

Summary of the results of the audit “Use of the Structural Funds within the Integrated Regional Development Operational Programme (ZPORR)”¹

2.1. Overall assessment of the audited activity

The NIK negatively assesses the progress of the implementation of the ZPORR in 2005 due to delays in its realization and the low level of the Structural Funds utilization. By 30 September 2005, payments² made from the Structural Funds stood at PLN 269,338,800, which constituted 2.3% of the allocation³ for the years 2004 – 2006. As at 31 December 2005, payments in the amount of PLN 980,963,000⁴ were made, i.e. 9.1% of the said allocation. The low level of the utilization of EU resources poses a risk of a failure to fully take advantage of the funds granted by the European Commission (EC) for the years 2004 – 2006, especially with regard to finances from the European Social Fund (ESF) from the allocation for 2004.

The NIK positively assesses, with one exception, the implementation of programmes by beneficiaries. The utilization of EU funds for these projects was compliant with their designation and the expenditures incurred were eligible for refunds from the Structural Funds.

Below, there are some of the reasons for limited utilization of the Structural Funds:

- delays in commencement of the ZPORR implementation at the stage of the development of basic programming documents, including the operational programme and the programme complement⁵ by the Managing Authority,
- instability of regulations and guidelines that were frequently changed by the Managing Authority during the ZPORR implementation, which hampered the implementation process,
- development by the Managing Authority and the Paying Authority⁶ of too complicated and inflexible procedures for the programme implementation (e.g. with regard to evaluation of project applications and verification of payment applications), which frequently imposed additional requirements absent from the community law, or required repetitions of same activities at various stages of management,

¹ The audit was started on the initiative of the NIK and it is a continuation of the examination carried out by the NIK in 2003 and 2004 with regard to the preparedness of the administration for obtaining and making use of the Structural Funds. The Integrated Regional Development Operational Programme (ZPORR) is the largest among seven operational programmes implemented in Poland in the framework of the National Development Plan (NPR) for the years 2004 – 2006. In accordance with the NPR for the years 2004 – 2006, within the ZPORR EUR 4,084 million were designated for expenditures, including EUR 2,968.5 million from the Structural Funds and EUR 1,115.5 million from national resources.

² I.e. refunds of expenditures incurred by beneficiaries from the Structural Funds from the ZPORR programme account.

³ The amount of the Structural Funds granted by the European Commission for the implementation of the programme in the 2004 – 2006 programming period, determined in the ZPORR Programme and Complement.

⁴ At the end of 2005, payments reached 21% of the amount planned by the Managing Authority for the previous year, i.e. PLN 4,565,734,700.

⁵ The NIK indicated these delays in 2004 in its “Pronouncement on the results of the audit of the preparedness of the public administration for obtaining and making use of the Structural Funds”, Warsaw, March 2004 (No 12/2004/P/03/065/KAP).

⁶ Tasks of the Paying Authority are preformed by the Ministry of Finance.

- delayed and negligent evaluation of project application forms by self-governments of voivodships (regions) and delays in concluding agreements for co-financing of the projects on the part of voivodes (regional governors), which caused rescheduling of dates for commencement of projects by beneficiaries,
- insufficient number of employees involved in the implementation of the ZPORR,
- delays in submitting applications for temporary payments to Offices of Voivodships (UW) on the part of beneficiaries, as well as errors in payment application forms made by beneficiaries,
- lengthy public procurement processes, stemming from appeal procedures, resulting in delays in implementation of projects.

The NIK assesses as purposeful the activities taken by the Managing Authority in the 4th quarter of 2005 aimed at improving and simplifying the system for the ZPORR implementation and at accelerating spending of the Structural Funds.

