial resources provided to the CR from the EU budget in 2004–2007 (EUR million)

Year	2004	2005	2006	2007	2004–2007
Total	815,8	1 074,9	1 330,1	1 721,0	4 941,8
Annual growth in %	x	31,8	23,7	29,4	x

Source: European Commission – *EU Budget 2007 – Financial Report*

Starting from 2007, the EU budget expenditure has been analysed according to the Financial Framework 2007–2013, which makes its detailed comparisons with the previous periods impossible. Notwithstanding that, it may be noted that likewise in the previous period, the largest proportion is represented by the expenditure for the Cohesion Policy and CAP. The share of expenditure under the chapter *Sustainable Growth*, with the Cohesion Policy being the largest proportion, represents more than half of the total expenditure. More than 40 % of the expenditure was allocated to the CAP implementation in the CR, see the below Graph 5.

Graph 5 Shares of EU budget’s individual expenditure headings provided to the CR in 2007

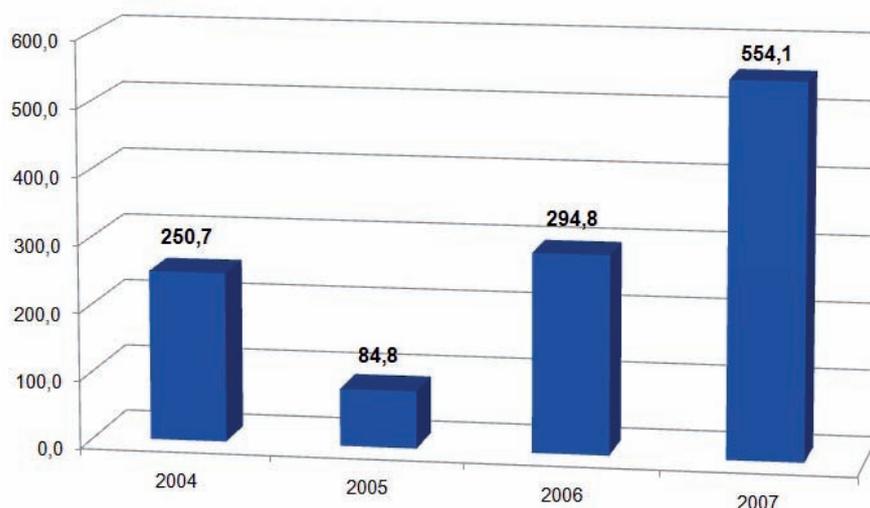


Source: European Commission – *EU Budget 2007 – Financial Report*

A.2.3.3 Net position of the Czech Republic

The CR is one of the Member States whose revenue obtained from the EU budget has so far exceeded their payments; hence the CR has been a so-called net recipient. The below Graph 6 shows the development of CR's net position in relation to the EU budget during 2004–2007.

Graph 6 Net position of the CR in 2004–2007 (EUR million)



Source: European Commission – *EU Budget 2007 – Financial Report*

A high level of the net position in 2004 was due to the advanced payments made by the Commission on account of operational programmes (OP), and, as a result of that and in spite of a limited drawdown of the funds from the EU Structural Funds, which was based on the actual expenditure spent under the programmes, the net position recorded a higher level compared to the following year 2005. In 2006, compared to 2005, the net position increased more than 3 times. Another considerable increase was recorded in 2007. According to the MF data published in January 2009, the 2008 net position totalled EUR 915 million and was once again higher compared to the previous periods. A key share of the positive development of the balance is represented mainly by the revenues obtained from the Structural Funds and *Cohesion Fund* (approx. 72 % in 2008), as well as the receipts allotted for the CAP implementation (approx. 25 % in 2008).

A.2.3.4 The “n+2” rule

The “n+2” rule, and its modification called “n+3”,⁴⁰ are major tools serving to ensure fluent and timely execution of the EU programmes. The rule is applied to financial management of the Structural Funds and of the *European Agricultural Fund for Rural Development* (EAFRD). According to the rule, the Commission shall automatically de-commit any part of the budget commitment for a respective programme, which failed to be used either for pre-financing or interim payments, or for which no payment application was received by the end of the second (or third) year following the year of the commitment. The Commission is required to notify any Member State in time, whenever a risk of such automatic de-committing arises.

With respect to the CR, the “n+2” rule could have been applied as at 31.12.2006 and 31.12.2007, however the set conditions were met in both cases and no de-committing by the Commission took place.

In view of the economic crisis that hit the EU in the course of 2008, the Commission ruled to enable postponement of the final deadline for drawdown of the funds from the Structural Funds for the programming period 2004–2006, having transferred it from 31.12.2008 to 30.06.2009. The CR decided to make use of the

40 The “n+2” rule is applied during the programming period 2004–2006 and then to the years 2011–2013 out of the programming period 2007–2013. The modification “n+3” is applied throughout the CR to Structural Funds and Cohesion Fund during 2007–2010

opportunity and dispatched an application to the Commission in December 2008, requesting an extended term of drawdown regarding selected programmes. The postponed deadline will enable to maximise utilisation of the available funds, taking particularly into account the drawdown problems affecting certain currently implemented programmes, see chapter B.3 for details.

B. Sector matters

B.1 EU budget revenue

B.1.1 VAT administration and collection

B.1.1.1 Coordinated audit of VAT administration

Relating to the Czech accession to the EU, an obligation arose for the CR to remit contributions into the EU budget and harmonise its tax system with the principles laid down by the EC legal provisions. One of the areas impacted by the change included the VAT regime applied to the trades realised within the EU Common Market.

The Supreme Audit Office (SAO) focused its audit activities in this area mainly on auditing the VAT administration following the Czech accession to the EU. Information on the audit is included in the *EU Report 2008*. The audit⁴¹ was prepared as coordinated with an identically focused audit carried out by the SAI of the Federal Republic of Germany (FRG) and the *Report on the Results of the Parallel Audit of the Administration of Value Added Tax in the Czech Republic and in the Federal Republic of Germany* was issued in 2008, which, based on the completed audit operations in the both countries, presents information on the observed weaknesses and recommendations for their elimination.

The Report on the Results of the Parallel Audit drew attention to the fact that the provisions on registration for VAT by the businesses were entirely different in the two countries, which caused problems in the VAT



41 AO No 06/27, SAO Bulletin 2/2007, p. 178

administration. A similar situation exists with respect to taxation of international bus transportation of passengers. While this transportation type is exempt from VAT in the CR, it is the segment of transportation classified as taxable supply in the FRG in case the transportation takes place in Germany.

Differences were found also regarding VAT returns. While the German VAT payers are obliged to submit their returns in an electronic format, this is only one of the filing options in the CR. Recapitulative statements on the supplied goods between the two states are filed with the tax offices in the CR, while these are submitted directly to the Central Liaison Office in the FRG⁴². In view of the obligation to file these statements on a quarterly basis, information contained in the VIES⁴³ system is obsolete.

It was found out, with respect to international information exchange, that the German Central Liaison Office failed to monitor the deadlines set for preparation of replies to requests for information coming from other Member States. This resulted in a considerable amount of late replies to the delivered information requests (during 2004 and 2005, replies from the FRG to CR sent past the set three-month term rated 53.4 % out of the total cases).

The tax administrations of the two countries have developed their own system of risk management. However, VAT fraud – and in particular so-called “*carousel*”⁴⁴ fraud reveals itself as a Europe-wide problem, not just a national one. Hence, an efficient risk management system cannot be developed in isolation by a single Member State.

Based on these findings, the both SAIs prepared the following joint recommendations:

- Bring into agreement the conditions of VAT payer registrations within the EU.
- Harmonise taxation in international bus transportation of passengers within the EU.
- Introduce an obligation to file VAT returns in an electronic format in the Czech Republic.
- Set down a one-month deadline for filing recapitulative statements in the EU Member States, in order to enable timely reviews of transaction taxation in the acquirer’s Member State.
- Monitor compliance with the three-month term for handling requests for information in the FRG, delivered under the international administrative cooperation of the EU Member States.
- Enhance exchange of information on the successful criteria, components and approaches regarding the risk management systems in the VAT area within the EU.

During 2009, a follow-up audit of the above issues will be commenced, aiming at finding out whether or not the recommendations have been adopted, while instances of intra-community transactions will be also reviewed, in connection to which a tax procedure failed to be finalised in the course of the parallel audits or had not been commenced until alerted by a SAI.

B.1.1.2 ECA’s Special Report No 8/2007

Findings and recommendations of the parallel audits match the conclusions from the ECA’s audit carried out during 2006. Conclusions of this audit together with the outputs from similar investigations establish the contents of ECA’s Special Report No 8/2007 on administrative cooperation in the VAT area. Based on an analysis of the situation in this area, the ECA concluded that, while new instruments to combat VAT evasion and fraud were introduced in 2004, cooperation between the Member States at VAT administration has not been strong enough to be able to tackle such behaviour⁴⁵.

According to the ECA, insufficient use is made of the arrangements introduced by the EC legal provisions. The exchange of information upon request, a major instrument of administrative cooperation between the Member States, is affected by a high proportion of late replies and by the absence of interim replies⁴⁶. Other

42 According to the Council Regulation (EC) No 1798/2003, each Member State designates a single central liaison office within its internal organisational structure, to which responsibility will be delegated in the field of administrative cooperation with other Member States regarding VAT administration, so-called CLO (Central Liaison Office)

43 From: *Value Added Tax Information Exchange System* – a system serving exchange of information between the Member States on VAT applied under business transactions between entrepreneurs of the EU Member States

44 The essence of this type of fraud consists in claiming an unjustified excessive VAT deduction

45 Point 94, ECA’s Special Report No 8/2007 concerning administrative cooperation in the field of VAT, together with the replies by the Commission

46 A requested authority is obliged, in case it is unable to respond by set date, forthwith inform the requesting party on the fact and reasons of such occurrence, together with an estimate of the time required to handle the request

reasons of the delays consist in weaknesses in the monitoring systems and organisational setup of the central liaison offices in certain Member States (not in the Czech Republic, however). The below table sets out a comparison of the late replies derived from the ECA's analysis, for a set of selected Member States during 2005 and 2006:

Table 4 Comparison of late replies by selected Member States in 2005–2006

Member State	Number of requests received		Late replies (after 90 day deadline)		% of late replies	
	2005	2006	2005	2006	2005	2006
Czech Republic	409	639	54	347	13,2	54,3
Denmark	679	832	282	511	41,5	61,4
Estonia	132	203	16	44	12,1	21,7
Latvia	144	403	13	122	9,0	30,3
Lithuania	192	166	13	18	6,8	10,8
Luxembourg	456	576	123	306	27,0	53,1
Hungary	283	537	82	193	29,0	35,9
Poland	588	772	80	308	13,6	39,9
Portugal	506	514	288	404	56,9	78,6
Slovenia	96	118	9	15	9,4	12,7
Slovak Republic	316	509	40	129	12,7	25,3
Sweden	395	416	118	109	29,9	26,2
Total	4 196	5 685	1 118	2 506	26,6	44,1

Source: ECA's Special Report No 8/2007 concerning administrative cooperation in the field of value added tax, together with the Commission's replies

The framework for the exchange of information without prior request is not well defined⁴⁷, and, furthermore, information provided spontaneously is not always systematically exploited⁴⁸. The VIES information system, too, has serious weaknesses. This is due to delays in collecting and capturing data, as well as problems in correcting wrong data⁴⁹. There are numerous other factors that prevent the potential benefits of cooperation from being fully exploited, such as absence of common rules for withdrawing VAT identification numbers, difficulties in cross-border prosecution and insufficient tools of quantification and analysis of VAT fraud⁵⁰.

Based on the conclusions, the ECA prepared certain recommendations, implementation of which should lead to combating VAT fraud within the EU more successfully. As mentioned above, many of them are either identical or similar with those spelled out by the Report on the Results of the Parallel Audit (e.g. shorten radically the timescale for collecting and capturing data in VIES, increase the intensity of cooperation and improve quality of exchanged information among the Member States, or, harmonise certain legislative rules).

B.1.1.3 Strategy to improve fight against VAT fraud in the EU

The fact that the above reservations and recommendations are in line with the views of the Commission of the situation in the field, should be pointed out as positive. The Commission, already back in 2004, introduced certain new instruments to fight against fraud, and then, in May 2006, published its communication⁵¹, in

47 Member States should provide each other information without prior request in the cases stipulated by legal provisions, e.g. where a risk exists of a tax loss arising in another Member State

48 Paragraph V(d) of the Summary, ECA's Special Report No 8/2007 concerning administrative cooperation in the field of VAT, together with the replies by the Commission

49 Point 100, ECA's Special Report No 8/2007 concerning administrative cooperation in the field of VAT, together with the replies by the Commission

50 Point 103, ECA's Special Report No 8/2007 concerning administrative cooperation in the field of VAT, together with the replies by the Commission

51 Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud, COM(2006) 254 of 31.05.2006

which it addressed the necessity of developing a coordinated strategy of combating tax fraud on the internal market. A decision followed in no time that the fight against VAT fraud will be the priority, while attention is currently focused on these issues.

Considerations as to how VAT fraud should be solved efficiently have split to cover two areas: traditional instruments of enhancing the already existent VAT collection system and far-reaching measures modifying the established system (taxation of supplies performed inside the EC and introduction of optional, voluntary use transferring the tax liability at the flat rate). Concurrently, the Commission set up a consultative *Anti Tax Fraud Strategy* (AFTS) expert group, and, in March 2007, an open conference was held concerned with the fight against VAT fraud, in which EU businesses could express their views on the methods used in addressing VAT fraud and provide their observations of the proposals submitted to the Commission, as well as submit their own proposals.

While discussions on the far-reaching measures resulted in a finding that the measures could not be currently implemented, more distinct progress has been made regarding the traditional measures. A set of regular measures has been prepared and further developed, of which part was already presented for implementation in March and December 2008, as proposals for amending certain acts. These proposals e.g. introduce shortening of the periods, with regard of which recapitulative statements on the supplies inside the EC are filed, to one month, and they should also provide tax administrators with an instrument for recovering VAT from the traders who facilitate frauds by not complying with their notification duties. The March proposals have been already approved and the acts that amend the two key standards have been published⁵². The measures implementing these legal provisions will come into effect as of 1 January 2010.

A short-term action plan for the envisaged actions was further presented in December 2008⁵³, which included an annexed overview of already presented and further envisaged legislative proposals for amending legislation. The measures to be either proposed or implemented by the Commission are arranged into three sets:

- measures designed to prevent the fraudsters from abusing the VAT system, by introducing e.g. common minimum standards for the registration and deregistration of taxable persons or by simplifying and harmonising the current rules of invoicing;
- measures designed to enhance the efficiency of the instruments serving to detect VAT fraud by reducing timeframes for information exchanges, by improving quality of information or facilitating its accessibility;
- measures designed to enhance the capacity to collect and recover taxes lost as a result of fraud, and, improve the possibilities for the punishment of fraudsters.

The Commission expects that the success of the plan will depend on which of the measures will be adopted by the Council and the speed of their implementation into practice. Due to that, the plan is not seen as a final product but one of the gradual steps aiming at improving the quality of the fight against intra-community VAT fraud. Further modifications should therefore continue in the future, taking account of current developments.

B.1.2 Traditional own resources

B.1.2.1 SAO's audit activities

In the traditional own resources field, the SAO carried out an audit of the procedures followed by the customs authorities in collection of the duties, with special attention paid to the share representing the Czech state budget revenue (25 % of the collected duty). The audit was completed in 2007 and it drew attention to the shortcomings of accompanying payments of the share of the duties into the Czech state budget. The SAO further drew attention to shortcomings in accounting for the customs duty and tax revenues. Detailed information on the audit was included in the *EU Report 2008*.

52 Council Directive 2008/117/EC, amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions; Council Regulation (EC) No 37/2009, amending Regulation (EC) No 1798/2003 concerning administrative cooperation in the field of VAT to combat tax evasion connected with intra-Community transactions

53 Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee on a coordinated strategy to improve the fight against VAT fraud in the European Union, COM(2008) 807 of 01.12.2008

Based on the SAO findings, the General Customs Directorate (GCD) prepared a new procedure in 2008, following a discussion with the MF, for remitting the shares of the customs duties into the state budget account and, in February 2008, the GCD made a one-off payment of CZK 318.8 million – the amount, by which it had previously illegitimately reduced the state budget revenue during 2004–2006 – and the amount of CZK 195.2 million, by which it had illegitimately reduced the state budget revenue in 2007.

Furthermore, an internal GCD regulation was issued, imposing an obligation on the Central Inventory Commission of the General Customs Directorate to compare the receivable duty for its accounting and actual balance and, if appropriate, calculate the difference between the book and actual assets, including issuance of an obligatory instruction for proper recognition of any such difference in accordance with the Act on Accounting. As of 1 January 2008, the General Customs Directorate commenced accounting for the customs duty and tax revenues in accordance with the applicable Act on Accounting.

The shortcomings detected by the SAO audit have been removed as a result of implementation of the above measures.

B.1.2.2 ECA's audit activities

According to the ECA, a key risk at collecting traditional own resources is represented by tax liability evasions on the taxpayer part, errors of calculations or inability to assess the respective amount due to undetected errors, as well as errors at accounting for the determined amounts of duties, agricultural duties and sugar production levies, which reduces the amounts made available to the Commission or causes delays in their payments⁵⁴. By an audit of selected Member States, the ECA identified that the declarations of the Member States presented to the Commission contain no major errors as to their legality and regularity⁵⁵ and the supervision and control systems for accounting for traditional own resources work well on the overall⁵⁶. Some minor issues persist with regard to so-called “B” accounts, which are basically used to record unsecured, challenged or outstanding amounts, while delays occur in making these resources available for the Commission.

The CR was not included among the Member States where an audit concerning an assessment of the functionality of control systems, special accounts and accounting systems was carried out in 2007. This type of the ECA's audit was however performed during 2008 and SAO representatives participated as observers and contacts in it. Conclusions from this audit will serve as basis for the ECA's Annual Reports for 2008.

However, the ECA carried out a special audit at the GCD and selected local customs offices in 2007, focused on the regime for storage in customs warehouses. The review was performed also in another six Member States in addition to the CR and consisted in an audit of the systems used to issue authorisations for customs warehouse operations and their supervision. The audits resulted in ECA's observation that the systems were generally working well⁵⁷, while certain shortcomings were identified e.g. in the stock records⁵⁸.

