



Republic of Bulgaria
**ECONOMIC
AND SOCIAL COUNCIL**

Sofia, 22 May 2008

OPINION

of the

ECONOMIC AND SOCIAL COUNCIL

on

**CHALLENGES IN ABSORBING RESOURCES FROM THE EUROPEAN
UNION FUNDS**

Financial Perspective 2007 – 2013

(own-initiative opinion)

In the Action Plan of the Economic and Social Council, which was reviewed in detail by the members of the First ESC and adopted by the members of the Second ESC at its session of 24.04.2008, in the section **II. Developing and adopting opinions and analyses on strategic problems of economic and social policies** THE FIRST OPINION TO BE DEVELOPED ON COUNCIL'S OWN INITIATIVE IS ON: Challenges in Absorbing Resources from the European Union Funds, Financial Perspective 2007 – 2013, to be reviewed by May 2008.

At its session on 26. 03. 2008, the Standing Commission for Budget, Finance, Insurance and Social Security appointed Mrs. Milena Angelova, a member of the ESC, Executive Director of the Bulgarian Industrial Capital Association, rapporteur.

At a session of 21. 04. 2008, the Standing Commission for Budget, Finance, Insurance and Social Security adopted the draft opinion.

At its Plenary Session on 22.05.2008 the Economic and Social Council approved this Opinion.

ABBREVIATIONS

RES	Renewable energy sources
EU	European Union
ICT	Information and communication technologies
ESC	Economic and Social Council
MC	Monitoring Committee
MSAAR	Ministry of State Administration and Administrative Reform
IU	Intermediate Unit
MEE	Ministry of Economy and Energy
MEW	Ministry of Environment and Water
SMEs	Small and medium enterprises
MLSP	Ministry of Labour and Social Policy
NRDP	National Rural Development Programme
NSRF	National Strategic Reference Framework
OP	Operational Programme
MB	Managing Body

INTRODUCTION

- 1.1. The basic strategic document of Bulgaria – the *National Strategic Reference Framework* – structures absorbing resources from EU funds, according to art. 27 and art. 28 of Regulation No1083/2006 of 11. 07. 2006 of the EU Council¹, where the general provisions are laid down concerning the European Regional Development Fund, the European Social Fund and the Cohesion Fund. It is simultaneously mid-term and long-term document, describing the role of structural funds for 2007 - 2013 in support of the global strategic development of Bulgaria. Its preparation started in September 2005 and on 22.06.2007 it was officially approved by the European Commission. From July to November 2007 the operational programmes were approved, as well.
- 1.2. The National Strategic Reference Framework describes the *strategy of Bulgaria in support of the actions for enhancing the competitiveness of the country in the following topical areas²: human resources, infrastructure, government and effective state administration and services and territorial cohesion*, and it also comprises its interrelations and the role of the Structural Funds and the Cohesion Fund within the framework of this strategy. The interventions in the mentioned fields are organised, presented and formulated in 7 Operational Programmes and 2 National Strategic Plans and Programmes:
 - ✓ Administrative capacity;
 - ✓ Environment;
 - ✓ Developing competitiveness of Bulgarian economy;
 - ✓ Developing human resources;
 - ✓ Regional development;
 - ✓ Technical support;
 - ✓ Transport;
 - ✓ National Strategic Plan for Rural Development and Rural Development Programme;
 - ✓ National Strategic Plan for Fisheries and OP Fisheries.
- 1.3. *As representatives of the social partners, the members of the Economic and Social Council* took an active part in the preparation of the NSRF and the respective OP and the accompanying plans. They took part in the working groups that prepared the respective documents and after their approval by the European Commission 2007 and 2008 they were included in the respective *Monitoring Committees*³. In February 2006, the ESC organised a public meeting-discussion with representatives of the executive power to generate socially acceptable decisions on some of the particularly important areas of NSRF in view of guaranteeing the effective and successful absorption of the resources from the EU funds.
- 1.4. As of April 2008, after more than a year of Bulgarian EU accession and from the expected start of absorbing resources from the Community funds, the account is not too optimistic. There are no contracts signed yet with specific beneficiaries – representatives of business,

¹ The full list with regulations, that is related to the preparation and implementation of the National Strategic Reference Framework and the operational programmes and plans with it, is presented in Appendix 1.

² The links between the areas of intervention are presented in Appendix 2.

³ There is no clarity yet regarding the approval of the OP Fisheries and the MC with it.

the social partners or the civil society, except the contracts on the OP Administrative Capacity and on OP Development of Human Resources. This raises the questions whether *the expected benefits from the absorption of European funds should be reconsidered, in what direction the forecasts would be adjusted, what are the reasons for the delay up to now and what actions should be taken to overcome it and make up for it by the end of the programme period.*

- 1.5. *It can be noted that as far as the absorption of funds is concerned, the talk is always “in bulk”, on general principle, there is no going into details and commenting on the practical issues related to their absorption* and different arguments are used: “these are particular cases”, “let the process start and we will then weigh things up”, “in general the process is going well, if mistakes are made, there is time to correct them”, etc. This point of view is understandable since the practical problems always seem trifling and particular and in most cases they do not manifest themselves until the contact of the managing body or intermediate unit with the potential beneficiary. Unfortunately, the management structure of NSRF and OP does not provide for efficient mechanisms for reaction and undertaking corrective actions for optimising the process in this respect. At the same time, precisely the reception of funds by beneficiaries when their projects are approved is the mechanism guaranteeing the achievement of programme documents objectives. That is why, this process should be paid serious attention to and *instruments* should be provided *of monitoring, receiving feedback and undertaking corrective actions, when necessary.* The Economic and Social Council declares its willingness and readiness to participate actively in the consultations on these issues.
- 1.6. A clear sign of problems in the absorption of EU funds is both the delay in the real start of the operational programmes and national plans and the freezing of part of the funds for Bulgaria in three of the pre-accession programmes – ISPA, PHARE и SAPARD due to doubts as to the transparency of the process, doubts on behalf of the European Commission regarding the capacity of the administration managing these instruments, mismanagement and suspicions of corruption. The specific losses for the country so far are estimated at about 450 million euro, as a result of key infrastructure projects not started or not finished and the very difficult payment received for activities carried out by Bulgarian companies. In addition, there are still 500 million euro under ISPA to absorb, and the deadline for their absorption is 2010.
- 1.7. *It is in the light of these challenges and welcoming the institutionalising of a new vice-president in the country for coordination and control on the absorption of resources from the EU funds, that the Economic and Social Council of the Republic of Bulgaria made and adopted this opinion, appealing to the representatives of the executive power in the country to undertake urgent specific measures on implementing in practice its recommendations.*

2. POSSIBLE NEGATIVE CONSEQUENCES ON THE ECONOMY OF BULGARIA WHILE ABSORBING THE EU FUNDS

2.1. *NSRF expects the state interventions in the period considered to lead to a faster pace of increase in the GDP by 0,27 percentage points* on the basis of the expected accelerated growth of the component of the gross capital by 0,79 percentage points, exercising positive effects both on demand and supply. Stimulating demand is rather short-term in nature whereas the effects of supply are of more long-term nature and shall lead to creating new production capacities,

improving the qualitative characteristics of the labour power, distributing modern technologies and as a whole reaching a new, higher technological level.

2.2. Stimulating supply could be influenced in two ways:

- ✓ By means of increasing the capital available in economy;
- ✓ By means of increasing the Total Factor Productivity, TFP, as a result of the expected investment in innovations and human capital in the implementation of the OP Competitiveness and OP Human Resources.

2.3. The beginning of absorbing resources from the EU Structural and the Cohesion funds raised extremely high expectations among all citizens and economic entities in the country. But despite the viewpoint that the European funds will almost have an effect of a panacea on the development of Bulgarian economy, a realistic look requires also searching for possibly *not that positive effects*, which could occur *in the process of absorption*, with a view to their timely elimination. It should be noted that the mentioned threats are of hypothetical, likely character, and they are drawn on the basis of scientific expertise and assessment of the experience of other Member States and disclosing them is made in order to draw attention to the necessity of undertaking measures for preventing the chances of their manifestation in Bulgaria.

2.3.1. *First, a risk of incorrectly conducted state policy.* The policies developed in the National Strategic Reference Framework reflect public debates and to a high extent are the result of consensus conclusions. Pursuing the specific policies within given operational programme, however, might not coincide with the initially adopted principles. For example, there is a real chance instead of considering the Eurofunds as additional to funding by local sources, they could be used entirely for replacing national funding. An example of this is the decision within the OP Environment, as a priority, to build waste water treatment plant in the municipalities along the Black Sea coast. The pressing need for such plants is evident and stems from the hyper-construction of hotels for more tourists, which, however, is not accompanied by providing the respective infrastructure. Instead of obliging the investors to set aside funds for its building from their own profit, the state invests a priority resource from the EU funds. This has directly two negative effects – on the one hand it replaces private investments allowing hotel owners to have profit without commitment to infrastructure, and on the other, it delays the building of treatment plants in poorer and underdeveloped areas, which do not have alternatives for funding. Careful consideration should be also given to the risk of allocating significant amounts to limited projects – for instance, the planned so far maximum amount of funding from 2 to 5 million leva for technological modernisation of enterprises by OP Competitiveness premises a serious danger of distorting the competitive environment. A possible negative effect of such decisions is the non-optimum distribution of resources in the national economy due to the distortion of the market environment and introducing wrong, non-market incentives for the economic entities.