2.2. Synthesis of audit results

2.2.1. The management of the ZPORR by the Managing Authority was ineffective until the end of the 3rd quarter of 2005. The activities of the Managing Authority with regard to concluding agreements on the division of competence in the process of the ZPORR implementation with self-governments of voivodships (regions) and voivodes (regional governors), with regard to monitoring the programme implementation, issuing guidelines, instructions and developing detailed procedures for the programme realization, failed to bring about an acceleration of the programme implementation and the forecast spending of resources. The guidelines and procedures for the ZPORR were developed by the Managing Authority with a considerable delay (e.g. the procedures regarding evaluation of projects were developed after the first competitions were carried out), they were too complicated (e.g. with regard to formal and factual evaluation of applications and verification of payment applications), and they were not developed in an appropriate manner, as proved by their multiple corrections and amendments. Lack of appropriate coordination of the activities taken by Marshal's Offices (UM) and Offices of Voivodships (UW) on the part of the Managing Authority, delayed development of implementation procedures and their frequent changes constitute, in the opinion of these offices, the most serious problems in the programme realization. It was as late as in the 4th quarter of 2005, when the Managing Authority undertook thorough repair activities through, for example, the development of "Repair programme improving absorption of the Structural Funds in the framework of the National Development Plan 2004 – 2006", adopted by the Council of Ministers on 6 December 2005 (page 22).

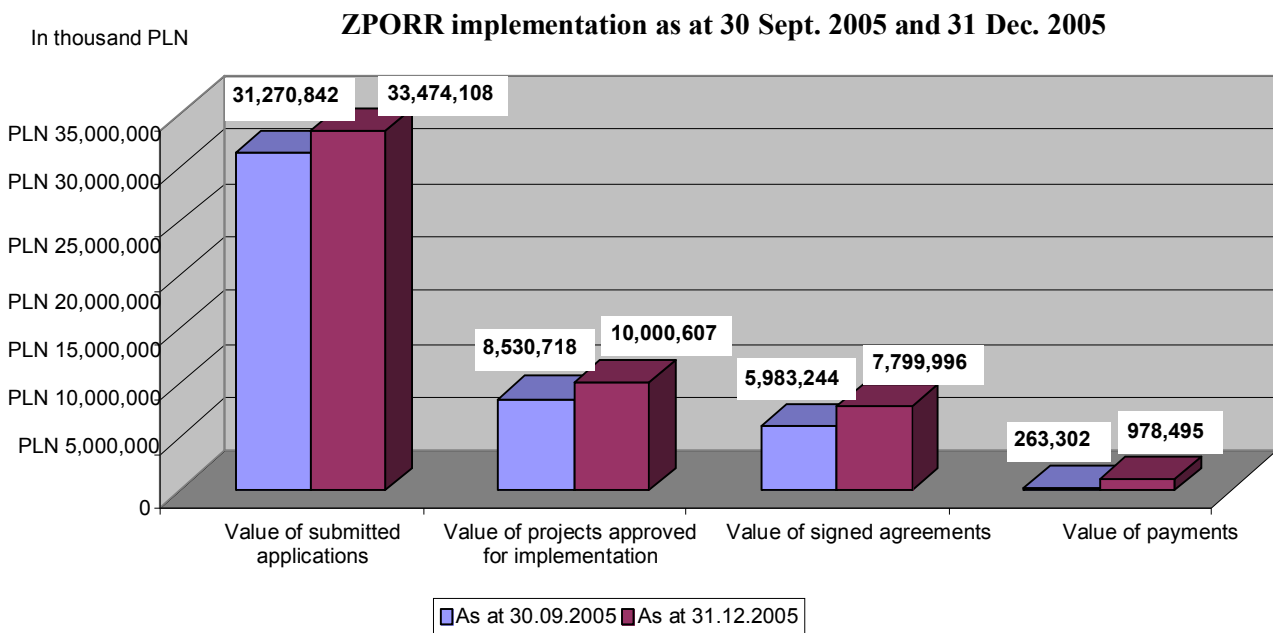
2.2.2. In the 4th quarter of 2005, there appeared an acceleration in the Structural Funds utilization through a refund of expenditures incurred by beneficiaries from the programme accounts. At the end of 2005, the value of payments made from the European Regional Development Fund (ERDF) and the European Social Fund (ESF) was three and a half times

higher (PLN 980,963,000) than the value of the payments made as at the 3rd quarter of 2005 (PLN 269,338,800).