B.1.2.3 Protection of the EU financial interests and fight against fraud

The EU must have as easy as possible access to the traditional own resources. Providing for such access over a defined time horizon, however, is the responsibility of the Member States, which must employ any means available to them for the purpose. The only manner in which the Member States may release themselves from the commitment is that they are able to demonstrate that the commitment is unenforceable, be it due to the reasons of *force majeure* or due to any other reasons that cannot be attributed to the Member State. In 2007, the Member States asked to agree to a write-down of an amount of almost EUR 38 million, while the Commission accepted approx. EUR 33,25 million in write-down. Nonetheless it should be noted that this represents but a fraction of the total traditional own resources, since more than 95% of the claims determined that way are collected without problems and made available to the Commission.

54 Point 4.4, ECA's Annual Reports concerning the financial year 2007

55 Point 4.12, ECA's Annual Reports concerning the financial year 2007

56 Point 4.16, ECA's Annual Reports concerning the financial year 2007

57 Point 4.19, ECA's Annual Reports concerning the financial year 2007

58 Point 4.19, ECA's Annual Reports concerning the financial year 2007

For the purposes of protecting the EU financial interests, the Member States are further required to take steps against irregularities and fraud in accordance with the EU legislation. With respect to traditional own resources, an obligation to report occurrences of irregularities and fraud to the Commission is set down in cases where the financial amount of such irregularity or fraud exceeds EUR 10 000. An overview to these cases, reported through the OWNRES⁵⁹ system in the Member States that acceded to the EU in 2004 (EU-10) during 2006 and 2007 and the percentage of successful recovery of the cases reported in 2007 is set out in the below table:

Table 5 Cases reported through OWNRES in 2006–2007

Member State	2006		2007		Change in cases in 2006–2007 (%)	Change in amounts in 2006–2007 (%)	Recovery rate 2007 (%)
	Cases	Amount (EUR)	Cases	Amount (EUR)			
Cyprus	9	193 532	11	750 402	22,22	287,74	7,87
Czech Republic	63	2 237 307	39	1 424 688	-38,10	-36,32	75,86
Estonia	5	178 010	12	455 754	140,00	156,03	50,82
Hungary	103	7 867 072	67	6 027 841	-34,95	-23,38	21,29
Lithuania	39	1 599 918	40	1 286 472	2,56	-19,59	31,74
Latvia	28	1 886 170	40	2 254 487	42,86	19,53	38,80
Malta	11	1 226 978	10	404 949	-9,09	-67,00	38,58
Poland	69	1 807 599	158	8 569 400	128,99	374,08	28,36
Slovenia	24	950 848	27	1 589 490	12,50	67,17	81,78
Slovak Republic	28	1 561 967	20	1 070 723	-28,57	-31,45	28,03
Total	379	19 509 401	424	23 834 206	11,87	22,17	40,31

Source: Annex SEC(2008) 2300 to the Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008

Following a distinct increase of the number of cases and their total volume for the entire EU during the periods 2004–2005 and 2005–2006, the volume grew in 2006–2007, while the total number of cases dropped. There were significant differences between the individual new Member States. The CR ranked among the countries, which disclosed a drop both in the incidence of the cases and their overall financial amount. The percentage of the recovered funds, on the other hand, ranked among the top ones (second highest in the EU-10).

B.2 Common Agricultural Policy of the EU

B.2.1 Current developments

The CAP is the oldest EU policy. Its basic features were defined already back in 1957, while its current operation is impacted by several reforms adopted in response to the past developments and current needs. The instruments implemented through the Common Market Organisation (CMO) were complemented with direct payments and rural development support measures.

After the CAP's most recent major reform and prior to commencing work on another significant reform, which is foreseen as late as during the new seven-year period 2014–2020, the Commission introduced so-called *Health check* in 2007. The initiative represented a review of the CAP's functionality. It was aimed at assessing if the CAP works well within the enlarged EU, in the way it is expected to, in particular due to increased liberalisation of the Common Market, a foodstuff crisis and the energy area challenges.

59 The information system name has been derived from a combination of the words "Own Resources"

In May 2008, the Commission proposed a series of measures, e.g. further reductions of payments linked to production and transfers of funds for rural development, that should further modernise and simplify the CAP. Another goal consisted removing any remaining market restrictions faced by the farmers.

On 20.11.2008, a compromise between the Member States was successfully agreed upon in the meeting of the EU agricultural ministers, despite their quite different views of the presented measures. While the CR was one of the states that did not support the resulting proposal, Czech responsible authorities considered the final agreement a step in a right direction, as opposed to the initially presented proposals. The key reason why the CR refrained from supporting the compromise was the fact that neither any actual CAP simplification was achieved nor any inequalities between the Member States removed.

The key changes agreed upon by the EU agricultural ministers are as follows:

- **A proportion of direct payments to farms will be transferred into the area of rural development and environmental protection.** Any farmer, who receives at least EUR 5 000 under direct payments, will be subject to one-tenth reduction of the payments until 2012. Further reductions of funds will be imposed on large farms, which receive more than EUR 300 000 annually through direct payments. Grants for the farms will be reduced by another 4 %. For the historical reasons, most of the farms in the CR fall under the category of large farms and the CR therefore opposed the instrument. The final compromise comes close to the utmost threshold acceptable for the CR (reduce the payments by 3 % at the maximum). All of the above received funds will however eventually remain in the Member States and will be required to be expensed for rural development and environmental protection.
- **Gradual liberalisation of the milk market will take place.** The amount of milk quotas between 2009 and 2013 will gradually increase by one per cent p.a. and the quotas will be subsequently totally terminated⁶⁰.
- **The new Member States will obtain additional EUR 90 million in total each year until 2012**, out of which more than EUR 9 million will go to the CR.
- **A simplified regime of the single area payment scheme will be available for use by the EU Member States until 2013.**
- **The cross-compliance rules will be simplified** through removal of standards that are neither relevant for the responsibility of farmers nor they are related to it. New requirements will be added with respect to retention of environmentally based benefits of exempting the land from production and of improved management of water resources.
- **The Member States will gradually abandon awarding grants, the amounts of which are derived from the agricultural production.** The production-linked grants have been however retained for certain sectors, such as sheep or goat breeding, as well as stock breeding in certain cases.

The above changes should be implemented gradually from 2009 to 2013 (or 2015, when the milk quotas will be terminated).

B.2.2 Implementation of the Common Agricultural Policy in the Czech Republic

B.2.2.1 Basic framework for implementation of the Common Agricultural Policy in the Czech Republic

Starting from 2007, the CAP has been financed through two funds, the *European Agricultural Guarantee Fund* (EAGF) and EAFRD. The EAGF serves to fund measures under the CMO and direct payments. The EAFRD works through the *Rural Development Programme CR 2007–2013* (RDP) to fund especially the measures that used to be funded through the *OP Rural Development and Multifunctional Agriculture* (OP RDMA) during the programming period 2004–2006, and through the *Horizontal Rural Development Plan* (HRDP).

In spite of the above changes, the implementing structure has undergone no significant changes. The SAIF has retained its role of the accredited paying agency, which provides for the complete exercise of the CAP agenda in the CR. As a result of the above changes in the CAP area, the MF as the Competent Authority issued a new accreditation to the SAIF for carrying out the CAP on 10 October 2007.

⁶⁰ The quotas represent the maximum guaranteed amount of the production, to which the guaranteed prices apply. An exceeded quota results in a reduced price during the following year. Their purpose is to prevent overproduction

The Ministry of Agriculture remains to be responsible in particular for preparation of legislation, administration of certain information registers, and, payments from the EU are transferred through its budget to the SAIF account. BDO Prima CA s. r. o. was once again chosen as a CA for the new programming period.

Newly created has been only an implementing structure for drawing funds from the *European Fisheries Fund* (EFF), which is different from the above discussed structure (further, see B.2.2.6 European Fisheries Fund).

In 2007, nearly CZK 29 milliard was paid out in the CR under the CAP measures, of which the national share amounted to approx. CZK 11.8 milliard and the EU co-finance amounted to approx. CZK 17.2 milliard. Expenditure in the core areas is set out in the below table:

Table 6 SAIF expenditure for the CAP in the CR in 2007 (CZK thousands)

Breakdown by type of expenditure	Spending		
	CR	EU	Total
Direct payments	7 940 677	10 904 868	18 845 545
Common market organisations	366 191	823 549	1 189 740
Rural Development Programme	570 508	2 257 028	2 827 536
HRDP	791 705	3 163 097	3 954 802
Total	9 669 081	17 148 542	26 817 623

Source: SAIF Annual Report 2007

B.2.2.2 Direct payments

Direct payments are the foremost CAP instrument, through which most of the CAP budget gets distributed. Their purpose is to guarantee certain income levels to the farmers, subject to the cultivated land area. Two direct payment systems operate in the EU in practice – the Single Payment Scheme (SPS) and a simplified method of a flat-rate payment, called the Single Area Payment Scheme (SAPS) that the new EU Member States were allowed to introduce.

The SAPS differs from the SPS in that the total amount of the support for the respective state is distributed at an equal rate among the farmers, according to the area of land cultivated by them, while in the case of the SPS, farmers are paid out the support according to their entitlement (calculated by the Member States using the models laid down by the EU legislation).

The CR was one of the states that introduced the SAPS and the same system continues to be applied. Since the total amount of direct support in the new EU Member States will not reach the level of the 15 older Member States until 2013 (the amount was reduced to 40 % of that level for 2007 and to 50 % for 2008), the new Member States are allowed to increase their support from their own resources to farmers by 30 % p.a. over the entire period of gradual implementation of direct payments, however up to 100 % of the 15 older Member States at the maximum.

These supplementary payments are referred to as *Top-Up*. In view of the fact that introduction of the SAPS has impacted individual farmers to a different extent, the CR has been paying out the permitted amount of the supplementary payments for the selected commodities only, which would have been otherwise more seriously affected, had there been no top-up. The following commodities were included in 2007: hop, fibre flax, crops on the arable land, starch potatoes and ruminants. In accordance with the EC legislation changes, the direct payment systems have included also the Separate Sugar Payment (SSP) since 2006 and Separate Tomato Payment since 2008.

An overview of the direct payment funds paid out in 2007 is set out in the below table:

Table 7 SAIF expenditure for direct payments in the CR in 2007 (CZK thousands)

Direct payments	Spending		
	CR	EU	Total
SAPS	0	10 187 627	10 187 627
SSP	0	515 026	515 026
Top-Up	7 920 677	0	7 920 677
Other	20 000	202 215	222 215
Total	7 940 677	10 904 868	18 845 545

Source: SAIF Annual Report 2007

In addition to the payments under the SAPS, SSP and *Top-Up*, a loan of CZK 202 215 thousands for direct payments was fully repaid in 2007 and unused funds of CZK 20 000 thousands under the loan from the *Support and Guarantee Agricultural and Forestry Fund* returned (see the table under “Other”). Altogether, the amount of CZK 18 845 545 thousands was paid out through direct payments, out of which the national share amounted to CZK 7 940 677 thousands and EU co-financing to CZK 10 904 868 thousands. The 2008 term for submissions of requests for direct payments was closed in June 2008 and payouts of the authorised support have been taking place approximately since December 2008.

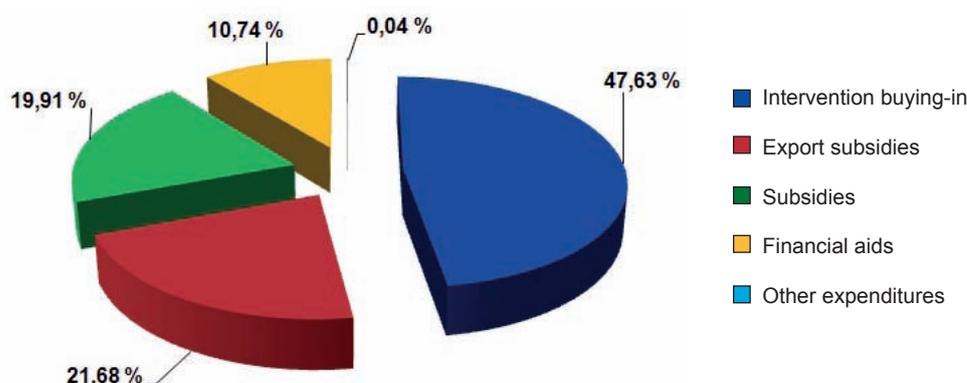
B.2.2.3 Common Market Organisation

The CMO is a set of regulatory measures, applicable to various agricultural production sectors. Their purpose consists in providing support to the markets for respective agricultural commodities through various mechanisms, such as intervention prices, a quota system, or export and import subsidies. It is the oldest CAP instrument, whose importance and financial significance have diminished in favour of direct payments, due to the pressures on liberalisation of the world market. Despite that, the CMO continues to apply to practically all commodities.

According to separate instruments, the CMO measures are further analysed by the SAIF as financial support, export subsidies, grants and imposts, intervention purchases and related expense, as well as other expense related to the CMO.

In 2007, the total of CZK 1 189 740 thousands was spent under the CMO, out of which the national share represented CZK 366 191 thousands and the EU co-financing amounted to CZK 823 549 thousands. Shares by separate instruments in the total CMO expenditure are documented by the below graph.

Graph 7 Share of individual CMO instruments on total expenditures paid by the SAIF in 2007



Source: SAIF Annual Report 2007

B.2.2.4 Horizontal Rural Development Plan

The HRDP served as a rural support instrument in the CR for the programming period 2004–2006. In 2007, the measures *Less Favoured Areas* (LFA) and *Agri-Environmental Measures* (AEM) were closed for any new applicants. Under the *Forestry* measure, only applications for grants for care and compensations were accepted, while under the *Early Termination of Agricultural Activities* measure, conditionally registered applicants were filing additional documentation. With respect of the foregoing measure, also grant applications were accepted in the beginning of 2007, and the applied to the measure *establishment of producer groups*.

In 2007, the total of CZK 3 954 802 thousands was spent under the HRDP, out of which the national share represented CZK 791 705 thousands and the EU co-financing amounted to CZK 3 163 097 thousands. An overall overview of the paid funds is documented by the following table:

Table 8 SAIF expenditure for HRDP measures in 2007 (CZK thousands)

Horizontal Rural Development Plan	Spending		
	CR	EU	Total
LFA	19 014	76 054	95 068
AEM	708 044	2 828 454	3 536 498
Forestry	22 558	90 234	112 792
Early termination of agricultural activities	11 581	46 323	57 904
Establishment of producer groups	30 508	122 032	152 540
Total	791 705	3 163 097	3 954 802

Source: SAIF Annual Report 2007

Payments of support under the HRDP measures continued also in 2008. A thematic follow-up to the HRDP for the new programming period is represented by the RDP.

B.2.2.5 Rural Development Programme

The RDP, whose programming document was approved by the Commission's Agriculture and Rural Development Committee on 23 May 2007, was designed for drawing down the EAFRD funds. It contains multiple instruments of rural development, some of which were financed under the HRDP and OP RDMA during the programming period 2004–2006. The support provided through the RDP will be used for so-called rural regions, for which the entire CR qualifies as a matter of fact, except for the Prague region⁶¹. The Prague region will be supported only partly, namely from the funds allotted for the AEM under the Axis II.

The EAFRD contribution for the period 2007–2013 amounts to approx. EUR 2 815,5 million. The contribution must be matched by a required level of public and, in certain cases, even private co-funding. Distribution of the public resources among the separate axes is described by the below table:

61 The whole CR, except for the Prague Region, falls under the objective *Convergence*, while the Prague Region is supported under the objective *Regional Competitiveness and Employment*

Table 9 Financial plan of the Rural Development Programme of the CR for 2007–2013 in its individual axes

Axis	Public resources			Share of axis on public resources (%)
	Public resources total (EUR)	Extent of EAFRD support (%)	EAFRD support (EUR)	
Axis I: Improving the competitiveness of the agriculture and forestry sectors	840 522 497	75,00	630 391 873	23,25
Axis II: Improving the environment and countryside – objective <i>Convergence</i>	1 936 012 557	80,00	1 548 810 045	53,54
Axis II: Improving the environment and countryside – objective <i>Competitiveness</i>	9 726 295	55,00	5 349 462	0,27
Axis III: Improving the quality of life in rural areas and encouraging diversification	635 553 634	75,00	476 665 226	17,58
Axis IV: Leader	175 969 147	80,00	140 775 318	4,87
Technical assistance	18 019 241	75,00	13 514 431	0,50
Total	3 615 803 370	100,00	2 815 506 354	100,00

Source: Rural Development Programme of the Czech Republic for 2007–2013

Disaggregation and contents of the rural development programmes is derived directly from the EU legislation. Details of dividing the financial allocations among particular axes were not set as fixed for the Member States. However, each Member State was obliged to respect minimum required shares, in order to maintain a balance between separate objectives – at the minimum 10% in the case of Axes I and III, at least 25% in the case of Axis II – while different rates apply to Axis IV and should take account of the experience drawn from use of the *Leader* instrument by the Member States. The CR has chosen a comparatively levelled disaggregation under the above limits, compared to the EU average. Some of the Member States, due to their national circumstances, have given preferential support to certain axes at the expense of the other ones.

In 2007, first rounds of the calls for applications were announced under the RDP, both for project selection and payment requests. An overview of the RDP funds paid out in 2007 is set out in the below table (in all of the cases, they include the measures requiring no private co-funding):

Table 10 Overview of total financial resources paid on the RDP in 2007 (CZK thousands)

Rural Development Programme		Spending		
		CR	EU	Total
Axis I	I.3.2 Setting up of young farmers	25 000	75 000	100 000
Axis II	II.1.1 Natural handicap payments in mountain areas and payments in other areas with handicaps	543 985	2 175 936	2 719 921
	II.1.2.1 NATURA 2000 payments on agricultural areas	1 523	6 092	7 615
Total			2 257 028	2 827 536

Source: SAIF Annual Report 2007

The volume of the submitted applications increased significantly in 2008, since filing of applications was commenced also for other measures that had not been open in 2007. For instance, for the project measures in the third round of application submissions, applications totalling the worth of CZK 2 157 860 thousands were approved under Axes I and II. Subsequently, during three rounds of application submissions under the Axis III measures, applications totalling the worth of CZK 1 406 190 thousands were approved. Furthermore,

under the measure *Natural handicap payments in the mountain areas and payments in other areas with handicaps* the amount of CZK 2 520 380 thousands was paid out to the applicants in December 2008, based on the issued decisions⁶².