2.3.2. *Second, there is a risk of disbalancing the economy structure due to incorrectly implemented priorities* which do not correspond to the adopted policies, challenges the country is facing or its natural competitive advantages. An example of this is the design of some of the already started measures by the OP Human Resources promoting vocational training of builders, tailors, tourism personnel⁴. It is obvious

⁴ It should be taken into account that the programme gives a possibility for the two types of approach – general and sectorial – according to the target groups - addressees of the respective scheme for free financial aid. It also should

that such an action is following the short-term state of affairs in the labour market but at the same time it results in missing opportunities for state policy by means of investing in vocational training of personnel for industry real sectors with a high added value, in which Bulgaria has export potential.⁵

2.3.3. ***Third, reordering the priorities of real business – from production and marketing to fund absorption***, where there is no incentive for innovation and entrepreneurship for generating added value and actual economy growth. The consequences of such behaviour could be related to deepening the deficit of human resources in the real sector, deficit in administrating programmes due to draining of qualified experts from the state administration towards consultancy firms with “agent” interests in the process, diminishing market stimuli for increase in the labour productivity, danger of developing corruption practices, etc.

2.4. Preventing the possible negative effects could be assisted through an adequate communication campaign, which should ***make the public change its attitude towards the EU funds seeing them not as a source of potential personal wealth, but as an instrument for achieving the goal of cohesion in the Community***, so that Bulgarian economy reaches the parameters of the European one. It is also important to have in mind, and this should be reminded constantly, that ***our country will not always have at its disposal such a serious financial resource and that creating and establishing mechanisms for the correct – effective and efficient – absorption of resources*** by the current financial perspective is of crucial importance. This understanding should be strengthened not only among the representatives of business and the civil society but especially among the representatives of the state administration.

3. STRATEGIC DOCUMENTS AND REGULATIONS

3.1. Analysing programme documents, it is evident that there are ***some incongruities between the priorities in the NSRF and specifying their implementation through the operational programmes and plans***. This to a great extent could be accounted for by the short terms for working out the NSRF according to the requirement of the altered EU regulations on the financial perspective 2007 – 2013. The ESC ascertains this shortage and recommends looking for new opportunities for its overcoming.

3.2. For example, the NSRF states that “Bulgaria will continue with its efforts for accelerated development of information society in accordance with the EU initiative 2010 – ‘The European information society 2010 as a key element of the renewed Lisbon partnership for growth and jobs’”. The provided measures in this area are summarised in the State Policy and in the National Programme for Accelerated Development of Information Society. ***Bulgaria has relative competitive advantages, development potential and opportunities for attracting investments in the Information and Communication Technologies sector. These opportunities can hardly be realised without an access to funding from the European funds within the current financial perspective***, due to the lack of a single operational programme for development of ICT and due to the weak coverage of this priority in the rest of the operational programmes. At the moment, for the development of the information society in all operational programmes the provided resources are below 1 %

be noted that MB and IU of the OP Development of Human Resources in a dialogue removed that shortcomings identified by the social partners, such as the one quoted in this text.

⁵ There is no prioritising in sectors at government level – i.e. an official government programme should be made, containing priority sectors and measures for their development.

of the expected resources from the European funds with 46 % for the development of agriculture and rural areas, for instance. Thus the information technologies remain in practice without efficient support although at the moment by almost all indicators in this area Bulgaria occupies the last place in Europe – the 27th. This is a serious obstacle for enhancing competitiveness of the country and business and does not remain unnoticed by Europe – on 19 March 2008 the European Commission also criticised sharply the state of Bulgarian ICT. Commissioner Viviane Reding announced that our country has the lowest level of distribution of high-speed Internet in the EU – 7.6 % (with an average of 20 % for the EU).

3.3. Similar is the situation with the opportunities for financing renewable energy sources (RES). NSRF sets an objective of **“assisting the production of energy from RES, including the integration of transferring and distributing networks”, so that the energy produced from RES, measured as gross domestic consumption of energy, reaches a share of 11% of the common production of energy in the country by 2010.** It is expected that this level of production will be achieved through building new power stations which use water, wind and sun energy and utilise biomass.

3.3.1. NSRF has the assumption that the implementation of the measures stipulated in the OP will lead to enhancing the energy efficiency and will contribute to decreasing the high energy intensity of Bulgarian economy, where better conditions will be created for achieving long-term sustainable development, decreasing the dependence on import of energy resources and improving environmental protection.

3.3.2. In practice, **the actual opportunities for funding RES provided for in the operational programmes are limited.** The planned project funding by measures 311 and 312 in the Rural Development Programme is limited to 200 000 euro, which is too little. The maximum allowed capacity of the financed installations is limited to only 1 megawatt – a capacity insufficient for ensuring optimal exploitation effect and almost impossible to build, considering the fact that the smallest wind generators produced in the world now, for example, are with capacity of 1,5 megawatts. OP Competitiveness and OP Regional Development also give an opportunity for financing the construction of RES but covering only the consumption to the enterprises, municipalities and schools’ own needs. Due to the direct dependence of RES effectiveness on climate peculiarities and due to the lack of mechanisms of transportation and/or a voucher system of compensating the produced energy, however, the implementation of the stipulated measures is practically blocked until the following problems are not solved:

- ✓ **Overcoming spatial distance** – due to the specifics of the natural resources necessary for building RES, their installation on the territory of the very enterprises, municipal and school buildings is impossible (except in cases of co-generation) – as the areas with industrial wind, water with the necessary capacity and sufficient sunshine are strictly differentiated geographically and very rarely coincide with the location of the respective consuming capacity. That is why, it is necessary to regulate the transportation of the produced energy from the areas allowing optimum production to the areas of consumption, or a voucher system allowing its use in the area of production supplying the same capacity to the entity that has installed the capacity – an enterprise, municipality, school, etc. – which it can use, if necessary;
- ✓ **Ensuring efficiency and cost-effectiveness of the capacities built** – the projects for building RES have a certain lower threshold of cost-effectiveness, limited also by the generators available in the market. From this point of view, in many cases it will be

necessary that several enterprises combine their energy needs in order to achieve it – an opportunity which the OP Competitiveness does not provide for at the moment;

- ✓ ***Guaranteeing the planned consumption of the produced energy*** – the nature of the energy sources with RES, as well as the technological processes of production, do not allow for simple planning of production and consumption. Considering the necessity of strict adhering to the approved energy schedules in different companies according to the arrangements with suppliers (with bigger consumers arrangements are made also with energy producers), the related considerable forfeits in case of failure, the complementary nature of the energy produced from RES and the impossibility of preserving the produced energy, there should be discussed and considered a mechanism for redirecting to other users and its compensation later – for instance through a suitable voucher system.
- 3.4. If the above mentioned practical obstacles in building RES, which arise in using the too few, as it is, opportunities that the OP⁶ provides, are not overcome, there is a ***serious danger that building renewable energy sources in the country remains without an access to financing from the European funds by 2013, which questions the fulfilling of commitments to the EU made by Bulgaria in this area.***
- 3.5. A significant ***problem is also the impossibility that the business community is beneficiary on projects for environmental protection and improvement.*** The commitments made by Bulgaria in the negotiations with the EU in the area of ecology are extremely and unnecessary ambitious and presuppose serious investments both on behalf of the state and the business community. In the OP Environment, however, the enterprises do not exist as potential beneficiaries on future projects. The proposal that the Bulgarian enterprises should seek financing from different funds and programmes, available at the EU level, is also not very convincing, since one can hardly expect that Bulgarian companies possess the necessary experience and administrative capacity. Denying the actual productive business an access to the European funds for projects related to environmental improvement questions not only the reaching of European standards of production on behalf of enterprises but their very survival. According to preliminary estimates, the needs of private companies for funds for complying their activity with the EU requirements in the environmental area for 2007 – 2013 amount to 3 – 4 billion euro, without including the expenses for complying with the requirements for which there have not been negotiated transitional periods and those related to transposing new EU directives in the environmental area.
- 3.6. The abovementioned problems could be characterised as systematic in elaborating NSRF and the respective strategic documents to go with it. To guarantee their overcoming in future, ***the ESC insists on reaching national consensus in defining strategic sectors of Bulgarian economy with export potential and creating high added value, which should be purposefully developed and supported with the available instruments.*** These sectors should be determined on the basis of the comparative competitive advantages of Bulgaria, as well as on the basis of deep analysis of the opportunities and challenges of the European and world market⁷ and their promotion should be based on conducting consistent state policy, simultaneously with applying an adequate long-term strategy.

