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**REPORT FROM THE COMMISSION TO THE COUNCIL, THE EUROPEAN
PARLIAMENT, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND
THE COMMITTEE OF THE REGIONS**

SAPARD ANNUAL REPORT - YEAR 2008

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1. INTRODUCTION

Beginning in 2000, the European Union (EU) reinforced its pre-accession assistance for the rural development of ten candidate countries of Central and Eastern Europe by creating Sapard, the Special Accession Programme for Agriculture and Rural Development. For its implementation a unique approach was chosen: the National authorities in the applicant countries assumed the entire responsibility through fully "decentralised management" thus enabling the realisation of Sapard. One objective is to implement numerous small-scale rural development projects and the other is to create structures capable of applying the *acquis communautaire* upon accession. Detailed information regarding the implementation of Sapard can be found in the previous Annual Reports as published on the Commission website http://ec.europa.eu/agriculture/external/enlarge/publi/index_en.htm.

This report addresses in particular the financial implementation of Sapard in Bulgaria Romania and Croatia, as the Sapard Programmes of the eight new Member States (MS), which joined the EU on 1 May 2004, have been completed. During 2004 they stopped contracting projects under their respective Sapard Programmes and switched to contracting under the post-accession programmes for rural development. Payments to final beneficiaries under their Sapard Programmes ended towards the end of 2006.

Bulgaria and Romania, which joined the EU on 1 January 2007, have also stopped contracting to final beneficiaries under Sapard on 31 October 2007 and 31 July 2007, respectively.

The Programme of Croatia was approved by Commission Decision on 8 February 2006. With the Commission Decision 2006/658/EC of 29 September 2006 on conferral of management Croatia became eligible for receiving Sapard funds. Both contracting to final beneficiaries and financial execution were ongoing in 2008.

2. PROGRAMME IMPLEMENTATION AND MANAGEMENT

In the Sapard Annual Report 2005 an assessment was made of the achievement of the objectives in the eight new MS that had completed contracting. A similar analysis has been made for Bulgaria and Romania in the Sapard Annual Report 2007, following completion of contracting in 2007 in these MS.

2.1 Overall results of implementation¹

As the contracting to final beneficiaries under Sapard has stopped in Bulgaria and Romania in 2007, the implementation of these Programmes mainly focussed on financial execution and control issues in 2008. Only Croatia was still in a position to contract EU funds to final beneficiaries during 2008.

At the end of 2008 allocations under Sapard to the beneficiary countries for the years 2000 to 2006 were made for a total of € 936 million, of which € 334,1 million was allocated to the eight MS that joined the EU in 2004² and € 601,9 million to Bulgaria, Romania and Croatia.

During this period a total amount of € 446,4 million³ was actually paid by the Commission, representing 99,6% of the total amount allocated to the eight new MS and 69,8% for Bulgaria, Romania and Croatia.

In 2008 the Programmes of Lithuania, Latvia and Poland were closed, by means of the payment of the final balance to Lithuania and Poland. For Latvia, where the amount of eligible EU expenditure finally declared in euro was only 88% of the funds allocated to the Programme, a recovery order has been made for the settlement of the negative final balance to be repaid to the Commission. The number of contracted projects in the eight new MS amounted to over 34 000 and accounted for € 448 million of Community contribution. Under the rules of the transition from Sapard to rural development, the new MS could include payments for outstanding multi-annual commitments under Sapard into their 2004 – 2006 transitional rural development programmes.

Progress made during 2008, measured by means of payments made by the Commission to Bulgaria, Romania and Croatia⁴ slowed down, also due to control issues in Bulgaria and Romania and low absorption by beneficiaries in Croatia. Total payment execution since the start of the Programmes measured as a percentage of funds available to these three countries, was 69,8% at the end of 2008, compared to respectively 46% and 62% at the end of 2006 and 2007.

At 31 July 2007, the date when Romania stopped making contracts to final beneficiaries, contracted amount was € 132 million. At the end of 2008 the contracted amount had decreased to around € 066 million of EU funds to over 4 500 projects, of which almost 4 000 were completed. This decrease of 6% is due to cancelled projects.