B.2.2.6 European Fisheries Fund

The common fisheries policy implemented using the funds of the newly set up EFF became another element of the CAP for the new programming period 2007–2013. In the Czech Republic, the policy principles and goals are implemented through the OP *Fisheries 2007–2013*, approved by the Commission on 11 December 2007. The programme includes definitions of specific goals and instruments to achieve them, which should provide for the competitiveness of the Czech fisheries through use of traditional production systems, relying on the environmentally conscious methods, while maintaining or increasing the employment rate.

Since the EFF is governed by the operating principles identical for the OPs in the EU Cohesion Policy area, a structure reflecting the fact correspondingly has been set up for its implementation. The Ministry of Agriculture has been tasked with the Managing Authority (MA) role, while SAIF's designated departments play the roles of the Intermediate Body and financial unit, and, MF's designated departments have become the certifying and audit authorities.

The total amount of support from the EFF was set at EUR 27 106 thousands for the period 2007–2013. In 2008, the first call for application submissions was published and the MA concluded the process of review and evaluation of the projects and issued its decisions on the awarded grants in November 2008. The published call was relevant only for the Priority Axis II, under which decisions were issued totalling CZK 53 776 thousands, out of which CZK 40 332 thousands from the EFF funds and CZK 13 444 thousands from the public resources of the CR⁶³.

B.2.3 Audit activities and protection of the EU financial interests in the CAP area

B.2.3.1 Annual Reports of the European Court of Auditors concerning the financial year 2007

The ECA's Annual Reports 2007, chapter *Agriculture and Natural Resources*, retains the features of the previous annual reports. Based on the results of its audit activities in the EU Member States, the ECA came to a conclusion *that the transactions underlying the policy group taken as a whole are affected by a material level of error of legality and/or regularity*⁶⁴. The supervisory and control systems are assessed as partially effective⁶⁵.

The error incidence is not evenly distributed over the payments. Where the *Integrated Administration and Control System* (IACS⁶⁶) has been duly implemented and accurate and reliable data have been entered into it, the risk of irregular expenditure is reduced. The IACS includes approximately 85% of the EAGF expenditure. As for the EAFRD, only certain basic elements are covered by the IACS, such as the area or number of animals⁶⁷. Due to that, the incidence of errors is significantly higher in rural development transactions, as compared to other areas⁶⁸.

In the rural development area, repetitive finding was made that the controls carried out to verify the farmer's compliance with the relevant requirements, were deficient. The key detected shortcomings include the following:

- inadequate verification of the eligible areas under the AEM in cases where this area does not correspond to the data in the IACS database,
- inadequate systematic verifications as to whether detailed agri-environment commitments tailored to the farm fulfil the overall requirements of the measure, and

62 Information from www.szif.cz

63 Information from www.mze.cz

64 Points 5.12 and 5.50, ECA's Annual Reports concerning the financial year 2007

65 Point 5.51, ECA's Annual Reports concerning the financial year 2007

66 It involves a system of data recording and mutual control that should facilitate clear identification and is used for administration and control of selected grant schemes

67 Point 5.20, ECA's Annual Reports concerning the financial year 2007

68 Points 5.12 and 5.13, ECA's Annual Reports concerning the financial year 2007

- inadequate consideration of the risk factors stipulated in the EU legislation for the selection of a sample of farmers to be controlled on the spot.

The ECA has identified the imprecise definitions in national legislation of some eligibility conditions and too complex rules, particularly those regarding the AEM as a key reason of this situation⁶⁹. An overall scope of audits of rural development measures, according to the ECA, is limited, both at the Commission and Member State levels⁷⁰.

In its Annual Reports 2007, the ECA however pays its key attention to the SPS (funded through the EAGF), as the foremost instrument of assistance to farmers, introduced with an aim to interrupt the link between the agricultural production and payments for farmers. Key identified errors included the fact that *farmers overclaimed and/or the entitlements were wrongly calculated, resulting in incorrect payments*⁷¹. In the ECA's view, therefore, *the systems for calculating the entitlements were only partially effective and they do not yet provide reasonable assurance that the annual SPS payments based upon the allocated entitlements are correct*⁷².

The CR continued to be one of the countries still using the SAPS in 2007, and therefore could not be included in the above audits of the Single Payment Scheme. In the CR, the ECA carried out audit focused on reviewing CA certificates and reports, as well as quality and scope of its work. An observation from this audit, which was performed also in other selected countries in addition to the CR, is that the value added of the opinions newly processed by CAs in addition to the Statements of Assurance by the paying agency directors and internal control procedures, has been limited so far⁷³. The ECA also iterated its doubts as to the accuracy of the debtors' accounts at the paying agencies⁷⁴.

B.2.3.2 SAO's audit activities

The SAO audited the rural development measures (implemented in practice through the HRDP) and payout system of the direct payments during 2006 and 2007. Key findings from these audits are included in the previous issue of the EU Report. In 2008, the SAO audited selected CMO instruments, with a focus on reviewing awards and use of financial support⁷⁵. The CMO area is in fact one of those where the ECA did not detect serious shortcomings.

With respect to the Ministry of Agriculture, which awards subsidies to the paying agency and is responsible for the legislative area, minor shortcomings of more or less technical nature were detected, such as erroneous recognition of the reserve fund resources or failed clearance of differences on exchange. Part of such identified mistakes were removed as early as during the audit or immediately upon its completion. With regard to the SAIF, too, the findings were of technical nature. They included e.g. mistakes in application of the Rules of Administrative Procedure or inadequate transparency of decisions on grant awards, since the awards failed to explain the method of calculation of the resultant amount of support. Further findings that may be quoted include VAT avoidance by two grant recipients, amounting to CZK 1.3 million, or lack of checks on the spot in certain instances, while the checks were foreseen by the set rules. In principle, the SAO did not detect any material errors; it identified that payments under the CMO are functional and comply with the requirements laid down by the EC and Czech legal provisions.

B.2.3.3 ECA's Special Report No 8/2008

The last major CAP reform in 2003 was *inter alia* based on a conviction that direct payments linked to agricultural production cause market deformations and bring negative impacts on the landscape and the environment. The reform therefore introduced separation of payments from the agricultural production. Since the reform, too, pertinent payments may be reduced or completely halted if their beneficiaries fail to respect certain rules applicable to the environment, public health, animal and plant health, animal wellness, and, if they fail to maintain their land in good agricultural and environmental conditions. This new element is called cross-compliance. Since 2007, application of cross-compliance has been extended to payments with respect to certain rural development measures.

69 Point 5.32, ECA's Annual Reports concerning the financial year 2007

70 Point 5.35, ECA's Annual Reports concerning the financial year 2007

71 Point 5.14, ECA's Annual Reports concerning the financial year 2007

72 Point 5.21, ECA's Annual Reports concerning the financial year 2007

73 Point 5.42, ECA's Annual Reports concerning the financial year 2007

74 Point 5.44, ECA's Annual Reports concerning the financial year 2007

75 AO No 08/05, SAO Bulletin 4/2008, p. 339

The ECA performed an effectiveness audit of the cross-compliance policy in 2008. Conclusions from this audit contained in the Special Report No 8/2008 *Is cross compliance an effective policy?* contradict the replies by the Commission on observations of the ECA. These replies are annexed to the Special Report.

The ECA believes that the general establishment of the cross-compliance goals by the Council has failed to be followed up with their development and detailed explanation. The consequence of this situation is that the goals are not defined along the „SMART“ approach, i.e. the goals are not *specific, measurable, achievable, relevant* and *timed*. That impacts e.g. the ability to duly monitor achievement of goals. A reason of the situation consists in an overly complex legal system and the fact that the Member States have not assumed their responsibility for implementation of effective control and sanction systems, while the control systems as a result fail to provide a reasonable assurance as to compliance with the legal provisions on the part of farmers. Information on audits and breached obligations, too, lacks reliability, while the sanction system is inadequate and resulting reductions of direct payments are minor (in the case of many obligations, in fact, costs of compliance with the rules exceed the maximum rate of reduction applicable to direct payments).

In the ECA's view, introduction of the cross-compliance policy also weakened the rural development provisions, specifically those concerning the principles of usual good farming practice that the farmers are required to observe, for part of the provisions, across the entire farming business. A clear difference had to be drawn between cross-compliance and principles of usual good farming practice, in order to avoid a situation where farmers receive payments under rural development support for the activities otherwise defined as obligatory for them under the cross-compliance policy.

In general, the ECA concluded that cross-compliance is not effective as currently managed by the Commission and implemented by the Member States. All parties concerned are still required to make significant efforts for cross-compliance to reach its full potential. The special report therefore included also recommendations, implementation of which should assist in achieving potential benefits that are expected from the cross-compliance policy.

B.2.3.4 Protection of the EU financial interests and fight against fraud

Starting from 1 January 2007, the Member States are required to forward information on the irregularities in the CAP area in excess of EUR 10 000 (the original threshold for information forwarding was EUR 4 000)⁷⁶. Relating to the changed threshold for information forwarding, the number of newly reported irregularities dropped, while the total financial volume of the irregularities increased. The number of new irregularities amounted to 1 548 in 2007 (compared to 3 249 in 2006) and their aggregate worth was approx. EUR 155 million (compared to EUR 87 million in 2006). On the overall, the rate of forwarded irregularities, as compared to the total funds allocated to the CAP, is low in the long term. In 2007, it equalled only 0.33%. EU responsible authorities suspect in some of the cases that the Member States fail to forward all detected irregularities for various reasons⁷⁷.

A general problem consists in timeliness of the forwarded reports. While the Member States are obliged to report an irregularity within two months of the elapsed calendar quarter, in which such irregularity was detected through an administrative or court procedure (or, if new facts were detected), the time elapsed since the origination of an irregularity, or first suspicion of its origination, may be too long. In 2007, the average time from the initial suspicion of an irregularity to its forwarding was 1.2 years, while any period in excess of one year is deemed excessively long, as substantiated by the financial interests of the EC as well as diminishing chances of its successful recovery⁷⁸. The time from origination of an irregularity to its reporting is even longer. The relevant average time was 4.4 years in 2007. However, it is obviously even shorter in the case of the Member States that acceded in 2004. The below table sets out average differences for such new Member States:

76 Commission Regulation (EC) No 1848/2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91

77 Pages 35 and 36, Annex SEC(2008) 2300, Report by the Commission to the European Parliament and the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 of 22.07.2008

78 Page 25, Annex SEC(2008) 2300, Report by the Commission to the European Parliament and the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 of 22.07.2008

Table 11 Time limits in reporting irregularities in CAP (as of 2007)

Member state	Number of cases involved in irregularities	Average time gap between irregularity and discovery (years)	Average time gap between discovery and reporting (years)	Average time gap (years)
Malta	0	-	-	-
Cyprus	6	0,5	0,4	0,8
Slovenia	9	1,5	0,4	1,9
Lithuania	10	1,2	0,9	2,2
Poland	62	1,3	1,0	2,3
Czech Republic	10	1,6	0,7	2,3
Hungary	12	1,6	1,1	2,7
Slovak Republic	23	0,9	1,9	2,8
Estonia	16	1,7	1,3	3,1
Latvia	11	3,0	0,6	3,6

Source: Annex SEC(2008) 2300 to the Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008.

In addition to the moment of detection or moment of origination of an irregularity, the Member States are further required to include additional information into their reports, which should assist to protect the EC financial interests and fight against fraud, such as information on the bearers of irregularities, description of incorrect expenditure, concerned goods, and, procedures used at committing an irregularity. The rates to which the Member States complied with the above requirements differed in 2007, and space exists for continued improvement. The CR scored 90 % at complying with its obligation to duly forward irregularities, which is above the EU average of 70 % in 2007.

The rates of reported irregularities (the share of amount of irregularities compared to total financial volume of given item) naturally differ both between separate commodities and the Member States. The commodities, regarding which the highest rate of irregularities were detected, included in 2007 beef and veal (11.9 %), olive oil (6.5 %), milk and milk products (6.1 %) and sugar (6.0 %). A financially significant volume of irregularities was noted also with respect to the rural development measures. The rate of irregularities for the largest expenditure item, i.e. direct aids separated from production, which represents 65 % out of the total expenditure in the farming sector, was in fact absolutely negligible.

In the CAP case, no direct comparison is possible of the volume of the forwarded irregularities and successful recovery of wrongly paid funds. The reason is that successful recoveries are reported for all cases, irrespective of the irregularity amount. Outstanding unrecovered amounts get transferred to the next period, therefore in spite of the successful recovery and repayment of approx. EUR 154.3 million back into the EU budget during the financial year 2007 and reporting the amount of EUR 165.8 million as unrecoverable, there was still approx. EUR 1 438.2 million left to be returned at the end of 2007. The new Member States that joined EU in 2004, did not practically share in the balance, except for Hungary (approx EUR 28.6 million).

B.3 EU Cohesion Policy

Cohesion Policy is an important instrument whose objective is to reduce disparities between the level of development of regions and to diminish underdevelopment of the most handicapped EU regions. With the increase in the number of the Member States the importance of this policy increases because the original minor differences between the economic standards of the regions are widening. The importance of Cohesion Policy is in line with its share in the overall EU budget, which is at present more than

a third and is progressively growing. This policy is financed from the Structural Funds and the *Cohesion Fund* and is pursued within multiannual programming periods. Objectives are set for every programming period, defining in general the type of activities to be supported and in what territory, and its financial framework. Apart from the objectives there were Community Initiatives aiming to address specific problems affecting the entire EU territory. The Czech Republic has been able, as a Member State, to participate in two Cohesion Policy programming periods: 2000–2006⁷⁹ and the current 2007–2013.

In the programming period 2000–2006, Cohesion Policy was pursued by means of three objectives, four Community Initiatives (*Interreg, Urban, Equal, Leader+*), the *Cohesion Fund*, and programmes for rural development and fisheries restructuring outside the framework of the objectives. In the programming period 2007–2013, Cohesion Policy has been just implemented by means of three objectives and at the same time, the number of financial instruments has dropped to three. The *Cohesion Fund* is now used to finance projects within the scope of the Structural Funds objectives and not separately. More detailed comparison of the two programming periods with a description of their objectives and financial instruments is set out in Annexe 4.

Changes have been made in the current programming period in the formulation of the objectives and in part in the resources of funding, but the core principles have remained unchanged. A novelty in the Czech Republic is the existence of regional operational programmes (ROP), implemented by institutions established on the level of the cohesion regions⁸⁰. European legislation is now introducing the rule “n+3” (see Chapter A.2), and the option to use payments of a portion of the eligible costs as lump sums without the necessity of documenting them in projects financed by the *European Social Fund* (ESF)⁸¹, which should facilitate administration of projects. The Commission expects to see fewer errors in this area as an indirect effect of this step.

B.3.1 Current developments

B.3.1.1 Programming period 2004–2006

A total of EUR 2 630.5 million (approx. CZK 70 billion⁸²) was allocated for the Czech Republic in the programming period 2004–2006 from the EU Structural Funds and the *Cohesion Fund*. These funds have been withdrawn through five OPs of the *Objective 1*, two single programming documents (SPD) of the *Objectives 2* and *3* in the territory of the Prague Capital City, as well as through Community Initiative programmes *Interreg* and *Equal*. The infrastructure development was also financed by the *Cohesion Fund*.

To use the funds in the programming period 2004–2006, the rule “n+2” was applied as an instrument guaranteeing timely implementation of the programmes of the Member States. The Ministry for Regional Development (MRD), as the coordinator⁸³ for the programming period 2004–2006, submitted a request with the Commission on 30.12.2008 for an extension of the period for drawing of the funds in the programming period 2004–2006 by six months, i.e. until 30.06.2009 (for the rule “n+2” in this context see Chapter A.2.3.4). The request covered all the OPs (with the exception of OP RDMA), two SPDs for Prague and the Community Initiative *Equal*. If the request is granted, the programmes are not at risk of application of the rule “n+2” as of 31.12.2008 and they can run until 30.06.2009. Table 12 shows the state of drawing the allocation for the programming period 2004–2006 at the end of 2008.

79 For States that acceded to the EU on 01.05.2004 it was the shortened programming period 2004–2006

80 These consist of one to three higher territorial self-governing units in the Czech Republic

81 The package of measures aiming to alleviate the impact of the economic crisis contains a proposal for application of this mechanism to all the Structural Funds

82 ECB rate for 01/2009 - http://ec.europa.eu/budget/inforeuro/index.cfm?fuseaction=currency_historique¤cy=47&Language=en

83 Managing Authority of Community Support Framework set up at MRD, coordinating implementation of *Community Support Framework*, covering cohesion policy programmes in the Czech Republic in the programming period 2004–2006

Table 12 Spending of the allocation in 2004–2006 as of 31.12.2008

Assistance	Allocation (EUR million)	Spending (EUR million)	Unexpended credit	
			Total amount (EUR million)	%
Joint Regional Operational Programme	454,3	394,2	60,1	13,23
OP Industry and Enterprise	260,9	188,2	72,7	27,85
OP Human Resources Development	318,8	205,0	113,8	35,70
OP Infrastructure	246,4	199,3	47,1	19,10
OP Rural Development and Multifunctional Agriculture	173,9	146,8	27,1	15,58
Objective 1 total	1 454,3	1 133,5	320,7	22,05
SPD for Objective 2 Prague	71,3	54,0	17,3	24,31
SPD for Objective 3 Prague	58,8	45,6	13,2	22,48
Objectives 2 and 3 total	130,1	99,5	30,5	23,48
Community Initiative Interreg IIIA	55,0	54,8	0,2	0,34
Community Initiative Equal	32,1	26,3	5,8	18,03
Community Initiatives total	87,1	81,1	6,0	6,86
Cohesion Fund/ISPA*	1 230,5	766,8	463,7	37,68
Structural operations total	2 902,0	2 081,0	820,9	28,29

* The ISPA allocation is included in the *Cohesion Fund* allocation

Note: Spending is understood as certified amount of expenditures

Source: Data for Structural Funds and Initiatives of the Communities – MRD – *Drawing on the Structural Funds 2004–2006 as of 31.12.2008*, data for the Cohesion Fund/ISPA – MF

The highest level of drawing was reported at the close of 2008 in the Community Initiative *Interreg IIIA*, where the allocation is practically exhausted. The *Joint Regional OP*, OP RDMA and Community Initiative *Equal* also had a high level of drawing. The lowest level of drawing of all the OPs was reported for the *OP Human Resources Development* (OP HRD), where more than 35% of the funds were still available. Although drawing will probably continue in most programmes until the extended deadline of June 2009, the MA will have to make more effort, especially for programmes with a lower level of drawing, so that the CR uses the available funds as much as possible.