⁶ Although, including measures for funding the building of RES in the OP Environment would make sense, since the end result would be improving air quality and reducing pollution, the MEW did not show any understanding on the matter.

⁷ Concrete steps in that respect have been taken by the Council for Economic Development which assigned a survey to Deloyt Bulgaria OOD, as a result of which in June 2005 the report was presented “Analysis of the international investment climate and of the opportunities of Bulgaria to attract investment”, which points out as priority export

3.7. There is a lot of vagueness in the procedures concerning the implementation of the operational programmes and national plans. Despite the promises of the executive power, the social partners were completely ignored in the process of making the Manuals for fund absorption on behalf of the authorities and of specifying the practical aspects in the absorption of Eurofunds, as a result of which a number of issues are not settled, such as:

- ✓ ***The amounts of the advance payments are too small and using them becomes senseless*** because a bank guarantee is required. The ESC agrees that a bank guarantee is necessary with bigger projects, implemented under the OP Transport, Regional Development and Environment, but we believe that the requirement for bank guarantee from SMEs, the social partners and the organisations of the civil society is completely superfluous and we propose instead to use other instruments – an example of this is the possibility when implementing some of the measures under the OP Development of Human Resources and the OP Administrative Capacity to submit promissory notes⁸;
- ✓ ***The problem of transferring money between partners*** for co-financing their own contribution to projects has not been solved – at the moment these transfers are taxed both with VAT, and with profit tax;
- ✓ There is no clear solution of the issue of restoring the money for the ***Added Value Tax for organisations which do not carry out economic activity*** and for that reason do not use tax credit;
- ✓ Despite the reached agreements between the social partners and the state administration in the process of programming that their branch networks and regional structures will be able to participate independently in the absorption of the EU funds, such participation is impossible in practice when implementing the specific measures under the operational programmes. What's more – there is a restriction that a legal entity cannot participate with more than one project proposals in the respective scheme – concerning those that have started so far with the OP Development of Human Resources, OP Administrative Capacity and OP Competitiveness. This means in practice that the social partners cannot use their administrative capacity on national scale, since in many cases their regional structures are in form of branches or civil corporations and are treated as dependent legal entities;
- ✓ The problem of providing state aid should be addressed in a clear way. The lack of clear instructions in this field poses a risk to the successful implementation of the financial instruments themselves;
- ✓ ***In practice, there is no system of market-oriented guarantee funds, funds for risk capital and funds for micro crediting***, which ensures micro, small and middle enterprises the access to sources for co-funding.

3.9. In the Council of Ministers' Decrees (CMD) regulating absorbing resources from the funds, as well as in the regulations issued on specific measures, there is a tendency for 'over regulating' and for requiring too many documents.

3.9.1. In CMD 121, for example, many requirements are laid down, which do not result

sectors information technologies, machinery construction, electrical engineering, outsourcing. A survey in that respect with very similar results has also been made within the programme "Black Sea Trade and Investment Promotion Programme" (BSTIP), coordinated in Bulgaria by the Association of Bulgarian Black Sea Municipalities and Varna Chamber of Commerce and Industry.

⁸ The requirement for a bank guarantee does not proceed from the European legislation, it is a national decision of the Ministry of Finance.

from EU regulations and unnecessary cause troubles to potential beneficiaries – for instance, the required documents from all members of the governing bodies certifying according to art. 10 of CMD circumstances under art. 93, section 1, art. 94 and art. 96, letter a of Regulation No 1605/2002, applicable to the common budget of the European Union. This requirement is not imposed by the European legislation and in practice extremely complicates the process of preparing project proposals and concluding contracts with the beneficiaries approved for financing, as when concluding contracts for receiving free aid they should submit a set of documents regarding their managers and members of managing bodies, such as: police clearance certificate, a document from the National Social Security Institute for paid social security contributions, a document from the National Revenue Agency for lack of tax liabilities, etc. This has made the participation in absorbing funds by most social partners and non-governmental organisations completely impossible, since they, due to the specificity of their activity, have large governing bodies, often of 60-80 members.

- 3.9.2. CMD 121 was corrected by CMD No 70 of 04. 04. 2008, where in art. 10, para. 2 the requirement for the abovementioned documents from the members of managing bodies dropped off, and was kept for representatives by a constitutive act or by proxy. The active role of the MLSP to make this positive change should be noted.
- 3.9.3. At the same time, however, CMD 70 provided the negotiating body with the right to require from applicants with project proposals not only a declaration of specific circumstances (as it has been so far) but, at their own discretion – their proving with official document issued by the respective competent bodies, which could lead to a significant impediments for the applicants.
- 3.10. As a whole, concerning the implementation of programme documents structuring absorbing of resources from the European funds for 2007 – 2013, the following recommendations can be made:
- ✓ ***The focus in spending funds should be placed on critical areas and segments of the public and private sectors***, which can produced the most significant contribution to the growth of added value in the next 2 - 7 years, in accordance with the requirements and priorities of the Lisbon Strategy;
 - ✓ ***Together with the General Indicative Financial Plan there should be general distribution of funds***, as follows:
 - A. By end beneficiaries:
 - central administration (ministries, agencies, district administrations);
 - municipal administration and enterprises with predominating municipal property;
 - enterprises from the private sector;
 - nongovernmental organisations;
 - B. By manner of use:
 - administrative capacity and strengthening the business environment (trainings, consulting);
 - investments in long-term material assets, including central administration, municipal administration, public sector, private sector, nongovernmental sector.

- 3.11. Opportunities for improvement can be sought in implementing information campaigns within NSRF and OPs. Active participation of the social partners in this process could contribute significantly to its success.
- 3.12. A common problem slowing down the absorption of funds under an OP is the late starting of the OPs due to the delay in their approval until October 2007. As a newly accessed country, Bulgaria uses the rule T+3 for the current financial perspective, but despite this the results so far in the first two years do not look promising. (Table 1).
- 3.13. In conclusion, the effective application of the strategic documents under the financial perspective 2007 – 2013 is seriously hindered also by the *unclear responsibility at central level – the only higher authority for the managing bodies is the Prime Minister (in so far as the functions of the Ministry of Finances are rather coordinating than leading), who shouldn't be the one carrying out operational monitoring and corrective actions, if need be. That is why, when the problem is identified, notifying the MB about it takes from half a year to one year, and its solution takes at least a two-year cycle*⁹.

4. SPECIFIC CHALLENGES IN ABSORBING FUNDS UNDER EU OPERATIONAL PROGRAMMES AND REACTIONS PREMISED BY THEM

4.1. The Operational Programme Development of Competitiveness of Bulgarian Economy.

- 4.1.1. In the process of programming, the social partners expressed their concern with the insufficient funds provided under the OP Competitiveness (987 of 9 283 million Euro total from the EU funds). Bulgarian economy needs serious investments to achieve competitiveness comparable to the EU countries. The OP Competitiveness is the only one which provides for priorities and measures in that respect, such as direct support, but the amount of funds, which are allocated under the programme, is far from covering the economy needs. Following these arguments, the business community has made a proposal to reconsider the OP Competitiveness unloading it from all activities which could be transferred to some of the rest of the operational programmes: Human Resources, Environment, Regional Development and Rural Development, as well as to increase to the maximum the co-financing of the programme from the national budget. This proposal, however, has not been approved, and instead a higher amount of national co-financing has been approved for projects financed by the Cohesion fund, as well as by the EAFRD – an extremely odd decision in view of the relatively large amount of resources under these funds (Table 2).
- 4.1.2. The delay in starting the actual activities on the OP implementation is alarming, which is due both to the delay in the development of the operational programmes, their assessment and approval by the European Commission, and to the relatively late start of the procedures for gathering specific proposals and not complying their design with the propositions of the business community.
- 4.1.3. At the same time, *the ESC expresses its apprehensions regarding some aspects from the structuring of the fund absorption under the programme and the lack of audibility in preparing the architecture of the programme measures.*

⁹ An example of this is the correspondence of the social partners concerning the constitution of their representatives as members of the Monitoring Committee of the National Rural Development Programme.