Yet, the pace of the utilization of EU resources was not satisfactory. As at 30 September 2005, in comparison with the forecast of the Managing Authority, PLN 2,655,433,500 were not spent, and at the end of 2005, despite a considerable growth in payments, PLN 3,591,028,900 were not spent, as compared to the forecast.

There is still a serious risk of a failure to spend EU resources under Priority 2: Improvement of human resources development in the regions, co-financed from the ESF. At the end of 2005, under Priority 2 of the ESF refunds were made in the amount of PLN 26,380,800, which constituted 1.57% of the allocation for the years 2004 – 2006⁷. The present level of the utilization of resources under this priority indicates a possibility to lose a substantial part of the allocation for 2004.

The dynamism of the ZPORR implementation as at the end of the 3rd and 4th quarter of 2005 is depicted in the following chart:



⁷ By 30 September 2005, under Priority 2 refunds were made in the amount of PLN 11,610,100, i.e. 0.7% of the allocation for the years 2004-2006.

The detailed data regarding the use of the Structural Funds within the ZPORR under priorities and in particular voivodships (regions) has been presented in item 3.2.2 of the Pronouncement (page 24).

2.2.3. By the end of 2005, the total value of assistance from the Structural Funds applied for by authors of projects stood at PLN 33.4 billion, which was three times more than the allocation for the years 2004 – 2006. The Boards of Voivodships and the Implementing Authorities selected, by the end of 2005, 6,919 applications at the total value of PLN 10 billion, which constituted 89% of the allocation for the years 2004 – 2006.

The NIK's audit has shown that the process of receiving and evaluating applications was inappropriate in 15 out of 16 Marshal's Offices. In 50% of Marshal's Offices the evaluation process was delayed and did not meet the deadlines set out in "Manual for procedures for the ZPORR implementation". In seven Marshal's Offices, errors in the selection and performance of the Panel of Experts⁸ have been found. Besides, the Boards of Voivodships sometimes failed to justify the resolutions on selection of projects, to inform beneficiaries about the results of formal and factual evaluation, to publicize the schedules for submitting projects and Marshal's Offices and the Managing Authority delayed consideration of beneficiaries' appeals (page 26).

2.2.4. By 31 December 2005, within the ZPORR, 5,660 agreements on co-financing were concluded with beneficiaries at the total value of PLN 7.8 billion, which constituted 69.4% of the allocation for the years 2004 – 2006. However, the process was not correct. In all Offices of Voivodships (UW) there were delays in concluding agreements with beneficiaries. They resulted mainly from a necessity to return project applications to beneficiaries for corrections, although the applications had been previously checked by the employees of Marshal's Offices and the Boards of Voivodships, as well as from the delays on the part of Offices of Voivodships stemming from, for example, insufficient number of employees (page 28).

2.2.5. Refunds of expenditures incurred by beneficiaries made by the Managing Authority and Offices of Voivodships were delayed due to the lengthy and multi-stage process of verification of payment applications. Some beneficiaries decided not to take advantage of temporary payments discouraged by the time-consuming and complicated verification process. Therefore, beneficiaries frequently submitted one application after completion of projects. This resulted in a slow progress of payments from the Structural Funds. Besides, payment applications were often wrongly prepared and, as a consequence, they had to be returned to beneficiaries for corrections (page 30).

2.2.6. Out of 15 projects implemented by beneficiaries subject to audit, 14 have been positively assessed by the NIK, although during the implementation of nine projects errors appeared. The NIK has not detected, however, refunds of expenditures that were not eligible for assistance from the Structural Funds. The audit of beneficiaries has disclosed irregularities related to negligent

⁸ Panels of Experts are responsible for evaluation of projects.

development of payment applications (four entities), violations of the law in the process of public procurement, which, however, did not affect selection of contractors (three entities), inappropriate performance of tasks regarding information and promotion (two entities), and lack of separate records in the books regarding expenditures incurred in the framework of projects (three entities). In one case, construction works were incompliant with the application for project co-financing, with the specification and with the agreement with the contractor, which has been assessed negatively by the NIK. In five cases, the NIK has found delays in project implementation, resulting from delays on the part of the contractors (page 32).