As stated above, the MRD did not ask in the case of the Community Initiative *Interreg IIIA* and OP RDMA for an extended drawing deadline. Drawing was de facto finished for the Community Initiative *Interreg IIIA*. For the OP RDMA approx. 15% of the allocation remained to be drawn towards the end of the year. If the funds prepared as of 31.12.2008 for certification and subsequent payment by the Commission are counted in, the remaining resources total 3.63% of the allocation.

More than EUR 766 million was drawn from the *Cohesion Fund* as at 31.12.2008 (including projects approved under ISPA⁸⁴), which accounts for approx. 62% of the allocation. These funds are not subject to the rule “n+2” and will be drawn until 2010.

Number of projects implemented within programmes co-financed from the Structural Funds

The state of implementation of the Cohesion Policy in the CR is not reflected only in the drawing of the allocation, but also in the number of supported projects and progress of their implementation, since it is on their basis that the funds are drawn. Table 13 shows the number of projects approved as of 31.12.2008 in each programme for financing, completed and paid.

84 From: *Instrument for Structural Policies for Pre-accession*. The ISPA programme was one of the pre-accession instruments used by the CR before joining the EU. ISPA projects were transferred after accession of the CR to the EU to the *Cohesion Fund*

Table 13 Number and status of projects co-financed from the Structural Funds in the CR as of 31.12.2008

Assistance	Approved projects	Projects with contracts/decision		Completed projects		Projects with realized payments from Structural funds	
		Total	%	Total	%	Total	%
Joint Regional Operational Programme	2 885	2 884	100	2 753	95	2 589	90
OP Industry and Enterprise	2 862	2 841	99	2 692	95	2 774	98
OP Human Resources Development	2 719	2 624	97	661	25	148	6
OP Infrastructure	401	396	99	350	88	228	58
OP Rural Development and Multifunctional Agriculture	3 598	3 349	93	3 349	100	3 349	100
Objective 1 total	12 465	12 094	97	9 805	81	9 088	75
SPD for Objective 2 Prague	287	287	100	270	94	263	92
SPD for Objective 3 Prague	787	782	99	177	23	124	16
Objectives 2 and 3 total	1 074	1 069	100	447	42	387	36
Community Initiative Interreg IIIA	546	546	100	513	94	485	89
Community Initiative Equal	165	150	91	127	85	58	39
Community Initiatives total	711	696	98	640	92	543	78
Structural operations total	14 250	13 859	97	10 892	79	10 018	72

Source: MRD – Drawing on the Structural Funds 2004–2006 as of 31.12.2008

Most of the financed projects were completed at the end of the programming period. The SPD 3 Prague and OP HRD were the exceptions, as approx. one quarter of the approved projects were completed. This was matched by the low number of paid projects, which was in the case of SPD 3 Prague 16 % and OP HRD a mere six per cent. The OP *Infrastructure* and the Community Initiative *Equal* also had fewer paid projects than the overall average.

Number of Cohesion Fund and ISPA projects

According to 2008 figures, the *Cohesion Fund* (which was set up as an instrument for financing major infrastructure projects in the fields of the environment and transport for Member States whose GDI per head of population is less than 90 % of the EU average) and the programme ISPA participated in the CR in financing 60 projects, of which 13 were completed in December 2008. For more detailed breakdown see Table 14.

Table 14 Cohesion Funds and ISPA projects in the CR

Sector	Projects	
	In realisation	Completed
Industry	13	3
<i>of which – ISPA</i>	8	3
<i>– Cohesion Fund</i>	5	0
Environment	38	7
<i>of which – ISPA</i>	13	7
<i>– Cohesion Fund</i>	25	0
Floods 2002	1	1
Technical assistance	8	2
<i>of which – ISPA</i>	7	2
<i>– Cohesion Fund</i>	1	0
Total	60	13

Note: Projects in realisation – as of 31.10.2008, completed projects – as of 02.12.2008

Source: MF; Cohesion Fund Monitoring Committee

As the table shows, only some projects started before 2004 were financially completed through the pre-accession instrument ISPA.

B.3.1.2 Programming period 2007–2013

The year 2008 was the second year in the current programming period in which the CR can obtain up to EUR 26,691 milliard (more than CZK 710 milliard⁸⁵) from the EU budget. These funds are drawn through 26 OPs. Almost 80% of the allocated funds will be drawn in eight thematic OPs, focusing on infrastructure development, support for enterprise, research and development, and human resources development. Czech cohesion regions, excluding Prague, will be able to provide support through seven ROPs in their territory, for which 17% of the total allocation has been allotted, for activities such as transport infrastructure, tourism or human resources development. All the thematic OPs and ROPs fall under the objective *Convergence* of the programming period 2007–2013. In the objective *Regional Competitiveness and Employment* of the Cohesion Policy, the funds will be channelled to two OPs for Prague. Cross-border, international and supranational cooperation and cooperation in territorial planning will be strengthened through nine OPs under the objective *European Territorial Cooperation*.

The content of the programming documents is based on the *National Strategic Reference Framework* approved by the Commission in July 2007. The approving process of the OPs was completed at the end of 2007, with the exception of the OP *Research and Development for Innovations*, which was signed in October 2008.

State of implementation of the OPs at the end of 2008 is shown in Tables 15 and 16.

85 ECB rate for 01/2009 - http://ec.europa.eu/budget/infocuro/index.cfm?fuseaction=currency_historique¤cy=47&Language=en

Table 15 Spending of the allocation for objectives *Convergence* and *Regional Competitiveness and Employment* of the programming period 2007–2013 in the CR as of 07.01.2009

Operational Programme	Allocation (CZK million)	Submitted projects		Approved projects			Requests submitted for payment	Financial means paid out to beneficiaries
		Number	CZK million	Number	CZK million	% of allocation		
Integrated Operational Programme	49 575,4	276	4 870,8	195	317,3	1	0,8	0,8
OP Technical Assistance*	7 762,9	32	1 478,7	2	0,0	0	0,0	0,0
OP Enterprise and Innovation**	95 282,5	2 791	20 587,7	1 354	6 129,3	6	0,0	0,0
OP Human Resources and Employment	57 565,3	104	15 474,1	15	7 683,8	13	159,8	0,0
OP Education for Competitiveness	57 292,6	1 057	14 848,1	48	756,8	1	0,0	0,0
OP Research and Development for Innovations	64 873,2	0	0,0	0	0,0	0	0,0	0,0
OP Environment	154 073,9	3 543	83 375,8	1 430	30 673,0	20	179,0	179,0
OP Transport	180 898,6	128	122 515,0	55	66 653,0	37	970,6	675,0
Thematic OPs total	667 324,4	7 931	263 150,2	3 099	112 213,2	17	1 310,2	854,8
ROP NUTS II Central Bohemia	17 515,8	591	11 703,2	107	3 081,2	18	132,4	35,8
ROP NUTS II Southwest	19 413,3	1 329	21 553,2	132	3 340,4	17	144,4	121,5
ROP NUTS II Northeast	20 566,5	550	18 495,7	120	4 210,2	20	223,7	229,3
ROP NUTS II Central Moravia	20 595,6	655	12 973,5	62	1 913,3	9	161,7	137,2
ROP NUTS II Southeast	22 069,9	870	19 592,1	186	5 584,6	25	325,3	141,3
ROP NUTS II Moravia-Silesia	22 434,8	423	8 985,8	42	2 292,5	10	273,5	259,6
ROP NUTS II Northwest	23 369,0	279	13 239,5	94	6 464,8	28	168,8	67,1
Regional OPs total	145 964,9	4 697	106 543,0	743	26 887,0	18	1 429,8	991,8
OP Prague Competitiveness	7 360,4	187	3 626,5	35	173,6	2	0,0	0,0
OP Prague Adaptability	3 395,6	1 183	7 212,5	136	787,9	23	0,0	0,0
OP Prague total	10 756,0	1 370	10 839,0	171	961,5	9	0,0	0,0
Total	824 045,3	13 998	380 532,2	4 013	140 061,7	17	2 740,0	1 846,6

* volume of approved projects not available

** data incomplete

Source: MRD – *Monthly monitoring report on drawing on the Structural Funds, Cohesion Fund and national resources*, December 2008

As the table shows, apart from the OP *Research and Development for Innovations*, implementation of all the OPs of the objectives *Convergence* and *Regional Competitiveness and Employment* started. More than 4,000 projects were approved of the 14,000 submitted projects. The approved projects amounted to 17% of the total allocation for the programming period. Of the individual OPs, implementation of the OP *Transport* has made the greatest progress, and a relatively large share have also most of the ROP, OP *Environment*, and OP *Prague Adaptability*. Payments of the funds based on the submitted payment requests were started by all the ROP (totalling CZK 991.8 million), and OP *Environment*, OP *Transport* and *Integrated OP* (CZK 854.8 million). Apart from these programmes, payment requests were only put in for the OP *Human Resources and Employment*, but did not receive the payments by the date in question.

Calls for proposals in all the OPs of the objective *European Territorial Cooperation* involving cross-border cooperation were made and projects were submitted, but projects were approved in the OP *Cross-border Cooperation CR Bavaria* and OP *Cross-border Cooperation CR-Poland* only. Funds were paid to the beneficiaries only in the OP *Cross-border Cooperation CR-Bavaria*. A total of 41 projects were approved in

the OP *Interregional Cooperation*, including eight projects with the participation of ten partners from the CR. In the OP *Supranational Cooperation* it was decided to launch 30 projects, with partners from the CR participating in 22 of them.

Table 16 Spending of the allocation of objective *European Territorial Cooperation* of the programming period 2007–2013 in the CR as of 31.12.2008

Operational Programme	Allocation (EUR million)	Submitted projects	Approved projects			Requests submitted for payment	Financial means paid out to beneficiaries
			Number	EUR million	% of allocation		
OP Cross-border Cooperation CR-Bavaria	115,5	100	55	39,0	34	0,1	0,1
OP Cross-border Cooperation CR-Poland	258,2	149	31	63,3	25	0,0	0,0
OP Cross-border Cooperation CR-Austria	107,4	115	0	0,0	0	0,0	0,0
OP Cross-border Cooperation CR-Saxony	244,0	109	0	0,0	0	0,0	0,0
OP Cross-border Cooperation CR-Slovakia	109,1	243	0	0,0	0	0,0	0,0
OP Interregional Cooperation*	0,0	-	-	-	-	-	-
OP Transnational Cooperation	37,5	-	-	-	-	-	-
INTERACT II*	0,0	-	-	-	-	-	-
ESPO 2013*	0,0	-	-	-	-	-	-
Total	871,7	716	86	102,3	12	0,1	0,1

* Allocation for individual states has not been determined

Source: MRD – Monthly monitoring report on drawing on Structural Funds, Cohesion Fund and national resources, December 2008

Because none of the OPs whose CA is the MF⁸⁶ had the description of their management and control systems approved by the Commission as of 31.12.2008, certification of the expenditure has not been done yet. Without certification of the expenditure it is not possible to submit to the Commission a request for payment of the funds, thus, drawing of the allocation for the programming period 2007–2013 has not started. The amount of the funds presented for certification is zero in the four OPs involving cross-border cooperation⁸⁷.

B.3.2 Management and control systems in the programming period 2007–2013

Reliable management and control systems are crucial for successful drawing of the EU budget funds. As the systems were created, the principle of a standard audit was applied consisting in instituting a standardized approach to audit of systems and operations in conformity with generally accepted standards. The principle of a standard audit places an emphasis on coordination of auditing aiming to minimize duplication and performing and documenting audits in an open and transparent manner, which allows all the parties concerned to make use of the results.

The elements of the system can be divided into several levels:

Primary supervisory and certification system – it consists of the MA⁸⁸, which is responsible for carrying out OP, and of the CA, which guarantees financial flows between the Commission and MA and certifies expenditure. The function of the CA is performed by the MF. Departments of MA and CA perform checks to prevent, identify and remedy errors and shortcomings in operations and making and posting payments.

86 This concerns 18 OPs. In the case of eight OP of objective *European Territorial Cooperation*, this function is fulfilled by bodies of other Member States

87 OP CR-Slovakia, OP CR-Austria, OP CR-Saxony and OP CR-Bavaria

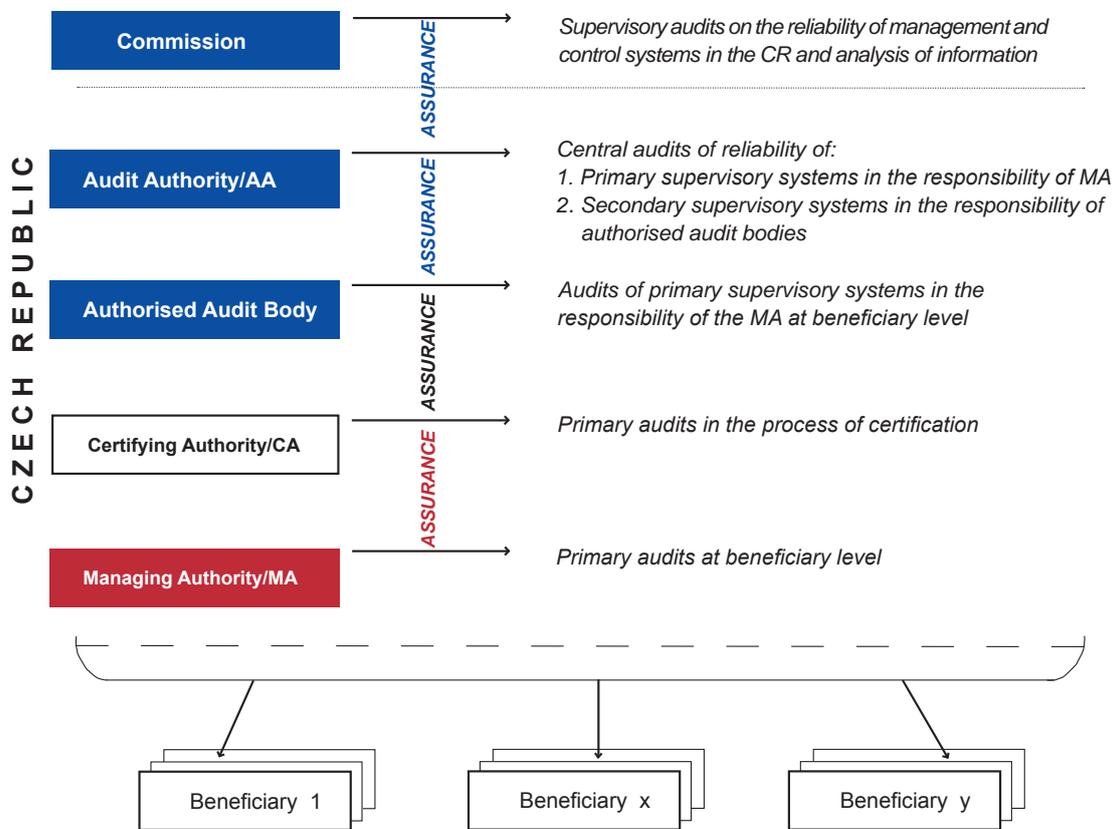
88 MA delegates some powers to intermediate bodies which represent a link between the final beneficiaries and MA

Secondary supervisory system – these are Authorized Audit Bodies (AAB) performing audits of the primary supervisory system within their competence. In all, 14 AABs have been set up within entities acting as MA in the CR .

Central supervisory system – responsibility for this system is borne by the Audit Authority (AA), set up on the level of the MF. The AA performs audits of the primary supervisory system, including the certification system, and audits of the secondary supervisory system. Being an authority empowered centrally to perform audits of systems and operations, the AA provides technical and methodological support to the AAB and regularly submits to the Commission its audit strategy and schedule. The AA is also obliged to supply the results of audits to the MA and CA for certification of expenditure.

The management and control systems comprise the Commission departments performing audits of reliability of the management and control systems of the Member States. External auditors are the ECA at the EU level and other national audit institutions.

Scheme 1 Management and control systems in the programming period 2007–2013



Source: MF – Manual for the audit of management and control systems of operational programmes co-financed in the programming period 2007– 2013, version 4 dated 12.09.2008

In December 2008, the AA presented to the Commission annual control reports⁸⁹ with the results of audits carried out in the period from 01.01.2007 to 30.06.2008 and annual opinions on the functioning of the management and control systems⁹⁰ for OPs in which the function of the MA is fulfilled by Czech government agencies. The annual reports on the OPs⁹¹ indicate that no audits of systems were performed in the period in question and the description of the management and control systems and the audit strategy of these

89 Article 62(1)(d)(i) and (ii) of Council Regulation (EC) No 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006
 90 Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006
 91 A total of 18 annual control reports for OPs whose Audit Authority is the Ministry of Finance

programmes have not been approved by the Commission yet⁹². The annual opinions contain the information that the AA was unable to perform the necessary audits of the management and control systems because the foregoing documents had not been approved and because the CA has not certified any expenditure yet. For these reasons the AA issued in the annual opinions the information that it would issue no opinion instead of the opinion envisaged by the EU Regulation⁹³.

With respect to the *Cohesion Fund* management and control systems, the Commission states in the annual report on this instrument for 2007 that the *Cohesion Fund* management and control systems in five Member States (CR, Poland, Slovakia, Bulgaria – transport sector, Hungary – environmental sector) have received a qualified opinion in which serious shortcomings affecting key elements of the system were reflected. In another 13 cases the opinion was unqualified or qualified as a consequence of severe shortcomings which slightly affected key elements of the system.

B.3.3 SAO's audit activities

Since the issue of the *EU Report 2008*, the SAO has completed two auditing operations concerning the Structural Funds in the programming period 2004–2006, namely measures to develop tourism and regeneration and revitalization of selected towns which are part of the *Joint Regional OP* and the priority of OP HRD involving active employment policy. The area of the Structural Funds was in addition part of another two auditing operations as part of audit of the funds allocated for the development and modernisation of waterways and ports (*OP Infrastructure* and *OP Transport* projects) and audit of the system for administration of the national programmes and programmes co-financed from the EU budget. The most important findings are given below.