4.1.4. The ESC shares the view that the OP implementation would be more effective, if:

- ✓ *It relies on using the capacity of local structures of the social partners, after finding an adequate solution to the problem of their impossibility to participate independently in fund absorbing*, for the provision of information and consultancy services to potential beneficiaries, especially in the smaller populated areas. Such outsourcing of services will save funds and enhance the quality of the services provided;
- ✓ The accomplishment of the strategic objective *“enhancing the efficiency of institutions” should include also actions for enhancing the efficiency of social partners and their regional networks*;
- ✓ *The strategic objective “improving business-climate” should also include “regulating monopoly services”* – an area of activity which we suggest should be made specific with single programmes within the annual plans for OP implementation. Periodical conflicts and tension regarding activities of the regulators, the lack of contemporary methodological and normative basis in this area, as well as the direct influence of the prices of the monopolies on the business environment make such a programme necessary.

4.1.5. With a view to promoting absorption of funds, it is *necessary in the fastest way to start a market-oriented system of guarantee funds, funds for risk capital and funds for microcrediting to improve the access to financing of micro-, small and middle enterprises, along the priority axis 3 of the Operational Programme*. To achieve this objective, the representatives of potential beneficiaries insist on *being consulted in the process of undertaking legal actions for specifying the framework of the Memorandum* signed with the European Investment Fund for the creation and functioning of Holding Fund on the basis of JEREMIE programme.

4.1.6. Regarding the creation of new instruments for facilitating the access of micro-, small and medium enterprises to the resources of the European funds and enhancing their competitiveness, the ESC insists on:

- ✓ *The state guaranteeing the access* of micro-, small and medium enterprises *to various financial sources* by means of promoting the creation of market-oriented system of guarantee funds, funds for risk capital and funds for microcrediting;
- ✓ *Providing financial resources should be done with the prospect of 20 years*, which required an explicit commitment on behalf of the state to pursue a unified policy in the fund management under Priority 3 after 2013;
- ✓ *Attracting the social partners* in discussing the future agreements with the European Investment Fund under Priority 3;
- ✓ *Finalising the negotiations with the European Investment Fund* and starting schemes for application under Priority 3 *in the first half of 2008*.

4.1.7. With a view to the necessity of enhancing the export chances of Bulgarian companies and the considerable amount of the *negative foreign trade balance*, the ESC insists on urgent actions on implementing Priority 44:

- ✓ *Conducting* in the shortest term possible in 2008 a *public discussion* on the projects of the Bulgarian Investment Agency (BIA) and the Bulgarian Small and Medium Enterprises Promotion Agency (BSMEPA), which are institutional beneficiaries under first and second areas of impact of Priority 4, as well as their timely discussion in the Monitoring Committee for the OP Competitiveness 2007-2013;

- ✓ **Considering the principle of outsourcing** the provision of services and activities stipulated in Priority 4 *as key*;
 - ✓ Starting the tender procedures to define the entities that will implement certain measures on projects within the shortest term possible in 2008;
 - ✓ **Starting in the first half of 2008 a network of organisations providing consultancy and information services to enterprises**, with a view to encouraging Bulgarian companies to participate more actively with project proposals in the operational programme, according to the model¹⁰ proposed by employer and non-governmental organisations and by increase in the amount of the co-financing up to 50 – 80 % for the social partners (operation 2 of priority 2 “Enhancing the Efficiency of Enterprises and Development of Business Environment”). The ESC proposes the following restrictive parameters on building the network:
 - **Active involvement of social partners who provide information-consultancy services to SMEs using their regional networks**;
 - **Defining packages of information and consultancy services, including also standards for their provision**;
 - **Territorial coverage – the whole country**, and more than one of the network members can work in one area, which will allow better coverage of potential beneficiaries and provision of higher quality services, while observing the principles of competition;
 - **A public register of the provided specific services by the members of the network** to the single SMEs.
- 4.1.8. **Reducing by 5 times the planned, as of now, maximum amount of free financing of companies in support of technological modernisation**, which at the moment is 2 – 5 million leva. Aiming, as a priority, the measures under OP Competitiveness at the above of 250 000 micro-, small and medium enterprises working right now in the country and not at the 670 large enterprises, which could generate the financial resources they need in other ways – for instance, through the stock exchange or through preferential bank credits. The arguments in this direction are the following:
- ✓ A high maximum amount of free aid in practice will mean a small number of potential (and real) beneficiaries, which is contrary to the target range of OP Competitiveness;
 - ✓ A high maximum amount of free aid in fact will be state aid above the admissible threshold according to the rule “de minimis” of 200 000 euro per company for a period of three years, contrary to the recommendations of the European Commission and will benefit a very limited circle of beneficiaries. Naturally, there are also other regulations for state aid, which allow for larger maximum admissible amounts of free financing, but the ESC believes that their application in Bulgaria **in regard to the technological modernisation will distort considerably the competitive environment, putting economic entities operating in the same areas of activity in an unequal position, inadmissible for a market economy**. In this case, it is not about funds granted for free for research and development and innovations but for donating equipment, production capacity to private companies in amounts particularly large for Bulgaria;

¹⁰ A letter to the MEE, submitted by: BICA, BARDA, BIA, UPBE Vazrazhdane, BCCI, NBDN, EIU, EDC. There was a letter in reply by the MEE with a ref. No. 91-00-324/21.11.2007, stating that the issue is within the competence of MC.

- ✓ Financing in the order of millions of leva could be provided from a number of alternative sources: emitting shares or bonds of the Bulgarian Stock Exchange – Sofia AD, using the available financial instruments offered by the international banks for development (for example, the European Bank for Reconstruction and Development, Black Sea Trade and Development Bank, etc.);
- ✓ With a resource of 70 million euro provided for 2008 and a maximum funding of 1 - 2,5 million euro a project, under 70 projects will be funded. This means that with a **7 times bigger resource the financed projects will be 4 times fewer** in comparison to the similar measures under transitional programmes. There is no way one can find arguments to explain this to the business world. Such an expected number of financed projects annually provokes significant doubts, including such regarding the necessity of consultancy network, the campaign “Be Active 2”, communication strategy, guarantee funds, etc.;
- ✓ A representative survey of employer organisations among the applicants with project proposals for technological modernisation under the first stage of the OP Competitiveness shows that the average amount of the **grant financing sought by companies is up to 200 000 leva (50 % of the project proposals) and from 200 to 400 000 leva (22 %).**

4.1.9. All of the abovementioned problems are signalled to the MB, but unfortunately, no corrective actions have been undertaken yet. ***In fact, one can notice the insufficient audibility in the contacts among the social partners and the representatives of the MEE, who up to now in practice have accepted no significant proposition for corrections.*** This is unacceptable since the aim of the operational programme is “to develop the potential for competitive and efficient production and business...”, which cannot happen if the opinions of the business community are not taken into consideration. An example in this respect is also the low activity under the first scheme for technological modernisation when fewer than 400 project proposals were submitted, with an average of 1 500 project proposals submitted for similar grant schemes under PHARE.

4.1.10. One of the reasons for the MB to see with a great difficulty the points of view of the social partners is the fact that all materials are submitted for consideration directly to the Monitoring Committee, which due to its large membership is considerably inoperative, and the messages of the social partners are often diluted in the procedural discussion among the representatives of the state administration. This problem can be overcome by means of ***informal discussion of the criteria of choice of operations and the basic parameters of the provided schemes – the maximum allowed amount of free financing, eligibility criteria of candidates and intensity of state aid, in a permanently functioning working group of the representatives of social partners at the Monitoring Committee, before putting forward these materials at an official meeting of MC, but only when there is audibility and openness to dialogue on behalf of the MB.***

4.2. Operational Programme Development of Human Resources.

4.2.1. Making the OP Development of Human Resources was marked ***by the particular engagement in dialogue of the MB.*** Numerous discussions of the text versions took place in the working group and in special expert groups and the visions of the social partners were incorporated at every stage of the programme development.