The three largest measures, "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*" and "*Investments in rural infrastructure*", representing 87% of the total amount allocated to the Programme had close to 3 300 approved projects, of which nearly 3 000 were completed at the end of 2008. At the end of 2008 payments, including advances, made since the start to Romania reached € 443,5 million, or 72,7% of the amount allocated to the Sapard Programme.

¹ Annexes A and B contain a horizontal overview.

² Czech Republic (CZ), Estonia (EE), Hungary (HU), Latvia (LV), Lithuania (LT), Poland (PL), Slovakia (SK), Slovenia (SI).

³ Pre-financing and reimbursement payments to all Countries.

⁴ Annex C contains information per Country.

At 31 October 2007, the date when Bulgaria stopped making contracts to final beneficiaries, contracted amount was €458 million. At the end of 2008 the contracted amount had decreased to around €376 million of EU funds to over 2700 projects, of which more than 2 100 were completed. This decrease of 18% is due to cancelled projects.

The three largest measures, "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*" including sub measure "*Wholesale markets*" and "*Development and diversification of economic activities*", accounted for 80% of the total amount allocated to the Programme with close to 2 300 approved projects, of which more than 1 900 were completed at the end of 2008. The low uptake of funds measured at the end of 2007 and during 2008 resulted in the de-commitment of EU funds of €27,6 million made in 2008 and is expected to lead to a de-commitment of €45,7 million in 2009, thus reducing the total amount initially allocated to the Programme of €444,7 million by 16% to €371,4 million.

At the end of 2008 payments, including advances, made since the start to Bulgaria reached €265,2 million, or 63,6% of the amount allocated to the Sapard Programme.

The Sapard Programme of Croatia, adopted in February 2006, with conferral of management in September 2006, obtained a committed amount of €25 million on the basis of one single Annual Financing Agreement (AFA) for the year 2006. This amount has been allocated to the measures "*Investments in agricultural holdings*" and "*Processing and marketing of agricultural and fishery products*".

Contracting of EU funds was still ongoing at the end of 2008 and the contracted amount at that moment was around €10,5 million, representing 42% of the amount allocated to the Programme. Out of 33 approved projects 16 were completed at the end of 2008. At the end of 2008 payments made to Croatia since the start reached €9,5 million, including an advance of €7,2 million, representing 37,9% of the amount allocated to the Sapard Programme.

The total amount of public funds paid to final beneficiaries declared under all Sapard Programmes at the end of the year 2008 is € 415 million (€ 113 million at the end of 2007), of which the Community contribution amounts to € 562 million (€ 333 million at the end of 2007). As a large share of the investment undertaken under the Sapard Programme are revenue generating investments which are supported by up to 50% from public sources, the overall direct impact of Community support under the Sapard instrument, thus including private financing, therefore amounts to a total of around € 123 million (€ 683 million at the end of 2007) in investments and services provided. Consequently each euro given by the Community under Sapard, results in an investment of €2,39. The value of this leverage factor over the last three years was constant.

3. ASSESSMENT OF ACHIEVEMENT OF OBJECTIVES

The assessment of the overall impact of the Sapard instrument in the ten initial Sapard beneficiary countries with regard to its objectives has been covered in detail in the Sapard Annual Reports 2005 and 2007. It was found that the various measures financed under Sapard contribute to sustainable economic development, improvement of environment and living conditions and the creation of job opportunities in rural areas. Investments made in farms and food industry contributed in particular to the attainment of EU standards.

In the context of the in 2008 ongoing *ex-post* evaluation of the eight Programmes already closed, a horizontal assessment will be done. Following the closure and *ex-post* evaluations of the Programmes in Bulgaria, Romania and Croatia a similar assessment will be carried out.

4. PROGRAMME IMPLEMENTATION AND MANAGEMENT

4.1 Monitoring of programme implementation

During 2008 the EU continued to work closely with the beneficiary countries Bulgaria, Romania and Croatia on monitoring and evaluation. In addition to the on going monitoring, six Monitoring Committees were held during 2008.