B.3.3.1 Joint Regional Operational Programme⁹⁴

- As the MRD changed the rules in the role of the MA for individual tender rounds for bidders and beneficiaries of aid, orientation in the programme rules was complicated for the beneficiaries and ex-post control. As the programme was running, the MA issued binding opinions and methodical instructions and, on their basis, did not demand fulfilment of certain requirements imposed on beneficiaries of aid in decisions, conditions or contracts, e.g. fulfilment of the monitoring indicators or eligible expenditure.
- The Centre for Regional Development of the Czech Republic, fulfilling the function of the intermediary body, did not verify whether in investment projects beneficiaries of aid met the obligation to deduct project earnings from eligible expenditure in the amount of the aggregate net earnings for the period of five years after signing the contract or the issue of a decision. No such verification was done for 11 capital investment projects where the existence of earnings could be foreseen (such as construction of a golf course, restaurants or hotels).
- The monitoring system, whose outputs are used as one of the data sources for drafting reports on programme implementation contained in some cases incomplete, incorrect and outdated figures.
- The MRD did not create an appropriate system of monitoring indicators and its ongoing assessment of the benefits of aid did not have sufficient informative value. The indicators for assessment of the results and impacts of the measures and projects were not clear in some cases and with sufficient informative value; some of them were without proper prerequisite for reaching the total expected value. Some of the indicators were not directly linked to the implementation of projects because they were macroeconomic indicators whose values were affected by other factors. The MRD did not set a method of calculation for one of the indicators and did not specify a data source to quantify its value.
- The values of the indicators were estimated for the target year 2006 although the funding for the programme should have been drawn at least until the end of 2008. It was found out that one of the target values was already reached in 2000, at a time before the OP was launched.

92 The documents were returned in some cases to Czech authorities for redrafting, excluding *OP Research and Development for Innovations*, whose description of management and control systems and audit strategy had not been sent to the Commission by the closing date for the annual audit report

93 Unqualified opinion, qualified opinion, adverse opinion

94 AO No 07/23, SAO Bulletin 2/2008, p. 235

- Shortcomings of less serious nature were identified in some cases of aid beneficiaries, such as missing deadlines or formal defects in the fulfilment of contract terms and in public procurement procedures.

B.3.3.2 Human Resources Development Operational Programme⁹⁵

- The priority of the OP, which was subject to audit, struggled with the problem of slow drawing of the allocation. At the end of 2007, one year before the planned completion of the programme, only 41 % of the available funds had been drawn, and in one of the two measures it was only 12%. This situation was caused by lengthy project administration, insufficient personnel capacity and little experience of beneficiaries and implementation bodies with projects financed from ESF.
- The programme's MA, which was the Ministry of Labour and Social Affairs (MLSA), did not fix for the process of evaluation of grant projects sufficiently clear and authoritative rules to guarantee a uniform approach on the part of aid providers in the programme. As a result, the principle of transparency and equal treatment was not adhered to in the process of application assessment.
- On the basis of the set monitoring indicators, it will be difficult to assess objectively the degree to which the objectives are attained and the actual impact of the priority on active employment policy.
- Preliminary controls preceding obligations were carried out at the level of the MLSA with serious shortcomings and did not achieve their main purpose, which was to verify the regularity of operations before they were undertaken. Some shortcomings were also in preliminary controls before making payments, when the claimed sums had been paid out before the payment request was authorised, at a time when the amount of the liability paid out could not be verified.
- One of the projects implemented by the MLSA was launched with the evident intent of exhausting ESF allocations for the year 2005 to prevent forfeiture as a consequence of the rule "n+2". The project was implemented through refunding state budget funds from the ESF in the amount of approx. CZK 280 million spent to pursue the state active employment policy. Based on the project execution, the basic requirements of EC regulations for eligibility and guaranteeing publicity could not be respected and were not respected.
- The MLSA awarded a public procurement worth almost CZK 150 million excluding VAT to a bidder who had not fully met the eligibility criteria and should have been disqualified from the competition. Mistakes involving public procurement were found in another project and in some projects run by Labour Offices.
- The MLSA did not proceed in compliance with EC legal provisions when it approved and then paid expenditure on a project whose eligibility assessment was erroneous and its budget included ineligible expenditure.
- The MLSA breached budgetary discipline because it did not proceed in the most economical manner when it entered into a contract and allowed a price rise higher than the value of the original order. It breached budgetary discipline in the implementation of a project as it repeatedly paid the contractor without having a proper documentation and defrayed the contractor's costs for uneconomical services.

B.3.3.3 Infrastructure and Transport Operational Programmes⁹⁶

- The Ministry of Transport (MT), which was responsible for drafting the conceptual documents and setting the conceptual intents and objectives for the Elbe waterway, did not clearly define operations in the documents that would have to be undertaken and did not quantify the necessary investment. The documents did not provide a sufficient basis for objective approving of future operations, in particular in terms of the optimum time schedule.
- The MT did not prove the need for investments in the development and modernisation of the Elbe waterway in an appropriate manner. The assessment of the cost-effectiveness was only done by the Waterway Directorate of the Czech Republic (WD) as part of the investment plans. The assessments were only done for some areas and were not objective and duly substantiated.
- The system for monitoring and financing planned operations created by the MT was not sufficiently transparent and efficient.

95 AO No 08/06, SAO Bulletin 1/2009, p. 31

96 AO No 08/19, SAO Bulletin 1/2009, p. 59

- Shortcomings were identified at direct investors during the planning and undertaking operations, such as the case of the WD, where defects in the tendering documents used to select the building contractor caused additional unplanned work which raised the price by 19%. In another case the WD did not proceed in conformity with the law on public procurement and awarded the contract in procedure for which legal condition were not fulfilled.

B.3.3.4 Analysis and generalisation of results of the SAO audit activities

On the basis of an analysis of results of four audits performed by the SAO concerning the Cohesion Policy during 2007–2008, it was possible to identify areas of implementation with recurrent shortcomings. The identified shortcomings occurred in these areas:

1) On the level of bodies implementing structural operations

- Monitoring of programme's physical and financial indicators and taking subsequent management actions, evaluation of attainment of programme objectives;
- Legal foundation of implementing structure; drafting, content and subsequent modifications of programming documents, legality of individual administrative acts;
- System for assessment and selection of projects/operations.

2) On the final recipient level

- Public procurement;
- Compliance with the conditions of grant including physical, time and financial parameters of project/operation.

B.3.4 ECA's audit activities

For comparison, we provide a summary of results of the ECA audit activities for the period 2007 presented in its Annual Reports. In the DAS, the ECA highlights the following findings: *The reimbursement of expenditure to Cohesion policies projects is affected by a material level of error of legality and/or regularity. The Court concludes on the basis of its audit work that the supervisory system of the Commission and the control systems of the Member States are generally only partially effective in preventing overstated or ineligible expenditure.*⁹⁷ The ECA also pointed out that: *Complicated or unclear legal requirements (such as eligibility rules) have a considerable impact on the legality and/or regularity of transactions underlying the expenditure in the areas of "Cohesion"...*⁹⁸

In its Annual Reports, the ECA questioned the effectiveness of the control systems in the Member States, and drew attention mainly to the following relevant facts⁹⁹:

- Managing Authorities – insufficient day-to-day checks of the reality of expenditure, failure to identify expenditure declarations not supported by appropriate evidence and failure to identify weaknesses in tender procedures;
- Paying Authorities – failure to identify when the Managing Authorities had not carried out adequate day-to-day checks;
- Audit Authorities – failure to carry out sufficient checks to obtain assurance on the effective functioning of the control systems

The ECA also drew attention to the material level of errors in the project expenditure declarations which consisted mainly in¹⁰⁰:

- Inadequate audit trail and overestimation of individual budget items, mainly staff costs and overheads;
- Non-respect of public procurement procedures;
- Inclusion of ineligible costs.

97 Paragraph X b), DAS, ECA's Annual Reports concerning the financial year 2007

98 Paragraph XI b), DAS, ECA's Annual Reports concerning the financial year 2007

99 Points 6.28-6.29, ECA's Annual Reports concerning the financial year 2007

100 Points 6.25-6.26, ECA's Annual Reports concerning the financial year 2007

B.3.4.1 Comparison of ECA's and SAO's observations

The audit findings of the SAO show that the Structural Funds in the CR have similar deficiencies as those identified by the ECA in other Member States.

As regards the management and control systems in the CR, the SAO's audit¹⁰¹ drew attention to the incidence of the situation included by the ECA in its Annual Reports as an example of failure of control mechanisms. In this case, the MA failed to prevent reimbursement of project expenditure which was not sufficiently supported by appropriate evidence¹⁰².

With regard to legality and regularity of project expenditure, the SAO audits disclosed, among other cases, claiming of ineligible expenditure, inconclusive documents and violations of public procurement rules¹⁰³, i.e. the most frequent cases of errors in expenditure identified by the ECA in its audit sample¹⁰⁴.

B.3.5 Protection of the EU financial interests in the Cohesion Policy area

Due to the fact that the Cohesion Policy is implemented on the basis of the so-called shared management of the budget, the Member States are responsible for the prevention, detection, correction, and reporting of the irregularities. The 2007 Commission statistics states that the largest volume of reported irregularities was related to ineligible expenditure, breach of public procurement rules and missing or incomplete supporting documents. Many cases were also classified as other irregularities. As to the methods used, most irregularities were revealed during documentary checks and financial controls. However, the second most effective method reported was the category "Other", i.e. with no further specification of the method used.

In the programmes co-financed from the Structural Funds and from the *Cohesion Fund* in the CR, a total of 40 irregularities were reported to the Commission in 2007, which was by six irregularities less than in 2006. The figures mentioned are related to the programming period 2004–2006, as in the current period, the year 2007 was the first one of implementation in which the programmes were under the process of preparation, or the selection of projects was commenced. For more information see the following table:

Table 17 Number and volume of irregularities reported by the CR in 2007

Number of irregularities reported	40
<i>of which</i> – Structural Funds	35
– Cohesion Fund	5
Volume of reported irregularities (EUR)	4 885 846
<i>of which</i> – Structural Funds	4 885 846
– Cohesion Fund	0
Volume of recovered amounts (EUR)	86 082
<i>of which</i> – Structural Funds	86 082
– Cohesion Fund	0

Note: Volume for the *Cohesion Fund* not reported by the CR

Source: Annex SEC(2008) 2300 to the Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008

From the 35 irregularities reported in relation to the Structural Funds, 32 irregularities in the approximate value of EUR 3 435 thousands were identified in relation to the ESF, and three cases in the approximate value of EUR 1 451 thousands were identified in relation to the *European Regional Development Fund*. In 2007, the CR had the highest volume of reported irregularities related to the ESF among the EU-10 countries. No irregularities were reported in relation to the *European Agricultural Guidance and Guarantee*

101 AO No 08/06, SAO Bulletin 1/2009, p. 31

102 Point 6.29 a), ECA's Annual Reports concerning the financial year 2007

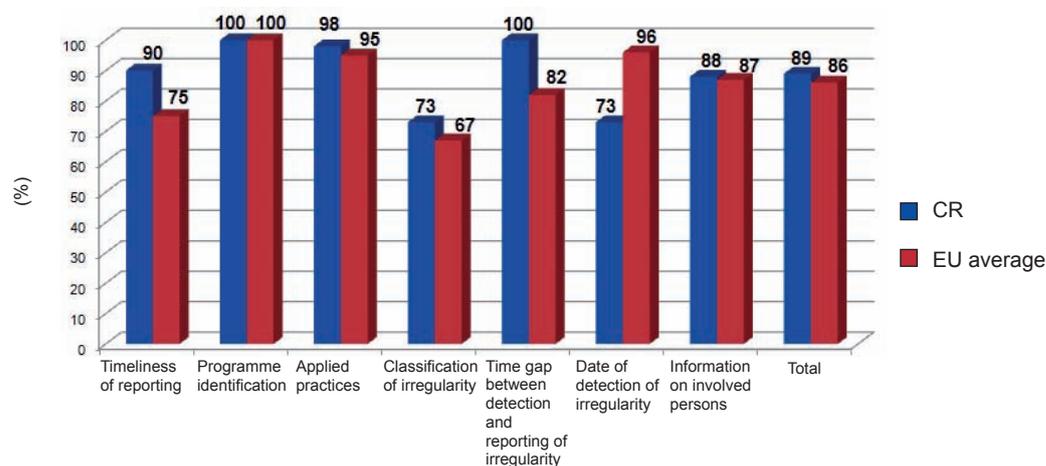
103 AO No 08/06, SAO Bulletin 1/2009, p. 31; AO No 07/23, SAO Bulletin 2/2008, p. 235

104 Points 6.25-6.26, ECA's Annual Reports concerning the financial year 2007

Fund and to the *Financial Instrument for Fisheries Guidance*. Similarly as in 2006, the Czech authorities failed to report the volume of irregularities related to the *Cohesion Fund* in 2007.

The Annual Report of the Commission for the year 2007, relating to the protection of the financial interests of the Communities and fight against fraud, evaluates the Member States in terms of meeting their obligations relating to the reporting of irregularities. For this comparison, see the following Graph 8:

Graph 8 Compliance with reporting obligations concerning irregularities in 2007



Source: Annex SEC(2008) 2300 to the Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008

As shown in the Graph 8, the CR is slightly above the EU average in terms of meeting the requisites relating to the reporting of irregularities. Most reports of irregularities from the CR were filed on time and contained the identification of the programme, the methods used and the persons involved. However, only less than three quarters of the reports contained the classification of irregularities, i.e. information whether there was a suspected fraud in the given case. The only parameter in which the CR was below the EU average was the date of identification of the irregularity; the information was missing in more than 25 % reports, while in the summary EU information, this information was missing in a negligible four per cent of the reports.

B.4 Other EU expenditure

Besides the Cohesion Policy and CAP expenditure, also other activities in the Member States are financed from the EU budget relating to the implementation of the individual EU policies. Unlike the CAP and the Cohesion Policy, these financial instruments represent only an insignificant part of the total budget. These spending activities have been included in the EU financial perspective for the period 2007–2013, namely to its Chapters 1 *Sustainable growth* and 3 *Citizenship, freedom, security and justice*. For overview of programmes by individual financial perspective chapters, see the following table¹⁰⁵:

¹⁰⁵ Detailed overview of Community Programmes for the period 2007–2013 – see Annexe 5 of the *EU Report 2008*

Table 18 Selected financial instruments¹⁰⁶

Financial Perspective 2007 – 2013			
Sustainable growth	Preservation and management of natural resources	Citizenship, freedom, security and justice	The EU as a global player
7th Framework programme for research and development	Life+	Solidarity and management of migration flows	Instrument for Pre-accession assistance
Lifelong Learning	Other activities and programmes	Security and safeguarding liberties	Other activities and programmes
Competitiveness and Innovation framework programme		Fundamental rights and justice	
European Globalisation Adjustment Fund		Public health and consumer protection	
Nuclear decommissioning		Civil protection	
TEN		Youth in Action	
Social policy agenda		Media 2007	
Customs and Fiscals		Citizens for Europe	
Galileo		Culture 2007–2013	
Marco Polo		The EU Solidarity Fund	
Other activities and programmes		Other activities and programmes	

Source: European Commission – *EU Budget 2007 – Financial Report*

B.4.1 Other EU financial instruments in the Czech Republic

Funds provided under the above mentioned financial instruments may be used in the CR not only by non-state actors but also by national authorities or organisations. Moreover, these institutions sometimes participate also in the programme administration¹⁰⁷. The detailed overview of the use of these financial instruments in the Member States in 2007¹⁰⁸ shows that the beneficiaries from the CR received approximately EUR 71.8 million under these financial instruments. From the information published by the Commission, it ensues that the CR's share in the spending is relatively small when compared to the overall allocation for all Member States (approximately 0.9% from the expenditure provided to the Member States¹⁰⁹). Therefore, the CR receives less funds under these instruments than other countries with a comparable population (e.g. Portugal with EUR 80 million, Hungary with EUR 154 million and Belgium even with EUR 742 million). Such a low share of the CR in the utilisation of these instruments can be caused by objective reasons (e.g. no reasons for drawing on the *EU Solidarity Fund*), but it can also indicate insufficient activity of Czech beneficiaries in this area.

106 For practical reasons, some titles in the table are abbreviated. The table does not contain chapter 5 *Administrative expenditure* and chapter 6 *Compensation*, as these instruments are not represented under these chapters. As a result of the change in the structure of the financial perspective, the Pre-accession funds were newly included

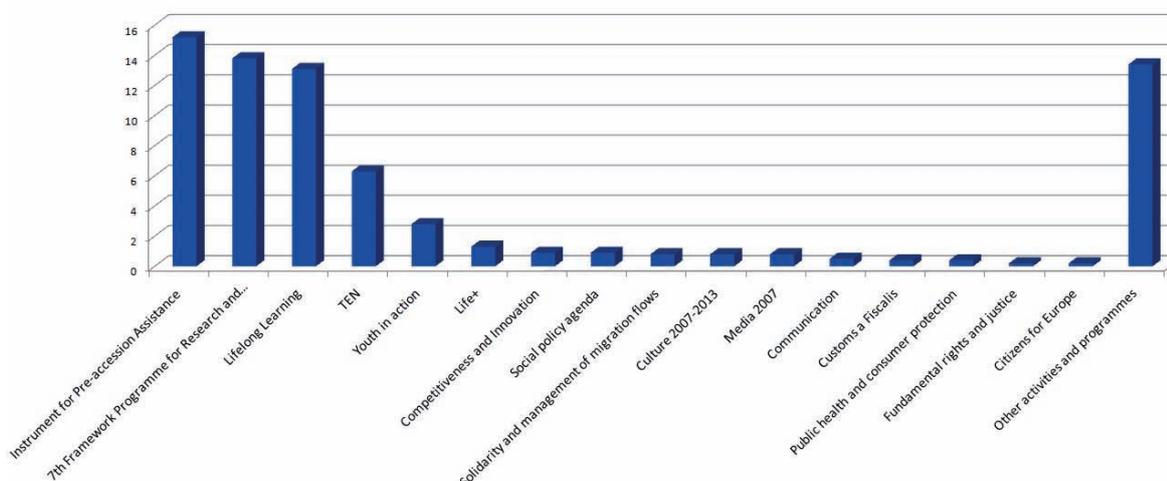
107 E.g. *Solidarity and Management of Migration Flows*, *Lifelong Learning* and *Youth in Action*

108 European Commission – *EU Budget 2007 – Financial Report*

109 This share is calculated on the basis of the EU expenditure implemented in the Member States rather than the total EU expenditure which includes also the external expenditure. The calculation also does not include the expenditure for the Communities' agencies

The following Graph shows the status of drawing on these financial instruments in the CR in 2007:

Graph 9 Other financial instruments in the CR in 2007 (EUR million)



Source: European Commission – *EU Budget 2007 – Financial Report*

B.4.2 Financial management and control in relation to other EU financial instruments

Other financial instruments are in most cases subject to so-called centralised management. This means that budget funds are administered either directly by the Commission or by other persons delegated by the Commission. Basically, the Member States are not responsible for the management of these funds. The funds are usually not allotted in advance for individual Member States, and their allocation is therefore based on free competition among beneficiaries across the EU.