- 4.2.2. The ESC highly appreciates the fact that the implementation of the operational programme ***started in practice before its official approval in response to the needs of the wide range of potential beneficiaries***, including the social partners, and considers the engagement in dialogue and audibility in the work with the MB and IU of the programme as an especially good practice.
- 4.2.3. The main challenge in making and implementing the OP Development of Human Resources, however, already at a very early stage, turned out to be ***the complex coordination of the three intermediate units*** (the highest number in the structure of NSRF) – the Employment Agency, Social Assistance Agency and the Ministry of Education and Science. This challenge was evident already at the stage of preparing the application documents according to the criteria for choice of operations approved by the Monitoring Committee under the first package of funding measures.
- 4.2.4. ***Highly positive is the practice***, taken by the MB and IU, especially on behalf of the Employment Agency, ***to discuss in advance the criteria for choosing operations with the representatives of the social partners at expert level*** at specifically set working meetings. Basic parameters of the future schemes are considered – the maximum admissible amount of free financing, eligibility criteria and intensity of state aid.
- 4.2.5. At the same time, when applying the approved grant schemes the following problems were defined, for which the MB and IU have already been signalled and which are being discussed at the moment. For some of them solutions have been found and for the rest there is willingness to find one:
- ✓ ***Putting an upper limit to the amount of co-financing, for which there are no any real arguments*** – the beneficiary should have the complete freedom to invest their own resources in the project at their own discretion so that a maximum effect is achieved when absorbing the free resources provided by the operational programme. It makes sense to define and restrict the amount of the free financing and not the resources invested by the beneficiary. For some of the new grant schemes this restriction has been removed but for some of them it is still valid and we hope this defect we be removed;
 - ✓ ***Encouraging cheap basic trainings***, addressed to low-qualified personnel – as a direct consequence of putting an upper limit to the amount of co-financing;
 - ✓ ***Defining sectors as priority ones not based on a national representative survey***, but by indication of the intermediate units according to a too vague methodology. Discussing such decisions with the social partners is a positive step in view of complementing the sectors chosen by the IU, but nevertheless adopting a sectorial approach, without a national consensus on the priorities in this area, is full of dangers that have been already mentioned;
 - ✓ ***Measures*** aimed at improving employment should ***include not only the unemployed but also the passive individuals in the labour market***. The latter should be given an opportunity to participate in trainings under projects financed by the OP Development of Human Resources by registering them at the Labour Offices under a simplified procedure, which is provided for in the last revision of the Employment Promotion Act. The changes in it initiated by the MLSP after discussions with the social partners decrease the educational qualification required for participation in qualification courses in certain occupations – below the current requirement for completed basic education – at least sixth grade – to a completed fourth grade, which expands the scope of potential participants.

This once again is a very positive example for the flexibility of the MB and IU of the operational programme;

- ✓ ***An unnecessary requirement for minimum number of school hours***, obligatory for the training programme, which should drop off. In the first procedure there was a requirement for minimum of 150 hours per trainee – which completely excludes financing of more specialised trainings – such as trainings under CAD/CAM, for certain occupational skills as well as motivation courses and as already mentioned, it encourages cheap basic trainings. Lifting this requirement in the next measures is a good practice;
- ✓ ***The restriction to unite in one project the trainees of different type of enterprises – small, medium and large, which should drop off.*** The difference in the intensity of state aid is an instrument, which could be applied in future as well, but it should not hinder the uniting of different types of enterprises for the organisation of more effective trainings. Different solutions could be sought in that direction – such as determining proportional co-financing for small, medium and large enterprises united in a project on the basis of the relative share of the trainees;
- ✓ ***Defining clear procedures, with a specific deadline, of approving tender documentation of the beneficiaries when choosing subcontractors, so that the activities under the approved projects are not delayed.*** Being totally aware of the administrative difficulties that MB and IU are facing in view of the large number of projects to administer due to the programme specifics, we nevertheless believe that the beneficiaries should work with clear deadlines to be able to implement successfully their projects. Perhaps in this regard it is necessary to make also CMD 55 more precise, especially for the cases when the worth of the respective goods and services does not exceed 300 – 500 leva;
- ✓ ***Avoiding imposing unnecessary heavy documental procedures to the candidates when preparing projects*** – for example, under programmes for apprenticeship there is a requirement that each organisation that takes probationers should be a partner in the project – which means that it should submit the complete set of documents under CMD 121. With a lower limit of 50 probationers a project, this means around 25 - 30 partners, which makes it almost impossible to make up the project file. At the same time, for unclear reasons, the social partners were excluded entirely from the list of eligible candidates and partners. This has led to an extremely low activity under this scheme and demotivated the participation not only of the business community but also of the universities.

4.2.6. In 2007 started the first scheme for providing free financial aid “Qualification Services and Training of Employed Individuals” under the OP. **650 project proposals** were submitted, which, roughly estimated, are worth **three times more than the resource provided for absorption**. Unfortunately, **projects to the total value of only 19.3 million leva were approved**, with an approved budget under this measure of 35.2 million leva. According to information of the social partners, this is due to the fact that the rest of the project proposals were rejected already at the stage of assessment of administrative eligibility. **The unprecedented number of rejected project proposals due to their not meeting the eligibility criteria, according to the social partners, is a serious sign of a problem with the administrative capacity of the IU, rather than of a sudden deterioration of the quality of project proposals**. According to the IU itself, the analysis of the “results obtained and the ascertained general weaknesses of the submitted projects, both in regard to making it up and to the quality of the project themselves and the enclosed budgets, shows that the main weakness of the submitted project proposals is the formal approach to the preparation, forming and stating the grounds of the projects, the weak knowledge of the European and Bulgarian legislation, the lack of sufficient capacity on behalf of the

beneficiaries and consultants under the programme.” These arguments cannot be accepted as convincing and it is only proper that the analysis should also be made in regard to eliminating and preventing possible inaccuracies and misunderstandings in the course of the assessment. ***In the light of these facts, the ESC appeals to the IU of the OP Human Resources to take measures in shortest possible terms to elaborate procedures which should prevent completely the risk of rejecting project proposals before all the circumstances of their administrative eligibility are clarified.***

4.2.7. It is obvious that the work on absorbing resources from the European Social Fund is a challenge also for the state administration. ***In order to meet it adequately, it is absolutely necessary to provide for a dialogue between the administration and beneficiaries while assessing the administrative accordance of the submitted project proposals so as to clarify the unclear circumstances, and not to reject project proposals due to insufficient expertise of the IU personnel.***

4.2.8. In view of fulfilling the recommendation of the EC to grant a certain amount of the funds from the ESF to the social partners, the ESC recommends that the MB and IU ***should form and discuss in shortest possible terms procedures of negotiating with specific beneficiaries – the social partners***¹¹. The same recommendation is entirely valid also in regard to the OP Administrative Capacity.

4.3. Operational Programme Administrative Capacity.

4.3.1. Bulgaria is the first country where the operational programme Administrative Capacity is made. At the recommendation of the EC, 30 % of the funds under this operational programme should be referred to building and reinforcing the capacity of the social partners for the absorption of the Structural funds and the Cohesion fund and for implementing their functions. The ESC calls on ***the state to make a clear and specific commitment to provide these funds***, and to provide opportunities for the national and regional structures of the social partners and the organised civil society to participate actively in the implementation of the operational programme.

4.3.2. Administrating the first scheme for providing free aid on the part of ***MSAAR was very successful, which is due both to the willingness for a dialogue of the MB when preparing the procedure and to the great interest and readiness for participation of the social partners and the structures of the organised civil society.***

4.3.2.1. At the same time, while assessing the project proposals, and later, while concluding contracts, the MSAAR made use of a number of practices which can be showed as a wonderful example to be followed by the rest of the MB:

- ✓ Engagement in dialogue when clarifying the circumstances of eligibility of project proposals and making up a project file;
- ✓ Clearly communicated requirements for accounting for the progress on the project implementation, as well as definite contact people from the MB who make the contact and provide consultations to every specific beneficiary;
- ✓ Flexibility of the part of MB – which increased the amount for financing under the scheme in view of the great interest on the part of the beneficiaries.

¹¹ This recommendation has already been adopted by the MB of the OP Development of Human Resources, and at the last meeting of the Monitoring Committee on 24. 04. 2008 there was announced readiness to make and start a similar scheme in 2009.

4.3.2.2. At the same time, the following critical remarks should be made to MB:

- ✓ Despite the preliminarily formed consensus opinion on the part of the social partners, which was submitted to MB, there has not been differentiated a specific operation for the social partners regardless of the fact that such was the recommendation by the EC as well;
- ✓ In the forthcoming procedures to be open for central, district and municipal administrations under the two of the priorities, the total amount of 10 million leva and the minimum threshold of 500,000 leva probably makes it impossible for municipalities except the large ones to participate;
- ✓ There is no differentiation according to the different types of administration – for example, “central” and “municipal” is considered a lower threshold, respectively more opportunities for participation by the different types of municipalities – small, middle and large.

4.4. National rural development programme.

4.4.1. The resource provided for absorption of 3 242 millions euro under NRDP is the highest for a given programme within the financial perspective. This is the programme that finances not only agricultural producers but also the business organisations of the civil society – by means of an instrument financing local initiative groups in municipalities (LAU 1), where there is no populated areas with population of over 30 000 people – in practice these are 231 of 264 municipalities total in the country, which cover 81 % of the territory of Bulgaria and 42 % of its population. Despite the huge importance of this programme, problems have piled up during its preparation, which, unfortunately, led to a considerable delay of its approval – only in February this year, and its effective start is still to come, and the prospects in this respect are not too optimistic.