2.2.7. Reports on irregularities in the ZPORR implementation submitted by the Paying Authority to the EC contained all the data specified in Article 3 of the Commission Regulation (EC) No 1681/94⁹. The NIK has found that in some cases the Managing Authority and the Paying Authority failed to meet the obligation to notify of irregularities within the ZPORR and to report on them in due time. The Managing Authority did not transmit to the Paying Authority some documents that were required by “System for notifying of irregularities regarding the Structural Funds utilization”¹⁰. Furthermore, the Paying Authority did not notify the EC of irregularities in the 2nd quarter of 2005 nor of lack of irregularities in the 3rd quarter of 2004 in due time (page 33).

2.2.8. The NIK negatively assesses the failure to implement by the Paying Authority (Ministry of Finance) the IT system for monitoring and financial control (SIMIK) for the ZPORR. According to the original assumptions, the system should have been introduced by the end of February 2004. The activities of the Paying Authority, responsible for works regarding creation of the SIMIK system and supervision over its functioning, were ineffective. The software for the SIMIK was delivered in December 2004, however, by the end of the NIK’s audit, it was not introduced for the ZPORR¹¹ at the Ministry of Finance, although PLN 12,629,900 had been spent on this purpose. The failure to launch the SIMIK system hampered current monitoring and management of the ZPORR implementation, as well as created problems in the performance of tasks by Marshal’s Offices, Offices of Voivodships and tax inspection authorities (page 34).

2.2.9. Insufficient numbers of employees in the Managing Authority, Marshal’s Offices and Offices of Voivodships also added to the delays in the ZPORR implementation. As estimated by the Ministry of Regional Development, there is a need to employ additional 30 people in the Managing Authority (to support 66 employees dealing with the ZPORR). In 14 Marshal’s Offices and 10 Offices of Voivodships the number of employees did not allow for

⁹ Commission Regulation (EC) No 1681/94 of 11 July 1994 on irregularities and the recovery of sums wrongly paid in relation to the financing of the structural policy and organization of the information system in this area.

¹⁰ Pursuant to Article 38, paragraph 1, letter e of the Council Regulation (EC) No 1260/1999 and the Commission Regulation (EC) No 1681/94, the Polish party is obliged to notify the EC of irregularities with regard to the use of the Structural Funds. The Ministry of Finance developed and sent in July 2004 the document entitled “System for notifying of irregularities regarding the use of the Structural Funds” which provided, for example, samples of documents regarding irregularities and the dates for their development and submission to the Paying Authority and the EC, to be applied by the entities involved in the implementation of the Structural Funds. The document was developed by the Interdepartmental Working Group on preventing irregularities with regard to utilization of EU funds, and was later approved by the Governmental Plenipotentiary for Combating Fraud against the Republic of Poland and the European Union.

¹¹ The SIMIK operated for the “Technical Assistance” Operational Programme.

performance of tasks in due time. In the future, in view of a substantial growth in payments and commencement of the implementation of programmes for the years 2007 – 2013, problems with staff deficiency and organization may intensify (page 35).

2.2.10. According to the ZPORR audit plan, the Managing Authority carried out one *ad hoc* audit, one audit of four completed projects in the Podkarpackie Voivodship, four planned audits of the functioning of the management and control system, e.g. with regard to evaluation and selection of projects (covering 17 entities altogether), as well as commissioned the Offices of Voivodships to carry out two audits (page 36). The NIK negatively assesses the failure to complete works on the methodology for sampling 5% of expenditures from the Structural Funds for tax inspection authorities (page 36).

2.2.11. The NIK positively assesses the activities of the Managing Authority with regard to promotion and information activities related to the ZPORR (page 37), verification of applications for initiating the single-purpose provision for co-financing of projects by the minister responsible for regional development and initiating the single-purpose provision by the Ministry of Finance (page 37), initiating funds for pre-financing of projects by the Ministry of Finance (page 37), as well as keeping records on EU funds within Priority 4 of the ZPORR by the Managing Authority (page 37).

