



# Ex-ante Conditionalities

## Common Provision Regulations and Guidance

Training to Managing Authorities, Summer 2014, Brussels

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### **Relevant regulations and Guidance documents:**

Article 19 + Annex XI EU Common Provision Regulation 1303/2013  
Guidance document Part I and II and Q&A on Ex Ante Conditionalities

# 1. Definition of ex-ante conditionalities

Pre-conditions for effective and efficient use of all ESI Funds related to:

- Regulatory Framework
- Policies/ strategies with clear objectives
- Administrative/institutional capacity

# Types of ex-ante conditionality (Annex XI CPR for Cohesion Policy)

- **Thematic** ex-ante conditionalities are linked to the thematic objectives and investment priorities proposed for cohesion policy.
- **General** ex-ante conditionalities are linked to horizontal aspects of programme implementation.

NB: They do not apply to European territorial cooperation

## 2. Why ex-ante conditionalities?

- To improve the efficiency and effectiveness of investment
- To ensure that the necessary framework conditions for effective use of Union support are in place

These conditions are:

- appropriate regulatory framework,
- effective policy frameworks, and
- sufficient administrative/institutional capacity.

## 3. Key stages

**The MS has to check** which ex ante conditionalities are **applicable** to the specific objectives pursued within the investment priorities it has selected, and whether the applicable ex ante conditionalities are **fulfilled**.

**COM assesses** adequacy and consistency of the info provided by MS and can request additional information

If relevant criteria are not fulfilled by submission of the programme: **MS to provide an action plan** to ensure fulfilment at the latest by end of 2016

If disagreement on fulfilment – burden of proof lies with COM

If COM thinks that non-fulfilment leads to **significant prejudice** (harm/damage) to the effectiveness and the efficiency of the achievement of the specific objective of investment priority it can **suspend interim payments** at the stage of adoption of a programme.

Interim payments can also be suspended if there is no fulfilment by end of 2016.

# Stage 1 for Member States: Self-assessment of applicability

## Principles for applicability

An ex ante conditionality should apply to a priority of a programme only when it has

- a direct and genuine link to, and
- a direct impact on,

the effective and efficient achievement of a specific objective for an investment priority

# Small exercise/discussion on applicability of thematic ex ante conditionalities

## Priority on Cohesion Fund ENV Programme to improve solid waste facilities

- Is the existence of a national legal framework on recycling an applicable ex-ante conditionality or not?
- In what circumstances would it be applicable?
- In what circumstances would it not be applicable?
- See Annex XI of CPR



## Stage 2 for Member States: self-assessment of fulfilment

- The fulfilment of an **applicable** ex ante conditionality requires that **ALL** the corresponding criteria (set out in Annex XI CPR) are fulfilled.
- In case where relevant criteria are not fulfilled: **MS should provide an action plan**
- In case of non-fulfilled criteria by the date of the submission of the PA linked directly to legislative requirements, the *reference point is the legislation in force by the date of the submission of the PA*

# Self-assessment of fulfilment

- Use the grid in Annex XI of CPR

Thematic objectives	Investment priorities	Ex ante conditionality	Criteria for fulfilment
1. Strengthening research, technological development and innovation	ERDF:	1.1 Research and innovation: The existence of a national or regional smart specialisation strategy in line with the National Reform Program, to leverage private research and innovation expenditure, which complies with the features of well-performing national or regional R&I systems.	A national or regional smart specialisation strategy is in place that:
(R&D target)	All investment priorities under thematic objective no. 1.		<ul style="list-style-type: none"> <li>• is based on SWOT or similar analysis to concentrate resources on a limited set of research and innovation;</li> </ul>
(referred to in point (1) of the first paragraph of Article 9)			<ul style="list-style-type: none"> <li>• outlines measures to stimulate private RTD investment;</li> <li>• contains a monitoring mechanism.</li> </ul>
			A framework outlining available budgetary resources for research and innovation has been adopted.