B.4.2.1 ECA's audit activities

The ECA's Annual Reports concerning the financial year 2007 deals with the other financial instruments not only in the DAS but also in independent Chapters providing more detailed analysis of the audit findings. With regard to legality and regularity of underlying transactions of the annual accounts, the ECA issued an unqualified opinion only as to the "economic and financial affairs" expenditures. In the remaining areas (i.e. "Research, energy and transport", "External aid, development and enlargement", and "Education and citizenship") a qualified opinion was issued. In the opinion of the ECA, these areas are still affected by a high level of errors in legality and regularity of operations, and the supervisory and control systems are only partially effective¹¹⁰.

For the purposes of the DAS issue for the period 2007, the ECA realized one audit mission in the CR which related to the Education and culture expenditure. The outputs of this audit mission were not reflected in the DAS¹¹¹. For this reason, this Statement is not based on findings related to the CR or to beneficiaries from the CR.

B.4.2.2 SAO's audit activities

In 2008, the SAO did not carry out any audits focused solely on the other EU financial instruments. This issue was partially included in the audit aimed at the verification of the scope and use of funds spent on the preparation of the State Treasury¹¹². A portion of funds spent on development of the State Treasury was from the EU budget, namely from the PHARE¹¹³ and *Transition Facility*¹¹⁴ instruments. In relation to these instruments, the audit revealed that the final beneficiary (MF), at variance with the requirements of the national

¹¹⁰ Paragraphs IX and X, DAS, ECA's Annual Reports concerning the financial year 2007

¹¹¹ Letter of the Director-General for Budget of 11 November 2008 No D(2008) 59019

¹¹² AO No 08/14, SAO Bulletin 4/2008, p 421

¹¹³ From: *Poland and Hungary Aid for the Reconstruction of Economy – pre-accession instrument for candidate countries*

¹¹⁴ The Phare pre-accession aid was followed up on *Transition Facility*. This instrument provides temporary financial assistance to new Member States enabling them to develop and strengthen their administrative capacity to administer and enforce the EC regulations

law, did not specify, for the audited PHARE and *Transition Facility* projects, any information on the spending of funds, and did not evaluate the status of implementation and meeting of the business plans of the projects for the purposes of preparation of the National Accounts. In relation to one of the projects funded from the *Transition Facility* instrument, the audit also revealed shortcomings in the area of public procurement.

B.4.3 Protection of the EU financial interests

Due to the fact that the spending activities in the area of other financial instruments are usually subject to centralized management, the key responsibility for prevention, identification and correction of the irregularities lies with the Commission. The Member States are responsible for the protection of the Communities' financial interests in the case of the instruments which are subject of the so-called shared management. To a limited extent, the responsibility of the Member States shall apply also in the case of the so-called indirect centralized budget management provided that the programme administration is the responsibility of the national implementation agencies.

B.4.3.1 Pre-accession instruments

Regular reports of the Member States and candidate countries to the Commission shall contain e.g. information on the period when the irregularity occurred and when it was identified, on entities involved in the irregularity, on practices employed, or on the classification of an irregularity (i.e. if there is a suspected fraud).

An analysis of the irregularities reported by the individual States in 2007¹¹⁵, performed by the Commission, reveals that most irregularities were identified on the basis of control of documents, national administrative control and on-the-spot control. The key irregularities with the largest impact on the budget were: failure to fulfil commitments entered into, falsification or distortion of supporting documents, failure to respect the terms and conditions ensuing from the contracts and regulations, and claiming of ineligible expenditure.

For the period 2007, the CR reported a total of seven irregularities at the total amount of EUR 477 thousands. Six irregularities related to the SAPARD¹¹⁶ programme, and one to the PHARE programme. The SAPARD irregularities related to the failure to adhere to the terms and conditions of the contract. The PHARE irregularities related to the incompleteness of the documents relating to the final evaluation¹¹⁷.

The following graph shows to what extent the CR duly meets its duty to provide the Commission with information on irregularities¹¹⁸. The information relating to the CR is always compared to the EU average.

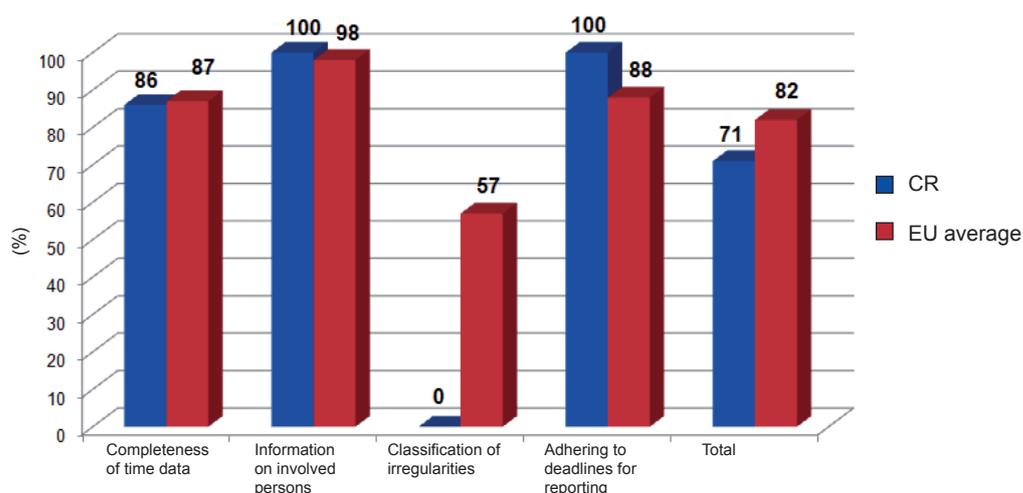
115 Annex SEC(2008) 2300 to the Commission Report to the European Parliament and Council: *Protection of the Communities' financial interests - Fight against fraud – Annual report 2007*, COM(2008) 475 of 22 July 2008

116 From: *Special Accession Programme for Agriculture and Rural Development*

117 Pages 24-25 of the 2007 Public Administration Audit Report of the Ministry of Finance

118 Annex SEC(2008) 2300 to the Commission Report to the European Parliament and Council: *Protection of the Communities' financial interests - Fight against fraud – Annual report 2007*, COM(2008) 475 of 22 July 2008

Graph 10 Duty to inform compliance rate



Source: Annex SEC(2008) 2300 to the Commission report to the European Parliament and to the Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 from 22.07.2008

The above comparison shows that the CR meets its duties regarding the provision of information only to 71 %, while the EU average is 82 %. The decrease of the total average of the CR was materially influenced by the communication of data relating to the classification of irregularities. In neither of the reported cases, the Czech authorities carried out the classification of irregularities, i.e. they failed to provide information whether there was a suspected fraud. The data reported to the Commission also show that in the CR, there is a relatively long delay between the date when the irregularity arises and the date when it is identified (approximately 20 months), and between the date when the irregularity is identified and the date when it is reported (approximately 10 months). In both cases, these time intervals exceed the EU average.

In the case that errors are identified in the management of the EU budget financial resources, the Commission is entitled to request the repayment of the wrongly paid funds from the Member State. In 2008, the CR received a request from the Commission to repay EUR 9.35 million for failure to adhere to the rules of management of the funds provided from PHARE. The CR called into question the legitimacy of this sanction, and the issue is now being solved through a court. In the meantime, the Commission applied the so-called *off-set*, and it deducted the required amount from the funds which had to be paid to the CR as part of the financing of Structural Funds for the period 2004–2006¹¹⁹.

B.4.3.2 Instruments subject to the direct centralised management by the Commission

In the case of the financial instruments which are subject to the direct centralised management by the Commission¹²⁰, 411 irregularities were identified in 2007 within the EU which had a total financial impact on the budget amounting approximately to EUR 33 million¹²¹. Most of these irregularities were identified by the Commission during the ex-post audits. The irregularities with the greatest impact on the budget related mostly to the submission of ineligible expenditure, corruption and counterfeit, incomplete or missing documents.

In the case of beneficiaries from the CR, four irregularities were identified in 2007 in the approximate total value of EUR 83 000. None of these irregularities was qualified as a suspected fraud.

119 Source: Ministry of Finance, National Fund Department

120 These are most of the instruments mentioned in Table 18 hereof and also the instruments under the so-called external actions of the Community

121 Annex SEC(2008) 2300 to the Commission Report to the European Parliament and Council: *Protection of the Communities' financial interests – Fight against fraud – Annual report 2007*, COM(2008) 475 as of 22 July 2008

C. Other activities in the EU financial management area

C.1 Legal matters

The SAO actively participates in the development of legislation in the areas relating to its audit activities. It provides incentives to the competent institutions to improve the legislation either directly in its individual audit conclusions or under the interdepartmental amendment procedure relating to the draft legislation.

The following part of the *EU Report 2009* deals with the shortcomings of the Czech legal regulations relating to the EU financial management which were identified in 2008. These shortcomings can have a negative impact on the public funds management.

C.1.1 Irregularities and violations of budgetary discipline

Unauthorised use of budgetary appropriations in the area of Structural Funds is usually qualified as an irregularity in compliance with the EC legislation¹²² and also as a violation of budgetary discipline in compliance with the Czech legislation¹²³. In such cases, the unauthorised payment shall be recovered in administrative procedures initiated by tax offices or by Offices of the Regional Councils of Cohesion Regions. The methods of remedying these irregularities are defined sufficiently in the Czech legislation¹²⁴. However, the definition of “irregularity” in the EC regulations is somewhat broader than the definition of “violation of budgetary discipline”. Due to these different definitions, situations may arise in practice which must be defined as irregularity but cannot be defined as violation of budgetary discipline¹²⁵. These cases



122 Article 1a (1) of the Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organization of an information system in this field
 123 Provision of Article 44(1) of the Act No 218/2000 Coll., on budgetary rules and amending certain other related acts (the Budgetary Rules); provision of Art 22 of the Act No 250/2000 Coll. on budgetary rules of territorial budgets
 124 Above all the Act of the Czech National Council No 337/1992 Coll. – the Taxes and Fees Administration Act
 125 AO No 08/06, SAO Bulletin 1/2009, p. 31

are therefore classified as unauthorised use of funds which amounts to irregularity but cannot be punished through imposition of a payment for the violation of budgetary discipline. However, even in the above cases, the Member States are liable to ensure the withdrawal of the unauthorised payments¹²⁶, and this remedial instrument should be sufficiently defined in the national legislation. The Czech legislation does not define sufficiently a remedial instrument of such irregularities. The absence of such legislation may cause difficulties related to the recovery of the unauthorised payments.

C.1.2 Partnerships

The EC legal provisions relating to the structural operations allow the final beneficiaries to implement their projects in cooperation with regional or local authorities, economic or social partners, or other suitable entities. Such a partnership should be implemented in full compliance with the institutional, legal and financial powers of each partner.

If the final beneficiaries of the resources from the Structural Funds are government agencies, the Czech legislation does not provide a detailed specification of the provision of expenditure from the state budget under the partnership institute. For example, it has not been specified under which conditions the partners can be invited to implement the project, how the cooperation between the beneficiary and the partner is implemented, what expenditures can be reimbursed to the partners, how the responsibility of the partners for the proper implementation of the project is realised, etc.

In the above sense, the legal provisions are unsatisfactory as no more detailed rules exist for this category of public expenditure which would secure the appropriate protection of public funds. However, this expenditure can represent an important expense item for the bodies involved in the drawdown of appropriations from the Structural Funds.¹²⁷

C.1.3 Grant award procedures

The SAO repeatedly pointed out that the legal regulations governing the grant awards are ambiguous. The relationship between the budgetary rules¹²⁸ and the Code of Administrative Procedure¹²⁹ still remains unresolved. As a consequence, it is not clear whether and to what extent the Code of Administrative Procedure should be applied in the decision-making process relating to the grant awards¹³⁰.

In relation to the above, it should be also mentioned that the possibility of subsequent changes to the grant award has not been defined. However, the SAO audit findings show that in practice, such changes are made by the providers of subsidies.¹³¹

C.1.4 Delayed enactment of legislation

In the CAP area, individual support schemes are governed primarily by the relevant EC legislation. However, this legislation contains only a general framework in relation to certain aspects, and it is therefore necessary that more detailed terms and conditions of implementation of expenditure are specified in the legal provisions of the Member States. In order to adjust the Czech legal provisions to the EC legal requirements, government regulations containing more detailed national rules are being adopted for the individual support schemes. The purpose of these regulations is to ensure an efficient national application of the relevant EC provision.

The adoption of the relevant national provision is often a prerequisite of the use of funds allocated to the relevant scheme. In relation to the above, the SAO pointed out that a delayed adoption of the national legal provision prevents the beneficiaries from drawing the funds in the first year of the programming period. For

126 Article 4 of the Council Regulation (EC, Euratom) No 2988/95 on the protection of the European Communities' financial interests

127 AO No 08/06, SAO Bulletin 1/2009, p. 31

128 Act No 218/2000 Coll. on budgetary rules and amending certain other related acts (Budgetary Rules Act)

129 Act No 500/2004 Coll., Code of Administrative Procedure

130 AO No 08/05, SAO Bulletin 4/2008, p. 339

131 AO No 08/05, SAO Bulletin 4/2008, p. 339

example, in the case of the RDP measure focused on the forest-environment payments, the beneficiaries will be able to obtain the first resources during 2009 at the earliest, as the relevant governmental regulation was issued as late as at the end of February 2009¹³².

Delays in the adoption of the implementing provisions represent an obstacle to the timely introduction of the relevant measure and increase the risk that the beneficiaries are unable to draw the entire amount of the funds allocated to the CR in relation to the relevant measure.

C.2 International SAO activities

Issues related to the EU budget implementation and to the protection of the EU's financial interests are subject to cooperation between the EU institutions (namely the ECA), individual SAIs and their associations (namely the Contact Committee of the Heads of the SAIs of the EU Member States), international audit organizations and the national executive bodies.

C.2.1 Audit activities

*C.2.1.1 Audits performed in cooperation with the national SAIs*¹³³

In 2008, a coordinated audit of the administration of Value Added Tax was completed in cooperation with the FRG. The audit, which is the last one in a series of parallel audits concerning the VAT issues, focused among other things on the registration of VAT payers, submitting of VAT returns and international exchange of information as part of the international cooperation of the EU Member States. The report issued contains many recommendations and measures addressed to the executive bodies. As a follow-up of this audit, the German and the Czech SAIs signed an agreement on the follow-up audit of the VAT administration, the aim of which shall be to identify the status of implementation and the impact of measures adopted on the basis of the previous audit¹³⁴.

In the second half of 2008, a joint report was also signed from the coordinated audit of the implementation of the NATURA 2000 scheme coordinated by the SAI France, in which participated the SAIs of Austria, Estonia, Finland, Hungary, the United Kingdom of Great Britain and Northern Ireland, and the Czech Republic. The report highlighted the lengthy implementation of the NATURA scheme due to delays in the implementation of the legal regulations, responsibilities for management split among several national bodies and lack of systematic approach to the monitoring of site condition. Due to the above issues, it was impossible to define accurately the costs incurred by the participating states in the implementation of the NATURA 2000 scheme. On the other hand, it was stated that NATURA contributed to nature protection, and in some cases also increased the stability of nature conservation. The report contains recommendations for the Commission and the Member States.

In other two coordinated audits, the SAO participated as an observer. As part of this cooperation of the Central European SAIs (Visegrad Group, Austria, Slovenia), a coordinated audit of the management and control systems of the EU Structural Funds in the Member States was completed. The SAO participated as an observer also in the audit implemented by the Working Group of the Contact Committee on Structural Funds related to the performance of the EU Structural Funds programmes in the areas of employment and/or the environment.

C.2.1.2 Audit missions of the EU institutions

The SAO participates as an observer in the audit missions of the EU institutions in the CR, namely all the ECA's missions. This provides to the SAO auditors with the opportunity to closely observe the audit procedures and methods of the ECA and apply them in their own audit activities. In 2008, the ECA carried out three audit missions in the CR:

132 Governmental Regulation No 53/2009 on the stipulation of the conditions for provision of subsidies to forest-environmental measures, Point 3 of the *General Part of the justification of the Draft Government Regulation on the stipulation of the conditions for provision of subsidies to forest-environmental measures*

133 The full text of the reports mentioned below is available at <http://www.nku.cz/pages/en/international-cooperation/coordinated-audits.htm>

134 For detailed information see Point B.1.1.1

- *DAS Audit for the financial year 2007 regarding the Education and culture expenditure;*
- *DAS Audit for the financial year 2008 regarding the expenditure of the European Agricultural Guidance and Guarantee Fund Guidance Section;*
- *DAS Audit for the financial year 2008 regarding the Traditional Own Resources.*

In 2008, the SAO participated in the meeting of the representatives of the Commission, the ECA and the Czech national authorities organised in order to discuss the findings of the ECA auditors from the audit mission OP *Infrastructure* for the programming period 2004–2006. The SAO considers the method of discussing the audit results at the presence of all stakeholders (except for the final beneficiaries) to be beneficial as it represents a different, more sophisticated method of cooperation of the above institutions.

The participation of the SAO auditors in the audit missions of the Commission in the CR is rather rare. The SAO does not have comprehensive information on the planned and implemented missions which is partly due to the fact that the Commission does not have any obligation to inform the SAIs on its audit activities. In this respect, the SAO has already been striving to improve mutual awareness and cooperation with the Commission.

In 2008, the SAO auditors participated as observers in the following missions of the Commission:

- Audit mission related to direct payments provided within the framework of the cross-compliance requirements system¹³⁵, which was carried out by the auditors from the Directorate-General for Agriculture and Rural Development.
- Audit missions relating to the PHARE funds for the period 2003, implemented by the audit company Moore Stephens under the direction of the Directorate-General for Enlargement.

C.2.2 Experience sharing and consultation activities

C.2.2.1 Bilateral cooperation

The SAO considers the exchange of experience and information to be the fundamental form of cooperation with the SAIs of other countries and with international organisations. In 2008, exchange of experience was carried out at the bilateral level namely with the Slovak SAI (audits of the OP HRD) and with the German SAI (VAT audits – see previous Chapters).