2.2.12. In the framework of a down payment from the Structural Funds for covering the Community contribution for the implementation of operational programmes, in 2004 the EC transferred EUR 1,354.8 million to the fund accounts of the Ministry of Finance, out of which EUR 475 million for the implementation of the ZPORR. The audit has found out that 54% of this sum, i.e. EUR 732.8 million, were temporarily transferred by the Ministry of Finance to the state budget account (for short-term financing of current loan-related needs of the state budget), instead of to a separate bank account. The NIK indicates that, pursuant to Article 30d of the Act of 26 November 1998 on public finance¹² that was in force at the time, resources from the EU budget should be accumulated in separate bank accounts in euro and might be spent up to the amount accumulated in these accounts. Moreover, Article 32, paragraph 2 of Council Regulation No 1260/1999¹³ provides that “throughout the lifetime of assistance, the Paying Authority shall use the payment on account to pay the Community contribution to expenditure relating to this assistance”.

2.3. Final remarks and conclusions

In the opinion of the NIK, the management and coordination of activities of Offices of Voivodships, Marshal’s Offices and regional labour offices by the Managing Authority require certain improvements. Activities of the Managing Authority should aim at simplifying the existing system for the ZPORR implementation, for example through elimination of the

¹² Journal of Laws of 2003, No 15, item 148 with amendments. From 1 January 2006, Article 39, paragraph 2 of the Act on public finance of 30 June 2005 (Journal of Laws No 249, item 2104) in the same wording has been in force.

¹³ Council Regulation of 21 June 1999 No 1260/1999 laying down the general provisions regarding the Structural Funds (Official Journal of the EU L 161 1999, 1-42).

procedures that result in overlapping activities at various stages, which should add to a transparent division of responsibilities for appropriate performance of tasks. Too complicated and unstable procedures, as well as redundant and unclear requirements, make the process of project development, selection and implementation, as well as refunds of expenditures very difficult for beneficiaries.

The adoption and implementation by the government of the activities set out in “Repair programme improving absorption of the Structural Funds in the framework of the National Development Plan 2004 – 2006” (with regard to, for example, amending the Act on the National Development Plan¹⁴, the Public Procurement Law¹⁵, changing the sample of agreement on co-financing¹⁶, simplification of the rules for verification of payment applications that would eliminate repeating the same activities at the level of Offices of Voivodships and the Managing Authority) is to improve the level of the Structural Funds utilization. However, it will require coordinated and intensive activities on the part of all entities that implement the ZPORR. The level of the use of the Structural Funds depends, to a large extent, on the pace of implementation of projects by beneficiaries, on correctness of development of temporary payment applications by beneficiaries, and on prompt and reliable verification of these applications. The Managing Authority forecasts realization of payments from the Structural Funds in 2006 at the level of EUR 1,484.2 million (about PLN 5,639 million), i.e. six time more than the payments realized by the end of 2005. According to the NIK, a prerequisite for improvement in the utilization of the Structural Funds is a significant strengthening of institutional capacity of the entities involved in the implementation of the programmes co-financed from EU resources, in particular through providing an adequate number of employees and preventing undesired staff rotations.

The NIK indicates that the progress of the implementation of the assumptions of “the Repair Programme” with regard to increasing payments from the Structural Funds is unsatisfactory. Payments obtained from January to February 2006 within the ZPORR stood at PLN 300,588,100¹⁷, which constituted 21% of the forecast for the 1st quarter of 2006, i.e. PLN 1,433,754,600. Delays in the implementation of “the Repair Programme” at the beginning of 2006 will result in accumulation of payments necessary for realization in the following months. This may hamper prompt and appropriate performance of tasks by competent institutions, for example with regard to verification of payments made by beneficiaries. And this, in turn, may pose a risk of refunding expenditures that are not eligible for assistance from

¹⁴ The draft of the amended Act on the National Development Plan was adopted by the Council of Ministers on 14 March 2006. The draft assumes clarification of the rules for control over the Structural Funds and limits the necessity to amend executive acts aimed to introduce changes to the rules for the Structural Funds management in the years 2004-2006.