4.4.2. In the first set of regulations prepared, structuring the absorption of funds under this programme, the *following systematic failures can be defined*:

- ✓ A number of measures provide for *a restriction that the financial aid for enterprises-partners or connected enterprises as stipulated by the Small and Middle Enterprises Act* under NRDP should not exceed the maximum amount of the leva equivalent of 200,000 euro. This requirement does not stem from EC requirements and additionally significantly narrows the circle of potential beneficiaries;
- ✓ *A serious drawback is also the requirement of a bank guarantee for advance payment.* Issuing a bank guarantee is connected to expenses, which are not recognised as admissible (art. 23, para. 8, item 6), and also the money transferred in advance, with a bank guarantee for it, cannot be used effectively by the beneficiary. In practice, the requirement for a bank guarantee makes the advance money senseless. To overcome this drawback, it is necessary to provide for other funds to guarantee the reimbursement of the advance payment on the part of the beneficiary in case of failure of the project implementation – such as promissory note;
- ✓ NRDP is the only one that provides for financing of RES. The maximum admissible size of financed installations, however, is only just 1 megawatt – a too low threshold, not

taking into account the contemporary trends in the sector and not stemming from any law¹². ***It is only logical to increase this threshold to at least 2 megawatts;***

- ✓ An extremely strange decision, in view of the huge financial resource under this programme and the fact that under the rest of the operational programmes under many measures there are grants to the amount of 1 million euro, is the application for many of the measures of only one way of state aid – “de minimis” – which provides for a maximum amount of free aid the leva equivalent of 200 000 euro. This restriction presupposes a vast number of projects so that the funds under NRDP are absorbed, which is a serious challenge for the administrative capacity of the MB and IU. ***We believe that the measures should be reconsidered again in a close dialogue with the social partners and that the maximum amount of the aid should be increased, where this is expedient.***

4.4.3. In view of the huge financial resource of the NRDP and its great importance for the citizens and the business, we believe that in this year its successful starting should be ***considered a national priority and should be under constant monitoring of the social partners.***

4.5. Regional development. Right after the adoption of the programme in November 2007, the Monitoring Committee of the OP adopted a set of measures, part of which has already started – for building a national and municipal road infrastructure and for providing an appropriate and cost-effective education, social and cultural infrastructure. The municipalities play a key role in the successful absorbing of funds under this programme since they mainly could be the leading proposer. The role of the social partners is rather one of partners who should provide information and consultation support with their administrative capacity. To activate this process, ***the ESC could search for more active cooperation with the National Association of Municipalities in the Republic of Bulgaria, organising discussions and working forums, during which to exchange experience and good practices.***

4.6. Transport and environment.

4.6.1. The specificity of these operational programmes excludes the firms and non-governmental organisations as beneficiaries. They are aimed at municipalities and specific entities¹³ and the effects of their implementation for the social partners, NGOs and citizens could be sought in the following directions:

- ✓ Complete improvement of infrastructure, the state of the environment and life conditions, leading to a general enhancement of the quality of life;
- ✓ Involvement of the social partners, the business and the NGOs as subcontractors in implementation of the projects under these OPs;
- ✓ EIB, EC and JASPERS will help the implementation of the programmes. Projects – models under JASPERS – initially in Environment and consequently also in Transport.

¹² Currently, especially the generators for production of wind energy are offered with minimum capacity of 1.5 megawatt – below this capacity it is possible to purchase only second-hand generators, which are much less effective and their installation would not lead to the best utilisation of the funds under the programme. An additional motive in this respect is the fact that the Regulation defines the conditions for provision of aid until 2013, and for this period it can be expected that the trend of producing wind generators with higher capacity would remain, which means that with the current text in the project the measure would be totally inapplicable to the building of capacities for production of wind energy.

¹³ Under the OP Transport the beneficiaries are determined as follows: NC Rail Infrastructure, National Road Infrastructure Fund, Maritime Administration EA, Exploration and Maintenance of the Danube River EA and Metropolitan AD, in coordination with Infrastructure Projects.

All projects in advanced stage of readiness are submitted to JASPERS. When implementing the road projects there arise various problems and every decision is agreed upon with JASPERS, to which copies of the documents from beneficiaries received by MT are submitted as well.

4.6.2. Regarding the implementation of the OP Environment the following recommendations can be made:

- ✓ Municipalities should be more active in preparation and presentation of project proposals;
- ✓ The construction of waste water treatment plants along the Black Sea is considered priority. The ESC insists on putting the owners of tourist businesses under the obligation to invest in such plants, and directing the funds under this programme to regions where there are no other income sources.
- ✓ The publication of a Beneficiary Manual, which is particularly needed by the municipalities, should be accelerated.

4.7. The operational programme for development of the Fisheries sector. As of now there are no forecast data regarding absorbing funds under this OP. In relation to its starting, the National Agency for Fishery and Agriculture is working out 19 draft regulations concerning the conditions and the order for providing free financial aid according to the measures in the operational programme.

5. Conclusion

5.1. **THE ECONOMIC AND SOCIAL COUNCIL, motivated by its honest concern regarding accelerating and optimising the process of fund absorption from the Structural and the Cohesion Funds of the European Union, pays serious attention to the possible negative effects and consequences for the process success unless urgent measures are taken immediately for their overcoming. It insists that the institutions of the Republic of Bulgaria should not ignore those and should undertake immediate actions to neutralise them according to the rules adopted in the Community and the national legislation. In the shortest terms possible the following measures should be implemented:**

5.1.1. *First, a Rapid Reaction Unit should be established when problems are found* – this could be a whole new administrative structure or such functions could be imposed to an already existing department at the Ministry of Finance or at the Council of Ministers. The unit should have the power to notify immediately the Council of Ministers so as to find solution for the omissions found, in an active dialogue with the social partners. To this end, a standing Observatory of the members of the Economic and Social Council could systematically support the work of the Unit;

5.1.2. *Second, the documents specifying the implementation of the operational programmes should be consulted at expert level with the social partners before they are put forward in the respective Monitoring Committees.* These consultations should include not only the criteria for choosing an operations but also the basic elements of the provided schemes – such as the maximum amount of free financing, criteria for candidate eligibility, intensity of state aid (in so far as this is a decision of the managing body or the intermediate unit) – practice which is already being established in the work with the MLSP;

5.1.3. *Third, the priority sectors of development for the national economy should be*

defined urgently, as it is written as a commitment in the Pact for Economic and Social Development of the Republic of Bulgaria until 2009, on which basis the criteria for choosing projects according to the operational programmes should be specified.

- 5.1.4. *Forth, the implementation of the operational programmes and national plans should be generally approached with the presumption of restricting any possibility for corruption.* This could be done only on the principle of full transparency – publishing in the Internet the detailed methodology of assessment of the projects as well as a full list of the submitted proposals and the projects approved for financing including their total value and the provided free aid.
- 5.1.5. *Fifth, urgent actions should be undertaken to remove the imperfections in the regulations on the absorption of funds of the European Union in an active dialogue with the social partners;*
- 5.1.6. *Sixth, the activity on informing and consulting the potential beneficiaries should be activated, using the capacity of the structures of the social partners and their regional strictures.* In view of enhancing their capacity in this relation, there should be procedures for providing financial aid from the European Social Fund to specific beneficiaries – social partners, fulfilling the recommendation of the European Commission to provide certain percentage from the ESF funds precisely to the social partners;
- 5.1.7. *Seventh, there should be a mechanism for an additional financial incentive for the employees* of the managing bodies and the intermediate units, based on the quantity and quality of the collected, reviewed and assessed project proposals and on the concluded and successfully executed contracts. The human resources engaged in managing and absorbing EU funds should be kept and developed.
- 5.1.8. *Eight, the requirement for a bank guarantee in case of advance payment should be reconsidered, replacing it with other guarantee instruments – for example promissory note*, as is done when implementing some of the measures under OP Human Resources and OP Administrative Capacity, which would allow the effective use of advance money by the beneficiaries when they are micro-, small and medium enterprises and the social partners implement projects up to 1 million leva.

5.2. In conclusion, the Economic and Social Council draws the attention to the fact that every hindrance or difficulty in the process of contact between the potential beneficiaries and the managing bodies or the intermediate units should not be considered trifle, inessential and not deserving attention because precisely this contact is the mechanism guaranteeing both the achievement of the objectives of the programme documents and the working corrective options. That is why this process should be paid special attention to and efficient mechanisms for monitoring, feedback and undertaking corrective actions when necessary should be provided for.

5.3. The Economic and Social Council gives a serious warning to the representatives of the executive and legislative powers that if the accumulated problems in absorbing funds are not immediately eliminated and if no functions are delegated centrally to Rapid Reaction Unit for control and undertaking actions for optimising the process if necessary, the absorbed funds would be far below the absorbing capacity of our country with considerable doubts in the transparent and correct allocation in a real competitive environment, and the main reason for that would be the unwillingness of the state administration to eliminate the accumulated problems in dialogue with the social partners.

Table 1.