## Presentation of self-assessment by MS

- The self-assessment is to be presented in the operational programmes concerned.
- The summary of the self-assessment to be presented in the PA *for those ExAC where the responsibility for fulfilment lies at national level.*
- Recommended to include a full assessment of fulfilment of general ExAC in the PA *when several OPs are concerned.*

## Stage 3 for Member States: Develop action plans for non-fulfilled ExAC

**Action plan to be included in main body of OP for each non-fulfilled criterion (Tables 25 and 26 of OP template):**

Actions to be taken (should be adequate and as concrete as possible)

Deadline (date)

Bodies responsible

**COM shall assess the consistency and the adequacy of the information provided by MS (Article 19(3) CPR):**

Are the actions relevant, sufficient and clear and feasible within the deadline proposed? Are the indicated responsible bodies relevant and complete?

# Assessment of significant prejudice

In case where NOT ALL RELEVANT CRITERIA are fulfilled at the time of submission of PA / OPs:

*"The Commission may decide when adopting a programme to suspend all or part of interim payments to the relevant priority of that programme (...) to avoid significant prejudice to the effectiveness and efficiency of the achievement of the specific objectives of the priority concerned" (Art. 19(5) CPR)*

This will only be applied in case of HIGH RISK (i.e. when the quality of spending would be significantly affected)

## **The assessment will consider:**

critical elements among the fulfilment criteria

impact of non-fulfilment

content of action plans (incl. timing of implementation)

## After adoption of the PA/OPs

- Monitoring of fulfilment of actions (meetings of Monitoring Committee, annual meetings, etc.)
- Reporting by MS on actions to fulfil ex ante conditionalities

*Deadline for fulfilment is 31 Dec. 2016 at the latest and for reporting: Annual implementation report or progress report in 2017*

- Suspension of interim payments as a result of failure to complete actions as set out in the programme
- The Commission shall lift the suspension of payments as soon as the MS has demonstrated that it has completed the actions (or in case of an amendment of the OP making the ExAC non-applicable)

## 4. Some examples of action plans:

- Research and Innovation
- Transport

# Thematic Ex ante Conditionality: Strengthening research, technical development and innovation

## Criteria for fulfilment:

1. Existence of a national or regional smart specialisation strategy that:
  - is based on a SWOT or similar analysis to concentrate resources on a limited set of research and innovation priorities;
  - outlines measures to stimulate private RTD investment;
  - contains a monitoring mechanism
2. Existence of an indicative multi-annual plan for budgeting and prioritization of investments linked to EU priorities, and, where appropriate, the European Strategy Forum on Research Infrastructures - ESFRI has been adopted.



# Action Plan for T01 – RIS3

Ex ante conditionality	Criteria not fulfilled	Action to be taken	Deadline	Bodies responsible for fulfilment
1.1 Research & Innovation	A national or regional smart specialisation strategy is in place that: <b>– is based on a SWOT or similar analysis to concentrate resources on a limited set of research and innovation priorities;</b>	<b>Action 1:</b> Preparation of the document containing SWOT or similar analysis for a national or regional smart specialisation strategy is adopted	July-Oct 2014	Ministry of Economy, Ministry of Science, Ministry of Regional Development, with genuine involvement of Quadruple Helix (research,business, civil society, administration)
		<b>Action 2:</b> the document or framework containing SWOT or similar analysis for a national or regional smart specialisation strategy is adopted	End of 2014	Regional or National Government



# Action Plan for T01 – RIS3

ex ante conditionality	Criteria not fulfilled	Action to be taken	Deadline (date)	Bodies responsible for fulfilment
1.1 Research & Innovation	A national or regional smart specialisation strategy is in place that: – <b>outlines measures to stimulate private RTD investment;</b>	Action 1: Preparation of the document outlining measures to stimulate private RTD investments is adopted	July-October 2014	Ministry of Economy, Ministry of Science, Ministry of Regional Development, with genuine involvement of Quadruple Helix (research, business, civil society, administration)
		Action 2: the document or framework outlining measures to stimulate private RTD investments is adopted	End of 2014	Regional or National Government

# Action Plan for T01 – RIS3

ex ante conditionality	Criteria not fulfilled	Action to be taken	Deadline (date)	Bodies responsible for fulfilment
1.1 Research & Innovation	A national or regional smart specialisation strategy is in place that: <b>- A framework outlining available budgetary resources for research and innovation has been adopted</b>	<b>Action 1:</b> Preparation of the national framework document specifying budget appropriations for R&I is established: (i) containing sources of finance (EU, national, international financial institutions) (ii) matching the ESI Funds investments for the duration of the whole programming period: 2014-20 (if possible)	October 2014	Ministry of Economy with Ministry of Science and Ministry of Regional Development
		<b>Action 2:</b> The framework specifying budget appropriations for R&I is adopted.	End 2014	