C.2.2.2 Cooperation in the Contact Committee of the heads of the Supreme Audit Institutions of the EU Member States

The SAO considers the cooperation within the Contact Committee of the heads of the SAIs of the EU countries (Contact Committee) to be essential.

At its meeting in 2008, the Contact Committee discussed namely the following activities:

- Revised Lisbon strategy for the 2008–2010 period;
- EU budget reform;
- Activities carried out in 2008 and plans for 2009.

As part of its activities, the Contact Committee establishes Working Groups to carry out specific allocated tasks. The SAO is active in the following Working Groups:

Working Group on Value Added Tax

In 2008, the Working Group continued in monitoring trends in determining VAT evasions, and cooperated in the preparation of the strategy to eliminate VAT evasions in the EU. The SAO representatives also participated in the collection of data and information necessary to evaluate the above areas. The SAO started to prepare a Methodological Aid for the Audit of the VAT system within the single EU market. When preparing this aid, the SAO uses information from the document *Working aid for the Audit of the VAT system* prepared by the Group.

¹³⁵ For more information on cross-compliance see Chapter B.2.3.3

Working Group on Common Auditing Standards

The key task of this Working Group is to compile a document named *Common Auditing Standards and Criteria*, which would be usable by the SAIs in their audits of the EU budget appropriations. As part of the regular quarterly meetings, final amendments to the individual parts of the documents were discussed; the first part deals with the auditing standards and comparable audit criteria for compliance audits, the second part focuses on the performance audit and the third part relates to the experience and methods of SAIs in auditing the EU funds. The final document shall include *Interpretative Notes*. An example of such notes is the *Analysis of the Management and Control Systems within the Shared Management of the EU funds*, which will be supplemented by case studies prepared by the Member SAIs.

Working Group on Structural Funds

The output of activities of the Working Group on Structural Funds in 2008 was the preparation and approval of the final version of the *Coordinated audit report focused on the performance of the programmes financed from the EU Structural Funds in the area of employment and environment*, in which the SAO participated as an observer. The topic selected for the next coordinated audit is *Administration burden/Audit costs*. Cooperation on this audit will represent the key activity of the Working Group in the years to come.

Working Group on National SAI Reports on EU Financial Management

The subject of the negotiations of this Working Group at its meeting which took place in September 2008 in Warsaw was above all the summary of the current developments in the area of preparation of the reports on EU financial management. Special attention was paid to presentations of the Austrian and Czech SAIs which submitted their first publications of the reports. Each example showed a different approach to the method of preparation and to the factual focus of their reports. The issue of preparation of the national reports was discussed as well as the contents of the reports and the development of trend indicators in the EU financial management. The Working Group agreed to further develop the cooperation in this area.

Platform for sharing of audits on the EU funds

On the basis of the decision of the Contact Committee to create an Intranet platform serving to exchange opinions on the EU audits and the national declarations on drawing on EU funds, the SAO supported the Slovenian SAI's initiative to establish a general database composed of the audit reports of individual SAIs prepared in the standardised format. The SAO participated in the generation of the structure of a questionnaire used to collect information.

D. Literature and sources

- 1) A letter by the Commissioner for Agriculture and Rural Development of 16.04.2008 No CAB/D/389, available at www.europarl.europa.eu.
- 2) A letter by the Directorate-General for Regional Policy of 21.04.2008 No D(2008) 970056, available at www.europarl.europa.eu.
- 3) A letter by the Director-General for the Budget of 11.11.2008 No D(2008) 59019, available at www.europarl.europa.eu.
- 4) A letter by the Ministry of Finance of 03.02.2009 No 55/13832/2009-552.
- 5) Act No 2/1969 Coll., on the establishment of ministries and other central government authorities of the Czech Republic, as amended.
- 6) Act No 218/2000 Coll., on budgetary rules and on an amendment to certain related laws (Budgetary Rules) as amended.
- 7) Act No 250/2000 Coll., on budgetary rules of municipal budget.
- 8) Act No 320/2001 Coll., on financial control in public administration and on the amendment to some acts (Act on Financial Control).
- 9) Act No 500/2004 Coll., on administrative procedure (Administrative Procedures Code), as amended.
- 10) Act No 122/2008 Coll., amending Act No 140/1961 Coll., Penal Code, as amended, and Act No 337/1992 Coll., on tax administration and charges, as amended.
- 11) Action Plan for the implementation of priorities and goals of the National Strategy towards the protection of the EC's financial interests in the Czech Republic, available at www.mfcr.cz.
- 12) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Integrated Operational Programme, Ministry of Finance.
- 13) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Cross-border Cooperation 2007–2013 between the Czech Republic (CZ) and the Republic of Poland (PL), Ministry of Finance.



- 14) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Education for Competitiveness, Ministry of Finance.
- 15) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Enterprise and Innovation, Ministry of Finance.
- 16) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Environment, Ministry of Finance.
- 17) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Human Resources and Employment, Ministry of Finance.
- 18) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Prague – Adaptability, Ministry of Finance.
- 19) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Prague – Competitiveness, Ministry of Finance.
- 20) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Research and Development for Innovation, Ministry of Finance.
- 21) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Technical Assistance, Ministry of Finance.
- 22) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Operational Programme Transport, Ministry of Finance.
- 23) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme for Cohesion Region Central Moravia, Ministry of Finance.
- 24) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme for Cohesion Region Moravia-Silesia, Ministry of Finance.
- 25) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme for Cohesion Region Northeast, Ministry of Finance.
- 26) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme for Cohesion Region NUTS II Central Bohemia, Ministry of Finance.
- 27) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme NUTS II Northwest, Ministry of Finance.
- 28) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme NUTS 2 Southeast, Ministry of Finance.
- 29) Annual Control Report under article 62 (1)(d)(i) of Council Regulation (EC) 1083/2006 and Article 18(2) of Commission Regulation (EC) No 1828/2006 for the period from 1 January 2007 to 30 June 2008, Regional Operational Programme NUTS II Southwest, Ministry of Finance.
- 30) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Integrated Operational Programme of 19 December 2008, Ministry of Finance.
- 31) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Cross-border Cooperation 2007 – 2013 between the Czech Republic (CZ) and the Republic of Poland (PL) of 19 December 2008, Ministry of Finance.
- 32) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Education for Competitiveness of 19 December 2008, Ministry of Finance.
- 33) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Enterprise and Innovation of 22 December 2008, Ministry of Finance.
- 34) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Environment of 19 December 2008, Ministry of Finance.

- 35) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Human Resources and Employment of 19 December 2008, Ministry of Finance.
- 36) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Prague – Adaptability of 19 December 2008, Ministry of Finance.
- 37) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Prague – Competitiveness of 19 December 2008, Ministry of Finance.
- 38) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Research and Development for Innovation of 19 December 2008, Ministry of Finance.
- 39) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Technical Assistance of 19 December 2008, Ministry of Finance.
- 40) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Operational Programme Transport of 19 December 2008, Ministry of Finance.
- 41) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme for Cohesion Region Central Moravia of 19 December 2008, Ministry of Finance.
- 42) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme for Cohesion Region Moravia-Silesia of 19 December 2008, Ministry of Finance.
- 43) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme for Cohesion Region Northeast of 19 December 2008, Ministry of Finance.
- 44) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme for Cohesion Region NUTS II Central Bohemia of 19 December 2008, Ministry of Finance.
- 45) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme NUTS II Northwest of 19 December 2008, Ministry of Finance.
- 46) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme NUTS 2 Southeast of 19 December 2008, Ministry of Finance.
- 47) Annual opinion under Article 62(1)(d)(ii) of Council Regulation (EC) No 1083/2006 and Article 18 (2) of Commission Regulation (EC) No 1828/2006 for Regional Operational Programme NUTS II Southwest of 19 December 2008, Ministry of Finance.
- 48) Annual report of the SAIF concerning the financial year 2007, available at www.szif.cz.
- 49) Annual reports concerning the financial year 2007, ECA 2008, available at www.eca.eu.
- 50) Annual summary of audits and declarations for the year 2007, Ministry of Finance.
- 51) AO 06/27 – *Value added tax administration after Czech Republic's accession to the EU.*
- 52) AO 07/23 – *Financial resources allotted for the development of tourism and the regeneration and revitalization of selected towns and cities within the Regional Development Programme.*
- 53) AO 08/02 – *Financial means provided within the supporting programmes (national and EU programmes).*
- 54) AO 08/05 – *Financial means allotted for payments within the CAP – Common Market Organization.*
- 55) AO 08/06 – *Financial means from the operational programme for Human Resources Development allotted for active employment policy.*
- 56) AO 08/14 – *Financial means spent on raising of the State Treasury.*
- 57) AO 08/19 – *Financial means allotted for the waterways and ports development and modernization.*
- 58) Assessment of the annual summaries on structural actions provided by the designated bodies of the member states pursuant to article 53b(3) of the financial regulation, available at www.europarl.europa.com.
- 59) Convention on the protection of the financial interests of the European Communities of 26 July 1995.
- 60) Commission Regulation (EC) No 1681/94 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organization of an information system in this field.
- 61) Commission Regulation (EC) No 745/96 laying down detailed rules for the application of Council Regulation (EC) No 1469/95 on measures to be taken with regard to certain beneficiaries of operations financed by the Guarantee Section of the EAGGF.
- 62) Commission Regulation (EC, Euratom) No 2342/2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.
- 63) Commission Regulation (EC) No 796/2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in of Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers.

- 64) Commission Regulation (EC) No 1828/2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund.
- 65) Commission Regulation (EC) No 1848/2006 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organisation of an information system in this field and repealing Council Regulation (EEC) No 595/91.
- 66) Commission Regulation (EC) No 1975/2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures.
- 67) Commission Report to the European Parliament and Council: Protection of the Communities' financial interests – Fight against fraud – Annual report 2007, COM(2008) 475 of 22.07.2008.
- 68) Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee on a coordinated strategy to improve the fight against VAT fraud in the European Union, COM(2008) 807 of 01.12.2008.
- 69) Communication from the Commission to the Council, the European Parliament and the European Court of Auditors – Commission Action Plan towards an Integrated Internal Control Framework, COM(2006) 9 of 17.01.2006.
- 70) Communication from the Commission to the Council, the European Parliament and the European Court of Auditors on a roadmap to an integrated internal control framework, COM(2005) 252 of 15.06.2005.
- 71) Communication from the Commission to the Council, the European Parliament and the European Economic and Social Committee concerning the need to develop a co-ordinated strategy to improve the fight against fiscal fraud, COM(2006) 254 of 31.05.2006.
- 72) Communication from the Commission to the European Council – A European Economic Recovery Plan, COM(2008) 800 of 26.11.2008.
- 73) Communication from the Commission to the European Parliament, the Council and the Court of Auditors – An action plan to strengthen the Commission's supervisory role under shared management of structural actions, COM(2008) 97 of 19.02.2008.
- 74) Communication from the Commission to the European Parliament, the Council and the European Court of Auditors – Report on the Commission action plan towards an integrated internal control framework, COM(2008) 110 of 27.02.2008.
- 75) Communication from the Commission to the European Parliament and the Council concerning the revision of the multiannual financial framework (2007–2013), COM(2008) 859 of 10.12.2008.
- 76) Communication from Commissioners Hübner and Špidla to the Commission giving an interim progress report on the action plan to strengthen the Commission's supervision role under shared management of structural actions, SEC(2008) 2756.
- 77) Constitutional Act No 1/1993 Coll., the Constitution of the Czech Republic.
- 78) Council Directive 2008/117/EC amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions.
- 79) Council Regulation (EC) No 1260/1999 laying down general provisions on the Structural Funds.
- 80) Council Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and amending Regulations (EEC) No 2019/93, (EC) No 1452/2001, (EC) No 1453/2001, (EC) No 1454/2001, (EC) 1868/94, (EC) No 1251/1999, (EC) No 1254/1999, (EC) No 1673/2000, (EEC) No 2358/71 and (EC) No 2529/2001.
- 81) Council Regulation (EC) No 1798/2003 on administrative cooperation in the field of value added tax and repealing Regulation (EEC) No 218/92.
- 82) Council Regulation (EC) No 1290/2005 on the financing of the common agricultural policy.
- 83) Council Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
- 84) Council Regulation (EC) No 1083/2006 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.
- 85) Council Regulation (EC) No 1934/2006 establishing a financing instrument for cooperation with industrialised and other high-income countries and territories.
- 86) Council Regulation (EC) No 37/2009 amending Regulation (EC) No 1798/2003 on administrative cooperation in the field of value added tax, in order to combat tax evasion connected with intra-Community transactions.
- 87) Council Regulation (EC) No 85/2009 amending Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund concerning certain provisions relating to financial management.
- 88) Council Regulation (EC, Euratom) No 2988/95 on the protection of the European Communities financial interests.
- 89) Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

- 90) Council Regulation (EC, Euratom) No 1995/2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.
- 91) Decision No 1639/2006/EC of the European Parliament and of the Council establishing a Competitiveness and Innovation Framework Programme (2007 to 2013).
- 92) Decision No 1719/2006/EC of the European Parliament and of the Council establishing the Youth in Action programme for the period 2007 to 2013.
- 93) Decision No 1720/2006/EC of the European Parliament and of the Council establishing an action programme in the field of lifelong learning.
- 94) Decision No 1982/2006/EC of the European Parliament and of the Council concerning the Seventh Framework Programme of the European Community for research, technological development and demonstration activities (2007–2013).
- 95) Decision No 573/2007/EC of the European Parliament and of the Council establishing the European Refugee Fund for the period 2008 to 2013 as part of the General programme Solidarity and Management of Migration Flows and repealing Council Decision 2004/904/EC.
- 96) Decision No 574/2007/EC of the European Parliament and of the Council establishing the External Borders Fund for the period 2007 to 2013 as part of the General programme Solidarity and Management of Migration Flows.
- 97) Decision No 575/2007/EC of the European Parliament and of the Council establishing the European Return Fund for the period 2008 to 2013 as part of the General Programme Solidarity and Management of Migration Flows.
- 98) Decision of the European Parliament on discharge for the implementation of the European Union general budget in the year (No P6_TA(2005)0092).
- 99) Decision of the European Parliament on discharge in respect of the implementation of the European Union general budget for the financial year 2006, section III – Commission (No P6_TA(2008)0133).
- 100) Draft Governmental Regulation on the stipulation of the conditions for provision of subsidies to forest/environmental measures, Ministry of Agriculture.
- 101) Drawing on the Structural Funds 2004–2006 as of 31.12.2008, Ministry for Regional Development.
- 102) ECA's Opinion No 6/2007 on the annual summaries of Member States; national declarations of Member States; and audit work on EU funds of national audit bodies.
- 103) EU budget 2007 – Financial Report, European Commission.
- 104) European Union to the regions, European Commission 2004.
- 105) Government Resolution No 1010 of 5 September 2007.
- 106) Government Resolution No 535 of 14 May 2008.
- 107) Government Resolution No 1275 of 15 October 2008.
- 108) Governmental Regulation No 53/2009 on the stipulation of the conditions for provision of subsidies to forest/environmental measures.
- 109) Guideline No 4 on the Statement of assurance to be provided by the director of a Paying agency pursuant to article 8(1)(c)(iii) of Council Regulation (EC) No 1290/2005, European Commission 2007.
- 110) Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and improvement of the budgetary procedure, 1999/C 172/01.
- 111) Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management, 2006/C 139/01.
- 112) Improving the financial management of the European Union, European Court of Auditors, 2004.
- 113) Manual for the audit of management and control systems of operational programmes co-financed in the programming period 2007–2013 from the European Regional Development Fund, European Social Fund, Cohesion Fund and European Fisheries Fund in accordance with the Regulation (EC) No 1080/2006 and No 1081/2006 of the European Parliament and of the Council, the Council Regulation (EC) No 1083/2006, No 1084/2006 and No 1198/2006, and the Commission Regulation (EC) No 1828/2006 and No 498/2007, version 4 dated 12.09.2008, Ministry of Finance.
- 114) Methodology of financial flows and audit of programmes co-financed from the Structural Funds, Cohesion Fund and European Fisheries Fund in the programming period 2007–2013, Ministry of Finance.
- 115) Monthly monitoring report on drawing down the Structural Funds, Cohesion Fund and national resources, Ministry for Regional Development, December 2008.
- 116) National Strategy against fraud with harmful effects or threatening EC's financial interests, available at www.mvcr.cz.
- 117) National Strategy towards the protection of the EC's financial interests, available at www.mfcr.cz.
- 118) Operational Programme Fisheries 2007–2013, available at www.mze.cz.

- 119) Overview of CF Funds as of 31.10.2008, Ministry of Finance.Regulation (EC) No 1073/1999 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).
- 120) Presidency conclusions of the Brussels European Council (11 and 12 December 2008), available at www.consilium.europa.eu.
- 121) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1080/2006 on the European Regional Development Fund as regards the eligibility of energy efficiency and renewable energy investments in housing, COM(2008) 838 of 03.12.2008.
- 122) Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1081/2006 on the European Social Fund to extend the types of costs eligible for a contribution from the ESF, COM(2008) 813 of 26.11.2008.
- 123) Regulation (EC) No 1073/1999 of the European Parliament and of the Council concerning investigations conducted by the European Anti-Fraud Office (OLAF).
- 124) Regulation (EC) No 1927/2006 of the European Parliament and of the Council on establishing the European Globalisation Adjustment Fund.
- 125) Report from the Commission – Annual report on the Cohesion Fund (2007),COM(2008) 752 of 14.11.2008.
- 126) Report from the Commission to the Council, the European Parliament and the European Court of Auditors on the progress of the Commission Action Plan towards an Integrated Internal Control Framework, COM(2007) 86 of 07.03.2007.
- 127) Report on the results of financial controls in public administration for the year 2007, Ministry of Finance.
- 128) Report on the Results of the Parallel Audit of the Administration of Value Added Tax in the Czech Republic and in the Federal Republic of Germany, available at www.nku.cz.
- 129) Rural Development in the European Union: Statistical and Economic Information – Report 2007, European Union, DG for Agriculture and Rural Development, 2007.
- 130) Rural Development Programme CR 2007–2013, available at www.mze.cz.
- 131) Second Report from the Commission – Implementation of the Convention on the Protection of the European Communities' financial interests and its protocols – Article 10 of the Convention, COM(2008) 77 of 14.02.2008.
- 132) Special Report No 8/2007 concerning administrative cooperation in the field of VAT, together with the replies by the Commission, European Court of Auditors.
- 133) Special Report No 8/2008: Is cross compliance an effective policy?, European Court of Auditors.
- 134) Table of CF/ISPA completed projects as of 02.12.2008, Cohesion Fund Monitoring Committee.
- 135) Treaty establishing the European Community.
- 136) 1999/352/EC, ECSC, Euratom: Commission Decision establishing the European Anti-fraud Office (OLAF).
- 137) 2004/904/EC: Council Decision establishing the European Refugee Fund for the period 2005 to 2010.
- 138) 2004/904/EC: Council Decision establishing the European Refugee Fund for the period 2005 to 2010.
- 139) 2007/436/EC, Euratom: Council Decision on the system of the European Communities' own resources.
- 140) 2008/371/EC: Decision of the European Parliament and of the Council amending the Interinstitutional Agreement of 17 May 2006 on budgetary discipline and sound financial management as regard adjustment of the multiannual financial framework.