Resources from EU funds (EUR in millions), 2007 - 2008

	Projected		Received resources		Absorbed resources	
	2007	2008	2007	2008	2007	2008
EU funds under financial perspective 2007 - 2013						
European Social Fund	86	126	24			
European Regional Development Fund	233	341	64			
The Cohesion Fund	171	246	57			
European Agricultural Fund for Rural Development	244	337				
European Fisheries Fund	73	10				
Total	808	1061	145			
Pre-accession funds						
ISPA			79			
SAPARD			34			
PHARE			122			
Total			235		303¹⁴	

Resources under operational programmes (EUR in millions), 2007 - 2008

	Projected ¹⁵		Absorbed		Including SEP and NGOs		Planned for absorption ¹⁶		Including SEP and NGOs	
	2007	2008	2007	2008	2007	2008	2007	2008	2007	2008
Competitiveness	85	124					34	133	34	
Administrative capacity	13	19		17		6		69		13
Human resources	75	110						260		77
Environment	109	157						803		
Regional development	116	170						773		
Transport	149	215						1134		
Technical assistance	4	6						14		
Rural areas				176		176		419		

Table 2.

¹⁴ The difference is due to national co-financing.

¹⁵ In the OP financial plans.

¹⁶ According to the data by the Managing Authority and data by the Indicative Annual Work Programmes.

Financial Perspective (EUR in millions) 2007 - 2013

Operational programme	EU fund	EU participation	National co-financing		Total
			Amount	%	
Competitiveness	ERDF	988	174	15	1 162
Regional development	ERDF	1 361	240	15	1 601
Transport, incl.	ERDF+CF	1 625	379	19	2 004
	ERDF	369	65	15	434
	CF	1 256	314	20	1 570
Environment, incl.	ERDF+CF	1 466	334	19	1 800
	ERDF	439	78	15	517
	CF	1 027	257	20	1 284
Technical assistance	ERDF	48	8	15	56
Human resources	ESF	1 032	182	15	1 214
Administrative capacity	ESF	154	27	15	181

Total EU funds (EUR in millions) 2007 – 2013

EU funds	EU participation	National co-financing		Total
		Amount	%	
Total ERDF	3 205	566	15	3 771
Total CF	2 283	571	20	2 854
Total ESF	1 186	209	15	1 395
EAFRD	2 609	633	20	3 242
EDF	73			
TOTAL	9 283	1 978	18	11 261

Legislation structuring the absorption of resources from the EU funds, 2007 – 2013

I. Strategic documents of the Republic of Bulgaria.

1. National Strategic Reference Framework – operational programmes
 - 1.1. OP Transport.
 - 1.2. OP Environment.
 - 1.3. OP Human Resources Development.
 - 1.4. OP Development of The Competitiveness of Bulgarian Economy.
 - 1.5. OP Administrative Capacity.
 - 1.6. OP Regional Development.
 - 1.7. OP Technical Assistance.
2. National strategic plans and programmes.
 - 2.1. National Strategic Plan for Agriculture and Rural Development 2007 - 2013.
 - 2.2. Rural Development Programme 2007 - 2013.
 - 2.3. National Strategic Plan for Fisheries and Aquaculture 2007 - 2013.

II. Normative acts of the Republic of Bulgaria.

A. Laws.

1. Annual Financial Agreement 2006 between the Republic of Bulgaria and the Commission of the European Communities on behalf of the European Community for SAPARD (a special pre-accession programme for the development of agriculture and rural areas in the Republic of Bulgaria), ratified by an Act adopted by the 40th National Assembly on 18.12.2006.
2. Social Assistance Act.
3. Territorial Administration of the Republic of Bulgaria Act.
4. Administration Act
5. Water Act.
6. Public Sector Internal Audit Act.
7. Access to Public Information Act
8. State Property Act
9. Public Financial Inspection Act
10. State Aids Act
11. State Budget 2008 of the Republic of Bulgaria Act.
12. Civil Servants Act
13. Electronic Commerce Act
14. Electronic Document and Electronic Signature Act
15. Electronic Government Act
16. Energy Efficiency Act
17. Obligations and Contracts Act
18. Protection Against the Harmful Impact of Chemical Substances and Preparations Act
19. Protection Against Discrimination Act
20. Protection from Environmental Noise Act

21. Disaster Relief Act
22. Health Act
23. Health Insurance Act
24. Health and Safety at Work Act
25. Integration of Persons with Disabilities Act
26. Cadastre and Property Register Act
27. Concessions Act
28. Medicinal Products in Human Medicine Act
29. Medical-Treatment Facilities Act
30. Medical Products Act
31. Local Self-government and Local Administration Act
32. Public Education Act
33. Investment Promotion Act
34. Public Procurement Act
35. Municipal Property Act
36. Act Restricting Administrative Regulation and Administrative Control over Economic Activity
37. Ombudsman Act
38. Environmental Protection Act
39. Monuments of Culture and Museums Act
40. Public Disclosure of Senior Public Officials' Financial Interests Act
41. Roads Act
42. Regional Development Act
43. BULSTAT Register Act
44. National Audit Office Act
45. Judicial System Act
46. Administrative Division of Sofia Municipality and Large Cities Act
47. Tourism Act
48. Commercial Register Act
49. Spatial Development Act
50. Financial Management and Control in the Public Sector Act
51. Clean Ambient Air Act
52. Non-Profit Legal Entities Act

B. Regulations.

Ordinances

53. Ordinance No 15/18.05.2001 on the conditions and procedure for the provision of grant aid for the development and diversification of economic activities, providing for multiple activities and alternative income under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
54. Ordinance No 16/18.05.2001 on the conditions and procedure for the provision of grant aid for the improvement of processing and marketing of agricultural and fish products under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
55. Ordinance of 21.05.2002 on the conditions and procedure for attestation of the state administration officials.

56. Ordinance of 31.05.2002 concerning border checkpoints.
57. Ordinance No 33/27.08.2003 on the conditions and procedure for the provision of grant aid for the improvement of vocational training under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
58. Ordinance No 34/27.08.2003 on the conditions and procedure for the provision of grant aid for the development and improvement of rural infrastructure under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
59. Ordinance No 35/27.08.2003 on the conditions and procedure for the provision of grant aid for Forestry and afforestation of agricultural areas, investment in forestry holdings, processing and marketing of forestry products under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
60. Ordinance No 36/27.08.2003 on the conditions and procedure for the provision of grant aid for markets for the producers and market places of fruit, vegetables, flowers and fish under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
61. Ordinance No 37/27.08.2003 on the conditions and procedure for the provision of grant aid to recognised producer organisations under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
62. Ordinance No 38/27.08.2003 on the conditions and procedure for the provision of grant aid for the renovation and development of villages, protection and conservation of rural heritage and cultural traditions under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
63. Ordinance of 16.01.2004 on the announcing vacancies for state officials.
64. Ordinance No 18/21.04.2004 on the conditions and procedure for the provision of grant aid for the implementation of the activities under Technical Assistance measure under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
65. Ordinance No 79/01.06.2006 on the requirements and procedure for accreditation and annual certification of the Paying Agency.
66. Ordinance No 8/30.06.2006 on the procedure for building, introducing, using and developing automatised information systems in the judiciary.
67. Ordinance No 7/04.07.2006 on the procedure and manner of conducting, coordinating and harmonizing the specific audit activities under EU funds and programmes.
68. Ordinance of 13.09.2006 on the general rules of organising administrative service.
69. Ordinance of 01.05.2007 on the procedure and conditions for keeping the Administrative Register.
70. Ordinance No 1/19.12.2007 on the procedure and organisation of the announcement of vacancies, promotions and replacements of judges, prosecutors and investigators.

Decrees

71. Decree of the Council of Ministers No 90 of 2000 on the conditions and procedure for granting scholarships to students and post-graduate students from state universities and higher education institutions and scientific organisations.
72. Decree of the Council of Ministers No 121 of 2000 on the adoption of Rules of Procedure of district administrations.
73. Decree of the Council of Ministers No 171 of 2002 on creating NDP Coordinating Committee and for coordinating the preparation of the programme documents for the participation of the Republic of Bulgaria in the EU Structural funds and the Cohesion fund.
74. Decision of the Council of Ministers No 312 of 2002 on adopting a strategy for the participation of Bulgaria in the EU Structural funds and the Cohesion fund.
75. Decree of the Council of Ministers No 153 of 2004 on designating the authorities under Art. 41, Para 1 of the Electronic Document and Electronic Signature Act.
76. Decree of the Council of Ministers No 333 of 2004 on the establishment of a National Council on Ethnic and Demographic Issues.
77. Decree of the Council of Ministers No 40 of 2005 on the conditions and procedure for granting temporary interest-free loans to municipalities from the Central Budget to finance the expenses on approved projects under the Special Accession Programme of the European Union for the development of agriculture and rural areas in the Republic of Bulgaria (SAPARD).
78. Decree of the Council of Ministers No 145 of 2005 on the organisation and coordination of the European Union issues.
79. Decree of the Council of Ministers No 300 of 2005 amending the Rules of Procedures of the Ministry of Finance.
80. Decree of the Council of Ministers No 965 of 2005 on nominating the Ministry of Labour and Social Policy Directorate 'European Funds, International Programmes and Projects' for the Managing Authority of the OP DHR.
81. Decree of the Council of Ministers No 14 of 2006 on the implementation of the state budget of the Republic of Bulgaria for 2006.
82. Decree No 18 of 2006 on establishing monitoring committees of the National Strategic Reference Framework and the operational programmes, co-financed by the EU Structural Funds and the Cohesion Fund.
83. Decree of the Council of Ministers No 36 of 2006 on adopting an Ordinance for managing, monitoring, assessing and controlling the efficient implementation and informational provision of the OP Regional Development.
84. Decree of the Council of Ministers No 94 of 2006 on authorising the Directorate 'Audit of the EU resources' in the Ministry of Finance to function as an Auditing Authority under the EU Structural and Cohesion Fund.
85. Decree of the Council of Ministers No 182 of 2006 on establishing monitoring committees of the National Strategic Reference Framework and the operational programmes, co-financed by the European Union Structural Funds and the Cohesion Fund.