Two Commission Decisions amending the Programme of Bulgaria and one amending the Programme of Croatia were adopted in 2008⁵. The main objective of the amendment adopted for Croatia was an adaptation of the financial table to concentrate the funds on the two only measures accredited, to better focus the Programme on the needs for preparation for accession and to improve the absorption capacity.

The first Commission Decision in 2008 amending the Programme of Bulgaria concerned an adaptation of the financial tables to take into account the actual stage of contracting and implementation. The second amending Commission Decision adopted in 2008 concerned the modification of the financial tables to take into account the de-commitment of €27,6 million from the Annual Financing Agreement (AFA) 2004. This is the part of the committed amount, which has not been settled by the payment on account and for which the Commission has not received an acceptable payment application until the end of 2007 in accordance with Article 4 of AFA 2006.

4.2 Legal framework

In December 2008 the Commission extended the deadline for de-commitment for the AFAs 2006 signed with Bulgaria, Romania and Croatia from the end of 2008 to the end of 2009, to give the countries the opportunity to increase absorption by executing payments until the end of 2009 to projects contracted under Sapard.

Considering that 2008 is the last but one year of implementation of the remaining Sapard Programmes of Bulgaria, Romania and Croatia, the related Regulations have remained unchanged in 2008.

The last legislation concerning Sapard is Commission Regulation (EC) No 248/2007 of 8 March 2007, which specifically addresses the transition of Bulgaria and Romania from Sapard to Rural Development Programming as Member States and the continuation of the application of the Sapard AFAs and Multi-annual Financing Agreements (MAFA).

⁵ Annex D.

5. ACTIVITIES IN RELATION TO CONFERRAL OF MANAGEMENT, AUDITS AND CONTROLS

5.1 Update on Conferral of Management of Aid and monitoring missions⁶

Conferral of management of the Sapard aid is issued by the Commission to the Candidate Countries. In 2008 no Commission Decision was issued and no conferral audit mission was carried out in this regard.

According to Article 3(3) of Commission Regulation (EC) No 2222/2000 of 7 June 2000, the Commission shall also monitor continued compliance with the conditions and provisions of that Regulation including its annex. On that basis, two monitoring missions were carried out to Bulgaria and Romania in May and June 2008, respectively.

5.1.1 Bulgaria

Given the results of the verifications performed during the mission of May 2008, it appeared that certain accreditation criteria with regard to the Bulgarian Sapard Agency were poorly implemented, namely the *ex-post* controls (limited to checking of physical existence of the investments), the human resources standard (very high turnover of staff) and monitoring functions (internal audit department and Fight Against Fraud & Counteraction to Corruption Department in particular). The conformity aspects of this mission are described in heading 5.3.1 of this report.

Following the mission the Bulgarian Authorities were requested by letter sent in June 2008 to draw up a plan to remedy the deficiencies and to inform the Commission of the implementation of such a plan. The Bulgarian Authorities were also informed about the interruption of reimbursements by the Commission for three important measures until proper implementation of the action plan. The report of the independent audit authority (Ernst and Young) submitted by the Bulgarian Authorities to the Commission in November 2008 confirmed that all actions foreseen in the action plan with regard to accreditation weaknesses were implemented. In December, the National Authorising Officer (NAO) declared by letter that the action plan had been implemented and this was confirmed by an independent audit authority. The services of DG Agriculture, after having examined in detail the audit report received, concluded that important progress had been made, but that, as confirmed by the independent audit authority, two important actions were only partially implemented. This was reported to the Bulgarian Authorities by letter in January 2009, stating that, as soon as these remaining issues were addressed in an appropriate manner and Bulgaria maintained its efforts in implementing the new control procedures following the action plan, the Commission would consider resuming the reimbursement of declared Sapard expenditure.

Given that at the end of 2008 the action plan was not fully implemented, reimbursement by the Commission of declared expenditure of €1,4 million for the measures concerned, remained interrupted at that date. Reimbursements to Bulgaria were resumed in September 2009.

⁶ Annex E.