¹⁵ The amended Public Procurement Law was adopted by the Sejm on 10 March 2006 and it assumes, for example, introduction of solutions that may simplify the procedures for granting procurement at a value of from EUR 6,000 to EUR 60,000, the rules for organization of tenders at the value exceeding EUR 60,000 and appeal proceedings.

¹⁶ Regulation by the Minister of Regional Development of 17 January 2006 amending the regulation on the sample of co-financing agreements implemented within the ZPORR. On the basis of the said regulation it is possible to introduce additional provisions facilitating project implementation into co-financing agreements.

¹⁷ According to the data presented on 7 March 2006 by the Ministry of Regional Development at the conference entitled “ZPORR – progress and good practices”.

the Structural Funds and, consequently, a necessity to return some finances to the EU budget if such irregularities are detected by the EC or the European Court of Auditors.

In the light of the New Financial Perspective for the years 2007 – 2013, the NIK indicates a necessity to decentralize the system for management of regional development programmes financed from the Structural Funds. The centralization of the system for the management of the regional development programme in the first years of Poland's membership in the EU was aimed to provide an efficient coordination and full utilization of the Structural Funds through development of unified rules and procedures for the implementation of the Structural Funds in all regions. The NIK's audit with regard to the ZPORR has shown that the centralization of the management process, which additionally burdened the minister responsible for regional development with various tasks although the ministry suffered from an insufficient number of employees and considerable staff rotations, failed to bring the desired effects, and even prolonged the process of absorption of the Structural Funds. The objectives of the regional development programme for the years 2004 – 2006 were set by the central administration, and the implementation of the common programme for 16 voivodships (regions) resulted in a unification of priorities and measures of the ZPORR without considering specific features of the regions or their own initiatives. As a result, in some ZPORR measures we can find surpluses of funds, while others have been used up. Consequently, regions apply for reallocations of finances between particular ZPORR measures, yet the possibilities for reallocations are limited because of the assumptions adopted in the operational programme agreed on with the EC. That is why in the years 2007 – 2013 it would be advisable to implement 16 separate regional development programmes, so that each of them covered one region only, in accordance with the assumptions of the National Cohesion Strategy. A decentralization of the system for the implementation of the Structural Funds should consist in vesting local self-governments with competence regarding establishment of priorities and measures implemented with the use of the Structural Funds.

The NIK indicates that implementation of regional programmes will require a decentralization of public finance, in particular through giving local self-governments opportunities to obtain and accumulate finances for implementation of programmes and vesting them with the majority of tasks that are now performed by voivodes (regional governors), such as, for example, concluding agreements with beneficiaries, verification of payment applications and financial management of programme resources.

In order to accelerate the use of the Structural Funds in the ZPORR and to avoid a loss of the allocation granted by the EC for the years 2004 – 2006, the NIK appeals for:

- 1) continuation of activities aimed at simplification of procedures for the ZPORR management, so that to avoid further delays in the programme implementation;
- 2) improvement in the effectiveness of the management and coordination of the ZPORR implementation process by the Managing Authority, aimed at improving the activities taken by the governmental administration and self-governmental administration of regions;

- 3) immediate implementation of the SIMIK system in all institutions involved in the implementation of the ZPORR;
- 4) taking immediately the activities set out in “Repair programme improving absorption of the Structural Funds in the framework of the National Development Plan 2004 – 2006” aimed at accelerating the use of finances from the European Social Fund in the framework of ZPORR Priority 2, so that to eliminate a risk of losing part of the allocation for 2004;
- 5) increasing employment and remunerations in organizational units of the institutions involved in the ZPORR implementation and providing employees with appropriate equipment;
- 6) starting simple short-term projects immediately, so that to allow for making fast payments by beneficiaries and refunds of expenditures from the Structural Funds, which will diminish the risk of a losing finances from the allocation for 2004.