86. Decree of the Council of Ministers No 6 of 2007 on establishing Unified Information Portal for general information about the management of the European Union Structural Funds and the Cohesion Fund in the Republic of Bulgaria.
87. Decree of the Council of Ministers No 55 of 2007 on the conditions and procedure of designating a contractor on behalf of the beneficiary of an agreed grant from the European Union Structural Funds and from PHARE.
88. Decree No 61 of 2007 on adopting Enforcement Rules for the State Aid Act.
89. Decree No 62 of 2007 on the adoption of national rules on eligibility of expenditure under the operational programmes co-financed by the Structural Funds and the Cohesion Fund of the European Union, in relation to the 2007-2013 Financial Framework.
90. Decree of the Council of Ministers No 140 of 2007 on amending the Rules of Procedure of the district administrations, adopted with Decree No 121 of the Council of Ministers of 2000.
91. Decree No 121 of 2007 laying down the provisions for awarding grants under the operational programmes co-financed by the Structural Funds and the Cohesion Fund of the European Union, and under the PHARE Programme of the European Union.
92. Decree No 180 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Operational Programme Development of Human Resources, co-financed by the European Social Fund, for the Financial Framework 2007 - 2013.
93. Decree No 194 of 2007 on the management of infrastructure projects financed with EU funds.
94. Decree No 199 of 2007 on the adoption of national rules regarding the European Groupings of Territorial Cooperation.
95. Decree No 215 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Technical Assistance Operational Programme co-financed by the European Regional Development Fund, for Financial Framework 2007 – 2013.
96. Decree No 231 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Administrative Capacity Operational Programme co-financed by the European Social Fund, for Financial Framework 2007 – 2013.
97. Decree No 236 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Operational Programme ‘Development of the Competitiveness of Bulgarian Economy 2007-2013’ co-financed by the European Regional Development Fund.
98. Decree No 245 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Regional Development Operational Programme co-financed by the European Regional Development Fund, for Financial Framework 2007 – 2013.
99. Decree No 249 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Operational Programme ‘Environment 2007-2013’ co-financed by the Cohesion Fund and the European Regional Development Fund of the European Union.
100. Decree No 258 of 2007 on the adoption of detailed rules for eligibility of expenditure under the Operational Programme ‘Transport’ co-financed by

the Cohesion Fund and the European Regional Development Fund, for Financial Framework 2007 – 2013.

101. Decree No 298 of 2007 on approving additional budget criteria for 2007.
102. Decree No 70 of the Council of Ministers of 2008 on amending Decree No121 of 2007 laying down the provisions for awarding grants under the operational programmes co-financed by the Structural Funds and the Cohesion Fund of the European Union, and under the PHARE Programme of the European Union.

III. Legislation of the European Union.

A. Regulations.

1. Council regulation (EEC) No 259/1993 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community.
2. Commission Regulation (EC) No 1681/1994 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.
3. Council Regulation (EC) No 1266/1999 of 21 June 1999 on coordinating aid to the applicant countries in the framework of the pre-accession strategy and amending Regulation (EEC) No 3906/1989.
4. Commission Regulation No 1159/2000 of 30 May 2000 on information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds.
5. Commission Regulation (EC) No 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards eligibility of expenditure of operations co-financed by the Structural Funds.
6. Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds.
7. Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds.
8. Regulation (EC) No 761/2001 of the European Parliament and the Council of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS).
9. Regulation of the European Parliament and the Council No 1059/2003 on the establishment of a common classification of territorial units for statistics (NUTS) by reason of the accession of Bulgaria and Romania to the European Union.
10. Commission Regulation (EC) No 1564/2005 of 7th September 2005 establishing standard forms for the publication of notices in the framework of public procurement procedures pursuant to Directives 2004/17/EC and 2004/18/EC of the European Parliament and of the Council.
11. Commission Regulation (EC) No 2035/2005 of 12 December 2005 amending Regulation (EC) No 1681/1994 concerning irregularities and the

- recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field.
12. Commission regulation (EC) No 1008/2006 of 30 June 2006 fixing the import duties in the cereals sector applicable from 1 July 2006.
 13. Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund and replacing Regulation (EC) No 1783/1999.
 14. Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund and replacing Regulation (EC) No 1784/1999.
 15. Regulation (EC) No 1082/2006 of the European Parliament and of the Council of 5 July 2006 on a European grouping of territorial cooperation (EGTC).
 16. Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and replacing Regulation (EC) No 1260/1999.
 17. Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund and replacing Regulation (EC) No 1164/1994.
 18. Commission regulation (EC) No 1828/2006 of 8 December 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.
 19. Council regulation (EC, EURATOM) No 1995/2006 of 13 December 2006 amending Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

B. Directives.

20. Council Directive 75/442/EEC of 15 July 1975 on waste.
21. Directive 85/337/EEC (AS AMENDED BY DIRECTIVE 97/11/EC) informal consolidation of directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment as amended by Council Directive 97/11/EC.
22. Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts.
23. Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment.
24. Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste.
25. Directive 2001/42/EC of the European parliament and of the Council on the Assessment of the effects of certain plans and programmes on the environment.
26. Directive 2001/80/EC of the European Parliament and of the Council of 23 October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants.
27. Directive 2001/81/EC of the European Parliament and the Council of 23 October 2001 on national emission ceilings for certain atmospheric

pollutants¹⁷ sets national ceilings for emissions of certain pollutants, including volatile organic compounds (hereinafter: 'VOCs'), to be attained by 2010 as part of the Community's integrated strategy to combat acidification and ground-level ozone, but does not include limit values for emissions of those pollutants from specific sources.

28. Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.
29. Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.
30. Directive 2004/42/CE of the European Parliament and the Council of 21 April 2004 on the limitation of emissions of volatile organic compounds due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products and amending Directive 1999/13/EC.
31. Directive 2005/36/EC of the European Parliament and the Council of 7 September 2005 on the recognition of professional qualifications.
32. Directive 2006/38/EC of the European Parliament and the Council of 17 May 2006 amending Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.

IV. Documents of the Republic of Bulgaria

1. Employment Strategy of the Republic of Bulgaria 2004-2010.
2. National Strategy for Demographic Development of the Republic of Bulgaria (2006-2020).
3. National Strategy for Continuing Vocational Training for 2005-2010.
4. National Programme for Development of School Education and Preschool Education and Preparation (2006-2015).
5. National Strategy for Introduction of Information and Communication Technologies in Bulgarian Schools.
6. National Strategy for Scientific Research.
7. National Strategy for Equal Opportunities for the Disabled (2004 – 2014).
8. Framework Programme for the Equal Integration of the Roma population into Bulgarian Society.
9. Strategy for Integration in Education of Pupils and Children from Ethnic Minorities.
10. Health Strategy for Socially Disadvantaged People from Ethnic Minorities.
11. National Programme for the Improvement of Living Conditions of the Roma in accordance with the National Housing Strategy.
12. National Reform Programme 2007-2009.
13. Rules for the work of resource centres for assisting the integrated training and education of children and pupils with special educational needs.
14. National Plan for the integration of children with SEN and chronic diseases in the education system 2004-2007.
15. National programme of the Ministry of Education for the development of the school education and pres-school education and preparation.
16. National Action Plan under the initiative “Roma Inclusion Decade 2005 – 2015”.

17. Rules of Procedure of the Ministry of Finance.
18. Strategy for Educational Integration of Children and Pupils from Ethnic Minorities approved by the Minister of Education and Science in June 2004.
19. Rules for the work of resource centres for assisting the integrated training and education of children and pupils with special educational needs.
20. National programme of the Ministry of Education for the development of the school education and pres-school education and preparation, etc.