5.1.2 Romania

Another monitoring mission was carried out to Romania in June 2008. The objective of the mission was to seek reasonable assurance on continued compliance of the NAO, National Fund and the Sapard Agency with the conditions and provisions of the MAFA and to ensure that the accredited and conferred procedures and structures operate in a satisfactory manner.

The audit revealed that the internal control system and several accreditation criteria were seriously deficient and raised considerable doubts about the efficiency of the control procedure regarding the attribution of investment aid.

Following these findings, the Romanian Authorities were requested by letter sent in the beginning of July 2008 to draw up an action plan to remedy the shortcomings identified and to inform the Commission once implemented. The letter underlined the responsibilities of the NAO to ensure the proper implementation of the remedial actions which also had to be confirmed by an independent audit authority. In view of the seriousness of the findings, the NAO was also requested not to introduce requests for reimbursement of expenditure to the Commission and stop payments to final beneficiaries until remedial measures were implemented. Furthermore DG Agriculture interrupted the reimbursement to Romania of the declared expenditure of all measures of the Programme.

DG Agriculture also informed Romania that it would consider resuming the reimbursements once it had received confirmation that the action plan had been properly implemented and that this was confirmed by an independent Audit Authority.

At the end of July 2008 Romania submitted the action plan. By letter sent in October 2008, the Romanian Authorities informed the Commission services that payments to final beneficiaries were resumed on 1 October 2008. By letter sent in November 2008 the Romanian Authorities informed the Commission services that they considered the action plan as implemented. This assessment was based on the report of the Romanian Court of Auditors. Although in general the report concluded positively on the adequacy of the remedial actions undertaken, it nonetheless identified a number of accreditation deficiencies, which had not yet been properly rectified. Furthermore, the audit report did not systematically describe and substantiate the concrete work carried out by the Romanian Authorities and the results achieved by the implementation of the action plan, especially with regard to conformity issues.

The Commission services also analysed the report with a view to establish whether on this basis the Sapard payments to Romania could be resumed. The result of this analysis was that with regard to certain issues more information on the scope of the work carried out by the Romanian Authorities was required. This concerned in particular the question whether projects had been subject to unauthorised procedures and therefore constituted a financial risk. Moreover, more information regarding additional checks carried out with regard to investment projects as well as information on the coverage and the contents of the checks carried out, both at the level of the Paying Agency and the Audit Authority was requested.

By letter sent in December 2008 Romania submitted a supplementary Declaration of Expenditure and Payment Application covering the period up to 30 November 2008. As the Romanian Authorities were not yet in a position to evaluate the underlying financial risk, Commission's analysis concluded that for certain issues more information is required. The decision to resume the payments will depend on the satisfactory follow-up to the additional

requests made to the Romanian Authorities. Given that at the end of 2008 the action plan was not fully implemented, reimbursement by the Commission of declared expenditure of €141,5 million remained interrupted at that date. Reimbursements to Romania were resumed in July 2009.

5.2 Clearance of accounts decisions

Following the requirements set down in Regulation (EC) No 2222/2000, the Commission has to clear the account(s) of the Sapard Agencies, which have been established in the Candidate Countries.

On that basis, on 30 September 2008 the Commission adopted a decision, which cleared the 2007 accounts of Bulgaria and Croatia. Pending the review of supplementary information, which has been requested from Romania, the Clearance of Accounts decision concerning this country could not be adopted at that stage.

5.3 Conformity clearance

In 2008, two conformity missions were carried out by the DG Agriculture responsible unit for the audit of Sapard expenditure, one in Bulgaria and one in Romania.

5.3.1 Bulgaria

In the light of cases of alleged fraud revealed by OLAF, an audit mission to Bulgaria took place in May 2008 to assess whether the alleged fraud cases are linked to systemic control deficiencies. The conformity audit carried out focused on measures "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*", "*Diversification of economic activities providing for alternative income*" and "*Development and improvement of rural infrastructure*".