Web pages:

- 1) www.eca.eu
- 2) www.europa.eu
- 3) www.europarl.europa.eu
- 4) www.mfcr.cz
- 5) www.mmr.cz
- 6) www.mze.cz
- 7) www.strukturalni-fondy.cz
- 8) www.szif.cz

E. Annexes

Annexe 1 List of Abbreviations

AA	Audit Authority
AAB	Authorized Audit Bodies
Action Plan	Action Plan towards an integrated internal control framework
Action plan to strengthen the Commission's supervisory role	An action plan to strengthen the Commission's supervisory role under shared management of structural actions
AEM	Agri-environmental measures
AFCOS	Anti-Fraud Co-ordination Structure
AO	auditing operation
CA	Certifying Authority
CAP	Common Agricultural Policy
CLO	Central Liaison Office
CMO	Common Market Organization
CR	Czech Republic
DAS	Déclaration d'assurance, Statement of assurance
EAFRD	European Agricultural Fund for Rural Development
EAGF	European Agricultural Guarantee Fund
EC	European Community



ECA	European Court of Auditors
EEC	European Economic Community
EFF	European Fisheries Fund
ERDF	European Regional Development Fund
ESF	European Social Fund
EU	European Union
EU-10	the Member States that acceded to the EU in 2004
FRG	Federal Republic of Germany
GNI	Gross National Income
HRDP	Horizontal Rural Development Plan
IACS	Integrated Administration and Control System
ISPA	Instrument for Structural Policies for Pre-accession
LFA	Less Favoured Areas
MA	Managing Authority
MF	Ministry of Finance
MLSA	Ministry of Labour and Social Affairs
MRD	Ministry for Regional Development
MT	Ministry of Transport
National Strategy	National Strategy towards the protection of the EC's financial interests
OLAF	l'Office européen de lutte antifraude, European Anti-Fraud Office
OP	Operational Programme
OP HRD	Operational Programme Human Resources Development
OP RDMA	Operational Programme Rural Development and Multifunctional Agriculture
OWNRES	Own Resources
PHARE	Poland and Hungary Aid for the Reconstruction of Economy
RDP	Rural Development Programme CR 2007–2013
ROP	Regional Operational Programme
SAI	Supreme Audit Institution
SAIF	State Agricultural Intervention Fund
SAO	Supreme Audit Office of the Czech Republic
SAPARD	Special Accession Programme for Agriculture and Rural Development
SAPS	Single Area Payment Scheme
SPD	Single Programming Document
SPS	Single Payment Scheme
SSP	Separate Sugar Payment
VAT	Value Added Tax
VIES	Value Added Tax Information Exchange System
WD	Waterway Directorate of the Czech Republic

Annexe 2

Overview of implementation of actions concerning the Commission Action Plan towards an Integrated Internal Control Framework					
Number	Action	Progress in 2008	Impact	Rate of impact in 2008	Probable evolution
1	Simplification of proposed 2007–2013 legislation	completed	Percentage of the budget spent using lump sums	■□□□	Little change expected under current legislation. Further simplification will be proposed for the next legislative round.
2	Integrate common internal control principles in the proposal for the revised Financial Regulation	cancelled			
3	Establish and better harmonise the presentation of control strategies and evidence providing reasonable assurance	completed	Annual Activity Reports for 2006 were already improved as a result of action 3, reflected by the more positive assessment from the Court of Auditors in its annual report of the quality of Annual Activity Reports; Increase understanding of different control systems.	■□□□	Significant improvements are expected for 2007 Annual Activity Reports reflecting reinforced Standing Instructions, a stronger peer review, and – in the area of shared management – the use of Annual Summaries received from Member States.
3N	Strengthening the link between reasonable assurance and payments	completed	In the area of the Structural Funds, the Commission Action Plan to strengthen supervision under shared management has already established a direct link between audit findings, reservations and action plans by regions or Member States thereby ensuring that timely decisions on suspensions and financial corrections will be taken in 2008.	■□□□	Implementation of the Structural Funds action plan will ensure that the absence of reasonable assurance will lead to either improved systems or suspension of payments and financial corrections.
4	Initiate inter-institutional dialogue on risks to be tolerated in the underlying transactions	cancelled (to be taken forward in action 10)			
5	Promote operational level management declarations and synthesis reports at national level	completed	Increased assurance in shared management	■□□□	A gradual improvement in control systems can be expected as the process is embedded and Member States take greater accountability for EU Funds (depending on Member States' compliance).

Overview of implementation of actions concerning the Commission Action Plan towards an Integrated Internal Control Framework					
Number	Action	Progress in 2008	Impact	Rate of impact in 2008	Probable evolution
6	Examine the utility of management declarations outside shared and indirect centralised management	cancelled (to be taken forward another way)			
7	Promote best practices for increasing cost-benefit of audits at project level	partially completed	Improved standardisation and quality of audit work and improved reporting of representative error rates	□□□□	Steady reduction in error rates
8	Facilitate additional assurance from Supreme Audit Institutions	completed	Increase number of SAIs using Commission data and reporting on the use of EU funds	■□□□	SAIs are independent but a gradual increase in their involvement may be expected as the quality of Commission reports increases.
8N	Prepare a case study on the key issues faced by SAIs in examining Community expenditure.	almost complete	see action 8	■□□□	see action 8
9	Construct effective tools for sharing audit and control results and promote the single audit approach	almost complete	Better coordination of audit activity and audit methodology	■□□□	Improved consistency and quality of audit work. Increased reliance on the work of the national audit authorities.
9N	Monitor the use of data sharing and management reporting for the Sixth Framework Programme	almost complete	see action 9	■□□□	see action 9
10	Conduct an initial estimation and analysis in the costs of controls and examine the cost-benefit ratio of control	in progress	Understanding of the levels of residual risk in major policy areas	■□□□	Depends on follow-up to the October 2008 communication
10N	Examine the effect of programme design and eligibility requirements on costs of control to develop a detailed analysis of tolerable risk on a practical basis.	in progress	see action 10	■□□□	see action 10
11	Recoveries and benefits of control	close to completion	Quantification of the benefits of control in terms of recovery of amounts in error	□□□□	Full information will be collected for 2008 onwards under Action 11N

Overview of implementation of actions concerning the Commission Action Plan towards an Integrated Internal Control Framework					
Number	Action	Progress in 2008	Impact	Rate of impact in 2008	Probable evolution
11N	Recoveries of errors	in progress	Evidence that multi-annual control systems are effectively correcting errors	□□□□□	Full data on Structural Fund corrections will be collected for 2008 and Commission corrections will be recorded directly in the accounting system
12	Address gaps identified by participating services	completed	Progressive reduction of error across all management modes	■□□□□	Increasingly improved evaluation by the Court of Auditors
12N	Provide a representative picture of the level and nature of irregularities in the research budget as a whole	completed	see action 12	■□□□□	see action 12
13	Analyse controls under Shared Management at regional level and the value of existing statements	completed	Improved quality of Member States control systems as evidenced by the annual activity report process and the evaluation of the Court of Auditors	■□□□□	Improved evaluation by the Court of Auditors, but this is likely to vary between Member States
14	Provide greater guidance for structural funds on managing the risk of error	completed	Reduced error rates through successful implementation of guidance	□□□□□	Significantly improved guidance issued in 2008 on all key issues
15	Promote Contracts of Confidence for Structural Funds	Action will not be completed for all Member States but will be achieved through legislation for the 2007–2013 period	Greater control consciousness in Member States	■□□□□	As the 2007–2013 programmes are implemented, improvements in Member States' control systems are expected and more will fulfil the requirements of the "contract of confidence"
16	Establish common guidelines per policy family	to be completed	Standardisation of audit principles and methodology. For example, better information on error rates through application of common sampling guidelines	■□□□□	Impact demonstrable in Research for 2008, other sectors will follow

Annexe 3

Actions of the Action plan to strengthen the Commission's supervisory role under shared management of structural actions and their progress			
	Action	Deadline*	Progress up to 5. 11. 2008
1. Actions under the Structural Actions joint audit strategy for 2000–2006			
1.1	Carry out targeted audits on high-risk management bodies (2000–2006).	31.12.2008	In progress
1.2	Complete the follow-up of the Member States' implementation of 27 current action plans to remedy serious deficiencies in those Member States' management and control systems.	31.12.2008	In progress
1.3	Bring to conclusion the 20 suspension and financial correction procedures currently underway for 2000–2006 and the 34 financial correction procedures from closure audits for 1994–1999.	31.12.2008	In progress
1.4	Follow up the individual substantive error cases for DAS 2006 together with any systemic implications.	30.9.2008	In progress
2. Main ongoing actions under the Action Plan towards an Integrated Internal Control Framework			
2.1	Action 9 – Construct effective tools for sharing audit and control results and promote the single audit approach.	31.12.2008	In progress
2.2	Action 10 – Conduct an initial estimation and analysis of in the costs of controls for the ERDF.	31.5.2008	Completed
2.3	Action 11N – examine the reliability of national monitoring and reporting systems for recoveries and financial corrections.	31.12.2008	In progress
2.4	Action 14b – provide guidelines for beneficiaries and/or intermediate levels on controls and responsibilities in the control chain.	30.6.2008	Completed
2.5	Action 15 – promote the Contracts of Confidence initiative for Structural Funds (enabling Commission to place reliance on national audit work for 2000–2006 period and creating basis for similar cooperation in 2007–2013) .	30.9.2008	Partially completed
2.6	Action 16 – coordinate audit standards, error rate reporting, etc. for Structural Funds.	31.12.2008	Partially completed
3. Preventive actions for closure of 2000–2006 programmes and projects			
3.1	Complete the audit enquiry on the review of the work of the winding-up bodies (2000–2006)	31.12.2008	In progress
3.2	Finalise the internal procedures to ensure rigorous examination of closure documents.	30.6.2008	Partially completed
3.3	Raise awareness of Member States of the closure guidelines issued by the Commission in 2006.	31.12.2008	Completed
4. Preventive actions for the 2007–2013 programming period			
4.1	Review of compliance assessment reports and opinions.	31.12.2008	In progress
4.2	Review of national audit strategies.	31.12.2008	In progress
4.3	Actions on simplification:		Partially completed
	a) Note on partial closure under Article 88 of Regulation (EC) No 1083/2006 followed up in annual meetings with managing authorities.	31.12.2008	
	b) Note on use of flat rates for indirect costs (ESF only) followed up in annual meetings with managing authorities.	31.12.2008	
4.4	Review and provide clarification on eligibility issues for 2007–2013:		Partially completed
	a) Compilation of Community eligibility rules for 2007–13 period as single brochure.	30.9.2008	
	b) Note on application of Article 55 of Regulation (EC) No 1083/2006 – revenue-generating projects.	30.6.2008	
	c) Note on application of State aid rules.	30.6.2008	
4.5	Raise awareness of public procurement rules.	31.12.2008	Completed
5. Actions to improve primary controls at national level			

Actions of the Action plan to strengthen the Commission's supervisory role under shared management of structural actions and their progress			
	Action	Deadline*	Progress up to 5. 11. 2008
5.1	Organise seminar for managing authorities and certifying authorities and follow up in annual meetings with managing authorities.	30.6.2008	Completed
5.2	Update guidance on good practice for primary controls and the certification function for 2007–2013.	30.6.2008	Completed
5.3	Provide self-assessment tools for managing authorities on compliance.	30.6.2008	Completed
6. Actions to improve reporting on financial corrections by Member States			
6.1	Follow up on data reported to complete gaps and correct inaccuracies.	30.6.2008	Completed
6.2	Carry out on the spot verifications of a sample of Member States' data.	31.12.2008	In progress
7. Actions to improve reporting by Commission on impact of audit activity			
7.1	Improve systems for recording and reporting on follow up of audit recommendations.	30.9.2008	Completed
7.2	Improve systems for recording and reporting on corrections resulting from Commission control and audit activity.	30.9.2008	Partially completed
8. Actions to increase impact of Commission audit activity			
8.1	Establish and implement policy of suspending payments by Commission decision as soon as possible following detection of serious weakness in national systems.	30.4.2008	Completed
8.2	Modify internal procedures for suspension and financial corrections to speed up application.	30.4.2008	Partially completed
9. Actions to improve assurance provided by Annual Activity Report			
9.1	Carry out the following actions in relation to preparation of Annual Activity Reports:	31.3.2008	Completed
	a) Provide information on follow-up of all systems for which material systemic deficiencies were detected in 2006.		
	b) Report on the execution of action plans implemented by Member States to correct deficiencies.		
	c) Report on decisions to suspend interim payments, other precautionary actions by AOSD in respect of interim payments, financial corrections made by Member States at request of Commission, and financial correction decisions adopted by the Commission.		
	d) Provide detailed justification for absence of reservation where material systemic weaknesses are identified.		
	e) Report on follow-up of previous recommendations of the Court of Auditors.		
10. Actions to maximise value of annual summaries under Article 53b of the Financial Regulation			
	Analyse summaries received, include results in Annual Activity Report, and take action in respect of Member States not complying with obligations.	31.12.2008	Completed

* Latest deadline where different deadlines were set for individual outputs.

Annexe 4: Comparison of objectives and financial instruments within programming periods 2000–2006 and 2007–2013

2000–2006		2007–2013	
Objectives	Financial instruments	Objectives	Financial instruments
Cohesion Fund	Cohesion Fund		
Objective 1	ERDF	Convergence	Cohesion Fund
	ESF		ERDF
	EAGGF – Guidance		ESF
	FIFG		
Objective 2	ERDF	Regional competitiveness and employment - regional level - national level	ERDF
	ESF		ESF
Objective 3	ESF		
INTERREG	ERDF	European territorial cooperation	ERDF
URBAN	ERDF		
EQUAL	ESF	<i>Areas of rural development and fisheries are no longer a part of the Cohesion Policy, but belong to the Common Agricultural Policy</i>	
LEADER+	EAGGF – Guidance		
Rural development and restructuring of the fisheries sector outside Objective 1	EAGGF – Guarantee FIFG		
9 OBJECTIVES	6 INSTRUMENTS	3 OBJECTIVES	3 INSTRUMENTS
Financial allocation for the CR (EUR million)	2 630,4	Financial allocation for the CR (EUR million)	26 691,7

Source: Working for the regions, European Commission 2004 p. 29; financial allocation MF, MRD

Glossary of terms used in the table

Objective *Convergence* – one of the three objectives from the programming period 2007–2013, which is determined to support economic and social development in less advanced Member States and EU regions.

Objective 1 *To promote the development of less prosperous regions* – one of the objectives of Cohesion Policy in programming period 2000–2006, its purpose was focused on assistance to the EU regions whose GDP per inhabitant was lower than 75 % of the EU average.

Objective 2 *To support areas experiencing structural difficulties* – one of the objectives of Cohesion Policy in programming period 2000–2006. This objective was defined to support economic and social conversion of areas experiencing structural difficulties.

Objective *Regional Competitiveness and Employment* – funds for development of competitiveness and employment under this objective can be provided in programming period 2007–2013 to regions that do not come under the objective *Convergence* (in the Czech Republic, it is the capital city Prague).

Objective *European Territorial Cooperation* – this objective of programming period 2007–2013 is focused on development supranational, inter-regional and cross-border cooperation.

Objective 3 *To support employment and education policy* – one of the objectives of cohesion policy in programming period 2000–2006. The purpose of this objective was to provide assistance in the field of human resources development.

EAGGF – from: *European Agriculture Guidance and Guarantee Fund*, was set up in 1962, this financial instrument is divided in two sections – the Guarantee and Guidance sections. The Guarantee Section serves to finance Common Agriculture Policy, the Guidance section finances particularly Rural Development, and until 2006 this section was part of structural funds.

EQUAL – Community Initiative *EQUAL* should contribute to providing equal approach to employment by seeking and verifying procedures leading to combat all forms of discrimination and inequality in the labour market.

ERDF – from: *European Regional Development Fund*, one of the structural funds, set up in 1975, its financial sources are budgeted for reducing disparities between regions.

ESF – from: *European Social Fund*, one of the structural funds, set up in 1957, is designed to combat unemployment and support equal opportunities.

FIFG – from: *Financial Instrument for Fisheries Guidance*, set up in 1993 with the objective to support fisheries and modernisation of fishing sector. Until 2006, it was part of structural funds.

Cohesion Fund – this source was created in 1993 and can be used by the EU states whose GNI is lower than 90 % of the EU average. It provides funds for large-scale capital investment projects in the area of the environment and transport.

Community Initiative – is specific programme, which EC has introduced to solve specific problems concerning all EU region, in programming period 2004–2006 there were four Community Initiatives, the Czech Republic only took part in two of them.

INTERREG – was devised to assist supranational, inter-regional and cross-border cooperation.

LEADER+ – one of the Community Initiatives, was focused on supporting of rural areas. This Initiative was in the programming period 2000–2006 implemented in the Czech Republic as a sub-measure within OP *Rural Development and Multifunctional Agriculture*.

URBAN – was aimed for supporting of sustainable development in the troubled urban districts. The Czech Republic did not take part in the programming period 2004–2006.

Annexe 5

Overview of auditing operations carried out in 2008 partially or fully focused on EU budget finances		
Number	Name of the audit	SAO Bulletin
07/23	Financial resources allotted for the development of tourism and the regeneration and revitalization of selected towns and cities within the Joint Regional Development Programme	2/2008
08/02	Financial means provided within the supporting programmes (national and EU programmes)	3/2008
08/05	Financial means allotted for payments within the CAP – Common Market Organization	4/2008
08/06	Financial means from the operational programme for Human Resources Development allotted for active employment policy	1/2009
08/14	Financial means spent on raising of the State Treasury	4/2008
08/19	Financial means allotted for the waterways and ports development and modernization	1/2009

8