# Action Plan for T01 – RIS3

ex ante conditionality	Criteria not fulfilled	Action to be taken	Deadline (date)	Bodies responsible for fulfilment
<p><b>1.2 An indicative multi-annual plan</b> for budgeting and prioritization of investments linked to EU priorities, and, where appropriate, the European Strategy Forum on Research Infrastructures - ESFRI has been adopted.</p>		<p>Preparation and adoption of the document with an indicative multi-annual plan for budgeting and prioritization of investments is adopted</p>	<p>End of 2014</p>	<p>Competent government bodies: Ministry of Finance, Ministry of Science, Ministry of Economy and Ministry of Regional Development</p>



# Thematic Ex ante Conditionality: Transport

## Criteria for fulfilment:

1. Existence of a Comprehensive Transport Plan for transport investment;
  - The Plan complies with legal requirements for Strategic Environmental Assessment;
  - The Plan sets out the contribution to the Single European transport Area;
  - A realistic and mature pipeline of projects for which support from the Cohesion Fund and ERDF is envisaged;
2. Measures to ensure the capacity of intermediate bodies and beneficiaries

# Abstract ex ante conditionality TO 7 – Transport

Thematic Objective	Investment Priorities	Ex ante conditionality	Criteria for fulfilment
<p>Promoting sustainable transport and removing bottlenecks in key network infrastructures (referred to in Article 9(7)).</p>	<p>ERDF + CF: Single European Transport Area by investing in the Trans-European Transport Network (TEN-T) network ERDF: mobility through connecting secondary and tertiary nodes to TEN-T infrastructure</p>	<p>7.1. Transport: The existence of a comprehensive plan(s) or framework(s) for transport investment in accordance with the Member States' institutional set-up (including public transport at regional and local level) which supports infrastructure development and improves connectivity to the TEN-T comprehensive and core networks.</p>	<p>The existence of a comprehensive transport plan(s) or framework(s) for transport investment which fulfils legal requirements for strategic environmental assessment and sets out: – the contribution to the single European Transport Area consistent with Article 10 of Regulation No. [TEN-T], including priorities for investments</p>

# Action Plan ex ante conditionality TO 7 – example

Non-fulfilled ex ante conditionality	Non-fulfilled criteria	Planned activities	Deadline
7.1. The existence of a comprehensive transport plan or plans or framework or frameworks for transport investment	Whether a comprehensive transport plan or plans or framework or frameworks for transport investment which complies with legal requirements for strategic environmental assessment.	Preparation of the Strategic Plan of transport infrastructure of the Slovak Republic till 2020 (Phase I).	30/06/2014
		Preparation of the Strategic Plan of transport infrastructure of the Slovak Republic till 2030 (Phase II).	31/12/2016

## 5. Conclusions

- Ex-ante conditionalities should be applicable
- MS should undertake **self assessment** based upon the grid and develop action plans for non fulfilled ex-ante conditionalities as part of Programming!
- **Action plans** should be specific
- **Good assessments and fulfillment can improve programme implementation significantly**



# More information

Article 19 + Annex XI EU Common Provision  
Regulation 1303/2013

Guidance documents and Q&A on Ex Ante  
Conditionalities:

[http://ec.europa.eu/regional\\_policy/information/  
guidelines/index\\_en.cfm#2](http://ec.europa.eu/regional_policy/information/guidelines/index_en.cfm#2)

# Exercise on action plans

*Please assess the examples of action plans for TO1 and ask yourself:*

- Are the actions relevant and sufficient to address the non-fulfilled criterion?*
- Are the actions clear regarding what is supposed to be delivered?*
- Are the actions feasible within the deadline proposed?*
- Can earlier deadlines be envisaged?*
- Are the indicated responsible bodies relevant and complete?*

- 1) What would you improve in the Action Plan?*
- 2) How would you improve the Action Plan?*