In particular, checks were carried out to obtain assurance that the control system was implemented in accordance with the accredited procedures and that the controls were carried out to the required standards. The audit brought to light serious weaknesses, as a result of which, by letter sent in June 2008, DG Agriculture interrupted its payments to Bulgaria for the measures "*Investments in agricultural holdings*", "*Processing and marketing of agricultural and fishery products*" including sub measure "*Wholesale markets*" and "*Development and diversification of economic activities*", mainly for reason of non-respect of the rules for making offers, while accepting contracts under Sapard. These measures represented around 80 % of the total amount allocated to the Programme. The deficiencies detected resulted in the already mentioned interruption of payments by the Commission (see 5.1.1).

5.3.2 Romania

In addition to the mission carried out in June 2008 a conformity audit was also carried out in Romania in September 2008, the purpose of which was to ensure that the management, control and sanction procedures established in Romania in connection with some of the accredited measures of the Sapard Programme "*Improving the structures for quality, veterinary and plant-health controls, foodstuffs quality and consumer protection*", "*Investments in Agricultural Holdings*", "*Agricultural production methods designed to protect the environment and maintain the countryside*" and "*Forestry*" were in accordance with the provisions of the relevant MAFA. The main findings concerned the adequacy of the private procurement procedure, inconsistencies related to the public procurement procedure, the

supervision by the Sapard Agency at the central level and the evidence and documentation of the on-the-spot checks carried out.

The outcome of the conformity audits, such as the possibility of financial corrections to the expenditure concerned will be considered at the end of the clearance of accounts procedures.

5.4 Work carried out in relation to the European Court of Auditors (ECA)

For the purposes of the Statement of Assurance for the year 2007 (DAS 2007), the audit of the European Court of Auditors involved a review of the Commission's accounting clearance procedure for Romania and Bulgaria. Furthermore, the Court's audit comprised a review of the Commission's conformity clearance procedure for the same two countries. Following this second review, the ECA noted that the conformity audit mission to Romania failed to cover a risk area concerning the compliance with Community public procurement rules (the so called "Instruction No. 104"). The Commission services examined the work performed by the ECA as well as the replies from the Member States, and followed up on some of the issues raised in both countries.

5.5 Information on irregularities

In 2008 OLAF received 230 first notifications and 632 updated communications on irregularities detected under all Sapard Programmes (876 for the whole period 2003-2008)⁷.

The number of reports increased by 8% compared to 2007. There are several reasons explaining this change. Croatia started reporting Sapard irregularities only in 2008. Poland and Hungary have detected new irregularities as a result of ex-post controls after the final payments to the beneficiaries. Romania reported twice as many cases as in 2007.

The highest numbers of reports came from Romania, Bulgaria, and Poland. Comparing with 2007 figures there is an increase in the number of cases detected in Bulgaria, Hungary, Lithuania, Latvia, Poland and Romania. A decrease is observed in Czech Republic, Slovenia and Slovakia.

Communities' financial contribution affected under Sapard Programme has increased by 334% in comparison to 2007 and the amount to be recovered has increased by 294%. It seems that a number of irregularities were detected after final payments and resulted in full recovery of the committed amount.

Suspected fraud cases were only reported by Bulgaria, Romania and Croatia. They account for 71% of 2008 cases in Bulgaria, 50% of cases in Croatia, and 6% of cases in Romania.

Most frequent methods of detection in 2008 are 'national administrative or financial control', 'on-the-spot control of achievements', 'whistleblower' and 'control of documents'. The same tendency was observed in 2007, but 'whistleblower' is a new important element and those cases are reported by Bulgaria.

Most frequent types of irregularity in 2008 were 'failure to fulfil commitments entered into' (23% of cases), 'falsified supporting documents' (19%) and 'failure to respect other regulations/contract conditions' (19%). The biggest change in comparison to 2007 is noticed

⁷ Annex F.

in the share of cases involving 'falsified supporting documents' i.e. from 4% to 19%. The majority of those cases are reported by Bulgaria.

6. CO-OPERATION WITH INTERNATIONAL ORGANISATIONS

The European Commission has increasingly developed cooperation with International Financing Institutions (IFIs) in the field of pre-accession assistance to rural development in recent years. The result has been a better understanding of the functioning of Sapard and the potential areas of collaboration between the IFIs and the Commission services in this field. The approach, established with Sapard, is now used under the IPA rural development component.